An Act To Allow School Administrative Units To Seek Less Expensive Health Insurance Alternatives

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

Sec. 1. 20-A MRSA §1001, sub-§5, as repealed and replaced by PL 1989, c. 425, §1, is amended to read:

5. Insurance premiums and employee benefits. They may:

A. Pay the premiums on life, health, dental, disability, accident, hospitalization, major medical and such other types of insurance as may be provided to employees and their families from time to time;

B. Provide direct reimbursement of the costs incurred by employees and their family members pursuant to a direct reimbursement plan for dental costs, including endodontic, periodontic and orthodontic costs, ~~provided~~except that reimbursement of orthodontic costs ~~shall be~~is limited to 60% of the plan participant's costs.

(1) Prior to the commencement of operation of any such direct reimbursement plan or program, the school board shall adopt guidelines ~~which~~that embody a funding mechanism adequate to the financial needs of the plan or program and shall provide for the fixed costs of operations of the plan for the first prospective fund year. A reasonable amount sufficient to satisfy immediate claims costs ~~shall~~must be held in a segregated account to be used solely for this purpose.

(2) The school board or other legal entity establishing a plan or program for the purpose of direct reimbursement pursuant to this paragraph, whether or not a body corporate, may with respect to the plan or program sue or be sued; make contracts; hold and dispose of real property; borrow money, contract debts and pledge assets in the name of the plan; and perform such other actions incidental to this subparagraph as necessary.

(3) The plan or program may be established as a separate legal or administrative entity.

(4) The legal entity ~~which~~that establishes a plan or program ~~which~~that provides coverage for more than one school administrative unit with respect to the benefits authorized in this paragraph shall adopt a plan of management ~~which~~that, at a minimum, provides the following:

(a) The means of establishing and maintaining a governing authority of the program, including the selection of a governing authority, which ~~shall~~must be a board of directors or trustees for the plan, a majority of whom ~~shall~~must be from the participating school administrative unit or units;

(b) That the governing authority has the responsibility with regard to fixing contributions to the plan, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surplus and administering the plan in the event of its termination, liquidation or insolvency;

(c) The identification of funds and reserves by the type of benefit provided and exposure area;

(d) The basis upon which new members may be admitted to and existing members may leave the plan;

(e) That any member of a group plan or pool established for more than one school administrative unit shall prepay to the plan administrator an initial deposit equal to 25% of the annual contribution before coverage is effective;

(f) Other provisions as necessary or desirable for the operation of the plan;

(g) A provision that if the assets set aside in any group plan for more than one school administrative unit are at any time determined to be insufficient to enable the plan to discharge its legal liabilities and other obligations and to maintain sound reserves for the provision of the employee benefits provided by the plan, the governing authority shall within 90 days satisfy the deficiency or levy a prorated assessment upon the participating school administrative unit or units for the amount needed to satisfy the deficiency. The agreement among school administrative units in the group plan ~~shall~~must provide sanctions for failure to comply with a mandatory assessment under this subparagraph;

(5) Prior to the operation of any group or pool plan for more than one school administrative unit, the governing authority shall adopt underwriting guidelines ~~which~~that embody rate charges to prospective members at a level adequate to its financial needs and shall provide for the fixed costs of operations for the first prospective fund year. An amount sufficient to reasonably meet immediate claims costs ~~shall~~must be held in a segregated account to be used solely for this purpose. Funds determined to be necessary to fund the program on an ongoing basis ~~shall~~must also be held in a segregated account;

(6) Each group plan or pool established for more than one school administrative unit shall file with its members, by the last day of the 6th month following the end of the fiscal year, audited financial statements certified by an independent certified public accountant. The financial statement ~~shall~~must include, but is not limited to:

(a) Appropriate reserves for known claims and expenses associated with those claims;

(b) Claims incurred but not reported and expenses associated with those claims;

(c) Unearned contributions; and

(d) Reserve for bad debts.

The audited financial statement ~~shall~~must include information concerning the adequacy of the plan. This report ~~shall~~must result from a charge by the directors to the plan's actuary and auditor and ~~shall~~must address excess insurance, charges for coverage to members, service agents' costs and costs of administration of the program.

Two additional copies of the audited financial statements ~~shall~~must be filed with the Superintendent of Insurance.

If a group plan or pool established for more than one school administrative unit fails to provide for the audited financial statements required, the Superintendent of Insurance shall perform or cause to be performed the audit. The group plan or pool shall reimburse the Superintendent of Insurance for the cost of the audit; and

(7) Any reimbursement plan or program for the provision of the employee benefits established and operated pursuant to this paragraph is not an insurance company, reciprocal insurer or insurer under the laws of this State and the development, administration and provision of such plans and programs does not constitute doing an insurance business;

C. Pay premiums on liability insurance for employees and school officials; and

D. Provide such other employee benefits, directly or indirectly, to their employees as any school board determines from time to time, upon such terms and conditions and in such manner as the school board determines, subject to the requirements of all applicable laws.

Nothing in this subsection or subsection 14 prohibits a school board from arranging for and offering a choice of optional health or dental insurance plans to employees and their families that may vary in benefits provided and costs.

Sec. 2. 20-A MRSA §1001, sub-§5-D is enacted to read:

5-D. Group self-insured options. Notwithstanding any other provision of this section, they may arrange for a group self-insurance program to provide health or dental insurance for employees and their families, including a group self-insurance program established through an interlocal agreement with other school administrative units or municipalities established pursuant to Title 30#A, chapter 115. The following restrictions apply to self-insured group health or dental programs.

A. For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Program" means a group self-insurance health or dental program.

(2) "Program provider" means a school administrative unit that has arranged for a program under this subsection or collectively those school administrative units or municipalities that have entered an interlocal agreement to arrange for a program under this subsection.

(3) "Qualified actuary" means an actuary who is a member of the American Academy of Actuaries qualified as to health reserving methodologies.

B. To the extent the program provider assumes the risk with respect to any program provided under this subsection, the program provider shall maintain a reserve at least equal to the sum of:

(1) An amount estimated to be necessary to pay claims and administrative costs for the assumed risk for 2 1/2 months; and

(2) The amount determined annually by a qualified actuary to be necessary to fund the unpaid portion of ultimate expected losses, including incurred but not reported claims, and related expenses incurred in the provision of benefits for eligible participants, less any credit, as determined by a qualified actuary, for excess or stop#loss insurance.

If the program provider self-insures for more than one program, a reserve meeting the requirements of this paragraph must be maintained for each program.

C. The program provider may purchase excess or stop#loss insurance for any program, with attachment levels and limits as recommended by a qualified actuary.

D. Paragraph B does not apply to a program in the first 2 years after the program is changed from a fully insured program to a fully or partially self-insured program. Before a program may begin its first year of operation:

(1) The reserve fund must contain a reserve at least equal to the amount estimated to be necessary to pay the claims and administrative costs with respect to the assumed risk for one full month; and

(2) The rate structure of the program, as certified by a qualified actuary, must be designed to enable the fund to attain the following reserve levels:

(a) By the end of the first year of the program, the reserve required by paragraph B, subparagraph (2) and an amount estimated to be necessary to pay claims and administrative costs for the assumed risk for 2 full months; and

(b) By the end of the 2nd year of the program, the reserve required by paragraph B, subparagraph (2) and an amount estimated to be necessary to pay claims and administrative costs for the assumed risk for 2 1/2 full months.

If the program provider purchases stop-loss or excess insurance with respect to the risk, the required reserve is reduced by the credit specified in paragraph B. A self#insurance program may not continue if the reserve fund with respect to that program does not contain the amounts set forth in subparagraph (2) by the time limits established.

E. The program provider may not enter into a contract with a 3rd#party administrator that has not demonstrated compliance with all applicable state laws and that is not, at the time of entering into the contract, administering a health plan or providing health care coverage for a total number of lives equal to the number that would be covered by the program provider contract.

F. Every applicant to provide service as a 3rd#party administrator for the program shall file a fidelity bond in favor of the program provider executed by a surety company for the benefit of the program provider or beneficiaries of the program and shall maintain the fidelity bond in force while representing the program. The bond must be continuous in form and in one of the following amounts, up to $1,000,000:

(1) For an administrator that collects contributions and premiums for a program but does not administer or pay claims, the greater of $50,000 and 5% of contributions and premiums projected to be received or collected for the following plan year from the program provider or from persons covered by the program;

(2) For an administrator that administers and pays claims but does not collect premiums and contributions, the greater of $50,000 and 5% of the claims and claim expenses projected to be held for the following year to pay claims and claim expenses for persons covered by the program; or

(3) For an administrator that collects premiums and contributions and administers and pays claims, the greater of the amounts determined under subparagraphs (1) and (2).

This paragraph applies only if no other applicable state law requires bonding of 3rd#party administrators.

G. Any contract entered into by the program provider must provide for coverage that meets the same level of benefits as those that would be required by state law if the coverage were provided by a health insurance plan governed by Title 24 or Title 24#A.

H. If a group self#insurance program is established through an interlocal agreement with other school administrative units or municipalities established pursuant to Title 30#A, chapter 115, the group self#insurance program must be approved by the Superintendent of Insurance as a multiple#employer welfare arrangement pursuant to Title 24#A, chapter 81.

Sec. 3. 20-A MRSA §1001, sub-§14, ¶D is enacted to read:

D. In order to facilitate the competitive bidding process in procuring health insurance for a school administrative unit's employees under this subsection, a school administrative unit may request from the insurer providing health insurance coverage to its employees and retirees loss information concerning all of that school administrative unit's employees and retirees and their dependents covered under the school administrative unit's policy or contract pursuant to Title 24#A, section 2803#A.

Sec. 4. 24-A MRSA §2803-A, sub-§2, as amended by PL 2003, c. 428, Pt. D, §1, is further amended to read:

2. Disclosure of basic loss information. Upon written request, every insurer shall provide loss information concerning a group policy or contract to its policyholder ~~or~~, to a former policyholder or to a school administrative unit pursuant to Title 20#A, section 1001, subsection 14, paragraph D within 21 business days of the date of the request. This subsection does not apply to a former policyholder whose coverage terminated more than 18 months prior to the date of a request.

Effective 90 days following adjournment of the 125th Legislature, First Regular Session, unless otherwise indicated.