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## **An Act To Repeal the Provisions in the Insurance Laws Governing Guaranteed Issue and Community Rating**

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

**Sec. 1. 5 MRSA §12004-G, sub-§14-F**, as enacted by PL 2007, c. 629, Pt. A, §1, is repealed.

**Sec. 2. 24-A MRSA §423-E**, as enacted by PL 2007, c. 629, Pt. A, §2, is repealed.

**Sec. 3. 24-A MRSA §2736-C, sub-§1, ¶B**, as enacted by PL 1993, c. 477, Pt. C, §1 and affected by Pt. F, §1, is repealed.

**Sec. 4. 24-A MRSA §2736-C, sub-§2, ¶A**, as amended by PL 1993, c. 547, §3, is further amended to read:

A. A carrier issuing an individual health plan after December 1, 1993 must file the carrier's community rate and any formulas and factors used to adjust that rate with the superintendent prior to issuance of any individual health plan.

**Sec. 5. 24-A MRSA §2736-C, sub-§2, ¶B**, as amended by PL 2007, c. 629, Pt. A, §3, is further amended to read:

B. A carrier may not vary the premium rate due to the ~~gender, health status, occupation or industry,~~ claims experience or policy duration of the individual.

**Sec. 6. 24-A MRSA §2736-C, sub-§2, ¶C**, as amended by PL 2001, c. 410, Pt. A, §1 and affected by §10, is further amended to read:

C. A carrier may vary the premium rate due to ~~gender, health status, age, occupation or industry,~~ geographic area, smoking status and family membership. A change in the premium rate is not permitted on the basis of changes in health status after the policy is issued. Renewal of an individual health plan is guaranteed pursuant to section 2850-B. The superintendent may adopt rules setting forth appropriate methodologies regarding rate discounts based on smoking status. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter H-A2-A.

**Sec. 7. 24-A MRSA §2736-C, sub-§2, ¶D**, as amended by PL 2007, c. 629, Pt. A, §4, is repealed.

**Sec. 8. 24-A MRSA §2736-C, sub-§2, ¶E**, as amended by PL 1999, c. 44, §1 and affected by §2, is further amended to read:

E. A separate ~~community~~ premium rate may be established for individuals eligible for Medicare Part A without paying a premium; however, this rate may not be applied if both the Medicare eligibility date and the issue date are prior to July 1, 2000.

**Sec. 9. 24-A MRSA §2736-C, sub-§2, ¶F**, as amended by PL 2007, c. 629, Pt. M, §4, is repealed.

**Sec. 10. 24-A MRSA §2736-C, sub-§2, ¶G**, as enacted by PL 2007, c. 629, Pt. A, §5, is repealed.

**Sec. 11. 24-A MRSA §2736-C, sub-§2, ¶H**, as enacted by PL 2007, c. 629, Pt. A, §6, is repealed.

**Sec. 12. 24-A MRSA §2736-C, sub-§2, ¶I** is enacted to read:

I. A carrier that offered individual health plans prior to January 1, 2012 may close its individual book of business sold prior to January 1, 2012 and may establish a separate rate for individuals applying for coverage under an individual health plan on or after January 1, 2012.

**Sec. 13. 24-A MRSA §2736-C, sub-§2-A**, as enacted by PL 2007, c. 629, Pt. A, §7, is repealed.

**Sec. 14. 24-A MRSA §2736-C, sub-§3**, as corrected by RR 2001, c. 1, §30, is amended to read:

**3. Guaranteed renewal.** Carriers providing individual health plans must meet the following requirements on issuance and renewal.

~~A. Coverage must be guaranteed to all residents of this State other than those eligible without paying a premium for Medicare Part A. On or after January 1, 1998, coverage must be guaranteed to all legally domiciled federally eligible individuals, as defined in section 2848, regardless of the length of time they have been legally domiciled in this State. Except for federally eligible individuals, coverage need not be issued to an individual whose coverage was terminated for nonpayment of premiums during the previous 91 days or for fraud or intentional misrepresentation of material fact during the previous 12 months. When a managed care plan, as defined by section 4301-A, provides coverage a carrier may:~~

~~(1) Deny coverage to individuals who neither live nor reside within the approved service area of the plan for at least 6 months of each year; and~~

~~(2) Deny coverage to individuals if the carrier has demonstrated to the superintendent's satisfaction that:~~

~~(a) The carrier does not have the capacity to deliver services adequately to additional enrollees within all or a designated part of its service area because of its obligations to existing enrollees; and~~

~~(b) The carrier is applying this provision uniformly to individuals and groups without regard to any health-related factor.~~

~~A carrier that denies coverage in accordance with this paragraph may not enroll individuals residing within the area subject to denial of coverage or groups or subgroups within that area for a period of 180 days after the date of the first denial of coverage.~~

B. Renewal is guaranteed, pursuant to section 2850-B.

C. ~~A carrier is exempt from the guaranteed issuance requirements of paragraph A provided that the following requirements are met.~~

~~(1) The carrier does not issue or deliver any new individual health plans on or after the effective date of this section;~~

~~(2) If any individual health plans that were not issued on a guaranteed renewable basis are renewed on or after December 1, 1993, all such policies must be renewed by the carrier and renewal must be guaranteed after the first such renewal date; and~~

~~(3) The carrier complies with the rating practices requirements of subsection 2.~~

D. ~~Notwithstanding paragraph A, carriers~~Carriers offering supplemental coverage for the Civilian Health and Medical Program for the Uniformed Services, CHAMPUS, are not required to issue this coverage if the applicant for insurance does not have CHAMPUS coverage.

**Sec. 15. 24-A MRSA §2736-C, sub-§9**, as enacted by PL 1995, c. 570, §7, is amended to read:

**9. Exemption for certain associations.** The superintendent may exempt a group health insurance policy or group nonprofit hospital or medical service corporation contract issued to an association group, organized pursuant to section 2805-A, from the requirements of ~~subsection 3, paragraph A; subsection 6, paragraph A; and subsection 8 if:~~

A. ~~Issuance and renewal~~Renewal of coverage under the policy or contract is guaranteed to all members of the association who are residents of this State and to their dependents;

B. Rates for the association comply with the premium rate requirements of subsection 2 or are established on a nationwide basis and substantially comply with the purposes of this section, except that exempted associations may be rated separately from the carrier's other individual health plans, if any;

C. The group's anticipated loss ratio, as defined in subsection 5, is at least 75%;

D. The association's membership criteria do not include age, health status, medical utilization history or any other factor with a similar purpose or effect;

E. The association's group health plan is not marketed to the general public;

F. The association does not allow insurance agents or brokers to market association memberships, accept applications for memberships or enroll members, except when the association is an association of insurance agents or brokers organized under section 2805-A;

G. Insurance is provided as an incidental benefit of association membership and the primary purposes of the association do not include group buying or mass marketing of insurance or other goods and services; and

H. Granting an exemption to the association does not conflict with the purposes of this section.

**Sec. 16. 24-A MRSA §2808-B, sub-§1, ¶B**, as enacted by PL 1991, c. 861, §2, is repealed.

**Sec. 17. 24-A MRSA §2808-B, sub-§2, ¶B**, as amended by PL 1993, c. 477, Pt. B, §1 and affected by Pt. F, §1, is further amended to read:

B. 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.

**Sec. 18. 24-A MRSA §2808-B, sub-§2, ¶C**, as amended by PL 2001, c. 410, Pt. A, §3 and affected by §10, is further amended to read:

C. A carrier may vary the premium rate due to gender, health status, age, occupation or industry, geographic area, family membership, smoking status, participation in wellness programs and group size. A change in the premium rate is not permitted on the basis of changes in health status after the policy is issued. Renewal of a small group health plan is guaranteed pursuant to section 2850-B. The superintendent may adopt rules setting forth appropriate methodologies regarding rate discounts pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A2-A~~.

**Sec. 19. 24-A MRSA §2808-B, sub-§2, ¶D**, as amended by PL 2001, c. 410, Pt. A, §4 and affected by §10, is repealed.

**Sec. 20. 24-A MRSA §2808-B, sub-§2, ¶D-1**, as amended by PL 2001, c. 410, Pt. A, §5 and affected by §10, is repealed.

**Sec. 21. 24-A MRSA §2808-B, sub-§2, ¶D-2**, as reallocated by RR 1997, c. 1, §22, is amended to read:

D-2. ~~Notwithstanding the requirements of paragraph D,~~ Rates with respect to employees whose work site is not in this State may be based on area adjustment factors appropriate to that location.

**Sec. 22. 24-A MRSA §2808-B, sub-§2, ¶E**, as amended by PL 2001, c. 258, Pt. E, §4, is further amended to read:

E. The superintendent may authorize a carrier to establish a separate ~~community~~premium rate for an association group organized pursuant to section 2805-A or a trustee group organized pursuant to section 2806, as long as association group membership or eligibility for participation in the trustee group is not conditional on health status, claims experience or other risk selection criteria and all small group health plans offered by the carrier through that association or trustee group:

- (1) Are otherwise in compliance with the premium rate requirements of this subsection; and
- (2) Are offered on a guaranteed issue basis to all eligible employers that are members of the association or are eligible to participate in the trustee group except that a professional association may require that a minimum percentage of the eligible professionals employed by a subgroup be members of the association in order for the subgroup to be eligible for issuance or renewal of coverage through the association. The minimum percentage must not exceed 90%. For purposes of this subparagraph, "professional association" means an association that:
  - (a) Serves a single profession that requires a significant amount of education, training or experience or a license or certificate from a state authority to practice that profession;
  - (b) Has been actively in existence for 5 years;
  - (c) Has a constitution and bylaws or other analogous governing documents;
  - (d) Has been formed and maintained in good faith for purposes other than obtaining insurance;
  - (e) Is not owned or controlled by a carrier or affiliated with a carrier;
  - (g) Has a least 1,000 members if it is a national association; 200 members if it is a state or local association;
  - (h) All members and dependents of members are eligible for coverage regardless of health status or claims experience; and
  - (i) Is governed by a board of directors and sponsors annual meetings of its members.

Producers may only market association memberships, accept applications for membership or sign up members in the professional association where the individuals are actively engaged in or directly related to the profession represented by the professional association.

**Sec. 23. 24-A MRSA §2808-B, sub-§2, ¶H** is enacted to read:

H. A carrier that offered small group health plans prior to January 1, 2012 may close its small group book of business sold prior to January 1, 2012 and may establish a separate rate for small groups applying for coverage under a small group health plan on or after January 1, 2012.

**Sec. 24. 24-A MRSA §2808-B, sub-§2-A**, as amended by PL 2009, c. 244, Pt. C, §7 and c. 439, Pt. D, §1, is further amended to read:

**2-A. Rate filings.** A carrier offering small group health plans shall file with the superintendent the community rates for each plan and every rate, rating formula and classification of risks and every modification of any formula or classification that it proposes to use.

A. Every filing must state the effective date of the filing. Every filing must be made not less than 60 days in advance of the stated effective date, unless the 60-day requirement is waived by the superintendent. The effective date may be suspended by the superintendent for a period of time not to exceed 30 days.

B. A filing and all supporting information, except for protected health information required to be kept confidential by state or federal statute and except for descriptions of the amount and terms or conditions or reimbursement in a contract between an insurer and a 3rd party, are public records notwithstanding Title 1, section 402, subsection 3, paragraph B and become part of the official record of any hearing held pursuant to subsection 2-B, paragraph B or F.

C. Rates for small group health plans must be filed in accordance with this section and subsections 2-B and 2-C for premium rates effective on or after July 1, 2004, ~~except that the filing of rates for small group health plans are not required to account for any payment or any recovery of that payment pursuant to subsection 2-B, paragraph D and former section 6913 for rates effective before July 1, 2005.~~

**Sec. 25. 24-A MRSA §2808-B, sub-§2-B, ¶D**, as amended by PL 2007, c. 629, Pt. M, §8, is repealed.

**Sec. 26. 24-A MRSA c. 54**, as amended, is repealed.

**Sec. 27. 24-A MRSA §4202-A, sub-§10, ¶B**, as amended by PL 1993, c. 645, Pt. A, §5, is further amended to read:

B. Is compensated, except for reasonable copayments, for basic health care services to enrolled participants solely on a predetermined periodic rate basis, except that the organization is not prohibited from having a provision in a group contract allowing an adjustment of premiums based upon the actual health services utilization of the enrollees covered under the contract, and except that such a contract may not be sold to an eligible group subject to the community rating requirements of section 2808-B;

**Sec. 28. 24-A MRSA §4212, sub-§2, ¶C**, as enacted by PL 1995, c. 332, Pt. O, §6, is amended to read:

C. When the provisions of the State's community rating law are applicable, as provided by section 2736-C, subsection 3, paragraph B and section 2808-B, subsection 4, paragraph B; or

**Sec. 29. 24-A MRSA §4222-B, sub-§3**, as enacted by PL 1995, c. 332, Pt. O, §8, is amended to read:

3. The requirements of sections 2736-C and 2808-B, community rating law, apply to health maintenance organizations, except that a health maintenance organization is not required to offer coverage or accept applications from an eligible group or individual located outside the health maintenance organization's approved service area.

**Sec. 30. Application.** The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2012. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

## SUMMARY

This bill repeals the laws governing guaranteed issue and community rating for individual health insurance. The bill also repeals the laws governing community rating in the small group health insurance market.

The bill applies to all individual and small group health insurance policies, certificates and contracts issued or renewed on or after January 1, 2012.