

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1092

S.P. 374

In Senate, March 19, 2013

An Act To Increase the Use of Long-term Care Insurance

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CRAVEN of Androscoggin.
Cosponsored by Representative GRAHAM of North Yarmouth and
Senators: President ALFOND of Cumberland, GOODALL of Sagadahoc, HASKELL of
Cumberland, LACHOWICZ of Kennebec, VALENTINO of York, Representatives: GATTINE
of Westbrook, LAJOIE of Lewiston.

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

2 **Sec. 1. 22 MRSA §3174-WW** is enacted to read:

3 **§3174-WW. Alternative Long-term Care Benefits Program**

4 There is established within the department the Alternative Long-term Care Benefits
5 Program, referred to in this section as "the program," to provide alternatives for persons
6 to insure the costs of their own long-term care and to alleviate some of the costs of long-
7 term care being paid by MaineCare. The department shall administer the program as a
8 part of MaineCare.

9 **1. Eligibility.** A person is eligible for the program if the person owns a life
10 insurance policy with any face amount in excess of \$10,000 and that person enters into a
11 settlement contract pursuant to Title 24-A, chapter 85 in exchange for payments directly
12 to a provider of long-term care benefits for the owner of the policy from proceeds of the
13 settlement contract in accordance with this section. In order to qualify for benefits under
14 the program, a person must be eligible under this section and meet the other criteria
15 required for long-term care benefits under the MaineCare program as provided in this
16 chapter and in rules adopted by the department.

17 **2. Benefits.** The benefits of the program include coverage for long-term care
18 services under MaineCare after the person participating in the program has used the
19 available proceeds from the applicable settlement contract.

20 **3. Disregard.** In addition to assets disregarded or exempt under MaineCare program
21 rules, in determining eligibility for MaineCare and the amount of MaineCare benefits and
22 in estate recovery pursuant to section 14, subsection 2-I, the program must disregard the
23 value of a life insurance policy as defined in Title 24-A, section 6802-A, subsection 7 that
24 is in force and owned by an eligible person if the applicant or recipient enters into a
25 settlement contract in accordance with this section. As used in this subsection, "value"
26 means the value received pursuant to the settlement contract.

27 **4. Requirements for settlement contract.** In addition to any requirements in Title
28 24-A, chapter 85, any settlement contract entered into in accordance with this section
29 must meet the following requirements.

30 A. The lesser of 5% of the face amount of the life insurance policy and \$5,000 must
31 be reserved as a death benefit payable to the policy owner's estate or beneficiary.

32 B. The balance of payments required under the settlement contract unpaid at the
33 death of the policy owner must be paid to the policy owner's estate or a named
34 beneficiary.

35 C. The settlement contract must include a schedule evidencing the total amount
36 payable to the policy owner under the settlement contract.

37 D. All proceeds of the settlement contract must be held in an irrevocable federally
38 insured deposit account in a financial institution authorized to do business in this
39 State pursuant to Title 9-B.

1 E. Notwithstanding the provisions of Title 24-A, section 6810, subsection 1, the
2 proceeds of a settlement contract entered into pursuant to this section must be greater
3 than the cash surrender value or accelerated death benefit in the life insurance policy
4 available at the time the contract is executed by all parties.

5 F. Notwithstanding any other provision of law, a claim from a policy owner, the
6 policy owner's estate, a beneficiary or any other person with respect to the settlement
7 contract may not exceed the face amount of the life insurance policy, less the
8 proceeds paid under the settlement contract and the total amount of premiums paid
9 subsequent to entering into the settlement contract. A payment of a claim by a
10 settlement provider must be made from any bond, insurance or deposits maintained
11 pursuant to paragraph I.

12 G. For purposes of this section, for a life insurance policy that is the subject of a
13 settlement contract that has been in force for 5 years or more, the provisions of Title
14 24-A, section 6818 do not apply.

15 H. For purposes of this section, all advertisements of the settlement provider related
16 to the program must be filed with the Department of Professional and Financial
17 Regulation, Bureau of Insurance.

18 I. A settlement provider entering into a settlement contract pursuant to this section
19 must maintain one of the following or any combination thereof in the amount of
20 \$500,000:

21 (1) A surety bond executed and issued by an insurer authorized to issue surety
22 bonds in this State;

23 (2) A policy of errors and omissions insurance; and

24 (3) A deposit of cash, certificates of deposit or securities.

25 **5. Disclosures.** In cooperation with the Department of Professional and Financial
26 Regulation, Bureau of Insurance, the department shall provide, as part of the application
27 for MaineCare benefits or in a separate document to be signed by an applicant, the
28 disclosures required by Title 24-A, section 6808-A.

29 **6. Other laws.** Eligibility for the program does not preclude enforcement of laws
30 regarding recovery of MaineCare benefits incorrectly paid or 3rd-party liability claims by
31 the department. The provisions of this section do not enlarge or otherwise modify
32 medical assistance benefits under the MaineCare program. The provisions of section 14,
33 subsection 2-I, paragraph A, subparagraph (3) do not apply to assets disregarded under
34 the program.

35 **7. Rulemaking.** The department, after consultation with the Superintendent of
36 Insurance within the Department of Professional and Financial Regulation, shall adopt
37 rules to implement this section. Rules adopted pursuant to this subsection are routine
38 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

1

SUMMARY

2 This bill establishes an alternative long-term care benefit program for those persons
3 that qualify for long-term benefits under the MaineCare program. The bill allows persons
4 otherwise eligible for long-term care benefits under MaineCare that own life insurance
5 policies with face amounts exceeding \$10,000 to enter into life settlement contracts in
6 exchange for direct payments to a health care provider for long-term care benefits. The
7 bill prohibits the Department of Health and Human Services from considering the value
8 of the life settlement contract as an asset or resource in determining eligibility for
9 MaineCare. The bill also establishes the conditions under which a life settlement contract
10 may be used, requires certain disclosures to be made to MaineCare applicants and
11 authorizes the Department of Health and Human Services to adopt rules after consultation
12 with the Department of Professional and Financial Regulation, Bureau of Insurance.