

MAINE STATE LEGISLATURE

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10/28/06

L.D. 1935

DATE: 4-28-06

(Filing No. S-655)

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
SECOND REGULAR SESSION

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

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

'An Act To Modify the Savings Offset Payment for Plan Year 2006 and To Establish the Blue Ribbon Commission on the Long-term Funding of the Dirigo Health Program'

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

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

PART A

Sec. A-1. 24-A MRSa §2736-C, sub-§2, ¶F, as enacted by PL 2003, c. 469, Pt. E, §12, is amended to read:

F. A carrier that adjusts its rate shall account for the savings offset payment or any recovery in that offset payment in its experience consistent with this section and section 6913. For any rate filing made by a carrier on or after August 1, 2006, the carrier shall certify in the filing that the carrier has not included profit from any savings realized by the carrier that were the 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 that the carrier has used

COMMITTEE AMENDMENT

its best efforts to limit the impact of the savings offset payment on rates in accordance with sound actuarial principles.

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

D. A carrier that adjusts its rate shall account for the savings offset payment or any recovery of that savings offset payment in its experience consistent with this section and section 6913. For any rate filing made by a carrier on or after August 1, 2006, the carrier shall certify in the filing that the carrier has not included profit from any savings realized by the carrier that were the 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 that the carrier has used its best efforts to limit the impact of the savings offset payment on rates in accordance with sound actuarial principles.

Sec. A-3. 24-A MRSA §2839-B, sub-§2, as enacted by PL 2003, c. 469, Pt. E, §17, is amended to read:

2. **Annual filing.** Every carrier offering group health insurance specified in subsection 1 shall annually file with the superintendent on or before April 30th a certification signed by a member in good standing of the American Academy of Actuaries or a successor organization that the carrier's rating methods and 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 also certify that the carrier has included in its experience any savings offset payments or recovery of those savings offset payments consistent with section 6913. For any filing under this subsection made by a carrier on or after August 1, 2006, the carrier shall certify in the filing that the carrier has not included profit from any savings realized by the carrier that were the 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 that the carrier has used its best efforts to limit the impact of the savings offset payment on rates in accordance with sound actuarial principles. 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.

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2 **Sec. A-4. Reduced savings offset payment for plan years beginning on**
3 **or after January 1, 2006 to December 31, 2006.** Notwithstanding the
4 Maine Revised Statutes, Title 24-A, section 6913, subsection 3,
5 the Board of Directors of Dirigo Health shall reduce the savings
6 offset payment determined by the board pursuant to that section
7 for claims paid for plan years beginning on or after January 1,
8 2006 to December 31, 2006 to a percentage of claims paid for plan
9 years beginning on or after January 1, 2006 to December 31, 2006
10 that does not exceed 4% of paid claims or exceed a total of
11 \$23,000,000 for all health insurance carriers, 3rd-party
12 administrators and employee benefit excess insurance carriers.
13 The savings offset payment determined by the board pursuant to
14 this section must be paid in accordance with the schedule
15 established in Title 24-A, section 6913, subsection 3, paragraph
16 F. No later than 90 days after the effective date of this Act,
17 all health insurance carriers shall file amended rate filings
18 with the Superintendent of Insurance demonstrating the effect of
19 the reduced savings offset payment pursuant to this section on
20 premium rates and attesting that carrier has used its best
21 efforts to ensure that rates reflect the reduced savings offset
22 payment. The maximum savings offset payment set forth in this
23 section applies retroactively to any savings offset payment that
24 has been assessed and paid pursuant to Title 24-A, section 6913
25 for plan years beginning on or after January 1, 2006. No later
26 than 30 days following the effective date of this Act, Dirigo
27 Health shall issue refunds of, or credits for, any amounts
28 collected in excess of the limitations established in this
29 section. This section applies only to the savings offset payment
30 determined by the board pursuant to Title 24-A, section 6913 for
31 claims paid for plan years beginning on or after January 1, 2006
32 to December 31, 2006. This section may not be construed as
33 repealing, amending or modifying in any way the provisions of
34 Title 24-A, section 6913 for plan years beginning on or after
35 January 1, 2007.

36 **Sec. A-5. Final settlement of experience modification payment.**
37 Dirigo Health shall renegotiate with the carrier contracted to
38 underwrite and provide Dirigo Health Program coverage for the
39 purpose of reducing the 2006 experience modification payment by
40 \$11,000,000.

42 **Sec. A-6. Reduced administrative costs.** Dirigo Health shall
43 achieve savings of \$1,900,000 for fiscal year 2006-07 through
44 reductions in administrative expenses.

PART B

2 **Sec. B-1. Commission established.** The Blue Ribbon Commission on
the Long-term Funding of the Dirigo Health Program, referred to
in this Part as "the commission," is established.

4
6 **Sec. B-2. Membership.** The commission consists of 15 members
appointed as follows:

8 1. Two members of the Senate appointed by the President of the
the Senate and 2 members of the House of Representatives
10 appointed by the Speaker of the House. At least one legislative
member appointed must be a member of the Joint Standing Committee
12 on Insurance and Financial Services and at least one legislative
member appointed must be a member of the Joint Standing Committee
14 on Appropriations and Financial Affairs. Legislative appointments
under this subsection must be representative of the bipartisan
16 interests of the Legislature;

18 2. Three members appointed by the President of the Senate,
one member representing the interests of employers recommended by
20 a statewide organization of business and employer members, one
member representing hospitals recommended by a statewide hospital
22 association and one member representing insurance producers;

24 3. Three members appointed by the Speaker of the House of
Representatives, one member representing health insurance
26 carriers recommended by a statewide association of health plans,
one member representing physicians recommended by a statewide
28 medical association and one member representing the Medicaid
Advisory Committee; and

30 4. Five members appointed by the Governor, one member
32 representing the Governor's Office of Health Policy and Finance,
one member representing the Board of Directors of Dirigo Health,
34 one member representing organized labor, one member representing
a statewide health care advocacy organization and one member
36 representing a statewide consumer advocacy organization.

38 **Sec. B-3. Chairs.** The first-named Senator is the Senate chair
of the commission and the first-named member of the House is the
40 House chair of the commission.

42 **Sec. B-4. Appointments.** All appointments must be made no later
than 30 days following the effective date of this Act. The
44 appointing authorities shall notify the Executive Director of the
Legislative Council upon making their appointments. When the
46 appointment of all members is complete, the chairs shall call and
convene the first meeting of the commission no later than August
48 1st.

Sec. B-5. Duties. The commission shall study the Dirigo Health Program and make recommendations for a long-term funding mechanism in an effort to ensure its sustainability over time. In conducting the study, the commission shall:

1. Review and make recommendations for alternatives for funding the Dirigo Health Program and subsidies under the program in a fair, equitable and broadly distributed manner. The recommendations must include a number of funding sources and may include the savings offset payment in some manner;

2. Evaluate the MaineCare expansion in the Dirigo Health reform law, including its funding source, enrollment of the uninsured and the potential impact on private payors and providers;

3. Review and make recommendations for reforms that may improve the affordability of health insurance in the individual market;

4. Review and make recommendations on cost containment methods proven effective in reducing and controlling health care costs and health care spending or creating savings in Maine's health care market; and

5. Review alternatives for funding sources within existing resources to maximize federal Medicaid matching funds for the purpose of reimbursing medical providers for unpaid claims or to adjust rates.

Sec. B-6. Meetings. The commission is authorized to meet at least 4 times in 2006 and with approval of the presiding officers of the Legislature may hold additional meetings and may meet at various locations throughout the State. Meetings must be open to the public. The commission shall consult stakeholders for information and assistance in gathering information related to the duties described in section 5.

Sec. B-7. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis and the Office of Fiscal and Program Review shall provide staffing assistance to the commission.

Sec. B-8. Compensation. Legislative members are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of the commission. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized

meetings of the commission. The Executive Director of the
Legislative Council shall administer the commission's budget.

Sec. B-9. Budget. The chairs of the commission, with
assistance from the commission staff, shall administer the
commission's budget. Within 10 days after its first meeting,
the commission shall present a work plan and proposed budget to
the Legislative Council for its approval. The commission may not
incur expenses that would result in the commission exceeding its
approved budget. Upon request from the commission, the Executive
Director of the Legislative Council shall promptly provide the
commission chairs and staff with a status report on the
commission's budget, expenditures incurred and paid and available
funds.

Sec. B-10. Receipt of outside funds authorized. The commission may
seek outside funds to fund costs of the commission other than
authorized per diem and expenses of the members authorized by
section 8. Contributions to support the work of the commission
may not be accepted from any party having a pecuniary or other
vested interest in the outcome of the matters being studied. Any
person, other than a state agency, desiring to make a financial
or in-kind contribution must certify to the Legislative Council
that it has no pecuniary or other vested interest in the outcome
of the study. The certification must be made in the manner
prescribed by the Legislative Council. All contributions are
subject to approval by the Legislative Council. All funds
accepted must be forwarded to the Executive Director of the
Legislative Council along with an accounting record that includes
the amount of the funds, the date the funds were received, from
whom the funds were received and the purpose of or any limitation
on the use of the funds. The Executive Director of the
Legislative Council shall administer any funds received by the
commission.

Sec. B-11. Reports. No later than November 1, 2006, the
commission shall submit a report with findings and
recommendations, including any suggested legislation, for
presentation to 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 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
appropriations and financial affairs may each report out
legislation to the 123rd Legislature based on the commission's
report. If the commission fails to recommend legislation, the
joint standing committee of the Legislature having jurisdiction
over insurance and financial services matters shall report out

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

2 legislation to the 123rd Legislature to address the impact of the
 3 savings offset payment on health insurance premium rates.

4 **Sec. B-12. Appropriations and allocations.** The following
 5 appropriations and allocations are made.

6 **DIRIGO HEALTH**

8 **Dirigo Health Fund 0988**

10 Initiative: Deallocates funds to be achieved by a \$1.9 million
 12 reduction in Dirigo Health administrative expenses and an \$11
 14 million reduction in contracted Dirigo Health Program experience
 modification payments.

16	DIRIGO HEALTH ENTERPRISE FUND	2005-06	2006-07
	Unallocated	\$0	(\$12,900,000)
18		<hr/>	<hr/>
	DIRIGO HEALTH ENTERPRISE FUND TOTAL	\$0	(\$12,900,000)

20	DIRIGO HEALTH		
22	DEPARTMENT TOTALS	2005-06	2006-07
24	DIRIGO HEALTH ENTERPRISE FUND	\$0	(\$12,900,000)
26	DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$12,900,000)

28 **LEGISLATURE**

30 **Study Commissions - Funding 0444**

32 Initiative: Provides funds for the per diem and expenses of the
 34 Blue Ribbon Commission on the Long-term Funding of the Dirigo
 Health Program.

36	GENERAL FUND	2005-06	2006-07
	Personal Services	\$0	\$880
38	All Other	\$0	\$5,250
40	GENERAL FUND TOTAL	\$0	\$6,130

42 **Study Commissions - Funding 0444**

44 Initiative: Provides a base allocation of \$500 in fiscal year
 46 2006-07 in the event that outside funding is received to support
 the work of the Blue Ribbon Commission on the Long-term Funding
 of the Dirigo Health Program.

48	OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
50	All Other	\$0	\$500

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

2	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500
4	LEGISLATURE		
6	DEPARTMENT TOTALS	2005-06	2006-07
8	GENERAL FUND	\$0	\$6,130
10	OTHER SPECIAL REVENUE FUNDS	\$0	\$500
12	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$6,630
14	SECTION TOTALS	2005-06	2006-07
16	GENERAL FUND	\$0	\$6,130
18	OTHER SPECIAL REVENUE FUNDS	\$0	\$500
20	DIRIGO HEALTH ENTERPRISE FUND	\$0	(\$12,900,000)
22	SECTION TOTAL - ALL FUNDS	\$0	(\$12,893,370)

SUMMARY

22 This amendment is the majority report of the committee and
 24 replaces the bill.

26 Part A does the following.

28 1. It requires carriers to certify that the carrier has not
 30 included profit from any savings realized by the carrier that
 32 were the result of the operation of Dirigo Health and any
 increased MaineCare enrollment due to an expansion in MaineCare
 eligibility and to use their best efforts to limit the impact of
 the savings offset payment on rates.

34 2. It reduces the savings offset payment for plan year 2006
 36 to \$23,000,000.

38 3. It requires Dirigo Health to renegotiate with the
 40 carrier contracted to underwrite the Dirigo Health Program for
 the purpose of reducing the 2006 experience modification payment
 by \$11,000,000.

42 4. It requires Dirigo Health to achieve savings of \$1.9
 44 million in administrative costs.

46 Part B creates the Blue Ribbon Commission on the Long-term
 48 Funding of the Dirigo Health Program to study the Dirigo Health
 Program and make recommendations on a long-term funding mechanism
 in an effort to ensure its sustainability. It is the intent of
 the Legislature that the commission recommend a long-term funding
 50 mechanism to replace the savings offset payment as the sole

COMMITTEE AMENDMENT

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

2 source of funding subsidies for the Dirigo Health Program. The
3 commission is required to submit a report by November 1, 2006 to
4 the joint standing committee of the Legislature having
5 jurisdiction over insurance and financial services matters and
6 the joint standing committee of the Legislature having
7 jurisdiction over appropriations and financial affairs. The joint
8 standing committee of the Legislature having jurisdiction over
9 insurance and financial services matters shall report out
10 legislation to address the impact of the savings offset payment
11 on health insurance premium rates.

12 The amendment removes the emergency preamble and the
13 emergency clause from the bill.

14 The amendment also adds an appropriations and allocations
15 section.

18

20

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 1935

LR 2809(02)

An Act To Protect Health Insurance Consumers

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

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

Majority Report

Fiscal Note

Current Costs - Legislative Study

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$6,130	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$6,130	\$0	\$0
Other Special Revenue Funds	\$0	\$500	\$0	\$0
Other Funds	\$0	(\$12,900,000)	\$0	\$0
Revenue				
Other Funds	\$0	(\$20,700,000)	\$0	\$0

Legislative Study

The projected costs to fund the general operating expenses of the Blue Ribbon Commission on the Long-term Funding of the Dirigo Health Program are \$6,130 in fiscal year 2006-07. Since the Legislature's budget includes \$20,000 in fiscal year 2006-07 for legislative studies and the Council has already committed this amount, a General Fund appropriation to the Legislature of \$6,130 in fiscal year 2006-07 for this study has been included in this amendment. There is also a base allocation of \$500 in fiscal year 2006-07 in the event that outside funding is received to support the work of the commission.

Fiscal Detail and Notes

Assumes the bill's decrease in the 2006 savings offset payment (SOP) would reduce Dirigo Health Program revenue by \$20,700,000 for fiscal year 2006-07. Includes a FY 2006-07 deallocation of \$12.9 million to be achieved by savings of \$1.9 million in Dirigo Health Agency administrative costs and an \$11.0 million reduction in contracted Dirigo Health Program experience modification payments. While these deallocations do not fully offset the reduction in revenue, the program does have existing authority to keep program spending within available resources. Any additional costs to the Bureau of Insurance in the Department of Professional and Financial Regulation resulting from the bill can be absorbed by the Bureau utilizing existing budgetary resources.