

Annual List of Rulemaking Activity
Rules Adopted January 1, 2022 to December 31, 2022
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance

Umbrella-Unit: **02-031**

Statutory authority: 24-A M.R.S. §§ 212, 952(3), and 959(1)

Chapter number/title: **Ch. 130**, Minimum Reserve Standards for Individual & Group Health Insurance Contracts

Filing number: **2022-145**

Effective date: 8/2/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The proposed amendment updates the rule to address inconsistencies with the current version of the National Association of Insurance Commissioners Model Rule MO-010, Health insurance Reserves Model Regulation, resulting from revisions to the disability insurance actuarial tables.

Basis statement:

Acting Superintendent of Insurance Timothy N. Schott hereby adopts amendments to rule Chapter 130, "Minimum Reserve Standards for Individual and Group Health Insurance Contracts," pursuant to 24-A M.R.S. §§ 212, 952(3), and 959(1). These amendments update Chapter 130 to make it consistent with the National Association of Insurance Commissioners Health Insurance Reserves Model Regulation. The changes include the implementation of revisions to the disability insurance actuarial tables and Maine's adoption of the statutory Valuation Manual pursuant to 24-A M.R.S. § 959.

Fiscal impact of rule:

None

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance

Umbrella-Unit: **02-031**

Statutory authority: 24-A M.R.S. §§ 212 and 222

Chapter number/title: **Ch. 180**, Insurance Holding Company System Model Rule with Reporting Forms and Instructions

Filing number: **2022-217**

Effective date: 11/6/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The proposed amendment updates the rule to implement amendments to the Maine Insurance Holding Company Act, 24-A M.R.S. § 222, enacted by P.L. 2021, ch. 521. These changes are based on amendments to the NAIC Insurance Holding Company System Model Rule (Model # 450) adopted in 2020 and 2021, addressing the Group Capital Calculation and the continuity of essential services provided by affiliates.

Basis statement:

Acting Superintendent of Insurance Timothy N. Schott hereby adopts amendments to rule Chapter 180, "Insurance Holding Company System Model Rule with Reporting Forms and Instructions," pursuant to 24-A M.R.S. §§ 212 and 222. These amendments update Chapter 180 to implement amendments to the Maine Insurance Holding Company Act, 24-A M.R.S. § 222, enacted by P.L. 2021, ch. 521. These changes are based on amendments to the NAIC Insurance Holding Company System Model Rule (# 450) adopted in 2020 and 2021, addressing the Group Capital Calculation and the continuity of essential services provided by affiliates.

Fiscal impact of rule:

None

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance

Umbrella-Unit: **02-031**

Statutory authority: 24-A M.R.S. §§ 212, 4303-C, and 4303-E

Chapter number/title: **Ch. 365**, Standards for Independent Dispute Resolution of
Emergency Medical Service Bills

Filing number: **2022-070**

Effective date: 5/1/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of the proposed rulemaking is to conform the current rule to changes enacted by PL 2021, c. 222 (LD 46, An Act To Further Protect Consumers from Surprise Medical Bills), repealing the \$750 threshold for requesting dispute resolution of a bill, and prohibiting a provider from requesting resolution of a health care service for 90 days after a IDR entity has determined a fee for the same service; and to eliminate the IDR ambulance exclusion consistent with the October 1, 2021 repeal of 24-A M.R.S. § 4303-C(2)(D).

Basis statement:

Chapter 365 has been amended pursuant to the Notice of Rulemaking issued December 3, 2021. A public hearing was convened via audio-visual link on January 5, 2022, and the public comment period deadline was January 17, 2022. Chapter 365 was originally adopted on October 24, 2020.

The amendments are proposed in accordance with 24-A M.R.S. §§ 212, 4303-C, and 4303-E.

The purpose of the proposed amendments is to conform the current rule to the October 1, 2021 repeal of 24-A M.R.S. § 4303-C(2)(D), which formerly governed reimbursement for out-of-network emergency ambulance services, and to the changes to the Insurance Code enacted by PL 2021, c. 222 (LD 46, An Act To Further Protect Consumers from Surprise Medical Bills), repealing the requirement for carriers to pay billed charges that do not exceed the 80th percentile rate if the amount in dispute is less than \$750.

Fiscal impact of rule:

No fiscal impact on state government

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance

Umbrella-Unit: **02-031**

Statutory authority: 24 M.R.S. §§ 2316 and 2321, and 24-A M.R.S. §§ 212, 2412, 2413, 2414, 2736, 5071, 5072, 5073, 5074, 5075, 5077, 5078, 5080, 5083, and 5084

Chapter number/title: **Ch. 425**, Long-Term Care Insurance

Filing number: **2022-076**

Effective date: 5/9/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To increase the notice to policyholders of rate increases from 60 to 90 days prior to the approved rate increase, to amend reporting requirements and to reflect changes in rating standards consistent with June 2014 amendments to the National Association of Insurance Commissioners Model Regulation. The proposal also makes changes to insurers' annual reporting requirements. Several other minor clarifying changes are proposed.

Basis statement:

Chapter 425 has been amended pursuant to the Notice of Rulemaking issued October 22, 2021. A public hearing was convened via audio-visual link on November 23, 2021, and the public comment period was held open until December 6, 2021. Rule 425 was originally adopted on July 1, 2004. The rule was previously amended in 2007 and 2015.

The primary purposes of the proposed 2021 amendments are to increase the notice to policyholders of rate increases from 60 to 90 days prior to the approved rate increase, to amend reporting requirements, and to reflect changes in rating standards consistent with June 2014 amendments to the National Association of Insurance Commissioners Model Regulation. The proposal also makes changes to insurers' annual reporting requirements. Several other minor clarifying changes are proposed.

This rule is proposed in accordance with 24 M.R.S. §§ 2316 and 2321, and by 24-A M.R.S. §§ 212, 2412, 2413, 2414, 2736, 5071, 5072, 5073, 5074, 5075, 5077, 5078, 5080, 5083, and 5084.

Fiscal impact of rule:

None

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance

Umbrella-Unit: **02-031**

Statutory authority: 24-A MRS §§ 212, 731-B(2-B),(7)

Chapter number/title: **Ch. 735** (*New*), Term and Universal Life Insurance Reserve
Financing

Filing number: **2022-019**

Effective date: 2/15/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purposes of the rule are to implement uniform national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, life insurance policies containing guaranteed nonlevel benefits, and universal life insurance policies with secondary guarantees; and to ensure that there is adequate security as to each such financing arrangement as set out in the rule.

Basis statement:

Superintendent of Insurance Eric Cioppa hereby adopts rule chapter 735, “Term and Universal Life Insurance Reserve Financing.” This rule implements in Maine uniform national standards, based on the National Association of Insurance Commissioners Actuarial Guideline XLVIII, for reserve financing arrangements pertaining to life insurance policies with guaranteed nonlevel gross premiums, life insurance policies with guaranteed nonlevel benefits, and universal life insurance policies with secondary guarantees. The rule ensures that all such financing arrangements are adequately secured, including adequate Primary Security as defined in sub-section 4(7).

Fiscal impact of rule:

No fiscal impact on state government.

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 731-B; PL 2021 ch. 16
Chapter number/title: **Ch. 740**, Credit for Reinsurance
Filing number: **2022-027**
Effective date: 3/1/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Superintendent of Insurance Eric Cioppa hereby adopts amendments to chapter 740, “Credit for Reinsurance.” These amendments implement the revisions made to 24-A MRS §731-B by PL 2021 ch. 16, *An Act To Revise Certain Financial Regulatory Provisions of the Maine Insurance Code*. The relevant provisions of chapter 16 clarify the confidentiality of copies of regulatory filings that are confidential in the reinsurer’s country of domicile, and allow credit for reinsurance ceded to reinsurers domiciled in reciprocal jurisdictions, thereby bringing state laws into conformity with the Covered Agreements between the federal government and the European Union and United Kingdom. These amendments to the Insurance Code and to the rule are based on recent amendments to the National Association of Insurance Commissioners Credit for Reinsurance Model Law and Model Regulation. These amendments also make various technical and editorial corrections to the rule.

Pursuant to a Notice of Rulemaking issued on September 20, 2021, Superintendent Cioppa held a public hearing on October 21, 2021, and the public comment period was open until November 1, 2021 at 4:30 p.m.

Two members of the public attended the hearing but neither offered comments. The only written comment was filed by Michelle Carroll Foster, Regional Vice President for State Relations of the American Council of Life Insurers (“ACLI”). ACLI supports the proposed amendments, but noted one necessary technical correction. Subparagraph 6(C)(7)(d) currently requires reinsurers applying for certification in Maine to file three years of audited financial statements. It has been amended to change that period to two years. However, ACLI pointed out that the proposed amendment neglected to make the same change from “three” to “two” in Subparagraph 6(C)(4)(g), referencing the Superintendent’s review of these financial statements. Without the requested correction, the rule would be both inconsistent with the Model Regulation and internally inconsistent.

The correction has been made, and the amendments are otherwise adopted as proposed.

Fiscal impact of rule:

No fiscal impact on state government.

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance

Umbrella-Unit: **02-031**

Statutory authority: 24-A M.R.S. §§ 212 and 2793

Chapter number/title: **Ch. 851**, Clear Choice Designs for Individual and Small Group Health Plans

Filing number: **2022-232**

Effective date: 12/4/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of the proposed amendment is to revise the process for developing health plan cost share designs for individual and, as applicable, small group health plans to conform to amendments to 24-A M.R.S. § 2793 by P.L. 2021, c. 361 § 3 (L.D. 1725, An Act To Clarify the Deferral of the Pooled Market and Link Small Employer Clear Choice to Pooling in the Made for Maine Health Coverage Act), and to make technical changes related to implementation issues observed during the Clear Choice program's first year.

Basis statement:

Acting Superintendent of Insurance Timothy N. Schott hereby adopts amendments to rule Chapter 851, "Clear Choice Designs for Individual and Small Group Health Plans," pursuant to 24-A M.R.S. §§ 212 and 2793. The purpose of the proposed amendments is to revise the process for developing health plan cost share designs for individual and, as applicable, small group health plans to conform to amendments to 24-A M.R.S. § 2793 by P.L. 2021, c. 361 § 3 (L.D. 1725, An Act To Clarify the Deferral of the Pooled Market and Link Small Employer Clear Choice to Pooling in the Made for Maine Health Coverage Act), and to make technical changes related to implementation issues observed during the Clear Choice program's first year.

Fiscal impact of rule:

No fiscal impact on state government.

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 2792(5)
Chapter number/title: **Ch. 856** (*New*), Combination of the Individual and Small Business
Health Insurance Risk Pools
Filing number: **2022-012**
Effective date: 1/24/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose of the proposed rule is to establish the necessary conditions and procedures for implementation of the pooled individual and small group health insurance market, and the extension of Maine Guaranteed Access Reinsurance Association (MGARA) coverage to small group health insurance.

Basis statement:

Superintendent of Insurance Eric Cioppa hereby adopts chapter 856, *Combination of the Individual and Small Business Health Insurance Risk Pools*. This rule implements provisions of the Insurance Code added by PL 2019 ch. 653 (LD 2007), "An Act To Enact the Made for Maine Health Coverage Act and Improve Health Choices in Maine", as amended by PL 2021 ch. 361 (LD 1725), "An Act To Clarify the Deferral of the Pooled Market and Link Small Employer Clear Choice to Pooling in the Made for Maine Health Coverage Act".

Pursuant to a Notice of Rulemaking issued on September 10, 2021, Superintendent Cioppa held a public hearing on October 12, 2021, and the public comment period was open until October 25, 2021 at 4:30 p.m.

The rule was proposed to establish the necessary conditions and procedures for implementation of the pooled individual and small group health insurance market, and the extension of Maine Guaranteed Access Reinsurance Association (MGARA) coverage to small group health insurance as provided in 24-A MRS §3958(1)(A-1). It also authorizes MGARA to implement a retroactive reinsurance program for individual health insurance in 2022 and, if applicable, in any subsequent year in which the pooled market has not been implemented.

Fiscal impact of rule:

No fiscal impact on state government.

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance

Umbrella-Unit: **02-031**

Statutory authority: 24-A MRS §212; PL 2021 ch. 483 part C

Chapter number/title: **Ch. 857** (*New*), Small Business Health Insurance Premium Support Program

Filing number: **2022-049**

Effective date: 4/5/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To establish the necessary conditions and procedures to implement the Small Business Premium Support Program, including: the procedure for allocating the appropriated funding to Maine small group policyholders; setting the conditions and requirements for reimbursement to small group carriers of their provision of premium relief payments to small groups; and setting the conditions and requirements to provide reimbursement to small group carriers of their administrative costs in providing the premium relief payments.

Basis statement:

Superintendent of Insurance Eric A. Cioppa hereby adopts ch. 857, *Small Business Health Insurance Premium Support Program* (the “program”). This rule implements requirements of the program in accordance with 24-A MRS §212 and unallocated language in PL 2021 ch. 483 part C, *An Act To Provide Allocations for the Distribution of State Fiscal Recovery Funds* (LD 1733).

Pursuant to a Notice of Rulemaking issued October 22, 2021, a public hearing was convened via audio-visual link on November 22, 2021, and the public comment period was held open until December 3, 2021.

The rule was proposed to establish the necessary conditions and procedures to implement the Small Business Premium Support Program, including: the procedure for allocating the appropriated funding to Maine small group policyholders; setting the conditions and requirements for reimbursement to small group health insurance carriers of their provision of premium relief credits to small groups; and setting the conditions and requirements to provide reimbursement to small group carriers of their administrative costs in providing the premium relief credits.

Fiscal impact of rule:

PL 2021 c. 483 §C-2 allocates \$39,000,000 over FY 2021-22 and FY 2022-23 to the Bureau of Insurance to use to carry out the purposes of this program. The Bureau will oversee the distribution of premium relief payments to small group health insurers, and will monitor and audit the insurers’ compliance with the program.

Business owners who provide health insurance to their employees in Maine’s small group health insurance market will receive health insurance premium relief payments for 18 months starting November 2021. Business owners must share these payments with their enrolled employees proportionate to their contributions to group coverage.

The rule will provide health insurance premium relief to businesses and their enrolled employees in Maine’s small group health insurance market.