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No. 225

H.P. 186

House of Representatives, February 5, 2013

An Act To Restore Consumer Rate Review for Health Insurance Plans in the Individual and Small Group Markets

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LIBBY of Lewiston.
Cosponsored by Senator CRAVEN of Androscoggin and
Representatives: BECK of Waterville, BOLAND of Sanford, CAMPBELL of Newfield,
CHIPMAN of Portland, GILBERT of Jay, HOBBS of Saco, MORRISON of South Portland,
SHAW of Standish.

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

2 **Sec. 1. 24-A MRSA §2736-A, first ¶**, as amended by PL 2011, c. 364, §2, is
3 further amended to read:

4 If at any time the superintendent has reason to believe that a filing does not meet the
5 requirements that rates not be excessive, inadequate or unfairly discriminatory or that the
6 filing violates any of the provisions of chapter 23, the superintendent shall cause a
7 hearing to be held. If a filing proposes an increase in rates in an individual health plan as
8 defined in section 2736-C, the superintendent shall cause a hearing to be held ~~at the~~
9 ~~request of the Attorney General.~~ As part of the hearing, the superintendent shall hold
10 meetings in at least 3 locations to allow public comment on the rate filing. In any hearing
11 conducted under this section, the insurer has the burden of proving rates are not
12 excessive, inadequate or unfairly discriminatory.

13 **Sec. 2. 24-A MRSA §2736-C, sub-§2-B**, as amended by PL 2011, c. 364, §7, is
14 further amended to read:

15 **2-B. Rate filings; credible health plans.** ~~Notwithstanding section 2736, subsection~~
16 ~~1 and section 2736 A, at the carrier's option, rate~~ Rate filings for a carrier's credible block
17 of individual health plans ~~may~~ must be filed in accordance with this subsection. ~~Rates~~
18 ~~filed in accordance with this subsection are filed for informational purposes unless rate~~
19 ~~review is required pursuant to the federal Affordable Care Act.~~

20 A. A carrier's individual health plans are considered credible if the anticipated
21 average number of members during the period for which the rates will be in effect
22 meets standards for full or partial credibility pursuant to the federal Affordable Care
23 Act. The rate filing must state the anticipated average number of members during the
24 period for which the rates will be in effect and the basis for the estimate. ~~If the~~
25 ~~superintendent determines that the number of members is likely to be less than~~
26 ~~needed to meet the credibility standard, the filing is subject to section 2736,~~
27 ~~subsection 1 and section 2736 A.~~

28 B. On an annual schedule as determined by the superintendent, the carrier shall file a
29 report with the superintendent showing the calculation of rebates as required pursuant
30 to the federal Affordable Care Act, except that the calculation must be based on a
31 minimum medical loss ratio of 80% if the applicable federal minimum for the
32 individual market in this State is lower. If the calculation indicates that rebates must
33 be paid, the carrier must pay the rebates in the same manner as is required for rebates
34 pursuant to the federal Affordable Care Act.

35 **Sec. 3. 24-A MRSA §2736-C, sub-§5**, as amended by PL 2011, c. 90, Pt. D, §3,
36 is further amended to read:

37 **5. Loss ratios.** ~~Except as provided in subsection 2-B, for~~ For all policies and
38 certificates issued on or after the effective date of this section, the superintendent shall
39 disapprove any premium rates filed by any carrier, whether initial or revised, for an
40 individual health policy unless it is anticipated that the aggregate benefits estimated to be
41 paid under all the individual health policies maintained in force by the carrier for the

1 period for which coverage is to be provided will return to policyholders at least 65% of
2 the aggregate premiums collected for those policies, as determined in accordance with
3 accepted actuarial principles and practices and on the basis of incurred claims experience
4 and earned premiums. For the purposes of this calculation, any payments paid pursuant
5 to former section 6913 must be treated as incurred claims.

6 **Sec. 4. 24-A MRSA §2808-B, sub-§2-A, ¶C**, as amended by PL 2007, c. 629,
7 Pt. M, §6, is repealed.

8 **Sec. 5. 24-A MRSA §2808-B, sub-§2-B**, as amended by PL 2011, c. 364, §15, is
9 further amended to read:

10 **2-B. Rate review and hearings.** ~~Except as provided in subsection 2-C, rate~~ Rate
11 filings are subject to this subsection.

12 A. Rates subject to this subsection must be filed for approval by the superintendent.
13 The superintendent shall disapprove any premium rates filed by any carrier, whether
14 initial or revised, for a small group health plan unless it is anticipated that the
15 aggregate benefits estimated to be paid under all the small group health plans
16 maintained in force by the carrier for the period for which coverage is to be provided
17 will return to policyholders at least 75% of the aggregate premiums collected for
18 those policies, as determined in accordance with accepted actuarial principles and
19 practices and on the basis of incurred claims experience and earned premiums. For
20 the purposes of this calculation, any payments paid pursuant to former section 6913
21 must be treated as incurred claims.

22 B. If at any time the superintendent has reason to believe that a filing does not meet
23 the requirements that rates not be excessive, inadequate or unfairly discriminatory or
24 that the filing violates any of the provisions of chapter 23, the superintendent shall
25 cause a hearing to be held. Hearings held under this subsection must conform to the
26 procedural requirements set forth in Title 5, chapter 375, subchapter 4. If a filing
27 proposes an increase in rates in a small group health plan, the superintendent shall
28 cause a hearing to be held. As part of the hearing, the superintendent shall hold
29 meetings in at least 3 locations to allow public comment on the rate filing. In any
30 hearing conducted under this paragraph, the insurer has the burden of proving rates
31 are not excessive, inadequate or unfairly discriminatory. The superintendent shall
32 issue an order or decision within 30 days after the close of the hearing or of any
33 rehearing or reargument or within such other period as the superintendent for good
34 cause may require, but not to exceed an additional 30 days. In the order or decision,
35 the superintendent shall either approve or disapprove the rate filing. If the
36 superintendent disapproves the rate filing, the superintendent shall establish the date
37 on which the filing is no longer effective, specify the filing the superintendent would
38 approve and authorize the insurer to submit a new filing in accordance with the terms
39 of the order or decision.

40 C. When a filing is not accompanied by the information upon which the carrier
41 supports the filing or the superintendent does not have sufficient information to
42 determine whether the filing meets the requirements that rates not be excessive,

1 inadequate or unfairly discriminatory, the superintendent shall require the carrier to
2 furnish the information upon which it supports the filing.

3 ~~D. A carrier that adjusts its rate shall account for the savings offset payment or any~~
4 ~~recovery of that savings offset payment in its experience consistent with this section~~
5 ~~and former section 6913.~~

6 **SUMMARY**

7 This bill restores the statutory process for advance review and prior approval of
8 individual health insurance rates and rescinds the changes to the rate review process for
9 individual health insurance made by Public Law 2011, chapter 90. The bill also extends
10 the requirement for advance review and prior approval to small group health insurance
11 rates. The bill requires the Superintendent of Insurance to hold a hearing if a filing
12 proposes an increase in rates in individual or small group health insurance plans and
13 requires the superintendent to hold meetings in at least 3 locations to allow public
14 comment as part of any hearing.