



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1030

S.P. 337

In Senate, March 14, 2017

### **An Act To Require Nondiscrimination Policies in Providing Health Care Services**

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator CHENETTE of York.  
Cosponsored by Representative CASÁS of Rockport and  
Representative: BEEBE-CENTER of Rockland.

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

2 **Sec. 1. 24-A MRSA §2385-G** is enacted to read:

3 **§2385-G. Nondiscrimination; prohibited practices**

4 **1. Covered providers.** An insurer may not discriminate against a health care  
5 provider who is licensed, registered or certified by the State in providing covered services  
6 under a workers' compensation insurance policy or contract as long as the provider is  
7 acting within the scope of the provider's license, registration or certification.

8 **2. Prohibited practices.** An insurer offering a workers' compensation insurance  
9 policy or contract in this State may not engage in the following practices in order to limit  
10 the implementation of nondiscrimination policies:

11 A. Lower reimbursement rates for certain categories of providers who are delivering  
12 the same services as other provider types, as defined by procedural codes;

13 B. Apply limits to the number of allowable visits to some types of providers and not  
14 others;

15 C. Limit the amount of payment for a service provided by a licensed, registered or  
16 certified provider acting within the provider's scope of practice;

17 D. Limit the number of providers in the insurer's network;

18 E. Eliminate or restrict integrative or naturopathic services that are otherwise within  
19 the provider's scope of practice;

20 F. Restrict current procedural terminology codes, commonly referred to as "CPT  
21 codes," by provider type;

22 G. Exclude coverage for diagnosis and treatment of a condition or illness by a  
23 licensed, registered or certified provider who is acting within the provider's scope of  
24 practice if the insurer covers diagnosis and treatment of the condition or illness by a  
25 licensed physician or osteopathic physician;

26 H. Make access to providers difficult by implementing cumbersome approval  
27 processes; or

28 I. Implement exclusionary language in provider contracts that references "not  
29 medically necessary," "not clinically efficacious" or "experimental" solely to deny  
30 coverage for services.

31 **3. Variable reimbursement methods.** The provisions in subsection 2 do not  
32 prohibit an insurer from offering variable reimbursement methods based on quality and  
33 performance measures as long as the standard measures used are applied uniformly across  
34 provider types.

35 **4. Deductible.** Prior to meeting any deductible threshold, if applicable, the expense  
36 of any service paid by the policyholder that is rendered by a licensed provider must be  
37 applied to the deductible. When attributing the expense of services paid for by the

1 policyholder to the deductible, there may not be any differentiation between in-network  
2 and out-of-network providers until the point at which the deductible is met.

3 **5. Conformity with federal law.** An insurer shall comply with:

4 A. The federal Affordable Care Act, Sections 1251, 1252 and 1304;

5 B. 42 United States Code, Section 300gg et seq.;

6 C. 42 United States Code, Section 300gg-11 et seq.; and

7 D. 42 United States Code, Section 300gg-94.

8 **Sec. 2. 24-A MRSA §2910-B** is enacted to read:

9 **§2910-B. Nondiscrimination; prohibited practices**

10 **1. Covered providers.** An insurer may not discriminate against a health care  
11 provider who is licensed, registered or certified by the State in providing covered services  
12 under an automobile liability insurance policy or contract as long as the provider is acting  
13 within the scope of the provider's license, registration or certification.

14 **2. Prohibited practices.** An insurer offering an automobile liability insurance  
15 policy or contract in this State may not engage in the following practices in order to limit  
16 the implementation of nondiscrimination policies:

17 A. Lower reimbursement rates for certain categories of providers who are delivering  
18 the same services as other provider types, as defined by procedural codes;

19 B. Apply limits to the number of allowable visits to some types of providers and not  
20 others;

21 C. Limit the amount of payment for a service provided by a licensed, registered or  
22 certified provider acting within the provider's scope of practice;

23 D. Limit the number of providers in the insurer's network;

24 E. Eliminate or restrict integrative or naturopathic services that are otherwise within  
25 the provider's scope of practice;

26 F. Restrict current procedural terminology codes, commonly referred to as "CPT  
27 codes," by provider type;

28 G. Exclude coverage for diagnosis and treatment of a condition or illness by a  
29 licensed, registered or certified provider who is acting within the provider's scope of  
30 practice if the insurer covers diagnosis and treatment of the condition or illness by a  
31 licensed physician or osteopathic physician;

32 H. Make access to providers difficult by implementing cumbersome approval  
33 processes; or

34 I. Implement exclusionary language in provider contracts that references "not  
35 medically necessary," "not clinically efficacious" or "experimental" solely to deny  
36 coverage for services.

1           **3. Variable reimbursement methods.** The provisions in subsection 2 do not  
2 prohibit an insurer from offering variable reimbursement methods based on quality and  
3 performance measures as long as the standard measures used are applied uniformly across  
4 provider types.

5           **4. Deductible.** Prior to meeting any deductible threshold, if applicable, the expense  
6 of any service paid by the policyholder that is rendered by a licensed provider must be  
7 applied to the deductible. When attributing the expense of services paid for by the  
8 policyholder to the deductible, there may not be any differentiation between in-network  
9 and out-of-network providers until the point at which the deductible is met.

10           **5. Conformity with federal law.** An insurer shall comply with:

11           A. The federal Affordable Care Act, Sections 1251, 1252 and 1304;

12           B. 42 United States Code, Section 300gg et seq.;

13           C. 42 United States Code, Section 300gg-11 et seq.; and

14           D. 42 United States Code, Section 300gg-94.

15           **Sec. 3. 24-A MRSA §4320-K** is enacted to read:

16           **§4320-K. Nondiscrimination; prohibited practices**

17           **1. Covered providers.** A carrier may not discriminate against a health care provider  
18 who is licensed, registered or certified by the State in providing covered services to plan  
19 enrollees as long as the provider is acting within the scope of the provider's license,  
20 registration or certification. A carrier shall maintain network adequacy by ensuring a  
21 sufficient number of health care providers to serve the number of enrollees. Copayments,  
22 deductibles, conversion factors and covered essential health benefits under health plans  
23 must apply equally to all covered providers and not differ based solely on category or  
24 professional title of the provider or by licensure, registration or certification of the  
25 provider.

26           **2. Prohibited practices.** A carrier offering a health plan in this State may not  
27 engage in the following practices in order to limit the implementation of  
28 nondiscrimination policies:

29           A. Lower reimbursement rates for certain categories of providers who are delivering  
30 the same services as other provider types, as defined by procedural codes;

31           B. Apply limits to the number of allowable visits to some types of providers and not  
32 others;

33           C. Limit the amount of payment for a service provided by a licensed, registered or  
34 certified provider acting within the provider's scope of practice;

35           D. Limit the number of providers in the health plan's network;

36           E. Eliminate or restrict integrative or naturopathic services that are otherwise within  
37 the provider's scope of practice;

1 F. Restrict current procedural terminology codes, commonly referred to as "CPT  
2 codes," by provider type;

3 G. Exclude coverage for diagnosis and treatment of a condition or illness by a  
4 licensed, registered or certified provider who is acting within the provider's scope of  
5 practice if the health plan covers diagnosis and treatment of the condition or illness  
6 by a licensed physician or osteopathic physician;

7 H. Make access to providers difficult by implementing cumbersome approval  
8 processes; or

9 I. Implement exclusionary language in provider contracts that references "not  
10 medically necessary," "not clinically efficacious" or "experimental" solely to deny  
11 coverage for services.

12 **3. Variable reimbursement methods.** The provisions in subsection 2 do not  
13 prohibit a carrier from offering variable reimbursement methods based on quality and  
14 performance measures as long as the standard measures used are applied uniformly across  
15 provider types.

16 **4. Deductible.** Prior to meeting any deductible threshold, if applicable, the expense  
17 of any service paid by the policyholder that is rendered by a licensed provider must be  
18 applied to the deductible. When attributing the expense of services paid for by the  
19 policyholder to the deductible, there may not be any differentiation between in-network  
20 and out-of-network providers until the point at which the deductible is met.

21 **5. Requirements if service determined experimental or not medically necessary.**  
22 A carrier that limits coverage of experimental treatment or treatment determined to be not  
23 medically necessary shall:

24 A. Define the limitation and disclose the limits in any agreement, policy or  
25 certificate of coverage. The disclosure must include the following:

26 (1) Who is authorized to make the determination on limiting coverage; and

27 (2) The criteria the plan uses to determine whether a treatment, procedure, drug  
28 or device is experimental; and

29 B. If the carrier includes in the disclosure under paragraph A all of the information  
30 required to make a decision, issue, within 5 business days after receiving a request for  
31 coverage, a coverage decision. If coverage is denied, the carrier shall provide the  
32 insured a denial letter that includes:

33 (1) A statement of the specific medical and scientific factors considered in  
34 making a decision; and

35 (2) A notice of the insured's right to appeal and an explanation of the appeal  
36 process.

37 **6. Conformity with federal law.** A carrier shall comply with:

38 A. The federal Affordable Care Act, Sections 1251, 1252 and 1304;

39 B. 42 United States Code, Section 300gg et seq.;

1 C. 42 United States Code, Section 300gg-11 et seq.; and  
2 D. 42 United States Code, Section 300gg-94.

3 **SUMMARY**

4 This bill prohibits health insurance carriers, automobile insurers and workers'  
5 compensation insurers from discriminating against health care providers who are  
6 licensed, registered or certified by the State in providing covered services as long as the  
7 providers are acting within the scope of their licenses, registrations or certifications. The  
8 bill also prohibits certain practices that may limit implementation of nondiscrimination  
9 policies.