

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1094

S.P. 376

In Senate, March 19, 2013

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**An Act To Fully Implement Health Insurance Exchanges and To  
Make Maine Law Consistent with Federal Law**

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Reference to the Committee on Insurance and Financial 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 WOODBURY of Cumberland.

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

2 **PART A**

3 **Sec. A-1. 5 MRSA §12004-I, sub-§31-B** is enacted to read:

4 **31-B.**

5 Health Care            Maine Health            Legislative per diem            24-A MRSA §4347  
6    Exchange Advisory            and travel expenses  
7    Board

8 **Sec. A-2. 24-A MRSA c. 56-C** is enacted to read:

9 **CHAPTER 56-C**

10 **HEALTH EXCHANGE UNDER FEDERAL AFFORDABLE CARE ACT**

11 **§4347. Maine Health Exchange Advisory Board**

12        The Maine Health Exchange Advisory Board, referred to in this section as "the  
13 advisory board," established under Title 5, section 12004-I, subsection 31-B, is  
14 established to advise the Federal Government, the Governor, the Legislature, the  
15 Department of Health and Human Services and the bureau regarding the interests of  
16 individuals and employers with respect to any federally facilitated exchange, partnership  
17 exchange or state-based exchange that may be created for this State pursuant to the  
18 federal Affordable Care Act.

19        **1. Appointment; composition.** The advisory board consists of 17 members  
20 appointed pursuant to this subsection.

21        A. The Governor shall appoint 12 members of the advisory board with the approval  
22 of the joint standing committee of the Legislature having jurisdiction over insurance  
23 and financial services matters:

24            (1) Two persons representing health insurance carriers;

25            (2) One person representing dental insurance carriers;

26            (3) One person representing insurance producers;

27            (4) One person representing Medicaid recipients;

28            (5) One person representing health care providers and health care facilities;

29            (6) One person who is an advocate for enrolling hard-to-reach populations,  
30 including individuals with mental health or substance abuse disorders;

31            (7) One person who is a public health expert; and

32            (8) Four members representing individuals and small businesses, including:

33                    (a) One person who can reasonably be expected to purchase individual  
34 coverage through an exchange with the assistance of a premium tax credit

- 1                   and who can reasonably be expected to represent the interests of consumers  
2                   purchasing individual coverage through the exchange;
- 3                   (b) One person representing an employer that can reasonably be expected to  
4                   purchase group coverage through an exchange who can reasonably be  
5                   expected to represent the interests of such employers;
- 6                   (c) One person representing navigators or entities likely to be licensed as  
7                   navigators; and
- 8                   (d) One person employed by an employer that can reasonably be expected to  
9                   purchase group coverage through an exchange who can reasonably be  
10                  expected to represent the interests of such employees.

11                  Prior to making appointments to the advisory board, the Governor shall seek  
12                  nominations from the public statewide associations representing the interests under  
13                  this paragraph and other entities as appropriate.

14                  B. Five members of the advisory board must be members of the Legislature, of  
15                  whom at least 3 must serve on the joint standing committee of the Legislature having  
16                  jurisdiction over insurance and financial services matters:

17                         (1) Two members of the Senate, appointed by the President of the Senate,  
18                         including one member recommended by the Senate Minority Leader; and

19                         (2) Three members of the House of Representatives, appointed by the Speaker of  
20                         the House, including one member recommended by the House Minority Leader.

21                  **2. Term.** Except for members who are Legislators, members of the advisory board  
22                  serve 3-year terms. A member may not serve more than 2 consecutive terms. Members  
23                  who are Legislators serve 2-year terms coterminous with their elected terms. Except for a  
24                  member who is a Legislator, a member may continue to serve after expiration of the  
25                  member's term until a successor is appointed.

26                  **3. Duties.** The advisory board shall:

27                         A. Advise the Federal Government, the Governor, the Legislature, the Department of  
28                         Health and Human Services and the bureau regarding the interests of individuals and  
29                         employers with respect to any federally facilitated exchange, partnership exchange or  
30                         state-based exchange that may be created for this State;

31                         B. Serve as a liaison between any exchange and individuals and small businesses  
32                         enrolled in the exchange;

33                         C. Evaluate the implementation and operation of any federally facilitated exchange,  
34                         partnership exchange or state-based exchange with respect to the following:

35                                 (1) The essential health benefits benchmark plan designated in this State under  
36                                 the federal Affordable Care Act, including whether the State should change its  
37                                 designation;

38                                 (2) Whether state laws governing health insurance coverage for wellness  
39                                 programs and smoking cessation programs are in compliance with federal  
40                                 regulations;

1           (3) The consumer outreach and enrollment conducted by the exchange and  
2           whether the navigator program is effective;

3           (4) The coordination between the state Medicaid program and the exchange;

4           (5) Whether individual subsidies are adequate;

5           (6) Whether the exchange is effective in providing access to health insurance  
6           coverage for small businesses; and

7           (7) The implementation of rebates under the federal Affordable Care Act and  
8           section 4319.

9           D. Following the release of guidance or regulations from the federal Centers for  
10           Medicare and Medicaid Services addressing the basic health program option, as set  
11           forth in the federal Affordable Care Act, conduct a study, and make  
12           recommendations as appropriate, that examines the following:

13           (1) The affordability of health insurance coverage for low-income populations  
14           earning between 133% and 200% of the federal poverty level, including the  
15           impact of premium levels and cost sharing on access to health care by these  
16           populations;

17           (2) The health needs and limited income of these populations;

18           (3) The potential cost savings to the state Medicaid program as a result of the  
19           adoption of a basic health program due to the decrease in the administrative  
20           burden associated with individuals churning off and on Medicaid as their  
21           incomes fluctuate;

22           (4) Systems to create automatic and seamless coverage for individuals who  
23           transfer between a basic health program and Medicaid coverage;

24           (5) The impact of a basic health program on the State's ability to negotiate rates  
25           or receive rebates under any health insurance coverage offered by or through the  
26           State; and

27           (6) The most cost-effective and affordable method of delivering basic health  
28           program health insurance coverage by comparing and contrasting coverage and  
29           applicable out-of-pocket costs provided through a Medicaid look-alike program,  
30           a standard health plan offered through the Consumer Operated and Oriented Plan  
31           program under the federal Affordable Care Act or any other insurance product  
32           offered through a state-based exchange or federally facilitated exchange.

33           E. Based on the evaluation conducted by the advisory board pursuant to paragraphs  
34           C and D, recommend whether the State should transition to a partnership model or  
35           state-based exchange or implement any other changes in policy or law that would  
36           improve the operation of a federally facilitated exchange for consumers and small  
37           businesses in the State. If the advisory board recommends that the State transition to  
38           an alternative model from a federally facilitated exchange, the advisory board shall  
39           recommend a work plan and timeline for the transition, including estimated costs.

40           **4. Compensation.** Except for members of the advisory board who are Legislators,  
41           members serve as volunteers and without compensation or reimbursement for expenses.

1 Members who are Legislators are entitled to receive the legislative per diem as defined in  
2 Title 3, section 2 and reimbursement for travel for attendance at meetings of the board.

3 **5. Quorum.** A quorum is a majority of the members of the advisory board.

4 **6. Chair.** The advisory board shall annually choose one of its members to serve as  
5 chair for a one-year term.

6 **7. Meetings.** The advisory board shall meet at least 4 times a year at regular  
7 intervals and may meet at other times at the call of the chair. Meetings of the board are  
8 public proceedings as provided by Title 1, chapter 13, subchapter 1.

9 **8. Records.** Except for information designated as confidential under federal or state  
10 law, information obtained by the advisory board is a public record as provided by Title 1,  
11 chapter 13, subchapter 1.

12 **Sec. A-3. Maine Health Exchange Advisory Board initial member terms.**  
13 Notwithstanding the Maine Revised Statutes, Title 24-A, section 4347, subsection 2,  
14 except for members who are Legislators, initial appointees to the Maine Health Exchange  
15 Advisory Board must include 3 members appointed to one-year terms, 4 members  
16 appointed to 2-year terms and 5 members appointed to 3-year terms.

17 **PART B**

18 **Sec. B-1. 24-A MRSA §3953, sub-§1,** as enacted by PL 2011, c. 90, Pt. B, §8, is  
19 amended to read:

20 **1. Guaranteed access reinsurance mechanism established.** The Maine  
21 Guaranteed Access Reinsurance Association is established as a nonprofit legal entity. As  
22 a condition of doing business in the State, an insurer that has issued or administered  
23 medical insurance within the previous 12 months or is actively marketing a medical  
24 insurance policy or medical insurance administrative services in this State must  
25 participate in the association. The Dirigo Health Program established in chapter 87 and  
26 any other state-sponsored health benefit program shall also participate in the association.  
27 Beginning January 1, 2014 and until December 31, 2016 or until such time as the  
28 transitional reinsurance program administered pursuant to the federal Affordable Care  
29 Act is terminated, the authority of the association granted by this chapter is suspended.

30 **Sec. B-2. Maine Guaranteed Access Reinsurance Association;**  
31 **amendment to plan of operation.** On or before October 1, 2013, the Board of  
32 Directors of the Maine Guaranteed Access Reinsurance Association shall submit an  
33 amendment to the association's plan of operation to the Superintendent of Insurance for  
34 approval as provided in the Maine Revised Statutes, Title 24-A, section 3953, subsection  
35 3 to implement the suspension of the operations of the association pursuant to this Act.  
36 In amending the plan of operation, the board of directors shall, at a minimum, explain  
37 how operations will be suspended, describe the actions necessary to pay reinsurance on  
38 qualified claims attributable to the time period prior to January 1, 2014 and describe the  
39 actions necessary to suspend assessments.

1 **PART C**

2 **Sec. C-1. 22 MRSA §3174-G, sub-§1, ¶F**, as amended by PL 2011, c. 380, Pt.  
3 KK, §2, is further amended to read:

4 F. A person 20 to 64 years of age who is not otherwise covered under paragraphs A  
5 to E when the person's family income is below or equal to 125% of the nonfarm  
6 income official poverty line, provided that the commissioner shall adjust the  
7 maximum eligibility level in accordance with the requirements of the paragraph.

8 (2) If the commissioner reasonably anticipates the cost of the program to exceed  
9 the budget of the population described in this paragraph, the commissioner shall  
10 lower the maximum eligibility level to the extent necessary to provide coverage  
11 to as many persons as possible within the program budget.

12 (3) The commissioner shall give at least 30 days' notice of the proposed change  
13 in maximum eligibility level to the joint standing committee of the Legislature  
14 having jurisdiction over appropriations and financial affairs and the joint standing  
15 committee of the Legislature having jurisdiction over health and human services  
16 matters; ~~and~~

17 **Sec. C-2. 22 MRSA §3174-G, sub-§1, ¶G**, as enacted by PL 2011, c. 380, Pt.  
18 KK, §3, is amended to read:

19 G. A person who is a noncitizen legally admitted to the United States to the extent  
20 that coverage is allowable by federal law if the person is:

- 21 (1) A woman during her pregnancy and up to 60 days following delivery; or  
22 (2) A child under 21 years of age;

23 **Sec. C-3. 22 MRSA §3174-G, sub-§1, ¶¶H and I** are enacted to read:

24 H. Beginning January 1, 2014, a person 21 years of age to 64 years of age who is not  
25 otherwise eligible for medical assistance under this section, who qualifies for medical  
26 assistance pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and  
27 who has income at or below 133% of the nonfarm income official poverty line plus  
28 5% for the applicable family size as required by federal law. A person eligible for  
29 medical assistance under this paragraph must receive the same coverage as is  
30 provided to a person eligible under paragraph E; and

31 I. Beginning October 1, 2019, a person 19 years of age and 20 years of age who is  
32 not otherwise eligible for medical assistance under this section, who qualifies for  
33 medical assistance pursuant to 42 United States Code, Section  
34 1396a(a)(10)(A)(i)(VIII) and who has income at or below 133% of the nonfarm  
35 income official poverty line plus 5% for the applicable family size as required by  
36 federal law. A person eligible for medical assistance under this paragraph must  
37 receive the same coverage as is provided to a person eligible under paragraph E.

1

## SUMMARY

2           Part A of the bill establishes the Maine Health Exchange Advisory Board to advise  
3 the Federal Government, Governor and Legislature on the implementation and operation  
4 of a health exchange in this State pursuant to the federal Patient Protection and  
5 Affordable Care Act. The advisory board is composed of 17 members, including 5  
6 members who are Legislators.

7           Part B of the bill suspends the authority of the Maine Guaranteed Access Reinsurance  
8 Association from January 1, 2014 until December 31, 2016 or until such time as the  
9 transitional reinsurance program administered by the federal Department of Health and  
10 Human Services pursuant to the federal Patient Protection and Affordable Care Act is no  
11 longer operational. This Part also directs the Board of Directors of the Maine Guaranteed  
12 Access Reinsurance Association to amend the association's plan of operation and submit  
13 an amendment to the plan of operation on or before October 1, 2013 to the  
14 Superintendent of Insurance for approval. The amended plan of operation must include,  
15 but is not limited to, an explanation of how operations will be suspended, the actions  
16 necessary to pay reinsurance on qualified claims attributable to the time period prior to  
17 January 1, 2014 and the actions necessary to suspend assessments.

18           Part C of the bill expands medical coverage under the MaineCare program to adults  
19 with family incomes up to 133% of the nonfarm income official poverty line and qualifies  
20 Maine to receive federal funding for 100% of the cost of coverage for members who  
21 enroll under the expansion. Adults eligible are those 21 years of age to 64 years of age  
22 beginning January 1, 2014 and those 19 years of age and 20 years of age beginning  
23 October 1, 2019.