

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

'An Act To Help Maine Consumers Comparison Shop for Certain Health Care Procedures and Lower Health Care Costs'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'**Sec. 1. 24-A MRSA §4318-A** is enacted to read:

§ 4318-A. Shared savings incentive program

Beginning January 1, 2018, a carrier offering a health plan in this State shall provide a shared savings incentive program that, at a minimum, meets the requirements of this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Comparable health care service" means a health care service for which a carrier offers a shared savings incentive payment under a program established by the carrier pursuant to this section. "Comparable health care service" includes, at a minimum, a health care service in the following categories:

(1) Physical and occupational therapy services;

(2) Obstetrical and gynecological services;

(3) Radiology and imaging services; and

(4) Laboratory services.

B. "Program" means the shared savings incentive program established by a carrier pursuant to this section.

2. Filing with superintendent. Prior to offering the program to any enrollee, a carrier shall file a description of the program established by the carrier pursuant to this section with the superintendent in the manner determined by the superintendent. The superintendent may review the filing made by the carrier to determine if the carrier's program complies with the requirements of this section. Upon request by a carrier before January 1, 2018, the superintendent may grant a waiver from the requirement in subsection 3 that the program be made available as a component of all health plans if the superintendent determines that a waiver is justified on the basis of criteria specified in rules adopted pursuant to

subsection 8. Filings and waiver requests, and any supporting documentation, made pursuant to this subsection are confidential until the filing has been reviewed or the waiver request has been granted or denied by the superintendent in the same manner as are form filings under section 2412, subsection 8.

3. Availability of program; notice to enrollees. Except for a health plan offered through the federally facilitated marketplace established pursuant to the federal Affordable Care Act, a carrier shall make the program available as a component of all health plans offered by the carrier in this State unless a waiver has been granted by the superintendent in accordance with subsection 2. A carrier may make the program available as a component of any health plans offered by the carrier through the federally facilitated marketplace. Annually at enrollment or renewal, a carrier shall provide notice about the availability of the program to any enrollee who is enrolled in a health plan eligible for the program.

4. Incentive program required. A carrier shall develop and implement a program that provides incentives for an enrollee in a health plan who elects to receive a comparable health care service that is covered by the plan from a provider that charges less than the average price paid by that carrier for that comparable health care service.

A. Incentives may be calculated as a percentage of the difference in price, as a flat dollar amount or by some other reasonable methodology approved by the superintendent. The carrier may provide the incentive as a cash payment to the enrollee or as a reduction in the enrollee's cost sharing or premium payment. For services that are paid for by the enrollee under the plan's deductible provision, the carrier may provide the incentive by crediting a higher amount than the provider's actual charge toward the enrollee's deductible.

B. The shared savings incentive program must provide enrollees with at least 40% of the carrier's saved costs for each service or category of comparable health care service. Compliance with this requirement may be demonstrated in the aggregate of plans offered in this State based on a reasonably anticipated mix of claims. A carrier is not required to provide a payment or credit to an enrollee when the carrier's saved cost is \$50 or less.

C. A carrier may determine the methodology for calculating the average price paid by the carrier for a comparable health care service and the process an enrollee must use to document whether the health care provider chosen by an enrollee charges less for the comparable health care service than the average price paid by that carrier.

5. Out-of-network provider. If an enrollee elects to receive a comparable health care service from an out-of-network provider that results or would otherwise result in a shared savings incentive payment, the 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.

6. No administrative expense. A shared savings incentive payment made by a carrier in accordance with this section is not an administrative expense of the carrier for rate development or rate filing purposes.

7. Report. Beginning March 1, 2019 and annually on March 1st of each year thereafter, a carrier shall file with the superintendent for the most recent calendar year the total number of shared savings incentive payments made pursuant to this section, the use of comparable health care services by category of service for which shared savings incentive payments are made, the total shared savings incentive payments made to enrollees, the average amount of shared savings incentive payments made by category of service, the total savings achieved below the average prices by category of service and the total number and percentage of a carrier's enrollees that participated. Beginning April 1, 2019 and annually by April 1st of each year thereafter, the superintendent shall submit an aggregate report for all carriers containing the information required by this subsection to the joint standing committee of the Legislature having jurisdiction over health insurance matters.

8. Rules. The superintendent may adopt rules as necessary to implement this section, including rules establishing criteria for a waiver under subsection 2. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

SUMMARY

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 4 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.

FISCAL NOTE REQUIRED
(See attached)