



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1650

H.P. 1186

House of Representatives, April 30, 2019

### An Act To Strengthen Consumer Protections in Health Care

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative TIPPING of Orono.  
Cosponsored by Senator SANBORN, L. of Cumberland and  
Representatives: BROOKS of Lewiston, FOLEY of Biddeford, MADIGAN of Waterville,  
MARTIN of Eagle Lake, MELARAGNO of Auburn, TEPLER of Topsham, Senator:  
GRATWICK of Penobscot.

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

2 **Sec. 1. 24-A MRSA §2735-A, sub-§1**, as amended by PL 2011, c. 364, §1, is  
3 further amended to read:

4 **1. Notice of rate filing or rate increase on existing policies.** An insurer offering  
5 individual health plans as defined in section 2736-C must provide written notice by first  
6 class mail of a rate filing to all affected policyholders at least 60 days before the effective  
7 date of any proposed increase in premium rates or any proposed rating formula,  
8 classification of risks or modification of any formula or classification of risks. ~~Except as~~  
9 ~~otherwise provided in section 2736-C, subsection 2-B, the~~ The notice must also inform  
10 policyholders of their right to request a hearing pursuant to section 229. The notice must  
11 show the proposed rate and, ~~unless otherwise provided in section 2736-C, subsection 2-B,~~  
12 state that the rate is subject to regulatory approval. ~~Except as otherwise provided in~~  
13 ~~section 2736-C, subsection 2-B, the~~ The superintendent may not take final action on a  
14 rate filing until 40 days after the date notice is mailed by an insurer. An increase in  
15 premium rates may not be implemented until 60 days after the notice is provided or until  
16 the effective date under section 2736, whichever is later.

17 **Sec. 2. 24-A MRSA §2736-C, sub-§2, ¶C-1**, as enacted by PL 2011, c. 90, Pt.  
18 A, §2, is repealed.

19 **Sec. 3. 24-A MRSA §2736-C, sub-§2, ¶D**, as amended by PL 2019, c. 5, Pt. A,  
20 §3, is further amended to read:

21 D. A carrier may vary the premium rate due to age, geographic area and tobacco use  
22 in accordance with the limitations set out in this paragraph. A carrier that varies the  
23 premium rate due to age must vary the premium rate according to a uniform age  
24 curve. The superintendent shall adopt rules establishing a uniform age curve that is  
25 substantially similar to the age curve in effect on January 1, 2019 under the federal  
26 Affordable Care Act. Rules adopted under this paragraph are routine technical rules  
27 as defined in Title 5, chapter 375, subchapter 2-A.

28 (1) For all policies, contracts or certificates that are executed, delivered, issued  
29 for delivery, continued or renewed in this State between December 1, 1993 and  
30 July 14, 1994, the premium rate may not deviate above or below the community  
31 rate filed by the carrier by more than 50%.

32 (2) For all policies, contracts or certificates that are executed, delivered, issued  
33 for delivery, continued or renewed in this State between July 15, 1994 and July  
34 14, 1995, the premium rate may not deviate above or below the community rate  
35 filed by the carrier by more than 33%.

36 (3) For all policies, contracts or certificates that are executed, delivered, issued  
37 for delivery, continued or renewed in this State between July 15, 1995 and June  
38 30, 2012, the premium rate may not deviate above or below the community rate  
39 filed by the carrier by more than 20%.

40 (5) For all policies, contracts or certificates that are executed, delivered, issued  
41 for delivery, continued or renewed in this State between July 1, 2012 and

1 December 31, 2013, the maximum rate differential due to age filed by the carrier  
2 as determined by ratio is 3 to 1. The limitation does not apply for determining  
3 rates for an attained age of less than 19 years of age or more than 65 years of age.

4 (6) For all policies, contracts or certificates that are executed, delivered, issued  
5 for delivery, continued or renewed in this State between January 1, 2014 and  
6 December 31, 2014, the maximum rate differential due to age filed by the carrier  
7 as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable  
8 Care Act. The limitation does not apply for determining rates for an attained age  
9 of less than 19 years of age or more than 65 years of age.

10 (7) For all policies, contracts or certificates that are executed, delivered, issued  
11 for delivery, continued or renewed in this State on or after January 1, 2015,  
12 except as provided in subparagraph ~~(9)~~ (10), the maximum rate differential due to  
13 age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by  
14 the federal Affordable Care Act. The limitation does not apply for determining  
15 rates for an attained age of less than 19 years of age or more than 65 years of age.

16 (8) For all policies, contracts or certificates that are executed, delivered, issued  
17 for delivery, continued or renewed in this State on or after July 1, 2012, the  
18 maximum rate differential due to tobacco use filed by the carrier as determined  
19 by ratio is 1.5 to 1, except that the carrier may not apply a rate differential  
20 pursuant to this subparagraph when the covered individual is participating in an  
21 evidence-based tobacco cessation strategy approved by the United States  
22 Department of Health and Human Services, Food and Drug Administration.

23 ~~(9) For all policies, contracts or certificates that are executed, delivered, issued~~  
24 ~~for delivery, continued or renewed in this State on or after the effective date of~~  
25 ~~this subparagraph, the maximum rate differential due to age filed by the carrier as~~  
26 ~~determined by ratio is 3 to 1 for individuals 21 years of age and older on the first~~  
27 ~~day of coverage under the policy, contract or certificate. The variation in rate due~~  
28 ~~to age must be actuarially justified for individuals under 21 years of age~~  
29 ~~consistent with the uniform age rating curve adopted under this paragraph.~~

30 (10) For all policies, contracts or certificates that are executed, delivered, issued  
31 for delivery, continued or renewed in this State on or after January 1, 2020, for  
32 each individual health plan offered by a carrier, the highest premium rate for each  
33 rating tier may not exceed 2.5 times the premium rate that could be charged to an  
34 eligible individual with the lowest premium rate for that rating tier in a given  
35 rating period. For purposes of this subparagraph, "rating tier" means each  
36 category of individual or family composition for which a carrier charges separate  
37 rates.

38 (a) In determining the rating factor for geographic area pursuant to this  
39 subparagraph, the ratio between the highest and lowest rating factor used by a  
40 carrier for geographic area may not exceed 1.5 and the ratio between highest  
41 and lowest combined rating factors for age and geographic area may not  
42 exceed 2.5.

1                    (b) In determining rating factors for age and geographic area pursuant to this  
2                    subparagraph, rates must take into account the savings resulting from the  
3                    reinsurance program created by chapter 54-A.

4                    (c) The superintendent shall adopt rules setting forth appropriate  
5                    methodologies regarding determination of rating factors pursuant to this  
6                    subparagraph. Rules adopted pursuant to this division are routine technical  
7                    rules as defined in Title 5, chapter 375, subchapter 2-A.

8                    **Sec. 4. 24-A MRSA §2736-C, sub-§2-B**, as amended by PL 2011, c. 364, §7, is  
9                    repealed.

10                   **Sec. 5. 24-A MRSA §2736-C, sub-§5**, as amended by PL 2019, c. 5, Pt. A, §6, is  
11                   further amended to read:

12                   **5. Loss ratios.** ~~Except as provided in subsection 2-B, for~~ For all policies and  
13                   certificates issued on or after the effective date of this section, the superintendent shall  
14                   disapprove any premium rates filed by any carrier, whether initial or revised, for an  
15                   individual health policy unless it is anticipated that the medical loss ratio calculated under  
16                   section 4319 will be at least 80%.

17                   **Sec. 6. 24-A MRSA §2808-B, sub-§2, ¶C-1**, as enacted by PL 2011, c. 90, Pt.  
18                   A, §7, is repealed.

19                   **Sec. 7. 24-A MRSA §2808-B, sub-§2, ¶D**, as amended by PL 2019, c. 5, Pt. A,  
20                   §11, is further amended to read:

21                   D. A carrier may vary the premium rate due to age, geographic area and tobacco use  
22                   in accordance with the limitations set out in this paragraph. A carrier that varies the  
23                   premium rate due to age must vary the premium rate according to a uniform age  
24                   curve. The superintendent shall adopt rules establishing a uniform age curve that is  
25                   substantially similar to the age curve in effect on January 1, 2019 under the federal  
26                   Affordable Care Act. Rules adopted under this paragraph are routine technical rules  
27                   as defined in Title 5, chapter 375, subchapter 2-A.

28                   (1) For all policies, contracts or certificates that are executed, delivered, issued  
29                   for delivery, continued or renewed in this State between July 15, 1993 and July  
30                   14, 1994, the premium rate may not deviate above or below the community rate  
31                   filed by the carrier by more than 50%.

32                   (2) For all policies, contracts or certificates that are executed, delivered, issued  
33                   for delivery, continued or renewed in this State between July 15, 1994 and July  
34                   14, 1995, the premium rate may not deviate above or below the community rate  
35                   filed by the carrier by more than 33%.

36                   (3) For all policies, contracts or certificates that are executed, delivered, issued  
37                   for delivery, continued or renewed in this State between July 15, 1995 and  
38                   September 30, 2011, the premium rate may not deviate above or below the  
39                   community rate filed by the carrier by more than 20%.

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(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and September 30, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2012 and December 31, 2013, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 3 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, except as provided in subparagraph ~~(4)~~ (11), the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(9) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the maximum rate differential due to tobacco use filed by the carrier as determined by ratio is 1.5 to 1, except that the carrier may not apply a rate differential pursuant to this subparagraph when the covered individual is participating in an evidence-based tobacco cessation strategy approved by the United States Department of Health and Human Services, Food and Drug Administration.

~~(10) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after the effective date of this Act, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1 for individuals 21 years of age and older on the first day of coverage under the policy, contract or certificate. The variation in rate due to age must be actuarially justified for individuals under 21 years of age consistent with the uniform age rating curve adopted under this paragraph.~~

1 (11) For all policies, contracts or certificates that are executed, delivered, issued  
2 for delivery, continued or renewed in this State on or after January 1, 2020, for  
3 each small group health plan offered by a carrier, the highest premium rate for  
4 each rating tier may not exceed 2.5 times the premium rate that could be charged  
5 to an eligible individual with the lowest premium rate for that rating tier in a  
6 given rating period. For purposes of this subparagraph, "rating tier" means each  
7 category of individual or family composition for which a carrier charges separate  
8 rates.

9 (a) In determining the rating factor for geographic area pursuant to this  
10 subparagraph, the ratio between the highest and lowest rating factor used by a  
11 carrier for geographic area may not exceed 1.5 and the ratio between highest  
12 and lowest combined rating factors for age and geographic area may not  
13 exceed 2.5.

14 (b) In determining rating factors for age and geographic area pursuant to this  
15 subparagraph, rates must take into account the savings resulting from the  
16 reinsurance program created by chapter 54-A.

17 (c) The superintendent shall adopt rules setting forth appropriate  
18 methodologies regarding determination of rating factors pursuant to this  
19 subparagraph. Rules adopted pursuant to this division are routine technical  
20 rules as defined in Title 5, chapter 375, subchapter 2-A.

## 21 **SUMMARY**

22 This bill makes changes to the rating provisions for individual and small group health  
23 insurance plans to reduce the rating band for age and to require that the ratio on the basis  
24 of geographic area is 1.5 to 1 and that the ratio for age and geographic area may not  
25 exceed 2.5. The changes in the bill reinstate the rating provisions in place before the  
26 enactment of Public Law 2011, chapter 90.