

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

10/15

L.D. 1935

DATE: 5-24-06

(Filing No. H-1116)

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
122ND LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "K" to COMMITTEE AMENDMENT "A" to S.P. 736, L.D. 1935, Bill, "An Act To Protect Health Insurance Consumers"

Amend the amendment by striking out the substitute title and replacing it with the following:

'An Act To Protect Health Insurance Consumers and To Modify the Savings Offset Payment'

Further amend the amendment by striking out all of Part A and Part B and inserting in their place the following:

'Sec. 1. 24-A MRSA §1906, sub-§12 is enacted to read:

12. An administrator must provide a notice to covered individuals of each plan sponsor, health care service plan, health maintenance organization or insurer for which it adjusts or settles claims regarding savings associated with Dirigo Health, established in chapter 87. Dirigo Health shall prepare and provide to each administrator a copy of the notice. For calendar year 2006, the notice must be mailed no later than September 30, 2006.

A. The notice must contain, at a minimum, the amount of the aggregate measurable cost savings as determined pursuant to section 6913, subsection 1.

HOUSE AMENDMENT

R.OTS

2 B. Any notice or information by an administrator to covered  
4 individuals, in whatever manner conveyed, regarding Dirigo  
6 Health savings other than the notice required in this  
subsection must be deemed a violation of the laws governing  
trade practices and frauds in chapter 23.

8 C. An administrator who fails to provide the notice  
10 required in this subsection is subject to a fine of \$200 for  
12 each covered individual who would have received such notice  
14 but for the failure to provide it or who receives a notice  
that fails to comply with the requirements of this  
subsection.

16 **Sec. 2. 24-A MRSa §1909, sub-§11 is enacted to read:**

18 11. No amount of the savings offset payment, as established  
20 under section 6913, paid by an administrator may be paid out of  
22 charges, contributions or premiums made by or on behalf of a plan  
24 sponsor, health care service plan, health maintenance  
26 organization or insurer to the administrator. If at any time the  
28 superintendent has reason to believe that the payment of funds by  
30 the administrator for the savings offset payment would frustrate  
32 the purposes of this subsection, the superintendent shall conduct  
an investigation and, upon determination of a violation of this  
subsection, shall require the administrator to return the funds  
to the plan. Upon application by an administrator, if the  
superintendent has reason to believe that the funds available to  
pay the savings offset payment may not be adequate, the  
superintendent shall cause a hearing to be held to determine the  
amount and sources of funds available to the administrator to pay  
the savings offset payment and what relief is available.

34 **Sec. 3. 24-A MRSa §2736-C, sub-§2, ¶F, as enacted by PL 2003,**  
36 **c. 469, Pt. E, §12, is amended to read:**

38 F. A carrier that adjusts its rate shall account for the  
40 savings-~~offset-payment~~-~~or~~ any recovery in that the savings  
42 offset payment in its experience consistent with this  
section and section 6913, but the carrier may not adjust its  
rate to reflect the savings offset payment amount paid by  
the carrier.

44 (1) A carrier must provide a notice to insured policy  
46 holders and certificate holders in accordance with this  
48 paragraph. Dirigo Health, established in chapter 87,  
shall prepare and provide to each carrier a copy of the  
notice. For calendar year 2006, the notice must be  
mailed no later than September 30, 2006.

50

PL 018

- 2           (a) The notice must contain, at a minimum, the  
          amount of the aggregate measurable cost savings as  
          determined pursuant to section 6913, subsection 1.
- 4
- 6           (b) Any notice or information by a carrier to  
          insured policy holders and certificate holders, in  
          whatever manner conveyed, regarding Dirigo Health  
          savings other than the notice required in this  
          subparagraph must be deemed a violation of the  
10          laws governing trade practices and frauds in  
          chapter 23.
- 12
- 14          (c) A carrier who fails to provide the notice  
          required in this subparagraph is subject to a fine  
          of \$200 for each insured policy holder and  
          certificate holder who would have received such  
          notice but for the failure to provide it or who  
18          receives a notice that fails to comply with the  
          requirements of this subparagraph.

20           **Sec. 4. 24-A MRSA §2808-B, sub-§2-B, ¶D,** as enacted by PL  
22           2003, c. 469, Pt. E, §16, is amended to read:

24           D. A carrier that adjusts its rate shall account for the  
          ~~savings-offset-payment~~ or any recovery of that the savings  
26           offset payment in its experience consistent with this  
          section and section 6913, but the carrier may not adjust its  
28           rate to reflect the savings offset payment amount paid by  
          the carrier.

30           (1) A carrier must provide a notice to insured policy  
          holders and certificate holders in accordance with this  
          subparagraph. Dirigo Health, established in chapter  
          87, shall prepare and provide to each carrier a copy of  
          the notice. For calendar year 2006, the notice must be  
36           mailed no later than September 30, 2006.

- 38           (a) The notice must contain, at a minimum, the  
          amount of the aggregate measurable cost savings as  
          determined pursuant to section 6913, subsection 1.
- 40
- 42           (b) Any notice or information by a carrier to  
          insured policy holders and certificate holders, in  
          whatever manner conveyed, regarding Dirigo Health  
          savings other than the notice required in this  
          subparagraph must be deemed a violation of the  
46          laws governing trade practices and frauds in  
          chapter 23.
- 48

# HOUSE AMENDMENT

R.015

2 (c) A carrier who fails to provide the notice  
4 required in this subparagraph is subject to a fine  
6 of \$200 for each insured policy holder and  
8 certificate holder who would have received such  
10 notice but for the failure to provide it or who  
12 receives a notice that fails to comply with the  
14 requirements of this subparagraph.

16 **Sec. 5. 24-A MRSA §2839-B, sub-§2, as enacted by PL 2003, c.**  
18 **469, Pt. E, §17, is amended to read:**

20 **2. Annual filing.** Every carrier offering group health  
22 insurance specified in subsection 1 shall annually file with the  
24 superintendent on or before April 30th a certification signed by  
26 a member in good standing of the American Academy of Actuaries or  
28 a successor organization that the carrier's rating methods and  
30 practices are in accordance with generally accepted actuarial  
principles and with the applicable actuarial standards of  
practice as promulgated by an actuarial standards board. The  
filing must certify that the carrier has not included in its  
experience any savings offset payments paid in accordance with  
section 6913. The filing must also certify that the carrier has  
included in its experience any ~~savings--offset--payments--or~~  
recovery of these savings offset payments consistent with section  
6913. The filing also must state the number of policyholders,  
certificate holders and dependents, as of the close of the  
preceding calendar year, enrolled in large group health insurance  
plans offered by the carrier. A filing and supporting information  
are public records except as provided by Title 1, section 402,  
subsection 3.

32 A. A carrier must provide a notice to insured policy  
34 holders and certificate holders in accordance with this  
36 paragraph. Dirigo Health, established in chapter 87, shall  
38 prepare and provide to each carrier a copy of the notice.  
For calendar year 2006, the notice must be mailed no later  
than September 30, 2006.

40 (1) The notice must contain, at a minimum, the amount  
42 of the aggregate measurable cost savings as determined  
pursuant to section 6913, subsection 1.

44 (2) Any notice or information by a carrier to insured  
46 policy holders and certificate holders, in whatever  
48 manner conveyed, regarding Dirigo Health savings other  
than the notice required in this paragraph must be  
deemed a violation of the laws governing trade  
practices and frauds in chapter 23.

ROS

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

(3) A carrier who fails to provide the notice required in this paragraph is subject to a fine of \$200 for each insured policy holder and certificate holder who would have received such notice but for the failure to provide it or who receives a notice that fails to comply with the requirements of this paragraph.

**Sec. 6. 24-A MRSA §6913, sub-§1, ¶A,** as enacted by PL 2005, c. 400, Pt. A, §10, is amended to read:

A. After an opportunity for a hearing conducted pursuant to Title 5, chapter 375, subchapter 4, the board shall determine annually not later than April 1st the aggregate measurable cost savings contained in Public Law 2003, chapter 469, including but not limited to 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, and any further cost savings initiatives adopted and approved by the board for plan years beginning on or after January 1, 2007.

**Sec. 7. 24-A MRSA §6913, sub-§2,** as repealed and replaced by PL 2005, c. 400, Pt. A, §11, is amended to read:

**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 April of each year, the board shall prospectively determine the savings offset amount to be applied during each 12-month calendar year period;
- 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 board pursuant to subsection 1; and
- D. The savings offset amount calculation is limited to the amount of funds necessary to provide subsidies pursuant to

A.619

2 section 6912 and to support the Maine Quality Forum  
3 established in section 6951 and may not include general  
4 administrative expenses of Dirigo Health, except for general  
5 administrative expenses of the Maine Quality Forum.

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

10

11 **Sec. 8. 24-A MRSA §6913, sub-§9**, as enacted by PL 2003, c.  
12 469, Pt. A, §8, is amended to read:

13

14 **9. Demonstration of recovery of savings offset payments.**  
15 As provided in sections 2736-C, 2808-B and 2839-B, the claims  
16 experience used to determine any filed premiums or rating formula  
17 may not reflect the savings offset payment amount determined in  
18 accordance with subsection 2, but must reasonably reflect, in  
19 accordance with accepted actuarial standards, known changes and  
20 offsets in recovery of savings offset payments by the carrier to  
21 health care providers in this State, including any reduction or  
22 avoidance of bad debt and charity care costs to health care  
23 providers in this State as a result of the operation of Dirigo  
24 Health and any increased enrollment due to an expansion in  
25 MaineCare eligibility occurring after June 30, 2004 as determined  
26 by the board consistent with subsection 1.

27

28 **Sec. 9. Fixed savings offset payment for plan years beginning**  
29 **January 1, 2006 to December 31, 2006.** Notwithstanding the Maine  
30 Revised Statutes, Title 24-A, section 6913, subsection 1 to 3,  
31 the savings offset payment for plan years beginning January 1,  
32 2006 to December 31, 2006 must equal a total of \$35,000,000 for  
33 all health insurance carriers, 3rd-party administrators and  
34 employee benefit excess insurance carriers. For plan years  
35 beginning January 1, 2006 to December 31, 2006, the Board of  
36 Directors of Dirigo Health shall disregard the savings offset  
37 amount calculation set forth in Title 24-A, section 6913,  
38 subsection 2. The savings offset payment established pursuant to  
39 this section must be paid in accordance with the schedule  
40 established in Title 24-A, section 6913, subsection 3, paragraph  
41 F. No later than 90 days after the effective date of this Act,  
42 all health insurance carriers shall file amended rate filings  
43 with the Superintendent of Insurance in accordance with this  
44 section. The savings offset payment set forth in this section  
45 applies retroactively to any savings offset payment that has been  
46 assessed and paid pursuant to Title 24-A, section 6913 for plan  
47 years beginning January 1, 2006. No later than 30 days following  
48 the effective date of this Act, Dirigo Health shall issue refunds  
of, or credits for, any amounts

collected in excess of the limitations established in this  
section.

**Sec. 10. Appropriations and allocations.** The following  
appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Bureau of Insurance 0092**

Initiative: Allocates funds for the costs of implementing the  
3rd-party administrator provisions of the Dirigo Health Program  
savings offset payment.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2005-06</b>	<b>2006-07</b>
All Other	\$0	\$50,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$50,000'</b>

**SUMMARY**

This amendment makes the following changes to the laws  
governing Dirigo Health.

1. It prohibits insurance carriers from including the costs  
of the savings offset payment used to support the Dirigo Health  
Program in health insurance premium rates.

2. It prohibits administrators from passing the costs of  
the savings offset payment to covered individuals. It gives the  
Superintendent of Insurance authority to provide relief to those  
administrators that demonstrate the funds available are  
inadequate.

3. It requires health insurance carriers and administrators  
to notify insureds of the savings attributable to the Dirigo  
Health Program and Public Law 2003, chapter 469.

4. It clarifies that aggregate measurable cost savings are  
not limited to bad debt and charity care but rather include all  
cost savings initiatives contained in Public Law 2003, chapter  
469 and further cost savings initiatives adopted and approved by  
the Board of Directors of Dirigo Health.



R. 01/9

HOUSE AMENDMENT "K" to COMMITTEE AMENDMENT "A" to S.P. 736, L.D.  
1935

2 5. It establishes a fixed amount of \$35,000,000 as the  
savings offset payment for plan years beginning January 1, 2006  
to December 31, 2006.

4

6

**FISCAL NOTE REQUIRED**  
(See attached)

8

10

SPONSORED BY:

  
(Representative BRAUTIGAM)

12

14

TOWN: Falmouth

16



# 122nd MAINE LEGISLATURE

LD 1935

LR 2809(17)

## An Act To Protect Health Insurance Consumers

Fiscal Note for House Amendment "K" to Committee Amendment "A"

Sponsor: Rep. Brautigam

Fiscal Note Required: Yes

### Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
<b>Net Cost (Savings)</b>				
General Fund	\$0	(\$6,130)	\$0	\$0
<b>Appropriations/Allocations</b>				
General Fund	\$0	(\$6,130)	\$0	\$0
Other Special Revenue Funds	\$0	\$49,500	\$0	\$0
Other Funds	\$0	\$12,900,000	\$0	\$0
<b>Revenue</b>				
Other Funds	\$0	\$12,000,000	\$0	\$0

#### Fiscal Detail and Notes

The numbers above reflect the incremental difference between this amendment and the Committee Amendment. Assumes this amendment's proposed 2006 savings offset payment (SOP) of \$35 million would increase Dirigo Health program revenue by 12 million over the Committee Amendment's proposed \$23 million, 2006 SOP.

By prohibiting third party administrators from passing on the savings offset payment (SOP), this amendment could result in saving to the State Employee Health Plan from the \$2.9 million budgeted to pay for the SOP for FY 2006-07. The General Fund share of these savings would be approximately \$1.2 million. The amendment provides for a review process that may still allow the third party administrator to pass on these costs.

Assumes the Bureau of Insurance in the Department of Professional and Financial Regulation will require an additional Other Special Revenue Funds allocation of \$50,000 for the additional costs related to the third party administrator provisions of this amendment. The allocation is needed for the costs of contracted external expertise the Bureau anticipates it will need.