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Date: (Filing No. S- )

**INSURANCE AND FINANCIAL SERVICES**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
126TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 312, L.D. 891, Bill, “An Act To Create Uniform Claims Paying Practices in Long-term Care Insurance Policies”

Amend the bill in the emergency preamble in the 4th paragraph in the last line (page 1, line 8 in L.D.) by striking out the following: "are" and inserting the following: 'is'

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

**'Sec. 1. 24-A MRSA §2436, sub-§6** is enacted to read:

6. This section does not apply to a claim for payment of benefits under a policy or certificate of long-term care insurance delivered or issued for delivery in this State.

**Sec. 2. 24-A MRSA §5083** is enacted to read:

**§5083. Payment of claims**

**1. Notice of claim for benefits; response by insured.** Notwithstanding any other provision of this Title, upon receipt of a notice of claim for benefits under a policy or certificate of long-term care insurance delivered or issued for delivery in this State, an insurer, whether actively marketing or renewing long-term care insurance in this State, shall provide the insured a written statement with sufficient detail to permit the insured to understand and respond with the documentation specified in subsection 2. The written statement must be provided by the insurer within 10 business days following receipt of the notice of claim. For purposes of this section, "insured" includes a person designated by the insured as the insured's representative.

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

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

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

4 C. A statement from the insured's physician, including the appropriate diagnosis and  
5 a treatment and care plan for the insured;

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

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

10 Except for information solely in the possession of the insured, the burden is on the insurer  
11 to obtain any information other than that described in paragraphs A to E that is  
12 reasonably necessary to pay or continue paying the claim. The insured has a continuing  
13 obligation to cooperate with the insurer in order for the insurer to obtain needed  
14 information.

15 **3. Payment of claim.** A claim for payment of benefits under a policy or certificate  
16 of long-term care insurance delivered or issued for delivery in this State is payable within  
17 30 days after the documentation and information identified in subsection 2 as reasonably  
18 necessary to pay the claim for benefits have been received by the insurer. Within 30 days  
19 after receipt of that documentation and information, the insurer shall either pay the claim  
20 or issue a written notice to the insured declining to pay all or part of the claim and the  
21 specific reason for denial in accordance with this subsection.

22 A. An insurer may not extend the time for payment of a claim beyond 30 days after  
23 receipt of documentation and information related to a technical issue as designated in  
24 rules adopted by the bureau.

25 B. Except as provided in paragraph A, an insurer may delay payment of a claim and  
26 request additional documentation and information related to a substantive issue as  
27 designated in rules adopted by the bureau.

28 **4. Ongoing claim.** Except for information solely in the possession of the insured, if,  
29 during the course of an ongoing claim for benefits paid on a monthly or recurring basis,  
30 the insurer identifies the need for additional reasonable documentation to ensure the  
31 insured remains entitled to benefits under the policy or certificate of long-term care  
32 insurance, the burden is on the insurer to obtain that information. The insured has a  
33 continuing obligation to cooperate with the insurer in order for the insurer to obtain  
34 needed information.

35 **5. Appeals of claims denials.** An insured who receives a claims denial in  
36 accordance with this section has the right to internal appeal and, after exhausting an  
37 insurer's internal appeals process, the right to request an external review. The  
38 superintendent shall adopt rules to determine the standards for internal appeal and  
39 external review in a manner consistent with model legislation adopted by the National  
40 Association of Insurance Commissioners, or its successor organization. The written  
41 notice to the insured declining to pay all or part of the claim as required by subsection 3  
42 must include a statement informing the insured of the insured's rights to internal appeal

1 and external review and a statement of the insured's right to seek assistance or file a  
2 complaint with the bureau and the toll-free telephone number of the bureau.

3 **6. Interest on overdue claim.** An undisputed claim that is not paid within 30 days  
4 is overdue. If an insurer fails to pay an undisputed claim or any undisputed part of the  
5 claim when due, the amount of the overdue claim or part of the claim bears interest at the  
6 rate of 1 1/2% per month after the due date.

7 **7. Attorney's fees.** Reasonable attorney's fees for advising and representing a  
8 claimant on an overdue claim or action for an overdue claim must be paid by the insurer  
9 if overdue benefits are recovered in an action against the insurer or if overdue benefits are  
10 paid after receipt of notice of the attorney's representation.

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

13 **9. Rules.** The superintendent may adopt or amend rules in order to carry out the  
14 purposes of this section. Rules adopted pursuant to this section, including amendments to  
15 existing rules designated as major substantive, are routine technical rules as defined in  
16 Title 5, chapter 375, subchapter 2-A.

17 **Sec. 3. Bureau of Insurance report; rules.** By March 1, 2014, the Department  
18 of Professional and Financial Regulation, Bureau of Insurance shall submit a report to the  
19 Joint Standing Committee on Insurance and Financial Services on the rules adopted by  
20 the bureau as required by the Maine Revised Statutes, Title 24-A, section 5083.'

21 **SUMMARY**

22 This amendment replaces the substantive provisions of the bill, but retains the  
23 emergency preamble and emergency clause. The amendment requires a long-term care  
24 insurer to pay a claim to an insured within 30 days of receipt of all necessary  
25 documentation identified by the insurer, which extends the time from 14 days as proposed  
26 in the bill. The amendment also provides that insurers may delay payment of claims and  
27 request additional information related only to substantive issues, which are required to be  
28 designated through rules.