

**TESTIMONY OF STACY BERGENDAHL**  
**SENIOR STAFF ATTORNEY**  
**BUREAU OF INSURANCE**  
**DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**  
**L.D. 1589**  
**An Act to Improve Parity in Insurance Coverage for Outpatient Counseling**  
**Services in Maine**  
**Presented by Representative Moonen**  
**Before the Joint Standing Committee on Health Coverage,**  
**Insurance & Financial Services**  
**April 30, 2025 at 1:00pm**

Senator Bailey, Representative Mathieson, and members of the Health Coverage, Insurance and Financial Services Committee, I am Stacy Bergendahl, Senior Staff Attorney at the Maine Bureau of Insurance. The Bureau of Insurance supports broad access to outpatient behavioral health counseling services, but we are concerned with a number of provisions in this legislative proposal.

The legislation establishes a minimum reimbursement rate of 150% of the MaineCare rate for all outpatient counseling services. With the exception of ambulance services, there is no other health care service for which Maine law dictates the reimbursement rate. In addition, the legislation would set the same minimum rate for network and out-of-network providers, which could make it

more difficult for carriers to comply with the requirement to maintain an adequate network, which is already a challenge in many parts of the state.

Second, it is not clear whether the bill is intended as a benefit mandate or a provider mandate. The bill appears to require any service that is within the lawful scope of practice of at least one counseling profession be covered. Typically, provider mandates are limited to services that are both within the provider's scope of practice and the policy's scope of coverage. And typically, benefit mandates are not defined to include a profession's entire scope of practice. If the intent is to mandate an expansion of the types of outpatient counseling services that must be covered, consideration should be given to the potential impact on premiums and the potential need for cost defrayal by the state.

Third, the bill repeals the existing language in Subsection 3 of the insurance section and Subsection 8-A of the HMO section, which allow "reasonable limitations, maximum benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract." This would eliminate any member cost sharing for counseling services, which would lead to increased premiums for Maine people and Maine employers.

In addition, the bill appears to prohibit carriers from applying prior authorization and referral requirements for mental health counseling services. These changes could also increase premiums in the fully insured market.

Finally, the bill's requirement that carriers maintain an adequate network of licensed counseling professionals to ensure reasonable access may be duplicative of the requirements in Bureau Rule Ch. 850(7)("Access to Health Care Providers"),

in particular subsection (7)(B)(4), which states: "In any case where the carrier has an insufficient number or type of participating providers to provide a covered benefit, the health carrier shall ensure that the covered person obtains the covered benefit at no greater cost to the covered person than if the benefit were obtained from participating providers, or shall make other arrangements acceptable to the Superintendent."

The bill has other technical / drafting issues that the Bureau identified during its review, which we can address if the Committee decides to advance this proposal.

I would be happy to answer questions the committee members may have now or during the work session.