STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
BUREAU OF INSURANCE

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Senator Donna Bailey, Senate Chair
Representative Anne Perry, House Chair
Joint Standing Committee on Health Coverage, Insurance and Financial Services
100 State House Station
Augusta, ME 04333-0100

Re: L.D. 0444, "An Act to Designate First Responders and Other Public Safety Professionals as a Special Risk Population for the Purposes of Improving Insurance Coverage for the Effects of Trauma"

Dear Senator Bailey, Representative Perry, and Members of the Committee:

The Bureau of Insurance is writing to provide comments on L.D. 0444. This bill would designate certain public safety professionals and first responders as a special risk population and would require health insurance carriers to provide increased coverage for preventative screenings and laboratory testing for serious physical and mental health conditions the enrollees may experience in connection with their service. The preventative screenings and laboratory testing, conducted as part of periodic preventative health screenings, would be provided with no out-of-pocket cost to the enrollee. It would also place limits on a carrier's ability to impose prior authorization requirements for the preventative screening, testing, and coverage requirements established by this bill.

We agree that public safety professionals face unique challenges and potential hazards in their occupations. However, it may be more appropriate if the provision of job-specific screenings and other benefits is required to be provided by the employer, not through standard health insurance policies, which are designed and priced to be applicable without regard to an enrollee's specific occupation.

Under the current system of worker's compensation law, injuries sustained or illnesses contracted due to employment are excluded from health insurance coverage and instead covered by workers compensation insurance. This bill potentially disrupts that system by requiring carriers to cover costs associated with testing for workplace exposure. There are existing worker's compensation laws that cover treatment for cardiovascular and pulmonary injuries and disease (39-A M.R.S.A. subsection 328), heart disease and hypertension (39-A M.R.S.A. subsection 328-B), and cancer (39-A M.R.S.A. subsection 328-C) suffered by firefighters, and another law addressing "mental injury caused by mental stress" (39-A M.R.S.A. subsection 201(3-A)).

There will likely be a premium impact due to the fact that this bill adds a new benefit with limitations on utilization review and a prohibition on cost sharing to the qualifying enrollees.

The bill also includes a new provider mandate, requiring carriers to accept claims from "industry recognized health and wellness providers," regardless of whether they are in- or out-of-network. Since out-of-network providers are allowed to balance bill consumers, and this bill requires that the lab services are at no-cost to enrollees, the bill implies that carriers would pay these providers' full charges.

This bill is a new mandate that is likely to have a premium impact. In could also potentially be a new mandate subject to defrayal in the individual market, although it is likely that most qualifying employees are enrolled in group plans. Beginning in 2014, states were required to defray the costs of all mandates that are included in Qualified Health Plans, unless those mandates are required as part of the essential benefit package. The Affordable Care Act (ACA) directs states to make payments either to the individual enrollee or to the insurer.[1] Generally, any mandate adopted by a state after December 31, 2011 has been excluded from the essential benefit package by federal regulators and thus is subject to the requirement for the state to defray the cost. However, if this bill is determined to be the expansion of an existing mandate rather than a new mandate, it is our understanding that the state would not have to defray the cost.

In addition to our other concerns, the requirement to prohibit insurers from imposing any cost-sharing requirement conflicts with federal law as it relates to high-deductible plans. If the Committee chooses to go forward, it may want to exempt such plans.

The Bureau is available to conduct a mandate study pursuant to Title 24-A M.R.S. § 2752. This section provides for a review and evaluation of a mandated benefit proposal by the Bureau of Insurance before the bill may be enacted. These reviews include an evaluation of the financial impact, social impact and medical efficacy of the mandate. If a report is required it could cost the Bureau up to $13,500 for outside contract consulting work plus staff time, estimated at a cost of $1,600 to collect information, review consultant work, and prepare the final report. We anticipate that current resources will allow us to conduct up to two studies during the current session, and we will need eight weeks for each report to ensure a high-quality evaluation.

I hope this information is useful to the Committee. Please let me know if I can provide any further assistance.

Sincerely,

Timothy N. Schott
Acting Superintendent

[1] See 45 CFR § 155.170, implementing ACA § 1311(d)(3)(B).