

**STATE OF MAINE**  
127<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON INSURANCE AND  
FINANCIAL SERVICES**

May 2016

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*Joint Standing Committee on Insurance and Financial Services*

**LD 704      An Act Regarding Notice Provided by Insurance Carriers to Health Care Providers      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BECK H GRATWICK G	ONTP	

This bill was carried over from the First Regular Session of the 127th Legislature.

This bill requires insurance carriers, beginning January 1, 2016, to give health care providers notice that an enrollee covered by an insurance product purchased through the American Health Benefit Exchange is in the three-month grace period under 45 Code of Federal Regulations, Section 156.270(d)(2015).

**LD 889      An Act To Protect Maine's Small Businesses from High Interest Rates on Commercial and Business Loans      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BECK H KATZ R	ONTP	

This bill was carried over from the First Regular Session of the 127th Legislature.

The bill caps the interest rate for commercial or business loans at 25% per year. The bill provides that violations are subject to criminal penalties of up to \$5,000 or imprisonment for not more than one year or both. The bill also allows a court to void a loan issued in violation of the interest rate caps upon the petition of the person to whom the loan was issued.

**LD 1150      An Act Regarding Maximum Allowable Cost Pricing Lists Used by Pharmacy Benefit Managers      PUBLIC 450**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROOKS H WHITTEMORE R	OTP-AM	H-556

This bill was reported out of committee and then recommitted to the committee in the prior session; it was then carried over from the First Regular Session of the 127th Legislature.

The bill establishes requirements for maximum allowable cost pricing lists used by pharmacy benefits managers and requires pharmacy benefits managers to make disclosures regarding that pricing and the methods used to establish that pricing to plan sponsors. It establishes an appeal process for pharmacies for disputes relating to maximum allowable cost pricing. The bill also provides for financial penalties for violations.

**Committee Amendment "B" (H-556)**

This amendment replaces the bill. The amendment establishes certain requirements relating to maximum allowable cost pricing lists used by pharmacy benefits managers.

The amendment provides that a pharmacy benefits manager may set a maximum allowable cost for a prescription drug only if that drug is rated as "A" or "B" in the most recent version of the United States Food and Drug Administration's "Approved Drug Products with Therapeutic Equivalence Evaluations," also known as "the Orange

## *Joint Standing Committee on Insurance and Financial Services*

Book," or an equivalent rating from a successor publication, or is rated as "NR" or "NA" or a similar rating by a nationally recognized pricing reference and the drug is not obsolete and is generally available for purchase in this State.

The amendment requires a pharmacy benefits manager to remove or modify in a timely manner a maximum allowable cost for a prescription drug as necessary for the cost of the prescription drug to remain consistent with changes to such costs and availability of the drug in the national marketplace for prescription drugs.

The amendment requires a pharmacy benefits manager to provide the following to a pharmacy with which the pharmacy benefits manager has a contract:

1. Disclose the sources used to establish the maximum allowable costs used by the pharmacy benefits manager upon request;
2. Provide a process for a pharmacy to readily obtain the maximum allowable reimbursement available to that pharmacy under a maximum allowable cost list; and
3. At least once every seven business days, review and update maximum allowable cost list information to reflect any modification of the maximum allowable reimbursement available to a pharmacy under a maximum allowable cost list used by the pharmacy benefits manager.

The amendment establishes an appeal process to allow a pharmacy to challenge a drug's maximum allowable cost under certain conditions.

The amendment specifies that the provisions apply to contracts between a pharmacy benefits manager and a pharmacy beginning September 1, 2016.

### **Enacted Law Summary**

Public Law 2015, chapter 450 establishes certain requirements relating to maximum allowable cost pricing lists used by pharmacy benefits managers.

The law provides that a pharmacy benefits manager may set a maximum allowable cost for a prescription drug only if that drug is rated as "A" or "B" in the most recent version of the United States Food and Drug Administration's "Approved Drug Products with Therapeutic Equivalence Evaluations," also known as "the Orange Book," or an equivalent rating from a successor publication, or is rated as "NR" or "NA" or a similar rating by a nationally recognized pricing reference and the drug is not obsolete and is generally available for purchase in this State.

The law requires a pharmacy benefits manager to remove or modify in a timely manner a maximum allowable cost for a prescription drug as necessary for the cost of the prescription drug to remain consistent with changes to such costs and availability of the drug in the national marketplace for prescription drugs.

The law requires a pharmacy benefits manager to provide the following to a pharmacy with which the pharmacy benefits manager has a contract:

1. Disclose the sources used to establish the maximum allowable costs used by the pharmacy benefits manager upon request;
2. Provide a process for a pharmacy to readily obtain the maximum allowable reimbursement available to that pharmacy under a maximum allowable cost list; and
3. At least once every seven business days, review and update maximum allowable cost list information to reflect any modification of the maximum allowable reimbursement available to a pharmacy under a maximum allowable

## *Joint Standing Committee on Insurance and Financial Services*

cost list used by the pharmacy benefits manager.

The law also establishes an appeal process to allow a pharmacy to challenge a drug's maximum allowable cost under certain conditions.

Public Law 2015, chapter 450 specifies that the provisions apply to contracts between a pharmacy benefits manager and a pharmacy beginning September 1, 2016.

### **LD 1305    An Act To Encourage Health Insurance Consumers To Comparison Shop for Health Care Procedures and Treatment**

**Died Between Houses**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHITTEMORE R BECK H	OTP-AM OTP-AM	

This bill was carried over from the First Regular Session of the 127th Legislature.

This bill requires a health care entity to provide an estimate of the allowed amount if the entity is within a patient's carrier network or the amount that will be charged if the entity does not participate in a patient's carrier network for a proposed admission, procedure or service within two business days of a patient's request and to assist a patient in using a carrier's toll-free telephone number and publicly accessible website to obtain information about the out-of-pocket costs for which a patient will be responsible.

The bill requires health insurance carriers to establish a toll-free telephone number and publicly accessible website to provide information to enrollees about health care costs. A carrier is required to provide information on the average price paid in the past 12 months to a network health care provider for a proposed admission, procedure or service in each geographic rating area established by the carrier and to provide a binding estimate for the maximum allowed amount or charge for a proposed admission, procedure or service and the estimated amount the enrollee will be responsible to pay for a proposed admission, procedure or service that is a medically necessary covered benefit.

The bill also requires a carrier to pay an enrollee 50% of the saved cost to a maximum of \$7,500 if an enrollee elects to receive health care services from a provider that cost less than the average cost for a particular admission, procedure or service unless the savings is \$50 or less. If an enrollee elects to receive health care services from an out-of-network provider that cost less than the average amount for a particular admission, procedure or service, a carrier shall apply the enrollee's share of the cost toward the enrollee's member cost sharing as if the health care services were provided by a network provider.

The bill authorizes a health care entity, a carrier or another person designated by a health care entity, carrier, patient or prospective patient to have access at no cost to the all-payor and all-settings health care database for claims for the purposes of providing the information required.

The bill also requires carriers to provide certain information to the Department of Professional and Financial Regulation, Bureau of Insurance on an annual basis relating to the payments made to enrollees and the saved costs if an enrollee elects to receive health care services from a provider that cost less than the average cost for a particular admission, procedure or service.

#### **Committee Amendment "A" (S-406)**

This amendment is the majority report of the committee. The amendment replaces the bill, changes the title and does the following.

The amendment requires a health insurance carrier by January 1, 2018 to establish an interactive mechanism on its

*Joint Standing Committee on Insurance and Financial Services*

publicly accessible website that enables an enrollee to request and obtain from the carrier information on the payments made by the carrier to network providers for health care services. The interactive mechanism must allow an enrollee seeking information about the cost of a particular health care service to compare costs among network providers. The amendment allows a carrier that is unable to comply to provide a link on its publicly accessible website to enable an enrollee to use the Maine Health Data Organization's CompareMaine website.

The amendment requires health insurance carriers beginning January 1, 2018 to provide a good faith estimate, within a reasonable time of a request, of the estimated amount of the out-of-pocket costs to be paid by the enrollee for a proposed nonemergency procedure or service from a network provider. The amendment defines a nonemergency procedure or service as a procedure or service in one of the following seven categories: office visits; physical and occupational therapy services; integrative medicine services; mental health services; obstetrical and gynecological services; radiology and imaging services; and laboratory services.

**Committee Amendment "B" (S-407)**

This amendment is the minority report of the committee. The amendment replaces the bill and changes the title.

The amendment requires all carriers offering health plans in the State, beginning January 1, 2018, to provide a shared savings incentive program as a component of all health plans, except health plans offered through the federally facilitated marketplace established pursuant to the federal Affordable Care Act, unless a waiver has been granted by the superintendent. The amendment establishes the shared savings incentive program for enrollees who elect to receive a comparable health care service that costs less than the average price paid for that service by a carrier. The amendment defines "comparable health care service" as a service for which a carrier offers a shared savings incentive payment and includes, at a minimum, a health care service in the following four categories: physical and occupational therapy services, obstetrical and gynecological services, radiology and imaging services and laboratory services. If an enrollee shops for services, the amendment requires a carrier to pay that enrollee a shared savings incentive payment of at least 40% of the difference between the average amount for that comparable health care service and the amount paid, except that a payment is not required if the saved cost is \$50 or less.

The amendment authorizes a carrier to establish its own methodology for calculating the average price paid by that carrier under its shared savings incentive program and to make health care services received from an out-of-network provider not eligible for a shared savings incentive payment. If an enrollee elects to receive health care services from an out-of-network provider that would otherwise be eligible for a shared savings incentive payment, a carrier shall apply the amount paid for the comparable health care service toward the enrollee's cost sharing as specified in the enrollee's health plan as if the health care services were provided by a network provider.

The amendment also requires carriers to provide certain information to the Department of Professional and Financial Regulation, Bureau of Insurance on an annual basis relating to the payments made to enrollees, the use of health care services for which payments are provided and the saved costs if an enrollee elects to receive health care services from a provider that cost less than the average cost for a particular admission, procedure or service. The Bureau of Insurance is required to report aggregate information from all carriers to the Legislature on an annual basis.

**LD 1318 An Act To Promote Individual Private Savings Accounts through a Public-private Partnership**

**Accepted Majority (ONTP) Report**

Sponsor(s)

BECK H

Committee Report

ONTP  
OTP-AM

Amendments Adopted

This bill was carried over from the First Regular Session of the 127th Legislature.

***Joint Standing Committee on Insurance and Financial Services***

This bill establishes the Maine Small Business Marketplace. The bill requires employers of more than 10 employees that have not offered their employees a qualified retirement plan in the preceding two years to offer a payroll deposit retirement savings arrangement to their employees to allow contributions to an individual retirement account. The bill also allows small employers with fewer than 10 employees to voluntarily participate in the marketplace. The bill requires the Treasurer of State to administer and oversee the marketplace.

**Committee Amendment "A" (H-555)**

This amendment is the minority report of the committee and replaces the bill. As in the bill, the amendment establishes the Maine Small Business Retirement Marketplace. The amendment provides employers of fewer than 100 employees an opportunity to offer retirement plans that are approved by the marketplace to their employees on a voluntary basis. The amendment also allows sole proprietors and self-employed individuals to voluntarily participate in the marketplace. The amendment requires that the marketplace provide at least two types of retirement plans to eligible employers, an individual retirement account plan that allows an employer to make contributions to participating employees' accounts and a payroll deposit retirement savings arrangement in which an employer does not contribute to an employee's account, and a minimum of two plans available to individual employees, a myRA and a life insurance plan. The amendment requires the Treasurer of State to administer and oversee the marketplace. The amendment also adds an appropriations and allocations section.

**LD 1479      An Act To Create Improved Consumer Protection against Long-term      ONTP  
Care Insurance Premium Rate Increases**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LANGLEY B KUMIEGA W	ONTP	

This bill establishes restrictions on premium rate increases for long-term care insurance policies.

1. It limits the maximum increase in any one year to 25%.
2. It limits premium rates from increasing to a level that results in a cumulative increase of the annual premium exceeding a certain percentage of the insured's initial annual premium based on the insured's age.
3. It restricts the cumulative premium increase over the lifetime of a policyholder to 75%.
4. It restricts premium increases over a five-year period that in the aggregate exceed the limitations based on age.

The bill also requires a long-term care insurance policy issued on or after the effective date of the bill to prominently disclose on the face of the policy a statement that premiums are not guaranteed, a description of the limits on increases established in the bill and a statement that changes in premium rates must be approved by the Superintendent of Insurance. Finally, the bill requires insurers and other entities that have issued long-term care insurance policies to policyholders in this State to provide written notice of the enactment of the bill, including a summary of the provisions and a copy of the law, to the policyholders within 30 days of its enactment.

**LD 1542      An Act To Encourage Maine Employers To Offer and Employees To      PUBLIC 490  
Enroll in Disability Income Protection Plans in the Workplace**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BECK H WHITTEMORE R	OTP-AM ONTP	H-576

## *Joint Standing Committee on Insurance and Financial Services*

This bill authorizes an employer to provide its employees a group disability income protection plan, which is a group policy instituted by an employer that provides income benefits to an employee who is unable to work for an extended period of time because of sickness or an accident. The group disability income protection plan may be either a short-term plan offering at least six months of benefits or a long-term plan offering at least 24 months of benefits. The premium paid by an employee for participation in an employer-sponsored group disability income protection plan is considered a premium that the employee has agreed to pay, as long as certain conditions are met.

An employer is entitled to a tax credit of \$50 for each employee enrolled in a group disability income protection plan after January 1, 2017. The credit may be taken by an employer for no more than five years.

### **Committee Amendment "A" (H-576)**

This amendment is the majority report of the committee. The amendment adds language to the bill regarding the bill's proposed group disability income protection plan. Specifically, the amendment requires that, if an employer offers a plan with automatic enrollment, the employee must be provided information regarding the employer-sponsored group disability income protection plan and the employee's right to opt out of coverage at least 30 days prior and a second time at least 10 days prior to the initial payroll deduction of premiums.

Like the bill, the amendment provides a tax credit to employers providing a qualified short-term disability income protection plan or a qualified long-term disability income protection plan. Disability income protection plans that do not qualify for the tax credit may still be authorized to be issued in the State by the Department of Professional and Financial Regulation, Bureau of Insurance.

The amendment provides that an employer is entitled to a tax credit of \$30 for each employee enrolled in a group disability income protection plan after January 1, 2017, as long as the employee was not covered under a disability income protection plan offered by the employing unit in the tax year immediately preceding the year in which the credit is first available. The credit must be claimed by a taxpayer in the first tax year during which the taxpayer is eligible to claim the credit and may be taken for no more than three consecutive tax years. The amendment specifies that the amount of the credit may not exceed the amount of the tax due and that unused credit may not be carried over or carried back. The bill proposes a tax credit of \$50, which would be available for five years. The amendment clarifies that an employer's federal adjusted gross income must be increased by the amount claimed as a deduction related to a taxpayer's expenses for a qualified long-term disability income protection plan or qualified short-term disability income protection plan during the taxable year for which a tax credit is claimed. The amendment clarifies that the determination of whether an employer can claim the tax credit for an eligible employee is based on the terms and conditions of the qualified long-term or short-term disability income protection plan selected by the employer. The amendment also permits the Department of Administrative and Financial Services, Bureau of Revenue Services to share information with the Department of Professional and Financial Regulation, Bureau of Insurance as necessary to determine the qualification of long-term or short-term disability income protection plans for the tax credit.

This amendment also corrects a numbering problem created by Public Law 2015, chapters 300 and 344, which enacted two substantively different provisions with the same paragraph designation.

### **Enacted Law Summary**

Public Law 2015, chapter 490 authorizes an employer to provide its employees a group disability income protection plan, which is a group policy instituted by an employer that provides income benefits to an employee who is unable to work for an extended period of time because of sickness or an accident. The group disability income protection plan may be either a short-term plan offering at least six months of benefits or a long-term plan offering at least 24 months of benefits. The law requires that, if an employer offers a plan with automatic enrollment, the employee must be provided information regarding the employer-sponsored group disability income protection plan and the employee's right to opt out of coverage at least 30 days prior and a second time at least 10 days prior to the initial payroll deduction of premiums.

*Joint Standing Committee on Insurance and Financial Services*

The law also provides a tax credit to employers providing a qualified short-term disability income protection plan or a qualified long-term disability income protection plan. Disability income protection plans that do not qualify for the tax credit may still be authorized to be issued in the State by the Department of Professional and Financial Regulation, Bureau of Insurance. The law provides that an employer is entitled to a tax credit of \$30 for each employee enrolled in a group disability income protection plan after January 1, 2017, as long as the employee was not covered under a disability income protection plan offered by the employing unit in the tax year immediately preceding the year in which the credit is first available. The credit must be claimed by a taxpayer in the first tax year during which the taxpayer is eligible to claim the credit and may be taken for no more than three consecutive tax years. The amount of the credit may not exceed the amount of the tax due and that unused credit may not be carried over or carried back.

**LD 1545     An Act To Amend the Maine Guaranteed Access Reinsurance Association Act**

**PUBLIC 404**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHITTEMORE R BECK H	OTP-AM	S-393

This bill repeals the Maine Guaranteed Access Reinsurance Association Act, effective January 1, 2019. Prior to the repeal, it requires the joint standing committee having jurisdiction over insurance and financial services matters to review and evaluate the transitional reinsurance program operating in the State between January 1, 2014 and December 31, 2016 pursuant to the federal Patient Protection and Affordable Care Act and federal regulations adopted pursuant to that Act and the differences between the transitional reinsurance program and the Maine Guaranteed Access Reinsurance Association and recommend to the Superintendent of Insurance whether the Maine Guaranteed Access Reinsurance Association should resume operations. The committee is authorized to submit a bill to the Second Regular Session of the 128th Legislature based on the committee's evaluation.

**Committee Amendment "A" (S-393)**

This amendment replaces the bill and changes the title. The amendment extends the suspension of the operations of the Maine Guaranteed Access Reinsurance Association for one year, until December 31, 2017, and removes statutory provisions that are no longer necessary given the extended suspension. The amendment also directs the Superintendent of Insurance to make a recommendation before February 15, 2017 to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters relating to the continued operation or dissolution of the association.

**Enacted Law Summary**

Public Law 2015, chapter 404 extends the suspension of the operations of the Maine Guaranteed Access Reinsurance Association for one year, until December 31, 2017, and removes statutory provisions that are no longer necessary given the extended suspension. The law also directs the Superintendent of Insurance to make a recommendation before February 15, 2017 to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters relating to the continued operation or dissolution of the association.

# *Joint Standing Committee on Insurance and Financial Services*

## **SUBJECT INDEX**

### **Consumer Credit**

#### **Not Enacted**

LD 889	An Act To Protect Maine's Small Businesses from High Interest Rates on Commercial and Business Loans	ONTP
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### **Insurance, Health**

#### **Enacted**

LD 1150	An Act Regarding Maximum Allowable Cost Pricing Lists Used by Pharmacy Benefit Managers	PUBLIC 450
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LD 1545	An Act To Amend the Maine Guaranteed Access Reinsurance Association Act	PUBLIC 404
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#### **Not Enacted**

LD 704	An Act Regarding Notice Provided by Insurance Carriers to Health Care Providers	ONTP
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LD 1305	An Act To Encourage Health Insurance Consumers To Comparison Shop for Health Care Procedures and Treatment	Died Between Houses
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### **Insurance, Regulation and Practices**

#### **Enacted**

LD 1542	An Act To Encourage Maine Employers To Offer and Employees To Enroll in Disability Income Protection Plans in the Workplace	PUBLIC 490
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#### **Not Enacted**

LD 1479	An Act To Create Improved Consumer Protection against Long-term Care Insurance Premium Rate Increases	ONTP
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### **Miscellaneous**

#### **Not Enacted**

LD 1318	An Act To Promote Individual Private Savings Accounts through a Public-private Partnership	Majority (ONTP) Report
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