

MAINE STATE LEGISLATURE

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INSURANCE AND FINANCIAL SERVICES

Reported by: MAJORITY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE SENATE 122ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT 'A' to S.P. 555, L.D. 1577, Bill, "An Act To Modify the Calculation and Implementation Date of Savings Offset Payments under the Dirigo Health Act"

Amend the bill by striking out the title and substituting the following:

'An Act To Modify Savings Offset Payments and To Clarify Certain Other Provisions of the Dirigo Health Act'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation needs to be enacted immediately to ensure the sustainability of Dirigo Health; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

2 Sec. A-1. 24-A MRSA §2735-A, sub-§§1-A and 3 are enacted to read:

4 1-A. Notice of rate filings or rate increase on existing
6 policies renewed in calendar year 2006. Notwithstanding
8 subsection 1, for existing policies renewed in calendar year
10 2006, an insurer offering individual health plans as defined in
12 section 2736-C for plan years beginning in 2006 must provide
14 written notice by first class mail of a rate filing to all
16 affected policyholders at least 30 days before the effective date
18 of any proposed increase in premium rates or any proposed rating
20 formula or classification of risks or modification of any formula
or classification of risks. The notice must also inform
policyholders of their right to request a hearing pursuant to
section 229 or a special rate hearing pursuant to section 2736,
subsection 4 or Title 24, section 2321, subsection 5. The notice
must show the proposed rate and state that the rate is subject to
regulatory approval. An increase in premium rates may not be
implemented until 30 days after the notice is provided.

22 This subsection is repealed January 1, 2007.

24 3. Notice of rate increase on new business for calendar
26 year 2006. Notwithstanding subsection 2, for new business quoted
28 in calendar year 2006 by an insurer offering individual health
30 plans as defined in section 2736-C, the insurer must disclose any
32 rate increase that the insurer anticipates implementing within
34 the following 30 days. If the quote is in writing, the disclosure
must also be in writing. If the increase is pending approval at
the time of notice, the disclosure must include the proposed rate
and state that it is subject to regulatory approval. If
disclosure required by this subsection is not provided, an
increase may not be implemented until at least 30 days after the
date the quote is provided.

36 This subsection is repealed January 1, 2007.

38 Sec. A-2. 24-A MRSA §2839-A, sub-§§1-A and 3 are enacted to read:

40 1-A. Notice of rate increase on existing policies renewed
42 in calendar year 2006. Notwithstanding subsection 1, for existing
44 policies renewed in calendar year 2006, an insurer offering group
46 health insurance for 2006 plan years, except for accidental
48 injury, specified disease, hospital indemnity, disability income,
50 Medicare supplement, long-term care or other limited benefit
group health insurance, must provide written notice by first
class mail of a rate increase to all affected policyholders or
others who are directly billed for group coverage at least 30
days before the effective date of any increase in premium rates.

2 An increase in premium rates may not be implemented until 30 days
3 after the notice is provided.

4 This subsection is repealed January 1, 2007.

6 3. Notice of rate increase on new business for calendar
7 year 2006. Notwithstanding subsection 2, for new business quoted
8 in calendar year 2006 by an insurer offering group health
9 insurance, except for accidental injury, specified disease,
10 hospital indemnity, disability income, Medicare supplement,
11 long-term care or other limited benefit group health insurance,
12 quotes a rate for new business, the insurer must disclose any
13 rate increase that the insurer anticipates implementing within
14 the following 30 days. If the quote is in writing, the disclosure
15 must also be in writing. If such disclosure is not provided, an
16 increase may not be implemented until at least 30 days after the
17 date the quote is provided.

18 This subsection is repealed January 1, 2007.

20 Sec. A-3. 24-A MRSA §6903, sub-§4, as enacted by PL 2003, c.
21 469, Pt. A, §8, is repealed.

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

24 4-A. Dirigo Health Program. "Dirigo Health Program" means
25 the program of services provided by Dirigo Health that includes
26 comprehensive health benefits coverage, subsidies, wellness
27 programs and quality improvement initiatives.

28 Sec. A-5. 24-A MRSA §6908, sub-§12 is enacted to read:

29 12. Jurisdiction. The joint standing committee of the
30 Legislature having jurisdiction over insurance matters has
31 legislative oversight and jurisdiction, including financial
32 oversight, over Dirigo Health.

33 Sec. A-6. 24-A MRSA §6911, as enacted by PL 2003, c. 469,
34 Pt. A, §8 and amended by c. 689, Pt. B, §6, is further amended to
35 read:

36 **§6911. Coordination with MaineCare**

37 The Department of Health and Human Services is the state
38 agency responsible for the financing and administration of
39 MaineCare. It shall pay for MaineCare benefits for
40 MaineCare-eligible individuals, including those enrolled in
41 health plans in MaineCare that are providing coverage under the
42 Dirigo Health Insurance Program. An individual participating in

2 the Dirigo Health Program who applies for and is determined
3 eligible for MaineCare is enrolled directly in MaineCare.

4 **Sec. A-7. 24-A MRSA §6912, first ¶**, as enacted by PL 2003, c.
5 469, Pt. A, §8, is amended to read:

6
7 Dirigo Health may establish sliding-scale subsidies for the
8 purchase of Dirigo Health Insurance Program coverage paid by
9 eligible individuals or employees whose income is under 300% of
10 the federal poverty level and who are not eligible for
11 MaineCare. Dirigo Health may also establish sliding-scale
12 subsidies for the purchase of employer-sponsored health coverage
13 paid by employees of businesses with more than 50 employees,
14 whose income is under 300% of the federal poverty level and who
15 ~~are not eligible for MaineCare.~~

16 **Sec. A-8. 24-A MRSA §6912, sub-§2**, as enacted by PL 2003, c.
17 469, Pt. A, §8, is amended to read:

18
19 **2. Eligibility for subsidy.** Individuals To be eligible for
20 a subsidy an individual or employee must:

21
22 **A.** Have Be enrolled in the Dirigo Health Program, have an
23 income under 300% of the federal poverty level, and be a
24 resident of the State, be ineligible for MaineCare coverage
25 and be enrolled in Dirigo Health Insurance; or

26
27 **B.** Be enrolled in a health plan of an employer with more
28 than 50 employees and have an income under 300% of the
29 federal poverty level. The health plan must meet any
30 criteria established by Dirigo Health. The individual must
31 meet other eligibility criteria established by Dirigo Health.

32
33 **Sec. A-9. 24-A MRSA §6912, sub-§6**, as enacted by PL 2003, c.
34 469, Pt. A, §8, is amended to read:

35
36 **6. Report.** Within 30 days after any subsidies are
37 established pursuant to this section, the board shall report on
38 the amount of the subsidies, the funding required for the
39 subsidies and the estimated number of Dirigo Health Program
40 enrollees eligible for the subsidies and submit the report to
41 the joint standing committee of the Legislature having
42 jurisdiction over appropriations and financial affairs, the joint
43 standing committee of the Legislature having jurisdiction over
44 insurance and financial services matters and the joint standing
45 committee of the Legislature having jurisdiction over health and
46 human services matters.

47
48 **Sec. A-10. 24-A MRSA §6913, sub-§1**, as enacted by PL 2003, c.
49 469, Pt. A, §8, is amended to read:

2 1. Determination of cost savings. After an opportunity for
4 a an adjudicatory hearing conducted pursuant to Title 5, chapter
6 375, subchapter 4, the board shall determine annually not later
8 than April the aggregate measurable cost savings in this State,
10 including any reduction or avoidance of bad debt and charity care
costs to health care providers in this State as a result of the
operation of Dirigo Health and any increased MaineCare enrollment
due to an expansion in MaineCare eligibility occurring after June
30, 2004.

12 Sec. A-11. 24-A MRSA §6913, sub-§§2 and 3, as enacted by PL
14 2003, c. 469, Pt. A, §8, are repealed and the following enacted
in their place:

16 2. Determination of savings offset amount. The board shall
18 determine annually a savings offset amount to be paid by health
20 insurance carriers, employee benefit excess insurance carriers
22 and 3rd-party administrators, not including carriers and
24 3rd-party administrators with respect to accidental injury,
specified disease, hospital indemnity, dental, vision, disability
income, long-term care, Medicare supplement or other limited
benefit health insurance. The board shall determine the savings
offset amount in accordance with the following:

26 A. Not later than April of each year, the board shall
28 prospectively determine the savings offset amount to be
applied during each 12-month calendar year period;

30 B. To determine the savings offset amount, the board shall
32 use the criteria and reports described in subsections 7 and
8;

34 C. The savings offset amount must reflect and may not exceed
36 aggregate measurable cost savings, as determined by the
board pursuant to subsection 1; and

38 D. The savings offset amount calculation is limited to the
40 amount of funds necessary to provide subsidies pursuant to
42 section 6912 and to support the Maine Quality Forum
established in section 6951 and may not include general
administrative expenses of Dirigo Health, except for general
administrative expenses of the Maine Quality Forum.

44 The savings offset amount determined by the board in accordance
46 with this subsection is the determining factor for inclusion of
savings offset payments in premiums through rate setting review
48 by the bureau.

2 3. Savings offset payments required from health insurance
3 carriers, 3rd-party administrators and employee benefit excess
4 insurance carriers. Except for the carriers and 3rd-party
5 administrators that are specifically excluded in subsection 2,
6 each health insurance carrier, 3rd-party administrator and
7 employee benefit excess insurance carrier shall pay a savings
8 offset payment. The following provisions govern savings offset
9 payments.

10 A. The board shall calculate savings offset payments as a
11 percentage of paid claims, as defined by the board pursuant
12 to subsection 10. The board shall make reasonable efforts to
13 ensure that paid claims are counted only once with respect
14 to any savings offset payment. The board may verify each
15 health insurance carrier's, 3rd-party administrator's and
16 employee benefit excess insurance carrier's savings offset
17 payment based on annual statements and other reports the
18 board determines to be necessary.

19 B. Maximum savings offset payments are as follows:

20
21 (1) For health insurance carriers, the savings offset
22 payment may not exceed 4.0% of annual paid claims for
23 health care on policies issued pursuant to the laws of
24 this State that insure residents of this State;

25
26 (2) For 3rd-party administrators, the savings offset
27 payment may not exceed 4.0% of annual paid claims for
28 health care for residents of this State; and

29
30 (3) For employee benefit excess insurance carriers, the
31 savings offset payment may not exceed 4.0% of annual
32 paid claims on employee benefit excess insurance
33 policies, as defined in section 707, subsection 1,
34 paragraph C-1, issued pursuant to the laws of this
35 State that insure residents of this State.

36
37 C. A health insurance and employee benefit excess insurance
38 carrier may not be required to pay a savings offset payment
39 on policies or contracts insuring federal employees.

40
41 D. Savings offset payments apply to claims paid for plan
42 years beginning on or after January 1, 2006.

43
44 E. Savings offset payments may not begin until 12 months
45 after Dirigo Health begins providing health insurance
46 coverage;

47
48 F. Savings offset payments must be made quarterly and are
49 due not less than 60 days after the close of the quarter and
50

2 with a minimum of 30 days' written notice by Dirigo Health
3 to health insurance carriers, employee benefit excess
4 insurance carriers and 3rd-party administrators and must
5 accrue interest at 12% per annum on or after the due date,
6 except that:

7 (1) For plan years beginning between January 1, 2006
8 and March 31, 2006, both days inclusive, savings offset
9 payments must be made monthly for January 2006,
10 February 2006 and March 2006 and are due not less than
11 60 days after the close of each of those calendar
12 months; and

13 (2) Savings offset payments for 3rd-party
14 administrators for groups of 500 or fewer members may
15 be made annually not less than 60 days after the close
16 of the plan year.

17 G. Savings offset payments received by Dirigo Health must be
18 pooled with other revenues of the agency in the Dirigo
19 Health Fund established in section 6915; and

20 H. Annual savings offset payments received must be
21 reconciled by Dirigo Health to determine whether unused
22 payments may be returned to health insurance carriers,
23 3rd-party administrators and employee benefit excess
24 insurance carriers according to a formula developed by the
25 board.

26 Sec. A-12. 24-A MRSA §6913, sub-§§4 and 6, as enacted by PL
27 2003, c. 469, Pt. A, §8, are repealed.

28 Sec. A-13. 24-A MRSA §6913, sub-§10 is enacted to read:

29 10. Definition of paid claims; rulemaking. The board shall
30 adopt rules regarding the definition of paid claims for the
31 purposes of calculating savings offset payments for health
32 insurance carriers, 3rd-party administrators and employee benefit
33 excess insurance carriers due on or after January 1, 2007. Rules
34 adopted pursuant to this subsection are major substantive rules
35 as defined in Title 5, chapter 375, subchapter 2-A.

36 Sec. A-14. 24-A MRSA §6914, as enacted by PL 2003, c. 469,
37 Pt. A, §8, is amended to read:

38 §6914. Intragovernmental transfer

39 Starting July 1, 2004, Dirigo Health shall transfer funds,
40 as necessary, to a special dedicated, nonlapsing revenue account
41 administered by the agency of State Government that administers
42

2 MaineCare for the purpose of providing a state match for federal
3 Medicaid dollars. Dirigo Health shall annually set the amount of
4 contribution. ~~The transfer may not include money collected as a
5 savings-payment-offset-pursuant-to-section-6913.~~

6
7 **PART B**

8
9 **Sec. B-1. Savings offset payments working group.** The
10 Superintendent of Insurance shall convene a working group to
11 advise the Board of Directors of Dirigo Health, referred to in
12 this section as "the board," as provided in this section.

13
14 **1. Membership.** The working group must include 5 members
15 representing the interests of insurers, self-insured entities and
16 3rd-party administrators and 5 members representing the interests
17 of Dirigo Health.

18
19 **2. Convening of working group.** The Superintendent of
20 Insurance shall convene the first meeting of the working group
21 within 15 days of the effective date of this Act.

22
23 **3. Duties.** The working group shall make recommendations to
24 advise the board on the following issues:

25
26 A. The definition of "subsidy" within the Dirigo Health
27 Program. This recommendation must be made no later than July
28 15, 2005;

29
30 B. The definition of "paid claims" for the purpose of using
31 paid claims as the base for savings offset payment
32 assessments on health insurance carriers, 3rd-party
33 administrators and employee benefit excess insurance
34 carriers. This recommendation must be made no later than
35 July 15, 2005;

36
37 C. The process for implementing and invoicing savings offset
38 payment assessments based on the recommended definition of
39 paid claims. This recommendation must be made no later than
40 August 15, 2005;

41
42 D. The board's proposed methodology for calculating
43 aggregate measurable cost savings. This recommendation must
44 be made no later than September 15, 2005; and

45
46 E. A funding strategy to cover Dirigo Health's
47 administrative expenses. This recommendation must be made no
48 later than December 31, 2005.

2 **4. Technical assistance; facilitator.** The Department of
Professional and Financial Regulation, Bureau of Insurance shall
provide technical assistance to the working group upon request.
4 Meetings of the working group must be moderated by an independent
facilitator selected by the Superintendent of Insurance.
6

8 **5. Monthly reports; notice of meetings.** The working group
shall provide monthly reports to the Joint Standing Committee on
Insurance and Financial Services and shall notify committee
10 members of each meeting of the working group. The monthly reports
must include any recommendations the working group has made to
12 the board pursuant to subsection 3.

14 **6. Termination of working group.** The working group
terminates December 31, 2005.
16

Sec. B-2. Provisions governing first year of savings offset payments.

18 **1. Definition of paid claims; first assessment year.** The
20 Board of Directors of Dirigo Health shall adopt rules regarding
the definition of paid claims under section 1 of this Part for
22 the calculation of savings offset payments for the first 12-month
calendar year period of savings offset payments, referred to in
24 this section as "the first assessment year," due from health
insurance carriers, 3rd-party administrators and employee benefit
26 excess insurance carriers pursuant to the Maine Revised Statutes,
Title 24-A, section 6913. In adopting these rules, the board
28 shall take into account the recommendations of the working group
established under section 1 with respect to the definition of
30 paid claims and the methodology for calculating and invoicing
savings offset payment assessments based on paid claims. Rules
32 adopted pursuant to this section are routine technical rules as
defined in Title 5, chapter 375, subchapter 2-A. For savings
34 offset payments after the first assessment year, the board shall
define paid claims through major substantive rulemaking in
36 accordance with Title 24-A, section 6913, subsection 10.

38 **2. Timeline.** Notwithstanding any deadlines specified in the
Maine Revised Statutes, Title 24-A, section 6913, the Board of
40 Directors of Dirigo Health shall comply with the following
deadlines for the first assessment year:
42

44 A. No later than September 15, 2005, the board shall begin
the adjudicatory hearing regarding aggregate measurable cost
savings, as required by Title 24-A, section 6913, subsection
46 1;

2 B. No later than October 30, 2005, the board shall determine
aggregate measurable cost savings, as required by Title
24-A, section 6913, subsection 1; and

4
6 C. No later than October 30, 2005, the board shall establish
the amount of the savings offset payment, as required by
Title 24-A, section 6913, subsection 2.

8
10 **Sec. B-3. Funding Dirigo Health administrative expenses.** General
administrative expenses of Dirigo Health, excluding
12 administrative expenses directly associated with the Maine
Quality Forum established in the Maine Revised Statutes, Title
14 24-A, section 6951, may be covered by the remaining balance of
the \$53,000,000 in funds transferred from the unappropriated
16 surplus of the General Fund to the Dirigo Health Fund pursuant to
Public Law 2003, chapter 469, Part H, section 1 and may not be
covered by savings offset payments in accordance with the Maine
18 Revised Statutes, Title 24-A, section 6913, subsection 2.
Following receipt and review of the recommendations of the
20 working group, established in section 1, regarding a funding
strategy for Dirigo Health's administrative expenses and no later
22 than February 15, 2006, the Board of Directors of Dirigo Health
shall submit its recommendations, including any suggested
24 legislation, for funding administrative expenses to the Joint
Standing Committee on Insurance and Financial Services.
26 Following receipt and review of the board's recommendation, the
committee may report out a bill related to funding Dirigo
28 Health's administrative expenses to the Second Regular Session of
the 122nd Legislature.

30
32 **PART C**

34 **Sec. C-1. 22 MRSA §3174-V, sub-§2,** as amended by PL 2003, c.
469, Pt. A, §7, is further amended to read:

36
38 **2. Contracted services.** When a federally qualified health
center otherwise meeting the requirements of subsection 1
40 contracts with a managed care plan or the Dirigo Health Insurane
Program for the provision of MaineCare services, the department
42 shall reimburse that center the difference between the payment
received by the center from the managed care plan or the Dirigo
Health Insurane Program and 100% of the reasonable cost, reduced
44 by the total copayments for which members are responsible,
incurred in providing services within the scope of service
46 approved by the federal Health Resources and Services
Administration or the commissioner. Any such managed care
48 contract must provide payments for the services of a center that
are not less than the level and amount of payment that the
50 managed care plan or the Dirigo Health Insurane Program would

2 make for services provided by an entity not defined as a
federally qualified health center.

4 **Sec. C-2. 22 MRSA §3174-DD**, as enacted by PL 2003, c. 469,
Pt. A, §6, is amended to read:

6 **§3174-DD. Dirigo Health coverage**

8
10 The department may contract with one or more health
insurance carriers to purchase Dirigo Health Insurance Program
12 coverage for MaineCare members who seek to enroll through their
employers pursuant to Title 24-A, section 6910, subsection 4,
14 paragraph B. A MaineCare member who enrolls in a the Dirigo
Health Insurance plan Program as a member of an employer group
16 receives full MaineCare benefits through the Dirigo Health
Insurance Program. The benefits are delivered through the
18 employer-based health plan, subject to nominal cost sharing as
permitted by 42 United States Code, Section 1396o(2003) and
additional coverage provided under contract by the department.

20 **Sec. C-3. 24-A MRSA §6903, sub-§§12 and 13**, as enacted by PL
22 2003, c. 469, Pt. A, §8, are amended to read:

24 **12. Participating employer.** "Participating employer" means
an eligible business that contracts with Dirigo Health pursuant
26 to section 6910, subsection 4, paragraph B and that has employees
enrolled in the Dirigo Health Insurance Program.

28 **13. Plan enrollee.** "Plan enrollee" means an eligible
30 individual or eligible employee who enrolls in the Dirigo Health
Insurance Program through Dirigo Health. "Plan enrollee"
32 includes an eligible employee who is eligible to enroll in
MaineCare.

34 **Sec. C-4. 24-A MRSA §6906**, as enacted by PL 2003, c. 469,
36 Pt. A, §8, is amended to read:

38 **§6906. Prohibited interests of board members and employees**

40 Board members and employees of Dirigo Health and their
spouses and dependent children may not receive any direct
42 personal benefit from the activities of Dirigo Health in
assisting any private entity, except that they may participate in
44 the Dirigo Health Insurance Program on the same terms as others
may under this chapter. This section does not prohibit
46 corporations or other entities with which board members are
associated by reason of ownership or employment from
48 participating in activities of Dirigo Health or receiving
services offered by Dirigo Health as long as the ownership or
50 employment is made known to the board and, if applicable, the

board members abstain from voting on matters relating to that participation.

Sec. C-5. 24-A MRSA §6908, sub-§1, ¶C, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

C. Have and exercise all powers necessary or convenient to effect the purposes for which Dirigo Health is organized or to further the activities in which Dirigo Health may lawfully be engaged, including the establishment of the Dirigo Health Insurance Program;

Sec. C-6. 24-A MRSA §6908, sub-§2, ¶¶C to F, as enacted by PL 2003, c. 469, Pt. A, §8, are amended to read:

C. Determine the comprehensive services and benefits to be included in the Dirigo Health Insurance Program and develop the specifications for the Dirigo Health Insurance Program in accordance with the provisions in section 6910. Within 30 days of its determination of the benefit package to be offered through the Dirigo Health Insurance Program, the board shall report on the benefit package, including the estimated premium and applicable coinsurance, deductibles, copayments and out-of-pocket maximums, to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters;

D. Develop and implement a program to publicize the existence of Dirigo Health and the Dirigo Health Insurance Program and the eligibility requirements and the enrollment procedures for the Dirigo Health Insurance Program and to maintain public awareness of Dirigo Health and the Dirigo Health Insurance Program;

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

F. Develop a high-risk pool for plan enrollees in the Dirigo Health Insurance Program in accordance with the provisions of section 6971; and

Sec. C-7. 24-A MRSA §6908, sub-§6, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

2 **6. Annual report.** Beginning September 1, 2004, and annually
3 thereafter, the board shall report on the impact of Dirigo Health
4 on the small group and individual health insurance markets in
5 this State and any reduction in the number of uninsured
6 individuals in the State. The board shall also report on
7 membership in Dirigo Health, the administrative expenses of
8 Dirigo Health, the extent of coverage, the effect on premiums,
9 the number of covered lives, the number of Dirigo Health
10 Insurance Program policies issued or renewed and Dirigo Health
11 Insurance Program premiums earned and claims incurred by health
12 insurance carriers offering coverage under the Dirigo Health
13 Insurance Program. The board shall submit the report to the
14 Governor, the joint standing committee of the Legislature having
15 jurisdiction over appropriations and financial affairs, the joint
16 standing committee of the Legislature having jurisdiction over
17 health insurance and financial services matters and the joint
18 standing committee of the Legislature having jurisdiction over
19 health and human services matters.

20 **Sec. C-8. 24-A MRSA §6910**, as corrected by RR 2003, c. 1,
21 §22, is amended to read:

22 **§6910. Dirigo Health Program**

23 **1. Dirigo Health Program.** Dirigo Health shall arrange for
24 the provision of health benefits coverage through the Dirigo
25 Health Insurance Program not later than October 1, 2004. The
26 Dirigo Health Insurance Program must comply with all relevant
27 requirements of this Title. Dirigo Health Insurance Program
28 coverage may be offered by health insurance carriers that apply
29 to the board and meet qualifications described in this section
30 and any additional qualifications set by the board.

31 **2. Legislative approval of nonprofit health care plan or**
32 **expansion of public plan.** If health insurance carriers do not
33 apply to offer and deliver Dirigo Health Insurance Program
34 coverage, the board may have Dirigo Health provide access to
35 health insurance by proposing the establishment of a nonprofit
36 health care plan organized under Title 13-B and authorized
37 pursuant to Title 24, chapter 19 or by proposing the expansion of
38 an existing public plan. If the board proposes the establishment
39 of a nonprofit health care plan or the expansion of an existing
40 public plan, the board shall submit its proposal, including, but
41 not limited to, a funding mechanism to capitalize a nonprofit
42 health care plan and any recommended legislation to the joint
43 standing committee of the Legislature having jurisdiction over
44 health insurance matters. Dirigo Health may not provide access to
45 health insurance by establishing a nonprofit health care plan or
46 through an existing public plan without specific legislative
47 approval.

2 **3. Carrier participation requirements.** To qualify as a
3 carrier of Dirigo Health Insurance Program coverage, a health
4 insurance carrier must:

6 A. Provide the comprehensive health services and benefits
7 as determined by the board, including a standard benefit
8 package that meets the requirements for mandated coverage
9 for specific health services, specific diseases and for
10 certain providers of health services under Title 24 and this
11 Title and any supplemental benefits the board wishes to make
12 available; and

14 B. Ensure that:

16 (1) Providers contracting with a carrier contracted to
17 provide coverage to plan enrollees do not charge plan
18 enrollees or 3rd parties for covered health care
19 services in excess of the amount allowed by the carrier
20 the provider has contracted with, except for applicable
21 copayments, deductibles or coinsurance or as provided
22 in section 4204, subsection 6;

24 (2) Providers contracting with a carrier contracted to
25 provide coverage to plan enrollees do not refuse to
26 provide services to a plan enrollee on the basis of
27 health status, medical condition, previous insurance
28 status, race, color, creed, age, national origin,
29 citizenship status, gender, sexual orientation,
30 disability or marital status. This subparagraph may
31 not be construed to require a provider to furnish
32 medical services that are not within the scope of that
33 provider's license; and

34 (3) Providers contracting with a carrier contracted to
35 provide coverage to plan enrollees are reimbursed at
36 the negotiated reimbursement rates between the carrier
37 and its provider network.

40 Health insurance carriers that seek to qualify to provide Dirigo
41 Health Insurance Program coverage must also qualify as health
42 plans in Medicaid.

44 **4. Contracting authority.** Dirigo Health has contracting
45 authority and powers to administer Dirigo Health Insurance as set
46 out in this subsection.

48 A. Dirigo Health may contract with health insurance
49 carriers licensed to sell health insurance in this State or
50 other private or public third-party administrators to

2 provide Dirigo Health Insurance Program coverage. In
addition:

4 (1) Dirigo Health shall issue requests for proposals
6 from health insurance carriers;

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

14 (3) Dirigo Health shall require participating health
insurance carriers to offer a benefit plan identical to
16 the Dirigo Health Insurance Program, for which no
Dirigo Health subsidies are available, in the general
18 small group market;

20 (4) Dirigo Health shall make payments to participating
health insurance carriers under a Dirigo Health
22 Insurance Program contract to provide Dirigo Health
Insurance Program benefits to plan enrollees not
24 enrolled in MaineCare;

26 (5) Dirigo Health may set allowable rates for
administration and underwriting gains for the Dirigo
28 Health Insurance Program;

30 (6) Dirigo Health may administer continuation benefits
for eligible individuals from employers with 20 or more
32 employees who have purchased health insurance coverage
through Dirigo Health for the duration of their
34 eligibility periods for continuation benefits pursuant
to the federal Consolidated Omnibus Budget
36 Reconciliation Act, Public Law 99-272, Title X, Private
Health Insurance Coverage, Sections 10001 to 10003; and
38

40 (7) Dirigo Health may administer or contract to
administer the United States Internal Revenue Code of
1986, Section 125 plans for employers and employees
42 participating in Dirigo Health, including medical
expense reimbursement accounts and dependent care
44 reimbursement accounts.

46 B. Dirigo Health shall contract with eligible businesses
seeking assistance from Dirigo Health in arranging for
48 health benefits coverage by the Dirigo Health Insurance
Program for their employees and dependents as set out in
50 this paragraph.

- 2 (1) Dirigo Health may establish contract and other
4 reporting forms and procedures necessary for the
efficient administration of contracts.
- 6 (2) Dirigo Health shall collect payments from
8 participating employers and plan enrollees to cover the
cost of:
- 10 (a) The Dirigo Health Insurance Program for
12 enrolled employees and dependents in contribution
amounts determined by the board;
- 14 (b) Dirigo Health's quality assurance, disease
16 prevention, disease management and
cost-containment programs;
- 18 (c) Dirigo Health's administrative services; and
- 20 (d) Other health promotion costs.
- 22 (3) Dirigo Health shall establish the minimum required
24 contribution levels, not to exceed 60%, to be paid by
employers toward the aggregate payment in subparagraph
26 (2) and establish an equivalent minimum amount to be
paid by employers or plan enrollees and their
28 dependents who are enrolled in MaineCare. The minimum
required contribution level to be paid by employers
30 must be prorated for employees that work less than the
number of hours of a full-time equivalent employee as
32 determined by the employer. Dirigo Health may
establish a separate minimum contribution level to be
34 paid by employers toward coverage for dependents of the
employers' enrolled employees.
- 36 (4) Dirigo Health shall require participating
38 employers to certify that at least 75% of their
employees that work 30 hours or more per week and who
do not have other creditable coverage are enrolled in
40 the Dirigo Health Insurance Program and that the
employer group otherwise meets the minimum
42 participation requirements specified by section 2808-B,
subsection 4, paragraph A.
- 44 (5) Dirigo Health shall reduce the payment amounts for
46 plan enrollees eligible for a subsidy under section
6912 accordingly. Dirigo Health shall return any
48 payments made by plan enrollees also enrolled in
MaineCare to those enrollees.
- 50

2 (6) Dirigo Health shall require participating
employers to pass on any subsidy in section 6912 to the
4 plan enrollee qualifying for the subsidy, up to the
amount of payments made by the plan enrollee.

6 (7) Dirigo Health may establish other criteria for
participation.

8 (8) Dirigo Health may limit the number of
10 participating employers.

12 C. Dirigo Health may permit eligible individuals to
14 purchase Dirigo Health Insurance Program coverage for
themselves and their dependents as set out in this paragraph.

16 (1) Dirigo Health may establish contract and other
reporting forms and procedures necessary for the
18 efficient administration of contracts.

20 (2) Dirigo Health may collect payments from eligible
individuals participating in the Dirigo Health
22 Insurance Program to cover the cost of:

24 (a) Enrollment in the Dirigo Health Insurance
Program for eligible individuals and dependents;

26 (b) Dirigo Health's quality assurance, disease
28 prevention, disease management and
cost-containment programs;

30 (c) Dirigo Health's administrative services; and

32 (d) Other health promotion costs.

34 (3) Dirigo Health shall reduce the payment amounts for
36 individuals eligible for a subsidy under section 6912
accordingly.

38 (4) Dirigo Health may require that eligible
40 individuals certify that all their dependents are
enrolled in the Dirigo Health Insurance Program or are
42 covered by another creditable plan.

44 (5) Dirigo Health may require an eligible individual
who is currently employed by an eligible employer that
46 does not offer health insurance to certify that the
current employer did not provide access to an
48 employer-sponsored benefits plan in the 12-month period
immediately preceding the eligible individual's
50 application.

2 (6) Dirigo Health may limit the number of plan
enrollees.

4
6 (7) Dirigo Health may establish other criteria for
participation.

8 **5. Enrollment in Dirigo Health Program.** Dirigo Health
shall perform, at a minimum, the following functions to
10 facilitate enrollment in the Dirigo Health Insurance Program.

12 A. Dirigo Health shall publicize the availability of the
Dirigo Health Insurance Program to businesses, self-employed
14 individuals and others eligible to enroll in the Dirigo
Health Insurance Program.

16 B. Dirigo Health shall screen all eligible individuals and
18 employees for eligibility for subsidies under section 6912
and eligibility for MaineCare. To facilitate the screening
20 and referral process, Dirigo Health shall provide a single
application form for Dirigo Health and MaineCare. The
22 application materials must inform applicants of subsidies
available through Dirigo Health and of the additional
24 coverage available through MaineCare. It must allow an
applicant to choose on the application form to apply or not
26 to apply for MaineCare or for a subsidy. It must allow an
applicant to provide household financial information
28 necessary to determine eligibility for MaineCare or a
subsidy. Except when the applicant has declined to apply
30 for MaineCare or a subsidy, an application must be treated
as an application for Dirigo Health, for a subsidy and for
32 MaineCare. MaineCare must make the final determination of
eligibility for MaineCare.

34 C. Except as provided in this paragraph, the effective date
36 of coverage for a new enrollee in the Dirigo Health
Insurance Program is the first day of the month following
38 receipt of the fully completed application for that enrollee
by the carrier contracting with Dirigo Health or the first
40 day of the next month if the fully completed application is
received by the carrier within 10 calendar days of the end
42 of the month. If a new enrollee in the Dirigo Health
Insurance Program had prior coverage through an individual
44 or small group policy, coverage under the Dirigo Health
Insurance Program must take effect the day following
46 termination of that enrollee's prior coverage.

48 **6. Quality improvement, disease management and cost**
containment. Dirigo Health shall promote quality improvement,
50 disease prevention, disease management and cost-containment

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2 programs as part of its administration of the Dirigo Health
3 Insurance Program.

4 **Sec. C-9. 24-A MRSA §6913, sub-§8, ¶A**, as enacted by PL 2003,
5 c. 469, Pt. A, §8, is amended to read:

6
7 A. On a quarterly basis beginning with the first quarter
8 after the Dirigo Health Insurance Program begins offering
9 coverage, the board shall collect and report on the
10 following:

11 (1) The total enrollment in the Dirigo Health
12 Insurance Program, including the number of enrollees
13 previously underinsured or uninsured, the number of
14 enrollees previously insured, the number of individual
15 enrollees and the number of enrollees enrolled through
16 small employers;

17 (2) The total number of enrollees covered in health
18 plans through large employers and self-insured
19 employers;

20 (3) The number of employers, both small employers and
21 large employers, who have ceased offering health
22 insurance or contributing to the cost of health
23 insurance for employees or who have begun offering
24 coverage on a self-insured basis;

25 (4) The number of employers, both small employers and
26 large employers, who have begun to offer health
27 insurance or contribute to the cost of health insurance
28 premiums for their employees;

29 (5) The number of new participating employers in the
30 Dirigo Health Insurance Program;

31 (6) The number of employers ceasing to offer coverage
32 through the Dirigo Health Insurance Program;

33 (7) The duration of employers participating in the
34 Dirigo Health Insurance Program; and

35 (8) A comparison of actual enrollees in the Dirigo
36 Health Insurance Program to the projected enrollees.

37
38 **Sec. C-10. 24-A MRSA §6971, sub-§§2 and 3**, as enacted by PL
39 2003, c. 469, Pt. A, §8, are amended to read:

40
41 2. **Disease management.** Dirigo Health shall develop
42 appropriate disease management protocols, develop procedures for
43

2 implementing those protocols and determine the manner in which
3 disease management must be provided to plan enrollees in the
4 high-risk pool. Dirigo Health may include disease management in
5 its contract with participating carriers for the Dirigo Health
6 Insurance Program pursuant to section 6910, contract separately
7 with another entity for disease management services or provide
8 disease management services directly through Dirigo Health.

9
10 **3. Report.** Dirigo Health shall submit a report, no later
11 than January 1, 2006, outlining the disease management protocols,
12 procedures and delivery mechanisms used to provide services to
13 plan enrollees. The report must also include the number of plan
14 enrollees in the high-risk pool, the types of diagnoses managed
15 within the high-risk pool, the claims experience within the
16 high-risk pool and the number and type of claims exceeding
17 \$100,000 for enrollees in the high-risk pool and for all
18 enrollees in the Dirigo Health Insurance Program. The report
19 must be submitted to the joint standing committee of the
20 Legislature having jurisdiction over health insurance matters.
21 The committee may make recommendations on the operation of the
22 high-risk pool and may report out legislation to the Second
23 Regular Session of the 122nd Legislature relating to the
24 high-risk pool.

25 **Emergency clause.** In view of the emergency cited in the
26 preamble, this Act takes effect when approved.'

27 SUMMARY

28
29 This amendment replaces the bill and is the majority
30 report. The amendment adds an emergency preamble and emergency
31 clause. Part A of the amendment does the following.

32
33 1. It allows insurers, for the calendar year 2006, to give
34 30 days' notice of changes in rates to policyholders instead of
35 the 60 days' or 90 days' notice required under current law.

36
37 2. It changes the term "Dirigo Health Insurance" to "Dirigo
38 Health Program" and revises the definition accordingly.

39
40 3. It specifies the joint standing committee of the
41 Legislature having jurisdiction over insurance matters as the
42 committee of jurisdiction for Dirigo Health.

43
44 4. It amends the Dirigo Health Act in several places to
45 bring the law into compliance with federal requirements related
46 to pooling of funds for providing a state match for federal
47 Medicaid dollars.

50

2 5. It allows for the pooling of savings offset payment
3 revenue and clearly states that the calculation of the savings
4 offset payment amount is limited to the amount of funds necessary
5 to provide subsidies and to support the Maine Quality Forum, and
6 that the calculation may not include general administrative
7 expenses of Dirigo Health.

8 6. It changes from premiums to paid claims the assessment
9 base for savings offset payments required from health insurance
10 carriers and employee benefit excess insurance carriers and
11 establishes paid claims as the assessment base for savings offset
12 payments required from 3rd-party administrators.

14 7. It provides for savings offset payments to apply to
15 claims paid on or after January 1, 2006, 6 months later than in
16 current law, to reflect delays in the implementation of Dirigo
17 Health. It provides an exception to the quarterly savings offset
18 payments for the first 3 months of 2006, during which time
19 monthly savings offset payments, due not less than 60 days after
20 the close of the month, are required for plan years starting
21 during those months. It allows 3rd-party administrators for
22 groups of 500 or fewer members to make savings offset payments
23 annually.

24 8. It specifies that rules regarding the definition of paid
25 claims for the purpose of savings offset payments are major
26 substantive rules after the first assessment year. During the
27 first assessment year the rules are routine technical as provided
28 in Part B of the amendment.

30 Part B of the amendment does the following.

32 1. It establishes a 10-member working group, convened by
33 the Superintendent of Insurance, to advise the Board of Directors
34 of Dirigo Health on certain issues relating to savings offset
35 payments, including the definition of "subsidy," the definition
36 of "paid claims," the methodology for calculating and invoicing
37 paid claims, the board's proposed methodology for calculating
38 aggregate measurable cost savings and a funding strategy for
39 Dirigo Health's administrative expenses. The working group is
40 required to provide monthly reports to the Joint Standing
41 Committee on Insurance and Financial Services.

44 2. It provides a timeline for the start-up of savings
45 offset payments, including deadlines for the determination of
46 aggregate measurable cost savings and the amount of the savings
47 offset payment.

48 3. It specifies that Dirigo Health may use the \$53,000,000
50 in start-up funds it received pursuant to Public Law 2003,

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2 chapter 469 to cover administrative expenses but may not cover
those expenses with savings offset payments. It requires the
4 Board of Directors of Dirigo Health, with input from the working
group, to make recommendations to the Joint Standing Committee on
6 Insurance and Financial Services regarding how to finance Dirigo
Health's administrative expenses and authorizes the committee to
report out a bill after reviewing the board's recommendation.

8
10 Part C updates the Maine Revised Statutes, Title 24-A,
chapter 87 to reflect the change from "Dirigo Health Insurance"
to "Dirigo Health Program," as provided in Part A.

FISCAL NOTE REQUIRED
(See attached)



Approved: 06/09/05 *MAC*

122nd MAINE LEGISLATURE

LD 1577

LR 1479(02)

An Act To Modify the Calculation and Implementation Date of Savings Offset Payments under the Dirigo Health Act

Fiscal Note for Bill as Amended by Committee Amendment 'A'

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

Fiscal Note

Minor revenue decrease - Other Special Revenue Funds

Minor Cost Increase - Other Special Revenue Funds

Fiscal Detail and Notes

Modifications to the Dirigo Health savings offset payment (SOP) could result in a minor reduction in the Part 1 Current Services baseline revenue assumptions of the Dirigo Health program. Assumes any additional costs to the Dirigo Health agency in implementing this bill can be absorbed by the agency utilizing existing budgetary resources. Further assumes any additional costs to the Department of Professional and Financial Regulation can be absorbed by the department utilizing existing resources.