

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 335

H.P. 258

House of Representatives, January 20, 2005

### **An Act To Clarify the Definition of "Eligible Group" in Small Group Health Insurance Plans**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative GLYNN of South Portland.  
Cosponsored by Representatives: LINDELL of Frankfort, McKANE of Newcastle,  
VAUGHAN of Durham, Senator: SNOWE-MELLO of Androscoggin.

**Be it enacted by the People of the State of Maine as follows:**

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4       **Sec. 1. 24-A MRSA §2808-B, sub-§1, ¶D,** as repealed and replaced by PL 2003, c. 428, Pt. H, §5, is amended to read:

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8       D. "Eligible group" means any person, firm, corporation, partnership, association or subgroup engaged actively in a business that employed an average of 50 or fewer eligible employees during the preceding calendar year, the majority of whom were employed within this State.

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14       (1) If an employer was not in existence throughout the preceding calendar year, the determination must be based on the average number of employees that the employer is reasonably expected to employ on business days in the current calendar year.

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20       (2) In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation are considered one employer.

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24       ~~(3) A group is not an eligible group if there is any one other state where there are more eligible employees than are employed within this State and the group had coverage in that state or is eligible for guaranteed issuance of coverage in that state.~~

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30       (4) An employer qualifies as an eligible group for 2-person coverage if the employer provides a carrier with the following information demonstrating that the employer's business and employees meet the minimum qualifications for group coverage in paragraph C:

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36       (a) A copy of the most recent quarterly combined filing for income tax withholding and unemployment contributions, Form 941/C1-ME;

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40       (b) For an employee claimed to be an employee eligible for group coverage whose name is not listed on Form 941/C1-ME, a copy of the employer's payroll records for the most recent 3 months showing tax withholding or a wage report from a payroll company showing wages paid to that employee for the most recent quarter with tax withholding;

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50       (c) If an employer is exempt from filing Form 941/C1-ME for group coverage, documentation of that exemption and a copy of the employer's

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2 payroll records for the most recent 3 months  
3 showing tax withholding or a wage report from a  
4 payroll company showing wages paid to that  
5 employee for the most recent quarter with tax  
6 withholding; or

7 (d) If the name of the business owner or employee  
8 does not appear on Form 941/Cl-ME, a copy of one  
9 of the following:

10 (i) Federal income tax Form Schedule C or  
11 Schedule F;

12 (ii) Federal income tax Form 1120S, Schedule  
13 K-1;

14 (iii) Federal income tax Form 1065, Schedule  
15 K-1;

16 (iv) A workers' compensation insurance audit  
17 or evidence of a waiver of benefits under  
18 Title 39-A;

19 (v) A description of operations in a  
20 commercial general liability insurance policy  
21 or equivalent insurance policy providing  
22 coverage for the business; or

23 (vi) A signature card from a financial  
24 institution or credit union authorizing the  
25 employee to sign checks on a business  
26 checking or share draft account that is at  
27 least 6 months old; a notarized affidavit  
28 from the employer describing the duties of  
29 the employee and the average number of hours  
30 worked by the employee and attesting that the  
31 employer is not defrauding the carrier and is  
32 aware of the consequences of committing fraud  
33 or making a material misrepresentation to the  
34 carrier, including a loss of coverage and  
35 benefits; and, if the group coverage is  
36 purchased through a producer, a notarized  
37 affidavit from the producer affirming the  
38 producer's belief that the employer qualifies  
39 as an eligible group for coverage.

40 In determining if a new business or a business that  
41 adds an owner or a new employee to payroll during the  
42 course of a year qualifies as an eligible group for  
43 2-person coverage under this subparagraph, the employer  
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2 must submit an affidavit stating that all employees  
3 meet the criteria in this subparagraph and that the  
4 documentation and forms required under this  
5 subparagraph will be provided to the carrier when  
6 payroll records become available, when ownership  
7 distribution forms become available or the first  
8 renewal date of the coverage, whichever date is  
9 earlier. A false affidavit or misrepresentation on an  
10 affidavit submitted by an employer may result in the  
11 loss of group coverage and repayment of claims paid.  
12 This subparagraph may not be construed to prohibit a  
13 carrier from recognizing an employer as an eligible  
14 group if the employer has not produced the  
15 documentation required in this subparagraph.

16 This subparagraph applies only to an employer applying  
17 for group health insurance coverage as a 2-person group  
18 on or after October 1, 2001.

20 **Sec. 2. 24-A MRSA §4346, sub-§1, ¶G**, as enacted by PL 2001, c.  
21 708, §3, is amended to read:

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23 G. "Small employer" means ~~an eligible group as defined in~~  
24 ~~section 2808-B, subsection 1, paragraph D~~ a person, firm,  
25 corporation, partnership, association or subgroup engaged  
26 actively in a business that employed an average of 50 or  
27 fewer eligible employees during the preceding calendar year.

## 30 SUMMARY

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32 This bill clarifies the definition of "eligible group" as it  
33 applies to small group health plans by specifying that a majority  
34 of the employees in the group must be employed in the State.  
35 This bill also changes a cross-reference in the Maine Consumer  
36 Choice Health Plan to maintain the current definition of  
"eligible group."