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In Opposition to L.D. 1150

An Act To Eliminate Insurance Rating Based on Age, Geographic Location or Smoking History and To Reduce Rate Variability Due to Group Size

Presented by Representative Heidi Brooks

Before the Joint Standing Committee on Health Coverage, Insurance & Financial Services

April 8, 2021 at 10:00 a.m.

Senator Sanborn, Representative Tepler, and members of the Committee, I am Ben Yardley, Senior Staff Attorney for the Maine Bureau of Insurance. I am here today to testify in opposition to L.D. 1150.

This bill would prohibit insurers from considering age, geographic location, or tobacco use when setting premium rates for small group and individual health plans starting in 2022. It would allow small group rates to vary by group size, if permitted by federal law, but would phase in a maximum rating variation of 1.5:1.

Group size rating was a commonly used rating factor before the ACA, but is no longer allowed.

We are concerned both with the substance of the proposal and the timing for implementation if the bill were to pass. Rates for 2022 must be filed in this coming June to allow Bureau staff enough time to review, conduct rate hearings if necessary, and submit approved rates to the state Marketplace in time for open enrollment in November.

Currently, the federal ACA limits the maximum variation based on age to 3:1, and regulations adopted under the ACA prescribe a specific set of age factors for insurers to use unless the state submits a request to use other factors. If the ACA did not require a narrower band, current Maine law would allow insurers to vary rates based on age by as much as 5:1 in both the individual and small group markets, if the variation is actuarially supported. Most studies of claims data indicate that average health care costs at age 64 (just before Medicare eligibility) are significantly higher than the costs for young adults at age 20. Only three states have chosen to implement age rating limits that are more restrictive than the 3:1 ratio permitted by the ACA.

The tobacco use risk factor is also allowed under the ACA and permits insurers to reflect tobacco users' higher risk of illness in their rates. Under both Maine law and the ACA, insurers are allowed to rate tobacco users up to 50% above the standard rate.

Geographic location is also an allowable factor under the ACA. It allows the rates to reflect the differences in the cost of health care in different parts of the

State. The ACA would allow unlimited variation for geography, but Maine law limits geographic variation to a 1.5:1 ratio.

This bill would change Maine's individual and small group rating framework from what is known as "adjusted community rating" to "pure community rating," with the exception of group size for small group plans. Maine has never required pure community rating for health insurance, but did formerly impose more stringent rating restrictions for individual and small group plans than current law permits. The result was not successful. The 1993 market reforms limited the rating variation for age, geography, and tobacco to a maximum ratio of 1.5:1 for all these factors combined. While claim costs for a 60-year-old are about four times those for a 25-year-old, the rates charged were only 50% higher. As a result, coverage was a "good deal" for older individuals, while younger individuals paid much more than their own expected claim costs. At the same time, there was no individual mandate, and insurers were prohibited both from turning away enrollees based on health risk and from excluding pre-existing conditions for more than a year. This resulted in the risk pool having a higher average age and higher claims costs. This led to a "death spiral" in rates, the number of enrollees significantly decreased, and most insurers left the Maine individual marketplace.

Pure community rating tends to create an individual market that resembles a large high-risk pool, especially if there is no individual mandate. People with health concerns are able to find coverage, but it is more difficult for younger, healthier people to find affordable coverage. The stringency of rating restrictions has a dramatic effect on the willingness of insurers to remain in the market and results in a disproportionate transfer of costs from older to younger persons.

Thank you, I would be glad to answer any questions now or at the work session.