



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 473

H.P. 366

House of Representatives, February 10, 2011

An Act To Enable Maine Residents To Purchase Health Insurance over State Lines

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

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

HEATHER J.R. PRIEST
Clerk

Presented by Representative HARMON of Palermo.
Cosponsored by Representatives: ESPLING of New Gloucester, MALABY of Hancock,
Senator McCORMICK of Kennebec and
Representatives: CHASE of Wells, FOSTER of Augusta, GILLWAY of Searsport, GUERIN
of Glenburn, JOHNSON of Greenville, KNIGHT of Livermore Falls, OLSEN of Phippsburg,
WINTLE of Garland.

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

2 **Sec. 1. 24-A MRSA §405, sub-§6**, as enacted by PL 1969, c. 132, §1, is amended
3 to read:

4 **6.** Any suit or action by the duly constituted receiver, rehabilitator or liquidator of
5 the insurer, or of the insurer's assignee or successor, under laws similar to those contained
6 in chapter 57 (delinquency proceedings; rehabilitation and liquidation)-; or

7 **Sec. 2. 24-A MRSA §405, sub-§7** is enacted to read:

8 7. Transactions pursuant to individual or group health insurance covering residents
9 of this State written by an insurer or health maintenance organization, as defined in
10 section 405-A, subsection 1, duly authorized or qualified to transact individual or group
11 health insurance in the state or country of its domicile if the superintendent certifies that
12 the insurer or health maintenance organization meets the requirements of section 405-A.

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

14 **§405-A. Certification of insurers or health maintenance organizations to transact**
15 **individual or group health insurance**

16 **1. Insurer or health maintenance organization defined.** As used in this section,
17 "insurer or health maintenance organization" means an insurer or health maintenance
18 organization that holds a valid certificate of authority to transact individual or group
19 health insurance in any state.

20 **2. Certification of insurers or health maintenance organizations.** An insurer or
21 health maintenance organization may not transact individual or group health insurance in
22 this State by mail, the Internet or otherwise unless the superintendent has issued a
23 certification that the insurer or health maintenance organization has met the requirements
24 of this subsection. The superintendent shall issue a certification or deny certification
25 within 30 days of a request. In order to be certified, the insurer or health maintenance
26 organization must meet the requirements of this subsection.

27 A. A policy, contract or certificate of individual or group health insurance offered for
28 sale in this State by the insurer or health maintenance organization must comply with
29 the applicable individual and group health insurance laws in the state or country of its
30 domicile and must be actively marketed in that state or country.

31 B. The insurer or health maintenance organization must maintain minimum capital
32 and surplus requirements and maintain reserves as required by section 410; section
33 901-A; chapter 11, subchapter 3; section 4204, subsection 2-A, paragraph D; and
34 section 4204-A, as applicable.

35 C. The insurer or health maintenance organization must meet the requirements of
36 section 4302 for reporting plan information with respect to individual and group
37 health plans offered for sale in this State and disclose to prospective enrollees how
38 the health plans differ from individual and group health plans offered by domestic
39 insurers in a format approved by the superintendent within 90 days of the effective

1 date of this section. Health plan policies and applications for coverage must contain
2 the following disclosure statement or a substantially similar statement: "This policy
3 is issued by an insurer or health maintenance organization governed by the laws and
4 rules of (insurer's or health maintenance organization's state of domicile). This policy
5 may not be subject to all the insurance laws and rules of the State of Maine, including
6 coverage of certain health care services or benefits mandated by Maine law. Before
7 purchasing this policy, you should carefully review the terms and conditions of
8 coverage under this policy, including any exclusions or limitations of coverage."

9 D. The insurer or health maintenance organization must meet the requirements of
10 section 4303, subsection 4 for grievance procedures with respect to health plans
11 offered for sale in this State.

12 E. The insurer or health maintenance organization must designate an agent for
13 receiving service of legal documents and process in the manner provided in this Title.

14 F. The insurer or health maintenance organization must participate in an insurance
15 insolvency guaranty association to which a domestic insurer or health maintenance
16 organization that transacts individual or group health insurance in this State is
17 required to belong in accordance with this Title.

18 **3. Unfair trade practices.** The provisions of chapter 23 apply to an insurer or
19 health maintenance organization permitted to transact individual or group health
20 insurance under this section or section 405.

21 **4. Taxes; assessments.** An insurer or health maintenance organization is subject to
22 applicable taxes or assessments imposed on insurers transacting individual or group
23 health insurance in this State pursuant to this Title and Title 36.

24 **5. Compliance with court orders.** An insurer or health maintenance organization
25 shall comply with lawful orders from courts of competent jurisdiction issued in a
26 voluntary dissolution proceeding or in response to a petition for an injunction by the
27 superintendent asserting that the insurer or health maintenance organization is in a
28 hazardous financial condition.

29 Except as expressly provided in this section, the requirements of this Title do not
30 apply to an insurer or health maintenance organization permitted to transact individual or
31 group health insurance under this section or section 405.

32 **Sec. 4. 24-A MRSA §405-B** is enacted to read:

33 **§405-B. Domestic insurers; individual and group health insurance approved in**
34 **other states**

35 Notwithstanding any other provision of this Title, a domestic insurer or health
36 maintenance organization may offer for sale in this State an individual or group health
37 plan duly authorized for sale in another state by a parent or subsidiary of the domestic
38 insurer or health maintenance organization if the following requirements are met:

1 **1. Certificate of authority from state of domicile.** The parent or subsidiary of the
2 domestic insurer or health maintenance organization must hold a valid certificate of
3 authority to transact individual or group health insurance in any state;

4 **2. Compliance with laws of state of domicile.** The policy, contract or certificate of
5 individual or group health insurance offered for sale in this State by the domestic insurer
6 or health maintenance organization must comply with the applicable individual and group
7 health insurance laws in the state of domicile of the parent or subsidiary and must be
8 actively marketed in that state;

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

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

28 **Sec. 5. 24-A MRSA §405-C** is enacted to read:

29 **§405-C. Waiver**

30 A person who purchases individual or group health insurance from an insurer or
31 health maintenance organization pursuant to section 405-A or from a domestic insurer or
32 health maintenance organization pursuant to section 405-B must sign a waiver indicating
33 that the person knows that the insurance policy does not include coverage of certain
34 health care services or benefits mandated by this Title.

35 **Sec. 6. Effective date.** This Act takes effect January 1, 2012.

36 **SUMMARY**

37 This bill permits insurers authorized to transact individual or group health insurance
38 in any state to offer their individual and group health plans for sale in this State if certain
39 requirements of Maine law are met, including minimum capital and surplus and reserve
40 requirements, disclosure and reporting requirements and grievance procedures. It also

1 permits Maine health insurers to offer individual and group health plans of out-of-state
2 parent or subsidiary health insurers if similar requirements are met. If out-of-state health
3 plans are offered for sale in this State, the bill requires that prospective enrollees be
4 provided adequate disclosure in a format approved by the Superintendent of Insurance of
5 how the plans differ from Maine health plans. This bill also requires a person purchasing
6 such insurance to sign a waiver acknowledging that the insurance policy does not
7 necessarily fully adhere to Maine law. The bill includes an effective date of January 1,
8 2012.