

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2010

For the purposes of this subsection, "gross operating revenue" means revenue derived from filed rates, except from sales for resale. The commission may correct any errors in the assessments under this subsection by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year. The commission shall determine the assessments under this subsection annually prior to ~~May~~ June 1st and assess each utility for its pro rata share for expenditure, including funds for energy conservation programs, during the fiscal year beginning July 1st. The commission may not ~~charge~~ increase any assessment under this subsection until the Legislature has approved the ~~commission's~~ Efficiency Maine Trust's budget in accordance with section 116. ~~The~~ Following the commission's approval of the triennial plan pursuant to section 10104, subsection 4 or any update plan pursuant to section 10104, subsection 6, the commission shall ~~separately identify~~ present any recommended increase in the assessment under this subsection ~~in its presentation of budget recommendations contained in any current services budget legislation and any supplemental budget legislation~~ to the joint standing committee of the Legislature having jurisdiction over public utilities matters ~~pursuant to section 116~~. Each utility shall pay the assessment charged to that utility under this subsection on the same schedule that payment of assessments under subsection 4 is required.

Sec. 11. 35-A MRSA §10115, sub-§3 is enacted to read:

3. Use of funds. All funds received pursuant to this section must be expended in accordance with the requirements of sections 10103, 10104 and 10105, unless specifically prohibited by federal law or regulation. Funds to be expended for programs or projects related to weatherization and energy-efficient use of fossil fuels for heating must be deposited in the Heating Fuels Efficiency and Weatherization Fund established in section 10119 and expended in accordance with that section. The trust may transfer any federal funds received pursuant to 42 United States Code, Sections 6321 to 6326 (2009) to the appropriate state agency as it considers necessary to the extent that such funds are designated for a purpose that falls outside the energy efficiency and alternative energy programs that the trust oversees and administers.

Sec. 12. Review of long-term contracting. By January 15, 2012, the Public Utilities Commission shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding long-term contracts implemented pursuant to the Maine Revised Statutes, Title 35-A, section 3210-C, including the number, types and lengths of contracts. After review of the commission's report, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters

may submit a bill regarding long-term contracts to the Second Regular Session of the 125th Legislature.

Sec. 13. Transmission and subtransmission voltage level electricity customers; participation in energy efficiency programs. The Efficiency Maine Trust established in the Maine Revised Statutes, Title 35-A, section 10103 shall convene a working group to examine options regarding the participation of electricity customers receiving service at transmission and subtransmission voltage levels in the energy efficiency programs of the trust, particularly those programs funded by assessments on transmission and distribution utilities. The working group shall, at a minimum, consider the opportunity for these customers to self-direct funding and other strategies. The Efficiency Maine Trust shall, at a minimum, invite the Office of the Public Advocate, the Public Utilities Commission, representatives of transmission and distribution utilities, representatives of industrial energy consumers and representatives of environmental interests to participate in the working group. No later than January 31, 2011, the Efficiency Maine Trust shall submit a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the findings and recommendations of the working group. Following receipt and review of the report, the committee may submit a bill related to the report to the First Regular Session of the 125th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 17, 2010.

CHAPTER 519

S.P. 576 - L.D. 1498

An Act To Adopt a Drug Benefit Equity Law

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

Sec. 1. 24-A MRSA §4317 is enacted to read:

§4317. Pharmacy providers

1. Contracts with pharmacy providers. Notwithstanding section 2672, section 4307, subsection 3 and Title 32, chapter 117, subchapter 8, a carrier that provides coverage for prescription drugs as part of a health plan may not refuse to contract with a pharmacy provider that is qualified and is willing to meet the terms and conditions of the carrier's criteria for pharmacy participation as stipulated in the carrier's contractual agreement with its pharmacy providers.

This subsection may not be construed to limit a carrier's ability to offer an enrollee incentives, including variations in premiums, deductibles, copayments or coinsurance or variations in the quantities of medications available to the enrollee, to encourage the use of certain preferred pharmacy providers as long as the carrier makes the terms applicable to the preferred pharmacy providers available to all pharmacy providers. For purposes of this subsection, a preferred pharmacy provider is any pharmacy willing to meet the specified terms, conditions and price that the carrier may require for its preferred pharmacy providers.

2. Prompt payment of claims. Notwithstanding section 2436, the following provisions apply to the payment of claims submitted to a carrier by a pharmacy provider.

A. For purposes of this subsection, the following terms have the following meanings.

(1) "Applicable number of calendar days" means:

(a) With respect to claims submitted electronically, 21 days; and

(b) With respect to claims submitted otherwise, 30 days.

(2) "Clean claim" means a claim that has no defect or impropriety, including any lack of any required substantiating documentation, or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this section.

B. A contract entered into by a carrier with a pharmacy provider with respect to a prescription drug plan offered by a carrier must provide that payment is issued, mailed or otherwise transmitted with respect to all clean claims submitted by a pharmacy provider, other than a pharmacy that dispenses drugs by mail order only or a pharmacy located in, or under contract with, a long-term care facility, within the applicable number of calendar days after the date on which the claim is received. For purposes of this subsection, a claim is considered to have been received:

(1) With respect to claims submitted electronically, on the date on which the claim is transferred; and

(2) With respect to claims submitted otherwise, on the 5th day after the postmark date of the claim or the date specified in the time stamp of the transmission of the claim.

C. If payment is not issued, mailed or otherwise transmitted by the carrier within the applicable number of calendar days after a clean claim is received, the carrier shall pay interest to the pharmacy provider at the rate of 18% per annum.

D. A claim is considered to be a clean claim if the carrier involved does not provide notice to the pharmacy provider of any deficiency in the claim within 10 days after the date on which an electronically submitted claim is received or within 15 days after the date on which a claim submitted otherwise is received.

E. If a carrier determines that a submitted claim is not a clean claim, the carrier shall immediately notify the pharmacy provider of the determination. The notice must specify all defects or improprieties in the claim and list all additional information or documents necessary for the proper processing and payment of the claim. If a pharmacy provider receives notice from a carrier that a claim has been determined to not be a clean claim, the pharmacy provider shall take steps to correct that claim and then resubmit the claim to the carrier for payment.

F. A claim resubmitted to a carrier with additional information pursuant to paragraph E is considered to be a clean claim if the carrier does not provide notice to the pharmacy provider of any defect or impropriety in the claim within 10 days of the date on which additional information is received if the claim is resubmitted electronically or within 15 days of the date on which additional information is received if the claim is resubmitted otherwise.

G. A claim submitted to a carrier that is not paid by the carrier or contested by the plan sponsor within the applicable number of calendar days after the date on which the claim is received by the carrier is considered to be a clean claim and must be paid by the carrier.

H. Payment of a clean claim under this subsection is considered to have been made on the date on which the payment is transferred with respect to claims paid electronically and on the date on which the payment is submitted to the United States Postal Service or common carrier for delivery with respect to claims paid otherwise.

I. A carrier shall pay all clean claims submitted electronically by electronic transfer of funds if the pharmacy provider so requests or has so requested previously. In the case when the payment is made electronically, remittance may be made by the carrier electronically.

3. Exception. This section does not apply to any medical assistance or public health programs administered by the Department of Health and Human Services, including, but not limited to, the Medicaid program and the elderly low-cost drug program under Title 22, section 254-D.

Sec. 2. Application. This Act applies to all policies, contracts and certificates executed, delivered,

issued for delivery, continued or renewed in this State on or after the effective date of this Act. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 520

S.P. 586 - L.D. 1528

An Act To Enhance Cooperation between the Workers' Compensation Board's Abuse Investigation Unit and Other State Agencies and To Ensure Equal Application of the Requirement To Obtain Coverage

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

Sec. 1. 39-A MRSA §153, sub-§5, ¶B, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. The unit shall, at the direction of the board, investigate all complaints or allegations of fraud, illegal or improper conduct or violation of this Act or rules of the board relating to workers' compensation insurance, benefits or programs, including those acts by employers, employees or insurers. All records, correspondence and reports of investigation in connection with actual or alleged fraud, illegal or improper conduct or violation of this Act or rules of the board and all records, correspondence and reports of criminal prosecution or civil action are confidential. The confidential nature of any such record, correspondence or report does not limit or affect the use of those materials in any prosecution or action or prevent the board, upon request, from providing information to another state agency for use by the agency in enforcing laws and rules.

Sec. 2. 39-A MRSA §324, sub-§3, as amended by PL 2003, c. 344, Pt. D, §28, is further amended to read:

3. Failure to secure payment. If any employer who is required to secure the payment to that employer's employees of the compensation provided for by this Act fails to do so, the employer is subject to the penalties set out in paragraphs A, B and C. The failure of any employer to procure insurance coverage for the payment of compensation and other benefits to the employer's employees in compliance with sections 401

and 403 constitutes a failure to secure payment of compensation within the meaning of this subsection.

A. The employer is guilty of a Class D crime.

B. The employer is liable to pay a civil penalty of up to \$10,000 or an amount equal to 108% of the premium, calculated using Maine Employers' Mutual Insurance Company's standard discounted standard premium, that should have been paid during the period the employer failed to secure coverage, whichever is larger, payable to the Employment Rehabilitation Fund.

C. The employer, if organized as a corporation, is subject to administrative dissolution as provided in Title 13-C, section 1421 or revocation of its authority to do business in this State as provided in Title 13-C, section 1532. The employer, if organized as a domestic limited liability company, is subject to administrative dissolution as provided in Title 31, section 608-B. The employer, if licensed, certified, registered or regulated by any board authorized by Title 5, section 12004-A or whose license may be revoked or suspended by proceedings in the District Court or by the Secretary of State, is subject to revocation or suspension of the license, certification or registration.

Prosecution under paragraph A does not preclude action under paragraph B or C.

If the employer is a corporation, partnership, limited liability company, professional corporation or any other legal business entity recognized under the laws of the State, any agent of the corporation or legal business entity having primary responsibility for obtaining insurance coverage is liable for punishment under this section. Criminal liability must be determined in conformity with Title 17-A, sections 60 and 61.

See title page for effective date.

CHAPTER 521

S.P. 587 - L.D. 1529

An Act To Amend the Maine Workers' Compensation Act of 1992 Regarding Coordination of Benefits

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

Sec. 1. 39-A MRSA §221, sub-§2, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed and the following enacted in its place:

2. Definitions. As used in this section, the following terms have the following meanings.