



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 891

S.P. 312

In Senate, March 7, 2013

### **An Act To Create Uniform Claims Paying Practices in Long-term Care Insurance Policies**

(EMERGENCY)

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator LANGLEY of Hancock.  
Cosponsored by Senator: WHITTEMORE of Somerset.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** Maine seniors with long-term care insurance are experiencing delays in  
4 receiving claims payments from insurers; and

5           **Whereas,** delays in claims payments are causing undue stress on seniors; and

6           **Whereas,** this legislation establishes notice requirements and specific time periods  
7 in which insurers are required to pay claims once all necessary documentation supporting  
8 the claims are submitted; and

9           **Whereas,** it is necessary for this legislation to take effect immediately to provide  
10 relief to those seniors with long-term care insurance; and

11           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
12 the meaning of the Constitution of Maine and require the following legislation as  
13 immediately necessary for the preservation of the public peace, health and safety; now,  
14 therefore,

15           **Be it enacted by the People of the State of Maine as follows:**

16           **Sec. 1. 24-A MRSA §5083** is enacted to read:

17           **§5083. Payment of claims**

18           **1. Notice of claim for benefits; response by insured.** Notwithstanding any other  
19 provision of this Title, upon receipt of a notice of claim for benefits under a policy or  
20 certificate of long-term care insurance delivered or issued for delivery in this State, an  
21 insurer, whether actively marketing or renewing long-term care insurance in this State,  
22 shall provide the insured a written statement with sufficient detail to permit the insured to  
23 understand and respond with the documentation and information necessary for the  
24 payment of the claim for benefits. The written statement must be provided by the insurer  
25 within 5 business days following receipt of the notice of claim. For purposes of this  
26 section, "insured" includes a person designated by the insured as the insured's  
27 representative.

28           **2. Documentation.** The documentation an insurer may require as necessary for the  
29 payment of a claim for benefits under a policy or certificate of long-term care insurance  
30 includes, but is not limited to:

31           A. A statement from the insured making the claim for benefits;

32           B. A signed release permitting the insurer to obtain personal health care information  
33 about the insured pursuant to the federal Health Insurance Portability and  
34 Accountability Act of 1996;

35           C. A statement from the insured's physician, including a treatment and care plan for  
36 the insured;

1 D. A statement from the long-term care provider rendering services to the insured,  
2 including an itemized bill for services, the provider's license number and any daily  
3 nursing notes; and

4 E. A copy of any power of attorney executed by the insured.

5 **3. Payment of claim.** A claim for payment of benefits under a policy or certificate  
6 of long-term care insurance delivered or issued for delivery in this State is payable within  
7 14 days after the documentation and information identified by the insurer pursuant to  
8 subsection 1 as necessary to pay the claim for benefits has been received by the insurer.  
9 A claim that is not paid within 14 days is overdue.

10 **4. Ongoing claim.** If, during the course of an ongoing claim for benefits paid on a  
11 monthly basis, the insurer identifies additional required documentation to ensure the  
12 insured remains entitled to benefits under the policy, the insurer, in writing, shall notify  
13 the insured within 48 hours of the need for such information and clearly identify the  
14 extent of such information. Upon receipt of the additional documentation, the insurer  
15 shall complete the determination of continued entitlement to benefits under the policy  
16 within 21 days.

17 **5. Interest on overdue claim.** If an insurer fails to pay an undisputed claim or any  
18 undisputed part of the claim when due, the amount of the overdue claim or part of the  
19 claim bears interest at the rate of 1 1/2% per month after the due date.

20 **6. Attorney's fee.** A reasonable attorney's fee for advising and representing a  
21 claimant on an overdue claim or action for an overdue claim must be paid by the insurer  
22 if overdue benefits are recovered in an action against the insurer or if overdue benefits are  
23 paid after receipt of notice of the attorney's representation.

24 **7. No limitation on action by insured.** This section does not prohibit or limit any  
25 claim or action for a claim that the insured has against the insurer.

26 **Emergency clause.** In view of the emergency cited in the preamble, this  
27 legislation takes effect when approved.

## 28 SUMMARY

29 This bill requires a long-term care insurer to pay a claim to an insured within 14  
30 business days of receipt of all necessary documentation identified by the insurer. A claim  
31 that is not paid within 14 business days is overdue and subject to interest of 1 1/2% per  
32 month after the due date.