

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

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

Effective June 7, 2011.

CHAPTER 238

H.P. 1138 - L.D. 1551

**An Act To Clarify and Update
the Laws Related to Health
Insurance, Insurance Producer
Licensing and Surplus Lines
Insurance**

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

PART A

Sec. A-1. 24-A MRSA §4303, sub-§8-A is enacted to read:

8-A. Protection from balance billing by participating providers. An enrollee's responsibility for payment under a managed care plan must be limited as provided in this subsection.

A. The terms of a managed care plan must provide that the enrollee's responsibility for the cost of covered health care rendered by participating providers is limited to the cost-sharing provisions expressly disclosed in the contract, such as deductibles, copayments and coinsurance, and that if the enrollee has paid the enrollee's share of the charge as specified in the plan, the carrier shall hold the enrollee harmless from any additional amount owed to a participating provider for covered health care.

B. Every provider agreement with a participating provider must be in writing and must set forth that if the carrier fails to pay for health care services as set forth in the contract, the enrollee is not liable to the provider for any sums owed by the carrier.

C. A participating provider may not collect or attempt to collect any charge from an enrollee for covered health care beyond the amount permitted by the terms of the plan, notwithstanding the carrier's insolvency, the carrier's failure to pay the amount owed by the carrier, any other breach by the carrier of the provider agreement or the failure of the provider agreement to include the written hold harmless provision required by paragraph B.

PART B

Sec. B-1. 24-A MRSA §2813, as enacted by PL 1969, c. 132, §1 and amended by PL 1973, c. 585, §12, is further amended by adding at the end a new paragraph to read:

Policies that otherwise meet the description of group policies pursuant to section 2804, 2805, 2805-A, 2806, 2807, 2807-A or 2808-B are not blanket policies.

PART C

Sec. C-1. 24-A MRSA §2839, as amended by PL 2009, c. 14, §5, is further amended to read:

§2839. Rates filed

A policy of group or blanket health insurance may not be delivered in this State until a copy of the group rates to be used in calculating the premium for these policies has been filed for informational purposes with the superintendent. The filing must include the base rates and a description of any procedures to be used to adjust the base rates to reflect factors including but not limited to age, gender, health status, claims experience, group size and coverage of dependents. Notwithstanding this section, rates for group Medicare supplement, nursing home care or long-term care insurance contracts and for certain association groups and other groups specified in section 2701, subsection 2, paragraph C must be filed in accordance with section 2736. Rates for small group health insurance subject to section 2808-B are subject to the additional filing requirements specified in that section. A filing required under this section must be made electronically in a format required by the superintendent unless exempted by rule adopted by the superintendent. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

PART D

Sec. D-1. 24-A MRSA §2736-C, sub-§1, ¶C, as amended by PL 1995, c. 332, Pt. J, §2, is further amended to read:

C. "Individual health plan" means any hospital and medical expense-incurred policy or health, hospital or medical service corporation plan contract. It includes both individual contracts and certificates issued under group contracts specified in section 2701, subsection 2, paragraph C. "Individual health plan" does not include the following types of insurance:

- (1) Accident;
- (2) Credit;
- (3) Disability;
- (4) Long-term care or nursing home care;
- (5) Medicare supplement;
- (6) Specified disease;
- (7) Dental or vision;
- (8) Coverage issued as a supplement to liability insurance;

- (9) Workers' compensation;
- (10) Automobile medical payment; ~~or~~
- (11) Insurance under which benefits are payable with or without regard to fault and that is required statutorily to be contained in any liability insurance policy or equivalent self-insurance; ~~or~~
- (12) Short-term policies, as described in section 2849-B, subsection 1.

PART E

Sec. E-1. 24-A MRSA §2848, sub-§1-B, ¶A, as amended by PL 1999, c. 256, Pt. L, §2, is further amended to read:

A. "Federally creditable coverage" means health benefits or coverage provided under any of the following:

- (1) An employee welfare benefit plan as defined in Section 3(1) of the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1001, or a plan that would be an employee welfare benefit plan but for the "governmental plan" or "nonelecting church plan" exceptions, if the plan provides medical care as defined in subsection 2-A, and includes items and services paid for as medical care directly or through insurance, reimbursement or otherwise;
- (2) Benefits consisting of medical care provided directly, through insurance or reimbursement and including items and services paid for as medical care under a policy, contract or certificate offered by a carrier;
- (3) Part A or Part B of Title XVIII of the Social Security Act, Medicare;
- (4) Title XIX of the Social Security Act, Medicaid, other than coverage consisting solely of benefits under Section 1928 of the Social Security Act ~~or a state children's health insurance program under Title XXI of the Social Security Act;~~
- (4-A) A state children's health insurance program under Title XXI of the Social Security Act;
- (5) The Civilian Health and Medical Program for the Uniformed Services, CHAMPUS, 10 United States Code, Chapter 55;
- (6) A medical care program of the federal Indian Health Care Improvement Act, 25 United States Code, Section 1601 or of a tribal organization;
- (7) A state health benefits risk pool;

- (8) A health plan offered under the federal Employees Health Benefits Amendments Act, 5 United States Code, Chapter 89;
- (9) A public health plan as defined in federal regulations authorized by the federal Public Health Service Act, Section 2701(c)(1)(I), as amended by Public Law 104-191; or
- (10) A health benefit plan under Section 5(e) of the Peace Corps Act, 22 United States Code, Section 2504(e).

PART F

Sec. F-1. 24-A MRSA §2850-B, sub-§3, ¶G, as amended by PL 2003, c. 428, Pt. A, §1, is further amended to read:

G. When the carrier ceases offering a product and meets the following requirements:

- (1) In the large group market:
 - (a) The carrier ~~must provide~~ provides notice to the policyholder and to the ~~insureds~~ certificate holders at least 90 days before termination;
 - (b) The carrier ~~must offer~~ offers to each policyholder the option to purchase any other product currently being offered in the large group market; and
 - (c) In exercising the option to discontinue the product and in offering the option of coverage under division (b), the carrier ~~must act~~ acts uniformly without regard to the claims experience of the policyholders or the health status of the ~~insureds~~ certificate holders or their dependents or prospective ~~insureds~~ certificate holders or their dependents;
- (2) In the small group market:
 - (a) The carrier ~~shall replace~~ replaces the product with a product that complies with the requirements of this section, including renewability, and with section 2808-B;
 - (b) The superintendent ~~shall find~~ finds that the replacement is in the best interests of the policyholders; and
 - (c) The carrier ~~shall provide~~ provides notice of the replacement to the policyholder and to the ~~insureds~~ certificate holders at least 90 days before replacement, including notice of the policyholder's right to purchase any other product currently being offered by that carrier in the small group market pursuant to section 2808-B, subsection 4; or

- (3) In the individual market:
 - (a) The carrier ~~shall replace~~ replaces the product with a product that complies with the requirements of this section, including renewability, and with section 2736-C;
 - (b) The superintendent ~~shall find~~ finds that the replacement is in the best interests of the policyholders; and
 - (c) The carrier ~~shall provide~~ provides notice of the replacement to the policyholder and, if a group policy subject to section 2736-C, to the insureds a certificate holder at least 90 days before replacement, including notice of the policyholder's or certificate holder's right to purchase any other product currently being offered by that carrier in the individual market pursuant to section 2736-C, subsection 3;

PART G

Sec. G-1. 24-A MRSA §2803, as amended by PL 1993, c. 171, Pt. C, §2, is further amended to read:

§2803. Requirements

A policy of group health insurance may not be delivered in this State, nor may any certificate of group health insurance that derives from a policy issued in another state be delivered in this State unless the group policyholder conforms to one of the descriptions set forth in sections 2804 to ~~2809~~ 2808.

PART H

Sec. H-1. 24-A MRSA §601, sub-§5, ¶F, as amended by PL 1997, c. 592, §16, is further amended to read:

F. Issuance fee for resident agency license, \$30; Biennial fee, \$30;

Biennial fee for appointment, each insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group, \$30; and

Sec. H-2. 24-A MRSA §601, sub-§5, ¶G, as amended by PL 1997, c. 592, §16, is further amended to read:

G. Issuance fee for nonresident agency license, \$70; Biennial fee, \$70;

Biennial fee for appointment, each insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organi-

zation, viatical settlement provider or risk retention group, \$70; ~~and.~~

Sec. H-3. 24-A MRSA §601, sub-§5, ¶H, as enacted by PL 1997, c. 457, §18 and affected by §55, is repealed.

Sec. H-4. 24-A MRSA §1415, sub-§1, as amended by PL 2001, c. 259, §16, is further amended to read:

1. Producer authorities. An individual resident or nonresident insurance producer may receive any of the full license authorities pursuant to section 1420-F, subsection 1, paragraphs A to F, ~~in addition to independent producer authority in accordance with section 1450,~~ and surplus lines authority in accordance with chapter 19.

Sec. H-5. 24-A MRSA §1450, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

2. Shared commissions. If an insurance producer does not have an appointment with an insurer, the insurance producer may place with that insurer, through a duly licensed and appointed producer of such insurer, an insurance coverage necessary for the adequate protection of a subject of insurance and share in the commission on that insurance, if each producer is licensed as to the kinds of insurance involved. ~~If an insurance producer does not have an appointment with an insurer, the insurance producer may place an insurance coverage with that insurer without placing through an agent of the insurer, and accept or share in the commission as long as:~~

- ~~A. The producer represents the insured and does not represent the insurer;~~
- ~~B. The producer has the authority under the license to act as an independent producer;~~
- ~~C. The producer does not, on a regular basis, normally place business with that insurer;~~
- ~~D. The producer does not also receive a fee from the insured for the service; and~~
- ~~E. The producer is licensed as to the kinds of insurance involved.~~

See title page for effective date.

CHAPTER 239

H.P. 229 - L.D. 285

An Act Regarding the Qualifications of Candidates for Office

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