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H.P. 1079

House of Representatives, April 12, 2021

An Act To Make Health Care Coverage More Affordable for Working Families and Small Businesses

Received by the Clerk of the House on April 8, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Presented by Representative TEPLER of Topsham.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24-A MRSA c. 56-A, sub-c. 2-B is enacted to read:

**SUBCHAPTER 2-B**

**MAINE HEALTH CARE AFFORDABILITY FUND AND ASSESSMENT**

§4329. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Advisory group.** "Advisory group" means the Affordable Health Care Advisory Group established in section 4330-B, subsection 1.

2. **Assessment.** "Assessment" means the health care affordability assessment described in section 4330-A, subsection 1.

3. **Commissioner.** "Commissioner" means the Commissioner of Health and Human Services.

4. **Covered entity.** "Covered entity" means an entity that would be subject to Section 9010 of the federal Affordable Care Act if that section were in effect and that is subject to an assessment, including an insurance company, health service corporation, hospital service corporation, medical service corporation, health maintenance organization, dental service corporation or dental plan organization authorized to issue health benefit or dental benefit plans in the State.

5. **Exchange.** "Exchange" has the same meaning as in section 2188, subsection 1, paragraph A.

6. **Family glitch.** "Family glitch" means the situation in which an individual is ineligible for premium assistance tax credits under 26 United States Code, Section 36B because a relationship to another individual allows the individual to enroll in an eligible employer-sponsored plan, as defined in 26 United States Code, Section 5000A(f)(2), that is considered affordable for the related individual under 26 Code of Federal Regulations, Section 1.36B-2(c)(3)(v)(A)(2) but for which the portion of the annual premium that the related individual must pay for family coverage exceeds the required contribution percentage, as defined in 26 Code of Federal Regulations, Section 1.36B-2(c)(3)(v)(C), of the individual's household income for the taxable year.

7. **Federal poverty level.** "Federal poverty level" has the same meaning as in Title 22, section 3762, subsection 1, paragraph C.

8. **Fund.** "Fund" means the Maine Health Care Affordability Fund established in section 4330 to provide funding for activities or initiatives to reduce the cost of health insurance coverage for residents of the State.

9. **Health insurance.** "Health insurance" means a hospital and medical expense-incurred policy, nonprofit hospital and medical service plan, health maintenance organization subscriber contract or other health care plan or arrangement that pays for or furnishes medical or health care service, whether sold as an individual or group policy. For
the purposes of this section, "health insurance" includes limited-scope dental and vision benefits. "Health insurance" does not include accidental injury, specified disease, hospital indemnity, disability income, Medicare supplement, long-term care or other limited-benefit health insurance or credit insurance; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

10. **Net written premium.** "Net written premium" means the total premiums of health insurance policies issued or delivered in the State by a covered entity, less return premiums on those policies and dividends paid or credited to policy or contract holders on the health benefit plan business.

§4330. Maine Health Care Affordability Fund

1. **Fund established.** The Maine Health Care Affordability Fund is established within the Department of Health and Human Services as a separate and distinct fund for accounting and budgetary reporting purposes. Funds in the fund may not lapse but must be carried forward to carry out the purposes of this subchapter.

2. **Administration.** The commissioner shall administer the fund in accordance with this section.

3. **Sources of funding.** The commissioner shall deposit to the fund:

   A. Funds received from the assessment;

   B. Funds from any other source, whether public or private, designated for deposit into or credited to the fund; and

   C. Interest earned or other investment income on balances in the fund.

4. **Deposit and use of funds.** The use of funds deposited into the fund is subject to the following restrictions.

   A. Funds deposited into the fund must be expended by the commissioner solely for the following permissible uses:

      (1) Providing financial assistance to lower premiums or reduce out-of-pocket cost-sharing for qualified health plans, as defined in 42 United States Code, Section 18021, offered on the exchange to residents of the State who are subject to the family glitch or whose household income, as defined in 26 Code of Federal Regulations, Section 1.36B-1(e), is at or below 200% of the federal poverty level; and

      (2) Other initiatives that increase affordability of health coverage for individual policy holders or small businesses, provide greater access to health insurance to the uninsured or reduce disparities in health coverage, including through financial assistance, and outreach and enrollment activities.

   B. At least 85% of funds deposited into the fund due to the assessment must be used for the purposes described in paragraph A, subparagraph (1), except that:
(1) If federal financial assistance provided under the federal Affordable Care Act is repealed or eliminated, 100% of funds deposited into the fund must be used to replace the assistance; and

(2) If residents of the State who are subject to the family glitch become eligible for a premium assistance tax credit under 26 United States Code, Section 36B, 85% of funds deposited into the fund must be used to provide premium or cost-sharing subsidies to residents of the State who purchase qualified health plans, as defined in 42 United States Code, Section 18021, offered on the exchange in the following order of priority on the basis of household income, as defined in 26 Code of Federal Regulations, Section 1.36B-1(e):

(a) First, to those residents whose household income is at or below 200% of the federal poverty level;

(b) Second, to those residents whose household income is at or below 250% of the federal poverty level;

(c) Third, to those residents whose household income is at or below 300% of the federal poverty level; and

(d) Fourth, to those residents whose household income is at or below 400% of the federal poverty level.

If the amount of the federal premium assistance tax credit available to residents of the State is less than the amount that would be provided under Section 9661 of the American Rescue Plan Act of 2021, any funds allocated under this subparagraph must first be used to increase the amount of the available tax credit to equal the amount that would be provided under Section 9661 of the American Rescue Plan Act of 2021 in the order of priority specified in divisions (a) to (d).

C. Funds in the fund may not be used to pay for state contributions toward the medical assistance program established pursuant to 42 United States Code, Chapter 7, Subchapters 19 and 21.

D. The commissioner shall monitor expenditures of the fund and, in consultation with the superintendent, take measures necessary to ensure solvency of the fund.

5. Rulemaking. The commissioner shall adopt rules for the proper administration of the fund. By December 31, 2021, the commissioner shall adopt rules to implement subsection 4, paragraph A. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§4330-A. Health care affordability assessment

1. Assessment. A covered entity shall file with the superintendent a report of its net written premiums for the preceding year by no later than April 1st of each year. The superintendent shall calculate and issue to the covered entity a certified assessment, which must be equal to 2.85% of the covered entity's net written premiums but may not exceed the amount the covered entity would have paid under Section 9010 of the federal Affordable Care Act if that section were in effect during that year, and the covered entity shall pay the assessment.

2. Deposit to the fund. The superintendent shall deposit all proceeds of the assessment to the fund.
3. Rulemaking. The superintendent shall adopt rules as necessary for the proper administration and enforcement of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Technical assistance from other state agencies. Upon the request of the superintendent or commissioner, state agencies, including the bureau, the Department of Administrative and Financial Services, Bureau of Revenue Services and the Maine Health Data Organization, shall provide technical assistance and expertise for the administration of the fund or assessment.

§4330-B. Affordable Health Care Advisory Group

1. Established. The Affordable Health Care Advisory Group is established for consultation with the superintendent and the commissioner on the development of rules to implement this subchapter and on the activities and initiatives funded through the fund. The superintendent and commissioner shall convene the advisory group no later than October 1, 2021.

2. Membership. The advisory group consists of 13 voting members, including the superintendent, the commissioner and 11 members appointed as follows:

A. The President of the Senate and the Speaker of the House of Representatives shall each appoint 4 members and the Governor shall appoint 3 members, including:

(1) A representative of nonprofit insurers;
(2) A representative of for-profit insurers who provide insurance on the exchange;
(3) A representative of small businesses and self-employed individuals;
(4) A representative of consumers with low incomes;
(5) A representative of the Health Insurance Consumer Assistance Program under section 4326;
(6) A representative of navigators, as defined in section 2188, subsection 1, paragraph B;
(7) A representative of a certified application counselor designated organization that has been designated by the Department of Health and Human Services;
(8) A person with experience in analyzing health data and the economic impact of health coverage on the economy;
(9) A representative of workers in the State or organized labor;
(10) An academic research professor with expertise in health care coverage; and
(11) A representative from a hospital.

3. Duties. The advisory group shall:

A. Identify barriers to accessing affordable health insurance coverage for residents of the State, including those with household incomes at or below 200% of the federal poverty level;
B. Determine the most efficient and effective mechanisms to deliver assistance under section 4330, subsection 4, paragraph A;
C. Determine the level of assistance under section 4330, subsection 4, paragraph A
needed to make health insurance coverage affordable; and

D. Establish outcome measures to evaluate the success of the activities and initiatives
under this subchapter.

4. Reporting. The commissioner shall submit a report annually by February 1st to the
Governor and the joint standing committee of the Legislature having jurisdiction over
health insurance matters that describes the activities and initiatives funded by the fund to
increase the affordability of health insurance for residents of the State and summarizes the
advisory group's findings and recommendations related to barriers to affordable health
coverage for residents of the State and how to improve the affordability of coverage options
available on the exchange. This commissioner shall publish the report on the publicly
accessible website of the Department of Health and Human Services.

SUMMARY

This bill:

1. Establishes the Maine Health Care Affordability Fund to fund activities and
initiatives to reduce the cost of health insurance coverage for Maine residents;

2. Requires the Commissioner of Health and Human Services to adopt rules for
the administration of the Maine Health Care Affordability Fund and for the disbursement
of funds from the fund to assist Maine residents with the cost of health care coverage;

3. Establishes the health care affordability assessment to provide funding to the
Maine Health Care Affordability Fund and requires the Superintendent of Insurance within
the Department of Professional and Financial Regulation to adopt rules for the
administration and enforcement of the health care affordability assessment;

4. Requires state agencies to provide technical assistance to the commissioner and
the superintendent for the administration of the Maine Health Care Affordability Fund or
the health care affordability assessment upon request;

5. Establishes the Affordable Health Care Advisory Group, which consists of the
commissioner, the superintendent and 11 additional members appointed by the President
of the Senate, the Speaker of the House of Representatives and the Governor, to consult on
the development of rules to implement and administer the Maine Health Care Affordability
Fund and the health care affordability assessment; and

6. Requires the commissioner to submit an annual report to the Governor and the
joint standing committee of the Legislature having jurisdiction over health insurance
matters describing activities and initiatives funded by the Maine Health Care Affordability
Fund to increase the affordability of health insurance for Maine residents and summarizing
the findings and recommendations of the Affordable Health Care Advisory Group by
February 1st. The commissioner is also required to make the report publicly available
online.