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Date: (Filing No. S-)

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STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 979, L.D. 1333, Bill, “An Act To Modify Rating Practices for Individual and Small Group Health Plans and To Encourage Value-based Purchasing of Health Care Services”

Amend the amendment in Part A in section 2 by striking out all of paragraph D (page 1, lines 24 to 33, page 2, lines 1 to 43 and page 3, lines 1 to 4 in amendment) and inserting the following:

D. A carrier may vary the premium rate due to age, smoking status and geographic area in accordance with the limitations set out in this paragraph.

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

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

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1995 and ~~June 30, 2009~~ December 31, 2013, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.

~~(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 2009, for each health benefit plan offered by a carrier, the highest premium rate for each rating tier may not exceed 2.5 times the premium rate that could be charged to an eligible individual with the lowest premium rate for that rating tier in a given rating period. For purposes of this subparagraph, "rating tier" means each category of individual or family composition for which a carrier charges separate rates.~~

~~(a) In determining the rating factor for geographic area pursuant to this subparagraph, the ratio between the highest and lowest rating factor used by a~~

SENATE AMENDMENT

1 carrier for geographic area may not exceed 1.5 and the ratio between highest
2 and lowest combined rating factors for age and geographic area may not
3 exceed 2.5.

4 ~~(b) In determining rating factors for age and geographic area pursuant to this~~
5 ~~subparagraph, no resulting rates, taking into account the savings resulting~~
6 ~~from the reinsurance program created by chapter 54, may exceed the rates~~
7 ~~that would have resulted from using projected claims and expenses and the~~
8 ~~rating factors applicable prior to July 1, 2009, as determined without taking~~
9 ~~into account the savings resulting from the Maine Individual Reinsurance~~
10 ~~Association established in chapter 54.~~

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

15 (5) For all policies, contracts or certificates that are executed, delivered, issued
16 for delivery, continued or renewed in this State on or after January 1, 2014, the
17 maximum rate differential due to age and geographic area filed by the carrier as
18 determined by ratio is 3 to 1. The limitation does not apply for determining rates
19 for an attained age of less than 19 years of age or more than 65 years of age.

20 (6) For all policies, contracts or certificates that are executed, delivered, issued
21 for delivery, continued or renewed in this State on or after January 1, 2014, the
22 maximum rate differential due to smoking status filed by the carrier as
23 determined by ratio is 1.5 to 1.'

24 Amend the amendment in Part A in section 4 by striking out all of paragraph I (page
25 3, lines 8 to 42 and page 4, lines 1 to 13 in amendment) and inserting the following:

26 I. A carrier that offered individual health plans prior to January 1, 2014 may close its
27 individual book of business sold prior to January 1, 2014 and may establish a separate
28 community rate for individuals applying for coverage under an individual health plan
29 on or after January 1, 2014. If a carrier closes its individual book of business as
30 permitted under this paragraph, the carrier may vary the premium rate for individuals
31 in that closed book of business only as permitted in this paragraph.

32 (1) For all policies, contracts or certificates that are executed, delivered, issued
33 for delivery, continued or renewed in this State between January 1, 2014 and
34 December 31, 2014, the maximum rate differential due to age, geographic area
35 and occupation and industry filed by the carrier as determined by ratio is 2 to 1.
36 The limitation does not apply for determining rates for an attained age of less
37 than 19 years of age or more than 65 years of age.

38 (2) For all policies, contracts or certificates that are executed, delivered, issued
39 for delivery, continued or renewed in this State between January 1, 2015 and
40 December 31, 2015, the maximum rate differential due to age, geographic area
41 and occupation and industry filed by the carrier as determined by ratio is 2.5 to 1.
42 The limitation does not apply for determining rates for an attained age of less
43 than 19 years of age or more than 65 years of age.

1 (3) 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, 2016, the
3 maximum rate differential due to age, geographic area and occupation and
4 industry filed by the carrier as determined by ratio is 3 to 1. The limitation does
5 not apply for determining rates for an attained age of less than 19 years of age or
6 more than 65 years of age.

7 (4) For all policies, contracts or certificates that are executed, delivered, issued
8 for delivery, continued or renewed in this State on or after July 1, 2012, the
9 maximum rate differential due to smoking status filed by the carrier as
10 determined by ratio is 1.5 to 1.

11 The superintendent shall establish by rule procedures and policies that facilitate the
12 implementation of this paragraph, including, but not limited to, notice requirements
13 for policyholders and experience pooling requirements of individual health products.
14 When establishing rules regarding experience pooling requirements, the
15 superintendent shall ensure, to the greatest extent possible, the availability of
16 affordable options for individuals transitioning from the closed book of business.
17 Rules adopted pursuant to this paragraph are routine technical rules as defined in
18 Title 5, chapter 375, subchapter 2-A. The superintendent shall direct the Consumer
19 Health Care Division, established in section 4321, to work with carriers and health
20 advocacy organizations to provide information about comparable alternative
21 insurance options to individuals in a carrier's closed book of business and upon
22 request to assist individuals to facilitate the transition to an individual health plan in
23 that carrier's or another carrier's open book of business.'

24 Amend the amendment in Part A in section 5 by striking out all of paragraph C (page
25 4, lines 16 to 22 in amendment) and inserting the following:

26 'C. A carrier may vary the premium rate due to family membership, ~~smoking status,~~
27 participation in wellness programs and group size. The superintendent may adopt
28 rules setting forth appropriate methodologies regarding rate discounts ~~for~~
29 participation in wellness programs and rating for family membership and group size
30 pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine
31 technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.'

32 Amend the amendment in Part A in section 6 by striking out all of paragraph D (page
33 4, lines 25 to 43 and page 5, lines 1 to 26 in amendment) and inserting the following:

34 'D. A carrier may vary the premium rate due to age, ~~occupation or industry and~~
35 geographic area and smoking status only under the following schedule and within the
36 listed percentage bands.

37 (1) For all policies, contracts or certificates that are executed, delivered, issued
38 for delivery, continued or renewed in this State between July 15, 1993 and July
39 14, 1994, the premium rate may not deviate above or below the community rate
40 filed by the carrier by more than 50%.

41 (2) For all policies, contracts or certificates that are executed, delivered, issued
42 for delivery, continued or renewed in this State between July 15, 1994 and July

1 14, 1995, the premium rate may not deviate above or below the community rate
2 filed by the carrier by more than 33%.

3 (3) For all policies, contracts or certificates that are executed, delivered, issued
4 for delivery, continued or renewed in this State ~~after~~ between July 15, 1995 and
5 December 31, 2013, the premium rate may not deviate above or below the
6 community rate filed by the carrier by more than 20%, ~~except as provided in~~
7 ~~paragraph D-1.~~

8 (4) For all policies, contracts or certificates that are executed, delivered, issued
9 for delivery, continued or renewed in this State on or after January 1, 2014, the
10 maximum rate differential due to age, geographic area and occupation and
11 industry filed by the carrier as determined by ratio is 3 to 1. The limitation does
12 not apply for determining rates for an attained age of less than 19 years of age or
13 more than 65 years of age.

14 (5) For all policies, contracts or certificates that are executed, delivered, issued
15 for delivery, continued or renewed in this State on or after January 1, 2014, the
16 maximum rate differential due to smoking status filed by the carrier as
17 determined by ratio is 1.5 to 1.'

18 Amend the amendment in Part A in section 8 by striking out all of paragraph H (page
19 5, lines 30 to 42 and page 6, lines 1 to 22 in amendment) and inserting the following:

20 H. A carrier that offered small group health plans prior to January 1, 2014 may close
21 its small group book of business sold prior to January 1, 2014 and may establish a
22 separate community rate for eligible groups applying for coverage under a small
23 group health plan on or after January 1, 2014. If a carrier closes its small group book
24 of business as permitted under this paragraph, the carrier may vary the premium rate
25 for that closed book of business only as permitted in this paragraph.

26 (1) For all policies, contracts or certificates that are executed, delivered, issued
27 for delivery, continued or renewed in this State between January 1, 2014 and
28 December 31, 2014, the maximum rate differential due to age, geographic area
29 and occupation and industry filed by the carrier as determined by ratio is 2 to 1.
30 The limitation does not apply for determining rates for an attained age of less
31 than 19 years of age or more than 65 years of age.

32 (2) For all policies, contracts or certificates that are executed, delivered, issued
33 for delivery, continued or renewed in this State between January 1, 2015 and
34 December 31, 2015, the maximum rate differential due to age, geographic area
35 and occupation and industry filed by the carrier as determined by ratio is 2.5 to 1.
36 The limitation does not apply for determining rates for an attained age of less
37 than 19 years of age or more than 65 years of age.

38 (3) For all policies, contracts or certificates that are executed, delivered, issued
39 for delivery, continued or renewed in this State between January 1, 2016 and
40 December 31, 2016, the maximum rate differential due to age, geographic area
41 and occupation and industry filed by the carrier as determined by ratio is 3 to 1.
42 The limitation does not apply for determining rates for an attained age of less
43 than 19 years of age or more than 65 years of age.

1 (4) For all policies, contracts or certificates that are executed, delivered, issued
2 for delivery, continued or renewed in this State on or after October 1, 2011, the
3 maximum rate differential due to smoking status filed by the carrier as
4 determined by ratio is 1.5 to 1.'

5 Amend the amendment in Part A by adding after section 8 the following:

6 '**Sec. A-9. Contingent effective date.** This Part does not take effect unless a
7 health insurance exchange established by the State pursuant to the federal Patient
8 Protection and Affordable Care Act, Section 1311 is fully operational and subsidies are
9 made available to eligible individuals for health coverage. The Department of
10 Professional and Financial Regulation, Bureau of Insurance shall notify the Secretary of
11 State, Secretary of the Senate, Clerk of the House and Revisor of Statutes of the date that
12 the exchange is fully operational and subsidies are made available.'

13 Amend the bill in Part B in section 8 in §3953 in subsection 2 in paragraph A by
14 striking out all of subparagraphs (1) and (2) (page 10, lines 7 to 14 in amendment) and
15 inserting the following:

16 '(1) Seven members appointed by the superintendent: 3 members who represent
17 statewide organizations that advocate for consumers in the field of health policy;
18 2 members who represent medical providers; one member who represents a
19 statewide organization that represents small businesses; and one member who
20 represents producers. A board member appointed by the superintendent may not
21 be removed without cause; and

22 '(2) Four members appointed by the member insurers, at least one of whom is a
23 domestic insurer and at least one of whom is a 3rd-party administrator.'

24 Amend the amendment in Part B in section 8 in §3957 in subsection 1 in the 3rd line
25 (page 13, line 13 in amendment) by inserting after the following: "necessary" the
26 following: 'in accordance with subsection 2'

27 Amend the amendment in Part B in section 8 in §3957 by striking out all of
28 subsection 2 (page 13, lines 16 to 19 in amendment) and inserting the following:

29 '**2. Maximum assessment.** The board shall assess each insurer a dollar amount per
30 month per covered person enrolled in medical insurance insured, reinsured or
31 administered by the insurer as established by the superintendent pursuant to this
32 subsection. No later than January 1, 2012, the superintendent shall adopt rules to
33 establish the amount of the assessment on insurers paid to the association using actuarial
34 science to determine the assessment based on the estimated number of individuals
35 designated for reinsurance through the association and the estimated funding needed for
36 that reinsurance. Rules adopted pursuant to this subsection are major substantive rules as
37 defined in Title 5, chapter 375, subchapter 2-A. An insurer may not be assessed on
38 policies or contracts insuring federal or state employees.'

39 Amend the amendment by striking out all of Part E.

40 Amend the amendment in Part F by striking out all of sections 5, 7 and 8.

41 Amend the amendment in Part J by striking out all of sections 1 to 9.

1 Amend the amendment in Part J by striking out all of sections 19 to 21.

2 Amend the amendment in Part J by striking out all of sections 23 and 24.

3 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
4 or section number to read consecutively.

5 **SUMMARY**

6 This amendment incorporates the substance of Senate Amendment "B" to Committee
7 Amendment "A" (S-82), which makes the following changes to Committee Amendment
8 "A."

9 1. It changes the maximum rate differential for individual health plans on the basis of
10 age and geographic area from 1.5:1 to 3:1 effective January 1, 2014. The committee
11 amendment expands the rating bands to 5:1 over a period of 4 years.

12 2. It changes the maximum rate differential for small group health plans on the basis
13 of age, geographic area and occupation and industry from 1.5:1 to 3:1 effective January 1,
14 2014.

15 3. It includes rating on the basis of geographic area inside of the rating bands for age
16 instead of allowing rating outside of the bands. The changes made to community rating
17 by this amendment take effect only if the health insurance exchange established by the
18 federal Patient Protection and Affordable Care Act is fully operational and subsidies are
19 available.

20 4. It specifies that 3 of the members of the Board of Directors of the Maine
21 Guaranteed Access Reinsurance Association must represent consumer advocacy
22 organizations in the field of health policy and reduces the insurer members from 5 to 4.
23 The amendment also requires the Superintendent of Insurance to determine the
24 assessment amount paid by insurers to fund the association after an actuarial study
25 through rules adopted no later than January 1, 2012. The amendment designates the rules
26 as major substantive.

27 5. It removes Part E of the committee amendment, which repeals the State Health
28 Plan and the Advisory Council on Health Systems Development.

29 6. It changes cross-references to reflect the changes made by this amendment to
30 Committee Amendment "A."

31 This amendment also removes those sections in Part F of the committee amendment
32 that repeal geographic access standards.

33 **FISCAL NOTE REQUIRED**

34 **(See attached)**

35 SPONSORED BY: _____

36 (Senator BRANNIGAN)

37 COUNTY: Cumberland