

# MAINE STATE LEGISLATURE

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L.D. 1577

DATE: 6-9-05

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INSURANCE AND FINANCIAL SERVICES

Reported by:

MINORITY

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT B 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

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2           **Sec. A-1. 24-A MRSA §6903, sub-§4**, as enacted by PL 2003, c.  
469, Pt. A, §8, is repealed.

4           **Sec. A-2. 24-A MRSA §6903, sub-§4-A** is enacted to read:

6           **4-A. Dirigo Health Program.** "Dirigo Health Program" means  
7 the program of services provided by Dirigo Health that includes  
8 comprehensive health benefits coverage, subsidies, wellness  
9 programs and quality improvement initiatives.

10           **Sec. A-3. 24-A MRSA §6908, sub-§4**, as enacted by PL 2003, c.  
12 469, Pt. A, §8, is amended to read:

14           **4. Audit.** Dirigo Health must be audited annually by the  
15 State Auditor. The board may, ~~in its discretion,~~ shall also  
16 arrange for an independent audit to be conducted annually. A copy  
17 of ~~the~~ each audit must be provided to the State Controller, to  
18 the superintendent, to the joint standing committee of the  
19 Legislature having jurisdiction over appropriations and financial  
20 affairs, to the joint standing committee of the Legislature  
21 having jurisdiction over insurance and financial services matters  
22 and to the joint standing committee of the Legislature having  
23 jurisdiction over health and human services matters.

24           **Sec. A-4. 24-A MRSA §6908, sub-§12** is enacted to read:

26           **12. Jurisdiction.** The joint standing committee of the  
27 Legislature having jurisdiction over insurance matters has  
28 legislative oversight and jurisdiction, including financial  
29 oversight, over Dirigo Health.

32           **Sec. A-5. 24-A MRSA §6910**, as corrected by RR 2003, c. 1,  
33 §22, is amended to read:

34           **§6910. Dirigo Health Program**

36           **1. Dirigo Health Program.** Dirigo Health shall arrange for  
37 the provision of health benefits coverage through the Dirigo  
38 Health Insurance Program not later than October 1, 2004. The  
39 Dirigo Health Insurance Program must comply with all relevant  
40 requirements of this Title. Dirigo Health Insurance Program  
41 coverage may be offered by health insurance carriers that apply  
42 to the board and meet qualifications described in this section  
43 and any additional qualifications set by the board.

46           **2. Legislative approval of nonprofit health care plan or**  
47 **expansion of public plan.** If health insurance carriers do not  
48 apply to offer and deliver Dirigo Health Insurance Program  
49 coverage, the board may have Dirigo Health provide access to  
50 health insurance by proposing the establishment of a nonprofit

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2 health care plan organized under Title 13-B and authorized  
3 pursuant to Title 24, chapter 19 or by proposing the expansion of  
4 an existing public plan. If the board proposes the establishment  
5 of a nonprofit health care plan or the expansion of an existing  
6 public plan, the board shall submit its proposal, including, but  
7 not limited to, a funding mechanism to capitalize a nonprofit  
8 health care plan and any recommended legislation to the joint  
9 standing committee of the Legislature having jurisdiction over  
10 health insurance matters. Dirigo Health may not provide access to  
11 health insurance by establishing a nonprofit health care plan or  
12 through an existing public plan without specific legislative  
13 approval.

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

18 A. Provide the comprehensive health services and benefits  
19 as determined by the board, including a standard benefit  
20 package that meets the requirements for mandated coverage  
21 for specific health services, specific diseases and for  
22 certain providers of health services under Title 24 and this  
23 Title and any supplemental benefits the board wishes to make  
24 available; and

26 B. Ensure that:

28 (1) Providers contracting with a carrier contracted to  
29 provide coverage to plan enrollees do not charge plan  
30 enrollees or 3rd parties for covered health care  
31 services in excess of the amount allowed by the carrier  
32 the provider has contracted with, except for applicable  
33 copayments, deductibles or coinsurance or as provided  
34 in section 4204, subsection 6;

36 (2) Providers contracting with a carrier contracted to  
37 provide coverage to plan enrollees do not refuse to  
38 provide services to a plan enrollee on the basis of  
39 health status, medical condition, previous insurance  
40 status, race, color, creed, age, national origin,  
41 citizenship status, gender, sexual orientation,  
42 disability or marital status. This subparagraph may  
43 not be construed to require a provider to furnish  
44 medical services that are not within the scope of that  
45 provider's license; and

46 (3) Providers contracting with a carrier contracted to  
47 provide coverage to plan enrollees are reimbursed at  
48 the negotiated reimbursement rates between the carrier  
49 and its provider network.  
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2 Health insurance carriers that seek to qualify to provide Dirigo  
3 Health Insurance Program coverage must also qualify as health  
4 plans in Medicaid.

6 **4. Contracting authority.** Dirigo Health has contracting  
7 authority and powers to administer Dirigo Health Insurance  
8 Program coverage as set out in this subsection.

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

16 (1) Dirigo Health shall issue requests for proposals  
17 from health insurance carriers;

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

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

29 (4) Dirigo Health shall make payments to participating  
30 health insurance carriers under a Dirigo Health  
31 Insurance Program contract to provide Dirigo Health  
32 Insurance Program benefits to plan enrollees not  
33 enrolled in MaineCare;

34 (5) Dirigo Health may set allowable rates for  
35 administration and underwriting gains ~~for~~ the Dirigo  
36 Health Insurance Program;

37 (6) Dirigo Health may administer continuation benefits  
38 for eligible individuals from employers with 20 or more  
39 employees who have purchased health insurance coverage  
40 through Dirigo Health for the duration of their  
41 eligibility periods for continuation benefits pursuant  
42 to the federal Consolidated Omnibus Budget  
43 Reconciliation Act, Public Law 99-272, Title X, Private  
44 Health Insurance Coverage, Sections 10001 to 10003; and  
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2 (7) Dirigo Health may administer or contract to  
4 administer the United States Internal Revenue Code of  
6 1986, Section 125 plans for employers and employees  
participating in Dirigo Health, including medical  
expense reimbursement accounts and dependent care  
reimbursement accounts; and

8 (8) After December 31, 2006, Dirigo Health may not  
10 include in its contracts with carriers or 3rd-party  
12 administrators any experience modification program or  
14 other similar arrangement in which payments are made by  
Dirigo Health to the carrier or 3rd-party administrator  
to be set aside to cover unanticipated variance in  
claims experience.

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

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

26 (2) Dirigo Health shall collect payments from  
28 participating employers and plan enrollees to cover the  
cost of:

30 (a) The Dirigo Health Insurance Program for  
32 enrolled employees and dependents in contribution  
amounts determined by the board;

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

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

40 (d) Other health promotion costs.

42 (3) Dirigo Health shall establish the minimum required  
44 contribution levels, not to exceed 60%, to be paid by  
46 employers toward the aggregate payment in subparagraph  
48 (2) and establish an equivalent minimum amount to be  
50 paid by employers or plan enrollees and their  
dependents who are enrolled in MaineCare. The minimum  
required contribution level to be paid by employers  
must be prorated for employees that work less than the  
number of hours of a full-time equivalent employee as

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determined by the employer. Dirigo Health may establish a separate minimum contribution level to be paid by employers toward coverage for dependents of the employers' enrolled employees.

(4) Dirigo Health shall require participating 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 the Dirigo Health Insurance Program and that the employer group otherwise meets the minimum participation requirements specified by section 2808-B, subsection 4, paragraph A.

(5) Dirigo Health shall reduce the payment amounts for plan enrollees eligible for a subsidy under section 6912 accordingly. Dirigo Health shall return any payments made by plan enrollees also enrolled in MaineCare to those enrollees.

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

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

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

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

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

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

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

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

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(c) Dirigo Health's administrative services; and

(d) Other health promotion costs.

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

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

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

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

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

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

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

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



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as an application for Dirigo Health, for a subsidy and for MaineCare. MaineCare must make the final determination of eligibility for MaineCare.

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

**6. Quality improvement, disease management and cost containment.** Dirigo Health shall promote quality improvement, disease prevention, disease management and cost-containment programs as part of its administration of the Dirigo Health Insurance Program.

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

**§6911. Coordination with MaineCare**

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

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

Dirigo Health may establish sliding-scale subsidies for the purchase of Dirigo Health Insurance Program coverage paid by eligible individuals or employees whose income is under 300% of the federal poverty level ~~and who are not eligible for MaineCare~~. Dirigo Health may also establish sliding-scale subsidies for the purchase of employer-sponsored health coverage paid by employees of businesses with more than 50 employees, whose income is under 300% of the federal poverty level ~~and who are not eligible for MaineCare~~. Any experience modification

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program or other similar arrangement between Dirigo Health and a carrier or 3rd-party administrator under contract with Dirigo Health to provide the Dirigo Health Program in which payments are made by Dirigo Health to the carrier or 3rd-party administrator to be set aside to cover unanticipated variance in claims experience may not be considered a subsidy and must be considered a general administrative expense of Dirigo Health.

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

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

A. Have Be enrolled in the Dirigo Health Program, have an income under 300% of the federal poverty level, be a resident of the State, --be ineligible for MaineCare coverage and be enrolled in Dirigo Health Insurance and, for policies issued or renewed on or after January 1, 2006, have assets under 300% of the asset limit for MaineCare eligibility; or

B. Be enrolled in a health plan of an employer with more than 50 employees, have an income under 300% of the federal poverty level and, for policies issued or renewed on or after July 1, 2006, have assets under 300% of the asset limit for MaineCare eligibility. The health plan must meet any criteria established by Dirigo Health. The individual must meet other eligibility criteria established by Dirigo Health.

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

**6. Report.** Within 30 days after any subsidies are established pursuant to this section, the board shall report on the amount of the subsidies, the funding required for the subsidies and the estimated number of Dirigo Health Program enrollees eligible for the subsidies and submit the report 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.

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

**1. Determination of cost savings.** After an opportunity for a an adjudicatory hearing conducted pursuant to Title 5, chapter

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375, subchapter 4, the board superintendent shall determine annually not later than ~~April~~ February the aggregate measurable cost savings in this State, 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 net savings from increased MaineCare enrollment due to an expansion in MaineCare eligibility occurring after June 30, 2004.

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

2. Determination of savings offset amount. The board shall determine annually a savings offset amount to be paid by health insurance carriers, employee benefit excess insurance carriers and 3rd-party administrators, not including carriers and 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:

A. Not later than February of each year, the board shall prospectively determine the savings offset amount to be applied during each 12-month period beginning July 1st of each year;

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

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

D. The savings offset amount calculation is limited to the amount of funds necessary to provide subsidies pursuant to 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. Pursuant to section 6912, the cost of any experience modification program or similar arrangement must be considered a general administrative expense.

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

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

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

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

37 D. Savings offset payments apply to claims paid for plan  
38 years beginning on or after July 1, 2006.

39 E. Savings offset payments may not begin until July 1, 2006;

40  
41 F. Savings offset payments must be made quarterly and are  
42 due not less 60 days after the close of the quarter and with  
43 a minimum of 30 days' written notice by Dirigo Health to  
44 health insurance carriers, employee benefit excess insurance  
45 carriers.

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2 carriers and 3rd-party administrators and must accrue  
interest at 12% per annum on or after the due date;

4 G. Savings offset payments received by Dirigo Health may be  
pooled with other revenues of the agency in the Dirigo  
6 Health Fund established in section 6915; and

8 H. Annual savings offset payments received must be  
reconciled by Dirigo Health. Any unused payments must be  
10 returned to health insurance carriers, 3rd-party  
administrators and employee benefit excess insurance  
12 carriers according to a formula developed by the board.

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

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

18 10. Definition of paid claims; rulemaking. The board shall  
20 adopt rules regarding the definition of paid claims for the  
purposes of calculating savings offset payments for health  
22 insurance carriers, 3rd-party administrators and employee benefit  
excess insurance carriers. Rules adopted pursuant to this  
24 subsection are major substantive rules as defined in Title 5,  
chapter 375, subchapter 2-A.

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

30 **§6914. Intragovernmental transfer**

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

40 **PART B**

42 **Sec. B-1. Savings offset payments working group.** The  
44 Superintendent of Insurance shall convene a working group to  
advise the Board of Directors of Dirigo Health, referred to in  
46 this section as "the board," and the superintendent as provided  
in this section.

48 **1. Membership.** The working group must include 5 members  
50 representing the interests of insurers, self-insured entities and

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2 3rd-party administrators and 5 members representing the interests  
of Dirigo Health.

4 **2. Convening of working group.** The Superintendent of  
Insurance shall convene the first meeting of the working group  
6 within 15 days of the effective date of this Act.

8 **3. Duties.** The working group has the following duties and  
deadlines:

10 A. No later than September 1, 2005, the working group shall  
12 make a recommendation to the board regarding the definition  
of paid claims for the purpose of using paid claims as the  
14 base for savings offset payment assessments on health  
insurance carriers, 3rd-party administrators and employee  
16 benefit excess insurance carriers and the process for  
implementing and invoicing savings offset payment  
18 assessments based on the recommended definition of paid  
claims;

20 B. No later than October 31, 2005, the working group shall  
22 make a recommendation to the superintendent regarding the  
methodology for calculating aggregate measurable cost  
24 savings; and

26 C. No later than December 31, 2005, the working group shall  
28 make a recommendation to the board regarding the definition  
of subsidy within the Dirigo Health Program and a funding  
strategy to cover Dirigo Health's administrative expenses.

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

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

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

46 **Sec. B-2. Funding Dirigo Health administrative expenses.** General  
48 administrative expenses of Dirigo Health, excluding  
administrative expenses directly associated with the Maine  
50 Quality Forum, established in the Maine Revised Statutes, Title

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

### PART C

22 **Sec. C-1. 22 MRSA §3174-V, sub-§2**, as amended by PL 2003, c.  
24 469, Pt. A, §7, is further amended to read:

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

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

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

46 The department may contract with one or more health  
48 insurance carriers to purchase Dirigo Health Insurance Program  
50 coverage for MaineCare members who seek to enroll through their  
employers pursuant to Title 24-A, section 6910, subsection 4,

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2 paragraph B. A MaineCare member who enrolls in a the Dirigo  
3 Health Insurance-plan Program as a member of an employer group  
4 receives full MaineCare benefits through the Dirigo Health  
5 Insurance Program. The benefits are delivered through the  
6 employer-based health plan, subject to nominal cost sharing as  
7 permitted by 42 United States Code, Section 1396o(2003) and  
8 additional coverage provided under contract by the department.

9 **Sec. C-3. 24-A MRSA §6903, sub-§§12 and 13,** as enacted by PL  
10 2003, c. 469, Pt. A, §8, are amended to read:

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

15 **13. Plan enrollee.** "Plan enrollee" means an eligible  
16 individual or eligible employee who enrolls in the Dirigo Health  
17 Insurance Program through Dirigo Health. "Plan enrollee"  
18 includes an eligible employee who is eligible to enroll in  
19 MaineCare.

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

22 **§6906. Prohibited interests of board members and employees**

23 Board members and employees of Dirigo Health and their  
24 spouses and dependent children may not receive any direct  
25 personal benefit from the activities of Dirigo Health in  
26 assisting any private entity, except that they may participate in  
27 the Dirigo Health Insurance Program on the same terms as others  
28 may under this chapter. This section does not prohibit  
29 corporations or other entities with which board members are  
30 associated by reason of ownership or employment from  
31 participating in activities of Dirigo Health or receiving  
32 services offered by Dirigo Health as long as the ownership or  
33 employment is made known to the board and, if applicable, the  
34 board members abstain from voting on matters relating to that  
35 participation.

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

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



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2           **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:

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

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

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

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

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

38           **6. Annual report.** Beginning September 1, 2004, and annually  
40 thereafter, the board shall report on the impact of Dirigo Health  
on the small group and individual health insurance markets in  
42 this State and any reduction in the number of uninsured  
individuals in the State. The board shall also report on  
44 membership in Dirigo Health, the administrative expenses of  
Dirigo Health, the extent of coverage, the effect on premiums,  
46 the number of covered lives, the number of Dirigo Health  
Insurance Program policies issued or renewed and Dirigo Health  
48 Insurance Program premiums earned and claims incurred by health  
insurance carriers offering coverage under the Dirigo Health  
50 Insurance Program. The board shall submit the report to the

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2 Governor, the joint standing committee of the Legislature having  
3 jurisdiction over appropriations and financial affairs, the joint  
4 standing committee of the Legislature having jurisdiction over  
5 health insurance and financial services matters and the joint  
6 standing committee of the Legislature having jurisdiction over  
7 health and human services matters.

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

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

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

20 (2) The total number of enrollees covered in health  
21 plans through large employers and self-insured  
22 employers;

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

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

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

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

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

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

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2 Sec. C-9. 24-A MRSA §6971, sub-§§2 and 3, as enacted by PL  
2003, c. 469, Pt. A, §8, are amended to read:

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

14 3. **Report.** Dirigo Health shall submit a report, no later  
16 than January 1, 2006, outlining the disease management protocols,  
18 procedures and delivery mechanisms used to provide services to  
20 plan enrollees. The report must also include the number of plan  
22 enrollees in the high-risk pool, the types of diagnoses managed  
24 within the high-risk pool, the claims experience within the  
26 high-risk pool and the number and type of claims exceeding  
28 \$100,000 for enrollees in the high-risk pool and for all  
enrollees in the Dirigo Health Insurance Program. The report  
must be submitted to the joint standing committee of the  
Legislature having jurisdiction over health insurance matters.  
The committee may make recommendations on the operation of the  
high-risk pool and may report out legislation to the Second  
Regular Session of the 122nd Legislature relating to the  
high-risk pool.

30 **PART D**

32 **Sec. D-1. Appropriations and allocations.** The following  
34 appropriations and allocations are made.

36 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

38 **Bureau of Insurance 0092**

40 Initiative: Allocates funds for the costs of measuring the  
42 aggregate cost savings from the operation of Dirigo Health and  
related MaineCare expansions, including the costs of acquiring  
the necessary actuarial, econometric and modeling expertise.

44 <b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2005-06</b>	<b>2006-07</b>
All Other	\$250,000	\$100,000
46 OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$250,000</u>	<u>\$100,000</u>

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

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**SUMMARY**

This amendment replaces the bill and is the minority report. The amendment adds an emergency preamble and emergency clause. Part A of the amendment does the following.

1. It changes the term Dirigo Health Insurance to Dirigo Health Program and revises the definition accordingly.

2. It requires that the Board of Directors of Dirigo Health arrange for an independent audit to be conducted in addition to the required audit by the State Auditor.

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

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

5. It specifies that any experience modification program, or other similar arrangement, between Dirigo Health and a carrier or 3rd-party administrator providing the Dirigo Health Program in which payments are made by Dirigo Health to the carrier or 3rd-party administrator to be set aside to cover unanticipated variance in claims experience may not be considered a subsidy and must be considered a general administrative expense of Dirigo Health. It further specifies that after December 31, 2006, Dirigo Health may not include in its contracts with carriers or 3rd-party administrators any experience modification program or other similar arrangement.

6. It adds an asset limit to the eligibility criteria for a subsidy and sets the asset limit at 300% of the asset limit for MaineCare eligibility.

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

8. It shifts responsibility for the determination of cost savings from the Board of Directors of Dirigo Health to the Superintendent of Insurance.

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COMMITTEE AMENDMENT "B" to S.P. 555, L.D. 1577

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

8 10. It provides for savings offset payments to apply to  
9 claims paid on or after July 1, 2006, 12 months later than in  
10 current law, to reflect delays in the implementation of Dirigo  
11 Health.

12 11. It specifies that rules regarding the definition of  
13 paid claims for the purpose of savings offset payments are major  
14 substantive rules.

16 Part B of the amendment does the following.

18 1. It establishes a 10-member working group, convened by  
19 the Superintendent of Insurance, to advise the Board of Directors  
20 of Dirigo Health and the superintendent on certain issues  
21 relating to savings offset payments. The group must make  
22 recommendations to the board regarding the definition of subsidy,  
23 the definition of paid claims and the process for calculating and  
24 invoicing paid claims and a funding strategy for Dirigo Health  
25 administrative expenses. The working group must also make a  
26 recommendation to the superintendent regarding the methodology  
27 for determining cost savings. The working group is required to  
28 provide monthly reports to the Joint Standing Committee on  
29 Insurance and Financial Services.

32 2. It specifies that Dirigo Health agency may use the  
33 \$53,000,000 in start-up funds it received pursuant to Public Law  
34 2003, chapter 469 to cover administrative expenses but may not  
35 cover those expenses with savings offset payments. It requires  
36 the Board of Directors of Dirigo Health, with input from the  
37 working group, to make recommendations to the Joint Standing  
38 Committee on Insurance and Financial Services regarding how to  
39 finance Dirigo Health's administrative expenses and authorizes  
40 the committee to report out a bill after reviewing the board's  
41 recommendation.

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

46

FISCAL NOTE REQUIRED  
(See Attached)



# 122nd MAINE LEGISLATURE

LD 1577

LR 1479(03)

## 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 "B"

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

### Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$250,000	\$100,000	\$100,000	\$100,000
<b>Revenue</b>				
Other Special Revenue Funds	(\$48,874,040)	\$0	\$0	\$0

#### Fiscal Detail and Notes

Assumes the delay in the timing and other modifications to the Dirigo Health savings offset payment (SOP) would result in a reduction in the Part 1 Current Services baseline revenue assumptions for the Dirigo Health program for 2005-06. 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 the Bureau of Insurance in the Department of Professional and Financial Regulation will require an additional Other Special Revenue Funds allocation for the additional requirements imposed under Sec. A-9 of the bill..