



# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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Legislative Document

No. 1373

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H.P. 887

House of Representatives, March 28, 2023

**An Act to Allow Employers to Shop for Competitive Health Plan  
Options by Expanding the Disclosure of Health Claims Information**

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Reference to the Committee on Health Coverage, Insurance and Financial Services  
suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative MORRIS of Turner.  
Cosponsored by Senator: BRAKEY of Androscoggin.

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

2 **Sec. 1. 24-A MRSA §2215, sub-§1, ¶L**, as enacted by PL 1997, c. 677, §3 and  
3 affected by §5, is amended to read:

4 L. To a group policyholder for the purpose of reporting claims experience or  
5 conducting an audit of the regulated insurance entity's operations or services, only if  
6 the information disclosed is aggregate information and reasonably necessary for the  
7 group policyholder to conduct the review or audit, and to a group policyholder or  
8 employer to the extent necessary for reporting loss information in compliance with  
9 section 2803-A;

10 **Sec. 2. 24-A MRSA §2803-A**, as amended by PL 2015, c. 420, §2, is further  
11 amended to read:

12 **§2803-A. Loss information**

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

15 A. "Insurance policy" means the insurance policy relating to the loss information  
16 requested pursuant to this section.

17 A-1. "High-cost claimant" means an individual insured whose aggregate claims exceed  
18 \$50,000 during the 12-month period preceding the request for loss information.

19 B. "Loss information" means the aggregate claims experience of the group insurance  
20 policy or contract. "Loss information" includes the amount of premium received, the  
21 amount of claims paid and the loss ratio. "Loss information" does not include any  
22 information or data pertaining to the medical diagnosis, treatment or health status that  
23 identifies an individual covered under the group contract or policy.

24 C. "Loss ratio" means the ratio between the amount of premium received and the  
25 amount of claims paid by the insurer under the group insurance contract or policy.

26 **2. Disclosure of basic loss information.** Upon written request, every insurer shall  
27 provide loss information, in accordance with the minimum requirements of paragraph A,  
28 concerning a group policy or contract to its policyholder, to a former policyholder or to a  
29 school administrative unit pursuant to Title 20-A, section 1001, subsection 14, paragraph  
30 E within 21 business days of the date of the request. This subsection does not apply to a  
31 former policyholder whose coverage terminated more than 18 months prior to the date of  
32 a request. For the purposes of this subsection, "school administrative unit" has the same  
33 meaning as in Title 20-A, section 1, subsection 26.

34 A. The loss information provided by an insurer must include:

35 (1) A minimum of 24 months of claims data or, if that period is less than 24  
36 months, claims data for the period the policyholder, former policyholder or school  
37 administrative unit has been insured by the insurer;

38 (2) The loss ratio by month with medical and pharmacy claims identified  
39 individually;

40 (3) High-cost claimant reports that coincide with the time frames of any loss ratio  
41 reports provided. High-cost claimant reports must include, at a minimum,

1 enrollment status of active or terminated insureds, primary diagnosis and sufficient  
2 data regarding prognosis, to the extent the prognosis is known, to estimate  
3 anticipated claim cost for the 12-month coverage period immediately following the  
4 report request; and

5 (4) A statement describing precertification requests for hospital stays of 5 days or  
6 longer that were made during the 30-day period preceding the date of the report  
7 request.

8 **3. Transmittal of request.** An insurance contractor or producer or other authorized  
9 representative who receives a request for loss information in accordance with this section  
10 shall transmit the request for loss information to the insurer within 4 business days.

11 A. An insurer receiving a disclosure request under subsection 2 may transmit high-  
12 cost claimant data directly to another insurer or underwriter, or to a contractor or  
13 producer that has signed with that insurer a business associate agreement that is in  
14 accordance with 45 Code of Federal Regulations, Sections 164.502(e) and 164.504(e),  
15 for the purpose of securing quotes, developing actuarial reports, facilitating claim  
16 management or other activities related to quoting or managing the group health plan  
17 sponsored by the requesting group policyholder.

18 B. A group policyholder receiving any high-cost claimant reports shall take all  
19 precautions and actions required under 45 Code of Federal Regulations, Section  
20 164.504(f) with respect to the privacy and security of protected health information of  
21 a high-cost claimant, notwithstanding any exemption that may apply to the  
22 policyholder under federal law. An insurer that has received a disclosure request under  
23 subsection 2 may not transmit high-cost claimant data to any group policyholder that  
24 is not in compliance with this paragraph.

25 **4. Exception.** An insurer is not required to provide the loss information described in  
26 this section for a group that is eligible for small group coverage pursuant to section 2808-B;

27 A. For a group that is eligible for small group coverage pursuant to section 2808-B; or

28 B. If the insurer is otherwise prohibited from disclosing that information under state  
29 or federal law.

## 30 SUMMARY

31 This bill expands the scope of loss information that must be provided to an employer  
32 to facilitate the employer's shopping for group health insurance coverage, including  
33 disclosure of a minimum of 24 months of claims data, to the extent possible, and  
34 information related to high-cost claimants.