

Eric Jermyn  
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Raymond, Maine 04071

Joint Standing Committee on Health Coverage, Insurance and Financial Services  
Comments on LD 1906

Senator Bailey, Representative Mathieson, and Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services.

My name is Eric Jermyn. I'm a licensed health and life consultant and producer here in the State of Maine. I have worked in the health insurance and employee benefits industry for 31 years. In my career, I have worked with Maine employers of every size and funding type.

I'm writing today as a concerned citizen, consultant and producer to give my strong support of LD 1906.

I work with many employers who have self-funded employee benefit plans and they are consistently frustrated by the contract terms of their third party administrators and pharmacy benefit managers. The contract language frequently includes limitations on audit rights making it virtually impossible to identify overpayments or to determine contract compliance. Some of the larger organizations are able to negotiate audit rights, but the vast majority lack the size and market clout needed to garner these terms.

LD 1906 addresses these concerns by prohibiting restrictive audit provisions in TPA and PBM contracts. Furthermore, it mandates that TPAs and PBMs provide employers with the data they need to effectively manage their claims and their overall health plan.

Employers who maintain self-funded plans have a fiduciary responsibility to manage their plans in the best interest of plan participants. Limiting their ability to view, review and audit the claims spend (which represents approximately 85% of the plan expense) creates an obvious impediment to fulfilling this fiduciary responsibility.

Among the more common limitations imposed by TPAs and PBMs are:

- Frequency of claim audits
- Data to be viewed
- Auditor selection
- Volume of claims to be audited

In addition to the limitations listed above, some TPAs and PBMs add language giving them veto authority over auditors and how they are paid, methodology used in audits, time period limits and other limitations that challenge employers' ability to meet their fiduciary obligations.

LD 1906 will protect employers' audit rights and ensure their ability to effectively manage their health plans. It will prohibit TPAs and PBMs from including restrictive contract provisions with their self-insured clients. LD 1906 will ensure that employers have the data they or their advisors need to adequately monitor claims payments made within their health plans. Some employers engage other firms to monitor PBM payments to ensure contract compliance. They do this at their own expense and these programs can result in savings of 20% or more due to inaccurate claims payments.

LD 1906 will also allow employers to review claims for claimants incurring claims above \$50,000 prior to payment. High-cost claimants represent a major expense for employers and identification of errors in these claims is a powerful tool in the management of claims spend.

It's important to note that employers directly cover the cost of claims audits. They are simply in need of clear line of sight to their data, so that they can meet their fiduciary duty to the members of their health plans.

It would be easy to argue that the contract language should be and could be negotiated on an employer by employer basis. Unfortunately, there are aspects of contract negotiations that are driven by the size of a client...the larger the employer, the greater the willingness of the TPA or PBM to negotiate terms. That means smaller self-funded plans are generally limited to standard contract language... "sign the contract or don't," that's their only choice. LD 1906 would level the playing field for smaller self-funded health plans. A small employer's fiduciary obligations are no less than that of a large employer. LD 1906 would provide smaller self-funded employers with audit and review powers typically afforded to only the largest of self-funded plans.

I want to be clear that I am writing in support of LD 1906 as a concerned citizen, licensed consultant and licensed producer. My comments here represent my personal opinion and do not reflect the opinions of any other person or entity.

Thank you for your attention to this matter and consideration of LD 1906. I firmly believe that passage of this legislation will empower Maine employers to monitor the performance of their self-funded health plans and meet the high bar of fiduciary responsibility.

Sincerely,

Eric Jermyn

Raymond, Maine

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