



HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1400
TTY: Maine Relay 711

Margaret O'Neil

21 Sheila Circle
Saco, ME 04072

Phone: (207) 590-1679

Margaret.ONeil@legislature.maine.gov

April 24, 2023

Testimony of Rep. Maggie O'Neil supporting
**LD 1498, An Act to Create an Advocacy and Complaint Process for
Health Care Providers Within the Bureau of Insurance**
Before the Joint Standing Committee on Health Coverage, Insurance and Financial Services

Senator Bailey, Representative Perry, and members of the Health Coverage, Insurance and Financial Services Committee, I am Rep. Maggie O'Neil. I represent House District 129, in Saco. Thank you for the opportunity to speak in favor of **LD 1498, An Act to Create an Advocacy and Complaint Process for Health Care Providers Within the Bureau of Insurance**.

Rep. Perry and I both submitted bills to address this problem, and I was glad for her to take the lead on it as House Chair. During the Anthem debacle, local providers reached out to me at a total loss about what to do. They contacted the Bureau for help and learned that they were not able to file a complaint as a provider. That was only possible for insurance consumers. The Bureau told providers they were meeting with Anthem about it and helped by forwarding their names to Anthem, but that was the best they could do. Glaring events like one help identify problems that need to be solved, and they push us to act.

As you know, billing issues with Anthem highlighted a systemic problem that independent providers were already facing. It takes an excessive amount of administrative work for providers to get paid. When insurers breach contracts or don't follow the law, independent providers don't have the same supports that consumers have. Right now, a consumer can file an individual complaint, but if a provider experiences problems with an insurance company that are more general in nature, or that involve a number of patients or claims, they do not have anywhere to go. Providers need an analogous resource.

Section 4321¹ establishes the Consumer Health Care Division. One of the division's duties is to assist consumers with complaints related to health plans. Rep. Perry and I drafted this bill to match the resources available to consumers and to reflect the complaint process that New

¹ MRSA 24-A Section 4321: <https://legislature.maine.gov/legis/statutes/24-A/title24-Asec4321.html>

Hampshire offers to providers. Other states, including Texas, California, and New York, have a provider complaint process.

A power imbalance exists between consumers and large insurance companies. With consumer complaints, regulators balance the scales by helping consumers navigate confusing and time-consuming administrative processes. We do this because it harms consumers when the market is not working efficiently.

Likewise, a similar power imbalance exists between independent providers and insurers. Small, independent providers lack the time and administrative resources to go up against giant insurance companies. Small businesses also lack the financial resources to enforce contractual breaches against insurers. Despite this imbalance, we leave providers to fend for themselves. From a regulatory standpoint, it is not effective. We want to be able to identify harmful market conduct and address it.

Today, you may hear that this is simply a “contracts issue” between private parties. That is a farce. These contracts are not a negotiation amongst equals at a bargaining table. These are form contracts signed between David and Goliath. Small businesses have zero ability to negotiate with large insurance companies. Independent providers are forced to choose to be in-network and accept the terms provided or not be in-network. The imbalance of power only continues when providers send insurers a bill, and they refuse to pay. Providers need a resource to assist them as they navigate systemic issues, such as unpaid claims. That’s where the regulator should come in.

This power imbalance affects consumers when we are not able to access care as a result. When providers are forced to focus disproportionate time on administrative barriers, patients ultimately get hurt. With proper regulation, insurance consumers will be able to use the insurance they paid for to access health care.

We are talking about small businesses that provide essential health care across the state. As more small providers close their doors, Mainers have fewer options for essential health care. As just one example, think about an LCSW who has a small practice. They treat patients covered by MaineCare and private insurance. Private insurance patients help that practice pay their bills and treat more MaineCare patients. When they face systemic nonpayment and administrative difficulty billing private insurance, their survival is threatened. This is what it means for patients: if the LCSW closes their practice, patients who are struggling are left with nowhere to go. Wait lists are long and it takes time to build a new relationship with a provider. When these systems break down, we see more people showing up in our emergency rooms, shelters, and the criminal justice system due to unmet needs. This is just one kind of provider that we need to protect.

The bottom line is that we need to figure out how to provide support for providers. They need this and so do the patients they serve. Thank you.



**The State of New Hampshire
Insurance Department**

21 South Fruit St., Suite 14
Concord NH 03301-2430

Email: consumerservices@ins.nh.gov

Toll Free: 800-852-3416

Phone: 603-271-2261; Fax: 603-271-7066

TDD Access: Relay NH 1-800-735-2964

Website: www.nh.gov/insurance

Christopher R. Nicolopoulos
Commissioner

David J. Bettencourt
Deputy Commissioner

Health Care Provider Complaints

Important Information regarding the Insurance Department's Consumer Services Unit

The Insurance Department's primary responsibility is to enforce the insurance laws and rules of the state. Consistent with that responsibility, the Department is prepared to address health care provider concerns which may be specific to individual patients – such as, denied claims and pre-authorization requests – or which may have a market-wide impact – such as unnecessary credentialing delays and carrier misapplication of accepted, medical standards (i.e., ASAM and MHPEA criteria).

In support of the Department's commitment to health care providers (HCP's), the Consumer Services Division (CSD) fulfills a threefold mission: educate providers and consumers about insurance products; assist those who request help navigating the complexities and intricacies of the health insurance industry; and investigate complaints involving the Department's licensees.

If you or one of your patients have a question, issue of concern or need assistance, please contact the Department's Consumer Services Unit at 800-852-3416 or via email at consumerservices@ins.nh.gov. If you believe one of the Department's licensees has violated a New Hampshire insurance law or regulation or if you wish to submit a formal complaint for any reason, please submit a Health Care Provider Complaint Form.

Upon receipt of your submission, the CSO assigned to your case will investigate your concern or forward your grievance to another Insurance Department business unit for consideration. In either case, you will receive written correspondence from the Department, informing you of the outcome of the Department's consideration or investigation. Please note, while not all submissions rise to the level of a formal complaint, the Department treats all submissions as confidential matters pursuant RSA 400-A:16.

If, after submitting your complaint, you have any questions, issues or concerns, do not hesitate to contact a CSO, toll free, at 800-852-3416.



The State of New Hampshire Insurance Department

21 South Fruit Street, Suite 14; Concord, NH 03301
Tel.: (603) 271-2261 Fax: (603) 271-7066 TDD Access Relay NH: 1-800-735-2964

General Instructions for the submittal of Health Care Provider Complaints

Grievances involving Health Care Providers fall into one of two (2) categories –Provider Complaint and Marketplace Complaint.

Health Care Provider Complaint – A formal grievance, *related to patients or their claims*, submitted to the NHID directly by a health care provider.

1. Whereas this category of grievance relates to patients or their claims, the complainant (the provider) must also submit a “Release of Information Form” to the NHID with the requisite “Health Care Provider Complaint Form.” This will permit the NHID to share information obtained about the patient’s claim with the provider.
2. If the NHID receives a properly completed “Health Care Provider Complaint Form” and “Release of Information Form,” the NHID will investigate the provider’s grievance and shall provide the complainant (the provider) a response. The Department’s response may include documents related to the patient’s claim and may contain personal information, including personal health information (PHI).
3. If the requisite “Release of Information Form” is not received, the NHID will investigate the provider’s grievance, but shall limit its response to the complainant (provider) to a disposition finding (e.g., “The Department has investigated your allegations of [description of allegation] and did not find any violation of New Hampshire insurance laws or regulations.”).

Marketplace Complaint – A formal grievance, *unrelated* to patients or their claims which expresses dissatisfaction with the insurance marketplace or an NHID licensee, submitted to the NHID directly by a provider.

1. Whereas this grievance category does not relate to patients or their claims, a “Release of Information” is not required.
2. The NHID’s Customer Services Unit will record all Marketplace Complaints and refer the cases to the appropriate NHID business Unit (i.e., Customer Services, Market Conduct, LAH Legal, etc.) for appropriate action.
 - If a Consumer Services investigation is conducted, the investigating Consumer Services Officer will provide the complainant (provider) a response which summarizes the disposition of the Department’s findings (e.g., “The Department has investigated your allegations of [description of allegation] and did not find any violation of New Hampshire insurance laws or regulations.”).
 - If your concern is forwarded to an NHID business unit other than Consumer Services, you will be contacted by a representative of that unit only if there is a need for additional detail about the situation you describe. Be advised, however, the information you submitted will be reviewed and considered by the Department, as it identifies opportunities and priorities for regulatory action.

Grievance Submittal – All requisite forms shall be submitted to the New Hampshire Insurance Department, Attn: Customer Services Unit, via post, fax or email at consumerservices@ins.nh.gov.



**The State of New Hampshire
Insurance Department**

21 South Fruit Street, Suite 14; Concord, NH 03301
Tel.: (603) 271-2261 Fax: (603) 271-7066 TDD Access Relay NH: 1-800-735-2964

HEALTH CARE PROVIDER COMPLAINT FORM

Section I – Health Care Provider (HCP) Information

Provider’s Name: _____ Name of Practice: _____

Provider’s NPI #: _____ Phone #: (____) _____ Email: _____

Provider’s Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Applicant’s Name: _____ Applicant’s Email: _____

Section II – Respondent or Health Carrier Information - Who is the complaint against?

Respondent’s Name: _____

Respondent’s Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Respondent’s Phone Number: (____) _____

Have you attempted to resolve this matter with the respondent?

No Yes · If yes, on what date? _____

Name of individual you spoke with, if known: _____

Telephone Number (____) _____ Email: _____



The State of New Hampshire Insurance Department

21 South Fruit Street, Suite 14; Concord, NH 03301
Tel.: (603) 271-2261 Fax: (603) 271-7066 TDD Access Relay NH: 1-800-735-2964

RELEASE OF INFORMATION FORM

Insured / Claimant Information

My Name: (Last) _____ (First) _____ (M.I.) _____

My Mailing Address: _____

City: _____ State: _____ Zip Code: _____

My Phone No. (_____) _____ My eMail Address: _____

Insurance Information

Insurance Company Name: _____ Policy Number: _____

Insurance Company Phone No. (_____) _____ Claim Number: _____

CONSENT AND RELEASE

Must be signed by the individual who is **RELEASING** insurance information

I hereby **release** my insurance information to _____ and I authorize the New Hampshire Insurance Department (NHID) to provide to this individual any insurance information related to my insurance claim described below and communications received from the insurance company, its agents or representatives. I understand that this information may include personal financial information, medical records, personal health information or other confidential information. I understand that it is possible that the person receiving this information may re-disclose this information to others. I discharge and release the NHID from any responsibility or liability related to the release of these records or any re-disclosure.

Printed Name

Signature

Date

ACKNOWLEDGEMENT

Must be signed by the individual who will **RECEIVE** insurance information

I acknowledge that the above Release of Information will permit me to **receive** insurance information related to a claim filed by the individual signing the Release of Information. I understand that the NHID cannot disclose insurance information, if a Release of Information is not signed. I also understand the information I may receive may contain personal financial information, medical records, personal health information, or other confidential information.

Printed Name

Signature

Date