

**CHAPTER 1479**

**MADE FOR MAINE HEALTH COVERAGE ACT**

**§5401. Short title**

This Act may be known and cited as "the Made for Maine Health Coverage Act." [PL 2019, c. 653, Pt. A, §1 (NEW).]

**SECTION HISTORY**

PL 2019, c. 653, Pt. A, §1 (NEW).

**§5402. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 653, Pt. A, §1 (NEW).]

**1. Educated health care consumer.** "Educated health care consumer" means an individual who is knowledgeable about the health care system, has no financial interest in the delivery of health care services or sale of health insurance and has a background or experience in making informed decisions regarding health, medical or scientific matters.

[PL 2019, c. 653, Pt. A, §1 (NEW).]

**2. Federal Affordable Care Act.** "Federal Affordable Care Act" means the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to or regulations or guidance issued under those acts.

[PL 2019, c. 653, Pt. A, §1 (NEW).]

**3. Marketplace.** "Marketplace" means the Maine Health Insurance Marketplace established by this chapter.

[PL 2019, c. 653, Pt. A, §1 (NEW).]

**4. Marketplace trust fund.** "Marketplace trust fund" means the Maine Health Insurance Marketplace Trust Fund established by this chapter.

[PL 2019, c. 653, Pt. A, §1 (NEW).]

**5. Superintendent.** "Superintendent" means the Superintendent of Insurance.

[PL 2019, c. 653, Pt. A, §1 (NEW).]

**SECTION HISTORY**

PL 2019, c. 653, Pt. A, §1 (NEW).

**§5403. Maine Health Insurance Marketplace established**

The Maine Health Insurance Marketplace is established to conduct the functions defined in 42 United States Code, Section 18031(d)(4). The purpose of the marketplace is to benefit the State's health insurance market and persons enrolling in health insurance policies, facilitate the purchase of qualified health plans, reduce the number of uninsured individuals, improve transparency and conduct consumer education and outreach. [PL 2019, c. 653, Pt. A, §1 (NEW).]

**SECTION HISTORY**

PL 2019, c. 653, Pt. A, §1 (NEW).

**§5404. Powers and duties of the commissioner**

**1. Powers.** In addition to any other powers specified in this chapter and subject to any limitations contained in this chapter or in any other law, the commissioner:

A. Has and may exercise powers necessary to carry out the purposes for which the marketplace is organized or to further the functions in which the marketplace may lawfully be engaged, including the creation and operation of the marketplace; [PL 2019, c. 653, Pt. A, §1 (NEW).]

B. May charge user fees to health insurance carriers that offer qualified health plans in the marketplace or otherwise secure funding necessary to support the functions of the marketplace subject to the limitations imposed by section 5406; [PL 2019, c. 653, Pt. A, §1 (NEW).]

C. May apply for and receive funds, grants or contracts from public and private sources to be used for marketplace functions; [PL 2019, c. 653, Pt. A, §1 (NEW).]

D. May enter into interagency agreements with state or federal entities as considered necessary to efficiently and effectively perform marketplace functions; and [PL 2019, c. 653, Pt. A, §1 (NEW).]

E. May enter into contracts with qualified 3rd parties both private and public for any service necessary to carry out marketplace functions. [PL 2019, c. 653, Pt. A, §1 (NEW).]  
[PL 2019, c. 653, Pt. A, §1 (NEW).]

**2. Duties.** The commissioner shall:

A. Direct the operations of the marketplace as provided in this chapter; [PL 2019, c. 653, Pt. A, §1 (NEW).]

B. Consult with stakeholders regarding the execution of the functions of the marketplace required under this chapter. Stakeholders include, but are not limited to:

(1) Educated health care consumers who are enrollees in qualified health plans;

(2) Individuals and entities with experience in facilitating enrollment in qualified health plans;

(3) Representatives of small businesses and self-employed individuals;

(4) Representatives and members of the MaineCare program;

(5) Advocates for enrolling hard-to-reach populations;

(6) Representatives of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and the Mi'kmaq Nation, appointed by the tribes' respective chiefs in consultation with their tribal councils;

(7) Representatives of health care providers;

(8) Representatives of insurance carriers;

(9) Representatives of insurance producers; and

(10) Any other groups or representatives required by the federal Affordable Care Act and recommended by the commissioner; [PL 2019, c. 653, Pt. A, §1 (NEW); PL 2023, c. 369, Pt. A, §4 (REV); PL 2023, c. 369, Pt. A, §5 (AFF).]

C. Accept recommendations from the superintendent on certification of qualified health plans and shall exercise the discretion to delegate to the superintendent authority and duties as appropriate for effective administration of the marketplace, including but not limited to the responsibility for plan management. Authority delegated pursuant to this paragraph is in addition to any other powers or duties of the superintendent established by statute with respect to the marketplace; and [PL 2019, c. 653, Pt. A, §1 (NEW).]

D. Initially and subsequently as needed assess and report to the joint standing committee of the Legislature having jurisdiction over health insurance coverage matters on the feasibility and cost

of the State's using the federal platform as described in 45 Code of Federal Regulations, Section 155.200(f) compared to the State's performing all the functions of a state-based marketplace as described in 45 Code of Federal Regulations, Section 155.200. These reports must consider the availability of federal grants, whether existing user fees are sufficient to create and operate state-run functions and whether use of a state-run platform would improve the accessibility and affordability of health insurance in the State. [RR 2023, c. 2, Pt. A, §33 (COR).]

[RR 2023, c. 2, Pt. A, §33 (COR).]

#### SECTION HISTORY

PL 2019, c. 653, Pt. A, §1 (NEW). PL 2023, c. 369, Pt. A, §4 (REV). PL 2023, c. 369, Pt. A, §5 (AFF). RR 2023, c. 2, Pt. A, §33 (COR).

#### §5405. Maine Health Insurance Marketplace Trust Fund

**1. Establishment.** The Maine Health Insurance Marketplace Trust Fund is established as a special fund within the State Treasury for the deposit of any funds generated by user fees, any funds secured by the commissioner for marketplace functions, federal funds and any funds received from any public or private source. The marketplace trust fund must be administered by the commissioner for the purposes set forth in this chapter, including the deposit of money that may be received pursuant to and disbursements permitted by this chapter.

[PL 2019, c. 653, Pt. A, §1 (NEW).]

**2. Deposit and use of money.** Money deposited into the marketplace trust fund must be held solely for the purposes set forth in this chapter as determined by the commissioner, including but not limited to costs of initial start-up and creation of the marketplace, marketplace operations, outreach, enrollment and other functions supporting the marketplace, including any efforts that may increase market stabilization and that may result in a net benefit to the participants in the marketplace. All interest earned from the investment or deposit of money in the marketplace trust fund must be deposited into the marketplace trust fund. All accrued and future earnings from money held by the marketplace trust fund, including but not limited to money obtained from the Federal Government and fees, must be available to the marketplace. Any unexpended balance in the marketplace trust fund at the end of a year may not lapse and must be carried forward to be available for expenditure by the commissioner in the subsequent year for marketplace functions.

[PL 2019, c. 653, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2019, c. 653, Pt. A, §1 (NEW).

#### §5406. User fees

The commissioner shall charge a user fee to all carriers that offer qualified health plans in the marketplace. The user fee must be paid monthly by the carrier and deposited into the marketplace trust fund and may be used only for marketplace functions. The user fee must be applied at a rate that is a percentage of the total monthly premium charged by a carrier for each qualified health plan sold in the marketplace and may not exceed the total user fee rate charged by the Federal Government for use of the federally facilitated exchange during plan year 2020. The rate is 0.5% during any period that the State is using the federal platform as described in 45 Code of Federal Regulations, Section 155.200(f) and 3% during any period that the State is performing all the functions of a state-based marketplace as described in 45 Code of Federal Regulations, Section 155.200. [PL 2019, c. 653, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2019, c. 653, Pt. A, §1 (NEW).

#### §5407. Rulemaking

The commissioner may adopt rules as necessary for the proper administration and enforcement of this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to this section must be consistent with the federal Affordable Care Act and state law. [PL 2019, c. 653, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2019, c. 653, Pt. A, §1 (NEW).

#### **§5408. Technical assistance from other state agencies**

State agencies, including but not limited to the Department of Professional and Financial Regulation, Bureau of Insurance, the Department of Administrative and Financial Services, Bureau of Revenue Services and the Maine Health Data Organization, shall provide technical assistance and expertise to the marketplace upon request. [PL 2019, c. 653, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2019, c. 653, Pt. A, §1 (NEW).

#### **§5409. Records**

Except as provided in this section or by other provision of law, information obtained by the marketplace under this chapter is a public record within the meaning of Title 1, chapter 13, subchapter 1. [PL 2019, c. 653, Pt. A, §1 (NEW).]

**1. Financial information.** Any personally identifiable financial information, supporting data or tax return of any person obtained by the marketplace under this chapter is confidential pursuant to 26 United States Code, Section 6103 and Title 36, section 191. [PL 2023, c. 637, §5 (AMD).]

**2. Health information.** Health information obtained by the marketplace under this chapter that is covered by the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or information covered by section 1711-C is confidential. [PL 2023, c. 637, §5 (AMD).]

**3. Personally identifiable information.** Personally identifiable information not otherwise described in subsection 1 or 2 that is obtained by the marketplace under this chapter is confidential. As used in this subsection, "personally identifiable information" means information that permits the identity of an individual to whom the information applies to be able to be reasonably inferred or known by either direct or indirect means. [PL 2023, c. 637, §5 (NEW).]

#### SECTION HISTORY

PL 2019, c. 653, Pt. A, §1 (NEW). PL 2023, c. 637, §5 (AMD).

#### **§5410. Relation to other laws**

**1. Authority of superintendent to regulate insurance.** This chapter and any action taken by the marketplace pursuant to this chapter may not be construed to preempt or supersede the authority of the superintendent to regulate the business of insurance within this State. [PL 2021, c. 511, §1 (NEW).]

**2. Appeal from decision of department's administrative hearings unit.** A decision of the department's administrative hearings unit in an appeal of a decision of the marketplace is not subject to judicial review under Title 5, section 11001 and the Maine Rules of Civil Procedure, Rule 80C. Such a decision may be appealed to the United States Department of Health and Human Services pursuant to 45 Code of Federal Regulations, Section 155.520(c). [PL 2021, c. 511, §1 (NEW).]

## SECTION HISTORY

PL 2019, c. 653, Pt. A, §1 (NEW). PL 2021, c. 511, §1 (RPR).

**§5411. Reporting**

Beginning in 2021 and annually thereafter, the marketplace shall submit a report to the Governor and the joint standing committee of the Legislature having jurisdiction over health insurance coverage matters summarizing enrollment, the affordability of health insurance for consumers using the marketplace, marketing activity and operations. This report must be submitted no later than 45 days after the end of the open enrollment period. [PL 2019, c. 653, Pt. A, §1 (NEW).]

## SECTION HISTORY

PL 2019, c. 653, Pt. A, §1 (NEW).

**§5412. Easy enrollment program**

The easy enrollment program is established under this chapter to identify residents of this State who are uninsured but qualify for benefits under the MaineCare program or a qualified health plan in the marketplace. [PL 2021, c. 715, §1 (NEW).]

**1. Tax checkoff.** A person filing a tax return in this State pursuant to Title 36, chapter 803 who has marked the relevant check-off boxes on the state income tax form as described in Title 36, section 5294 is identified as a person who may be provisionally assessed as eligible for benefits under the MaineCare program or to enroll in a qualified health plan in the marketplace. The department, in conjunction with the superintendent and the Department of Administrative and Financial Services, Bureau of Revenue Services, shall determine by rule the information necessary to be shared with the marketplace to provisionally assess eligibility and the schedule regarding the frequency of transferring the information.

[PL 2021, c. 715, §1 (NEW).]

**2. Eligibility determination.** The marketplace shall determine whether the person filing the tax return under subsection 1 has an address in the State and whether the persons in the household indicated as uninsured are already enrolled in the MaineCare program or a qualified health plan in the marketplace. The marketplace shall mail a notice to households with an address in the State and with persons in the household who are uninsured. The notice must notify the person filing the tax return that the person or other uninsured members of the household may be eligible for health care coverage and provide information about the special enrollment period available on the marketplace pursuant to subsection 3 and that MaineCare enrollment is available at any time. If the person filing the tax return has included an e-mail address or other contact information, the marketplace shall contact the person using the preferred method of communication indicated on the tax return.

[PL 2021, c. 715, §1 (NEW).]

**3. Special enrollment period; assistance; coverage begins.** A person filing a tax return under subsection 1 who is provisionally assessed as eligible to enroll in a qualified health plan in the marketplace has a special enrollment period that begins on the date of the tax filing and ends 35 days from the date of the notice mailed by the marketplace to the person pursuant to subsection 2. Once a person begins the application to enroll in a qualified health plan in the marketplace, the marketplace shall provide assistance through follow-up e-mails or another preferred method of communication until the person is successfully enrolled or the marketplace determines that the person does not wish to enroll. Coverage in the marketplace is effective on the first day of the month after the date a plan is selected by the person.

[PL 2021, c. 715, §1 (NEW).]

**4. Medicaid coverage.** If the marketplace determines that any member of the household is eligible for benefits under the MaineCare program under this section, the marketplace shall notify the

department and the person who filed the tax return of the potential eligibility. The department shall contact the person who filed the tax return using the person's preferred method of communication and provide assistance with the MaineCare application unless the marketplace determines that the person does not wish to enroll.

[PL 2021, c. 715, §1 (NEW).]

**5. Outreach efforts.** The marketplace and department, after appropriate consultation with the superintendent, shall jointly develop educational materials and programming to communicate the purpose of the income tax checkoff under Title 36, section 5294 and the benefits of enrolling in the MaineCare program or a qualified health plan in the marketplace to the public. The materials and programming must include materials developed for different target groups in the public, including, but not limited to, tax preparers, consumer assistance organizations, community groups and underserved groups. The materials must be made available in English and in languages appropriate for communities in the State whose primary languages are not English.

[PL 2021, c. 715, §1 (NEW).]

#### SECTION HISTORY

PL 2021, c. 715, §1 (NEW).

#### §5413. Easy enrollment advisory group; data collection

**1. Advisory group.** An advisory group is established to advise the department on state income tax changes including the format of check-off boxes on income tax forms pursuant to Title 36, section 5294, effectiveness of the easy enrollment program under section 5412, feasibility of automatic enrollment in health care plans, improvements to outreach materials, issues related to necessary information required for establishing eligibility while maintaining confidentiality and proposed changes to improve the program. The commissioner and the superintendent or the commissioner's or superintendent's designees are cochairs and shall convene the advisory group. The chairs shall jointly appoint members to the advisory group, and members must include the stakeholders described in section 5404, subsection 2, paragraph B and representatives of the Department of Administrative and Financial Services, Bureau of Revenue Services and professional tax preparers. The advisory group shall meet at least 3 times a year and as often as necessary to carry out its advisory duties.

[PL 2021, c. 715, §2 (NEW).]

**2. Data collection.** The department shall provide an annual report on the easy enrollment program under section 5412 to the joint standing committee of the Legislature having jurisdiction over health insurance matters and the joint standing committee of the Legislature having jurisdiction over MaineCare matters. The report must include the number of persons who marked the check-off boxes on tax returns as described in section 5412, subsection 1, the number provisionally assessed as eligible by the marketplace for benefits under the MaineCare program or a qualified health plan in the marketplace, the number who enrolled in the MaineCare program, the number who enrolled in qualified health plans in the marketplace, how many enrolled in a qualified health plan in the marketplace who were eligible for financial assistance and demographic data on enrollment. The report must be submitted by November 15th of each year beginning in 2024 and contain data based on the previous calendar year's tax return data.

[PL 2021, c. 715, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 715, §2 (NEW).

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