

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Insurance and Financial Services*

August 2005

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Maine State Legislature

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122nd Legislature
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Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CARRIED OVER Bill Carried Over to Second Regular Session
CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... Bill held by Governor
VETO SUSTAINED..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

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consumers, insurance producers and insurers. The resolve requires the superintendent to submit a report on the feasibility study, and any proposed legislation, to the Joint Standing Committee on Insurance and Financial Services by December 5, 2005 and authorizes the committee to report out a bill following its review of the report.

LD 1577

An Act To Modify Savings Offset Payments and To Clarify Certain Other Provisions of the Dirigo Health Act

PUBLIC 400

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP-AM MAJ OTP-AM MIN	H-687 PERRY A S-359

LD 1577 proposed to clarify and make changes to the date the savings offset payment determination is made and the date payments may begin under the Dirigo Health Act to reflect the delay in the implementation of Dirigo Health. In addition, the bill proposed to change the basis for computing savings offset payments from premiums to paid claims.

Committee Amendment "A" (S-359) proposed to replace the bill and was the majority report. The amendment proposed to add an emergency preamble and emergency clause. The amendment proposed to:

1. Allow insurers, for the calendar year 2006, to give 30 days' notice of changes in rates to policyholders instead of the 60 days' or 90 days' notice required under current law;
2. Change the term "Dirigo Health Insurance" to "Dirigo Health Program" and revise the definition and update the statutes accordingly;
3. Specify the joint standing committee of the Legislature having jurisdiction over insurance matters as the committee of jurisdiction for Dirigo Health;
4. Amend the Dirigo Health Act in several places to bring the law into compliance with federal requirements related to pooling of funds for providing a state match for federal Medicaid dollars;
5. Allow for the pooling of savings offset payment revenue and clearly state that the calculation of the savings offset payment amount is limited to the amount of funds necessary to provide subsidies and to support the Maine Quality Forum, and that the calculation may not include general administrative expenses of Dirigo Health;
6. Change from premiums to paid claims the assessment base for savings offset payments required from health insurance carriers and employee benefit excess insurance carriers and establish paid claims as the assessment base for savings offset payments required from 3rd-party administrators;
7. Provide for savings offset payments to apply to claims paid on or after January 1, 2006, 6 months later than in current law, to reflect delays in the implementation of Dirigo Health. It proposed to provide an exception to the quarterly savings offset payments for the first 3 months of 2006, during which time monthly savings offset payments, due not less than 60 days after the close of the month, would be required for plan years starting during those months. It proposed to allow 3rd-party administrators for groups of 500 or fewer members to make savings offset payments annually;

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8. Specify that rules regarding the definition of paid claims for the purpose of savings offset payments are major substantive rules after the first assessment year. During the first assessment year, the amendment proposed that the rules would be routine technical;
9. Establish a 10-member working group, convened by the Superintendent of Insurance, to advise the Board of Directors of Dirigo Health on certain issues relating to savings offset payments, including the definition of "subsidy," the definition of "paid claims," the process for implementing and invoicing paid claims, the board's proposed methodology for calculating aggregate measurable cost savings and a funding strategy for Dirigo Health's administrative expenses. It proposed to require the working group to provide monthly reports to the Joint Standing Committee on Insurance and Financial Services;
10. Provide a timeline for the start-up of savings offset payments, including deadlines for the determination of aggregate measurable cost savings and the amount of the savings offset payment; and
11. Specify that Dirigo Health may use the \$53,000,000 in start-up funds it received pursuant to Public Law 2003, chapter 469 to cover administrative expenses but may not cover those expenses with savings offset payments. It proposed to require the Board of Directors of Dirigo Health, with input from the working group, to make recommendations to the Joint Standing Committee on Insurance and Financial Services regarding how to finance Dirigo Health's administrative expenses and authorizes the committee to report out a bill after reviewing the board's recommendation.

Committee Amendment "B" (S-360) proposed to replace the bill and was the minority report. The amendment proposed to add an emergency preamble and emergency clause. The amendment also proposed to:

1. Change the term "Dirigo Health Insurance" to "Dirigo Health Program" and revise the definition and update the statutes accordingly;
2. Require that the Board of Directors of Dirigo Health arrange for an independent audit to be conducted in addition to the required audit by the State Auditor;
3. Specify the joint standing committee of the Legislature having jurisdiction over insurance matters as the committee of jurisdiction for Dirigo Health;
4. Amend the Dirigo Health Act in several places to bring the law into compliance with federal requirements related to pooling of funds for providing a state match for federal Medicaid dollars;
5. Specify that any experience modification program, or other similar arrangement, between Dirigo Health and a carrier or 3rd-party administrator providing the Dirigo Health Program in which payments are made by Dirigo Health to the carrier or 3rd-party administrator to be set aside to cover unanticipated variance in claims experience may not be considered a subsidy and must be considered a general administrative expense of Dirigo Health. It further proposed to specify that after December 31, 2006, Dirigo Health may not include in its contracts with carriers or 3rd-party administrators any experience modification program or other similar arrangement;
6. Add an asset limit to the eligibility criteria for a subsidy under the Dirigo Health Program and set the asset limit at 300% of the asset limit for MaineCare eligibility;
7. Allow for the pooling of savings offset payment revenue and clearly state that the calculation of the savings offset payment amount is limited to the amount of funds necessary to provide subsidies and to support the

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Maine Quality Forum and that the calculation may not include general administrative expenses of Dirigo Health;

8. Shift responsibility for the determination of cost savings from the Board of Directors of Dirigo Health to the Superintendent of Insurance;
9. Change from premiums to paid claims the assessment base for savings offset payments required from health insurance carriers and employee benefit excess insurance carriers and establish paid claims as the assessment base for savings offset payments required from 3rd-party administrators;
10. Provide for savings offset payments to apply to claims paid on or after July 1, 2006, 12 months later than in current law, to reflect delays in the implementation of Dirigo Health;
11. Specify that rules regarding the definition of paid claims for the purpose of savings offset payments are major substantive rules;
12. Establish a 10-member working group, convened by the Superintendent of Insurance, to advise the Board of Directors of Dirigo Health and the superintendent on certain issues relating to savings offset payments. It proposed to require the group to make recommendations to the board regarding the definition of subsidy, the definition of paid claims and the process for calculating and invoicing paid claims and a funding strategy for Dirigo Health administrative expenses and to require the working group to a recommendation to the superintendent regarding the methodology for determining cost savings. It also proposed to require the working group to provide monthly reports to the Joint Standing Committee on Insurance and Financial Services; and
13. Specify that Dirigo Health agency may use the \$53,000,000 in start-up funds it received pursuant to Public Law 2003, chapter 469 to cover administrative expenses but may not cover those expenses with savings offset payments. It proposed to require the Board of Directors of Dirigo Health, with input from the working group, to make recommendations to the Joint Standing Committee on Insurance and Financial Services regarding how to finance Dirigo Health's administrative expenses and authorizes the committee to report out a bill after reviewing the board's recommendation.

Committee Amendment "B" was not adopted.

House Amendment "B" to Committee Amendment "A" (H-687) proposed to incorporate the changes proposed by House Amendment "A" to Committee Amendment "A" with the following additional changes:

1. **House Amendment "A" to Committee Amendment "A"** proposed to specify that, not later than the effective date of the bill, the Board of Directors of Dirigo Health is required to file with the Superintendent of Insurance its determination of the aggregate measurable cost savings and the superintendent is then required to hold a public hearing and issue an order approving or disapproving the filing. This amendment proposed to place that requirement in statute, thus making it an ongoing requirement for the annual determination of aggregate measurable cost savings.
2. Consistent with current law, Committee Amendment "A" requires Dirigo Health to determine whether unused payments may be returned to insurance carriers. This amendment proposed to require the unused payments to be used to reduce the next savings offset payment charged to health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers according to a formula developed by the board.

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House Amendment "A" to Committee Amendment "A" (H-681) proposed to strike the emergency preamble and emergency clause and to adjust certain dates within the bill as amended by Committee Amendment "A" accordingly. This amendment also proposed to:

1. Replace language in Committee Amendment "A" regarding legislative jurisdiction. In its place, this amendment proposed to require Dirigo Health to report twice annually to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters regarding the Dirigo Health Program and its budget and require the Board of Directors of Dirigo Health to provide minutes of its meetings to all members of the joint standing committees of the legislature having jurisdiction over insurance and financial services matters, health and human services matters and appropriations and financial affairs;
2. Change the process for the determination of aggregate measurable cost savings in the first assessment year by requiring the Board of Directors of Dirigo Health, after making its determination of cost savings, to file that determination and supporting information with the Superintendent of Insurance. The superintendent is then required to hold a public hearing and issue an order approving or disapproving the filing; and
3. Add an appropriations and allocations section.

House Amendment "A" to Committee Amendment "A" was not adopted.

House Amendment "C" to Committee Amendment "A" (H-688) proposed to shift responsibility for the determination of cost savings from the Board of Directors of Dirigo Health to the Superintendent of Insurance. The amendment also proposed to add an appropriations and allocations section. House Amendment "C" to Committee Amendment "A" was not adopted.

House Amendment "D" to Committee Amendment "A" (H-689) proposed to require the cost of an experience modification program to be considered a general administrative expense, thus not includable in the savings offset amount calculation. This amendment also proposed to specify that after December 31, 2006, Dirigo Health may not include in its contracts with carriers or 3rd-party administrators any experience modification program or other similar arrangement. House Amendment "D" to Committee Amendment "A" was not adopted.

House Amendment "E" to Committee Amendment "A" (H-690) proposed to remove the deadline by which the Board of Directors of Dirigo Health is to determine the amount of the savings offset payment, instead requiring the board to make its determination as soon as possible following the adjudicatory hearing required by law. House Amendment "E" to Committee Amendment "A" was not adopted.

Senate Amendment "A" to Committee Amendment "A" (S-370) proposed to specify that, for purposes of determining cost savings, "bad debt" includes payments not received by hospitals for services rendered to a person enrolled in both Dirigo Health and MaineCare. Senate Amendment "A" to Committee Amendment "A" was not adopted.

Enacted law summary

Public Law 2005, chapter 400 amends the law governing savings offset payments and certain other provisions of the Dirigo Health Act as follows.

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1. It changes the term "Dirigo Health Insurance" to "Dirigo Health Program" which is defined as a program of services that includes health benefits coverage.
2. It requires Dirigo Health to report twice annually to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters regarding the Dirigo Health Program and its budget and requires the Board of Directors of Dirigo Health to provide minutes of its meetings to all members of the joint standing committees of the legislature having jurisdiction over insurance and financial services matters, health and human services matters and appropriations and financial affairs.
3. It amends the Dirigo Health Act to ensure consistency with federal requirements related to pooling of funds for providing a state match for federal Medicaid dollars.
4. It changes the process for the determination of aggregate measurable cost savings in the health care system by adding a provision to require the Board of Directors of Dirigo Health, after making its determination of cost savings, to file that determination and supporting information with the Superintendent of Insurance. The superintendent is then required to hold a public hearing and issue an order approving or disapproving the filing.
5. It specifies that the calculation of the savings offset payment amount is limited to the amount of funds necessary to provide subsidies and to support the Maine Quality Forum and may not include general administrative expenses of Dirigo Health.
6. It changes the base for computing savings offset payments from premiums to paid claims for health insurance carriers and employee benefit excess insurance carriers and establishes paid claims as the assessment base for savings offset payments required from 3rd-party administrators.
7. It delays start of savings offset payments from July 1, 2005 to January 1, 2006. It provides an exception to the quarterly savings offset payment requirement for the first 3 months of 2006, during which time monthly savings offset payments, due not less than 60 days after the close of the month, are required for plan years starting during those months. It also provides an exception to allow 3rd-party administrators for groups of 500 or fewer members to make savings offset payments annually.
8. It provides an exception for calendar year 2006 to allow health insurers to give policy holders 30 days' notice of rate increases instead of the 60 days' or 90 days' notice required under current law.
9. It requires Dirigo Health to reconcile annual savings offset payments and to apply any unused amounts to reduce the next savings offset payment charged to health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers according to a formula developed by the board.
10. It requires that the definition of paid claims for the purpose of savings offset payments be determined through major substantive rules, except for the first year in which the rules are routine technical.
11. It establishes a 10-member working group, convened by the Superintendent of Insurance, to advise the Board of Directors of Dirigo Health on issues relating to savings offset payments, including the definition of "subsidy," the definition of "paid claims," the process for implementing and invoicing paid claims, the board's proposed methodology for calculating aggregate measurable cost savings and a funding strategy for Dirigo Health's administrative expenses. The working group is required to provide monthly reports to the Joint Standing Committee on Insurance and Financial Services.

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12. It specifies that Dirigo Health may use the \$53,000,000 in start-up funds it received pursuant to Public Law 2003, chapter 469 to cover administrative expenses and prohibits Dirigo Health from using savings offset payments to cover such expenses. It requires the Board of Directors of Dirigo Health, with input from the working group, to make recommendations to the Joint Standing Committee on Insurance and Financial Services regarding how to finance Dirigo Health's administrative expenses and authorizes the committee to report out a bill after reviewing the board's recommendation.

LD 1593 **Resolve, Regarding Legislative Review of Portions of Chapter 750: Standardized Health Plans, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance** **RESOLVE 51 EMERGENCY**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 1593, a resolve, proposed to provide for legislative review of Portions of Chapter 750: Standardized Health Plans, a major substantive rule of the Bureau of Insurance.

Enacted law summary

Resolve 2005, chapter 51 authorizes final adoption of portions of Chapter 750: Standardized Health Plans, a major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance.

Resolve 2005, chapter 51 was passed as an emergency measure effective May 25, 2005.

LD 1638 **An Act Concerning the Regulation of Certain Information to Protect Privacy** **ONTP**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
DUDLEY		ONTP MAJ		
BRENNAN		OTP-AM MIN		

Currently, state law conforms to the opt-out provisions of the federal Gramm-Leach-Bliley Act regarding the disclosure of nonpublic personal information. LD 1638 proposed to put in place an opt-in requirement so that financial services providers, including banks, credit unions, securities firms and mortgage companies, must have permission from individuals before disclosing nonpublic personal information to nonaffiliated 3rd parties, but only upon approval by voters at a statewide referendum.

Committee Amendment "A" (H-516) is the minority report of the committee. The amendment proposed to remove a provision of the bill that eliminates certain opt-in requirements for disclosures under the Insurance Information and Privacy Protection Act. The amendment adds a provision to account for the enactment of the Maine Uniform Securities Act effective December 31, 2005. The amendment also removes the provision of the bill that required approval of voters at a statewide referendum before the Act could take effect. Committee Amendment "A" was not adopted.