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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
127TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 470, L.D. 1305, Bill, “An Act To Encourage Health Insurance Consumers To Comparison Shop for Health Care Procedures and Treatment”

Amend the bill by striking out the title and substituting the following:

'An Act To Help Maine Consumers Comparison Shop for Certain Health Care Procedures and Lower Health Care Costs'

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

'Sec. 1. 24-A MRSA §4318-A is enacted to read:

§4318-A. Shared savings incentive program

Beginning January 1, 2018, a carrier offering a health plan in this State shall provide a shared savings incentive program that, at a minimum, meets the requirements of this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Comparable health care service" means a health care service for which a carrier offers a shared savings incentive payment under a program established by the carrier pursuant to this section. "Comparable health care service" includes, at a minimum, a health care service in the following categories:

- (1) Physical and occupational therapy services;
- (2) Obstetrical and gynecological services;
- (3) Radiology and imaging services; and
- (4) Laboratory services.

COMMITTEE AMENDMENT

1 B. "Program" means the shared savings incentive program established by a carrier
2 pursuant to this section.

3 **2. Filing with superintendent.** Prior to offering the program to any enrollee, a
4 carrier shall file a description of the program established by the carrier pursuant to this
5 section with the superintendent in the manner determined by the superintendent. The
6 superintendent may review the filing made by the carrier to determine if the carrier's
7 program complies with the requirements of this section. Upon request by a carrier before
8 January 1, 2018, the superintendent may grant a waiver from the requirement in
9 subsection 3 that the program be made available as a component of all health plans if the
10 superintendent determines that a waiver is justified on the basis of criteria specified in
11 rules adopted pursuant to subsection 8. Filings and waiver requests, and any supporting
12 documentation, made pursuant to this subsection are confidential until the filing has been
13 reviewed or the waiver request has been granted or denied by the superintendent in the
14 same manner as are form filings under section 2412, subsection 8.

15 **3. Availability of program; notice to enrollees.** Except for a health plan offered
16 through the federally facilitated marketplace established pursuant to the federal
17 Affordable Care Act, a carrier shall make the program available as a component of all
18 health plans offered by the carrier in this State unless a waiver has been granted by the
19 superintendent in accordance with subsection 2. A carrier may make the program
20 available as a component of any health plans offered by the carrier through the federally
21 facilitated marketplace. Annually at enrollment or renewal, a carrier shall provide notice
22 about the availability of the program to any enrollee who is enrolled in a health plan
23 eligible for the program.

24 **4. Incentive program required.** A carrier shall develop and implement a program
25 that provides incentives for an enrollee in a health plan who elects to receive a
26 comparable health care service that is covered by the plan from a provider that charges
27 less than the average price paid by that carrier for that comparable health care service.

28 A. Incentives may be calculated as a percentage of the difference in price, as a flat
29 dollar amount or by some other reasonable methodology approved by the
30 superintendent. The carrier may provide the incentive as a cash payment to the
31 enrollee or as a reduction in the enrollee's cost sharing or premium payment. For
32 services that are paid for by the enrollee under the plan's deductible provision, the
33 carrier may provide the incentive by crediting a higher amount than the provider's
34 actual charge toward the enrollee's deductible.

35 B. The shared savings incentive program must provide enrollees with at least 40% of
36 the carrier's saved costs for each service or category of comparable health care
37 service. Compliance with this requirement may be demonstrated in the aggregate of
38 plans offered in this State based on a reasonably anticipated mix of claims. A carrier
39 is not required to provide a payment or credit to an enrollee when the carrier's saved
40 cost is \$50 or less.

41 C. A carrier may determine the methodology for calculating the average price paid
42 by the carrier for a comparable health care service and the process an enrollee must
43 use to document whether the health care provider chosen by an enrollee charges less
44 for the comparable health care service than the average price paid by that carrier.

1 **5. Out-of-network provider.** If an enrollee elects to receive a comparable health
2 care service from an out-of-network provider that results or would otherwise result in a
3 shared savings incentive payment, the carrier shall apply the amount paid for the
4 comparable health care service toward the enrollee's cost sharing as specified in the
5 enrollee's health plan as if the health care services were provided by a network provider.

6 **6. No administrative expense.** A shared savings incentive payment made by a
7 carrier in accordance with this section is not an administrative expense of the carrier for
8 rate development or rate filing purposes.

9 **7. Report.** Beginning March 1, 2019 and annually on March 1st of each year
10 thereafter, a carrier shall file with the superintendent for the most recent calendar year the
11 total number of shared savings incentive payments made pursuant to this section, the use
12 of comparable health care services by category of service for which shared savings
13 incentive payments are made, the total shared savings incentive payments made to
14 enrollees, the average amount of shared savings incentive payments made by category of
15 service, the total savings achieved below the average prices by category of service and
16 the total number and percentage of a carrier's enrollees that participated. Beginning April
17 1, 2019 and annually by April 1st of each year thereafter, the superintendent shall submit
18 an aggregate report for all carriers containing the information required by this subsection
19 to the joint standing committee of the Legislature having jurisdiction over health
20 insurance matters.

21 **8. Rules.** The superintendent may adopt rules as necessary to implement this
22 section, including rules establishing criteria for a waiver under subsection 2. Rules
23 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
24 chapter 375, subchapter 2-A.'

SUMMARY

25
26 This amendment is the minority report of the committee. The amendment replaces the
27 bill and changes the title.

28 The amendment requires all carriers offering health plans in the State, beginning
29 January 1, 2018, to provide a shared savings incentive program as a component of all
30 health plans, except health plans offered through the federally facilitated marketplace
31 established pursuant to the federal Affordable Care Act, unless a waiver has been granted
32 by the superintendent. The amendment establishes the shared savings incentive program
33 for enrollees who elect to receive a comparable health care service that costs less than the
34 average price paid for that service by a carrier. The amendment defines "comparable
35 health care service" as a service for which a carrier offers a shared savings incentive
36 payment and includes, at a minimum, a health care service in the following 4 categories:
37 physical and occupational therapy services, obstetrical and gynecological services,
38 radiology and imaging services and laboratory services. If an enrollee shops for services,
39 the amendment requires a carrier to pay that enrollee a shared savings incentive payment
40 of at least 40% of the difference between the average amount for that comparable health
41 care service and the amount paid, except that a payment is not required if the saved cost is
42 \$50 or less.

