

BUREAU OF INSURANCE  
RULE CHAPTER 857  
SMALL BUSINESS HEALTH INSURANCE PREMIUM SUPPORT PROGRAM

BASIS STATEMENT AND SUMMARY OF COMMENTS

Superintendent of Insurance Eric A. Cioppa hereby adopts Chapter 857, Small Business Health Insurance Premium Support Program (the “program”). This rule implements requirements of the program in accordance with 24-A M.R.S. § 212 and unallocated language in P.L. 2021, ch. 483, Part C, An Act To Provide Allocations for the Distribution of State Fiscal Recovery Funds (L.D. 1733).

Pursuant to a Notice of Rulemaking issued October 22, 2021, a public hearing was convened via audio-visual link on November 22, 2021, and the public comment period was held open until December 3, 2021.

The rule was proposed to establish the necessary conditions and procedures to implement the Small Business Premium Support Program, including: the procedure for allocating the appropriated funding to Maine small group policyholders; setting the conditions and requirements for reimbursement to small group health insurance carriers of their provision of premium relief credits to small groups; and setting the conditions and requirements to provide reimbursement to small group carriers of their administrative costs in providing the premium relief credits. The rule is hereby adopted with the revisions described below in the Bureau’s responses to comments.

**A. The following persons testified at the hearing and also submitted written comments on or before December 3, 2021:**

Kristine Ossenfort, Esq.  
Senior Government Relations Director  
Anthem Health Plans of Maine, Inc. (Anthem)

**B. The following additional persons submitted written comments on or before December 3, 2021:**

Unsigned letter submitted by  
Harvard Pilgrim Health Care (Harvard)

Katherine D. Pelletreau  
Executive Director  
Maine Association of Health Plans (MAHP)

### **C. Summary of comments and Bureau of Insurance responses:**

#### *Section 6, Monthly Premium Relief Credits and Adjustments*

Comment: All of the commenters expressed concerns with the requirements in Section 6, Monthly Premium Relief Credits and Adjustments. The commenters stated that not all of the carriers' billing systems currently allow for the type of itemization for each individual employee that Section 6 requires.

According to Anthem, "It would be extremely burdensome and expensive to undertake the IT work that would be needed in order to comply with such a requirement, particularly for a temporary program. Instead, we suggest that carriers can provide an itemization to groups requesting the information."

Harvard requested that the requirement in Section 6(1) be removed, explaining that, "We currently provide aggregate program credit information by group and plan type to participating small groups within monthly premium invoices and provide itemized detail upon request to member groups and reports to BOI for compliance purposes. We believe this system to adequately meet the needs of our businesses and their autonomy in [disbursing] these relief dollars to their employees."

MAHP stated that "Several of our member Plans cannot comply" with the itemization requirement. MAHP added, "For most of our Plans, meeting the proposed requirement for a temporary program for a single market in one state would incur tremendous administrative expense and might not even be possible."

In addition to the objection to Section 6(1), Anthem expressed concern with Section 6(2), stating "...the requirement that any subsequent adjustments be explained in the next invoice is extremely problematic." Anthem stated that their systems do not have the capacity to provide this level of detail in the monthly invoices, and they would likely be required to use a manual process to meet this requirement. As with Section 6(2), Anthem recommends that the carriers provide this information to small groups upon request.

Bureau Response: The program is required to reimburse carriers for their administrative costs of implementing the program, so it is important that the program strive to keep administrative costs to a reasonable amount. It is also important for those small group plan sponsors who are participating in the program to have accurate information about the premium credits their plan receives each month, so that the proper credit amounts can be passed through to their participating employees.

To try to accommodate both of these interests, we have added a paragraph (3) to Section 6, which allows the carrier to provide the premium credit breakdown for each participating employee through an alternative means, subject to approval by the Superintendent, and so long as the information is accurately provided and is provided to the plan sponsor in a timely manner. Any such alternative means of communicating this information must provide this information to a requesting plan sponsor no later than five business days after the plan sponsor's request. The new section reads as follows:

- (3) If necessary to minimize administrative costs, a small group health insurance carrier may utilize an alternative method of communicating the information in paragraphs (1) and (2) to eligible small businesses. The alternative method must meet the following minimum requirements:
  - (a) The alternative method must provide the information to the eligible small business within five business days of a request.
  - (b) The alternative method must be clearly communicated to eligible small businesses.
  - (c) The alternative method must be submitted to and approved by the Superintendent.

### *Section 9, Prohibition Against Premium Increases*

Comment: Anthem objected to Section 9’s prohibition against small group health insurance carriers increasing premiums due to administrative costs of providing the premium credits. Anthem stated that this prohibition could result in violation of the “ratemaking requirement that rates not be inadequate.” Anthem suggested removing the prohibition against premium increases due to costs “whether reimbursed or not.” Anthem suggests striking this clause and adding a provision that premium increases would be allowed for costs “for which the carrier is not reimbursed.”

Bureau Response: We agree the program contemplates that carriers will be reimbursed for their administrative costs of implementing the program. However, we disagree that the enabling legislation for the program permits administrative costs to be reimbursed through premium increases.

The statute requires the program to “provide payments to small group health insurance carriers in the State to reduce insurance premium costs for small businesses and their employees.” P.L. 2021, ch. 483, Part C. In addition, the statute requires the Bureau to audit small group health insurance carriers to “ensure that the premium reductions provided through the program are not recaptured through premium increases in the next insurance renewal following the expiration of the program.” *Id.* Read together, these provisions require the program to compensate small group health insurance carriers for their provision of the premium relief credits to qualifying small groups, and they require that these costs will not be recaptured through premium increases. The program has been working with small group health insurance carriers to provide reasonable administrative cost reimbursement through agreements with the carriers. This approach allows the program to provide the administrative cost reimbursement, while still complying with the statutory prohibition against premium rate increases.

### *Section 10, Examination*

Comment: Anthem requests that Section 10 be amended to remove the reference to a “prohibition against premium increases throughout the duration of the program.” Anthem requests that this language be replaced with “the requirements of P.L. 2021, c. 483, section C-1,” and that “prohibition” be replaced with “provision” in the third sentence of Section 10(1).

Bureau Response:

As explained in the response to the comments regarding Section 9, the enabling legislation shows a clear intent to not allow carriers to increase premiums as a way to offset their administrative costs in participating in the program. Instead, administrative costs must be reimbursed through the program's funding. The Bureau will continue to work with carriers to ensure that their reasonable administrative expenses are reimbursed without premium increases.