



125th MAINE LEGISLATURE

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Legislative Document

No. 1702

H.P. 1254

House of Representatives, December 23, 2011

An Act To Correct Inconsistencies and Ambiguities in the Maine Guaranteed Access Reinsurance Association Act

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 21, 2011. Referred to the Committee on Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative RICHARDSON of Warren.

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

2 **Sec. 1. 24-A MRSA §3958, sub-§1, ¶A**, as enacted by PL 2011, c. 90, Pt. B, §8,
3 is amended to read:

4 A. ~~The Beginning January 1, 2012, the~~ association may not reimburse a member
5 insurer with respect to claims of a person designated for reinsurance by the member
6 insurer pursuant to section 3959 until the insurer has incurred an initial level of
7 claims for that person of \$7,500 for covered benefits in a calendar year. In addition,
8 the insurer is responsible for 10% of the next \$25,000 of claims paid during a
9 calendar year. The association shall reimburse insurers for claims paid in excess of
10 \$32,500. The claim reimbursement period is January 1st to December 31st and
11 applies only to claims incurred in that same calendar year. The association may
12 annually adjust the initial level of claims and the maximum limit to be retained by the
13 insurer to reflect increases in costs and utilization within the standard market for
14 individual health plans within the State. The adjustments may not be less than the
15 annual change in the Consumer Price Index for medical care services unless the
16 superintendent approves a lower adjustment factor as requested by the association.

17 **Sec. 2. 24-A MRSA §3959**, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to
18 read:

19 **§3959. Designation for reinsurance**

20 **1. Designation.** The association shall provide reinsurance to a member insurer for
21 ~~persons~~ a person designated for reinsurance by a member insurer ~~using the health~~
22 ~~statement developed by the board pursuant to section 3955, subsection 1, paragraph F.~~ if
23 the designation was made:

24 A. By using the health statement developed by the board pursuant to section 3955,
25 subsection 1, paragraph E or by using the person's claims history or risk scores or any
26 other reasonable means;

27 B. On the basis of the existence or history of any medical or health condition on the
28 list developed by the board pursuant to subsection 2; or

29 C. On the basis of an omission of material information from the health statement
30 developed by the board pursuant to section 3955, subsection 1, paragraph E or
31 misrepresentation of the person's health status on the health statement.

32 **2. Automatic designation.** The board shall develop a list of medical or health
33 conditions for which a person ~~is~~ may be automatically designated for reinsurance. ~~A~~ At
34 the option of the member insurer, a person who demonstrates the existence or history of
35 any medical or health conditions on the list developed by the board ~~may is not be~~ required
36 to complete the health statement specified in subsection 1, paragraph A. The board may
37 amend the list from time to time as appropriate.

38 **3. Change of policy or coverage; enrolling additional persons.** A member insurer
39 may designate a person for reinsurance pursuant to this section when the person changes

1 individual health plans or level of coverage under an individual health plan, including
2 deductibles, or when another enrollee is added to an individual health plan.

3 **Sec. 3. 24-A MRSA §3961, sub-§1**, as enacted by PL 2011, c. 90, Pt. B, §8, is
4 amended to read:

5 **1. Reimbursement.** A member insurer may seek reimbursement from the
6 association and the association shall reimburse the member insurer to the extent claims
7 made by a covered person on a calendar year basis after July 1, 2012 exceed the amounts
8 otherwise eligible for reimbursement pursuant to section 3958, subsection 1, paragraph A,
9 if:

10 A. The member insurer sold an individual health plan to the covered person between
11 December 1, 1993 and July 1, 2012, the individual health plan that was sold has been
12 continuously renewed by the covered person and the member insurer has closed its
13 book of business for individual health plans sold between December 1, 1993 and July
14 1, 2012; ~~and~~

15 B. The member insurer is able to determine through the use of individual health
16 statements, claims history, risk scores or any reasonable means that, between
17 December 1, 1993 and July 1, 2012, while the person received coverage under an
18 individual health plan issued by the member insurer, the covered person would have
19 been designated by the member insurer pursuant to section 3959, subsection 1. This
20 paragraph is not intended to limit the ability of a member insurer to designate for
21 reinsurance pursuant to section 3959 a currently covered person in the member
22 insurer's open book of business for individual health plans; and

23 C. The member insurer seeks to designate the covered person for reimbursement
24 from the association by October 1, 2012.

25 **SUMMARY**

26 This bill makes technical corrections to address inconsistencies and ambiguities in the
27 Maine Guaranteed Access Reinsurance Association Act.

28 1. It clarifies that the initial claim reimbursement period for the first year of the
29 program is the calendar year, beginning January 1, 2012 and ending December 31, 2012.
30 All claims must be incurred in the same calendar year for which reimbursement is sought.

31 2. It allows a member insurer to designate a person for reinsurance through the use of
32 claims history, risk scores and other reasonable means, in addition to the use of a health
33 statement. It also allows a member insurer to designate a person for reinsurance in the
34 event the person omitted material information from the health statement or
35 misrepresented the person's health status on the health statement.

36 3. It clarifies that a member insurer has the option of designating a person for
37 reinsurance based upon the existence or history of a medical or health condition that is on
38 a list developed by the board for this purpose.

1 4. It allows a member insurer to designate a person for reinsurance if the person
2 changes policies or benefit levels or adds new members to a policy.

3 5. It clarifies that the law is not intended to limit the ability of a member insurer to
4 designate a currently covered person for reinsurance.

5 6. It requires a member insurer who seeks reimbursement with respect to a covered
6 person who is in the member insurer's closed book of business for individual health plans
7 and who would have been designated for reinsurance by the member insurer to do so by
8 October 1, 2012.