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| **Maine Bureau of Insurance** |
| Form Filing Review Requirements Checklist |
| TOI - H25G  |
| Group Similar Supplemental to Major Medical |
| Revised – 10/1/2021 |
| Carriers must confirm compliance and IDENTIFY the LOCATION (Form number, Page number, Section, Paragraph, etc.) of the standard in the form in the last column. Any response of N/A requires that a carrier explain why the requirement is not applicable. |
| This checklist is intended to provide a summary of State and Federal requirements for the TOI listed above. Please see the laws/rules referenced in the checklist below for the full requirement. |

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| **REVIEW REQUIREMENTS** | **REFERENCES** |  | **COMPLIANCE** |
| **GENERAL SUBMISSION REQUIREMENTS** |  |  |  |
| Electronic (SERFF) Filing Requirements: | [Title 24-A § 2412](https://legislature.maine.gov/statutes/24-A/title24-Asec2412.html)(2) [Bulletin 360](https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/360_0.pdf) | All filings must be filed electronically, using the NAIC System for Electronic Rate and Form Filing (SERFF). See http://www.serff.com |  |
| FILING FEES | [Title 24-A § 601](https://legislature.maine.gov/statutes/24-A/title24-Asec601.html) (17) | $20.00 for Rate filings, rating rules filings, insurance policy, forms, riders, endorsements and certificates. See General Instructions page in SERFF for additional information on filing fee structure. Filing fees must be submitted by EFT in SERFF at the time of submission of the filing. All filings require a filing fee unless specifically excluded per 24-A M.R.S.A. §4222(1), and/or are a required annual report. |  |
| Grounds for disapproval | [Title 24-A § 2413](https://legislature.maine.gov/statutes/24-A/title24-Asec2413.html) | Seven categories of the grounds for disapproving a filing. |  |
| Readability | [Title 24-A § 2441](https://legislature.maine.gov/statutes/24-A/title24-Asec2441.html) | Minimum of 50.  Riders, endorsements, applications all must be scored. They may be scored either individually or in conjunction with the policy/certificate to which they will be attached. Exceptions: Federally mandated forms/language, Groups > 1000, Group Annuities as funding vehicles. Scores must be entered on form schedule tab in SERFF. |  |
| Variability of Language | [Title 24-A § 2412](https://legislature.maine.gov/statutes/24-A/title24-Asec2412.html)  [Title 24-A § 2413](https://legislature.maine.gov/statutes/24-A/title24-Asec2413.html) | Forms with variable bracketed information must include all the possible language that might be placed within the brackets. The use of too many variables will result in filing disapproval as Bureau staff may not be able to determine whether the filing is compliant with Maine laws and regulations. |  |
| NQTL's | [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320.html)-T(3)(D) | I confirm that, on or before 4/30, we submitted the required comparative analyses to the Market Conduct Division demonstrating how we design and apply nonquantitative treatment limitations (NQTLs), both as written and in operation, for mental health and substance use disorder benefits as compared to how we design and apply NQTLs, as written and in operation, for medical and surgical benefits.  |  |
| **ADDITIONAL RATE FILING REQUIREMENTS** |  |  |  |
| Notice of Rate Increase | [Title 24-A § 2839](https://legislature.maine.gov/statutes/24-A/title24-Asec2839-A.html)-A | Requires that insurers provide a minimum of 60 days written notice to policyholders prior to a rate filing for individual health insurance or a rate increase for group health insurance. See statute for the requirements for the notice. |  |
| **GENERAL POLICY PROVISIONS** |  |  |  |
| Applicant's statements | [Title 24-A § 2817](https://legislature.maine.gov/statutes/24-A/title24-Asec2817.html) | The following must be included :1. No statement made by the applicant for insurance shall avoid the insurance or reduce benefits thereunder unless contained in the written application signed by the applicant. 2. No agent has authority to change the policy or to waive any of its provisions.3. No change in the policy shall be valid unless approved by an officer of the insurer and evidenced by indorsement on the policy, or by amendment to the policy signed by the policyholder and the insurer. |  |
| Childhood Immunizations | [Title 24-A § 4302](https://legislature.maine.gov/statutes/24-A/title24-Asec4302.html)(1)(A)(5) [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html)-A | Childhood immunizations must be expressly covered or expressly excluded in all policies. If childhood immunizations are a covered benefit it must be expressly stated in the benefit section. If childhood immunizations are not a covered benefit then this must be expressly stated as an exclusion in the policy. |  |
| Continuation of group coverage | [Title 24-A § 2809](https://legislature.maine.gov/statutes/24-A/title24-Asec2809-A.html)-A(11) | If the termination of an individual's group insurance coverage is a result of the member or employee being temporarily laid off or losing employment because of an injury or disease that the employee claims to be compensable under Workers Compensation, the insurer shall allow the member or employee to elect to continue coverage under the group policy at no higher level than the level of benefits or coverage received by the employee immediately before termination and at the member's or employee's expense or, at the member's or employee's option, to convert to a policy of individual coverage without evidence of insurability in accordance with this section. See complete details in §2809-A(11). |  |
| Continuity of Care | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(7) | If a contract between a carrier and a provider is terminated or benefits or coverage provided by a provider is terminated because of a change in the terms of provider participation in a health plan and an enrollee is undergoing a course of treatment from the provider at the time of termination, the carrier shall provide continuity of care in accordance with the requirements in paragraphs A to C. |  |
| Continuity of coverage | [Title 24-A § 2849](https://legislature.maine.gov/statutes/24-A/title24-Asec2849.html)[Title 24-A § 2849](https://legislature.maine.gov/statutes/24-A/title24-Asec2849-B.html)-B(7) | This section provides continuity of coverage to persons who were covered under the replaced contract or policy at any time during the 90 days before the discontinuance of the replaced contract or policy. Must certify in the cover letter and/or filing description that the underlying plan will comply with Maine’s continuity law. |  |
| Coordination of Benefits provisions (requirement applicable only if policy contains a coordination of benefits provision)Coordination of Benefits with Medicare and Medicaid | [Title 24-A § 2844](https://legislature.maine.gov/statutes/24-A/title24-Asec2844.html)(1-A)(B)(4) [Rule 191](https://www.maine.gov/sos/cec/rules/02/031/031c191.docx) § 9(A)[Rule 191](https://www.maine.gov/sos/cec/rules/02/031/031c191.docx) § 9(D)[Rule 790](https://www.maine.gov/sos/cec/rules/02/031/031c790.doc) [Bulletin 440](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/440.pdf)Bulletin 469 | Provisions relating to coordination of benefits payable under the contract and under other plans of insurance or of health care coverage under which a certificate holder or the certificate holder's dependents may be covered must conform to Bureau of Insurance [Rule 790](https://www.maine.gov/sos/cec/rules/02/031/031c790.doc).The statute also sets forth how coordination with Medicare and Medicaid is governed. Medicaid (MaineCare) is always secondary payer to the insurer. |  |
| Definition of Medically Necessary | [Title 24-A § 4301](https://legislature.maine.gov/statutes/24-A/title24-Asec4301-A.html)-A(10-A) | Forms that use the term "medically necessary" or similar terms must include the following definition verbatim: A. Consistent with generally accepted standards of medical practice; B. Clinically appropriate in terms of type, frequency, extent, site and duration; C. Demonstrated through scientific evidence to be effective in improving health outcomes; D. Representative of "best practices" in the medical profession; and E. Not primarily for the convenience of the enrollee or physician or other health care practitioner. |  |
| Definition of Supplemental Health Coverage; minimum standards | [Rule 755](https://www.maine.gov/sos/cec/rules/02/031/031c755.doc) § 6(L) [Rule 755](https://www.maine.gov/sos/cec/rules/02/031/031c755.doc) § 9(G) | “Supplemental health coverage” is a policy or contract, other than a policy or contract covering only a specified disease or diseases, that provides benefits that are less than the minimum standards for benefits required under Subsections B, C, D, E, F, G, I and K. These policies or contracts may be delivered or issued for delivery in this state only if the outline of coverage required by Section 7(M) of this rule is completed and delivered as required by Section 7(B) of this rule and the policy or certificate is clearly labeled as a supplemental policy or certificate as required by Section 7(A)(17). A policy covering a single specified disease or combination of diseases shall meet the requirements of Section 6(J) and shall not be offered for sale as a “limited” or “supplemental” coverage.Supplemental coverage is not limited benefit health insurance if it is substantially similar to one of the following types of coverage: Basic hospital expense coverage as defined in Section 6, Subsection Basic medical-surgical expense coverage as defined in Section 6, Subsection C; Basic hospital/medical-surgical expense coverage as defined in Section 6, Subsection D; Major medical expense coverage as defined in Section 6, Subsection F; or Basic medical expense coverage as defined in Section 6, Subsection G. For purposes of this subsection, “substantially similar” means that, in the judgment of the Superintendent, there are only minor differences between the supplemental coverage and coverage that would meet the minimum standards of Section 6, Subsections B, C, D, F, or G. |  |
| Designation of Product Category | [Title 24-A § 2694](https://legislature.maine.gov/statutes/24-A/title24-Asec2694.html)[Rule 755](https://www.maine.gov/sos/cec/rules/02/031/031c755.doc) § 6 | Heading of form filer’s cover letter shall designate intended coverage category. |  |
| Disclosure | [Rule 755](https://www.maine.gov/sos/cec/rules/02/031/031c755.doc) § 7(A)(17) | All supplemental health policies and certificates shall display prominently by type, stamp, or other appropriate means on the first page of the policy or certificate, or attached to it, in either contrasting color or in boldface type at least equal to the size type used for headings or captions of sections in the [policy][certificate] the following:“Notice to Buyer: This is a supplemental health [policy][certificate]. This [policy][certificate] provides limited benefits. Benefits provided are supplemental and are not intended to cover all medical expenses.” |  |
| Explanations for any Exclusion of Coverage for work related sicknesses or injuries | [Title 24-A § 2413](https://legislature.maine.gov/statutes/24-A/title24-Asec2413.html) | If the policy excludes coverage for work related sicknesses or injuries, clearly explain whether the coverage is excluded if the enrollee is exempt from requirements from state workers compensation requirements or has filed an exemption from the workers compensation laws. |  |
| Extension of Benefits | [Title 24-A § 2849](https://legislature.maine.gov/statutes/24-A/title24-Asec2849-A.html)-A[Rule 590](https://www.maine.gov/sos/cec/rules/02/031/031c590.doc) | Provide an extension of benefits of 6 months for a person who is totally disabled on the date the group or subgroup policy is discontinued. For a policy providing specific indemnity during hospital confinement, "extension of benefits" means that discontinuance of the policy during a disability has no effect on benefits payable for that confinement. For purposes of determining eligibility for extension of benefits, "total disability" shall be defined no more restrictively than: A.in the case of an insured who was gainfully employed prior to disability, "the inability to engage in any gainful occupation for which he or she is reasonably suited by training, education, and experience;" or B.in the case of an insured who was not gainfully employed prior to disability, "the inability to engage in most normal activities of a person of like age in good health." |  |
| Grace Period | [Title 24-A § 2809](https://legislature.maine.gov/statutes/24-A/title24-Asec2809.html)-A[Bulletin 288](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/288.pdf) | 30 or 31 days. |  |
| Guaranteed Renewal | [Title 24-A § 2850](https://legislature.maine.gov/statutes/24-A/title24-Asec2850-B.html)-BPHSA § 2702 ([45 CFR § 148.122](https://www.ecfr.gov/cgi-bin/text-idx?SID=985c38eeddaa13128929637cc7ec919e&pitd=20180719&node=pt45.1.148&rgn=div5#se45.1.148_1122)) | Renewal must be guaranteed to all individuals, to all groups and to all eligible members and their dependents in those groups except for failure to pay premiums, fraud or intentional misrepresentation. May only non-renew or cancel coverage for nonpayment of premiums, fraud, market exit, movement outside of service area, or cessation of bona-fide association membership. |  |
| Health plan accountability | [Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx) | Standards in this rule include, but are not limited to, required provisions for grievance and appeal procedures, emergency services, and utilization review standards. |  |
| HIV/AIDS/ARC | [Title 24-A § 2846](https://legislature.maine.gov/statutes/24-A/title24-Asec2846.html) | No insurance policy may provide more restrictive coverage for death resulting from AIDS, ARC, or HIV-related diseases that the death resulting from any other disease or sickness or exclude coverage for death resulting from AIDS, ARC, or HIV-related diseases, except through an exclusion under which deaths resulting from all sicknesses and diseases are treated the same. See also [Title 24-A § 2159](https://legislature.maine.gov/statutes/24-A/title24-Asec2159.html)(4) for further information on unfair discrimination. |  |
| Home health care coverage | [Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837.html)[Rule 191](https://www.maine.gov/sos/cec/rules/02/031/031c191.docx) § 9(M) | Policies that provide coverage on an expense incurred basis for inpatient hospital care shall make available coverage for home health care services by a home health care provider. The policy may contain a reasonable limitation on the number of home care visits and other services provided, but the number of such visits shall not be less than 90 in any continuous period of 12 months for each person covered under the policy. Each visit by an individual member of a home health care provider shall be considered as one home care visit. The statute also sets forth what “home health care services” includes, as well as exclusions. |  |
| Lifetime Limits and Annual Dollar Limits Prohibited - Lifetime or annual limits on the dollar value of Essential Health Benefits (EHB): \*2023 Plan Year Limits: Use current maximum out-of-pocket limits as prescribed by CMS final rule. | [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320.html) PHSA § 2711 ([75 Fed Reg 37188](https://www.federalregister.gov/documents/2010/06/28/2010-15278/patient-protection-and-affordable-care-act-preexisting-condition-exclusions-lifetime-and-annual),[45 CFR § 147](https://www.ecfr.gov/cgi-bin/text-idx?SID=985c38eeddaa13128929637cc7ec919e&pitd=20180719&node=pt45.1.147&rgn=div5#se45.1.147_1126).126) | A carrier offering an individual, small group or large group health plan, may not establish lifetime limits on the dollar value of benefits for any participant or beneficiary; or annual limits on the dollar value of essential benefits. Plans may not establish lifetime limits on the dollar value of essential health benefits: Ambulatory patient services, Emergency services, Hospitalization Maternity and newborn care, Mental health, and substance use disorder services, including behavioral health treatment, Prescription drugs Rehabilitative and habilitative services and devices, Laboratory services, Preventive and wellness services and chronic disease management, Pediatric services, including oral and vision care Issuers are not prohibited from using lifetime limits for specific covered benefits that are not EHB; issuers are not prohibited from excluding all benefits for a non-covered condition for all covered people, but if any benefits are provided for a condition, then no lifetime limit requirements apply. |  |
| Limitations & Exclusions | [45 CFR § 156.115](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=b42306efce6315cebabd40ff77e68069&pitd=20180719&n=pt45.1.156&r=PART&ty=HTML#se45.1.156_1115) [Rule 191](https://www.maine.gov/sos/cec/rules/02/031/031c191.docx) § 9(N) | Limitations and exclusions must be substantially similar or more favorable to the insured in the Maine EHB benchmark plan. A plan may contain exclusions approved by the Superintendent that are not otherwise prohibited by state or federal law, rule, or regulation. Unless otherwise directed by the Superintendent, HMO plans may contain exclusions similar to exclusions permitted in non-HMO plans that provide Essential Healthcare Benefits in accordance with the Affordable Care Act. |  |
| Limits on priority liens/Subrogation | [Title 24-A § 2836](https://legislature.maine.gov/statutes/24-A/title24-Asec2836.html) [Title 24-A § 2729](https://legislature.maine.gov/statutes/24-A/title24-Asec2729-A.html)-A | No policy shall provide for priority over the insured if the insured is entitled to receive reimbursement as a result of legal action or claim, except if that provision is approved by the superintendent, requires the prior written approval of the insured, and allows such payments only on a just and equitable basis and not on the basis of a priority lien. |  |
| Maternity benefits for unmarried women; dependent children | [Title 24-A § 2832](https://legislature.maine.gov/statutes/24-A/title24-Asec2832.html)[Title 24-A § 2833](https://legislature.maine.gov/statutes/24-A/title24-Asec2833.html) | Applicable only if maternity and dependent child coverage provided: must provide the same maternity benefits for unmarried women certificate holders and the minor dependents of certificate holders with dependent or family coverage as is provided to married policyholders or the wives of policyholders with maternity coverage.This coverage must provide unmarried women certificate holders with the option of coverage for their children from the date of birth, which coverage must be the same as that provided the children of married certificate holders with family or dependent coverage. This includes adopted children. Financial dependency of dependent children may not be required as condition for coverage eligibility.This section defines terms “placed for adoption” and “dependent children.” |  |
| Notice of Policy Changes and Modifications | [Title 24-A § 2850](https://legislature.maine.gov/statutes/24-A/title24-Asec2850.html)(B)(3)(I)PHSA 2715 ([75 Fed Reg 41760](https://www.federalregister.gov/documents/2010/07/19/2010-17242/interim-final-rules-for-group-health-plans-and-health-insurance-issuers-relating-to-coverage-of)) | A carrier may make minor modifications to the coverage, terms and conditions of the policy consistent with other applicable provisions of state and federal laws as long as the modifications meet the conditions specified in this paragraph and are applied uniformly to all policyholders of the same product. Provide 60 days advance notice to enrollees before the effective date of any material modification including changes in preventive benefits. |  |
| Notice Regarding Policies or Certificates Which are Not Medicare Supplement Policies | [Title 24-A § 5013](https://legislature.maine.gov/statutes/24-A/title24-Asec5013.html)[Rule 275](https://www.maine.gov/sos/cec/rules/02/031/031c275.docx) § 17(E) | The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy or certificate delivered to insureds. The notice shall be in no less than twelve (12) point type and shall contain the following language: “THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company. If you have a Medicare Supplement policy or major medical policy, this coverage may be more than you need. For information call the Bureau of Insurance at 1-800-300-5000.” |  |
| Obstetrical and gynecological care | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-F.html)-F[Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320.html)-A | Benefits must be provided for annual gynecological exam without prior approval of primary care physician. A group health plan, or health insurance issuer offering group orindividual health insurance coverage, described in paragraph (2) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in paragraph (2)(B)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology. |  |
| Outline of Coverage | [Rule 755](https://www.maine.gov/sos/cec/rules/02/031/031c755.doc) § 7(M) | An outline of coverage, in the form prescribed below, shall be issued in connection with policies or certificates that do not meet the minimum standards of Sections 7B, C, D, E, F, G, I and K of this rule. The items included in the outline of coverage must appear in the sequence prescribed:[COMPANY NAME]SUPPLEMENTAL HEALTH COVERAGEBENEFITS PROVIDED ARE SUPPLEMENTAL AND ARE NOT INTENDED TO COVER ALL MEDICAL EXPENSESOUTLINE OF COVERAGE(1)Read Your [Policy][Certificate] Carefully—This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract, and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR[POLICY][CERTIFICATE] CAREFULLY!(2)Supplemental health coverage is designed to provide limited or supplemental coverage.(3)[A brief specific description of the benefits, including dollar amounts. The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or copayment provisions applicable to the benefits described. If benefits vary according to the type of accidental cause, the outline of coverage shall prominently set forth the circumstances under which benefits are payable that are less than the maximum amount payable under the policy.](4)[A description of any provisions that exclude, eliminate, restrict, reduce, limit, delay, or, in any other manner, operate to qualify payment of the benefits described in Paragraph (3) above.](5)[A description of provisions respecting renewability or continuation of coverage, including age restrictions or any reservations of right to change premiums.] |  |
| Penalty for failure to notify of hospitalization | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-A.html)-A[45 CFR § 147](https://www.ecfr.gov/cgi-bin/text-idx?SID=a3bb635afd7624f532acfe878eec552b&pitd=20180719&node=pt45.1.147&rgn=div5#se45.1.147_1138).138(b) | No penalty allowed for failure to notify the insurer of insured's hospitalization for emergency treatment. (There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.) |  |
| PPOs – Payment for Non-preferred Providers (as applicable) | [Title 24-A § 2677-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2677-A.html) | There cannot be more than a 20% differential in benefits between preferred and non-preferred providers. Superintendent can grant waiver for the 20%, in particular for designated providers for cost or quality. |  |
| Prior Authorization of Nonemergency services | [Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)[Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx)(8) | A request for prior authorization of a nonemergency service must be answered within 72 hours or 2 business days, whichever is less, Both the provider and the enrollee on whose behalf the authorization was requested must be notified by the carrier of its determination. If the carrier needs additional information, it must decide within 72 hours or 2 business days, whichever is less, after receiving the requested information. If outside consultation is necessary, the carrier shall decide within 72 hours or 2 business days, whichever is less, from the time of the carrier’s initial response. If a carrier does not grant or deny a prior authorization request within these timeframes, the request is granted.In exigent circumstances, a carrier must answer a prior authorization request no more than 24 hours after receiving the request. Exigent circumstances exist when an enrollee's life, health or ability to regain maximum function is seriously jeopardized or when an enrollee is on a current course of treatment using a nonformulary drug. The carrier must notify the enrollee, the enrollee’s designee if applicable, and the provider of its coverage decision.Concurrent review determinations must be within 1 working day after obtaining all necessary information. Certification of extended stay or additional services: must notify the covered person and the provider rendering the service within 1 working day. Written notification shall include the number of extended days or next review date, the new total number of days or services approved, and the date of admission or initiation of services.Adverse benefit determination of concurrent review: must notify the covered person and the provider rendering the service within 1 working day. Continue the service without liability to the covered person until the covered person has been notified of the determination.Utilization Review Disclosure Requirements The carrier shall include a clear and reasonably comprehensive description of its utilization review procedures, including: Procedures for obtaining review of adverse benefit determinations; A Statement of rights and responsibilities of covered persons with respect to those procedures in the certificate of coverage or member handbook; The statement of rights shall disclose the member’s right to request in writing and receive copies of any clinical review criteria utilized in arriving at any adverse health care treatment decision. Carrier shall include a summary of its utilization review procedures in materials intended for prospective covered persons; Carriers requiring enrollees to initiate utilization review provide on its membership cards a toll-free telephone number to call for utilization review decisions. All notices to applicants, enrollees and policyholders or certificate holders subject to the requirements of the federal Affordable Care Act must be provided in a culturally and linguistically appropriate manner consistent with the requirements of the federal Affordable Care Act. Notices advising enrollees that services have been determined to be medically necessary must also advise whether the service is covered. Once a service has been approved, the approval cannot be withdrawn retrospectively unless fraudulent or materially incorrect information was provided at the time prior approval was granted. Also, if benefits are denied and the enrollee appeals, the carrier cannot deny the appeal without a written explanation addressing the issues that were raised by the enrollee. |  |
| Prohibited practices Rescissions prohibited | [Title 24-A § 2736](https://legislature.maine.gov/statutes/24-A/title24-Asec2736-C.html)-C(3)(A)[Title 24-A § 2850](https://legislature.maine.gov/statutes/24-A/title24-Asec2850.html)-B(3) PHSA § 2712([75 Fed Reg 37188](https://www.federalregister.gov/documents/2010/06/28/2010-15278/patient-protection-and-affordable-care-act-preexisting-condition-exclusions-lifetime-and-annual), [45 CFR § 147](https://www.ecfr.gov/cgi-bin/text-idx?SID=985c38eeddaa13128929637cc7ec919e&pitd=20180719&node=pt45.1.147&rgn=div5#se45.1.147_1128).128) | An enrollee may not be cancelled or denied renewal except for fraud or material misrepresentation and/or failure to pay premiums for coverage. Coverage may not be rescinded for an individual, a group or eligible members and their dependents in those groups once an individual, a group or eligible members and their dependents in those groups are covered under an individual or group health plan, except for an act or practice that constitutes fraud or made an intentional misrepresentation of material fact as prohibited by the terms of the health plan to the extent consistent with [Title 24-A § 2411](https://legislature.maine.gov/statutes/24-A/title24-Asec2411.html).Rescissions are prohibited except in cases of fraud or intentional misrepresentation of material fact. Coverage may not be cancelled except with 30 days prior notice to each enrolled person who would be affected. |  |
| Prohibition against Absolute Discretion Clauses | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html) (11) | Carriers are prohibited from including or enforcing absolute discretion provisions in health plan contracts, certificates, or agreements. |  |
| Prohibition on Discrimination | [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-L.html)-L 45 CFR § 156.1259(a) | 1. Nondiscrimination. An individual may not, on the basis of race, color, national origin, sex, sexual orientation, gender identity, age or disability, be excluded from participation in, be denied benefits of or otherwise be subjected to discrimination under any health plan offered in accordance with this Title. A carrier may not in offering, providing or administering a health plan:A. Deny, cancel, limit or refuse to issue or renew a health plan or other health-related coverage, deny or limit coverage of a claim or impose additional cost sharing or other limitations or restrictions on coverage on the basis of race, color, national origin, sex, sexual orientation, gender identity, age or disability;B. Have or implement marketing practices or benefit designs that discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, age or disability in a health plan or other health-related coverage;C. Deny or limit coverage, deny or limit coverage of a claim or impose additional cost sharing or other limitations or restrictions on coverage for any health services that are ordinarily or exclusively available to individuals of one sex to a transgender individual based on the fact that the individual's sex assigned at birth, gender identity or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available;D. Have or implement a categorical coverage exclusion or limitation for all health services related to gender transition; orE. Otherwise deny or limit coverage, deny or limit coverage of a claim or impose additional cost sharing or other limitations or restrictions on coverage for specific health services related to gender transition if such denial, limitation or restriction results in discrimination against a transgender individual. Nothing in this subsection is intended to determine or restrict a carrier from determining whether a particular health service is medically necessary or otherwise meets applicable coverage requirements in any individual case.2. Meaningful access for individuals with limited English proficiency. A carrier shall take reasonable steps to provide meaningful access to each enrollee or prospective enrollee under a health plan who has limited proficiency in English.3. Effective communication for persons with disabilities. A carrier shall take reasonable steps to ensure that communication with an enrollee or prospective enrollee in a health plan who is an individual with a disability is as effective as communication with other enrollees or prospective enrollees. |  |
| Rebates | [Title 24-A § 2160](https://legislature.maine.gov/statutes/24-A/title24-Asec2160.html)[Title 24-A § 2163-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2163-A.html)[Bulletin 426](https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/426.pdf)[Bulletin 382](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/382.pdf) | Are there any provisions that give the insured a benefit not associated with indemnification or loss? Yes \_\_\_No \_\_\_ |  |
| Renewal provision | [Title 24-A § 2411](https://legislature.maine.gov/statutes/24-A/title24-Asec2411.html)[Title 24-A § 2820](https://legislature.maine.gov/statutes/24-A/title24-Asec2820.html) | Policy must contain the terms under which the policy can or cannot be renewed prominently on first page of policy or certificate. |  |
| Statements In Application | [Title 24-A § 2818](https://legislature.maine.gov/statutes/24-A/title24-Asec2818.html) | There shall be a provision that all statements contained in any such application for insurance shall be deemed representations and not warranties.  |  |
| Third Party 10 Day Notification prior to cancellation; restrictions on cancellation, termination or lapse due to cognitive impairment or functional incapacity | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-C.html)-C[Title 24-A § 2707](https://legislature.maine.gov/statutes/24-A/title24-Asec2707-A.html)-A[Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) | An insurer shall provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance policy for nonpayment of premium. FOR INDIVIDUAL PLANS: Insurers must provide the following disclosure, notice and reinstatement rights:1. Insured has the right to elect a third party to receive notice and that the insurer will send them a third party notice request form to make that selection.2. Insured and designated individual will receive a 10 day notice of cancellation.3. Insured has the right to reinstatement of the contract if the insured suffers from cognitive impairment or functional incapacity and the ground for cancellation was the insured’s nonpayment of premium or other lapse or default on the part of the insured.4. Notice that if a request for reinstatement of coverage because of cognitive impairment or functional incapacity is denied, notice of denial shall be provided to the insured and to the person making the request, if different. The notice of denial shall include notification of the 30 day period following receipt of the notice during which a hearing before the Superintendent may be requested. FOR GROUP PLANS: Third Party Notice of Cancellation for group plans must be applied as follows: 1. If the entire cost of the insurance coverage is paid by the Policyholder, there is no requirement to send the Third Party Notice of Cancellation. 2. If the entire cost of the insurance coverage is paid by the Certificate holder and is direct billed, the insurer must include notification in the policy/certificate to advise the member of their rights. 3. If the entire cost of the insurance coverage is paid by the Certificate holder and is made via payroll deduction, then [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc), § 5 (3) would apply and the insurer must include this notification in the policy/certificate to advise the member of their rights. 4. If a portion of the cost of the insurance coverage is paid by the Policyholder and the remainder is paid by the Certificate holder and is made via payroll deduction, then [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc), § 5 (3) would apply and the insurer must include this notification in the policy/certificate to advise the member of their rights. Please review [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) and add the required language to the certificate. Additionally, pursuant to [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) § 6(A)(7), the requirement may be satisfied by including the notice of reinstatement right in an application that is incorporated into the contract. |  |
| Time for Suits | [Title 24-A § 2828](https://legislature.maine.gov/statutes/24-A/title24-Asec2828.html) | There shall be a provision that no action at law or in equity shall be brought to recover on the policy prior to the expiration of 60 days after proof of loss has been filed in accordance with the requirements of the policy and that no such action shall be brought at all, unless brought within 2 years from the expiration of the time within which proof of loss is required by the policy. |  |
| **ELIGIBILITY / ENROLLMENT** |  |  |  |
| Coverage for Dependent Children Up to Age 26 | [Title 24-A § 2833](https://legislature.maine.gov/statutes/24-A/title24-Asec2833-B.html)-B | A group health insurance policy that offers coverage for dependent children must offer such coverage until the dependent child is 26 years of age. |  |
| Dependent Coverage | [Title 24-A § 2809](https://legislature.maine.gov/statutes/24-A/title24-Asec2809.html) | Coverage for family members or dependents of an individual in the insured group may not exclude those minor children of the individual who do not reside with that individual.Coverage for family members or dependents of an individual in the insured group may provide for the continuation of benefit provisions after the death of the such individual. |  |
| Dependent special enrollment period | [Title 24-A § 2834](https://legislature.maine.gov/statutes/24-A/title24-Asec2834-B.html)-B[Title 24-A § 4222-B](https://legislature.maine.gov/statutes/24-A/title24-Asec4222-B.html) (11) | Enrollment for qualifying events. |  |
| Domestic partner benefits | [Title 24-A § 2832](https://legislature.maine.gov/statutes/24-A/title24-Asec2832-A.html)-A | Contracts must make available to group policyholders the option for additional benefits for the domestic partner of a certificate holder at appropriate rates and under the same terms and conditions as are provided to spouses of married certificate holders under a group policy. This section provides criteria defining "domestic partner" for purposes of this requirement and what evidence may be required as a condition of eligibility. |  |
| Individual Certificates | [Title 24-A § 2821](https://legislature.maine.gov/statutes/24-A/title24-Asec2821.html) | There shall be a provision that the insurer shall issue to the policyholder, for delivery to each member of the insured group, an individual certificate or printed information setting forth in summary form a statement of the essential features of the insurance coverage of such employee or such member and in substance the provisions of sections 2821 to 2828. The insurer shall also provide for distribution by the policyholder to each member of the insured group a statement, where applicable, setting forth to whom the benefits under such policy are payable. If dependents are included in the coverage, only one certificate or printed summary need be issued for each family unit. |  |
| **CLAIMS** |  |  |  |
| Assignment of Benefits | [Title 24-A § 2827](https://legislature.maine.gov/statutes/24-A/title24-Asec2827-A.html)-A[Title 24-A § 2755](https://legislature.maine.gov/statutes/24-A/title24-Asec2755.html) | Permits insureds to assign benefits directly to their provider of care. Applies to medical and dental expense incurred plans. Does not include indemnity plans. |  |
| Calculation of health benefits based on actual cost | [Title 24-A § 2185](https://legislature.maine.gov/statutes/24-A/title24-Asec2185.html) | If the insurer has negotiated discounts with providers, the insurer must provide for the calculation of all covered health benefits, including without limitation all coinsurance, deductibles and lifetime maximum benefits, on the basis of the net negotiated cost and must fully reflect any discounts or differentials from charges otherwise applicable to the services provided. With respect to policies involving risk-sharing compensation arrangements, net negotiated costs may be calculated at the time services are rendered on the basis of reasonably anticipated compensation levels and are not subject to retrospective adjustment at the time a cost settlement between a provider and the insurer or organization is finalized. |  |
| Credit toward Deductible | [Title 24-A § 2844](https://legislature.maine.gov/statutes/24-A/title24-Asec2844.html)(3) | When an insured is covered under more than one expense-incurred health plan, payments made by the primary plan, payments made by the insured and payments made from a health savings account or similar fund for benefits covered under the secondary plan must be credited toward the deductible of the secondary plan. This subsection does not apply if the secondary plan is designed to supplement the primary plan. |  |
| Explanation and notice to parent | [Title 24-A § 2823](https://legislature.maine.gov/statutes/24-A/title24-Asec2823-A.html)-A | If the insured is covered as a dependent child, and if the insurer is so requested by a parent of the insured, the insurer shall provide that parent with: An explanation of the payment or denial of any claim filed on behalf of the insured, except to the extent that the insured has the right to withhold consent and does not affirmatively consent to notifying the parent; An explanation of any proposed change in the terms and conditions of the policy; Reasonable notice that the policy may lapse, but only if the parent has provided the insurer with the address at which the parent may be notified. In addition, any parent who is able to provide the information necessary for the insurer to process a claim must be permitted to authorize the filing of any claims under the policy. |  |
| Explanations Regarding Deductibles | [Title 24-A § 2413](https://legislature.maine.gov/statutes/24-A/title24-Asec2413.html) | All policies must include clear explanations of all of the following regarding deductibles: Whether it is a calendar or policy year deductible. Clearly advise whether non-covered expenses apply to the deductible. Clearly advise whether it is a per person or family deductible or both. |  |
| Forms for proof of loss/Claim Forms | [Title 24-A § 2825](https://legislature.maine.gov/statutes/24-A/title24-Asec2825.html)[Rule 191](https://www.maine.gov/sos/cec/rules/02/031/031c191.docx)(9) | There shall be a provision that the insurer will furnish to the policyholder such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of 15 days after the insurer received notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character and extent of the loss for which claim is made. (There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.) |  |
| Maximum Allowable Charges | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(8) | If benefits for covered services are limited to a maximum amount based on any combination of usual, customary and reasonable charges or other similar method, the carrier must: (1) Clearly disclose that the insured or enrollee may be subject to balance billing as a result of claims adjustment; and (2) Provide a toll-free number that an insured or enrollee may call prior to receiving services to determine the maximum allowable charge permitted by the carrier for a specified service. Must clearly disclose that the insured or enrollee may be subject to balance billing as a result of claims adjustment and provide a toll-free number that an insured or enrollee may call prior to receiving services to determine the maximum allowable charge permitted by the carrier for a specified service. The data used to determine this charge must be Maine specific and relative to the region where the claim was incurred. |  |
| Notice of Claim/Proof of Loss | [Title 24-A § 2823](https://legislature.maine.gov/statutes/24-A/title24-Asec2823.html)[Title 24-A § 2824](https://legislature.maine.gov/statutes/24-A/title24-Asec2824.html) | There shall be a provision that written notice of sickness or of injury must be given to the insurer within 30 days after the date when such sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim, if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible. |  |
| Penalty for noncompliance with utilization review | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-D.html)-D | A policy may not have a penalty of more than $500 for failure to provide notification under a utilization review program. |  |
| Physical Examination/Autopsy | [Title 24-A § 2826](https://legislature.maine.gov/statutes/24-A/title24-Asec2826.html) | Physical examination/autopsyThe following must be included:Physical examination and autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law. |  |
| Protection from Balance Billing | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html) (8-A) | If the carrier has a provider network, an enrollee's responsibility for payment under a managed care plan when covered health care is rendered by participating providers must be limited to the cost-sharing provisions expressly disclosed in the contract, such as deductibles, copayments and coinsurance. If the enrollee has paid their share of the charge as specified in the plan, the carrier shall hold the enrollee harmless from any additional amount owed to a participating provider for covered health care. |  |
| Protection from Surprise Bills | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303-C.html)-C[Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303-E.html)-E[Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303-F.html)-FRule 365 | With respect to a “surprise bill” (defined below) or a bill for covered emergency services rendered by an out-of-network provider:1. A carrier shall require an enrollee to pay only the applicable coinsurance, copayment, deductible or other out-of-pocket expense that would be imposed for health care services if the services were rendered by a network provider. The carrier shall calculate any coinsurance amount based on the median network rate for that service per paragraph B. 2. If a carrier has an inadequate network, as determined by the superintendent, the carrier shall ensure that the enrollee obtains the covered service at no greater cost to the enrollee than if the service were obtained from a network provider or shall make other arrangements acceptable to the superintendent.3. Until December 31, 2023, unless the carrier and out-of-network provider agree otherwise, a carrier shall reimburse an out-of-network provider for ambulance services that are covered emergency services at the rate required by section 4303-F. |  |
| Referrals by Direct Primary Care Providers | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(22) [Bulletin 434](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/434.pdf) | A plan requiring a referral from a participating primary care provider to receive a health care service covered under a health plan must provide that a referral made by a direct primary care provider (defined below) who has a direct primary care service agreement (defined below) with an enrollee will be honored on the same terms as a referral made by a participating primary care provider. A carrier may not deny payment for any covered health care service solely on the basis that the enrollee's referral was made by a direct primary care provider who is not a member of the carrier's provider network. |  |
| Timely Payment of Undisputed Insurance Claims | [Title 24-A § 2436](https://legislature.maine.gov/statutes/24-A/title24-Asec2436.html)[Title 24-A § 4207](https://legislature.maine.gov/statutes/24-A/title24-Asec4207.html)[Title 24-A § 4222-B](https://legislature.maine.gov/statutes/24-A/title24-Asec4222-B.html)(13)[Rule 191](https://www.maine.gov/sos/cec/rules/02/031/031c191.docx)(9)(C)(4) | An undisputed claim for payment of benefits under a policy or certificate of insurance delivered or issued for delivery in this State is payable within 30 days after proof of loss is received by the insurer An ”undisputed claim” means a manually or electronically submitted claim from a health care provider or health care facility that:A. Contains all the required data elements necessary for accurate adjudication without the need for additional information;B. Is not materially deficient or improper, including lacking substantiating documentation required by the carrier; andC. Has no particular or unusual circumstances requiring special treatment that prevent payment from being made by the carrier. |  |
| Utilization Review &Notice Requirements for Health Benefit Determinations | [Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)[Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx)(8)[Bulletin 397](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/397.pdf) | Utilization Review Disclosure RequirementsThe carrier shall include a clear and reasonably comprehensive description of its utilization review procedures, including:Procedures for obtaining review of adverse benefit determinations;A Statement of rights and responsibilities of covered persons with respect to those procedures in the certificate of coverage or member handbook;The statement of rights shall disclose the member’s right to request in writing and receive copies of any clinical review criteria utilized in arriving at any adverse health care treatment decision.Carrier shall include a summary of its utilization review procedures in materials intended for prospective covered persons;Carriers requiring enrollees to initiate utilization review provide on its membership cards a toll-free telephone number to call for utilization review decisions.Notices advising enrollees that services have been determined to be medically necessary must also advise whether the service is covered. Once a service has been approved, the approval cannot be withdrawn retrospectively unless fraudulent or materially incorrect information was provided at the time prior approval was granted. Also, if benefits are denied and the enrollee appeals, the carrier cannot deny the appeal without a written explanation addressing the issues that were raised by the enrollee. |  |
| Enhance Access to a Second Opinion for Health Care Services or Treatment | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(25) | An enrollee in a health plan may not be required to obtain a 2nd opinion from a provider that practices in the same office location as the enrollee's provider, even if that office is the only in-network provider for the service. A carrier may not apply a greater deductible, coinsurance or copayment for the 2nd opinion than if they received the 2nd opinion in-network.  |  |
| Expedite the Health Insurance Referral Process for Specialists by Allowing Referrals During Urgent Care Visits | [Title 24-A § 4301](https://legislature.maine.gov/statutes/24-A/title24-Asec4301.html)-A(2-A)[Title 24-A § 4301](https://legislature.maine.gov/statutes/24-A/title24-Asec4301-A.html)-A(21)[Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(22-A) | A carrier may not deny payment for any covered behavioral health care service or physical therapy service solely on the basis that the referral was made during an urgent care visit. A carrier may not apply greater cost sharing for an urgent care referral than a primary care referral. |  |
| Prior Authorization Requirements for Physical and Occupational Therapy Services | [Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)(1)[Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)-A | A carrier may not require prior authorization for rehabilitative or habilitative services, including, but not limited to, physical therapy services, occupational therapy services or chiropractic services, for the first 12 visits of each new episode of care. This does not limit the right of a carrier to deny a claim when an appropriate review concludes that the services or treatment were not medically necessary. |  |
| **GRIEVANCES & APPEALS** |  |  |  |
| Clinical peer definition | [Title 24-A § 4301](https://legislature.maine.gov/statutes/24-A/title24-Asec4301.html)-A(4)[Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)(7) | An appeal of a carrier’s adverse health care treatment decision must be conducted by a clinical peer.  The clinical peer may not have been involved in making the initial adverse health care treatment decision unless information not previously considered during the initial review is provided on appeal.  An adverse health care treatment decision does not include a carrier’s rescission determination or initial coverage eligibility determination. “Clinical peer” means a physician or other licensed health care practitioner who holds a nonrestricted license in a state in the U.S., is board certified in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review, and whose compensation does not depend, directly or indirectly, upon the quantity, type, or cost of the medical condition, procedure, or treatment that the practitioner approves or denies on behalf of the carrier. |  |
| External review requests | [Title 24-A § 4312](https://legislature.maine.gov/statutes/24-A/title24-Asec4312.html)[Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx)PHSA § 2719([75 Fed Reg 43330](https://www.federalregister.gov/documents/2010/07/23/2010-18043/interim-final-rules-for-group-health-plans-and-health-insurance-issuers-relating-to-internal-claims), [76 Fed Reg 37208](https://www.federalregister.gov/documents/2011/06/24/2011-15890/group-health-plans-and-health-insurance-issuers-rules-relating-to-internal-claims-and-appeals-and), [45 CFR § 147](https://www.ecfr.gov/cgi-bin/text-idx?SID=985c38eeddaa13128929637cc7ec919e&pitd=20180719&node=pt45.1.147&rgn=div5#se45.1.147_1136).136) | An enrollee is not required to exhaust all levels of a carrier's internal grievance procedure before filing a request for external review if the carrier has failed to make a decision on an internal grievance within the time period required, or has otherwise failed to adhere to all the requirements applicable to the appeal pursuant to state and federal law, or the enrollee has applied for expedited external review at the same time as applying for an expedited internal appeal. Claimant must have at least 1 year to file for external review after receipt of the notice of adverse benefit determination. External review of an adverse benefit determination for: medical necessity; appropriateness; health care setting; level of care; effectiveness of a covered benefit; and rescission. External review of adverse benefit determinations for experimental or investigational treatments or services. Have at least all of the protections that are available for external reviews based on medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit. |  |
| Grievance and Appeal Procedures | [Title 24-A § 2747](https://legislature.maine.gov/statutes/24-A/title24-Asec2747.html)[Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(4)[Title 24-A § 4312](https://legislature.maine.gov/statutes/24-A/title24-Asec4312.html)[Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx) § 8 [Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx) § 9 | All policies must specify all grievance and appeals procedures contained in [Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx), including 1) procedures for review decisions; 2) requests for reconsideration; 3) the first and second level appeals of adverse health care treatment decisions, including expedited first level appeals; 4) the first and second level appeals of adverse benefit determinations not involving heath care treatment decisions, 5) the right to external review, and 6) the right to file a grievance regarding policy provisions or denial of benefits. PLEASE REFER TO [RULE 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx) FOR FULL COMPLIANCE CRITERIA. |  |
| Right to waive the right to a second level appeal/grievance | [Title 24-A § 4312](https://legislature.maine.gov/statutes/24-A/title24-Asec4312.html) | Enrollees have the right to waive the right to a second level appeal/grievance and request an external review after the first level appeal decision. |  |
| **PROVIDERS / NETWORKS** |  |  |  |
| Acupuncture services | [Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837.html)-B | Policies and certificates that provide coverage for acupuncture must cover those services when performed by an acupuncturist licensed in Maine under the same conditions that apply to the services when performed by a licensed physician. |  |
| Certified nurse practitioners, certified midwives, and certified nurse (aka: Advanced midwives Practice Registered Nurse) | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-H.html)-H [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(5) | Coverage for services provided by nurse practitioners, certified midwives, and certified nurse midwives and allows nurse practitioners to serve as primary care providers. |  |
| Chiropractic Services | [Title 24-A § 2840-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2840-A.html) | Benefits must be included for the services of chiropractors, to the extent that the services are within the lawful scope of practice of a chiropractor licensed in this State, if the same services would be covered if provided by a physician. Therapeutic, adjustive and manipulative services shall be covered whether performed by an allopathic, osteopathic or chiropractic doctor. |  |
| Coverage for Services Provided by Certified Registered Nurse Anesthetists | [Title 24-A § 4320](https://legislature.maine.gov/legis/statutes/24-A/title24-Asec4320-Q.html)-Q | Coverage for services provided by certified registered nurse anesthetists (CRNA) is required. |  |
| Coverage of Optometrists | [Title 24-A § 2841](https://legislature.maine.gov/statutes/24-A/title24-Asec2841.html) | Benefits must be made available for the services of optometrists if the same services would be covered if performed by physician. |  |
| Dentists | [Title 24-A § 2437](https://legislature.maine.gov/statutes/24-A/title24-Asec2437.html) | Must include benefits for dentists’ services to the extent that the same services would be covered if performed by a physician. |  |
| Enrollee choice of PCP | [Title 24-A § 4306](https://legislature.maine.gov/statutes/24-A/title24-Asec4306.html) | A carrier offering or renewing a managed care plan shall allow enrollees to choose their own primary care providers, as allowed under the managed care plan's rules, from among the panel of participating providers made available to enrollees under the managed care plan's rules. A carrier shall allow physicians, including, but not limited to, pediatricians and physicians who specialize in obstetrics and gynecology, and certified nurse practitioners who have been approved by the State Board of Nursing to practice advanced practice registered nursing without the supervision of a physician pursuant to Title 32, section 2102, subsection 2-A to serve as primary care providers for managed care plans. |  |
| Essential Health Care Providers (Rural health clinics) | [Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx) § 7 | Benefits must be made available for outpatient health care services of certified rural health clinics. |  |
| Inadequate Network | [Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx) § 7(B)(5) | If the carrier has an insufficient number or type of participating providers to provide a covered benefit, the carrier shall ensure that the covered person obtains the covered benefit at no greater cost to the covered person than if the benefit were obtained from participating providers. |  |
| Independent Practice Dental Hygienists | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-Q.html)-Q | Coverage must be provided for dental services performed by a licensed independent practice dental hygienist when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist. |  |
| Mental health services provided by certain professionals | [Title 24-A § 2835](https://legislature.maine.gov/statutes/24-A/title24-Asec2835.html) | A covered person is entitled to reimbursement for services performed by one of the following professionals if the policy reimburses for those services and those services are within the professional’s lawful scope of practice:• Psychologist licensed to practice in Maine;• Certified social worker licensed for independent practice of social work in Maine;• Licensed clinical professional counselor licensed for independent practice of counseling in Maine;• Licensed nurse certified by the American Nurses’ Association as a clinical specialist in adult psychiatric and mental health nursing or as a clinical specialist in child and adolescent psychiatric and mental health nursing;• Marriage and family therapist licensed as such in Maine;• Licensed pastoral counselor licensed as such in Maine. |  |
| Network adequacy | [Title 24-A § 2673-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2673-A.html)[Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(1)[Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx)(7)[Rule 360](https://www.maine.gov/sos/cec/rules/02/031/031c360.doc) | All managed care arrangements except MEWA’s must be filed for adequacy and compliance with [Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx) and [Rule 360](https://www.maine.gov/sos/cec/rules/02/031/031c360.doc) access standards. If the policy uses a network, the network(s) need to have been approved by the Bureau for adequacy and access standards (i.e. physician, hospital, and ancillary service networks).Must provide a copy of network approval. |  |
| Pharmacy Providers – “Any Willing Pharmacy” | [Title 24-A § 4317](https://legislature.maine.gov/statutes/24-A/title24-Asec4317.html) | A carrier that provides coverage for prescription drugs as part of a health plan may not refuse to contract with a pharmacy provider that is qualified and is willing to meet the terms and conditions of the carrier's criteria for pharmacy participation as stipulated in the carrier's contractual agreement with its pharmacy providers. |  |
| Provider directories | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303-D.html)-D | 1. Requirement. A carrier shall make available provider directories in accordance with this section. A. A carrier shall post electronically a current and accurate provider directory for each of its network plans with the information and search functions described in subsection 2. In making the directory available electronically, the carrier shall ensure that the general public is able to view all of the current providers for a plan through a clearly identifiable link or tab and without creating or accessing an account or entering a policy or contract number. B. A carrier shall update each provider directory at least monthly. The carrier shall periodically audit at least a reasonable sample size of its provider directories for accuracy and retain documentation of such an audit to be made available to the superintendent upon request. C. A carrier shall provide a print copy, or a print copy of the requested directory information, of a current provider directory with the information described in subsection 2 upon request of a covered person or a prospective covered person. D. For each network plan, a carrier shall include in plain language in both the electronic and print directories the following general information: (1) A description of the criteria the carrier has used to build its provider network; (2) If applicable, a description of the criteria the carrier has used to tier providers;(3) If applicable, how the carrier designates the different provider tiers or levels in the network and identifies for each specific provider, hospital or other type of facility in the network the tier in which each is placed, whether by name, symbols, grouping or another designation, so that a covered person or a prospective covered person is able to identify the provider tier; and (4) If applicable, that authorization or referral may be required to access some providers. E. A carrier shall make clear in both its electronic and print directories which provider directory applies to which network plan by including the specific name of the network plan as marketed and issued in this State. The carrier shall include in both its electronic and print directories a customer service e-mail address and telephone number or electronic link that covered persons or the general public may use to notify the carrier of inaccurate provider directory information. F. For the information required pursuant to subsections 2, 3 and 4 in a provider directory pertaining to a health care professional, a hospital or a facility other than a hospital, a carrier shall make available through the directory the source of the information and any limitations on the information, if applicable. G. A provider directory, whether in electronic or print format, must accommodate the communication needs of individuals with disabilities and include a link to or information regarding available assistance for persons with limited English proficiency. 2. Information in searchable format. A carrier shall make available through an electronic provider directory, for each network plan, the information under this subsection in a searchable format: A. For health care professionals: (1) The health care professional's name; (2) The health care professional's gender; (3) The participating office location or locations; (4) The health care professional's specialty, if applicable; (5) Medical group affiliations, if applicable; (6) Facility affiliations, if applicable; (7) Participating facility affiliations, if applicable; (8) Languages other than English spoken by the health care professional, if applicable; and (9) Whether the health care professional is accepting new patients; B. For hospitals: (1) The hospital's name; (2) The hospital's type;(3) Participating hospital location; and (4) The hospital's accreditation status. C. For facilities, other than hospitals, by type: (1) The facility's name; (2) The facility's type; (3) Types of services performed; and (4) Participating facility location or locations. 3. Additional information. In the electronic provider directories for each network plan, a carrier shall make available the following information in addition to all of the information available under subsection 2: A. For health care professionals: (1) Contact information;(2) Board certifications; and (3) Languages other than English spoken by clinical staff, if applicable;B. For hospitals, the telephone number; and C. For facilities other than hospitals, the telephone number. 4. Information available in printed form. A carrier shall make available in print, upon request, the following provider directory information for the applicable network plan: A. For health care professionals: (1) The health care professional's name; (2) The health care professional's contact information; (3) Participating office location or locations; (4) The health care professional's specialty, if applicable;(5) Languages other than English spoken by the health care professional, if applicable; and (6) Whether the health care professional is accepting new patients; B. For hospitals: (1) The hospital's name; (2) The hospital's type; and (3) Participating hospital location and telephone number; and C. For facilities, other than hospitals, by type: (1) The facility's name; (2) The facility's type; (3) Types of services performed; and (4) Participating facility location and telephone number. The carrier shall include a disclosure in the directory that the information included in the directory is accurate as of the date of printing and that covered persons or prospective covered persons should consult the carrier's electronic provider directory on its website to obtain current provider directory information. |  |
| Registered nurse first assistants | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-I.html)-I | Benefits must be provided for coverage for surgical first assisting benefits or services shall provide coverage and payment under those contracts to a registered nurse first assistant who performs services that are within the scope of a registered nurse first assistant's qualifications. |  |
| **GENERAL HEALTH CARE TREATMENT / COVERAGE** |  |  |  |
| Abortion services | [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-M-1.html)-M | A health plan that provides coverage for maternity services must provide coverage for abortion services in accordance with the following:no deductible, copayment, coinsurance or other cost-sharing requirement for the costs of abortion services allowed. However, the plan may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles, and exclusions to the extent that these provisions are not inconsistent with the requirements of this law. Reasonable limitations include where an insured knowingly goes to an out-of-network provider when an in-network provider was available. |  |
| Anesthesia for Dentistry | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-K.html)-K | Anesthesia & associated facility charges for dental procedures are mandated benefits for certain vulnerable persons. |  |
| Breast reduction and symptomatic varicose vein surgery | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-L.html)-L | Coverage must be offered for breast reduction surgery and symptomatic varicose vein surgery determined to be medically necessary. |  |
| Chiropractic Services/Manipulative Therapy | [Title 24-A § 2748](https://legislature.maine.gov/statutes/24-A/title24-Asec2748.html) | Must provide benefits for care by chiropractors at least equal to benefit paid to other providers treating similar neuro-musculoskeletal conditions. Therapeutic, adjustive and manipulative services must be covered if performed by an allopathic, osteopathic or chiropractic doctor. |  |
| Clinical Trials | [Title 24-A § 4310](https://legislature.maine.gov/statutes/24-A/title24-Asec4310.html)PHSA § 2709 | A carrier may not deny a qualified enrollee participation in an approved clinical trial or deny, limit or impose additional conditions on the coverage of routine patient costs for items and services furnished in connection with participation in the clinical trial. A non-grandfathered health plan may not discriminate on the basis of participation in a clinical trial and must cover routine patient costs of individuals in clinical trials for treatment of cancer or other life-threatening conditions. |  |
| Colorectal Cancer Screening | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-N.html)-N | Coverage must be provided for colorectal cancer screening for asymptomatic individuals who are: At average risk for colorectal cancer according to the most recently published colorectal cancer screening guidelines of a national cancer society; or At high risk for colorectal cancer. “Colorectal cancer screening” means all colorectal cancer examinations and laboratory tests recommended by a health care provider in accordance with the most recently published colorectal cancer screening guidelines of a national cancer society. If a colonoscopy is recommended by a health care provider as the colorectal cancer screening test in accordance with this section and a lesion is discovered and removed during that colonoscopy, the health care provider must bill the insurance company for a screening colonoscopy as the primary procedure. |  |
| Coverage for Breast Cancer Treatment and Reconstructive Surgery | [Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837-C.html)-C | Coverage for inpatient breast cancer treatment must be provided for the duration determined by the attending physician.Must provide coverage for reconstruction of both breasts to produce symmetrical appearance according to patient and physician wishes. |  |
| Emergency Services, definitions of “Emergency Services” and “Emergency Medical Condition” – Must be Verbatim | [Title 24-A § 4301](https://legislature.maine.gov/statutes/24-A/title24-Asec4301-A.html)-A(4-A) & (4-B) [Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)(5) [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-C.html)-C[Rule 850](https://www.maine.gov/sos/cec/rules/02/031/031c850.docx) Sec 5PHSA §2719A([75 Fed Reg 37188](https://www.federalregister.gov/documents/2010/06/28/2010-15278/patient-protection-and-affordable-care-act-preexisting-condition-exclusions-lifetime-and-annual),45 CFR §147.138)SSA §1395dd | The plan must cover emergency services without prior authorization.  Cost-sharing requirements, such as a deductible, copayment amount or coinsurance rate, for out-of-network services are the same as requirements that would apply if such services were provided in network , and any payment made by an enrollee pursuant to this section must be applied to the enrollee's in-network cost-sharing limit. The enrollee's responsibility for payment for covered out-of-network emergency services must be limited so that if the enrollee has paid the enrollee's share of the charge as specified in the plan for in-network services, the carrier shall hold the enrollee harmless from any additional amount owed to an out-of-network provider for covered emergency services and make payment to the out-of-network provider in accordance with [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)-C (as amended by PL 2019, Ch. 668) or, if there is a dispute, in accordance with [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)-E (as enacted by PL 2019, Ch. 668).“Emergency service” means a health care item or service furnished or required to evaluate and treat an emergency medical condition that is provided in an emergency facility or setting. “Emergency medical condition” means the sudden and, at the time, unexpected onset of a physical or mental health condition, including severe pain, manifesting itself by symptoms of sufficient severity, regardless of the final diagnosis that is given, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe: A. That the absence of immediate medical attention for an individual could reasonably be expected to result in:(1) Placing the physical or mental health of the individual or, with respect to a pregnant woman, the health of the pregnant woman or her unborn child in serious jeopardy;(2) Serious impairment of a bodily function; or(3) Serious dysfunction of any organ or body part; or B. With respect to a pregnant woman who is having contractions, that there is:(1) Inadequate time to effect a safe transfer of the woman to another hospital before delivery; or(2) A threat to the health or safety of the woman or unborn child if the woman were to be transferred to another hospital. Before a carrier denies benefits or reduces payment for an emergency service based on a determination of the absence of an emergency medical condition or a determination that a lower level of care was needed, the carrier shall conduct a utilization review done by a board certified emergency physician who is licensed in this State, including a review of the enrollee's medical record related to the emergency medical condition subject to dispute. If a carrier requests records related to a potential denial of or payment reduction for an enrollee's benefits when emergency services were furnished to an enrollee, a provider has an affirmative duty to respond to the carrier in a timely manner. This does not apply when a reduction in payment is made by a carrier based on a contractually agreed upon adjustment for healthcare service. |  |
| Eye Care Services | [Title 24-A § 4314](https://legislature.maine.gov/statutes/24-A/title24-Asec4314.html) | Patient access to eye care providers when the plan provides eye care services. |  |
| Hearing aids | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-O.html)-O | Coverage is required for the purchase of hearing aids for each hearing-impaired ear, in accordance with the following: The hearing loss must be documented by a physician or audiologist licensed in this State. The hearing aid must be purchased in accordance with federal and state laws, regulations and rules for the sale and dispensing of hearing aids. The policy or contract may limit coverage to $3,000 per hearing aid for each hearing-impaired ear every 36 months. |  |
| Hospice Care Services | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-J.html)-J | Hospice care services must be provided to a person who is terminally ill (life expectancy of 12 months or less). Must be provided whether the services are provided in a home setting or an inpatient setting. See section for further requirements. |  |
| Leukocyte Antigen Testing To Establish Bone Marrow Donor | [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-I.html)-I | Must provide coverage for laboratory fees up to $150 arising from human leukocyte antigen testing performed to establish bone marrow transplantation suitability in accordance with the following requirements: A. The enrollee must meet the criteria for testing established by the National Marrow Donor Program, or its successor organization;B. The testing must be performed in a facility that is accredited by a national accrediting body with requirements that are substantially equivalent to or more stringent than those of the College of American Pathologists and is certified under the federal Clinical Laboratories Improvement Act of 1967, 42 United States Code, Section 263a;C. At the time of the testing, the enrollee must complete and sign an informed consent form that authorizes the results of the test to be used for participation in the National Marrow Donor Program, or its successor organization, and acknowledges a willingness to be a bone marrow donor if a suitable match is found; andD. The carrier may limit each enrollee to one test per lifetime. Prohibition on cost-sharing. A carrier may not impose any deductible, copayment, coinsurance or other cost-sharing requirement on an enrollee for the coverage required under this section. |  |
| Prostate cancer screening | [Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837-H.html)-H[Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html)-A | Coverage required for prostate cancer screening: Digital rectal examinations and prostate-specific antigen tests covered if recommended by a physician, at least once a year for men 50 years of age or older until age 72. |  |
| Reconstructive surgery after mastectomy | PHSA § 2727 | If covers mastectomy, then must also cover reconstructive surgery in a manner determined in consultation with provider and patient. Coverage must include: Reconstruction of the breast on which the mastectomy was performed (all stages);Surgery and reconstruction of the other breast to produce symmetrical appearance; Prostheses; and Treatment of physical complications at all stages of mastectomy. Does not limit mastectomy to cancer diagnosis. |  |
| Telehealth Services | [Title 24-A § 4316](https://legislature.maine.gov/statutes/24-A/title24-Asec4316.html) | Carrier must provide coverage for telehealth services if the service would be covered if it were provided through in-person consultation and as long as the provider is acting within the scope of practice of the provider’s license with regard to telehealth services. Can’t put any restriction on the prescribing of medication through telehealth that could otherwise be prescribed in-person. The availability of health care services may not be considered for the purposes of demonstrating provider network adequacy. |  |
| Compliance | 42 U.S.C. § 300gg-91(c)(4) | Provide a numerical demonstration that this policy and riders meets the requirement for an excepted benefit under the ACA (42 U.S.C. § 300gg-91(c)(4) “coverage supplemental to the coverage provided under chapter 55 of title 10, and similar supplemental coverage provided to coverage under a group health plan”). Federal Department of Labor Field Assistance Bulletin 2007-04 for the safe harbor requires the cost of supplemental coverage not exceed 15 percent of the cost of the plan's primary coverage |  |
| **WOMEN & MATERNITY** |  |  |  |
| Maternity and newborn care; newborn children coverage | [Title 24-A § 2834](https://legislature.maine.gov/statutes/24-A/title24-Asec2834.html)[Title 24-A § 2834](https://legislature.maine.gov/statutes/24-A/title24-Asec2834-A.html)-A[Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320.html)-A[45 CFR § 148.170](https://www.ecfr.gov/cgi-bin/text-idx?SID=985c38eeddaa13128929637cc7ec919e&pitd=20180719&node=pt45.1.148&rgn=div5#se45.1.148_1170) | Benefits must be provided for maternity (length of stay) and newborn care, in accordance with "Guidelines for Perinatal Care" as determined by attending provider and mother. Benefits may not be restricted to less than 48 hours following a vaginal delivery/96 hours following a cesarean section. An issuer is required to provide notice unless state law requires coverage for 48/96-hour hospital stay, requires coverage for maternity and pediatric care in accordance with an established professional medical association, or requires that decisions about the hospital length of stay are left to the attending provider and the mother. Policies and certificates providing coverage on an expense-incurred basis must provide that benefits are payable for a newly born child of the insured or subscriber from the moment of birth for the first 31 days. This must include coverage of injury or sickness or other benefits provided by the policy, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of premium is required to provide coverage for a child, the policy may require that notice of birth and payment of the premium be furnished within 31 days after the date of birth in order to have coverage continue beyond the 31-day period. The payment may be required to be retroactive to the date of birth. |  |
| Pap tests | [Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837-E.html)-E[Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html)-APHSA § 2713 (45 CFR 147) ACA 1001 | Benefits must be provided for cervical cancer screening tests. |  |
| Screening Mammograms | [Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837-A.html)-A[Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320.html)-A | If radiological procedures are covered. Benefits must be made available for screening mammography at least once a year for women 40 years of age and over. A screening mammogram also includes an additional radiologic procedure recommended by a provider when the results of an initial radiologic procedure are not definitive.  |  |
| **INFANTS & CHILDREN** |  |  |  |
| Autism Spectrum Disorders | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-T.html)-T | Group health insurance policies and certificates must provide coverage for autism spectrum disorders, as defined in this section, for a covered individual who is 10 years of age or under in accordance with the requirements set forth in this section. |  |
| Early Childhood Intervention | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-S.html)-S | Group health insurance policies and certificates must provide coverage for children's early intervention services in accordance with the requirements of this section. "Children's early intervention services" is defined in this section. |  |
| Infant Formula | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-P.html)-P[Title 24-A § 4256](https://legislature.maine.gov/statutes/24-A/title24-Asec4256.html) | Coverage of amino acid-based elemental infant formula must be provided when a physician has diagnosed and documented one of the following: Symptomatic allergic colitis or proctitis; Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis; A history of anaphylaxis Gastroesophageal reflux disease that is nonresponsive to standard medical therapies Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider Cystic fibrosis; or Malabsorption of cow milk-based or soy milk-based formula Medical necessity is determined when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas, have been tried and have failed or are contraindicated. Coverage for amino acid-based elemental infant formula under a policy, contract or certificate issued in connection with a health savings account may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate. |  |
| Medical food coverage for inborn error of metabolism | [Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837-D.html)-D | Must provide coverage for metabolic formula and up to $3,000 per year for prescribed modified low-protein food products. |  |
| Pediatric Dental | [45 CFR § 155.1065](https://www.ecfr.gov/cgi-bin/text-idx?SID=a3bb635afd7624f532acfe878eec552b&pitd=20180719&node=pt45.1.155&rgn=div5#se45.1.155_11065)[45 CFR § 156.115](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=b42306efce6315cebabd40ff77e68069&pitd=20180719&n=pt45.1.156&r=PART&ty=HTML#se45.1.156_1115)(a)(6) | Please demonstrate compliance with dental benefits pursuant to the FEDVIP plan by completing the Benchmark Pediatric Dental checklist using the FEDVIP Benchmark Plan Benefits Chart for specific coverage information. Coverage should continue until the end of the plan year in which the enrollee turns 19 years of age. Continuation of coverage beyond the 19th birthday month required if non-coverage would negatively affect care. |  |
| Pediatric Services | [45 CFR § 156.115](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=b42306efce6315cebabd40ff77e68069&pitd=20180719&n=pt45.1.156&r=PART&ty=HTML#se45.1.156_1115)(a)(6) | Coverage for pediatric services should continue until the end of the plan year in which the enrollee turns 19 years of age. Issuers are encouraged to cover services under the pediatric services EHB category beyond the 19th birthday month if non-coverage of those services after that time would negatively affect care. |  |
| Require Private Insurance Coverage for Donor Breast Milk | [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320.html)-V | Coverage for medically necessary pasteurized donor breast milk is required. |  |
| **MENTAL HEALTH & SUBSTANCE ABUSE SERVICES / COVERAGE** |  |  |  |
| Mental health coverage | [Title 24-A § 2843](https://legislature.maine.gov/statutes/24-A/title24-Asec2843.html)[Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-D.html)-D[Rule 330](https://www.maine.gov/sos/cec/rules/02/031/031c330.doc) | The contract must provide coverage for treatment of certain mental illnesses (including substance use disorders), as diagnosed by specific providers, and the coverage must meet the following parity requirements:• benefits for treatment and diagnosis of mental illnesses must be provided under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illness;• providers may be required to furnish data substantiating that initial/continued treatment is medically necessary, and in determining medical necessity, the same criteria must be used for medical treatment for mental illness as for physical illness under the policy;• if benefits for physical illness are provided on an expense-incurred basis, the benefits required for mental illness may be delivered separately under a managed care system;• contracts may not have separate maximums, deductibles, coinsurance amounts, out-of-pocket limits in a benefit period of not more than 12 months, or separate office visit limits, for physical illness and mental illness;• contracts may not impose a limitation on benefits for mental illness unless the same limitation is also imposed for physical illness;• copayments for mental illness must be actuarially equivalent to any coinsurance requirements or, if there are no coinsurance requirements, may not be greater than any copayment or coinsurance for physical illness; and• a medication management visit associated with a mental illness must be covered in the same manner as a medication management visit for treatment of a physical illness and may not be counted in the calculation of any maximum outpatient treatment visit limits.The contract must provide for medically necessary health care for a person suffering from mental illness, and such medically necessary health care must include, but is not limited to: • inpatient care; • day treatment services; • outpatient services; and • home health care services. |  |
| Substance Abuse Disorder Treatment | [Title 24-A § 2842](https://legislature.maine.gov/statutes/24-A/title24-Asec2842.html)[Rule 320](https://www.maine.gov/sos/cec/rules/02/031/031c320.doc) | If the contract provides coverage for hospital care, the contract must provide coverage for the treatment of substance use disorder pursuant to a treatment plan, which must, at a minimum, include: 1) residential treatment at a hospital or free-standing residential treatment center that is licensed, certified or approved by the State; and 2) outpatient care rendered by state licensed, certified or approved providers. Treatment or confinement at a facility may not preclude further/additional treatment at another eligible facility if the benefit days used do not exceed the total number of benefit days provided for under the contract. (not required for contracts issued to employers with 20 or fewer employees insured under the contract) |  |
| **PRESCRIPTION DRUGS** |  |  |  |
| Abuse-deterrent opioid analgesic drug products | [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-J.html)-J | Must provide coverage for abuse-deterrent opioid analgesic drug products listed on any formulary, preferred drug list or other list of drugs used by the carrier on a basis not less favorable than that for opioid analgesic drug products that are not abuse-deterrent and are covered by the health plan. An increase in enrollee cost sharing to achieve compliance with this section may not be implemented. "Abuse-deterrent opioid analgesic drug product" means a brand or generic opioid analgesic drug product approved by the federal Food and Drug Administration with abuse-deterrent labeling claims that indicate the drug product is expected to result in a meaningful reduction in abuse. "Opioid analgesic drug product" means a drug product in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release, long-acting form and whether or not combined with other drug substances to form a single drug product or dosage form. |  |
| Continuity of Prescription Drugs | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(7)(A) | If an enrollee has been undergoing a course of treatment with a prescription drug by prior authorization of a carrier and the enrollee’s coverage with one carrier is replaced with coverage from another carrier pursuant to section 2849-B, the replacement carrier shall honor the prior authorization for that prescription drug and provide coverage in the same manner as the previous carrier until the replacement carrier conducts a review of the prior authorization for that prescription drug with the enrollee’s prescribing provider. Policies must include a notice of the carrier’s right to request a review with the enrollee’s provider, and the replacing carrier must honor the prior carrier’s authorization for a period not to exceed 6 months if the enrollee’s provider participates in the review and requests the prior authorization be continued. The replacing carrier is not required to provide benefits for conditions or services not otherwise covered under the replacement policy, and cost sharing may be based on the copayments and coinsurance requirements of the replacement policy. |  |
| Contraceptives | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-G.html)-G | If the plan provides coverage for prescription drugs or outpatient medical services, it must cover all prescription contraceptives approved by the federal FDA or for outpatient contraceptive services, respectively, to the same extent coverage is provided for other prescription drugs or outpatient medical services. The coverage must include coverage for contraceptive supplies in accordance with the requirements set forth in this section. "Outpatient contraceptive services" and "contraceptive supplies" are defined in this section. Exclusion for religious employer: this section authorizes an exclusion for this coverage for a "religious employer," as defined in this section, and requires written notice of the exclusion to insureds and prospective insureds. |  |
| Coverage for HIV Prevention Drugs | [Title 24-A § 4317](https://legislature.maine.gov/statutes/24-A/title24-Asec4317-D.html)-D | A. If the FDA has approved one or more HIV prevention drugs that use the same method of administration, a carrier must cover at least one approved drug for each method of administration with no out-of-pocket cost. B. A carrier is not required to cover pre- or post-exposure prophylaxis drug dispensed or administered by an out-of-network pharmacy provider unless the enrollee's health plan provides an out-of-network pharmacy benefit. C. A carrier may not prohibit a pharmacy from dispensing or administering any HIV prevention drugs. |  |
| Diabetes supplies | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-E.html)-E | Contracts and certificates must cover medically appropriate and necessary equipment, limited to insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets, and the out-patient self-management training and educational services used to treat diabetes, if a physician certifies that the equipment and services are necessary, and the diabetes out-patient self-management training and educational services are provided through ambulatory diabetes education facilities authorized by the State's Diabetes Control Project within the Bureau of Health. |  |
| Drug Mail Order Opt-Out | [45 CFR § 156.122](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=b42306efce6315cebabd40ff77e68069&pitd=20180719&n=pt45.1.156&r=PART&ty=HTML#se45.1.156_1122)(e) | A health plan that is required to cover the EHB package cannot have a mail-order only prescription drug benefit. |  |
| Early refills of prescription eye drops  | [Title 24-A § 4314](https://legislature.maine.gov/statutes/24-A/title24-Asec4314-A.html)-A | If prescription eye drops are a covered benefit under the health plan, the coverage must include one early refill of a prescription for eye drops if the criteria set forth in Section 4314-A is met. |  |
| Electronic transmission of prior authorization requests for prescription drugs | [Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)(2-B)[Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)(2) | If a health plan provides coverage for prescription drugs, the carrier must accept and respond to prior authorization requests through a secure electronic transmission using standards recommended by a national institute for the development of fair standards and adopted by a national council for prescription drug programs for electronic prescribing transactions. Transmission of a facsimile through a proprietary payer portal or by use of an electronic form is not considered electronic transmission.A carrier's electronic transmission system for prior authorization requests for prescription drugs must comply with the requirements of the statute. (For 2023 and beyond, a carrier’s electronic benefit tool(s) must integrate with all of its providers’ systems.) Upon request, the superintendent may grant a waiver from the requirements on a demonstration of good cause. The prescription drug and prior authorization standards used must be clear and readily available to enrollees, participating providers, pharmacists and other providers. |  |
| Information about prescription drugs | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(20) | Consistent with the requirements of the federal Affordable Care Act, a carrier offering a health plan in this State shall provide the following information to prospective enrollees and enrollees with respect to prescription drug coverage on its publicly accessible website. A. A carrier shall post each prescription drug formulary for each health plan offered by the carrier. The prescription drug formularies must be posted in a manner that allows prospective enrollees and enrollees to search the formularies and compare formularies to determine whether a particular prescription drug is covered under a formulary. When a change is made to a formulary, the updated formulary must be posted on the website within 72 hours. B. A carrier shall provide an explanation of: (1) The requirements for utilization review, prior authorization or step therapy for each category of prescription drug covered under a health plan; (2) The cost-sharing requirements for prescription drug coverage, including a description of how the costs of prescription drugs will specifically be applied or not applied to any deductible or out-of-pocket maximum required under a health plan; (3) The exclusions from coverage under a health plan and any restrictions on use or quantity of covered health care services in each category of benefits; and (4) The amount of coverage provided under a health plan for out-of-network providers or noncovered health care services and any right of appeal available to an enrollee when out-of-network providers or noncovered health care services are medically necessary. |  |
| No Prior Authorization or step therapy for mental illness drugs | [Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)(2-C)[Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-N.html)-N | Carrier must approve all prior authorizations for drugs to treat serious mental illness. No step therapy for such drugs. Serious mental illness means mental illness must result in serious functional impairment that substantially interferes with or limits one or more major life activities. |  |
| Off-label use of prescription drugs for cancer and HIV or AIDS | [Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837-F.html)-F[Title 24-A § 2837](https://legislature.maine.gov/statutes/24-A/title24-Asec2837-G.html)-G | If providing coverage for prescription drugs, must provide coverage for off-label use of prescription drugs for treatment of cancer, HIV, or AIDS. |  |
| Orally Administered Cancer Therapy | [Title 24-A § 4317](https://legislature.maine.gov/statutes/24-A/title24-Asec4317-B.html)-B | If providing coverage for cancer chemotherapy treatment, must provide coverage for prescribed, orally administered anticancer medications used to kill or slow the growth of cancerous cells that is equivalent to the coverage provided for intravenously administered or injected anticancer medications. An increase in patient cost sharing for anticancer medications may not be used to achieve compliance with this section. This section may not be construed to prohibit or limit a carrier's ability to establish a prescription drug formulary or to require a carrier to cover an orally administered anticancer medication on the sole basis that it is an alternative to an intravenously administered or injected anticancer medication. |  |
| Prescription drug access | [Title 24-A § 4311](https://legislature.maine.gov/statutes/24-A/title24-Asec4311.html) | Formulary: if the plan provides coverage for prescription drug and limits the coverage to drugs included in a formulary, the coverage must meet the requirements set forth in Section 4311(1).Access to clinically appropriate drug not otherwise covered by the plan: a carrier must allow enrollees to request and gain access to clinically appropriate drugs not otherwise covered by the plan in accordance with the criteria and timeframes set forth in Section 4311(1-A), including an expedited review process. If a request is approved, the drug must be treated as an essential health benefit, including counting any cost-sharing toward the plan’s annual cost-sharing limit and when calculating the plan’s actuarial value.Approved drugs and medical devices: if the plan provides coverage for prescription drugs and medical devices, coverage cannot be denied on the basis that the use of the drug or device is investigational if the intended use is included in the labeling authorized by the FDA or is recognized in one of the standard reference compendia or in peer-reviewed medical literature. |  |
| Prescription Drug Coverage | [Rule 755](https://www.maine.gov/sos/cec/rules/02/031/031c755.doc) § 6(F)(1)(i) | Must provide coverage for out-of-hospital prescription drugs and medications. Cost sharing for the drug benefit shall not exceed 50% on average. If there is a separate maximum for this benefit, it shall be at least $1,500 per year. |  |
| Prescription drug coverage out-of-pocket limit | [Title 24-A § 4317](https://legislature.maine.gov/statutes/24-A/title24-Asec4317-A.html)-A | If prescription drug coverage does not include prescription drugs subject to coinsurance under the total out-of-pocket limit for all benefits under the plan, the carrier must establish a separate out-of-pocket limit not to exceed $3,500 per year for prescription drugs subject to coinsurance (to the extent not inconsistent with the ACA). This requirement does not prohibit or limit a carrier’s ability to establish specialty tiers for prescription drug coverage, make medical necessity determinations, or enforce prior authorization/utilization review procedures. |  |
| Prescription drug exception process | [Title 24-A § 4311](https://legislature.maine.gov/statutes/24-A/title24-Asec4311.html)(1-A)(A) | Decision within 72 hours or 2 business days, whichever is less:The carrier must notify the enrollee, the enrollee's designee if applicable, and the person who has issued a valid prescription for the enrollee of its coverage decision within 72 hours or 2 business days, whichever is less, following receipt of the request. A carrier that grants coverage must provide coverage of the drug for the duration of the prescription, including refills. |  |
| Prescription synchronization | [Title 24-A § 2769](https://legislature.maine.gov/statutes/24-A/title24-Asec2769.html) | If a health plan provides coverage for prescription drugs, a carrier: A. Shall permit and apply a prorated daily cost-sharing rate to a prescription that is dispensed by a pharmacist in the carrier's network for less than a 30-day supply if the prescriber or pharmacist determines that filling or refilling the prescription for less than a 30-day supply is in the best interest of the patient and the patient requests or agrees to less than a 30-day supply in order to synchronize the refilling of that prescription with the patient's other prescriptions; B. May not deny coverage for the dispensing of a medication prescribed for the treatment of a chronic illness that is made in accordance with a plan developed by the carrier, the insured, the prescriber and a pharmacist to synchronize the filling or refilling of multiple prescriptions for the insured. The carrier shall allow a pharmacy to override any denial codes indicating that a prescription is being refilled too soon in order to synchronize the patient's prescriptions; and C. May not use payment structures incorporating prorated dispensing fees. Dispensing fees for partially filled or refilled prescriptions must be paid in full for each prescription dispensed, regardless of any prorated copay for the insured or fee paid for alignment services. 2.  Application; exclusion. The requirements of this section do not apply to a prescription for: A. Solid oral doses of antibiotics; or B. Solid oral doses that are dispensed in their original container as indicated in the federal Food and Drug Administration Prescribing Information or are customarily dispensed in their original packaging to assist a patient with compliance. |  |
| Prior authorization of medication-assisted treatment for opioid use disorder | [Title 24-A § 4304](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)(2-A) | A carrier may not require prior authorization for medication-assisted treatment for opioid use disorder for the prescription of at least one drug for each therapeutic class of medication used in medication-assisted treatment, except that a carrier may not impose any prior authorization requirements on a pregnant woman for medication-assisted treatment for opioid use disorder. "Medication-assisted treatment" means an evidence-based practice that combines pharmacological interventions with substance use disorder counseling. |  |
| Prosthetic devices to replace an arm or leg. | [Title 24-A § 4315](https://legislature.maine.gov/statutes/24-A/title24-Asec4315.html)[42 USC 1395m](https://www.law.cornell.edu/uscode/text/42/1395m) | Coverage must be provided, at a minimum, for prosthetic devices to replace, in whole or in part, an arm or leg to the extent that they are covered under the Medicare program. Coverage for repair or replacement of a prosthetic device must also be included. Exclusion for micro-processors was removed effective 1/2011.1. Definition. As used in this section, "prosthetic device" means an artificial device to replace, in whole or in part, an arm or a leg. 2. Required coverage. A carrier shall provide coverage for prosthetic devices in all health plans that, at a minimum, equals, except as provided in subsection 8, the coverage and payment for prosthetic devices provided under federal laws and regulations for the aged and disabled pursuant to 42 United States Code, Sections 1395k, 1395l and 1395m and 42 Code of Federal Regulations, Sections 414.202, 414.210, 414.228 and 410.100. Covered benefits must be provided for a prosthetic device determined by the enrollee's provider, in accordance with section 4301-A, subsection 10-A, to be the most appropriate model that adequately meets the medical needs of the enrollee. 8. Health savings accounts. Benefits for prosthetic devices under health plans issued for use in connection with health savings accounts as authorized under Title XII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductibles and out-of-pocket limits that apply to overall benefits under the contract.(h) Payment for prosthetic devices and orthotics and prosthetics (1) General rule for payment (A) In general Payment under this subsection for prosthetic devices and orthotics and prosthetics shall be made in a lump-sum amount for the purchase of the item in an amount equal to 80 percent of the payment basis described in subparagraph (B). (B) Payment basis Except as provided in subparagraphs (C), (E), and (H)(i), the payment basis described in this subparagraph is the lesser of— (ii) the actual charge for the item; or (iii) the amount recognized under paragraph (2) as the purchase price for the item. Coverage should be applied as follows:1. Coinsurance shall NOT exceed 20%, AFTER deductible in the plan. 2. HSA’s are NOT subject to the 20% requirement but coinsurance may not exceed that for other services. 3. DME and other prosthetic devices are NOT subject to the 20%, so it would be helpful to clarify in the schedule of benefits, summary of benefits and coverage, and the plan and benefits template how each category is paid out. 4. Out Of Network is NOT subject to 20%, unless there is no in-network available then OON should be billed as in-network i.e. 20%. |  |
| Step therapy requirements | [Title 24-A § 4320](https://legislature.maine.gov/statutes/24-A/title24-Asec4320.html)-N | Step therapy requirements when a carrier provides prescription drug coverage, and coverage of a prescription drug is restricted through the use of a step therapy protocol. |  |
| Third Party Prescription Act (Any Willing Pharmacy) | [Title 32 § 13771](https://www.mainelegislature.org/legis/statutes/32/title32sec13771.html)[Title 24-A § 4317](https://legislature.maine.gov/statutes/24-A/title24-Asec4317.html)[Bulletin 377](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/377.pdf) | A carrier that provides coverage for prescription drugs as part of a health plan may not refuse to contract with a pharmacy provider that is qualified and is willing to meet the terms and conditions of the carrier's criteria for pharmacy participation as stipulated in the carrier's contractual agreement with its pharmacy providers. |  |
| Disclosure to Enrollees of Cash Price  | [Title 24-A § 4303](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)(25) | A carrier may not prohibit a provider from providing an enrollee with the option of paying the provider's discounted cash price for health care services. |  |
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