

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**031 BUREAU OF INSURANCE**

**Chapter 857 SMALL BUSINESS HEALTH INSURANCE PREMIUM SUPPORT PROGRAM**

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**Section 1. Authority and Purpose**

This rule is adopted pursuant to 24-A M.R.S. §212 and P.L. 2021, c. 483, Part C, *An Act To Provide Allocations for the Distribution of State Fiscal Recovery Funds*, to implement the Small Business Health Insurance Premium Support Program (the “program”). The purpose of the program is to temporarily reduce insurance premium costs for small employers and their employees. The Superintendent will carry out the purpose of the program by allocating the funds provided for the program through the duration of the program to the small group health insurance carriers, based on actual credits made monthly by each carrier, and by auditing the carriers for compliance and to ensure that the administrative costs of the program do not result in increased premiums to policyholders.

**Section 2. Applicability and Scope**

This rule shall apply to all small group health insurance carriers and eligible small businesses doing business in Maine during the duration of the program.

**Section 3. Definitions**

The following definitions apply for purposes of this rule:

1. “Small Group Health Insurance Carrier” means a carrier as defined in 24-A M.R.S. §2808-B(1)(A).

2. “Eligible Small Business” means an employer that purchases fully-insured small group health coverage, either directly or as a subgroup, offered by a small group health insurance carrier and rated as part of the carrier’s single statewide small group risk pool.
3. “Eligible Employee” has the same meaning as defined in 24-A M.R.S. §2808-B(1)(C).
4. “Enrolled Eligible Employee” means an eligible employee who is enrolled in an eligible small business group plan at any time during the duration of the program. Enrolled eligible employee” does not include an employee who stopped participating in an eligible employer’s group health coverage before November 1, 2021 or a former employee, including a former employee eligible for COBRA or mini-COBRA coverage.
5. “Eligible Group” has the same meaning as in 24-A M.R.S. §2808-B(1)(D).
6. “Premium Relief Credits” means monthly premium credits provided to eligible small businesses through the program.
7. “Duration of the Program” means November 1, 2021 through April 30, 2023.

#### **Section 4. Premium Relief Credit Amounts and Requirement that Credits be Shared with Employees**

1. Throughout the duration of the program, small group health insurance carriers shall provide premium relief credits to eligible small businesses based on the number of enrolled eligible employees and covered beneficiaries. The program shall reimburse small group health insurance carriers for those premium relief credits and for their reasonable expenses in administering the program.
2. Premium relief credits shall be based upon the following four subscriber types: Employee Only; Employee and Spouse or Partner; Employee with One or More Children; and Employee and Spouse or Partner with One or More Children. “Children” includes adult children covered by the employee’s plan. Premium relief payments will be provided based upon subscriber type and will not vary based upon the number of children included in a subscriber’s enrollment. Small group health insurance carriers are permitted to use different terminology for these four subscriber types so long as the terminology corresponds to the family compositions specified by this rule. If more than one member of the same household is employed by the same employer, credits shall be allocated in a manner consistent with the premium billing and employee contributions.
3. The amounts of the premium relief credits may be adjusted by the Superintendent throughout the duration of the program based upon available funding. Changes to the credit amounts, if any, will be communicated through a bulletin.
4. The initial monthly credit amounts are \$50 per employee, \$50 per covered spouse or domestic partner, and an additional \$30 for any subscriber type that includes child coverage, based upon the following subscriber types:

Employee: \$50

Employee and Spouse or Partner: \$100

Employee + Child(ren): \$80

Employee and Spouse or Partner + Child(ren): \$130

5. Monthly premium relief credits may not be prorated by the carrier. The full monthly credit specified by this subsection shall be provided if an employee or beneficiary was enrolled in the plan during all or any part of the month, but not to exceed the total premium charged for that employee and any beneficiaries.
6. Eligible small businesses are required to divide the premium relief credits each month with each enrolled eligible employee in at least the same proportion as the premium contributions by the employer and employee.
  - A. This subsection does not prohibit an employer from passing through the full amount of the premium relief credit to its employees, or some other amount that is higher than the minimum required by this subsection.
  - B. If employee contributions are paid through weekly or biweekly payroll deductions, or some other basis that does not coincide with a calendar month, the employee's share of the credit may be prorated accordingly so long as the employee receives the full amount of the credit due for each month.

#### **Section 5. Reimbursement of Premium Relief Credits and Administrative Costs**

1. Based on the information provided in Section 8, the program shall reimburse small group health insurance carriers for all premium relief credits provided to policyholders in accordance with this rule.
  - A. Reimbursement amounts shall be subject to adjustment if it is subsequently determined that credits were inaccurately reported or erroneously granted or denied, or if subsequent changes to the underlying premium bills result in changes to the applicable credits. Overpayments or underpayments of reimbursements shall be charged or credited as offsets in a subsequent reimbursement, and if necessary, a final reconciliation payment shall be made to the carrier or collected from the carrier after the end of the program.
  - B. Eligibility for reimbursement of a premium relief credit shall be based on whether the carrier provided coverage during that month to the employee and beneficiaries, and the employer owed premium for that coverage to the carrier, regardless of whether the premium owed was ultimately collected. No credit shall be reimbursed for months entirely preceding the inception date of the employee's coverage or entirely following the termination date of the employee's coverage.
2. In order to ensure that costs associated with providing the premium relief credits do not result in premium increases, the program shall provide small group health insurance carriers with payments intended to offset the reasonable administrative costs of providing this premium relief. Specific terms will be established through a written agreement between the Superintendent and each small group health insurance carrier. These reimbursements will include payment for the carrier's initial systems set-up for the program and its ongoing costs of administration and reporting for the program.

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

1. Small group health carriers shall reflect the premium relief credits in the monthly invoices they send to eligible small businesses. Each monthly invoice to an eligible small business must itemize the monthly premium relief credit provided to each enrolled eligible employee.
2. Small group health insurance carriers are permitted to make reasonable adjustments to the timing of these credits if necessary to minimize administrative costs. An example of reasonable adjustment is providing the first premium relief credit in the second month after a small group begins a new plan or a subscriber joins a plan. Any such adjustment must be clearly explained to the eligible small business in the corresponding invoice.
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 7. Notices to Small Group Policyholders**

1. Before November 1, 2021 or with the first premium invoice issued to a new policyholder, small group health insurance carriers must provide a notice explaining the program to all policyholders that are eligible small businesses, including an explanation of the purpose of the program and the duration of the program. This notice must include a request that copies of the notice be provided to employees, and that the notice be posted prominently in the employer's workplace, in locations where other employment notices are posted. This notice must also include an explanation that the premium relief credits must be divided with the enrolled eligible employee in an amount that is in at least the same proportion as the employee's premium contribution.
2. A similar notice must be provided with each subsequent monthly premium invoice sent to an eligible small business.
3. The Superintendent shall provide sample language to be included in these notices.

## **Section 8. Reporting of Program-related Information**

1. Small group health insurance carriers shall provide the Superintendent with a spreadsheet each month through the duration of the program and any required time period following the end of the program showing details of the prior month's eligible small business premium billings and premium relief credits by subscriber number and showing total enrollment numbers. The report shall include the following data:

**For each subscriber**

- Subscriber type (employee-only, employee + spouse/partner, etc.),
- Subscriber number
- Number of covered lives per subscriber
- Policy number
- Product/plan name
- Coverage period
- Billed premium
- Invoice date
- Premium credits (including any corrections for prior months due to timing of reporting of employee or dependent adds/drops)

**Monthly totals**

- Total number of small groups
  - Total number of each subscriber type
  - Total number of covered lives
  - Total amount of credits provided for each subscriber type
2. The Superintendent shall notify small group health insurance carriers of the requirements for this reporting, including the reporting format, and any additional required data elements.
  3. Small group health insurance carriers shall also report information necessary to reimburse reasonable administrative costs on a monthly basis in a format prescribed by the Superintendent. The Superintendent shall review the submitted documentation and facilitate payment to the small group health insurance carriers under the terms of an agreement between the Superintendent and each small group health insurance carrier.

**Section 9. Prohibition Against Premium Increases**

A small group health insurance carrier may not raise small group premiums throughout the duration of the program or at a renewal following the end of the program due to costs, whether reimbursed or not, resulting from the carrier's participation in the program.

**Section 10. Examination**

1. The Superintendent will monitor carriers' compliance with the prohibition against premium increases throughout the duration of the program. The Superintendent will also verify carriers' compliance with this prohibition after the termination of the program. Small group health insurance carriers must provide any information requested by the Superintendent for the purpose of verifying compliance with this prohibition.
2. To the extent that any amounts paid to carriers for premium credit reimbursements or administrative expense reimbursements under this program are determined to be overpayments upon examination, such overpayments shall be returned to the program.

**Section 11. Severability**

If any section, term, or provision of this rule shall be deemed invalid for any reason, any remaining section, provision, or definition shall remain in full force and effect.

**Section 12. Effective Date**

This rule is effective April 5, 2022.

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**STATUTORY AUTHORITY:**

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)

**EFFECTIVE DATE:**

April 5, 2022 – fling 2022-049