

MAINE STATE LEGISLATURE

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11.01.09

L.D. 1935

DATE: 4-28-06

(Filing No. S-656)

INSURANCE AND FINANCIAL SERVICES

Reported by: Minority

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

STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" 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 Repeal the Savings Offset Payment and To Establish the Blue Ribbon Commission on Potential Funding Sources for 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, sub-§3, ¶B, as amended by PL 2003, c. 469, Pt. E, §9, is further amended to read:

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

Sec. A-2. 24-A MRSA §2736, sub-§4, ¶C, as amended by PL 2003, c. 469, Pt. E, §10, is further amended to read:

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

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

8
10 **Sec. A-3. 24-A MRSA §2736-A, first ¶**, as amended by PL 2003, c.
469, Pt. E, §11, is further amended to read:

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

18
20 **Sec. A-4. 24-A MRSA §2736-C, sub-§2, ¶F**, as enacted by PL
2003, c. 469, Pt. E, §12, is repealed.

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

24
26 **5. Loss ratios.** For all policies and certificates issued
on or after the effective date of this section, the
28 superintendent shall disapprove any premium rates filed by any
carrier, whether initial or revised, for an individual health
30 policy unless it is anticipated that the aggregate benefits
estimated to be paid under all the individual health policies
32 maintained in force by the carrier for the period for which
coverage is to be provided will return to policyholders at least
34 65% of the aggregate premiums collected for those policies, as
determined in accordance with accepted actuarial principles and
36 practices and on the basis of incurred claims experience and
earned premiums. ~~For the purposes of this calculation, any~~
~~savings offset payments paid pursuant to section 6913 must be~~
38 ~~treated as incurred claims.~~

40 **Sec. A-6. 24-A MRSA §2808-B, sub-§2-A, ¶C**, as enacted by PL
2003, c. 469, Pt. E, §16, is amended to read:

42
44 C. Rates for small group health plans must be filed in
accordance with this section and subsections 2-B and 2-C for
46 premium rates effective on or after July 1, 2004, ~~except~~
~~that the filing of rates for small group health plans are~~
~~not required to account for any savings offset payment or~~
48 ~~any recovery of that offset payment pursuant to subsection~~
~~2-B, paragraph D and section 6913 for rates effective before~~
50 ~~July 1, 2005.~~

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Sec. A-7. 24-A MRSA §2808-B, sub-§2-B, ¶A, as enacted by PL 2003, c. 469, Pt. E, §16, is amended to read:

A. The superintendent shall disapprove any premium rates filed by any carrier, whether initial or revised, for a small group health plan unless it is anticipated that the aggregate benefits estimated to be paid under all the small group health plans maintained in force by the carrier for the period for which coverage is to be provided will return to policyholders at least 75% of the aggregate premiums collected for those policies, as determined in accordance with accepted actuarial principles and practices and on the basis of incurred claims experience and earned premiums. ~~For the purposes of this calculation, any savings offset payments paid pursuant to section 6913 must be treated as incurred claims.~~

Sec. A-8. 24-A MRSA §2808-B, sub-§2-B, ¶D, as enacted by PL 2003, c. 469, Pt. E, §16, is repealed.

Sec. A-9. 24-A MRSA §2808-B, sub-§2-B, ¶F, as enacted by PL 2003, c. 469, Pt. E, §16, is amended to read:

F. Any rate hearing conducted with respect to filings that meet the criteria in paragraph E is subject to this paragraph.

(1) A person requesting a hearing shall provide the superintendent with a written statement detailing the circumstances that justify a hearing, notwithstanding the satisfaction of the criteria in paragraph E.

(2) If the superintendent decides to hold a hearing, the superintendent shall issue a written statement detailing the circumstances that justify a hearing, notwithstanding the satisfaction of the criteria in paragraph E.

(3) In any hearing conducted under this paragraph, the bureau and any party asserting that the rates are excessive have the burden of establishing that the rates are excessive. The burden of proving that rates are adequate, and not unfairly discriminatory ~~and in compliance with the requirements of section 6913~~ remains with the carrier.

Sec. A-10. 24-A MRSA §2839-B, sub-§2, as enacted by PL 2003, c. 469, Pt. E, §17, is amended to read:

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2 **2. Annual filing.** Every carrier offering group health
3 insurance specified in subsection 1 shall annually file with the
4 superintendent on or before April 30th a certification signed by
5 a member in good standing of the American Academy of Actuaries or
6 a successor organization that the carrier's rating methods and
7 practices are in accordance with generally accepted actuarial
8 principles and with the applicable actuarial standards of
9 practice as promulgated by an actuarial standards board. The
10 ~~filing must also certify that the carrier has included in its~~
11 ~~experience any savings offset payments or recovery of these~~
12 ~~savings offset payments consistent with section 6913.~~ The filing
13 also must state the number of policyholders, certificate holders
14 and dependents, as of the close of the preceding calendar year,
15 enrolled in large group health insurance plans offered by the
16 carrier. A filing and supporting information are public records
17 except as provided by Title 1, section 402, subsection 3.

18 **Sec. A-11. 24-A MRSA §6908, sub-§2, ¶B,** as enacted by PL 2003,
19 c. 469, Pt. A, §8, is repealed.

20 **Sec. A-12. 24-A MRSA §6913,** as amended by PL 2005, c. 400,
21 Pt. A, §§10 to 13 and Pt. C, §9, is repealed.

22 **Sec. A-13. 24-A MRSA §6915,** as amended by PL 2005, c. 386,
23 Pt. D, §3, is further amended to read:

24 **§6915. Dirigo Health Enterprise Fund**

25 The Dirigo Health Enterprise Fund is created as an
26 enterprise fund for the deposit of any funds advanced for initial
27 operating expenses, payments made by employers and individuals,
28 ~~any savings offset payments made pursuant to section 6913~~ and any
29 funds received from any public or private source. The fund may
30 not lapse, but must be carried forward to carry out the purposes
31 of this chapter.

32 **Sec. A-14. 24-A MRSA §6951, first ¶,** as enacted by PL 2003, c.
33 469, Pt. A, §8, is amended to read:

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

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COMMITTEE AMENDMENT

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2 **Sec. B-4. Appointments.** All appointments must be made no later
3 than 30 days following the effective date of this Part. The
4 appointing authorities shall notify the Executive Director of the
5 Legislative Council upon making their appointments. When the
6 appointment of all members is complete, the chair of the
7 Legislative Council shall call and convene the first meeting of
8 the commission no later than August 15, 2006.

9 **Sec. B-5. Duties.** The commission shall study potential funding
10 mechanisms for the Dirigo Health Program and make recommendations
11 on a long-term funding mechanism. In conducting the study, the
12 commission shall:

13 1. Evaluate the current savings offset payment funding
14 mechanism, funding structure and formulas and methodology used to
15 calculate the amount of aggregate measurable cost savings from
16 the Dirigo Health Program and the amount of the savings offset
17 payment;

18 2. Study the impact of the savings offset payment on health
19 insurance carriers and 3rd-party administrators, including the
20 impact of the savings offset payment on self-insured employers
21 and policyholders, and make recommendations on whether carriers
22 and administrators may "pass through" the savings offset payment
23 and in what manner;

24 3. Evaluate the viability of using federal Medicaid
25 matching funds as an ongoing source of funding for the Dirigo
26 Health Program as originally envisioned when the legislation was
27 enacted in 2003;

28 4. Develop and test other mechanisms for funding subsidies
29 for the Dirigo Health Program by establishing a schedule of
30 enrollment goals and targets to eliminate Maine's uninsured under
31 each mechanism, testing each mechanism for viability and ability
32 to meet targets, projecting expected subsidy needs annually and
33 funding sources, projecting anticipated product rates and costs
34 to consumers and calculating the administrative needs and costs;
35 and

36 5. Make recommendations for funding the Dirigo Health
37 Program.

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

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

6 **Sec. B-8. Compensation.** Legislative members are entitled to
7 receive the legislative per diem and reimbursement of necessary
8 expenses for their attendance at authorized meetings of the
9 commission. Public members not otherwise compensated by their
10 employers or other entities that they represent are entitled to
11 receive reimbursement of necessary expenses and a per diem equal
12 to the legislative per diem for their attendance at authorized
13 meetings of the commission. The Executive Director of the
14 Legislative Council shall administer the commission's budget.

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

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

45 **Sec. B-11. Report.** No later than November 1, 2006, the
46 commission shall submit a report with findings and
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COMMITTEE AMENDMENT "B" to S.P. 736, L.D. 1935

2 recommendations, including suggested legislation, for
presentation to the joint standing committee of the Legislature
4 having jurisdiction over insurance and financial services matters
and the joint standing committee of the Legislature having
6 jurisdiction over appropriations and financial affairs. The
joint standing committee of the Legislature having jurisdiction
8 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
10 legislation to the 123rd Legislature based on the commission's
report.

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

16 **LEGISLATURE**

18 **Study Commissions - Funding 0444**

20 Initiative: Provides funds for the per diem and expenses of the
Blue Ribbon Commission on the Potential Funding Sources for the
22 Dirigo Health Program.

24	GENERAL FUND	2005-06	2006-07
	Personal Services	\$0	\$1,100
26	All Other	\$0	\$4,850
28	GENERAL FUND TOTAL	\$0	\$5,950

30 **Study Commissions - Funding 0444**

32 Initiative: Provides a base allocation of \$500 in fiscal year
2006-07 in the event that outside funding is received to support
34 the work of the commission.

36	OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
	All Other	\$0	\$500
38	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

40 **LEGISLATURE**

42	DEPARTMENT TOTALS	2005-06	2006-07
44	GENERAL FUND	\$0	\$5,950
	OTHER SPECIAL REVENUE FUNDS	\$0	\$500
46	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$6,450'

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COMMITTEE AMENDMENT

SUMMARY

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This amendment is the minority report of the committee and replaces the bill. The amendment repeals the savings offset payment as a source of funding subsidies for the Dirigo Health Program. The amendment requires that the subsidy program for DirigoChoice enrollees and the Maine Quality Forum, which were funded with the savings offset payment, continue with funding from existing resources of the Dirigo Health Program. The amendment also makes the repeal of the savings offset payment retroactive for plan years beginning on or after January 1, 2006 and requires the Dirigo Health Agency to refund to health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers any savings offset payments already collected.

The amendment also establishes the Blue Ribbon Commission on Potential Funding Sources for the Dirigo Health Program. The amendment requires the commission to study potential funding sources and make recommendations for a long-term funding source. The commission is required to submit its report by November 1, 2006. The amendment adds an appropriations and allocations section to reflect the costs of the commission to the Legislature.

The amendment removes the emergency preamble and the emergency clause.

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 1935

LR 2809(03)

An Act To Protect Health Insurance Consumers

Fiscal Note for Bill as Amended by Committee Amendment **'B'**

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

Minority Report

Fiscal Note

Current Costs - Legislative Study

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$5,950	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$5,950	\$0	\$0
Other Special Revenue Funds	\$0	\$500	\$0	\$0
Revenue				
Other Funds		(\$43,700,000)	(\$43,700,000)	(\$43,700,000)

Legislative Study

The projected costs to fund the general operating expenses of the Blue Ribbon Commission on the Potential Funding Sources for the Dirigo Health Program are \$5,950 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 \$5,950 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 elimination of the savings offset payment (SOP) would reduce Dirigo Health Enterprise Fund revenue retroactive to include the refund of any FY 2005-06 collections. For the purposes of this fiscal estimate, the 2007 SOP and future year SOPs are assumed to be equal to the 2006 SOP. While eliminating the savings offset payment, the bill does not specify savings to offset the reduction in revenues. 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.