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L.D. 1650

Date: (Filing No. H-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE

HOUSE OF REPRESENTATIVES

129TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1186, L.D. 1650, Bill, "An Act To Strengthen Consumer Protections in Health Care"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'PART A

Sec. A-1. 24-A MRSA §2735-A, sub-§1, as amended by PL 2011, c. 364, §1, is further amended to read:

1. Notice of rate filing or rate increase on existing policies. An insurer offering individual health plans as defined in section 2736-C must provide written notice by first class mail of a rate filing to all affected policyholders at least 60 days before the effective date of any proposed increase in premium rates or any proposed rating formula, classification of risks or modification of any formula or classification of risks. ~~Except as otherwise provided in section 2736-C, subsection 2-B, the~~ The notice must also inform policyholders of their right to request a hearing pursuant to section 229. The notice must show the proposed rate and~~, unless otherwise provided in section 2736-C, subsection 2-B,~~ state that the rate is subject to regulatory approval. ~~Except as otherwise provided in section 2736-C, subsection 2-B, the~~ The superintendent may not take final action on a rate filing until 40 days after the date notice is mailed by an insurer. An increase in premium rates may not be implemented until 60 days after the notice is provided or until the effective date under section 2736, whichever is later.

Sec. A-2. 24-A MRSA §2736-A, first ¶, as amended by PL 2011, c. 364, §2, is further amended to read:

If at any time the superintendent has reason to believe that a filing does not meet the requirements that rates not be excessive, inadequate or unfairly discriminatory or that the filing violates any of the provisions of chapter 23, the superintendent shall cause a hearing to be held. If a filing proposes an increase in rates in an individual health plan as defined in section 2736-C, the superintendent shall cause a hearing to be held ~~at the~~

~~request of the Attorney General~~. In any hearing conducted under this section, the insurer has the burden of proving rates are not excessive, inadequate or unfairly discriminatory.

Sec. A-3. 24-A MRSA §2736-C, sub-§5, as amended by PL 2019, c. 5, Pt. A, §6, is further amended to read:

5. Loss ratios. ~~Except as provided in subsection 2-B, for~~ For all policies and certificates issued on or after the effective date of this section, the superintendent shall disapprove any premium rates filed by any carrier, whether initial or revised, for an individual health policy unless it is anticipated that the medical loss ratio calculated under section 4319 will be at least 80%.

Sec. A-4. Application. Those sections of this Part that amend the Maine Revised Statutes, Title 24-A, sections 2735-A, 2736-A and 2736-C apply to individual health plan rate filings submitted by an insurer or a carrier to the Department of Professional and Financial Regulation, Bureau of Insurance pursuant to Title 24-A, sections 2736 and 2736-C for the ~~2021~~ 2022 plan or policy year and thereafter.

PART B

Sec. B-1. 24-A MRSA §2736-C, sub-§2, ¶C-1, as enacted by PL 2011, c. 90, Pt. A, §2, is repealed.

Sec. B-2. 24-A MRSA §2736-C, sub-§2, ¶D, as amended by PL 2019, c. 5, Pt. A, §3, is further amended to read:

D. A carrier may vary the premium rate due to age, geographic area and tobacco use in accordance with the limitations set out in this paragraph. A carrier that varies the premium rate due to age must vary the premium rate according to a uniform age curve. The superintendent shall adopt rules establishing a uniform age curve that is substantially similar to the age curve in effect on January 1, 2019 under the federal Affordable Care Act. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between December 1, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1995 and June 30, 2012, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 1, 2012 and

December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2015, except as provided in subparagraph ~~(9)~~ (10), the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State ~~on or after~~ between July 1, 2012 and December 31, ~~2020~~ 2021, the maximum rate differential due to tobacco use filed by the carrier as determined by ratio is 1.5 to 1, except that the carrier may not apply a rate differential pursuant to this subparagraph when the covered individual is participating in an evidence-based tobacco cessation strategy approved by the United States Department of Health and Human Services, Food and Drug Administration.

~~(9) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after the effective date of this subparagraph, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1 for individuals 21 years of age and older on the first day of coverage under the policy, contract or certificate. The variation in rate due to age must be actuarially justified for individuals under 21 years of age consistent with the uniform age rating curve adopted under this paragraph.~~

(10) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, ~~2021~~ 2022, for each individual health plan offered by a carrier, the highest premium rate for each rating tier may not exceed 2.5 times the premium rate that could be charged to an eligible individual with the lowest premium rate for that rating tier in a given rating period. For purposes of this subparagraph, "rating tier" means each category of individual or family composition for which a carrier charges separate rates.

(a) In determining the rating factor for geographic area pursuant to this subparagraph, the ratio between the highest and lowest rating factor used by a carrier for geographic area may not exceed 1.5 and the ratio between highest and lowest combined rating factors for age and geographic area may not exceed 2.5.

(b) In determining rating factors for age and geographic area pursuant to this subparagraph, rates must take into account the savings resulting from the reinsurance program created by chapter 54-A.

(c) The superintendent shall adopt rules setting forth appropriate methodologies regarding determination of rating factors pursuant to this subparagraph. Rules adopted pursuant to this division are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(11) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, ~~2021,~~ 2022 a carrier may not vary the premium rate based on tobacco use as a rating factor.

Sec. B-3. 24-A MRSA §2736-C, sub-§2-B, as amended by PL 2011, c. 364, §7, is repealed.

Sec. B-4. 24-A MRSA §2808-B, sub-§2, ¶C-1, as enacted by PL 2011, c. 90, Pt. A, §7, is repealed.

Sec. B-5. 24-A MRSA §2808-B, sub-§2, ¶D, as amended by PL 2019, c. 5, Pt. A, §11, is further amended to read:

D. A carrier may vary the premium rate due to age, geographic area and tobacco use in accordance with the limitations set out in this paragraph. A carrier that varies the premium rate due to age must vary the premium rate according to a uniform age curve. The superintendent shall adopt rules establishing a uniform age curve that is substantially similar to the age curve in effect on January 1, 2019 under the federal Affordable Care Act. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1995 and September 30, 2011, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and September 30, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2012 and December 31, 2013, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 3 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, except as provided in subparagraph ~~(10)~~ (11), the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(9) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State ~~on or after~~ between October 1, 2011 and December 31, ~~2020,~~ 2021 the maximum rate differential due to tobacco use ~~filed by the carrier~~ as determined by ratio is 1.5 to 1, except that the carrier may not apply a rate differential pursuant to this subparagraph when the covered individual is participating in an evidence-based tobacco cessation strategy approved by the United States Department of Health and Human Services, Food and Drug Administration.

~~(10) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after the effective date of this Act, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1 for individuals 21 years of age and older on the first day of coverage under the policy, contract or certificate. The variation in rate due to age must be actuarially justified for individuals under 21 years of age consistent with the uniform age rating curve adopted under this paragraph.~~

(11) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, ~~2021,~~ 2022 for each small group health plan offered by a carrier, the highest premium rate for each rating tier may not exceed 2.5 times the premium rate that could be charged

to an eligible individual with the lowest premium rate for that rating tier in a given rating period. For purposes of this subparagraph, "rating tier" means each category of individual or family composition for which a carrier charges separate rates.

(a) In determining the rating factor for geographic area pursuant to this subparagraph, the ratio between the highest and lowest rating factor used by a carrier for geographic area may not exceed 1.5 and the ratio between highest and lowest combined rating factors for age and geographic area may not exceed 2.5.

(b) In determining rating factors for age and geographic area pursuant to this subparagraph, rates must take into account the savings resulting from the reinsurance program created by chapter 54-A.

(c) The superintendent shall adopt rules setting forth appropriate methodologies regarding determination of rating factors pursuant to this subparagraph. Rules adopted pursuant to this division are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(12) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, ~~2021~~ 2022, a carrier may not vary the premium rate based on tobacco use as a rating factor.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill and is the minority report of the committee.

Part A amends the rate review process for individual health insurance. It requires advance review and prior approval of individual health insurance rates. It requires the Superintendent of Insurance to hold a hearing if a filing proposes an increase in rates in individual health insurance plans. It requires the Superintendent of Insurance to disapprove premium rates unless the minimum medical loss ratio satisfies the statutory requirements for individual health plans. The changes apply to individual health plan rate filings submitted to the Department of Professional and Financial Regulation, Bureau of Insurance beginning with the ~~2021~~ 2022 plan or policy year.

Part B makes changes to the rating provisions for individual and small group health insurance plans to reduce the rating band for age and to require that the ratio on the basis of geographic area is 1.5 to 1 and that the ratio for age and geographic area may not exceed 2.5. These changes reinstate the rating provisions in place before the enactment of Public Law 2011, chapter 90. Part B also prohibits the use of tobacco as a rating factor. The changes apply to all individual and small group policies issued or renewed on or after January 1, ~~2021~~ 2022.

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129th MAINE LEGISLATURE

LD 1650 **LR 243(02)**

An Act To Strengthen Consumer Protections in Health Care

Fiscal Note for Bill as Amended by Committee Amendment " "
Committee: Health Coverage, Insurance and Financial Services
Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Appropriations/Allocations				
Other Special Revenue Funds	$0	$0	$11,100	$11,100

Fiscal Detail and Notes

The bill requires the Superintendent of Insurance to hold a hearing when an individual health insurance plan proposes an increase in rates for plan rate filings beginning with the 2022 plan year. It is anticipated that the Bureau will need to hold three hearings a year, beginning in fiscal year 2021-22. These three hearings are estimated to cost $11,100, with any future allocation funded by existing resources within the Bureau of Insurance.