



Dan Demeritt
Executive Director

P.O. Box 193
Orono, Maine 04473
Tel: (207) 852-2087
Email: dan.demeritt@meahp.com

Testimony in Opposition to LD 1906

An Act to Improve Accountability and Understanding of Data in Insurance Transactions

May 13, 2025

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

My name is Dan Demeritt, the Executive Director of the Maine Association of Health Plans. Insurance coverages offered or administered by our member plans provide access to care and better outcomes for many of the Mainers who receive coverage through an employer plan or the individual market.

Health plans operating as third-party administrators negotiate administrative service agreements with plan sponsors to provide for plan oversight and auditing to ensure accuracy and compliance with ERISA fiduciary responsibilities.

One of our plans reports that their Pharmacy Benefit Manager agreements deliver value to clients with annual audits and an online portal that provides real-time access to claims data.

LD 1906 seeks to impose new and complicated contractual requirements on the proprietary business dealings of private entities who voluntarily agree to conduct business together in the health insurance marketplace. It would also create unintended consequences related to data ownership and protections and be subject to challenge under ERISA's preemption of state laws.

Federal ERISA Preemption

With the enactment of the Employee Retirement Income Security Act of 1974, Congress set forward a national set of standards for employee benefits plans including reporting, disclosures, fiduciary responsibilities, claims and appeals, and remedies for noncompliance.

Congress intentionally included a broad preemption of state laws that could interfere with the national and uniform administration of ERISA plans. This exemption keeps plan administration and enforcement – including reporting, disclosures, and benefit payments -- under the sole jurisdiction of federal regulators.¹

LD 1906 proposes a set of state-mandated health plan actions and limitations on self-funded health plans that would be preempted by ERISA.

¹ <https://www.mercer.com/insights/law-and-policy/a-primer-on-erisas-preemption-of-state-laws/>

Unintended Consequences

Health care and health care coverage are extremely complex with an array of federal, state, and negotiated regulations and provisions guiding eligibility determinations, the cost of care, access to medical records, patient privacy, and the payment of claims.

The Maine Bureau of Insurance is also authorized to perform audits of health plan administrators when deemed necessary by the superintendent with a requirement that information respecting individual claimants must be kept confidential.²

LD 1906 as presented would provide a one-size-fits-all legal mandate that would give health plan sponsors unfettered ownership of claims data that carriers are required to maintain and protect for federal and state reporting purposes and for HIPAA-protected medical records.

Claims data does not originate from a single source. It is a composite compilation drawn from multiple entities, including eligibility files from the plan sponsor, medical service data from healthcare providers, and financial and contractual information from the plan, which may include proprietary reimbursement rates and trade secrets.

Asserting ownership by the plan sponsor implies the sponsor would have full title, possession, and control over the entire dataset. This could legally entitle the sponsor to demand deletion of all claim data from a plans system or even to sell or transfer data that contains plan's trade secrets and proprietary information to a competitor—an outcome both impractical and legally untenable.

Consensus Agreement Among the Parties

The HCIFS Committee considers several bills like LD 1906 every session where one party to a private health care transaction asks the Legislature to prohibit or direct the actions of another party to the transaction. This Committee does its best work when it reaches a determination on the value of the policy objective and then brings the parties together to try to reach consensus.

Last week, for example, technical stakeholder discussions informed by subject matter experts led to agreement among parties and a unanimous Out-To-Pass-As-Amended report on LD 1018, legislation that will prevent discrimination in the federal 340B drug program and provide for better transparency.

Time is short this legislative session and carryovers are limited.

We urge the committee to Vote-Ought-Not-To-Pass on LD 1906 and send a letter to stakeholders asking them to convene between the sessions to see if they can develop a mutually agreeable proposal that is fair and workable.

Thank you for your consideration.

² <https://legislature.maine.gov/statutes/24-A/title24-Asec1911.html>