Summary of Key Findings

The new health insurance law (Public Law 2011, Chapter 90) represents the most sweeping changes to Maine’s insurance market in many years. Supporters of the law said that Maine’s health insurance market was the most regulated in the United States and that free market competition would lower insurance premiums and result in previously uninsured Mainers gaining access to affordable insurance. They argued that it would not raise rates on older policyholders and it would lower rates for younger uninsured people, who then would buy insurance expanding the insurance pool, spreading risks, and lowering costs for everyone.

Supporters went so far as to claim that all of Maine’s uninsured would have affordable health insurance. They also claimed that regulations in effect at the time were burdensome to Maine’s insurance industry, and if such regulations were changed, insurance premiums would be affordable for everyone.

While the new law was unprecedented in its breadth and scope and is still in the process of being implemented, four of the major provisions of the law have already resulted in changes from which conclusions can be drawn. These conclusions refute the claims made by the law’s supporters.

Chapter 90 Increased Premiums Based On Age, Geography, and Additional Factors

Chapter 90 permits insurance companies to increase the difference between what they charge older or rural customers compared to younger or urban customers in the individual and small group markets.

Impact: Maine’s largest individual health insurance company (Anthem) increased premium rates for the majority of its policyholders, in particular, for older policyholders and it would lower rates for younger uninsured people, who then would buy insurance expanding the insurance pool, spreading risks, and lowering costs for everyone.

No subsidies were made available to individuals with household incomes at or below 400% of the federal poverty level as they will be in 2014 under the Affordable Care Act. For Maine’s small businesses, premium renewal rates increased for the vast majority of small businesses in all geographic areas, and premium rates increased most significantly for small businesses in Northern and Eastern Maine (Aroostook, Penobscot, Piscataquis, Knox, Hancock, Lincoln, Waldo, and Washington counties). It is too early to tell whether more young uninsured people are buying insurance, but it’s unlikely. Among the few rates that actually decreased, they did not decrease a significant amount, suggesting that the current prices are likely still unaffordable without the ACA subsidies that will be available in 2014.
Chapter 90 Allowed for Introduction of New Plans with Less Benefits and Increased Cost-Sharing

Chapter 90 permits an insurance company to “close” its individual or small group book of business\(^\text{13}\) and issue new plans.\(^\text{14}\) These new plans become part of the insurance company’s “open” book of business.

Impact: To date one company (Anthem) offered a new health insurance product in Maine’s individual market. The new product (HealthChoice Plus) drastically reduced benefits, increased deductibles, and increased cost-sharing when compared to the company’s previous products in its closed book of business. For example, the new product now requires separate deductibles for in-network and out-of-network services after which the plan pays only 70% for in-network and 60% for out-of-network services, eliminates maternity benefits, and adds a separate deductible of $1,000 for prescription drugs after which the plan pays only 60% for in-network pharmacies and 50% for out-of-network pharmacies. This result is in stark contrast to the assurance that free market competition would produce better insurance choices at much lower costs.

Chapter 90 Levied a New Reinsurance Tax

Chapter 90 imposes a new tax that requires every privately insured person in Maine to pay up to $4 per month, or up to $6 per month if more money is needed.\(^\text{15}\) The money will fund a new private, nonprofit corporation,\(^\text{16}\) which applies the tax and other funds to cover claim costs submitted for payment by insurance companies for higher risk individual policyholders. Because this new organization is not part of the state government, it is not subject to public meeting laws so decisions on how the tax revenue is spent are made behind closed doors and are not open to the public.

Impact: Maine’s individual, small group, and large group policyholders will pay a tax of $22 million (which may go up to $33.5 million)\(^\text{17}\) to reimburse insurance companies for claims for people that the insurance company identifies based on “a person’s claim history or risk scores or any other reasonable means.”\(^\text{18}\) The portion of the tax increase allocated to insured small and large groups will increase their premiums by 1% - 2% at the $4 per member per month (PMPM) level, and could go higher.\(^\text{19}\) Additionally, everyone applying for a new individual insurance policy will have to complete a health status questionnaire.\(^\text{20}\)

Chapter 90 Weakened Rate Review

Chapter 90 permits an insurance company in the individual market to file its rate increases on a “file and use” basis if they are under 10% and spend at least 80 cents of each premium dollar on medical care and quality improvement.\(^\text{21}\) Thus, the Bureau of Insurance looks at an insurance company’s proposed rate increase for errors and compliance with Maine and federal laws, but does not hold a public hearing or approve or deny it.\(^\text{22}\)

Impact: Changes to Maine’s “prior approval” standard resulted in no public hearings to date and a determination that the proposed rate increase filed this year by Maine’s largest individual insurance company (Anthem) was not excessive, therefore, there was no reduction in the company’s proposed increases. In applying Chapter 90’s new standard, the Bureau determined that Anthem’s request for an increase after the company received almost $11 million in reinsurance tax payment was “not excessive”\(^\text{23}\) and neither was the company’s request for 3% or $1.8 million in profits. If this weakened standard had been applied to Anthem’s 2011 rate increase request and the previous increase had gone through as filed, over $2 million dollars more would have been paid by Maine consumers to the profit line alone.\(^\text{24}\)

The full text of this report is available online at www.mainecahc.org/pubsandbriefs.htm
Endnotes

4. Insurance and Financial Services Committee Chairman, Senator Rodney Whittimore: “L.D. 1333 will not fix the high cost of health [sic] care itself but will lower the cost of health insurance for all Maine citizens…. It will provide affordable insurance for the 133,000 Maine people who currently have no insurance due to affordability. . . . It will lower the cost of insurance for all Maine people through increased competition and acceleration of the number of people going into the insurance pool.” Legis. Rec. S-650 (1st Reg. Sess. 2011).
5. LD 1333: Health Insurance Reform, Frequently Asked Questions, Prepared by the Speaker’s Office: “Q: Will this bill increase premiums for older persons? A: No. This law conforms the age–based pricing requirements to the federal Affordable Care Act, which allows insurance carriers to offer less expensive products to younger people…. Offering more competitively-priced premiums to younger, healthier Mainers will spread risk to a larger group of people, resulting in lower premiums for everyone.”
6. “Rep. Richardson (R-Warren) is House chair of the Insurance and Financial Services Committee, which worked the bill. He notes that the legislation allows carriers to offer a more diverse array of insurance products to fit a variety of personal and business budgets. Overall, he said, increased competition and more affordability in coverage options will enable young and healthy people to buy insurance policies, thereby expanding the pool and lowering costs across the board.” Maine House Republicans Press Release, Health insurance reform clears initial hurdle in Maine House, (May 5, 2011).
7. “Additional regulations on insurance companies, stricter consumer protections and the Dirigo program only seemed to exacerbate the problem. This was particularly frustrating as we watched simple market-based solutions in the vast majority of states working to keep premiums much lower.” Rep. Jonathan McKane, LD 1333 - Maine returns to health insurance normalcy, (June 9, 2011), www.jonmackane.com.
8. See supra n. 4.
9. Id.
10. 24-A M.R.S. §2736-C(2)(D); 24-A M.R.S. §2808-B(2)(D).
11. Anthem’s 2012 individual rate filing showed that 53.6% of total Anthem individual subscribers received rate increases, and 91% ages 55-59 and 100% age 60 and older saw increases as high as 18%. Conversely, 100% under 40 received a decrease of 17.5% or less. E-mail from Mary Hooper, Me. Bureau of Ins., to Joseph Ditré, Consumers for Affordable Health Care, Inforce renewals [sic] (May 22, 2012 9:35 a.m. EDT) (providing data regarding subscriber distribution by age band) .
12. 532 Maine small businesses received decreases compared to 4,706 businesses receiving increases. Prior to Ch. 90, decreases showed no marked variation by geography. Now almost 77% of the decreases are concentrated in Cumberland and York counties and that only accounts for a little over 15% of the businesses in those counties. Me. Bureau of Ins., Small Group Health Insurance Renewals by Geographic Area: Executive Summary, http://www.maine.gov/pfr/insurance/legislative/documents/Attachment%209.pdf (December 2011); E-mail from Kenneth Gardiner, Me. Bureau of Ins., to Joseph Ditré, Consumers for Affordable Health Care, Small Group Counts PL90 (Mar. 8, 2012, 8:33 a.m. EDT) (providing data regarding rate renewal quotes).
13. 24-A M.R.S. §2736-C(2)(I); 24-A M.R.S. §2808-B(2)(H).
14. 24-A M.R.S. §2736-C(2)(C), (C-1), (D); 24-A M.R.S. §2808-B(2)(C), (C-1), (D).
15. 24-A M.R.S. §3957.
16. 24-A M.R.S. §3953.
18. 24-A M.R.S. §3959.
20. 24-A M.R.S. §3959.
21. 24-A M.R.S. §2736-C(2-B).
23. Id.
24. Anthem Health Plans of Maine v. Superintendent of Ins., et. al., 2012 ME 21, __A.3d__.

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