**An Act To Prohibit Discriminatory Practices in Certain Health Insurance Policies**

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

**Sec.** **1. 24-A MRSA §2452, sub-§1,** as enacted by PL 1991, c. 385, §11, is repealed and the following enacted in its place:

**1.** **Discrimination prohibited; rating practices.**  A policy of employee benefit excess insurance may not discriminate unfairly among or against beneficiaries of the underlying benefit plan, or treat conditions related to the Human Immunodeficiency Virus, or HIV, more restrictively than other sicknesses or disabling conditions.

The following requirements apply to the rating practices of carriers providing employee excess benefit insurance to small group health plans.

A. A carrier may not vary the premium rate due to the gender, health status, claims experience or policy duration of the eligible group or members of the group or any other rating factor not specified in this subsection.

B. A carrier may vary the premium rate due to family membership and participation in wellness programs. The premium rate for a family must equal the sum of the premiums for each individual in the family, except that it may not be based on more than 3 dependent children who are less than 21 years of age. The superintendent may adopt rules setting forth appropriate methodologies regarding rate discounts for participation in wellness programs. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

C. A carrier may vary the premium rate due to geographic area in accordance with the limitation in this paragraph. For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2021, the rating factor used by a carrier for geographic area may not exceed 1.5.

D. A carrier may vary the premium rate due to age, group size and tobacco use in accordance with the limitations set out in this paragraph. A carrier that varies the premium rate due to age must vary the premium rate according to a uniform age curve. The superintendent shall adopt rules establishing a uniform age curve that is substantially similar to the age curve in effect on January 1, 2019 under the federal Affordable Care Act.

(1)  For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2022, except as provided in subparagraph (3), the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(2)  For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2021, the maximum rate differential due to tobacco use filed by the carrier as determined by ratio is 1.5 to 1, except that the carrier may not apply a rate differential pursuant to this subparagraph when the covered individual is participating in an evidence-based tobacco cessation strategy approved by the United States Department of Health and Human Services, Food and Drug Administration.

(3)  For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2021, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1 for individuals 21 years of age and older on the first day of coverage under the policy, contract or certificate. The variation in rate due to age must be actuarially justified for individuals under 21 years of age consistent with the uniform age curve adopted under this paragraph.

**Sec.** **2. 24-A MRSA §2452, sub-§3,** as enacted by PL 1991, c. 385, §11, is repealed and the following enacted in its place:

**3.** **Review.**  The review of employee benefit excess insurance forms, rates and filings is subject to this subsection.

A. An employee benefit excess insurance form is not exempt from the review provisions otherwise applicable under section 2412 on the ground that the form is designed for insurance on a particular subject.

B. If at any time the superintendent has reason to believe that a filing does not meet the requirements that rates not be excessive, inadequate or unfairly discriminatory or that the filing violates any of the provisions of chapter 23, the superintendent shall cause a hearing to be held. Hearings held under this subsection must conform to the procedural requirements set forth in Title 5, chapter 375, subchapter 4. The superintendent shall issue an order or decision within 30 days after the close of the hearing or of any rehearing or reargument or within such other period as the superintendent for good cause may require, but not to exceed an additional 30 days. In the order or decision, the superintendent shall either approve or disapprove the rate filing. If the superintendent disapproves the rate filing, the superintendent shall establish the date on which the filing is no longer effective, specify the filing the superintendent would approve and authorize the insurer to submit a new filing in accordance with the terms of the order or decision.

C.  When a filing is not accompanied by the information upon which the carrier supports the filing or the superintendent does not have sufficient information to determine whether the filing meets the requirements that rates not be excessive, inadequate or unfairly discriminatory, the superintendent shall require the carrier to furnish the information upon which it supports the filing.

**SUMMARY**

This bill establishes rating practices for employee benefit excess insurance, including maximum rate differentials for age, group size and tobacco use. This bill requires the Superintendent of Insurance to hold a hearing if the superintendent finds that a filing does not meet the requirement that rates not be excessive, inadequate or discriminatory or that it violates a prohibited trade practice or is fraudulent and establishes the procedure and consequences for the hearing. This bill also requires the superintendent to require a carrier to provide more information if the superintendent finds that the filing does not have sufficient information to determine whether the filing meets the requirements.