

**Public Law 2011, Chapter 90, LD 1333**  
**An Act To Modify Rating Practices for Individual and Small Group Health Plans and**  
**To Encourage Value-based Purchasing of Health Care Services**

*This document is our initial interpretation of the new law. Updates will be provided as more information becomes available.*

Provision	Details	Effective Date
1. Revises Small Group Rating Practices	<p>LD 1333 modifies the rating practices as follows:</p> <ul style="list-style-type: none"> <li>• The maximum rate (ratio) differential due to age is phased in for policies issued and renewed according to the following:               <ol style="list-style-type: none"> <li>a. 10/1/11 to 12/31/12 is 2 to 1;</li> <li>b. 1/1/13 to 12/31/13 is 2.5 to 1;</li> <li>c. 1/1/14 to 12/31/14 is 3 to 1;</li> <li>d. 1/1/15 to 12/31/15 is 4 to 1;</li> <li>e. On or after 1/1/16 is 5 to 1.</li> </ol> </li> </ul> <p>Note: The federal Accountable Care Act currently permits a ratio of up to 3 to 1. In the event the federal Patient Protection and Affordable Care Act (PPACA) is repealed or modified, the Maine law will prevail.</p> <ul style="list-style-type: none"> <li>• The maximum rate differential (ratio) due to smoking status is 1.5 to 1</li> <li>• The maximum rate differential (ratio) due for geographic area is 1.5 to 1.</li> </ul>	Phased in beginning October 1, 2011
2. Revises Individual health care policy rating practices	<p>LD 1333 modifies the rating practices as follows:</p> <ul style="list-style-type: none"> <li>• Phases in rating factors the premium rate may not deviate above or below the community rate due to age and smoking status for policies issued or renewed 12/1/1993 to 7/14/94 - by more than 50%; 7/15/94 to 7/14/95 - by more than 33%; and 7/15/95 to June 30, 2012 by more than 20%. The rating factor for geographic area may not exceed 1.5</li> <li>• Phases in rating factors for age. The maximum rate differential due to age for policies issued or renewed as follows: a) between 7/1/2012 and 12/31/2013 is <u>3 to 1</u>; b) between 1/1/2014 and 12/31/2014 is <u>4 to 1</u>; c) on or after 1/1/2015 is 5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 or more than 65.</li> <li>• Allows rating due to occupation and industry, as well as discounts for participation in wellness programs. These items may be further defined through rule making.</li> <li>• Phases in rating factors for age for a <u>Closed Book of Business</u>. The maximum rate differential due to age for policies issued or renewed are as follows: a) between 7/1/2012 and 12/31/12 is <u>2 to 1</u>; b) between 1/1/13 and 12/31/13 is <u>2.5 to 1</u>; c) between 1/1/14 and 12/31/14 is <u>3 to 1</u>; d) between 1/1/15 and 12/31/15 is <u>4 to 1</u>; e. on or after 1/1/16 is <u>5 to 1</u>. The maximum rate differential due to smoking is 1.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 or more than 65.</li> </ul> <p>Note: The federal Accountable Care Act currently permits a ratio of up to 3 to 1. In the event the</p>	Phased in beginning October 1, 2011

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	federal Patient Protection and Affordable Care Act (PPACA) is repealed or modified, the Maine law will prevail.																									
3. Maine Guaranteed Access Reinsurance Association Act	<p>Creates the Maine Guaranteed Access Reinsurance Association Act which will provide reinsurance for Individual coverage. Carriers will identify participants by reviewing a health statement at the time of enrollment. Members will still have coverage through their insurance carrier, but some of the claims costs will be covered by the reinsurance plan. The reinsurance program will be funded by an assessment not exceeding \$4.00 per month per covered person enrolled in medical insurance insured, reinsured or administered by an insurer, including TPAs licensed in Maine. Also, for members of the carrier who are reinsured by this program, a certain percentage of the health insurance premium will be given to the reinsurance program to cover the cost of the claims. The law also allows for additional funding of up to \$2.00 per month per covered person to cover net losses. The State of Maine employees health plan is excluded from the assessment.</p> <p>Funding for the Dirigo Health Agency may be reduced beginning later in 2011 (this item is part of the biennial budget which is still being discussed by the Maine legislature at this time). Currently, reduced funding for Dirigo is proposed according to the following schedule: Through 6/30/11 - 2.14% (current); 7/1/11 to 6/30/12 - 1.75%; 7/1/12 to 6/30/13 - 1.25%; 7/1/13 to 12/31/13 - 0.75%.</p> <p><b>Example:</b> The following shows a potential schedule of funding for Dirigo and the Maine Guaranteed Access Reinsurance Association (Reinsurance) for a small group employer and large group employer: (This calculation assumes that the assessment for the MGA Reinsurance fund would begin 1/1/12 but this has not yet been determined.)</p> <p>Small Group Example: A group with 15 employees and claims annually of \$117,000.</p> <table border="1" data-bbox="522 993 1541 1166"> <thead> <tr> <th rowspan="2">Year</th> <th colspan="2">Dirigo Assessment</th> <th>Reinsurance</th> <th>Total</th> </tr> <tr> <th>1st 6 mths</th> <th>2nd 6 mths</th> <th>Annually</th> <th></th> </tr> </thead> <tbody> <tr> <td>2011</td> <td>\$1251.90</td> <td>\$1023.75</td> <td>\$0.00</td> <td>\$2275.65</td> </tr> <tr> <td>2012</td> <td>\$1023.75</td> <td>\$731.25</td> <td>\$720.00</td> <td>\$2475.00</td> </tr> <tr> <td>2013</td> <td>\$731.25</td> <td>\$438.75</td> <td>\$720.00</td> <td>\$1890.00</td> </tr> </tbody> </table>	Year	Dirigo Assessment		Reinsurance	Total	1st 6 mths	2nd 6 mths	Annually		2011	\$1251.90	\$1023.75	\$0.00	\$2275.65	2012	\$1023.75	\$731.25	\$720.00	\$2475.00	2013	\$731.25	\$438.75	\$720.00	\$1890.00	Effective 90 days after the close of session to create the Boards, etc but the fund does not begin providing reinsurance until 7/1/12.
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4. Regional sale of Individual health insurance	<p>Permits Maine to enter into an agreement with CT, MA, NH or RI for the purpose of selling Individual health insurance. The law does not require out of state carriers to offer coverage in Maine, but solicits them to do so. It is unclear whether out of state carriers will find it attractive to offer coverage in Maine. Requires the out of state carriers to comply with Maine Rule Chapter 33 regarding Community Rating and the Rate Review process. Out of state carriers will not need to offer Maine mandated benefits.</p> <p>The law does not apply to small group coverage.</p>	1/1/2014																								
5. Medical Loss Ratio	<p>Changes Maine's definition of Medical Loss Ratio to match the definition of the federal Affordable Care Act (ACA). The law revises Maine's minimum medical loss ratio to mirror the federal ACA ratios of 85% for the large group market, 80% in the small group market and 80% or lower for the individual market (to be determined by the US Department of Health and Human Services). The law also requires carriers provide rebates (or return of premium) in the large group, small group and individual markets if the medical loss ratio is less than the minimum medical loss ratio.</p>	Effective 90 days after the close of session																								
6. State Health Plan and Advisory Council on Health System Development	<p>Repeals the State Health Plan and the Advisory Council on Health System Development. The law also eliminates the office of the Director of the Governor's Office of Health Policy and Finance.</p>	Effective 90 days after the close of session																								
7. Maine Rule Chapter 750	<p>Repeals Maine Rule Chapter 750 which defined the minimum level of coverage to be offered by HMOs and 2 standardized plans (Basic and Standard) which were required to be offered by HMOs and Managed Care Plans (PPO, etc).</p>	Effective 90 days after the close of session																								
8. Maine Rule Chapter 850	<p>Repeals Maine Rule Chapter 850 which defined geographic access standards for members' access to providers in a carrier's network. Carriers are still required to have adequate access to network providers.</p>	Effective 90 days after the close of session																								

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9. Short-term policies	Revises the current law to permit individuals to purchase short term health insurance coverage for up to 24 months.	Effective 90 days after the close of session
10. Tax Credit for small businesses for wellness programs	Provides a tax credit to employers with 20 or fewer employees for wellness programs in the amount of \$100 per employee, up to a maximum of \$2000. The wellness program can include programs for health education, behavior modification (such as smoking cessation programs, equipping and maintaining an exercise facility) and providing incentive awards to employees who exercise regularly.	Tax year beginning 1/1/2014
11. Captive Insurance Companies	<p><u>Captive insurance companies:</u></p> <ul style="list-style-type: none"> <li>• Clarifies that laws of captive insurance companies prevail if there is a conflict between laws governing captive insurance companies and other state insurance laws.</li> <li>• Are not permitted to provide individual health insurance.</li> </ul> <p><u>Association captive insurance companies</u> which are insuring the health coverage risks of its members:</p> <ul style="list-style-type: none"> <li>• Are required to comply with community rating, guaranteed issue and renewal requirements, and small group mandated benefit requirements.</li> <li>• Permits an association captive insurance company to require its members to be jointly and severally liable for its health insurance obligations, to meet financial obligations and wellness criteria established in a plan, and to provide solvency standards applicable to these captives.</li> <li>• The Superintendent of Insurance shall issue a license to an association captive that is insuring health risks for an association captive insurance company that satisfies the following requirements: <ul style="list-style-type: none"> <li>○ Insures only health risks of the association and requires its members to be jointly and severally liable,</li> <li>○ Has a plan of operation that is fiscally sound, has established a dispute resolution process, designates a 3<sup>rd</sup> party administrator approved by the superintendent; and</li> <li>○ Association members have an aggregate net worth of more than \$100,000,000 and meets the requirements of the captive insurance law.</li> </ul> </li> </ul>	Effective 90 days after the close of session

Note: For the laws that go into effect 90 days after the close of session, this date is expected to be mid to late September.

As always, please note that EBS is sharing this information to assist you with your compliance planning. We recommend that you contact your legal counsel with specific questions relating to this law.

Sources:

1. Public Law, Chapter 90, LD 1333, 125th the Maine State Legislature, [http://www.mainelegislature.org/legis/bills/display\\_ps.asp?PID=1456&snum=125&paper=&ld=1333](http://www.mainelegislature.org/legis/bills/display_ps.asp?PID=1456&snum=125&paper=&ld=1333)
2. Producer Presentation by Anthem BC/BS of Maine, May 18, 2011