

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2005

Legislative Document

No. 1545

H.P. 1086

House of Representatives, April 4, 2005

An Act To Establish a Cooperative Approach to Health Care Coverage

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DAIGLE of Arundel.
Cosponsored by Representatives: ANNIS of Dover-Foxcroft, MARLEY of Portland,
MARRACHÉ of Waterville, PINEAU of Jay, PINGREE of North Haven, WOODBURY of
Yarmouth, Senator: MILLS of Somerset.

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

4 **PART A**

6 **Sec. A-1. 22 MRSA §3174-DD**, as enacted by PL 2003, c. 469, Pt. A, §6, is amended to read:

8 **§3174-DD. Dirigo health coverage**

10 The department ~~may~~ shall contract with one or more health insurance carriers to purchase Dirigo Health Insurance for MaineCare members ~~who seek to enroll through their employers pursuant to Title 24-A, section 6910, subsection 4, paragraph B.~~ A MaineCare member who enrolls in a Dirigo Health Insurance plan ~~as a member of an employer group~~ receives full MaineCare benefits through Dirigo Health Insurance. The benefits are delivered through ~~the employer-based health plan~~ Dirigo Health Insurance, subject to nominal cost sharing as permitted by 42 United States Code, Section 1396o(2003) and additional coverage provided under contract by the department.

22 **Sec. A-2. 24-A MRSA §6902**, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

24 **§6902. Dirigo Health established; declaration of necessity**

26 Dirigo Health is established as an independent executive agency to arrange for the provision of comprehensive, affordable health care coverage to eligible ~~small employers, including the self-employed, their employees and dependents, and~~ individuals on a voluntary basis. Dirigo Health is also responsible for monitoring and improving the quality of health care in this State. The exercise by Dirigo Health of the powers conferred by this chapter must be deemed and held to be the performance of essential governmental functions.

36 **Sec. A-3. 24-A MRSA §6903, sub-§§5, 6 and 7**, as enacted by PL 2003, c. 469, Pt. A, §8, are repealed.

40 **Sec. A-4. 24-A MRSA §6903, sub-§7-A** is enacted to read:

42 **7-A. Eligible individual.** "Eligible individual" means an individual who is a resident of this State.

44 **Sec. A-5. 24-A MRSA §6903, sub-§§8 and 12**, as enacted by PL 2003, c. 469, Pt. A, §8, are repealed.

48 **Sec. A-6. 24-A MRSA §6903, sub-§13**, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

2 **13. Plan enrollee.** "Plan enrollee" means an eligible
individual ~~or eligible employee~~ who enrolls in Dirigo Health
4 Insurance through Dirigo Health. "Plan enrollee" includes an
eligible employee individual who is eligible to enroll in
6 MaineCare.

8 **Sec. A-7. 24-A MRSA §6903, sub-§19,** as enacted by PL 2003, c.
469, Pt. A, §8, is repealed.

10 **Sec. A-8. 24-A MRSA §6908, sub-§1, ¶A,** as enacted by PL 2003,
12 c. 469, Pt. A, §8, is amended to read:

14 A. Take any legal actions necessary ~~or proper to recover or~~
16 ~~collect savings offset payments due Dirigo Health or that~~
are necessary for the proper administration of Dirigo Health;

18 **Sec. A-9. 24-A MRSA §6908, sub-§2, ¶B,** as enacted by PL 2003,
20 c. 469, Pt. A, §8, is repealed.

22 **Sec. A-10. 24-A MRSA §6908, sub-§2, ¶E,** as enacted by PL 2003,
c. 469, Pt. A, §8, is amended to read:

24 E. Arrange the provision of Dirigo Health Insurance benefit
26 coverage to eligible individuals ~~and eligible employees~~
through contracts with one or more qualified bidders;

28 **Sec. A-11. 24-A MRSA §6910, sub-§1,** as enacted by PL 2003, c.
469, Pt. A, §8, is amended to read:

30 **1. Dirigo Health Insurance.** Dirigo Health shall arrange
32 for the provision of health benefits coverage through Dirigo
Health Insurance not later than October 1, 2004. Coverage must
34 be provided through Dirigo Health Insurance to eligible
individuals not later than January 1, 2006. Dirigo Health
36 Insurance must comply with all relevant requirements of this
Title. Dirigo Health Insurance may be offered by health
38 insurance carriers that apply to the board and meet
qualifications described in this section and any additional
40 qualifications set by the board.

42 **Sec. A-12. 24-A MRSA §6910, sub-§3, ¶A,** as enacted by PL 2003,
44 c. 469, Pt. A, §8, is amended to read:

46 A. Provide the comprehensive health services and benefits
as determined by the board, including a standard benefit
48 package that ~~meets the requirements for mandated coverage~~
~~for specific health services, specific diseases and for~~
~~certain providers of health services under Title 24 and this~~

2 Title is compatible with an individual health savings
3 account as authorized under federal law and any supplemental
4 benefits the board wishes to make available; and

6 **Sec. A-13. 24-A MRSA §6910, sub-§4, ¶A**, as enacted by PL 2003,
c. 469, Pt. A, §8, is amended to read:

8 A. Dirigo Health may contract with health insurance
9 carriers licensed to sell health insurance in this State or
10 other private or public ~~third-party~~ 3rd-party administrators
11 to provide Dirigo Health Insurance. In addition:

12 (1) Dirigo Health shall issue requests for proposals
13 from health insurance carriers;

14 (2) Dirigo Health may include quality improvement,
15 disease prevention, disease management and
16 cost-containment provisions in the contracts with
17 participating health insurance carriers or may arrange
18 for the provision of such services through contracts
19 with other entities;

20 ~~(3) -- Dirigo Health shall require participating health~~
21 ~~insurance carriers to offer a benefit plan identical to~~
22 ~~Dirigo Health Insurance, -- for which no Dirigo Health~~
23 ~~subsidies are available, -- in the general small-group~~
24 ~~market;~~

25 (4) Dirigo Health shall make payments to participating
26 health insurance carriers under a Dirigo Health
27 Insurance contract to provide Dirigo Health Insurance
28 benefits to plan enrollees not enrolled in MaineCare;

29 (5) Dirigo Health may set allowable rates for
30 administration and underwriting gains for Dirigo Health
31 Insurance;

32 ~~(6) -- Dirigo Health may administer continuation benefits~~
33 ~~for eligible individuals from employers with 20 or more~~
34 ~~employees who have purchased health insurance coverage~~
35 ~~through Dirigo Health -- for the duration of their~~
36 ~~eligibility periods for continuation benefits pursuant~~
37 ~~to the federal Consolidated Omnibus Budget~~
38 ~~Reconciliation Act, Public Law 99-272, Title X, Private~~
39 ~~Health Insurance Coverage, Sections 1001 to 1003, and~~

40 (7) Dirigo Health may administer or contract to
41 administer the United States Internal Revenue Code of
42 1986, Section 125 plans for ~~employers and employees~~

2 individuals participating in Dirigo Health, including
3 medical expense reimbursement accounts and dependent
4 care reimbursement accounts. ; and

6 (8) Dirigo Health shall administer or contract to
7 administer individual health savings accounts for
8 individuals participating in Dirigo Health.

10 **Sec. A-14. 24-A MRSA §6910, sub-§4, ¶¶B and C**, as enacted by
11 PL 2003, c. 469, Pt. A, §8, are repealed.

12 **Sec. A-15. 24-A MRSA §6910, sub-§4, ¶D** is enacted to read:

14 D. Dirigo Health may not establish an out-of-pocket
15 maximum, including deductibles, copayments and coinsurance,
16 that exceeds 10% of an individual's adjusted gross income.

18 **Sec. A-16. 24-A MRSA §6910, sub-§5, ¶¶A and B**, as enacted by
19 PL 2003, c. 469, Pt. A, §8, are amended to read:

20 A. Dirigo Health shall publicize the availability of Dirigo
21 Health Insurance to ~~businesses,--self-employed~~ individuals
22 and ~~others~~ eligible to enroll in Dirigo Health Insurance.

24 B. Dirigo Health shall screen all eligible individuals and
25 employees for eligibility for ~~subsidies--under section 6912~~
26 ~~and-eligibility~~ enrollee hardship funds under section 6912-A
27 or for MaineCare. To facilitate the screening and referral
28 process, Dirigo Health shall provide a single application
29 form for Dirigo Health and MaineCare. The application
30 materials must inform applicants of subsidies available
31 through Dirigo Health and of the additional coverage
32 available through MaineCare. It must allow an applicant to
33 choose on the application form to apply or not to apply for
34 MaineCare or for ~~a-subsidy~~ enrollee hardship funds. It must
35 allow an applicant to provide household financial
36 information necessary to determine eligibility for MaineCare
37 or ~~a--subsidy~~ enrollee hardship funds. Except when the
38 applicant has declined to apply for MaineCare or ~~a-subsidy~~
39 enrollee hardship funds, an application must be treated as
40 an application for Dirigo Health, for ~~a--subsidy~~ enrollee
41 hardship funds and for MaineCare. MaineCare ~~must~~ shall make
42 the final determination of eligibility for MaineCare.

44 **Sec. A-17. 24-A MRSA §6912**, as enacted by PL 2003, c. 469,
45 Pt. A, §8, is repealed.

48 **Sec. A-18. 24-A MRSA §6912-A** is enacted to read:

2 **§6912-A. Enrollee Hardship Fund**

4 Dirigo Health shall establish the Enrollee Hardship Fund to
6 provide financial assistance to eligible individuals for whom the
8 payment of the out-of-pocket maximum, including required
10 deductibles, copayments and coinsurance, is a hardship based on
12 income. Dirigo Health shall adopt rules for income eligibility
14 of eligible individuals, the amount of the financial assistance
16 available and the application process for individuals.

18 **Sec. A-19. 24-A MRSA §6913**, as enacted by PL 2003, c. 469,
20 Pt. A, §8, is repealed.

22 **Sec. A-20. 24-A MRSA §§6914 and 6915**, as enacted by PL 2003,
24 c. 469, Pt. A, §8, are amended to read:

26 **§6914. Intragovernmental transfer**

28 Starting July 1, 2004, Dirigo Health shall transfer funds,
30 as necessary, to a special dedicated, nonlapsing revenue account
32 administered by the agency of State Government that administers
34 MaineCare for the purpose of providing a state match for federal
36 Medicaid dollars. Dirigo Health shall annually set the amount of
38 contribution. ~~The transfer may not include money collected as a~~
40 ~~savings-payment-offset-pursuant-to-section-6913.~~

42 **§6915. Dirigo Health Fund**

44 The Dirigo Health Fund is created as to finance coverage
46 under Dirigo Health. The fund is a dedicated fund for the
48 deposit of any funds advanced for initial operating expenses,
50 payments made by employers and individuals, any savings-offset
52 payments-made-pursuant-to-section-6913 funds received from the
54 State Tax Assessor pursuant to Title 36, section 2831 and any
56 funds received from any public or private source. The fund may
58 not lapse, but must be carried forward to carry out the purposes
60 of this chapter. Expenditures from the fund are authorized for
62 payments to participating carriers for Dirigo Health Insurance,
64 payments for the administration of Dirigo Health and payments
66 from the Enrollee Hardship Fund created under section 6912-A.

68 **Sec. A-21. 36 MRSA c. 370-A** is enacted to read:

70 **CHAPTER 370-A**

72 **INDIVIDUAL HEALTH ASSESSMENT**

74 **§2831. Assessment on wages and earnings**

1 1. Assessment levied. Beginning January 1, 2006, every
2 resident individual in this State and every nonresident
3 individual subject to Maine income tax liability under this Title
4 shall pay an assessment of 5% on that individual's adjusted gross
5 income up to \$150,000 and an assessment of 1% on that portion of
6 adjusted gross income that exceeds \$150,000.

7 2. Payment of assessment; returns. Every individual
8 subject to the assessment imposed by this section shall, on or
9 before April 15th, file with the assessor on forms prescribed by
10 the assessor a return for the prior calendar year. At the time
11 of filing such a return, each individual shall pay to the
12 assessor the amount of assessment shown due.

13 3. Dirigo Health Fund. The assessor shall pay taxes
14 collected under this section to the Dirigo Health Fund
15 established in Title 24-A, section 6915.

16 4. Exemption. An individual who demonstrates to the
17 satisfaction of the assessor conclusive evidence that the
18 individual has obtained a basic catastrophic policy and is not
19 enrolled in Dirigo Health Insurance as permitted under Title
20 24-A, section 6910 is exempt from paying the assessment required
21 in subsection 1.

PART B

22 **Sec. B-1. 24 MRSA §2327**, as amended by PL 2003, c. 469, Pt.
23 E, §1, is further amended to read:

§2327. Group rates

24 A group health care contract may not be issued by a
25 nonprofit hospital or medical service organization in this State
26 until a copy of the group rates to be used in calculating the
27 premium for these contracts has been filed for informational
28 purposes with the superintendent. The filing must include the
29 base rates and a description of any procedures to be used to
30 adjust the base rates to reflect factors including, but not
31 limited to, age, gender, health status, claims experience, group
32 size and coverage of dependents. Notwithstanding this section,
33 rates for group Medicare supplement, nursing home care or
34 long-term care contracts and for certain group contracts included
35 within the definition of "individual health plan" in Title 24-A,
36 section 2736-C, subsection 1, paragraph C must be filed in
37 accordance with section 2321 and ~~rates for small group health~~
38 ~~plans as defined by Title 24-A, section 2808-B must be filed in~~
39 ~~accordance with that section.~~

2 **Sec. B-2. 24-A MRSA §2736, sub-§3, ¶B**, as amended by PL 2003,
c. 469, Pt. E, §9, is further amended to read:

4
6 B. The insurer must demonstrate in accordance with
generally accepted actuarial principles and practices
consistently applied that, as of a date no more than 210
8 days prior to the filing, the ratios of benefits incurred to
premiums earned for those products average no less than 80%
10 for the previous 12-month period. ~~For the purposes of this~~
~~calculation, any savings offset payments paid pursuant to~~
12 ~~section 6913 must be treated as incurred claims.~~

14 **Sec. B-3. 24-A MRSA §2736, sub-§4, ¶C**, as amended by PL 2003,
c. 469, Pt. E, §10, is further amended to read:

16
18 C. In any hearing conducted under this subsection, the
Bureau of Insurance and any party asserting that the rates
are excessive have the burden of establishing that the rates
20 are excessive. The burden of proving that rates are
adequate, and not unfairly discriminatory ~~and in compliance~~
22 ~~with the requirements of section 6913~~ remains with the
insurer.

24 **Sec. B-4. 24-A MRSA §2736-A, first ¶**, as amended by PL 2003, c.
26 469, Pt. E, §11, is further amended to read:

28 If at any time the superintendent has reason to believe that
a filing does not meet the requirements that rates not be
30 excessive, inadequate, or unfairly discriminatory ~~or not in~~
~~compliance with section 6913~~ or that the filing violates any of
32 the provisions of chapter 23, the superintendent shall cause a
hearing to be held.

34 **Sec. B-5. 24-A MRSA §2736-C, sub-§2, ¶D**, as amended by PL
36 2001, c. 410, Pt. A, §2 and affected by §10, is repealed.

38 **Sec. B-6. 24-A MRSA §2736-C, sub-§2, ¶F**, as enacted by PL
40 2003, c. 469, Pt. E, §12, is amended to read:

42 F. A carrier that adjusts its rate shall account for the
savings offset payment or any recovery in that offset
44 payment in its experience consistent with this section and
~~section 6913.~~

46 **Sec. B-7. 24-A MRSA §2736-C, sub-§5**, as amended by PL 2003, c.
48 469, Pt. E, §13, is further amended to read:

5. **Loss ratios.** For all policies and certificates issued

2 on or after the effective date of this section, the
superintendent shall disapprove any premium rates filed by any
4 carrier, whether initial or revised, for an individual health
policy unless it is anticipated that the aggregate benefits
6 estimated to be paid under all the individual health policies
maintained in force by the carrier for the period for which
8 coverage is to be provided will return to policyholders at least
65% of the aggregate premiums collected for those policies, as
10 determined in accordance with accepted actuarial principles and
practices and on the basis of incurred claims experience and
12 earned premiums. ~~For--the--purposes--of--this--calculation,--any
savings--offset--payments--paid--pursuant--to--section--6913--must--be
treated--as--incurred--claims.~~

14 **Sec. B-8. 24-A MRSA §2839-B**, as enacted by PL 2003, c. 469,
16 Pt. E, §17, is repealed.

18 **PART C**

20 **Sec. C-1. 24-A MRSA §6903, sub-§3**, as enacted by PL 2003, c.
22 469, Pt. A, §8, is amended to read:

24 **3. Dependent.** "Dependent" means a spouse, an unmarried
child under 19 years of age, a child who is a student under 23
26 years of age and is financially dependent upon a plan enrollee or
a person of any age who is the child of a plan enrollee and is
28 disabled and dependent upon that plan enrollee. "Dependent" may
include a domestic partner consistent with sections 2741-A,
30 2832-A and 4249 and Title 24, section 2319-A.

32 **Sec. C-2. 24-A MRSA §6951, first ¶**, as enacted by PL 2003, c.
469, Pt. A, §8, is amended to read:

34 The Maine Quality Forum, referred to in this subchapter as
36 "the forum," is established within Dirigo Health. The forum is
governed by the board with advice from the Maine Quality Forum
38 Advisory Council pursuant to section 6952. ~~The--forum--must--be
funded,--at--least--in--part,--through--the--savings--offset--payments
made--pursuant--to--section--6913.~~ Except as provided in section
40 6907, subsection 2, information obtained by the forum is a public
42 record as provided by Title 1, chapter 13, subchapter 1. The
forum shall perform the following duties.

44

46

SUMMARY

48

This bill does the following:

50

Part A expands the Dirigo Health Insurance program to all

2 residents of this State starting January 1, 2006. The bill
3 requires that the Board of Directors of Dirigo Health develop a
4 benefit package compatible with federally authorized health
5 savings accounts and provide the opportunity for health savings
6 accounts for all eligible individuals. The bill also limits the
7 out-of-pocket maximums, including deductibles, copayments and
8 coinsurance, under the Dirigo Health Insurance program to 10% of
9 an eligible individual's adjusted gross income. The bill
10 requires Dirigo Health to establish the Enrollee Hardship Fund to
11 provide financial assistance to eligible individuals to meet any
12 required out-of-pocket maximums under the Dirigo Health Insurance
13 program.

14 Financing for coverage under the Dirigo Health Insurance
15 program is provided through an individual health assessment.
16 Beginning January 1, 2006, each resident individual and
17 nonresident individual subject to income tax liability must pay
18 an individual health assessment of 5% for the first \$150,000 of
19 that individual's adjusted gross income and an additional 1% of
20 any portion of that adjusted gross income that exceeds \$150,000
21 unless the individual has other coverage through at least a basic
22 catastrophic policy and is not enrolled in Dirigo Health. The
23 bill repeals the provision in current law relating to savings
24 offset payments by health insurers and 3rd-party administrators.

26 Part B and Part C correct cross-references necessitated by
changes in this bill.