

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1463

H.P. 1079

House of Representatives, April 12, 2021

**An Act To Make Health Care Coverage More Affordable for
Working Families and Small Businesses**

Received by the Clerk of the House on April 8, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TEPLER of Topsham.
Cosponsored by Senator MOORE of Washington and
Representatives: ARFORD of Brunswick, BROOKS of Lewiston, DUNPHY of Old Town,
MATHIESON of Kittery, WHITE of Waterville, Senators: BRENNER of Cumberland,
VITELLI of Sagadahoc.

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

2 **Sec. 1. 24-A MRSA c. 56-A, sub-c. 2-B** is enacted to read:

3 **SUBCHAPTER 2-B**

4 **MAINE HEALTH CARE AFFORDABILITY FUND AND ASSESSMENT**

5 **§4329. Definitions**

6 As used in this subchapter, unless the context otherwise indicates, the following terms
7 have the following meanings.

8 **1. Advisory group.** "Advisory group" means the Affordable Health Care Advisory
9 Group established in section 4330-B, subsection 1.

10 **2. Assessment.** "Assessment" means the health care affordability assessment
11 described in section 4330-A, subsection 1.

12 **3. Commissioner.** "Commissioner" means the Commissioner of Health and Human
13 Services.

14 **4. Covered entity.** "Covered entity" means an entity that would be subject to Section
15 9010 of the federal Affordable Care Act if that section were in effect and that is subject to
16 an assessment, including an insurance company, health service corporation, hospital
17 service corporation, medical service corporation, health maintenance organization, dental
18 service corporation or dental plan organization authorized to issue health benefit or dental
19 benefit plans in the State.

20 **5. Exchange.** "Exchange" has the same meaning as in section 2188, subsection 1,
21 paragraph A.

22 **6. Family glitch.** "Family glitch" means the situation in which an individual is
23 ineligible for premium assistance tax credits under 26 United States Code, Section 36B
24 because a relationship to another individual allows the individual to enroll in an eligible
25 employer-sponsored plan, as defined in 26 United States Code, Section 5000A(f)(2), that
26 is considered affordable for the related individual under 26 Code of Federal Regulations,
27 Section 1.36B-2(c)(3)(v)(A)(2) but for which the portion of the annual premium that the
28 related individual must pay for family coverage exceeds the required contribution
29 percentage, as defined in 26 Code of Federal Regulations, Section 1.36B-2(c)(3)(v)(C), of
30 the individual's household income for the taxable year.

31 **7. Federal poverty level.** "Federal poverty level" has the same meaning as in Title
32 22, section 3762, subsection 1, paragraph C.

33 **8. Fund.** "Fund" means the Maine Health Care Affordability Fund established in
34 section 4330 to provide funding for activities or initiatives to reduce the cost of health
35 insurance coverage for residents of the State.

36 **9. Health insurance.** "Health insurance" means a hospital and medical expense-
37 incurred policy, nonprofit hospital and medical service plan, health maintenance
38 organization subscriber contract or other health care plan or arrangement that pays for or
39 furnishes medical or health care service, whether sold as an individual or group policy. For

1 the purposes of this section, "health insurance" includes limited-scope dental and vision
2 benefits. "Health insurance" does not include accidental injury, specified disease, hospital
3 indemnity, disability income, Medicare supplement, long-term care or other limited-benefit
4 health insurance or credit insurance; coverage issued as a supplement to liability insurance;
5 insurance arising out of workers' compensation or similar law; automobile medical
6 payment insurance; or insurance under which benefits are payable with or without regard
7 to fault and that is statutorily required to be contained in any liability insurance policy or
8 equivalent self-insurance.

9 **10. Net written premium.** "Net written premium" means the total premiums of health
10 insurance policies issued or delivered in the State by a covered entity, less return premiums
11 on those policies and dividends paid or credited to policy or contract holders on the health
12 benefit plan business.

13 **§4330. Maine Health Care Affordability Fund**

14 **1. Fund established.** The Maine Health Care Affordability Fund is established within
15 the Department of Health and Human Services as a separate and distinct fund for
16 accounting and budgetary reporting purposes. Funds in the fund may not lapse but must
17 be carried forward to carry out the purposes of this subchapter.

18 **2. Administration.** The commissioner shall administer the fund in accordance with
19 this section.

20 **3. Sources of funding.** The commissioner shall deposit to the fund:

21 A. Funds received from the assessment;

22 B. Funds from any other source, whether public or private, designated for deposit into
23 or credited to the fund; and

24 C. Interest earned or other investment income on balances in the fund.

25 **4. Deposit and use of funds.** The use of funds deposited into the fund is subject to the
26 following restrictions.

27 A. Funds deposited into the fund must be expended by the commissioner solely for the
28 following permissible uses:

29 (1) Providing financial assistance to lower premiums or reduce out-of-pocket cost-
30 sharing for qualified health plans, as defined in 42 United States Code, Section
31 18021, offered on the exchange to residents of the State who are subject to the
32 family glitch or whose household income, as defined in 26 Code of Federal
33 Regulations, Section 1.36B-1(e), is at or below 200% of the federal poverty level;
34 and

35 (2) Other initiatives that increase affordability of health coverage for individual
36 policy holders or small businesses, provide greater access to health insurance to
37 the uninsured or reduce disparities in health coverage, including through financial
38 assistance, and outreach and enrollment activities.

39 B. At least 85% of funds deposited into the fund due to the assessment must be used
40 for the purposes described in paragraph A, subparagraph (1), except that:

1 (1) If federal financial assistance provided under the federal Affordable Care Act
2 is repealed or eliminated, 100% of funds deposited into the fund must be used to
3 replace the assistance; and

4 (2) If residents of the State who are subject to the family glitch become eligible
5 for a premium assistance tax credit under 26 United States Code, Section 36B, 85%
6 of funds deposited into the fund must be used to provide premium or cost-sharing
7 subsidies to residents of the State who purchase qualified health plans, as defined
8 in 42 United States Code, Section 18021, offered on the exchange in the following
9 order of priority on the basis of household income, as defined in 26 Code of Federal
10 Regulations, Section 1.36B-1(e):

11 (a) First, to those residents whose household income is at or below 200% of
12 the federal poverty level;

13 (b) Second, to those residents whose household income is at or below 250%
14 of the federal poverty level;

15 (c) Third, to those residents whose household income is at or below 300% of
16 the federal poverty level; and

17 (d) Fourth, to those residents whose household income is at or below 400% of
18 the federal poverty level.

19 If the amount of the federal premium assistance tax credit available to residents of
20 the State is less than the amount that would be provided under Section 9661 of the
21 American Rescue Plan Act of 2021, any funds allocated under this subparagraph
22 must first be used to increase the amount of the available tax credit to equal the
23 amount that would be provided under Section 9661 of the American Rescue Plan
24 Act of 2021 in the order of priority specified in divisions (a) to (d).

25 C. Funds in the fund may not be used to pay for state contributions toward the medical
26 assistance program established pursuant to 42 United States Code, Chapter 7,
27 Subchapters 19 and 21.

28 D. The commissioner shall monitor expenditures of the fund and, in consultation with
29 the superintendent, take measures necessary to ensure solvency of the fund.

30 **5. Rulemaking.** The commissioner shall adopt rules for the proper administration of
31 the fund. By December 31, 2021, the commissioner shall adopt rules to implement
32 subsection 4, paragraph A. Rules adopted pursuant to this subsection are routine technical
33 rules as defined in Title 5, chapter 375, subchapter 2-A.

34 **§4330-A. Health care affordability assessment**

35 **1. Assessment.** A covered entity shall file with the superintendent a report of its net
36 written premiums for the preceding year by no later than April 1st of each year. The
37 superintendent shall calculate and issue to the covered entity a certified assessment, which
38 must be equal to 2.85% of the covered entity's net written premiums but may not exceed
39 the amount the covered entity would have paid under Section 9010 of the federal
40 Affordable Care Act if that section were in effect during that year, and the covered entity
41 shall pay the assessment.

42 **2. Deposit to the fund.** The superintendent shall deposit all proceeds of the
43 assessment to the fund.

1 **3. Rulemaking.** The superintendent shall adopt rules as necessary for the proper
2 administration and enforcement of this section. Rules adopted pursuant to this subsection
3 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4 **4. Technical assistance from other state agencies.** Upon the request of the
5 superintendent or commissioner, state agencies, including the bureau, the Department of
6 Administrative and Financial Services, Bureau of Revenue Services and the Maine Health
7 Data Organization, shall provide technical assistance and expertise for the administration
8 of the fund or assessment.

9 **§4330-B. Affordable Health Care Advisory Group**

10 **1. Established.** The Affordable Health Care Advisory Group is established for
11 consultation with the superintendent and the commissioner on the development of rules to
12 implement this subchapter and on the activities and initiatives funded through the fund.
13 The superintendent and commissioner shall convene the advisory group no later than
14 October 1, 2021.

15 **2. Membership.** The advisory group consists of 13 voting members, including the
16 superintendent, the commissioner and 11 members appointed as follows.

17 A. The President of the Senate and the Speaker of the House of Representatives shall
18 each appoint 4 members and the Governor shall appoint 3 members, including:

19 (1) A representative of nonprofit insurers;

20 (2) A representative of for-profit insurers who provide insurance on the exchange;

21 (3) A representative of small businesses and self-employed individuals;

22 (4) A representative of consumers with low incomes;

23 (5) A representative of the Health Insurance Consumer Assistance Program under
24 section 4326;

25 (6) A representative of navigators, as defined in section 2188, subsection 1,
26 paragraph B;

27 (7) A representative of a certified application counselor designated organization
28 that has been designated by the Department of Health and Human Services;

29 (8) A person with experience in analyzing health data and the economic impact of
30 health coverage on the economy;

31 (9) A representative of workers in the State or organized labor;

32 (10) An academic research professor with expertise in health care coverage; and

33 (11) A representative from a hospital.

34 **3. Duties.** The advisory group shall:

35 A. Identify barriers to accessing affordable health insurance coverage for residents of
36 the State, including those with household incomes at or below 200% of the federal
37 poverty level;

38 B. Determine the most efficient and effective mechanisms to deliver assistance under
39 section 4330, subsection 4, paragraph A;

1 C. Determine the level of assistance under section 4330, subsection 4, paragraph A
2 needed to make health insurance coverage affordable; and

3 D. Establish outcome measures to evaluate the success of the activities and initiatives
4 under this subchapter.

5 **4. Reporting.** The commissioner shall submit a report annually by February 1st to the
6 Governor and the joint standing committee of the Legislature having jurisdiction over
7 health insurance matters that describes the activities and initiatives funded by the fund to
8 increase the affordability of health insurance for residents of the State and summarizes the
9 advisory group's findings and recommendations related to barriers to affordable health
10 coverage for residents of the State and how to improve the affordability of coverage options
11 available on the exchange. This commissioner shall publish the report on the publicly
12 accessible website of the Department of Health and Human Services.

13 **SUMMARY**

14 This bill:

15 1. Establishes the Maine Health Care Affordability Fund to fund activities and
16 initiatives to reduce the cost of health insurance coverage for Maine residents;

17 2. Requires the Commissioner of Health and Human Services to adopt rules for
18 the administration of the Maine Health Care Affordability Fund and for the disbursement
19 of funds from the fund to assist Maine residents with the cost of health care coverage;

20 3. Establishes the health care affordability assessment to provide funding to the
21 Maine Health Care Affordability Fund and requires the Superintendent of Insurance within
22 the Department of Professional and Financial Regulation to adopt rules for the
23 administration and enforcement of the health care affordability assessment;

24 4. Requires state agencies to provide technical assistance to the commissioner and
25 the superintendent for the administration of the Maine Health Care Affordability Fund or
26 the health care affordability assessment upon request;

27 5. Establishes the Affordable Health Care Advisory Group, which consists of the
28 commissioner, the superintendent and 11 additional members appointed by the President
29 of the Senate, the Speaker of the House of Representatives and the Governor, to consult on
30 the development of rules to implement and administer the Maine Health Care Affordability
31 Fund and the health care affordability assessment; and

32 6. Requires the commissioner to submit an annual report to the Governor and the
33 joint standing committee of the Legislature having jurisdiction over health insurance
34 matters describing activities and initiatives funded by the Maine Health Care Affordability
35 Fund to increase the affordability of health insurance for Maine residents and summarizing
36 the findings and recommendations of the Affordable Health Care Advisory Group by
37 February 1st. The commissioner is also required to make the report publicly available
38 online.