

**LD 352, An Act To Maintain the Integrity of the Individual and Small Group
Health Insurance Markets**

SUMMARY:

This bill repeals the requirement that individual and small group health plans offered with effective dates of coverage on or after January 1, 2022 must be offered through a pooled market. The bill also removes all references in the Insurance Code to pooled market.

The bill also removes language directing the Maine Guaranteed Access Reinsurance Association (MGARA) to provide reinsurance to member insurers for small group health plans in a pooled market beginning in 2022. The language requiring MGARA to operate a retrospective reinsurance program in any plan year with a pooled market and authorizing, but not requiring, MGARA to operate a retrospective program for individual health plans if the pooled market is not implemented is repealed in the bill as well.

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CURRENT LAW: 24-A §2792. Affordable health coverage for individuals, families and small businesses

- 1. Pooled market established.** Subject to the requirements of subsection 5, all individual and small group health plans offered in this State with effective dates of coverage on or after January 1, 2022 must be offered through a pooled market. A health insurance carrier offering an individual health plan subject to this section shall make the plan available to all eligible small employers within the plan's approved service area, and a health insurance carrier offering a small group health plan subject to this section shall make the plan available to all eligible individuals residing within the plan's approved service area. This subsection does not require the Maine Health Insurance Marketplace established in Title 22, chapter 1479 to offer identical choices of health plans to individuals and to small employers under Title 22, chapter 1479.
- 2. Premium rates.** Premium rates for a health plan offered in the pooled market described in subsection 1 may not vary based on whether the plan is issued to an individual or to a small employer. Rate filings and review for the pooled market are subject to the provisions of sections 2736 to 2736-C. For health plans that are issued on other than a calendar year basis, rates applicable on and after January 1st of any plan year must be the approved rates for the most similar plan offered during the new calendar year, adjusted by a factor, approved by the superintendent as part of the rating plan, that appropriately accounts for any differences in plan design.
- 3. Harmonization of mandated benefit laws.** In addition to the requirements of chapter 56-A, a health plan subject to this section must comply with the applicable mandated benefit provisions in chapter 33 or the corresponding provisions of chapter 35. A health maintenance organization or a nonprofit hospital and medical service organization may offer any health plan approved by the superintendent for sale in the pooled market established pursuant to this section, notwithstanding any provision of chapter 56 or Title 24 to the contrary.
- 4. Conforming references.** All references in this Title to the individual health insurance market, the small group health insurance market or any equivalent terminology refer to the pooled market established pursuant to this section.
- 5. Preconditions for pooled market.** This section may not be implemented unless routine technical rules as defined in Title 5, chapter 375, subchapter 2-A are adopted to implement this section and the Federal Government approves a state innovation waiver amendment that extends reinsurance under section 3953 to the pooled market established pursuant to this section based on projections by the superintendent that both average individual premium rates and average small group premium rates would be the same or lower than they would have been absent the provisions of this section. If this section is not implemented, the superintendent shall conduct an analysis of alternative proposals to improve the stability and affordability of the small group market.

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ISSUES FOR CONSIDERATION:

1. Have preconditions for establishing pooled market been met? The Bureau of Insurance has presented information to the committee about the actuarial analyses that have been completed on the pooled market and its potential impact on premium rates. All of the analyses are posted on the Bureau of Insurance website at https://www.maine.gov/pfr/insurance/legal/notices/maine_health_ins_pooled_market_option.html Interested parties testifying on the bill have differing views about whether benefit to both individual and small group market has been demonstrated.
2. As permitted under current law, the Bureau of Insurance is preparing a Section 1332 waiver to support extending MGARA to the small group market through a pooled market. Public meetings as required pursuant to the federal waiver process are scheduled on March 22 and March 29; public comment will be taken on the proposal through April 12, 2021. LD 352, if enacted, would halt that process.
3. If enacted, what impact on small group market? Are there alternative proposals that would benefit small group market? Bureau of Insurance testimony indicated small employers currently pay assessments to MGARA but are not receiving any benefit. Under current law, the Bureau of Insurance is required to conduct an analysis of alternative proposals if the pooled market does not go forward and the Section 1332 waiver is not approved.

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ISSUES FOR CONSIDERATION (cont'd):

4. As drafted, the bill also makes the offering of clear choice designs optional. Consider what impact that might have? The Bureau of Insurance testimony indicated that they have conducted lengthy stakeholder process to help develop clear choice designs. Following that process, the Bureau has proposed [Rule Chapter 851](#), Clear Choice Designs for Individual and Small Group Health Plans; the public hearing was held on March 12, 2021 and public comments will be accepted until March 23, 2021.
5. Consider a delay for one or more plan years to allow further time for evaluation?
6. Consider impact of recent changes to the ACA in federal American Rescue Plan Act of 2021? Under ARP, premium subsidies were enhanced for plan years 2021 and 2022 for all income levels and individuals with incomes more than 400% of FPL are newly eligible for subsidies. Increased subsidies may mitigate any impact of increased premiums on Mainers enrolled in marketplace plans and have the potential to increase enrollment in marketplace plans (special enrollment period ends May 15 for 2021 plan year).

FISCAL INFORMATION:

Not yet determined