

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST SPECIAL AND SECOND REGULAR SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON HEALTH COVERAGE,
INSURANCE AND FINANCIAL SERVICES**

November 2020

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STATE OF MAINE

129TH LEGISLATURE
FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 129th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER..... carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE..... emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT..... legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY..... ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 129th Legislature is Thursday, September 19, 2019. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Health Coverage, Insurance and Financial Services

requirements for the investigation of and notification to the Superintendent of Insurance regarding cybersecurity events.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

LD 1996 An Act Concerning the Reporting of Health Care Information to the CARRIED OVER **Emergency Medical Services' Board**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SANBORN H GATTINE D		

This bill amends the laws governing the reporting of health care information to the Department of Public Safety, Maine Emergency Medical Services, Emergency Medical Services' Board.

The bill allows the board to collect or receive health care information or records, including information or records that identify a patient. The bill requires hospitals and physicians, upon request by the board for the purpose of evaluating follow-up assessment and treatment by physicians and hospitals and determining health outcomes, to provide health care information concerning individuals who have received emergency medical treatment.

The bill also makes the reportable health care information confidential. Personally identifiable trauma information is already confidential.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

LD 2007 An Act To Enact the Made for Maine Health Coverage Act and Improve PUBLIC 653 **Health Choices in Maine**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GIDEON S JACKSON T	OTP-AM	H-765

This bill:

1. Establishes the Made for Maine Health Coverage Act;
2. Establishes the Maine Health Insurance Marketplace Trust Fund;
3. Authorizes the State to enter into state-federal health coverage partnerships that support the availability of affordable health coverage;
4. Establishes a pooled market for individual health plans and small group health plans and changes reinsurance to be retrospective and applied to the pooled market; and
5. Creates clear choice design for cost sharing and requires coverage of certain primary care and behavioral health visits without the application of any deductible.

Committee Amendment "A" (H-765)

Joint Standing Committee on Health Coverage, Insurance and Financial Services

This amendment makes the following changes to the bill.

1. It specifies that the reporting to the Legislature on the operations of the Maine Health Insurance Marketplace is to the joint standing committee of the Legislature having jurisdiction over health coverage, insurance and financial services matters.
2. It adds cross-references to the definitions of "individual health plan" and "small group health plan" to clarify that the requirements for the pooled market do not extend to certain limited benefit insurance plans.
3. It clarifies the intent that a health plan in the pooled market must comply with the requirements of the Maine Revised Statutes, Title 24-A, chapter 56-A.
4. It clarifies that the pooled market does not change current law allowing carriers to limit their operations to a designated service area or to offer different plans within different service areas.
5. It clarifies that the "average premium" trigger is not intended to allow the pooled market to go forward merely on a finding that average premiums for the pooled group will be lower, if savings for nongroup policyholders come at the expense of increased costs for small business. It also adds language requiring the Superintendent of Insurance to conduct an analysis of alternative proposals to stabilize the small group market, should the pooled market not be implemented.
6. It clarifies that the Superintendent of Insurance is required to develop at least one clear choice design plan for each tier and allows carriers to offer up to three alternative plans subject to submission of a satisfactory actuarial certification to the Superintendent of Insurance.
7. It allows the Maine Guaranteed Access Reinsurance Association the option to continue to charge a ceding premium even after converting to a retrospective program.
8. It clarifies that the Maine Guaranteed Access Reinsurance Association is not required to transition to a retrospective reinsurance model in 2022 if the pooled market is not in effect. It does provide the option that the association may elect to move to a retrospective model regardless of the pooled market, subject to approval by the Superintendent of Insurance.
9. It affirms that the reinsurance program is contingent on federal approval, which is an important technical distinction, in order for the program to generate pass-through funding.
10. It limits the scope of the primary care and behavioral health benefit to the individual, small group and future pooled markets and corrects an error that inadvertently made it applicable to large group plans. It clarifies the intent of the bill to apply the primary health services requirement to a total of six visits, three primary care visits and three behavioral health visits, and further requires that copays for the second and third primary care and behavioral health visits must count toward the enrollee's deductible. It adds the word "office" after "behavioral health" for clarity. It requires the Superintendent of Insurance to analyze the effects of the primary health services requirement on premiums following implementation and authorizes the superintendent to adopt rules to address the coordination of the requirements for coverage without cost sharing for the first primary care visit and the requirements with respect to coverage of an annual well visit.
11. It adds an appropriations and allocations section.

Enacted Law Summary

Public Law 2019, chapter 653 establishes the Made for Maine Health Coverage Act. Under the Act, the Maine Health Insurance Marketplace is established pursuant to the federal Affordable Care Act to facilitate the purchase of

Joint Standing Committee on Health Coverage, Insurance and Financial Services

qualified health plans from health insurance carriers in the State and to improve consumer education and outreach related to enrollment in health coverage through the marketplace.

The law authorizes the Commissioner of Health and Human Services to direct the operations of the marketplace and consult with stakeholders regarding the execution of the marketplace's functions. The law requires the Commissioner to accept the recommendations of the Superintendent of Insurance on certification of qualified health plans and to exercise discretion to delegate certain duties to the Superintendent, including plan management.

Initially, the State will operate the marketplace using the federal platform. The law directs the Commissioner to study and assess the feasibility of whether the State should perform all of the functions of a state-based marketplace.

The law requires that all health insurance carriers pay a user fee of 0.5% to support the costs of the marketplace when it operates using the federal platform; the user fee increases to 3% if the State performs all of the marketplace's functions. The Maine Health Insurance Marketplace Trust Fund is created for the deposit of all user fees and other private and public funds to support the purposes of the marketplace.

Public Law 2019, chapter 653 authorizes the State to enter into state-federal health coverage partnerships that support the availability of affordable health coverage, including innovation waivers pursuant to the federal Affordable Care Act. The law allows the Superintendent of Insurance to apply to the appropriate federal agency or agencies to establish or participate in a state-federal health coverage partnership or to modify the terms and conditions of an existing partnership if the superintendent determines that the application, if approved, is likely to improve the affordability, availability or quality of health coverage in this State and the Governor approves the submission of the application.

Public Law 2019, chapter 653 also establishes a pooled market for individual health plans and small group health plans with effective dates of coverage on or after January 1, 2022. The implementation of a pooled market is preconditioned on the adoption of rules and the approval of an innovation waiver by the federal government that both extends reinsurance to the pooled market and projects that average premium rates would be the same or lower than they would have been absent the provisions of this law.

The law changes the scope of the reinsurance mechanism under the Maine Guaranteed Access Reinsurance Association from prospective to retrospective and expands the availability of reinsurance to the pooled market. The law makes other technical changes to statutes governing the association to facilitate reinsurance to the pooled market. It allows the Maine Guaranteed Access Reinsurance Association the option to continue to charge a ceding premium even after converting to a retrospective program. It clarifies that the Maine Guaranteed Access Reinsurance Association is not required to transition to a retrospective reinsurance model in 2022 if the pooled market is not in effect. It does provide the option that the association may elect to move to a retrospective model regardless of the pooled market, subject to approval by the Superintendent of Insurance.

Public Law 2019, chapter 653 requires the Superintendent of Insurance to develop at least one clear choice design plan for each metal level tier under the federal Affordable Care Act for the individual and small group health insurance markets and allows carriers to offer up to three alternative plans subject to submission of a satisfactory actuarial certification to the Superintendent of Insurance. Under the law, "clear choice design" means a set of annual copayments, coinsurance and deductibles for all or a designated subset of the essential health benefits.

The law also requires a health plan in the individual, small group and future pooled markets with an effective date on or after January 1, 2021, to provide coverage without cost sharing for the first primary care and behavioral health visits in each plan year and not to apply a deductible or coinsurance to the second or third primary care and behavioral health visits in a plan year. The requirement does not apply to a plan offered for use with a health savings account unless the federal Internal Revenue Service determines that the benefits required by the law are permissible benefits in a high deductible health plan as defined in the federal Internal Revenue Code.