An Act To Allow Maine Consumers To Purchase Health Insurance from Out-of-State Insurers

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

PART A

Sec. A-1. 24-A MRSA §405, sub-§7 is enacted to read:

7. Transactions pursuant to individual health insurance covering residents of this State written by a regional insurer or health maintenance organization duly authorized or qualified to transact such insurance in the state or country of its domicile if the superintendent certifies that the regional insurer or health maintenance organization meets the requirements of section 405-A.

Sec. A-2. 24-A MRSA §405-A is enacted to read:

§ 405-A. Certification of regional insurers or health maintenance organizations to transact individual and group health insurance

To qualify under this section and section 405, subsection 7, a regional insurer or health maintenance organization, as described in this section, may not transact individual or group health insurance in this State by mail, the Internet or otherwise unless the superintendent has issued a certification that the requirements of this section have been met. The superintendent shall issue a certification or deny certification within 30 days of a request. A regional insurer or health maintenance organization shall meet the following requirements.

1. Regional insurer; authority to transact individual or group health insurance in certain states. As used in this section, "regional insurer or health maintenance organization" means an insurer or health maintenance organization that holds a valid certificate of authority to transact individual or group health insurance in one of the following states or jurisdictions: Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania or the District of Columbia.

2. Compliance with laws of state. Any policy, contract or certificate of individual or group health insurance offered for sale in this State by a regional insurer or health maintenance organization must comply with the applicable individual and group health insurance laws in the state of its domicile and the policy must be actively marketed in that state.

3. Minimum surplus and reserve levels. The regional insurer or health maintenance organization shall maintain minimum capital and surplus requirements and maintain reserves as required by section 410; sections 901 to 984; section 4204, subsection 2-A, paragraph D; and section 4204-A as applicable.

4. Disclosure and reporting. The regional insurer or health maintenance organization shall meet the requirements of section 4302 for reporting plan information with respect to individual health plans offered for sale in this State and disclose to prospective enrollees how the health plans differ from individual and group health plans offered by domestic insurers in a format approved by the superintendent within 90 days of the effective date of this section. Health plan policies and applications for coverage must contain the following disclosure statement or a substantially similar statement: "This policy is issued by a regional insurer or health maintenance organization and is governed by the laws and regulations of [state of regional insurer or health maintenance organization's state of domicile]. This policy may not be subject to all the insurance laws and rules of the State of Maine, including coverage of certain health care services or benefits mandated by Maine law. Before purchasing this policy, you should carefully review the terms and conditions of coverage under this policy, including any exclusions or limitations of coverage."

5. Grievance procedures. The regional insurer or health maintenance organization shall meet the requirements of section 4303, subsection 4 for grievance procedures with respect to health plans offered for sale in this State.

6. Unfair trade practices. The provisions of chapter 23 apply to the regional insurer or health maintenance organization permitted to transact health insurance under this section or section 405.

7. Taxes; assessments. The regional insurer or health maintenance organization is subject to applicable taxes or assessments imposed on insurers transacting individual and group health insurance in this State pursuant to this Title and Title 36.

8. Service of process. The regional insurer or health maintenance organization shall designate an agent for receiving service of legal documents and process in the manner provided in this Title.

9. Compliance with court orders. The regional insurer or health maintenance organization shall comply with lawful orders from courts of competent jurisdiction issued on a voluntary dissolution proceeding or in response to a petition for an injunction by the superintendent asserting that the regional insurer or health maintenance organization is in a hazardous financial condition.

10. Participation in guaranty association. The regional insurer or health maintenance organization shall participate in an insurance insolvency guaranty association to which a domestic insurer or health maintenance organization that transacts individual and group health insurance is required to belong in accordance with this Title.

Except as expressly provided in this section, the requirements of this Title do not apply to a regional insurer or health maintenance organization permitted to transact health insurance under this section or section 405.

Sec. A-3. 24-A MRSA §405-B is enacted to read:

§ 405-B. Domestic insurers; individual and group health insurance approved in other states

Notwithstanding any other provision of this Title except as expressly provided, a domestic insurer or health maintenance organization may offer for sale in this State an individual or group health plan duly authorized for sale in another state by a parent or subsidiary of the domestic insurer if the following requirements are met.

1. Certificate of authority from state of domicile. The parent or subsidiary of the domestic insurer or health maintenance organization must hold a valid certificate of authority to transact individual health insurance in one the following states or jurisdictions: Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania or the District of Columbia.

2. Compliance with laws of state of domicile. Any policy, contract or certificate of individual or group health insurance offered for sale in this State by a domestic insurer or health maintenance organization must comply with the applicable individual and group health insurance laws in the state of domicile of the parent or subsidiary and the policy must be actively marketed in that state.

3. Disclosure and reporting. The domestic insurer or health maintenance organization shall meet the requirements of section 4302 for reporting plan information with respect to individual and group health plans offered for sale in this State and disclose to prospective enrollees how the individual and group health plans of the parent or subsidiary differ from individual and group health plans offered by domestic insurers in a format approved by the superintendent within 90 days of the effective date of this section. Health plan policies and applications for coverage must contain the following disclosure statement or a substantially similar statement: "This policy is issued by a domestic insurer or health maintenance organization but is governed by the laws and rules of [state of domicile of parent or subsidiary of domestic insurer], which is the state of domicile of the parent or subsidiary of the domestic insurer or health maintenance organization. This policy may not be subject to all the insurance laws and rules of the State of Maine, including coverage of certain health care services or benefits mandated by Maine law. Before purchasing this policy, you should carefully review the terms and conditions of coverage under this policy, including any exclusions or limitations of coverage."

4. Grievance procedures. The domestic insurer or health maintenance organization shall meet the requirements of section 4303, subsection 4 for grievance procedures with respect to health plans offered for sale in this State.

PART B

Sec. B-1. 2 MRSA §101, sub-§1, ¶B, as enacted by PL 2003, c. 469, Pt. B, §1, is amended to read:

B. Make an annual report to the public assessing the progress toward meeting goals of the plan and provide any needed updates to the plan; and

Sec. B-2. 2 MRSA §101, sub-§1, ¶C, as enacted by PL 2003, c. 469, Pt. B, §1, is amended to read:

C. Issue an annual statewide health expenditure budget report that must serve as the basis for establishing priorities within the plan~~; and~~.

Sec. B-3. 2 MRSA §101, sub-§1, ¶D, as amended by PL 2005, c. 369, §1, is repealed.

Sec. B-4. 2 MRSA §102, as amended by PL 2005, c. 227, §1, is repealed.

Sec. B-5. 2 MRSA §103, sub-§3, ¶D, as enacted by PL 2003, c. 469, Pt. B, §1, is repealed.

Sec. B-6. 2 MRSA §103, sub-§3, ¶E, as amended by PL 2005, c. 369, §4, is further amended to read:

E. Outline strategies to:

(1) Promote health systems change;

(2) Address the factors influencing health care cost increases; and

(3) Address the major threats to public health and safety in the State, including, but not limited to, lung disease, diabetes, cancer and heart disease; and

Sec. B-7. 2 MRSA §103, sub-§3, ¶F, as amended by PL 2005, c. 369, §4, is further amended to read:

F. Provide recommendations to help purchasers and providers make decisions that improve public health and build an affordable, high-quality health care system~~; and~~.

Sec. B-8. 2 MRSA §103, sub-§3, ¶G, as enacted by PL 2005, c. 369, §5, is repealed.

Sec. B-9. 2 MRSA §103, sub-§4, as enacted by PL 2003, c. 469, Pt. B, §1, is repealed.

Sec. B-10. 22 MRSA c. 103-A, as amended, is repealed.

Sec. B-11. 22 MRSA §1708, sub-§3, ¶D, as corrected by RR 2001, c. 2, Pt. A, §33, is amended to read:

D. Ensure that any calculation of an occupancy percentage or other basis for adjusting the rate of reimbursement for nursing facility services to reduce the amount paid in response to a decrease in the number of residents in the facility or the percentage of the facility's occupied beds excludes all beds that the facility has removed from service for all or part of the relevant fiscal period ~~in accordance with section 333~~. If the excluded beds are converted to residential care beds or another program for which the department provides reimbursement, nothing in this paragraph precludes the department from including those beds for purposes of any occupancy standard applicable to the residential care or other program pursuant to duly adopted rules of the department; and

Sec. B-12. 22 MRSA §1715, sub-§1, ¶A, as corrected by RR 2001, c. 2, Pt. A, §34, is amended to read:

A. Is either a direct provider of major ambulatory service, as defined in section 382, subsection 8-A, or is or has been required to obtain a certificate of need under former section 329 or former section 304 or 304-A;

Sec. B-13. 22 MRSA §2061, sub-§2, as corrected by RR 2003, c. 2, §71, is repealed.

Sec. B-14. 24-A MRSA §4204, sub-§1, ¶A, as amended by PL 2003, c. 510, Pt. A, §20, is repealed.

Sec. B-15. 24-A MRSA §4204, sub-§2-A, ¶A, as amended by PL 2003, c. 510, Pt. A, §21 and c. 689, Pt. B, §7, is repealed.

Sec. B-16. 24-A MRSA §6203, sub-§1, ¶A, as amended by PL 2003, c. 510, Pt. A, §22, is repealed.

Sec. B-17. 24-A MRSA §6203, sub-§6, as amended by PL 2003, c. 155, §1, is further amended to read:

6. Provision of services to nonresidents. The final certificate of authority must state whether any skilled nursing facility that is part of a life-care community or a continuing care retirement community may provide services to persons who have not been bona fide residents of the community prior to admission to the skilled nursing facility. If the life-care community or the continuing care retirement community admits to its skilled nursing facility only persons who have been bona fide residents of the community prior to admission to the skilled nursing facility, then the community ~~is exempt from the provisions of Title 22, chapter 103-A, but~~ is subject to the licensing provisions of Title 22, chapter 405, and is entitled to only one skilled nursing facility bed for every 4 residential units in the community. Any community exempted under former Title 22, chapter 103-A may admit nonresidents of the community to its skilled nursing facility only during the first 3 years of operation. For purposes of this subsection, a "bona fide resident" means a person who has been a resident of the community for a period of not less than 180 consecutive days immediately preceding admission to the nursing facility or has been a resident of the community for less than 180 consecutive days but who has been medically admitted to the nursing facility resulting from an illness or accident that occurred subsequent to residence in the community. Any community exempted under Title 22, former chapter 103-A is not entitled to and may not seek any reimbursement or financial assistance under the MaineCare program from any state or federal agency and, as a consequence, that community must continue to provide nursing facility services to any person who has been admitted to the facility.

Notwithstanding this subsection, a life-care community that holds a final certificate of authority from the superintendent and that was operational on November 18, 2002 and that is barred from seeking reimbursement or financial assistance under the MaineCare program from a state or federal agency may continue to admit nonresidents of the community to its skilled nursing facility after its first 3 years of operation with the approval of the superintendent. A life-care community that admits nonresidents to its skilled nursing facility as permitted under this subsection may continue to admit nonresidents after its first 3 years of operation only for such period as approved by the superintendent after the superintendent's consideration of the financial impact on the life-care community and the impact on the contractual rights of subscribers of the community.

Sec. B-18. 24-A MRSA §6951, sub-§6, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

6. Technology assessment. The forum shall conduct technology assessment reviews to guide the use and distribution of new technologies in this State. ~~The forum shall make recommendations to the certificate of need program under Title 22, chapter 103-A.~~

Sec. B-19. 24-A MRSA §6951, sub-§8, as enacted by PL 2003, c. 469, Pt. A, §8, is repealed.

Sec. B-20. 24-A MRSA §6952, sub-§7, ¶D, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

D. Make recommendations regarding quality assurance and quality improvement priorities ~~for inclusion in the State Health Plan described in Title 2, chapter 5~~; and

Sec. B-21. 38 MRSA §1310-X, sub-§4, ¶A, as amended by PL 2003, c. 551, §17, is further amended to read:

A. A commercial biomedical waste disposal or treatment facility, if at least 51% of the facility is owned by a licensed hospital or hospitals ~~as defined in Title 22, section 328, subsection 14~~ or a group of hospitals that are licensed under Title 22 acting through a statewide association of Maine hospitals or a wholly owned affiliate of the association; and

PART C

Sec. C-1. Effective date. This Act takes effect January 1, 2008.

SUMMARY

This bill permits out-of-state health insurers, which are referred to as regional insurers in the bill, to offer their individual or group health plans for sale in this State if certain requirements of Maine law are met, including minimum capital and surplus and reserve, disclosure and reporting and grievance procedures. The bill defines the out-of-state health insurers as those insurers authorized to transact individual or group health insurance in one of the following states or jurisdictions: Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania or the District of Columbia. It also permits Maine health insurers to offer individual health plans of out-of-state parent or subsidiary health insurers if similar requirements are met. If out-of-state health plans are offered for sale in this State, the bill requires that prospective enrollees be provided adequate disclosure of how the plans differ from Maine health plans in a format approved by the Superintendent of Insurance.

The bill repeals the statutory provisions governing the Capital Investment Fund and certificate of need.

The bill takes effect January 1, 2008.