§6981. Dirigo Health Self-administered Plan

Notwithstanding section 6910, subsection 2, Dirigo Health may provide access to health benefits coverage by establishing the Dirigo Health Self-administered Plan, referred to in this subchapter as "the self-administered plan," pursuant to this section. [PL 2007, c. 447, §11 (NEW).]

1. Establishment. Dirigo Health may provide access to health benefits coverage through the self-administered plan subject to the requirements of this section. The board may make a determination that Dirigo Health will provide access to health benefits coverage through the self-administered plan after the board evaluates competitive bids for health benefits coverage for self-administered and fully underwritten health benefits coverage. If the board determines that Dirigo Health will provide access to health coverage through the self-administered plan as authorized under this section, the board shall submit a report explaining the reasons for the decision to the joint standing committee of the Legislature having jurisdiction over health insurance matters within 30 days of the decision. Upon receipt of a report from the board, the chairs of the joint standing committee of the Legislature having jurisdiction over health insurance matters may call a meeting of the committee. Following receipt of such a report, the joint standing committee of the Legislature having jurisdiction over health insurance matters may report out legislation to the next regular or special session of the Legislature relating to the establishment of the self-administered plan.
[PL 2007, c. 447, §11 (NEW).]

2. Cooperative agreements. Dirigo Health may enter into voluntary cooperative agreements with a public purchaser for purchasing purposes and administrative functions. If a cooperative agreement is entered into pursuant to this subsection, the self-administered plan and any public purchaser shall maintain separate and distinct risk pools and reserves and may not commingle risk pools or reserve funds under any circumstances. For the purposes of this subsection, "public purchaser" means an entity that purchases health coverage in whole or in part with public funds, including, but not limited to, the state employee health insurance program, the University of Maine System, the Maine Community College System, the Maine Education Association benefits trust, the Maine School Management Association benefits trust and municipal and county governments. For the purposes of this subsection, "public purchaser" does not mean the Department of Health and Human Services, Office of MaineCare Services.
[PL 2009, c. 369, Pt. A, §33 (AMD).]

3. Additional responsibilities of board. In addition to the duties and responsibilities set out in sections 6908 and 6910, the board is authorized to:

A. Operate the self-administered plan pursuant to a trust instrument in accordance with Title 18-B; [PL 2007, c. 447, §11 (NEW).]

B. Develop, maintain and modify a business plan for the self-administered plan as appropriate in consultation with the executive director; [PL 2007, c. 447, §11 (NEW).]

C. Establish an operating budget for the self-administered plan subject to legislative approval in the biennial budget process in accordance with section 6908, subsection 3; [PL 2007, c. 447, §11 (NEW).]

D. Ensure the ongoing fiscal integrity and stability of the self-administered plan in accordance with subsections 5 and 11 and monitor statistics provided by the executive director relating to the number of plan enrollees, working rates, utilization of benefits, operating costs and reimbursement for losses related to excess or stop loss coverage; [PL 2007, c. 447, §11 (NEW).]

E. Establish administrative and accounting procedures in accordance with section 6908, subsection 2, paragraph A and develop financial statements that are consistent with generally accepted accounting principles; [PL 2007, c. 447, §11 (NEW).]

F. Obtain necessary contracts for services, including, but not limited to, actuarial services, accounting services, auditing services, investment advice and counsel and custodial services for financial assets in accordance with subsection 4; [PL 2007, c. 447, §11 (NEW).]

G. Take any actions necessary to comply with federal and state Medicaid rules regarding Dirigo Health plan members eligible for MaineCare; [PL 2007, c. 447, §11 (NEW).]

H. Take any actions necessary to comply with federal Medicaid managed care organization contract requirements as provided in 42 Code of Federal Regulations, Part 438 (2002); and [PL 2007, c. 447, §11 (NEW).]

I. Have and exercise all powers necessary and appropriate to carry out the purposes of this section. [PL 2007, c. 447, §11 (NEW).]

[PL 2007, c. 447, §11 (NEW).]

4. Services. If the board determines that Dirigo Health will provide access to health coverage through the self-administered plan pursuant to subsection 2, the board shall contract for the following services through a competitive bidding process unless the requirement for competitive bidding is waived pursuant to Title 5, section 1825-B, subsection 2 or a carrier contracted by Dirigo Health to fully underwrite health benefits coverage terminates that contract.

A. The board shall secure the services of an actuary for technical advice on matters regarding the operation of the self-administered plan in accordance with this paragraph. The board shall contract for actuarial services after a competitive bidding process at least every 3 years and may award a bid only to an actuary who is a member in good standing of the American Academy of Actuaries or a successor organization. The contract must require the actuary to:

(1) Act as a technical advisor to the board on matters regarding the operation of the self-administered plan in accordance with this paragraph;

(2) Certify the amounts of the benefits paid and payable under this section;

(3) Analyze the year's operations and results and the experience of the self-administered plan;

(4) Determine appropriate actuarial assumptions for recommendation to the board; and

(5) Determine the appropriate level of reserves needed to sustain the self-administered plan and pay benefits. [PL 2007, c. 447, §11 (NEW).]

B. The board shall secure the services of one or more fiduciaries or registered investment advisors through negotiated contractual arrangements. The contract must require the fiduciary or registered investment advisor to:

(1) Invest and reinvest the funds in accordance with appropriate financial and trust standards;

(2) Advise the board as to reasonable investment philosophy; and

(3) Submit regular reports of investments and changes to the board. [PL 2007, c. 447, §11 (NEW).]

C. The board shall contract with an appropriate financial institution for custodial services for the securities and other investment assets of the self-administered plan. The contract must require the custodian to meet financial safeguards and other qualifications determined by the board, including restrictions on the manner in which deposits and withdrawals of funds are completed. [PL 2007, c. 447, §11 (NEW).]

D. When the self-administered plan is established, the board shall purchase, through contracts from one or more 3rd-party administrators or any organization necessary to administer and provide a health plan, a policy or policies or a contract to provide the benefits specified by this section. The

purchase of policies by the board must be accomplished by use of a written contract for a term determined by the board. [PL 2007, c. 447, §11 (NEW).]

The board may contract for any other applicable services necessary to comply with federal law. [PL 2007, c. 447, §11 (NEW).]

5. Administration. The following provisions govern the administration of the self-administered plan.

A. The assets and liabilities of the self-administered plan are solely the assets and liabilities of Dirigo Health. [PL 2007, c. 447, §11 (NEW).]

B. The actuary under contract with the board pursuant to subsection 4 shall determine:

(1) The appropriate level of reserves estimated to be sufficient to pay claims and administrative costs according to subsection 11, paragraph B;

(2) Whether the program is operating on an actuarially sound basis and any recommendations based on that determination;

(3) A rate structure for the self-administered plan, including working rates actuarially sufficient to pay anticipated claims for the current claims year as well as to provide sufficient reserves for incurred but not reported claims;

(4) Recommendations as to the purchase of excess or stop loss insurance including suggested attachment levels and limits; and

(5) Recommendations as to the need for a security deposit or surety bond to protect against insolvency.

The actuary shall annually present information to the board on the determinations made pursuant to this paragraph as well as the method of distribution of any accumulations above the reserves including use of excess reserves to moderate the working rates. [PL 2007, c. 447, §11 (NEW).]

C. The superintendent shall complete a detailed review of the financial and actuarial aspects of the self-administered plan, including, but not limited to, the presentation and recommendations of the actuary and the audited financial statements of the self-administered plan. The superintendent shall report the superintendent's findings and any recommendations to the board and at a public meeting of the joint standing committee of the Legislature having jurisdiction over insurance matters on or before March 1st of each year. [PL 2007, c. 447, §11 (NEW).]

D. The self-administered plan may not obligate the General Fund beyond that amount appropriated by the Legislature. [PL 2007, c. 447, §11 (NEW).]

[PL 2007, c. 447, §11 (NEW).]

6. Audits; financial statements. The board shall arrange for an annual audit of its financial statements by an independent certified public accounting firm. Within 30 days of the completion of the audit, a copy of the audited financial statements must be distributed to the Legislature in the same manner as required by section 6908, subsection 4. A copy of the audited financial statements must also be made available for public inspection.
[PL 2007, c. 447, §11 (NEW).]

7. Public entity. The self-administered plan is a public entity for the purposes of 42 Code of Federal Regulations, Section 438.116.
[PL 2007, c. 447, §11 (NEW).]

8. Health benefit coverage. Health benefits coverage provided under the self-administered plan in accordance with this subchapter must be comprehensive and include a low deductible plan option for enrollees in the Dirigo Health Program.
[PL 2007, c. 447, §11 (NEW).]

9. Application of certain insurance provisions. The self-administered plan must meet or exceed the following requirements in the same manner as when health benefits coverage is provided by a health insurance carrier:

A. The requirements for rating practices pursuant to section 2736-C, subsection 2 and section 2808-B, subsection 2; [PL 2007, c. 447, §11 (NEW).]

B. The requirements for guaranteed issuance pursuant to section 2736-C, subsection 3 and section 2808-B, subsection 4; [PL 2007, c. 447, §11 (NEW).]

C. The requirements for guaranteed renewal pursuant to section 2736-C, subsection 3 and section 2808-B, subsection 4 subject to the limitations of available funds maintained by the self-administered plan in accordance with subsection 11; [PL 2007, c. 447, §11 (NEW).]

D. The requirements for continuity of coverage, coverage of late enrollees and preexisting condition exclusions pursuant to chapter 36; [PL 2007, c. 447, §11 (NEW).]

E. The requirements for mandated coverage of specific health care services and for specific diseases and for certain providers of health care services pursuant to Title 24 and this Title; [PL 2007, c. 447, §11 (NEW).]

F. The requirements for the benefits, rights and protections for individuals enrolled in health plans pursuant to chapter 56-A and Bureau of Insurance Rule Chapter 850. Notwithstanding any statute or common law to the contrary, an individual enrolled in the self-administered plan may maintain a cause of action against the self-administered plan subject to the requirements of section 4313. This paragraph is a waiver of the State's defense of immunity under Title 14, chapter 741; [PL 2007, c. 447, §11 (NEW).]

G. The requirements of the Insurance Information and Privacy Protection Act pursuant to chapter 24; and [PL 2007, c. 447, §11 (NEW).]

H. The provisions of sections 2159-B and 2159-C relating to discrimination against victims of domestic abuse and discrimination on the basis of genetic information or testing. [PL 2007, c. 447, §11 (NEW).]

The self-administered plan may not enter into any contract with a 3rd-party administrator, carrier or other organization to administer and provide health coverage that has not demonstrated compliance with all applicable state laws.
[PL 2007, c. 447, §11 (NEW).]

10. Self-administered plan not an insurer. The self-administered plan is not an insurer, reciprocal insurer or joint underwriting association under the laws of the State. The administration of the self-administered plan by the board does not constitute doing the business of insurance.
[PL 2007, c. 447, §11 (NEW).]

11. Reserves. This subsection applies to reserves of the self-administered plan.

A. The Dirigo Health Reserve is created as an account within the Dirigo Health Enterprise Fund, as established pursuant to section 6915, for the deposit of reserves as required by paragraph B. [PL 2007, c. 447, §11 (NEW).]

B. The self-administered plan shall maintain a reserve at least equal to the sum of:

(1) An amount estimated by a qualified actuary under subsection 5 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 under subsection 5 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. [PL 2007, c. 447, §11 (NEW).]

C. The Dirigo Health Reserve must be adjusted on a quarterly basis in order to maintain a reserve at least equal to the amount determined in paragraph B. [PL 2007, c. 447, §11 (NEW).]

D. The Dirigo Health Reserve is capitalized by money from the Dirigo Health Enterprise Fund, as established pursuant to section 6915, and any other fund advanced for initial operating expenses, monthly enrollee payments, any funds received from any public or private source, legislative appropriations, payments from state departments and agencies and such other means as the Legislature may approve. All money in the Dirigo Health Reserve is deemed to be the commingled assets of all covered enrollees and may be used only for the purposes of this section. [PL 2007, c. 447, §11 (NEW).]

[PL 2007, c. 447, §11 (NEW).]

12. Stop loss insurance. The board may purchase excess or stop loss insurance for the self-administered plan, with attachment levels and limits as recommended by a qualified actuary pursuant to subsection 5. If the board is unable to purchase excess or stop loss insurance at the recommended attachment levels and limits, the board does not have the authority to establish a self-administered plan as provided in this section.

[PL 2007, c. 447, §11 (NEW).]

13. Marketing and distribution. The board may contract for the marketing and distribution of the self-administered plan in accordance with the requirements of this subsection. Any entity or individual that contracts with the self-administered plan shall successfully complete all training offered by Dirigo Health for the solicitation, negotiation and sale of health benefits coverage. Training must be completed annually, and any certificate establishing successful completion of training is valid for one year from the date of issuance. If an entity or individual fails to obtain certification following the expiration of the prior year's certification, the entity or individual may not continue to solicit, negotiate and sell health benefits coverage under the self-administered plan.

[PL 2007, c. 447, §11 (NEW).]

14. Provider reimbursement. In any contract with a 3rd-party administrator, carrier or other organization to administer and provide health coverage to enrollees of the self-administered plan, the board shall ensure that:

A. Providers contracting to provide health coverage to plan enrollees are reimbursed at a rate comparable to current market reimbursement rates among commercial carriers in the State; [PL 2007, c. 447, §11 (NEW).]

B. Providers contracting to provide health coverage to plan enrollees are paid in a timely manner in accordance with the same requirements that would be required under state law for health insurance carriers pursuant to section 2436; and [PL 2007, c. 447, §11 (NEW).]

C. If the self-administered plan fails to pay for health care services as set forth in the contract, providers are governed by the standards required pursuant to section 4204, subsection 6. This paragraph does not prohibit a provider from collecting or attempting to collect from a plan enrollee any amount for services not normally payable to the self-administered plan, including any applicable copayments and deductibles. [PL 2007, c. 447, §11 (NEW).]

[PL 2007, c. 447, §11 (NEW).]

15. No liability for plan enrollees. This section does not create any liability on the part of eligible employers, eligible employees or eligible individuals enrolled in Dirigo Health in the event that the self-administered plan becomes insolvent or fails to pay claims.

[PL 2007, c. 447, §11 (NEW).]

SECTION HISTORY

PL 2007, c. 447, §11 (NEW). PL 2009, c. 369, Pt. A, §33 (AMD).