**Maine Bureau of Insurance  
Form Filing Review Requirements Checklist**

**SMALL GROUP (HOrg02G.004A) and INDIVIDUAL (HOrg01) HMO Plans**

**(NON-GRANDFATHERED)**

**Inside and Outside the Marketplace**

**For Plans Issued On or After January 1, 2024**

**(Revised 04/13/2023)**

**Carriers must confirm compliance and IDENTIFY the LOCATION (Page number, Section, Paragraph, etc.) of the standard in the form in the last column. N/A: Check this box if a contract does not have to meet this requirement carriers must EXPLAIN WHY in the last column.**

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| --- | --- | --- | --- | --- | --- |
| **State Benefit/Provision and/or ACA Requirement** | **State  Law/ Rule and/or  Federal Law** | **State Description of Requirement and/or ACA Description of Requirement** | | **N/A**  **🡪** | **CONFIRM COMPLIANCE**  **AND IDENTIFY LOCATION OF STANDARD IN FILING**  **MUST EXPLAIN IF REQUIREMENT** IS INAPPLICABLE |
| **General Submission Requirements** | | | | | |
| Electronic (SERFF) Submission Requirements | [24-A M.R.S. §2412 (2)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2412.html)  [Bulletin 360](http://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 | [24-A M.R.S.A. §601(17)](http://legislature.maine.gov/statutes/24-A/title24-Asec601.html) | $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 | [24-A M.R.S.A. §2413](http://legislature.maine.gov/statutes/24-A/title24-Asec2413.html) | Seven categories of the grounds for disapproving a filing. | | ☐ |  |
| NQTLs | [24-A M.R.S. § 4320-T(3)(D)](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-T.html)  [24-A M.R.S. § 4320-T(4)](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-T.html) | 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. | | ☐ |  |
| Readability | [24-A M.R.S.A. §2441](http://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 | [24-A M.R.S.A. §2412](http://legislature.maine.gov/statutes/24-A/title24-Asec2412.html)   [§2413](http://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. | | ☐ |  |
| **General Policy Provisions** | | | | | |
| Classification, Disclosure, and Minimum Standards | [Rule 755](http://www.maine.gov/sos/cec/rules/02/031/031c755.doc) | Must comply with all applicable provisions of Rule 755 for Major Medical coverage including, but not limited to, Sections 4, 5, 6(A), 6(F), and Sections 7(A), 7(B), 7(G), and 8. ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | | ☐ |  |
| Comparable health care service incentive program, filing with superintendent and notice to enrollees- ***ONLY REQUIRED FOR SMALL GROUP PLANS COMPATIBLE WITH HEALTH SAVINGS ACCOUNTS. DOES NOT APPLY TO MEWAs.*** | [24-A M.R.S.](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html)  [§4318-A](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html)  [24-A M.R.S.](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html)  [§4318-A(1)(A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html)    [24-A M.R.S.](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html)  [§4318-A(2)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html)  [24-A M.R.S.](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html)  [§4318-A(3)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html)  [24-A M.R.S. §4302(1)(M)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4302.html) | A carrier offering a health plan in this State shall establish, at a minimum, for all small group health plans as defined in section 2808-B, subsection 1, paragraph G compatible with a health savings account authorized under federal law, a health plan design in which enrollees are directly incentivized to shop for low-cost, high-quality participating providers for comparable health care services. Incentives may include, but are not limited to, cash payments, gift cards or credits or reductions of premiums, copayments or deductibles. A small group health plan design created under this section must remain available to enrollees for at least 2 consecutive years, except that any changes made to the program after 2 years, including, but not limited to, ending the incentive, may not be construed as a change to the small group health plan design for the purpose of guaranteed renewability under section 2808-B, subsection 4 or section 2850-B. **A multiple-employer welfare arrangement is not considered a carrier for the purposes of this section.**  "Comparable health care service" means nonemergency, outpatient health care services in the following categories:  (1) Physical and occupational therapy services;  (2) Radiology and imaging services;  (3) Laboratory services; and  (4) Infusion therapy services.  **Plans filed with the superintendent pursuant to this section must disclose, in the summary of benefits and explanation of coverage, a detailed description of the incentives available to a plan enrollee.** The description must clearly detail any incentives that may be earned by the enrollee, including any limits on such incentives, the actions that must be taken in order to earn such incentives and a list of the types of services that qualify under the program. This subsection may not be construed to prevent a carrier from directing an enrollee to the carrier's website or toll-free telephone number for further information on the program in the summary of benefits and explanation of coverage. The superintendent shall review the filing made by the carrier to determine if the carrier's program complies with the requirements of this section.  Annually at enrollment or renewal, a carrier shall provide notice about the availability of the program to an enrollee who is enrolled in a health plan eligible for the program as required by section 4302, subsection 1, paragraph M.  The notice required by this section must include “a description of the incentives available to an enrollee and how to earn such incentives if enrolled in a health plan offering a comparable health care service incentive program designed pursuant to section 4318-A.” | | ☐ |  |
| Continuity | 24-A M.R.S.A. [§4222-B](http://legislature.maine.gov/statutes/24-A/title24-Asec4222-B.html)  [Chapter 36](http://legislature.maine.gov/statutes/24-A/title24-Ach36sec0.html) | This section provides continuity of coverage for a person who seeks coverage under an individual or a group insurance policy or health maintenance organization policy. | | ☐ |  |
| Continuity of Care | [24-A M.R.S.A. §4303(7)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html) | 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. | | ☐ |  |
| Continuation of group coverage | 24-A M.R.S.A. [§2809-A(11)](http://legislature.maine.gov/statutes/24-A/title24-Asec2809-A.html) | 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. | | ☐ |  |
| Continuity on replacement of group policy | 24-A M.R.S.A. [§2849](http://legislature.maine.gov/statutes/24-A/title24-Asec2849.html) | 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. | | ☐ |  |
| Coordination of Benefits provisions *(requirement applicable only if policy contains a coordination of benefits provision)*  **Coordination of Benefits with Medicare and Medicaid** | [Rule 191(§9-A and §9-D)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx)  [Rule 790](http://www.maine.gov/sos/cec/rules/02/031/031c790.doc)  [24-A M.R.S. § 2844(1-A)(B)(4)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2844.html)  [Bulletin 440](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/440.pdf) | 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.  The statute also sets forth how coordination with Medicare and Medicaid is governed.  A. The policy may not coordinate benefits with Medicare Part A unless:  (1) The insured is enrolled in Medicare Part A;  (2) The insured was previously enrolled in Medicare Part A and voluntarily disenrolled;  (3) The insured stated on an application or other document that the insured was enrolled in Medicare Part A; or  (4) **The insured is eligible for Medicare Part A without paying a premium and the policy states that it will not pay benefits that would be payable under Medicare even if the insured fails to exercise the insured's right to premium-free Medicare Part A coverage.**  B. The policy may not coordinate benefits with Medicare Part B unless:  (1) The insured is enrolled in Medicare Part B;  (2) The insured was previously enrolled in Medicare Part B and voluntarily disenrolled;  (3) The insured stated on an application or other document that the insured was enrolled in Medicare Part B; or  **(4) The insured is eligible for Medicare Part A without paying a premium and the insurer provided prominent notification to the insured both when the policy was issued and, if applicable, when the insured becomes eligible for Medicare due to age. The notification must state that the policy will not pay benefits that would be payable under Medicare even if the insured fails to enroll in Medicare Part B.**  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. | | ☐ |  |
| Death with Dignity | [22 M.R.S. § 2140(19)](http://www.mainelegislature.org/legis/statutes/22/title22sec2140.html) | The sale, procurement or issuance of any health or accident insurance or the rate charged for any health or accident policy may not be conditioned upon or affected by the making or rescinding of a request by a qualified patient for medication that the patient may self-administer to end the patient's life in accordance with this Act. | | ☐ |  |
| Definition of Medically Necessary | 24-A M.R.S.A. [§4301-A,](http://legislature.maine.gov/statutes/24-A/title24-Asec4301-A.html)  [Sub-§10-A](http://legislature.maine.gov/statutes/24-A/title24-Asec4301-A.html) | 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. | | ☐ |  |
| Designation of Classification of Coverage | [24-A M.R.S.A. §2694](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2694.html)  [Rule 755, Sec. 6](http://www.maine.gov/sos/cec/rules/02/031/031c755.doc) | The heading of the cover letter of any form filing subject to this rule shall state the category of coverage set forth in 24-A M.R.S.A. §2694 that the form is intended to be in. **(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)** | | ☐ |  |
| Evidence of Coverage | [24-A M.R.S.A. §4207](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4207.html)  [Rule 191§9](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) | Every person who has enrolled as a legal resident of this State in a health maintenance organization is entitled to evidence of coverage.  No evidence of coverage, or amendment thereto, or underlying contract may be issued or delivered to any person in this State until a copy of the form of the evidence of coverage, amendment thereto and any underlying contract, has been filed with and approved by the superintendent.  An evidence of coverage shall contain:  A. No provisions or statements which are unjust, unfair, inequitable, misleading, deceptive, which encourage misrepresentation, or which are untrue, misleading or deceptive as defined in section 4212; and [1975, c. 503, (NEW).]  B. A clear and complete statement, if a contract, or a reasonably complete summary, if a certificate, of:  (1) The health care services and the insurance or other benefits, if any, to which the enrollee is entitled;  (2) Any limitations on the services, kind of services, benefits, or kind of benefits, to be provided, including any deductible or copayment feature;  (3) Where and in what manner information is available as to how services may be obtained;  (4) The total amount of payment for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts or an indication whether the plan is contributory or noncontributory with respect to group certificates; and  (5) A clear and understandable description of the health maintenance organization's method of resolving enrollee complaints.  Any subsequent change shall be evidenced in a separate document issued to the enrollee prior to the change. | | ☐ |  |
| Explanations for any Exclusion of Coverage for work related sicknesses or injuries | [24-A M.R.S.A. §2413](http://www.mainelegislature.org/legis/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. | | ☐ |  |
| Explanations Regarding Deductibles    High Deductible Plans & HSAs | [24-A M.R.S.A. §2413](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2413.html)  45 CFR § 156.130  45 CFR § 156.130 | All policies must include clear explanations of all of the following regarding deductibles:  1. Whether it is a calendar or policy year deductible.  2. Whether non-covered expenses apply to the deductible.  3. Whether it is a per person or family deductible or both.  Cost sharing for non-calendar plans accrues for a 12-month period, and ensuring that an enrollee only has to accumulate cost sharing towards one annual limitation on cost sharing.  Cost sharing for non-calendar plans accrues for a 12-month period, and ensuring that an enrollee only has to accumulate cost sharing towards one annual limitation on cost sharing.  The annual limitation cost sharing is to apply on an annual basis regardless of whether it is a calendar year or a non-calendar year plan.  On exchange SHOP plans must operate on a calendar year plan. Off exchange SHOP plans can operate on a plan year.  Family high deductible health plans that count the family’s cost sharing to the deductible limit can continue to be offered under this policy.  The only limit will be that the family high deductible health plan cannot require an individual in the family plan to exceed the annual limitation on cost sharing for self-only coverage. | | ☐ |  |
| Extension of Benefits | 24-A M.R.S.A. [§2849-A](http://legislature.maine.gov/statutes/24-A/title24-Asec2849-A.html) | 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."  ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | | ☐ |  |
| Genetic information (GINA), coverage is not based on  Genetic Information Protections | PHSA §2753  (74 Fed Reg 51664,  45 CFR §148.180)  [24-A M.R.S.  § 2159-C(2)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2159-C.html) | An issuer is not allowed to: Adjust premiums based on genetic information; Request /require genetic testing; Collect genetic information from an individual prior to/in connection with enrollment in a plan, or at any time for underwriting purposes.  A carrier may not discriminate against an individual or eligible dependent on the basis of genetic information or the refusal to submit to a genetic test or make available the results of a genetic test or on the basis that the individual or eligible dependent received a genetic test or genetic counseling in the issuance, withholding, extension or renewal of any hospital confinement or other health insurance, or in the fixing of the rates, terms or conditions for insurance, or in the issuance or acceptance of any application for insurance.    A carrier may not request, require or purchase genetic information for purposes of determining eligibility for benefits, computing premium or contribution amounts, applying any preexisting condition exclusion or any other activities related to the creation, renewal or replacement of a health insurance contract.  A carrier may not request, require or purchase genetic information with respect to an individual prior to the individual's enrollment under the plan or coverage in connection with the enrollment. | | ☐ |  |
| Grace Period | [24-A M.R.S.A. §4209 (6)](http://legislature.maine.gov/statutes/24-A/title24-Asec4209.html)  [Bulletin 288](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/288.pdf) | 30 or 31 days. | | ☐ |  |
| Guaranteed Issue & Renewal | 24-A M.R.S.A. [§2808-B](http://legislature.maine.gov/statutes/24-A/title24-Asec2808-B.html)  [§2736-C](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2736-C.html) | Small group plans are guaranteed issue and renewed, community rated, and standardized plans.  Requires guaranteed issue and renewal. | | ☐ |  |
| Guaranteed Renewal  Guaranteed renewable | 24-A M.R.S.A. [§2850-B](http://legislature.maine.gov/statutes/24-A/title24-Asec2850-B.html)  PHSA §2702 (45 CFR §148.122) | 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](http://www.maine.gov/sos/cec/rules/02/031/031c850.doc) | Standards in this rule include, but are not limited to, required provisions for grievance and appeal procedures, emergency services, access and utilization review standards. | | ☐ |  |
| Legal Action - **Individual** | [24-A M.R.S.A. §2715](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2715.html) | There shall be a provision as follows: No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of 3 years after the time written proof of loss is required to be furnished. | | ☐ |  |
| Limitations & Exclusions | 45 CFR 156.115  [Rule 191, Sec. (9)(N)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) | 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. | | ☐ |  |
| Notice of Policy Changes and Modifications  Notice of Policy Changes | [24-A M.R.S.A. §2850(B)(3)(I)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2850-B.html)  PHSA 2715  (75 Fed Reg 41760) | 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 of Rate Increase | 24-A M.R.S.A. [§4222-B(15),](http://legislature.maine.gov/statutes/24-A/title24-Asec4222-B.html) | Requires that insurers provide a minimum of 60 days written notice to affected policyholders prior to a rate filing for individual health insurance or a rate increase for group health insurance. It specifies the requirements for the notice. See these sections for more details. Reasonable notice must be provided for other types of policies. | | ☐ |  |
| Penalty for failure to notify of hospitalization | 24-A M.R.S.A. [§2847-A](http://legislature.maine.gov/statutes/24-A/title24-Asec2847-A.html) | A policy may not include a provision permitting the insurer to impose a penalty for the failure of any person to notify the insurer of an insured person's hospitalization for emergency treatment. | | ☐ |  |
| Pre-existing condition exclusions  Pre-existing condition exclusions for child under age 19 | [24-A MRSA §2850, sub-§2](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2850.html)  PHSA §2704  PHSA §1255  (75 Fed Reg 37188,  45 CFR §147.108) | A policy may not impose a preexisting condition exclusion.  Prohibits the imposition of a preexisting condition exclusion by all group plans and nongrandfathered individual market plans. | | ☐ |  |
| Prohibited practices  Rescissions prohibited | [24-A M.R.S.A. §2736-C(3)(A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2736-C.html)  [24-A M.R.S.A. §2850-B(3)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2850-B.html)  PHSA§2712  (75 Fed Reg 37188,  45 CFR §147.128) | 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 24-A M.R.S. § 2411.  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 | [24-A M.R.S.A. §4303(11)](http://legislature.maine.gov/statutes/24-A/title24-Asec4303.html) | Carriers are prohibited from including or enforcing absolute discretion provisions in health plan contracts, certificates, or agreements. | | ☐ |  |
| Prohibition on Discrimination | [24-A MRSA §4320-L](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-L.html)            45 CFR §156.1259(a) | 1. A carrier may not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, age or disability, or exclude an individual from participation in, or deny benefits under any health plan in accordance with this Title. Please refer to the statute for a list of specific prohibitions related to discrimination.  2. 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. 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.  An issuer does not provide EHB if its benefit design, or the implementation of its benefit design, discriminates based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions. | | ☐ |  |
| Rates - Small Group | [24-A M.R.S.A §2808-B (2-A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2808-B.html) | A carrier offering small group health plans shall file with the superintendent the community rates for each plan and every rate, rating formula and classification of risks and every modification of any formula or classification that it proposes to use.  A. Every filing must state the effective date of the filing. Every filing must be made not less than 60 days in advance of the stated effective date, unless the 60-day requirement is waived by the superintendent. The effective date may be suspended by the superintendent for a period of time not to exceed 30 days.  B. A filing and all supporting information, except for protected health information required to be kept confidential by state or federal statute and except for descriptions of the amount and terms or conditions or reimbursement in a contract between an insurer and a 3rd party, are public records notwithstanding Title 1, section 402, subsection 3, paragraph B and become part of the official record of any hearing held pursuant to subsection 2-B, paragraph B or F.  C. Rates for small group health plans must be filed in accordance with this section and subsections 2-B and 2-C for premium rates effective on or after July 1, 2004, except that the filing of rates for small group health plans are not required to account for any payment or any recovery of that payment pursuant to subsection 2-B, paragraph D and former section 6913 for rates effective before July 1, 2005.  **PLEASE NOTE: Rates must be filed simultaneously with the forms. Forms submitted in advance of rates, will not be approved until rates have been filed, reviewed and approved. If forms are being revised and there is no effect on current rates, please indicate so in the filing cover letter.** | | ☐ |  |
| Rates - Individual | [24-A M.R.S.A §2736](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2736.html) | Every insurer shall file for approval by the superintendent every rate, rating formula, classification of risks and every modification of any formula or classification that it proposes to use in connection with individual health insurance policies and certain group policies specified in section 2701. If the filing applies to individual health plans as defined in section 2736-C, the insurer shall simultaneously file a copy with the Attorney General. Every such filing must state the effective date of the filing. Every such filing must be made not less than 60 days in advance of the stated effective date, unless the 60-day requirement is waived by the superintendent, and the effective date may be suspended by the superintendent for a period of time not to exceed 30 days. A filing required under this section must be made electronically in a format required by the superintendent unless exempted by rule adopted by the superintendent.  **PLEASE NOTE: Rates must be filed simultaneously with the forms. Forms submitted in advance of rates, will not be approved until rates have been filed, reviewed and approved. If forms are being revised and there is no effect on current rates, please indicate so in the filing cover letter.** | | ☐ |  |
| Rebates | [§2160](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2160.html)  [§2163-A](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2163-A.html)  [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 of policy | [24-A M.R.S.A. §4207](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4207.html)  [Rule 191(9)(G)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx)  [§2820](http://legislature.maine.gov/statutes/24-A/title24-Asec2820.html) | There shall be a provision stating the conditions for renewal. | | ☐ |  |
| Representations in Applications | [24-A M.R.S.A §2411](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2411.html) | There shall be a provision that all statements contained in any such application for insurance shall be deemed representations and not warranties. | | ☐ |  |
| Required disclosures (Summary of Benefits and Coverage) | PHSA §2715  45 CFR §156.420(h)  [24-A M.R.S.A. §4303(15)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html) | All insurers must provide a Summary of Benefits and Coverage and Uniform Glossary to enrollees. Please see <http://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/index.html> for forms and instructions.  For each silver health plan that an issuer offers, or intends to offer in the individual market on the Exchange, the issuer must submit annually to the Exchange for certification prior to each benefit year the standard silver plan and three cost sharing reduction plans.  A carrier offering a health plan in this State shall:  A. Provide to applicants, enrollees and policyholders or certificate holders a summary of benefits and an explanation of coverage that accurately describe the benefits and coverage under the applicable plan or coverage. A summary of benefits and an explanation of coverage must conform with the requirements of the federal Affordable Care Act; and  B. Use standard definitions of insurance-related and medical-related terms in connection with health insurance coverage as required by the federal Affordable Care Act. | | ☐ |  |
| Third Party 10 Day Notification prior to cancellation; restrictions on cancellation, termination or lapse due to cognitive impairment or functional incapacity | [Rule580](http://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 Certificateholder 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 Certificateholder and is made via payroll deduction, then Rule 580, Sec. 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 Certificateholder and is made via payroll deduction, then Rule 580, Sec. 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 and add the required language to the certificate.   Additionally, pursuant to Rule 580 Sec. 6(A)(7), the requirement may be satisfied by including the notice of reinstatement right in an application that is incorporated into the contract. | | ☐ |  |
| **ADDITIONAL STATE REQUIREMENTS NOT REQUIRED IN POLICY/CERTIFICATE** | | | | | |
| Credentialing Requirements | [Title 24-A § 6951(13)](https://legislature.maine.gov/statutes/24-A/title24-Asec6951.html)  [Title 24-A § 4303(2)(D)](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html) | Part A. Reporting Requirement.  Within 60 days of a request from the Maine Health Data Organization, a payor shall provide the supplemental datasets specific to payments for behavioral health care services necessary to provide the information required in paragraphs B and C.  Part B. Credentialing.  Within 30 days of initial receipt of a credentialing application, a carrier shall review the entire application and determine whether it is complete. If not, the carrier must return the application with a comprehensive list of items to be completed on the application.  Within 60 days of initial receipt of a completed credentialing application, a carrier shall grant or deny the application, or, if unable to complete a credentialing decision, must so notify the BOI in writing within that 60 day period, and request authorization for an extension of time. The request for extension shall include a detailed explanation of the reasons why it cannot be completed within the time permitted, or, if not specific to that application, a remediation plan to bring the carrier’s credentialing practices into compliance with the 60-day limit. | | ☐ |  |
| Health care price transparency tools; website, toll-free telephone number, and cost estimates | [24-A M.R.S.](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html)  [§4303(21)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html)  [24-A M.R.S. §4318-A(1)(A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4318-A.html) | A carrier offering a health plan in this State shall comply with the following requirements.  A. **A carrier shall develop and make available a website accessible to enrollees and a toll-free telephone number** that enable enrollees to obtain information on the estimated costs for obtaining a comparable health care service, as defined in Title 24-A, section 4318-A, subsection 1, paragraph A *(referenced below)*, from network providers, as well as quality data for those providers, to the extent available. **A carrier may comply with the requirements of this paragraph by directing enrollees to the publicly accessible health care costs website of the Maine Health Data Organization**.  B. **A carrier shall make available to the enrollee the ability to obtain an estimated cost** that is based on a description of the service or the applicable standard medical codes or current procedural terminology codes used by the American Medical Association provided to the enrollee by the provider. Upon an enrollee's request, the carrier shall request additional or clarifying code information, if needed, from the provider involved with the comparable health care service. If the carrier obtains specific code information from the enrollee or the enrollee's provider, the carrier shall provide the anticipated charge and the enrollee's anticipated out-of-pocket costs based on that code information, to the extent such information is made available to the carrier by the provider.  C. A carrier shall notify an enrollee that the amounts are estimates based on information available to the carrier at the time the request is made and that the amount the enrollee will be responsible to pay may vary due to unforeseen circumstances that arise out of the proposed comparable health care service. This subsection does not prohibit a carrier from imposing cost-sharing requirements disclosed in the enrollee's certificate of coverage for unforeseen health care services that arise out of the proposed comparable health care service or for a procedure or service that was not included in the original estimate. This subsection does not preclude an enrollee from contacting the carrier to obtain more information about a particular admission, procedure or service with respect to a particular provider.  "Comparable health care service" means nonemergency, outpatient health care services in the following categories:  (1) Physical and occupational therapy services;  (2) Radiology and imaging services;  (3) Laboratory services; and  (4) Infusion therapy services. | | ☐ |  |
| Posting of plan descriptions and certificate of coverage | [24-A M.R.S. § 4302(1)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4302.html) | A carrier shall post descriptions of its plans that meet the requirements of 24-A M.R.S. § 4302(1) on its publicly accessible website, and in addition to the plan description, a link to the health plan’s certificate of coverage. | | ☐ |  |
| **Eligibility/Enrollment** | | | | | |
| Annual Open Enrollment/Special Enrollment Periods – ***INDIVIDUAL***    Annual Open Enrollment/Special Enrollment Periods - ***SHOP*** | [24-A MRSA §2736-C, sub-§11](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2736-C.html)  45 CFR §155.410  45 CFR §155.420    45 CFR §155.725  45 CFR §155.725(g) | **Individual:**  A carrier may restrict enrollment in individual health plans to open enrollment periods and special enrollment periods to the extent not inconsistent with applicable federal law.  Must provide an annual open enrollment period that begins November 1, and extends through December 15, annually.  Must also provide a written annual open enrollment notification to each enrollee no earlier than September 1, and no later than September 30.  Must provide special enrollment periods consistent with this section, during which qualified individuals may enroll. A qualified individual or enrollee has 60 days for individuals from the date of a triggering event to select a plan.  **Also applies to off-marketplace plans.**  **Employer:**  Enrollment periods under SHOP for plan years beginning on or after January 1, 2018.  (a) General requirements. The SHOP must ensure that issuers offering QHPs through the SHOP adhere to applicable enrollment periods, including special enrollment periods.  (b) Rolling enrollment in the SHOP. The SHOP must permit a qualified employer to purchase coverage for its small group at any point during the year. The employer's plan year must consist of the 12-month period beginning with the qualified employer's effective date of coverage, unless the plan is issued in a State that has elected to merge its individual and small group risk pools under section 1312(c)(3) of the Affordable Care Act, in which case the plan year will end on December 31 of the calendar year in which coverage first became effective.  (c) Special enrollment periods. (1) The SHOP must ensure that issuers offering QHPs through the SHOP provide special enrollment periods consistent with the section, during which certain qualified employees or dependents of qualified employees may enroll in QHPs and enrollees may change QHPs.  (2) The SHOP must ensure that issuers offering QHPs through a SHOP provide a special enrollment period for a qualified employee or a dependent of a qualified employee who;  (i) Experiences an event described in §155.420(d)(1) (other than paragraph (d)(1)(ii)), or experiences an event described in §155.420(d)(2), (4), (5), (7), (8), (9), (10), (11), or (12);  (ii) Loses eligibility for coverage under a Medicaid plan under title XIX of the Social Security Act or a State child health plan under title XXI of the Social Security Act; or  (iii) Becomes eligible for assistance, with respect to coverage under a SHOP, under such Medicaid plan or a State child health plan (including any waiver or demonstration project conducted under or in relation to such a plan).  (3) A qualified employee or dependent of a qualified employee who experiences a qualifying event described in paragraph (j)(2) of this section has:  (i) Thirty (30) days from the date of a triggering event described in paragraph (c)(2)(i) of this section to select a QHP through the SHOP; and  (ii) Sixty (60) days from the date of a triggering event described in paragraph (c)(2)(ii) or (iii) of this section to select a QHP through the SHOP;  (4) A dependent of a qualified employee is not eligible for a special enrollment period if the employer does not extend the offer of coverage to dependents.  (5) The effective dates of coverage for special enrollment periods are determined using the provisions of §155.420(b).  (6) Loss of minimum essential coverage is determined using the provisions of §155.420(e).  (d) Limitation. Qualified employees will not be able to enroll unless the employer group meets any applicable minimum participation rate implemented under §155.706(b)(10).  (e) Applicability date. The provisions of this section apply for plan years beginning on or after January 1, 2018.Must provide notification to a qualified employee of the annual open enrollment period in advance of such period. Also applies to off-marketplace plans. | | ☐ |  |
| Child-Only coverage | ACA 1302(d), PHSA §2707(c), (45 CFR §156.200(c)(2)) | Must provide the same level of coverage, as described in the Affordable Care Act, to individuals who, as of the beginning of the plan year, have not attained the age of 21. The carrier does not need to file a separate child-only plan. The carrier may provide the following notice predominantly displayed on the first page of the policy: "THIS [POLICY OR CERTIFICATE] IS ALSO AVAILABLE AS A CHILD ONLY [POLICY OR CONTRACT]. | | ☐ |  |
| Dependent coverage | 24-A M.R.S.A. [§2809](http://legislature.maine.gov/statutes/24-A/title24-Asec2809.html) | May not use residency as a requirement for dependents. | | ☐ |  |
| Dependent special enrollment period *(requirement applicable only if the policy provides dependent coverage)* | 24-A M.R.S.A. [§4222-B(11)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4222-B.html) | Enrollment for qualifying events for dependents. | | ☐ |  |
| Domestic Partner Coverage *(requirement applicable only if the policy provides benefits, or the option for benefits, to spouses of married certificate holders)* | 24-A M.R.S.A. [§4249](http://legislature.maine.gov/statutes/24-A/title24-Asec4249.html) | Policies must make available the option for additional benefits for the domestic partner of a certificate holder, at appropriate rates and under the same terms and conditions as those benefits or options for benefits are provided to spouses of married certificate holders covered under a group policy. This section also establishes criteria defining who is an eligible domestic partner. | | ☐ |  |
| Ensure Health Insurance for Certain Adults with Disabilities | [24-A M.R.S.A. §4233-C](https://legislature.maine.gov/statutes/24-A/title24-Asec4233-C.html)  [24-A M.R.S.A. §4320-R](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-R-1.html) | The act requires health insurance policies that offer coverage for a dependent child to offer coverage for adults with disabilities who are unable to sustain themselves through employment in the same manner as for a dependent child on a parent’s policy. The law clarifies that an insurer is required to offer coverage for a dependent child with a disability, at the option of the policyholder, regardless of age. | | ☐ |  |
| Extension of dependent coverage to age 26  Dependent coverage must be available up to age 26 if policy offers dependent coverage.  Mandatory offer to extend coverage for dependent children up to 26 years of age | [24-A M.R.S.A. §4320-B](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-B.html)  PHSA §2714  (75 Fed Reg 27122,  45 CFR §147.120)  [24-A M.R.S.A. §4233-B](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4233-B.html) | A carrier offering a health plan subject to the requirements of the federal Affordable Care Act that provides dependent coverage of children shall continue to make such coverage available for an adult child until the child turns 26 years of age, consistent with the federal Affordable Care Act.  An insurer shall provide notice to policyholders regarding the availability of dependent coverage under this section upon each renewal of coverage or at least once annually, whichever occurs more frequently. Notice provided under this subsection must include information about enrolment periods and notice of the insurer’s definition of and benefit limitations for preexisting conditions.  Eligible children are defined based on their relationship with the  participant. Limiting eligibility is prohibited based on: financial  dependency on primary subscriber, residency, student status,  employment, eligibility for other coverage, marital status.  Terms of the policy for dependent coverage cannot vary based on the age of a child.  A policy that offers coverage for a dependent child must offer such coverage, at the option of the policyholder, until the dependent child attains 26 years of age. As used in this statute, "dependent child" means the child of a person covered under an individual health insurance policy. | | ☐ |  |
| Maternity coverage for unmarried women; child coverage | 24-A M.R.S.A. [§2832](http://legislature.maine.gov/statutes/24-A/title24-Asec2832.html)  [24-A M.R.S.A. §4234](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4234.html) | Coverage 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 married certificate holders with maternity coverage and the wives of certificate holders with maternity coverage.  Coverage issued in accordance with the requirements of section 2832 (above) must provide unmarried women certificate holders with the option of coverage of their children from the date of birth. A certificate holder who, pursuant to the laws of this State or any other state, has been adjudicated or has acknowledged himself to be the father of an illegitimate child must be given the option of coverage for that child from the date of his adjudication or acknowledgement of paternity. This optional coverage must be the same as that provided the children of a married certificate holder with family or dependent coverage.  Financial dependency of dependent children may not be required as condition for coverage eligibility.  "Dependent children" means children who are under 19 years of age and are children, stepchildren or adopted children of, or children placed for adoption with, the certificate holder, member or spouse of the certificate holder or member.  Coverage must also provide the same benefits to dependent children placed for adoption with the certificate holder or spouse of the certificate holder under the same terms and conditions as apply to natural dependent children or stepchildren of the certificate holder, irrespective of whether the adoption has become final. The statute defines “placed for adoption.” | | ☐ |  |
| Newborn children coverage | 24-A M.R.S.A. [§4234-C](http://legislature.maine.gov/statutes/24-A/title24-Asec4234-C.html)  [Rule 191, Sec. 9(M)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) | Policies 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. An adopted child is deemed to be newly born to the adoptive parents from the date of the signed placement agreement. Preexisting conditions of an adopted child may not be excluded from coverage.  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. | | ☐ |  |
| Provide Consistency in the Laws Regarding Domestic Partners | [Title 24 § 2319-A](https://www.mainelegislature.org/legis/statutes/24/title24sec2319-A.html)(4)  [Title 24 § 2319-A](https://www.mainelegislature.org/legis/statutes/24/title24sec2319-A.html)(6)  [Title 24-A § 2741-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2741-A.html)(4)  [Title 24-A § 2741-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2741-A.html)(6)  [Title 24-A § 2832-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2832-A.html)(4)  [Title 24-A § 2832-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2832-A.html)(6)  [Title 24-A § 4249](https://legislature.maine.gov/statutes/24-A/title24-Asec4249.html)(4)  [Title 24-A § 4249](https://legislature.maine.gov/statutes/24-A/title24-Asec4249.html)(6) | **Titles 24 and 24-A M.R.S. are amended to reflect the definition of “domestic partner,” as set forth in** **1 MRSA §72, sub-§2-C.**  1. Definition. "Domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.  2. 12-Month Waiting Periods Repealed. There is no longer a 12-month waiting period for a subscriber to enroll a new domestic partner after terminating coverage for a prior domestic partner. | |  |  |
| Individual certificates | [24-A M.R.S.A. §4207](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4207.html)  [Rule 191(9)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) | 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 & Utilization Review** | | | | | |
| Assignment of benefits | 24-A M.R.S.A. [§4207-A](http://legislature.maine.gov/statutes/24-A/title24-Asec4207-A.html)  [§2827-A](http://legislature.maine.gov/statutes/24-A/title24-Asec2827-A.html)  [Rule 191, Sec 9(C)(6)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) | | All policies providing benefits for medical or dental care on an expense-incurred basis must contain a provision permitting the insured to assign benefits for such care to the provider of the care. An assignment of benefits under Section 9(C) does not affect or limit the payment of benefits otherwise payable under the policy. | ☐ |  |
| Calculation of health benefits based on actual cost | [24-A M.R.S.A. §2185](http://www.mainelegislature.org/legis/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. | ☐ |  |
| Claims for Office Visits that include Preventive Health Services | 45 CFR §147.130 (a)(1) | | Policies and certificates must include clear explanations regarding how claims will be paid for office visits that include preventive health services, and the policyholder’s cost sharing may not be greater than the following:  If an item or service described in 45 CFR §147.130 (a)(1):   1. Is billed separately (or is tracked as individual encounter data separately) from an office visit, then a plan or issuer may impose cost-sharing requirements with respect to the office visit. 2. Is not billed separately (or is not tracked as individual encounter data separately) from an office visit and the primary purpose of the office visit is the delivery of such an item or service, then a plan or issuer may not impose cost-sharing requirements with respect to the office visit. 3. Is not billed separately (or is not tracked as individual encounter data separately) from an office visit and the primary purpose of the office visit is not the delivery of such an item or service, then a plan or issuer may impose cost-sharing requirements with respect to the office visit. | ☐ |  |
| Credit toward Deductible | [24-A M.R.S.A. §4222-B(21)](http://legislature.maine.gov/statutes/24-A/title24-Asec4222-B.html) | | 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. | ☐ |  |
| Denial of referral by direct primary care providers prohibited | [24-A M.R.S. § 4303(22)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html)  [Bulletin 434](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/434.pdf) | | A carrier may not deny payment for any health care service covered under an enrollee's health plan based 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.  “Direct primary care provider” means an individual who is a licensed physician or osteopathic physician or other advanced health care practitioner who is authorized to engage in independent medical practice in this State, who is qualified to provide primary care services and who chooses to practice direct primary care by entering into a direct primary care service agreement with patients. The term includes, but is not limited to, an individual primary care provider or a group of primary care providers. [22 M.R.S. § 1771(1)(B)](http://legislature.maine.gov/legis/statutes/22/title22sec1771.html).  **Applicable deductible, coinsurance, or copayment:**  For a covered health care service that was referred by a direct primary care provider, a carrier may not apply a deducible, coinsurance, or copayment greater than the applicable deductible, coinsurance, or copayment that would apply to the same health care service if the service was referred by a participating primary care provider.  **Information that may be requested by a carrier:**  A carrier may require an out-of-network direct primary care provider making a referral to provide information demonstrating that the provider is a direct primary care provider through a written attestation or a copy of a direct primary care agreement with an enrollee and may request additional information as necessary. | ☐ |  |
| Examination, autopsy | 24-A M.R.S.A. [§2826](http://legislature.maine.gov/statutes/24-A/title24-Asec2826.html) | | There shall be a provision that the insurer has the right to examine the insured as often as it may reasonably require during the pendency of claim and also has the right to make an autopsy in case of death where it is not prohibited by law. ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | ☐ |  |
| Explanation and notice to parent *(requirement applicable only if the policy provides dependent coverage)* | 24-A M.R.S.A. §4222-B(22) | | 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:  1. 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;  2. An explanation of any proposed change in the terms and conditions of the policy; or  3. 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 | ☐ |  |
| Forms for proof of loss/Claim Forms | [24-A M.R.S.A. §4207](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4207.html)  [Rule 191(9) (C)(3)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx)  [§2825](http://legislature.maine.gov/statutes/24-A/title24-Asec2825.html) | | 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.)*** | ☐ |  |
| 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. | [24-A MRSA §4320](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320.html)  PHSA §2711  (75 Fed Reg 37188,  45 CFR §147.126) | | 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 on Cost Sharing | 45 CFR § 156.130 | | The annual limitation on cost sharing for self-only coverage applies to all individuals regardless of whether the individual is covered by a self-only plan or is covered by a plan that is other than self-only. In both of these cases, an individual’s cost sharing for EHB may never exceed the self-only annual limitation on cost sharing. | ☐ |  |
| Limits on priority liens/Subrogation | 24-A M.R.S.A. [§4243](http://legislature.maine.gov/statutes/24-A/title24-Asec4243.html) | | No policy shall provide for priority over the insured member of payment for any hospital, nursing, medical or surgical services, or of any expenses paid or reimbursed under the policy, in the event the insured member is entitled to receive payment reimbursement from any other person as a result of legal action or claim, except as provided in this section.  A policy may contain a provision that allows such payments, if that provision is approved by the superintendent, and if that provision 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. A just and equitable basis shall mean that any factors that diminish the potential value of the insured's claim shall likewise reduce the share in the claim for those claiming payment for services or reimbursement. | ☐ |  |
| Notice of claim | 24-A M.R.S.A. [§4207](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4207.html)  [§2823](http://legislature.maine.gov/statutes/24-A/title24-Asec2823.html)  [Rule 191(9)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) (C)(3) | | 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. ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | ☐ |  |
| Payment of Claims | 24-A M.R.S.A. [§4207](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4207.html)  [Rule 191(9)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) (C)(4)  [§2436](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2436.html) | | A 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. | ☐ |  |
| Penalty for noncompliance with utilization review | 24-A M.R.S.A. [§2847-D](http://legislature.maine.gov/statutes/24-A/title24-Asec2847-D.html) | | May not have a penalty of more than $500 for failure to provide notification under a utilization review program. | ☐ |  |
| Primary health services | 24-A M.R.S. §4320-A | | Applicable to an individual or small group health plan:   * The plan must provide coverage without cost sharing for the first primary care office visit and first behavioral health office visit in each plan year. * The plan may not apply a deductible or coinsurance to the 2nd or 3rd primary care and 2nd or 3rd behavioral health office visits in a plan year. Any copays for the 2nd or 3rd primary care and 2nd or 3rd behavioral health office visits in a plan year count toward the deductible.   Exception: this requirement does not apply to a plan offered for use with a health savings account (HSA) unless the federal Internal Revenue Service determines that the benefits required by this section are permissible benefits in a high deductible health plan as defined in the federal Internal Revenue Code, Section 223(c)(2). | ☐ |  |
| Protection from Surprise Bills | [Title 24-A § 4303-C](https://legislature.maine.gov/statutes/24-A/title24-Asec4303-C.html)  [Title 24-A § 4303-E](https://legislature.maine.gov/statutes/24-A/title24-Asec4303-E.html)  [Title 24-A § 4303-F](https://legislature.maine.gov/statutes/24-A/title24-Asec4303-F.html)  [Rule 365](https://www.maine.gov/sos/cec/rules/02/031/031c365.docx) | | 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. | ☐ |  |
| UCR Definition, Required Disclosure, Protection from Balance Billing by Participating Providers | 24-A M.R.S.A. [§4303(8)](http://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)  [§4303(8)(A)](http://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)  [Rule 850 Sec. 7, Sub-Sec. B (5](http://www.maine.gov/sos/cec/rules/02/031/031c850.docx))  [24-A M.R.S.A. §4204(6)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4204.html) | | The data used to determine this charge must be Maine specific and relative to the region where the claim was incurred.  Maximum allowable charges. All policies, contracts and certificates executed, delivered and issued by a carrier under which the insured or enrollee may be subject to balance billing when charges exceed a maximum considered usual, customary and reasonable by the carrier or that contain contractual language of similar import must be subject to the following.  A. 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.  Protection from balance billing by participating providers.   An enrollee's responsibility for payment under a managed care plan must be limited as provided in this subsection.  A. The terms of a managed care plan must provide that the enrollee's responsibility for the cost of covered health care rendered by participating providers is limited to the cost-sharing provisions expressly disclosed in the contract, such as deductibles, copayments and coinsurance, and that if the enrollee has paid the enrollee's 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.  **Hold harmless.**  Every contract between a health maintenance organization and a participating provider of health care services must be in writing and must set forth that in the event the health maintenance organization fails to pay for health care services as set forth in the contract, the subscriber or enrollee may not be liable to the provider for any sums owed by the health maintenance organization. | ☐ |  |
| Utilization Review &  Notice Requirements for Health Benefit Determinations | [24-A M.R.S.A. §4304](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4304.html)  [§4303(16)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html)  [Bulletin 397](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/397.pdf) | | **Initial determinations**:  **Prior authorization of nonemergency services:**  Except for a request in exigent circumstances, a request by a provider for prior authorization of a nonemergency service must be answered by a carrier within 72 hours or 2 business days, whichever is less, in accordance with the following:   * 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 responds to a request with a request for additional information, the carrier shall make a decision within 72 hours or 2 business days, whichever is less, after receiving the requested information. * If the carrier responds that outside consultation is necessary before making a decision, the carrier shall make a decision within 72 hours or 2 business days, whichever is less, from the time of the carrier’s initial response. * The prior authorization standards used by a carrier must be clear and readily available. * A provider must make best efforts to provide all information necessary to evaluate a request, and the carrier must make best efforts to limit requests for additional information. * If a carrier does not grant or deny a request for prior authorization within these timeframes, the request is granted.   **Urgent care determinations**:  **Expedited review in exigent circumstances:**  When exigent circumstances exist, a carrier must answer a prior authorization request no more than 24 hours after receiving the request. 24-A M.R.S. § 4311(1-A)(B) (enacted by [P.L. 2019, ch.5](http://www.mainelegislature.org/legis/bills/bills_129th/chapters/PUBLIC5.asp)).   * Exigent circumstances exist when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee's life, health or ability to regain maximum function or when an enrollee is undergoing 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**:  Determination shall be within 1 working day after obtaining all necessary information.  Certification of Extended stay or additional services: Shall 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 the carrier shall:  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. | ☐ |  |
| **Grievances & Appeals** | | | | | |
| Clinical peer definition | [24-A M.R.S § 4304(7)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4304.html)  [24-A M.R.S § 4301-A(4)](http://legislature.maine.gov/statutes/24-A/title24-Asec4301-A.html) | 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  External review processes rights and required notices | [24-A M.R.S.A. §4312](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4312.html)  [Rule 850](http://www.maine.gov/sos/cec/rules/02/031/031c850.doc)  PHSA §2719  (75 Fed Reg 43330; 76 Fed Reg 37208,  45 CFR §147.136) | 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 appeals procedures | [24-A M.R.S.A. §4303(4)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html)  [Rule 850 Sec. 8 & 9](http://www.maine.gov/sos/cec/rules/02/031/031c850.doc) | The policy must contain the procedure to follow if an insured wishes to file a grievance regarding policy provisions or denial of benefits. Specifically describe grievance & appeal procedures required in the contract, as well as the required available external review procedures.  **All policies must contain all grievance and appeal procedures as**  **referenced in Rule 850:**  **First Level Appeals of Adverse Health Care Treatment Decisions:**   * Carrier must allow the covered person to review the claim file and to present evidence and testimony as part of the internal appeals process. * Carrier must provide the covered person, free of charge, with any new or additional evidence considered, relied upon, or generated by the carrier (or at the direction of the carrier) in connection with the claim; such evidence must be provided as soon as possible and sufficiently in advance of the decision to give the covered person a reasonable opportunity to respond. * Before a carrier can issue a final internal adverse benefit determination based on a new or additional rationale, the covered person must be provided with the rationale, free of charge, sufficiently in advance of the decision to give the covered person a reasonable opportunity to respond. * The carrier must provide the covered person the name, address, and telephone number of a person designated to coordinate the appeal on behalf of the health carrier. * The carrier must make the rights in this subparagraph known to the covered person within 3 working days after receiving an appeal. * Appeals shall be evaluated by an appropriate clinical peer or peers. * The clinical peer/s shall not have been involved in the initial adverse determination, unless the appeal presents additional information the decision maker was unaware of at the time of rendering the initial adverse health care treatment decision. * The clinical peer may not be a subordinate of a clinical peer involved in the prior decision.   **Standard appeals**:   * Shall notify in writing both the covered person and the attending or ordering provider of the decision within 30 days following the request for an appeal. * Additional time is permitted where the carrier can establish the 30-day time frame cannot reasonably be met due to the carrier’s inability to obtain necessary information from a person or entity not affiliated with or under contract with the carrier.   + Shall provide written notice of the delay to the covered person and the attending or ordering provider.   + The notice shall explain the reasons for the delay. In such instances, decisions must be issued within 30 days after the carrier’s or designee’s receipt of all necessary information.   **Expedited Appeals:**   * Expedited appeals shall be evaluated by an appropriate clinical peer or peers. * The clinical peer/s shall not have been involved in the initial adverse health care treatment decision. * The clinical peer may not be a subordinate of a clinical peer involved in the prior decision. * Shall provide expedited review to all requests concerning an admission, availability of care, continued stay or health care service for a covered person who has received emergency services but has not been discharged from a facility. * Shall transmit all necessary information between the carrier or the carrier’s designated URE and the covered person or the provider by telephone, facsimile, electronic means or the most expeditious method available. * Shall make a decision and notify the covered person and the provider via telephone within 72 hours after the review is initiated. * If the initial notification was not in writing, the carrier shall provide written confirmation of its decision concerning an expedited review within 2 working days. * An adverse decision shall contain the notice requirements of an adverse health care treatment decision as set forth in Rule 850(G)(1)(c). * Expedited reviews are not required for Retrospective Adverse Health Care Treatment Decisions. * Expedited review of Concurrent Review Determination of emergency services or of an initially authorized admission or course of treatment, the service shall be continued without liability to the covered person until the covered person has been notified of the decision.   **An Adverse Health Care Treatment Decision Notice shall include:**   * The principal reason or reasons for the decision; * Reference to the specific plan provisions on which the decision is based; * Information sufficient to identify the claim involved (including the date of service, the health care provider, and the claim amount if applicable), and a statement that the diagnosis code and its corresponding meaning, and the treatment code and its corresponding meaning, will be provided upon request; * A description of any additional material or information necessary for the covered person to perfect the * claim and an explanation as to why such material or information is necessary; * The instructions and time limits for initiating an appeal or reconsideration of the decision; * If the adverse health care treatment decision is based on a medical necessity or experimental treatment or similar exclusion or limit, provide either: * An explanation of the scientific or clinical judgment for the decision, applying the terms of the plan to the claimant’s medical circumstances, * Or a statement that such an explanation will be provided free of charge upon request; * What criterion was relied upon in making the adverse health care treatment decision, provide either: * The specific rule, guideline, protocol, or other similar criterion, or * A statement referring to the rule, guideline, protocol, or * Other similar criterion that was relied upon in making the adverse decision; and * Explain that a copy will be provided free of charge to the covered person upon request; * Phone number the covered person may call for information on and assistance with initiating an appeal or reconsideration and/or requesting clinical rationale and review criteria; * Description of the expedited review process applicable to claims involving urgent care; * Availability of any applicable office of health insurance consumer assistance or ombudsman * established under the federal Affordable Care Act; * Notice of the right to file a complaint with the Bureau of Insurance after exhausting any appeals under a carrier’s internal review process. In addition, an explanation of benefits (EOB) must comply with the requirements of 24-A M.R.S.A. §4303(13) and any rules adopted pursuant thereto; and * Any other information required pursuant to the federal Affordable Care Act. * The carrier or the carrier’s designated URE shall respond expeditiously to requests for information.   **Second Level Appeals of Adverse Health Care Treatment Decisions:**   * Shall provide the opportunity for a second level appeal to covered persons who are dissatisfied with a first level appeal decision. * Persons covered under individual health insurance plans must be notified of the right to request an external review without exhausting the carrier’s second level appeal process. * The same notice may be given to persons covered under group plans if the carrier permits them to bypass the second level of appeal. * The carrier shall appoint a panel for each second level appeal, which shall include one or more panelists who are disinterested clinical peers. * A second level appeal decision adverse to the covered person must have the concurrence of a majority of the disinterested clinical peers on the panel. * If the covered person has requested to appear in person the procedures for conducting a second level panel review shall include the following: * The review panel shall schedule and hold a review meeting within 45 days after receiving a request from a covered person for a second level review. * The review meeting shall be held during regular business hours at a location reasonably accessible to the covered person. * The health carrier shall offer the covered person the opportunity to communicate with the review panel, at the health carrier’s expense, by conference call, video conferencing, or other appropriate technology. * The covered person shall be notified in writing at least 15 days in advance of the review date. * The health carrier shall not unreasonably deny a request for postponement of the review made by a covered person. * Upon the request of a covered person, a health carrier shall provide to the covered person all relevant information that is not confidential and privileged from disclosure to the covered person. * A covered person has the right to: * Attend the second level review; * Present his or her case to the review panel; * Submit supporting material both before and at the review meeting; * Ask questions of any representative of the health carrier; * Be assisted or represented by a person of his or her choice; and * Obtain his or her medical file and information relevant to the appeal free of charge upon request. * If the insurer will have an attorney present to argue its case against the covered person: * The carrier shall so notify the covered person at least 15 days in advance of the review, and * Advise the covered person of his or her right to obtain legal representation. * The covered person’s right to a fair review shall not be made conditional on the covered person’s appearance at the review. * The review panel shall: * Issue a written decision to the covered person within 5 working days after completing the review meeting. * A decision adverse to the covered person shall include the requirements set forth in Rule 850 subparagraph 8(G)(1)(c).   **An Adverse Health Care Treatment Appeal Decision shall contain:**   * The names, titles and qualifying credentials of the person or persons evaluating the appeal; * A statement of the reviewers’ understanding of the reason for the covered person’s request for an appeal; * Reference to the specific plan provisions upon which the decision is based; * The reviewers’ decision in clear terms and the clinical rationale in sufficient detail for the covered person to respond further to the health carrier’s position; * A reference to the evidence or documentation used as the basis for the decision, including the clinical review criteria used to make the determination. * The decision shall include instructions for requesting copies, free of charge, of information relevant to the claim, including any referenced evidence, documentation or clinical review criteria not previously provided to the covered person. * Where a covered person had previously submitted a written request for the clinical review criteria relied upon by the health carrier or the carrier’s designated URE in rendering its initial adverse decision, the decision shall include copies of any additional clinical review criteria utilized in arriving at the decision. * The criterion that was relied upon in making the adverse health care treatment decision, provide either: * The specific rule, guideline, protocol, or other similar criterion; or a statement referring to the rule, guideline, protocol, or * Other similar criterion that was relied upon in making the adverse decision; * Explain that a copy will be provided free of charge to the covered person upon request. * Notice of any subsequent appeal rights, and the procedure and time limitation for exercising those rights: * Notice of external review rights must be provided to the enrollee as required by 24‑A M.R.S.A. §4312(3). * A description of the process for submitting a written request for second level appeal must include the rights specified in Rule 850 subsection G-1. * Notice of the availability of any applicable office of health insurance consumer assistance or ombudsman established under the federal Affordable Care Act. * Notice of the covered person’s right to contact the Superintendent’s office. The notice shall contain the toll free telephone number, website address, and mailing address of the Bureau of Insurance.   Any other information required pursuant to the federal Affordable Care Act.  **Adverse Benefit Determinations not Involving Adverse Health Care Treatment Decisions**  **Notice of Adverse Benefit Determinations not Involving Health Care Treatment Decisions:**   * Any adverse benefit determination that does not involve medical issues, the carrier shall provide written notice that includes: * Principal reason or reasons for the determination; * Reference to the specific plan provisions on which the determination is based; * Information sufficient to identify the claim involved (including the date of service, the health care provider, and the claim amount if applicable), and * A statement that the diagnosis code and its corresponding meaning, and the treatment code and its corresponding meaning, will be provided upon request; * Description of any additional material or information necessary for the covered person to perfect the claim and an explanation as to why such material or information is necessary; * Instructions and time limits for initiating an appeal or reconsideration of the determination; * Notice of the right to file a complaint with the Bureau of Insurance after exhausting any appeals under a carrier’s internal review process. In addition, an explanation of benefits (EOB) must comply with the requirements of 24‑A M.R.S.A. §4303(13) and any rules adopted pursuant thereto. * Provide the criterion that was relied upon in making the adverse benefit determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement referring to the rule, guideline, protocol and explain that a copy will be provided free of charge to the covered person upon request; * Phone number the covered person may call for information on and assistance with initiating an appeal or reconsideration or requesting review criteria; * Description of the expedited review process applicable to claims involving urgent care; * Availability of any applicable office of health insurance consumer assistance or ombudsman established under the federal Affordable Care Act; and * Any other information required pursuant to the federal Affordable Care Act.   **First Level Review of Adverse Benefit Determinations not Involving Health Care Treatment Decisions:**   * A grievance concerning any matter may be submitted by a covered person or a covered person’s representative. * The carrier shall make these rights known to the covered person within 3 working days after receiving a grievance. * The health carrier shall provide the covered person the name, address and telephone number of a person designated to coordinate the grievance review on behalf of the health carrier. * A covered person does not have the right to attend, or to have a representative in attendance, at the first level grievance review, but is entitled to submit written material to the reviewer. * The person or persons reviewing the grievance shall not be the same person or persons who made the initial determination denying a claim or handling the matter that is the subject of the grievance. * Carrier shall issue a written decision to the covered person within 30 days after receiving a grievance. * Additional time is permitted where the carrier can establish the 30-day time frame cannot reasonably be met due to the carrier’s inability to obtain necessary information from a person or entity not affiliated with or under contract with the carrier. * The carrier shall provide written notice of the delay to the covered person. The notice shall explain the reasons for the delay. * In such instances, decisions must be issued within 30 days after the carrier’s receipt of all necessary information.   **An Adverse Benefit Determination Decision Notice shall contain:**   * The names, titles and qualifying credentials of the person or persons participating in the first level grievance review process. * Statement of the reviewers’ understanding of the covered person’s grievance and all pertinent facts. * Reference to the specific plan provisions on which the benefit determination is based. * The reviewers’ decision in clear terms, including the specific reason or reasons for the adverse benefit determination. * Reference to the evidence or documentation used as the basis for the decision. * The decision shall include instructions for requesting copies, free of charge, of all documents, records and other information relevant to the claim, including any referenced evidence or documentation not previously provided to the covered person. * What criterion was relied upon in making the adverse benefit determination, provide either: * The specific rule, guideline, protocol, or other similar criterion, or * A statement referring to the rule, guideline, protocol, or * Other similar criterion that was relied upon in making the adverse determination; and * Explain that a copy will be provided free of charge to the covered person upon request; * Description of the process to obtain a second level grievance review of a decision, the procedures and time frames governing a second level grievance review, and the rights specified in subparagraph C(3)(c). * Notice to the enrollee describing any subsequent external review rights, if required by 24-A M.R.S.A. §4312(3). * Notice of the availability of any applicable office of health insurance consumer assistance or ombudsman established under the federal Affordable Care Act. * Notice of the covered person’s right to contact the Superintendent’s office. The notice shall contain the toll free telephone number, website address, and mailing address of the Bureau of Insurance. * Any other information required pursuant to the federal Affordable Care Act.   **Second Level Review of Adverse Benefit Determinations not Involving Health Care Treatment Decisions:**   * The carrier shall provide a second level grievance review process to covered persons who are dissatisfied with a first level grievance review determination under subsection B. * The covered person has the right to appear in person before authorized representatives of the health carrier, and shall be provided adequate notice of that option by the carrier. * The carrier shall appoint a second level grievance review panel for each grievance subject to review under this subsection. A majority of the panel shall consist of employees or representatives of the health carrier who were not previously involved in the grievance. * Whenever a covered person has requested the opportunity to appear in person before authorized representatives of the health carrier, a health carrier’s procedures for conducting a second level panel review shall include the following: * The review panel shall schedule and hold a review meeting within 45 days after receiving a request from a covered person for a second level review. * The review meeting shall be held during regular business hours at a location reasonably accessible to the covered person. * The carrier shall offer the covered person the opportunity to communicate with the review panel, at the health carrier’s expense, by conference call, video conferencing, or other appropriate technology. * The covered person shall be notified in writing at least 15 days in advance of the review date. The health carrier shall not unreasonably deny a request for postponement of the review made by a covered person. * Upon the request of a covered person, a health carrier shall provide to the covered person, free of charge, all relevant information that is not confidential and privileged from disclosure to the covered person. * A covered person has the right to: * Attend the second level review; * Present his or her case to the review panel; * Submit supporting material both before and at the review meeting; * Ask questions of any representative of the health carrier; and * Be assisted or represented by a person of his or her choice. * If the carrier will have an attorney present to argue its case against the covered person, the carrier shall so notify the covered person at least 15 days in advance of the review, and shall advise the covered person of his or her right to obtain legal representation. * The covered person’s right to a fair review shall not be made conditional on the covered person’s appearance at the review.   The review panel shall issue a written decision to the covered person within 5 working days after completing the review meeting. A decision adverse to the covered person shall include the information specified in Rule 850 subparagraph B(2)(b). | | ☐ |  |
| Right to waive the right to a second level appeal/grievance | [24-A M.R.S.A. §4312](http://www.mainelegislature.org/legis/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. | | ☐ |  |
| Termination of ongoing course of treatment | [24-A MRSA §4303(4)(E](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html)) | Health plans may not reduce or terminate benefits for an ongoing course of treatment, including coverage of a prescription drug, during the course of an appeal pursuant to the grievance procedure used by the carrier or any independent external review in accordance with section 4312. | | ☐ |  |
| Timeline for second level grievance review decisions | [24-A M.R.S.A. §4303(4)](http://legislature.maine.gov/statutes/24-A/title24-Asec4303.html)  [Rule 850](http://www.maine.gov/sos/cec/rules/02/031/031c850.doc) | Decisions for second level grievance reviews must be issued within 30 calendar days. If the insured has requested to appear in person before authorized representatives of the health carrier the decision must be issued within 45 calendar days. | | ☐ |  |
| **Providers/Networks** | | | | | |
| Acupuncture services | 24-A M.R.S.A. [§2837-B](http://legislature.maine.gov/statutes/24-A/title24-Asec2837-B.html) | Benefits must be made available for the services of acupuncturist if comparable services would be covered if performed by a physician. ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | | ☐ |  |
| Certified nurse practitioners, certified midwives, and certified nurse midwives (aka: Advanced Practice Registered Nurse) | [Title 24-A § 4248](https://legislature.maine.gov/statutes/24-A/title24-Asec4248.html)  [Title 24-A § 4303(5)](https://legislature.maine.gov/statutes/24-A/title24-Asec4303.html) | Coverage for services provided by nurse practitioners, certified midwives, and certified nurse midwives and allows nurse practitioners to serve as primary care providers. | | ☐ |  |
| Coverage for Services Provided by Certified Registered Nurse Anesthetists | [Title 24-A § 4320-Q](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-Q.html) | Coverage for services provided by certified registered nurse anesthetists (CRNA) is required. | | ☐ |  |
| Chiropractic Services /Manipulative Therapy | 24-A M.R.S.A. [§4236](http://legislature.maine.gov/statutes/24-A/title24-Asec4236.html) | 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 shall be covered whether performed by an allopathic, osteopathic or chiropractic doctor. | | ☐ |  |
| Clinical professional counselors | [24-A M.R.S.A. §4234-A(8)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4234-A.html) | Must include benefits for licensed clinical professional counselor services to the extent that the same services would be covered if performed by a physician. | | ☐ |  |
| Dentists | 24-A M.R.S.A. [§2437](http://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. ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | | ☐ |  |
| Enrollee choice of PCP | 24-A M.R.S. §4306 | 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 physician assistants licensed pursuant to Title 32, section 2594-E or section 3270-E 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)  Essential Community Providers | [Rule 850](http://www.maine.gov/sos/cec/rules/02/031/031c850.doc)(7)  45 CFR 156.235 | Benefits must be made available for outpatient health care services of certified rural health clinics.  A QHP must have a sufficient number of essential community providers, where available. | | ☐ |  |
| Independent Dental Hygienists *(requirement applicable only if the policy provides coverage for dental services)* | [24-A M.R.S.A. §4257](http://legislature.maine.gov/statutes/24-A/title24-Asec4257.html) | 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. | | ☐ |  |
| Naturopathic doctor | [24-A MRSA §4320-K](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-K.html) | Must provide coverage for health care services performed by a naturopathic doctor licensed in this State when those services are covered services under the plan when performed by any other health care provider **and** those services are within the lawful scope of practice of the naturopathic doctor.  Any deductible, copayment or coinsurance cannot exceed the deductible, copayment or coinsurance applicable to the same service provided by other health care providers.  **Network participation:**   * A carrier must demonstrate that its provider network includes reasonable access to all covered services that are within the lawful scope of practice of a naturopathic doctor. * A carrier may not exclude a provider from network participation solely because the provider is a naturopathic doctor, as long as the provider is willing to meet the same terms and conditions as other participating providers. * A carrier is not required to contract with all naturopathic doctors.   A carrier is not required to provide coverage for any service provided by a participating naturopathic doctor that is not within the plan's scope of coverage. | | ☐ |  |
| Network adequacy | 24-A M.R.S.A. [§2673-A](http://legislature.maine.gov/statutes/24-A/title24-Asec2673-A.html)  [§4303(1](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html))  [Rule 850](http://www.maine.gov/sos/cec/rules/02/031/031c850.doc)(7)  [Rule 360](http://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 and Rule 360 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. | | ☐ |  |
| Pastoral counselors and marriage and family therapists | [24-A M.R.S.A. §4234-A (8)](http://legislature.maine.gov/statutes/24-A/title24-Asec4234-A.html) | Must include benefits for licensed pastoral counselors and marriage and family therapists for mental health services to the extent that the same services would be covered if performed by a physician. | | ☐ |  |
| Pharmacy Providers – “Any Willing Pharmacy” | [24-A M.R.S.A. §4317](http://www.maine.gov/pfr/insurance/review_checklists/life_health.htm) | 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. | | ☐ |  |
| Physician assistants | 24-A M.R.S. §4320-O | Must provide coverage for health care services performed by a physician assistant licensed in this State when those services are covered services under the plan when performed by any other health care provider and those services are within the lawful scope of practice of the physician assistant.  Any deductible, copayment, or coinsurance cannot exceed the deductible, copayment, or coinsurance applicable to the same service provided by other health care providers.  Network participation:   * A carrier must demonstrate that its provider network includes reasonable access to all covered services that are within the lawful scope of practice of a physician assistant. * A carrier may not exclude a provider from network participation solely because the provider is a physician assistant, as long as the provider is willing to meet the same terms and conditions as other participating providers. * A carrier is not required to contract with all physician assistants. * A carrier is not required to provide coverage for any service provided by a participating physician assistant that is not within the plan's scope of coverage.   Billing:   * A carrier shall authorize a physician assistant to bill the carrier and receive direct payment for a medically necessary service provided to an enrollee and identify the physician assistant as provider in the billing and claims process for payment of the service.   A carrier may not impose on a physician assistant a practice, education or collaboration requirement that is inconsistent with or more restrictive than a requirement of state law or board or agency rules. | | ☐ |  |
| PPOs – Payment for Non-preferred Providers | 24-A M.R.S.A. [§2677-A(2)](http://legislature.maine.gov/statutes/24-A/title24-Asec2677-A.html) | The benefit level differential between services rendered by preferred providers and non-preferred providers may not exceed 20% of the allowable charge for the service rendered. | | ☐ |  |
| Provider directories | 45 CFR 156.230  [24-A M.R.S. §4303-D](http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1073&item=3&snum=128) | A QHP must submit its provider directory to the Exchange electronically and make a printed version available to potential enrollees upon request. The directory must identify providers that are not accepting new patients.  **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. | | ☐ |  |
| Psychologists’ services | 24-A M.R.S.A. [§2835](http://legislature.maine.gov/statutes/24-A/title24-Asec2835.html) | Must include benefits for psychologists’ services to the extent that the same services would be covered if performed by a physician. ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | | ☐ |  |
| Registered nurse first assistants | 24-A M.R.S.A. [§4246](http://legislature.maine.gov/statutes/24-A/title24-Asec4246.html) | 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. | | ☐ |  |
| Social workers/Psychiatric nurses | 24-A M.R.S.A. [§2835](http://legislature.maine.gov/statutes/24-A/title24-Asec2835.html) | Benefits must be included for the services of social workers and psychiatric nurses to the extent that the same services would be covered if performed by a physician. ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | | ☐ |  |
| **GENERAL health care SERVICES/coverage - *Please note: all benefits must be listed in the policy/certificate and schedule of benefits.*** | | | | | |
| Abortion services | [24-A M.R.S. §4320-M](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-M-1.html) | A health plan that provides coverage for maternity services must provide coverage for abortion services in accordance with the following:   * 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. * The requirements of this law apply to all policies or contracts executed, delivered, issued for delivery, continued, or renewed in this State, and all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.   **Applicable to group plans - exclusion for religious employer:**   * A religious employer may request and a carrier shall grant an exclusion under the policy or contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. * A religious employer that obtains an exclusion shall provide prospective enrollees and those individuals insured under its policy written notice of the exclusion. * This section may not be construed as authorizing a carrier to exclude coverage for abortion services that are necessary to preserve the life or health of a covered enrollee.   For the purposes of this section, "religious employer" means an employer that is a church, a convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 United States Code, Section 3121(w)(3)(A) and that qualifies as a tax-exempt organization under 26 United States Code, Section 501(c)(3). | | ☐ |  |
| Anesthesia for Dentistry | [24-A M.R.S.A. §4251](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4251.html) | Anesthesia & associated facility charges for dental procedures are mandated benefits for certain vulnerable persons. | | ☐ |  |
| Coverage for breast cancer treatment | [24-A M.R.S.A. §2837-C](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2837-C.html)  [24-A M.R.S.A. §4237](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4237.html) | Must provide coverage for reconstruction of both breasts to produce symmetrical appearance according to patient and physician wishes. | | ☐ |  |
| Breast reduction and symptomatic varicose vein surgery | [24-A M.R.S.A. §4252](http://legislature.maine.gov/statutes/24-A/title24-Asec4252.html) | Coverage must be offered for breast reduction surgery and symptomatic varicose vein surgery determined to be medically necessary | | ☐ |  |
| Chiropractic Services /Manipulative Therapy | [24-A M.R.S.A. §4236(3)](http://legislature.maine.gov/statutes/24-A/title24-Asec4236.html)  [24-A M.R.S.A. §2413](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2413.html) | Requires treatment for acute care for a limited self-referred for chiropractic benefits.  Must provide clarification how physical therapy, occupational therapy and osteopathic benefits are applied when chiropractic services are provided. Therapeutic, adjustive and manipulative services (including but not limited to chiropractic services) shall be covered as follows:   1. Therapeutic, adjustive and manipulative services shall be covered whether performed by an allopathic, osteopathic or chiropractic doctor. 2. Benefits for care by chiropractors must be at least equal to benefit paid to other providers treating similar neuro-musculoskeletal conditions. This does not require identical cost sharing by provider type. 3. Visit limits on therapeutic, adjustive and manipulative services will be permitted only if any such limits apply regardless of provider type and setting. 4. Policies must clearly explain how physical therapy, occupational therapy and other types of services are covered when those services are provided by a chiropractor acting within the scope of the chiropractor’s license. 5. Policies must clearly explain how therapeutic, adjustive and manipulative services are covered when those services are provided by physicians other than a chiropractor. 6. Policies, Schedule of Benefits and Summary of Benefits and Coverage must include how co-pays are applied when performed in conjunction with another service. | | ☐ |  |
| Clinical Trials | [24-A M.R.S.A. §4310](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4310.html)  PHSA §2709 | Provide access to clinical trials pursuant to:  1. Qualified enrollee**.**  An enrollee is eligible for coverage for participation in an approved clinical trial if the enrollee meets the following conditions:  A. The enrollee has a life-threatening illness for which no standard treatment is effective;  B. The enrollee is eligible to participate according to the clinical trial protocol with respect to treatment of such illness;  C. The enrollee's participation in the trial offers meaningful potential for significant clinical benefit to the enrollee; and  D. The enrollee's referring physician has concluded that the enrollee's participation in such a trial would be appropriate based upon the satisfaction of the conditions in paragraphs A, B and C.  2. Coverage.  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. For the purposes of this section, "routine patient costs" does not include the costs of the tests or measurements conducted primarily for the purpose of the clinical trial involved.  3. Payment.  A carrier shall provide payment for routine patient costs but is not required to pay for costs of items and services that are reasonably expected to be paid for by the sponsors of an approved clinical trial. In the case of covered items and services, the carrier shall pay participating providers at the agreed upon rate and pay nonparticipating providers at the same rate the carrier would pay for comparable services performed by participating providers.  4. Approved clinical trial.  For the purposes of this section, "approved clinical trial" means a clinical research study or clinical investigation approved and funded by the federal Department of Health and Human Services, National Institutes of Health or a cooperative group or center of the National Institutes of Health.  5. Application.  The requirements of this section apply to all individual and group policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.  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 | 24-A M.R.S.A. §4254 | 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 as the colorectal cancer screening and a lesion is discovered and removed during the colonoscopy benefits must be paid for the screening colonoscopy as the primary procedure. | | ☐ |  |
| Dental benefit waiting period | 24-A M.R.S. §4260 | Coverage for dental services may not impose a waiting period for any dental or oral health service or treatment, except for orthodontic treatment, for an enrollee if the enrollee is under 19 years of age.  For purposes of this statute, “waiting period” means a period of time after the date of enrollment during which a health insurance plan excludes coverage for the diagnosis or treatment of any or all medical conditions.  [24-A M.R.S. § 2848(5)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec2848.html). | | ☐ |  |
| Emergency Services,  definitions of “Emergency Services” and “Emergency Medical Condition” – Must be Verbatim | [24-A M.R.S. §4320-C](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-C.html)  [24-A M.R.S. § 4301-A(4-A) & (4-B)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4301-A.html)  [24-A M.R.S. §4304(5)](http://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)  [Rule 191, Sec. 9(M)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx)  [Rule 850 Sec. 5](http://www.maine.gov/sos/cec/rules/02/031/031c850.docx)  PHSA §2719A  (75 Fed Reg 37188,  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 24-A M.R.S. § 4303-C (as amended by PL 2019, ch. 668) or, if there is a dispute, in accordance with 24-A M.R.S. § 4303-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 health care service.  Cannot require prior authorization; cannot be limited to only services  and care at participating providers; must be covered at in-network  cost-sharing level (patient is not penalized for emergency care at out  of network provider); Must pay for out-of-network emergency  services the greatest of: (1) the median in-network rate; (2) the usual  customary and reasonable rate (or similar rate determined using the  plans or issuer’s general formula for determining payments for out  of-network services); or (3) the Medicare rate.  If emergency care is required, ambulance transportation to the nearest contracted facility or to the nearest non-contracted facility capable of providing necessary care. | | ☐ |  |
| Essential health benefits | [24-A M.R.S.A. §4320-D](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-D.html)  ACA 1302(b) | A carrier offering a health plan in this State shall, at a minimum, provide coverage that incorporates and essential health benefits package consistent with the requirements of this section.  All nongrandfathered individual and small group plans must provide essential health benefits.  SEE MAINE ESSENTIAL HEALTH BENEFITS CHECKLIST. | | ☐ |  |
| Eye Care Services | 24-A M.R.S.A. §[4314](http://legislature.maine.gov/statutes/24-A/title24-Asec4314.html) | Patient access to eye care providers when the plan provides eye care services. | | ☐ |  |
| Habilitative Services & Devices | 45 CFR §156.115(a)(5)(i) | Provides parity by covering habilitative services benefits that are similar in scope, amount, and duration to benefits covered for rehabilitative services.  Definitions:  Habilitation Services Health care services and devices that help a person keep, learn or improve skills and functioning for daily living. Examples include therapy for a child who isn’t walking or talking at the expected age. These services may include physical and occupational therapy, speech-language pathology and other services for people with disabilities in a variety of inpatient and/or outpatient settings.  Rehabilitation Services Health care services and devices that help a person keep, get back or improve skills and functioning for daily living that have been lost or impaired because a person was sick, hurt or disabled. These services may include physical and occupational therapy, speech-language pathology and psychiatric rehabilitation services in a variety of inpatient and/or outpatient settings. | | ☐ |  |
| Health care services for COVID-19 | [24-A M.R.S.A. §4320-P](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-P-1.html) | Notwithstanding any requirements of this Title to the contrary, a carrier offering a health plan in this State shall provide, at a minimum, coverage as required by this section for screening, testing and immunization for COVID-19.  1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.  A. "COVID-19" means the coronavirus disease 2019 resulting from SARS-CoV-2, severe acute respiratory syndrome coronavirus 2, and any virus mutating from that virus.  B. "Surveillance testing program" means a structured program of asymptomatic testing at a community or population level to understand the incidence or prevalence of COVID-19 in a group. "Surveillance testing program" does not include a program of testing that occurs less often than once per month per individual.  2. Testing. A carrier shall provide coverage for screening and testing for COVID-19 as follows.  A. A carrier shall provide coverage for screening and testing for COVID-19, except when such screening and testing is part of a surveillance testing program.  B. A carrier may not impose any deductible, copayment, coinsurance or other cost sharing requirement for the costs of COVID-19 screening and testing, including all associated costs of administration.  C. A carrier may not make coverage without cost sharing as required by paragraph B dependent on any prior authorization requirement.  D. A carrier may not make coverage without cost sharing as required by paragraph B dependent on the use of a provider in a carrier's network unless an enrollee is offered screening and testing by a network provider without additional delay and the enrollee chooses instead to obtain screening from an out-of-network provider or to be tested by an out-of-network laboratory.  E. For the purposes of this subsection, with respect to COVID-19 screening and testing rendered by an out-of-network provider, a carrier shall reimburse the out-of-network provider in accordance with section 4303-C, subsection 2, paragraph B.  3. Immunization; COVID-19 vaccines. A carrier shall provide coverage for COVID19 vaccines as follows.  A. A carrier shall provide coverage for any COVID-19 vaccine licensed or authorized under an emergency use authorization by the United States Food and Drug Page 4 - 130LR0653(10) Administration that is recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration to an enrollee.  B. A carrier may not impose any deductible, copayment, coinsurance or other cost sharing requirement for the cost of COVID-19 vaccines, including all associated costs of administration.  C. A carrier may not make coverage without cost sharing as required by paragraph B dependent on any prior authorization requirement.  D. A carrier may not make coverage without cost sharing as required by paragraph B dependent on the use of a provider in a carrier's network unless an enrollee is offered immunization by a network provider without additional delay and the enrollee chooses instead to obtain immunization from an out-of-network provider. | | ☐ |  |
| Hearing aids | [24-A M.R.S.A. §2847-O](http://legislature.maine.gov/statutes/24-A/title24-Asec2847-O.html) | 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.   **CHILDREN ONLY: Must provide actuarial justification that the visits/services per year are equivalent to $3,000 per hearing aid for each hearing-impaired ear every 36 months.** | | ☐ |  |
| HIV/AIDS | [24-A M.R.S.A. §4229](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4229.html) | May not provide more restrictive benefits for expenses resulting from Acquired Immune Deficiency Syndrome (AIDS) or related illness. | | ☐ |  |
| Home health care coverage | 24-A M.R.S.A. [§2837](http://legislature.maine.gov/statutes/24-A/title24-Asec2837.html)  [§2745](http://legislature.maine.gov/statutes/24-A/title24-Asec2745.html)  [Rule 191, Sec. 9(M)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) | 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.**  **1. Definition of home health care services.** "Home health care services" means those health care services rendered in his place of residence on a part time basis to a covered person only if:  A. Hospitalization or confinement in a skilled nursing facility as would otherwise have been required if home health care was not provided; and  B. The plan covering the home health services is established as prescribed in writing by a physician.  There shall be no requirement that hospitalization be an antecedent to coverage under the policy.  **2. Home health care services shall include:**  A. Visits by a registered nurse or licensed practical nurse to carry out treatments prescribed, or supportive nursing care and observation as indicated;  B. A physician's home or office visits or both;  C. Visits by a registered physical, speech, occupational, inhalation or dietary therapist for services or for evaluation of, consultation with and instruction of nurses in carrying out such therapy prescribed by the attending physician, or both;  D. Any prescribed laboratory tests and x-ray examination using hospital or community facilities, drugs, dressings, oxygen or medical appliances and equipment as prescribed by a physician, but only to the extent that such charges would have been covered under the contract if the covered person had remained in the hospital; and  E. Visits by persons who have completed a home health aide training course under the supervision of a registered nurse for the purpose of giving personal care to the patient and performing light household tasks as required by the plan of care, but not including services.  **3.** **Home health care provider.**  "Home health care provider" means a home health care agency which:  A. Is primarily engaged in and licensed or certified to provide skilled nursing and other therapeutic services;  B. Has standards, policies and rules established by a professional group, associated with the agency or organization, which professional group must include at least one physician and one registered nurse;  C. Is available to provide the care needed in the home 7 days a week and has telephone answering service available 24 hours per day;  D. Has the ability to and does provide, either directly or through contract, the services of a coordinator responsible for case discovery and planning and assuring that the covered person receives the services ordered by the physician;  E. Has under contract the services of a physician-advisor licensed by the State or a physician;  F. Conducts periodic case conferences for the purpose of individualized patient care planning and utilization review; and  G. Maintains a complete medical record on each patient.  **MUST PROVIDE UNLIMITED VISITS PURSUANT TO THE BENCHMARK PLAN.** | | ☐ |  |
| Hospice Care Services | [24-A M.R.S.A. §4250](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4250.html) | 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 | [24-A M.R.S.A. § 4320-I](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-I.html) | A carrier offering a health plan in this State shall 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 covered under the health plan 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 covered under the health plan 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; and    D. 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. | | ☐ |  |
| Naturopathic services | [24-A M.R.S. § 4320-K](http://www.mainelegislature.org/legis/bills/bills_128th/chapters/PUBLIC340.asp) | Must provide coverage for health care services performed by a naturopathic doctor licensed in this State when those services are covered services under the plan when performed by any other health care provider **and** those services are within the lawful scope of practice of the naturopathic doctor.  Any deductible, copayment or coinsurance cannot exceed the deductible, copayment or coinsurance applicable to the same service provided by other health care providers. | | ☐ |  |
| Preventive health services  Preventive health services without cost-sharing requirements including deductibles, co-payments, and co-insurance. | 24-A M.R.S.A. [§4320-A](http://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html)  [Rule 191, Sec. 9(M)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx)  PHSA §2713  (75 Fed Reg 41726,  45 CFR §147.130) | Must, at a minimum, provide coverage for, and may not impose cost-sharing requirements for, the following preventive services:   * The evidence-based items or services that have a rating of A or B in the recommendations of the USPSTF or equivalent rating from a successor organization; * With respect to the individual insured, immunizations that have a recommendation from the federal DHHS, CDC, Advisory Committee on Immunization Practices; * With respect to infants, children and adolescents, evidence-informed preventive care and screenings provided for in the most recent version of the comprehensive guidelines supported by the federal DHHS, HRSA; and * With respect to women, such additional preventive care and screenings not described in paragraph A, provided for in the comprehensive guidelines supported by the federal DHHS, HRSA women's preventive services guidelines.   If one of the recommendations referenced above is changed during a plan year, a carrier is not required to make changes to that health plan during the plan year.  **SEE SEPARATE CHECKLIST FOR SPECIFIC SERVICES.** | | ☐ |  |
| Prostate cancer screening | [24-A M.R.S.A. §4244](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4244.html)  [§4320-A](http://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html) | 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. | | ☐ |  |
| **woman & Maternity - *Please note: all benefits must be listed in the policy/certificate and schedule of benefits.*** | | | | | |
| Mammogram screening | [24-A M.R.S.A. §4237-A](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4237-A.html)  [§4320-A](http://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html) | 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. | | ☐ |  |
| Maternity & newborn care  Maternity coverage (see EHB) and required benefits for hospital stays in connection with childbirth | [24-A M.R.S.A. §4234-B](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4234-B.html)  PHSA §2725  (45 CFR §148.170) | Benefits must be provided for maternity (length of stay)  and routine newborn care, in accordance with "Guidelines for Perinatal  Care" as determined by attending provider and mother.  **Benefits for routine newborn care required by this section are part of the mother's benefit. The mother and the newborn are treated as one person in calculating the deductible, coinsurance and copayments for coverage required by this section.**  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. | | ☐ |  |
| Obstetrical and Gynecological services | [24-A M.R.S.A. §4241](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4241.html)  [Rule 191, Sec. 9(M)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx)  [§4306-A](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4306-A.html)  [§4320-A](http://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html)  PHSA §2719A  (75 Fed Reg 37188,  45 CFR §147.138) | 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 or individual 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. | | ☐ |  |
| Pap tests | 24-A M.R.S.A. [§4242](http://legislature.maine.gov/statutes/24-A/title24-Asec4242.html)  [§4320-A](http://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html) | Benefits must be provided for cervical cancer screening tests. | | ☐ |  |
| Postpartum Care | [Title 24-A § 2743-B](https://legislature.maine.gov/statutes/24-A/title24-Asec2743-B.html)  [Title 24-A § 2834-D](https://legislature.maine.gov/statutes/24-A/title24-Asec2834-D.html)  [Title 24-A § 4234-F](https://legislature.maine.gov/statutes/24-A/title24-Asec4234-F.html) | Individual contracts (§2743-B), Group Contracts (§2834-D) and Health Maintenance Organizations (§4234-F) providing maternity benefits must provide postpartum care services for 12 months following childbirth. Must meet standards of the American College of Obstetricians and Gynecologists, as outlined in the “Optimizing Postpartum Care” opinion published May 2018. Must include coverage for a postpartum care plan, contact with patient within 3 weeks of end of pregnancy, a comprehensive postpartum visit, treatment of complications of pregnancy and childbirth, assessment of risk factors for cardiovascular disease, and care related to pregnancy loss. | | ☐ |  |
| **Infants & Children - *Please note: all benefits must be listed in the policy/certificate and schedule of benefits.*** | | | | | |
| Autism Spectrum Disorders | [24-A M.R.S.A.](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4259.html)  **[§](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4259.html)**[4259](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4259.html) | All group health insurance policies, contracts and certificates must provide coverage for autism spectrum disorders for an individual covered under a policy, contract or certificate in accordance with the following.  **1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.  A. "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.  B. "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association, including autistic disorder, Asperger's disorder and pervasive developmental disorder not otherwise specified.  C. "Treatment of autism spectrum disorders" includes the following types of care prescribed, provided or ordered for an individual diagnosed with an autism spectrum disorder:  (1) Habilitative or rehabilitative services, including applied behavior analysis or other professional or counseling services necessary to develop, maintain and restore the functioning of an individual to the extent possible. To be eligible for coverage, applied behavior analysis must be provided by a person professionally certified by a national board of behavior analysts or performed under the supervision of a person professionally certified by a national board of behavior analysts;  (2) Counseling services provided by a licensed psychiatrist, psychologist, clinical professional counselor or clinical social worker; and  (3) Therapy services provided by a licensed or certified speech therapist, occupational therapist or physical therapist.  **2. Required Coverage.**   1. The policy, contract or certificate must provide coverage for any assessments, evaluations or tests by a licensed physician or licensed psychologist to diagnose whether an individual has an autism spectrum disorder. 2. The policy, contract or certificate must provide coverage for the treatment of autism spectrum disorders when it is determined by a licensed physician or licensed psychologist that the treatment is medically necessary. 3. The policy, contract or certificate may limit coverage for applied behavior analysis to the actuarial equivalent of $36,000 worth of visits/services per year.  An insurer may not apply payments for coverage unrelated to autism spectrum disorders to any maximum benefit established under this paragraph. 4. Coverage for prescription drugs for the treatment of autism spectrum disorders must be determined in the same manner as coverage for prescription drugs for the treatment of any other illness or condition.   **If visits/services are limited it must be actuarially equivalent to $36,000 and you must provide actuarial justification with the filing.** | | ☐ |  |
| Early Childhood Intervention | [24-A M.R.S.A. §4258](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4258.html) | All group and individual health insurance policies, contracts and certificates must provide coverage for children's early intervention services in accordance with this subsection.  A referral from the child's primary care provider is required.  The policy or contract may limit coverage to the actuarial equivalent of $3,200 worth of visits/services per year for each child not to exceed the actuarial equivalent of $9,600 worth of visits/services by the child's 3rd birthday. **If visits/services are limited it must be actuarially equivalent to $3,200 and you must provide actuarial justification with the filing.**    “Children's early intervention services” means services provided by licensed occupational therapists, physical therapists, speech-language pathologists or clinical social workers working with children from birth to 36 months of age with an identified developmental disability or delay as described in the federal Individuals with Disabilities Education Act, Part C, 20, United States Code, Section 1432 at <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section1432&num=0&edition=prelim>. The following federal definition is provided for your information and is not required to be included in the policy/certificate:  **(4) Early intervention services**  The term “early intervention services” means developmental services that-  (A) are provided under public supervision;  (B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;  (C) are designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team, in any 1 or more of the following areas:  (i) physical development;  (ii) cognitive development;  (iii) communication development;  (iv) social or emotional development; or  (v) adaptive development;  (D) meet the standards of the State in which the services are provided, including the requirements of this subchapter;  (E) include-  (i) family training, counseling, and home visits;  (ii) special instruction;  (iii) speech-language pathology and audiology services, and sign language and cued language services;  (iv) occupational therapy;  (v) physical therapy;  (vi) psychological services;  (vii) service coordination services;  (viii) medical services only for diagnostic or evaluation purposes;  (ix) early identification, screening, and assessment services;  (x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;  (xi) social work services;  (xii) vision services;  (xiii) assistive technology devices and assistive technology services; and  (xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;  (F) are provided by qualified personnel, including-  (i) special educators;  (ii) speech-language pathologists and audiologists;  (iii) occupational therapists;  (iv) physical therapists;  (v) psychologists;  (vi) social workers;  (vii) nurses;  (viii) registered dietitians;  (ix) family therapists;  (x) vision specialists, including ophthalmologists and optometrists;  (xi) orientation and mobility specialists; and  (xii) pediatricians and other physicians;  (G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and  (H) are provided in conformity with an individualized family service plan adopted in accordance with section 1436 of this title. | | ☐ |  |
| Hearing aids | [24-A M.R.S.A. §4255](http://legislature.maine.gov/statutes/24-A/title24-Asec4255.html) | 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.  **CHILDREN ONLY: Must provide actuarial justification that the visits/services per year are equivalent to $1,400 per hearing aid for each hearing-impaired ear every 36 months.** | | ☐ |  |
| Infant Formula | [24-A M.R.S.A. §4256](http://legislature.maine.gov/statutes/24-A/title24-Asec4256.html)    [§2847-P](http://legislature.maine.gov/statutes/24-A/title24-Asec2847-P.html) | Coverage of amino acid-based elemental infant formula must be provided when a physician has diagnosed and documented one of the following:   1. Symptomatic allergic colitis or proctitis; 2. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis; 3. A history of anaphylaxis 4. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies 5. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider 6. Cystic fibrosis; or 7. 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 | 24-A M.R.S.A. [§4238](http://legislature.maine.gov/statutes/24-A/title24-Asec4238.html) | Must provide coverage for metabolic formula and up to the actuarial equivalent of $3,000 per year for prescribed modified low-protein food products. | | ☐ |  |
| Pediatric Dental | 45 CFR §155.1065 (a)(3) | 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. | | ☐ |  |
| Pediatric Services | 45 CFR §156.115(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. | | ☐ |  |
| **Mental Health & substance abuse Services/COVERAGE** | | | | | |
| Improve Access to Behavioral Health Services by Limiting Cost Sharing | [Title 24-A § 4320-A](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html)(3)  [Title 24-A § 4320-A](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html)(3-A)  [Title 24-A § 4320-A(3-B)](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-A.html)  [Title 24-A § 4320-R](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-R-1.html) | **§4320-A, sub-§3. Primary Health Services.** Minor changes to effective dates, limiting it to individual or small group plans with effective dates from January 1, 2021 to December 31, 2022.  **§4320-A, sub-§3-A.** With respect to individual and small group health plans with an effective date on or after January 1, 2023, the law requires that, following the first visit provided without cost sharing, the copayment amount for a behavioral health office visit not be greater than the copayment amount for a primary care office visit and that any copayments for a primary care office visit and a behavioral health office visit count toward the deductible.  **§4320-A, sub-§3-B.** With respect to a group health plan other than a small group health plan with an effective date on or after January 1, 2023, the law requires that coverage be provided without cost sharing for the first primary care office visit and first behavioral health office visit in each plan year and that, following the first visit, the copayment amount for a behavioral health office visit not be greater than the copayment amount for a primary care office visit.  **24-A MRSA §4320-R is enacted to read: §4320-R. Implementation of federal mental health parity laws**  1. Nonquantitative treatment limitation; definition. For the purposes of this section, "nonquantitative treatment limitation" means a limitation that is not expressed numerically but otherwise limits the scope or duration of benefits for treatment.  2. Compliance with federal mental health parity laws. A carrier offering a health plan in this State providing health coverage for mental health and substance use disorder services pursuant to sections 2749-C, 2842, 2843, 4234-A and 4320-D and Title 24, sections 2325-A and 2329 must meet the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 and any amendments to, and any federal guidance or regulations relevant to, that Act, including 45 Code of Federal Regulations, Sections 146.136, 147.136, 147.160 and 156.115(a)(3).  3. Implementation of federal mental health parity laws. The superintendent shall implement and enforce applicable provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, and any amendments to and federal guidance or regulations relevant to that Act, including 45 Code of Federal Regulations, Sections 146.136, 147.136, 147.160 and 156.115(a)(3).  4. Reports to superintendent. As part of the report submitted to the superintendent, and subsequently reported by the superintendent to the Legislature, pursuant to section 2749-C, subsection 4, section 2843, subsection 7, section 4234-A, subsection 10 and Title 24, section 2325-A, subsection 8, a carrier shall submit information to the superintendent demonstrating compliance with the federal mental health parity laws.  5. Repeal. This section is repealed April 30, 2028. | | ☐ |  |
| Improve Children’s Mental Health by Requiring Coverage for Evidence Based Treatment | [Title 24-A § 2749-C](https://legislature.maine.gov/statutes/24-A/title24-Asec2749-C.html)  [Title 24-A § 2749-C](https://legislature.maine.gov/statutes/24-A/title24-Asec2749-C.html)(1)(B)  [Title 24-A § 2843](https://legislature.maine.gov/statutes/24-A/title24-Asec2843.html)(3)(A-3)  [Title 24-A § 2843](https://legislature.maine.gov/statutes/24-A/title24-Asec2843.html)(5-C)(B)  [Title 24-A § 2843](https://legislature.maine.gov/statutes/24-A/title24-Asec2843.html)(5-C)  [Title 24-A § 2843](https://legislature.maine.gov/statutes/24-A/title24-Asec2843.html)(5-D)  [Title 24-A § 4234-A](https://legislature.maine.gov/statutes/24-A/title24-Asec4234-A.html)(3)(A-3)  [Title 24-A § 4234-A](https://legislature.maine.gov/statutes/24-A/title24-Asec4234-A.html)(6)(B) | Health insurance carriers may not deny treatment for mental health treatment services that use evidence-based practices and are determined to be medically necessary health care for an individual 21 years of age or younger.  The law defines "evidence-based practices" as clinically sound and scientifically based policies, practices and programs that reflect expert consensus on the prevention, treatment and recovery science, including, but not limited to, policies, practices and programs published and disseminated by the Substance Abuse and Mental Health Services Administration and the Title IV-E Prevention Services Clearinghouse within the United States Department of Health and Human Services, the What Works Clearinghouse within the United States Department of Education, Institute of Education Sciences and the California Evidence-Based Clearinghouse for Child Welfare within the California Department of Social Services, Office of Child Abuse Prevention.  The law also makes technical changes to state law requirements related to mental health parity to be consistent with federal law and regulations. Changes to the mental health parity provisions were initially codified in state law in Public Law 2019, chapter 5, Part D, but these technical changes were not included at that time. | | ☐ |  |
| Mental health coverage | 24-A M.R.S.A. [§4234-A](http://legislature.maine.gov/statutes/24-A/title24-Asec4234-A.html)  [§4320-D](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-D.html)  [Rule 191, Sec. 9(M)](http://www.maine.gov/sos/cec/rules/02/031/031c191.docx) | Federal and State mental health parity requirements both apply.  Benefits (including financial requirements and treatment limitations) cannot be less extensive than for physical illnesses.  All individual and group contracts must provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following categories of mental illness as defined in the Diagnostic and Statistical Manual as defined in section 2843, subsection 3, paragraph A-1, except for those that are designated as "V" codes by the Diagnostic and Statistical Manual:    (1) Psychotic disorders, including schizophrenia;    (2) Dissociative disorders;    (3) Mood disorders;    (4) Anxiety disorders;    (5) Personality disorders;    (6) Paraphilias;    (7) Attention deficit and disruptive behavior disorders;    (8) Pervasive developmental disorders;    (9) Tic disorders;    (10) Eating disorders, including bulimia and anorexia; and    (11) Substance use disorders.  For the purposes of this paragraph, the mental illness must be diagnosed by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness. | | ☐ |  |
| Mental health parity and substance use disorder benefits | PHSA §2726  (45 CFR 156.115(a)(2))  ACA  1563(a)(4) | Extends mental health parity requirements into EHB for nongrandfathered individual and small group plans. | | ☐ |  |
| Mental health services provided by counseling professionals. | [24-A M.R.S.A. §4234-A(8-A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4234-A.html) | Benefits must be made available for mental health services provided by licensed counselors. | | ☐ |  |
| Substance Abuse | 24-A M.R.S.A. [§2842](http://legislature.maine.gov/statutes/24-A/title24-Asec2842.html) | Every insurer which issues group health care contracts providing coverage for hospital care to residents of this State shall provide benefits as required in this section to any subscriber or other person covered under those contracts for the treatment of alcoholism and other drug dependency pursuant to a treatment plan. ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | | ☐ |  |
| Treatment of alcoholism | 24-A M.R.S.A. [§2842](http://legislature.maine.gov/statutes/24-A/title24-Asec2842.html) | Benefits must be made available for treatment of alcoholism by licensed or certified treatment facilities subject "reasonable limitations". ***(There is no specific HMO requirement for this benefit/provision, but it is a benchmark plan requirement.)*** | | ☐ |  |
| **Prescription Drugs** | | | | | |
| Abuse-deterrent opioid analgesic drug products | [24-A M.R.S.A. §4320-J](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-J.html) | A carrier offering a health plan in this State shall 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.  Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.    A. "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.    B. "Cost sharing" means any coverage limit, copayment, coinsurance, deductible or other out-of-pocket expense associated with a health plan.    C. "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. | | ☐ |  |
| Appropriate Accounting for Cost-Sharing by Health Insurance Carriers and Pharmacy Benefits Managers | [Title 24-A § 4349](https://legislature.maine.gov/statutes/24-A/title24-Asec4349.html)(6) | Health insurance carriers and their pharmacy benefits managers must include cost-sharing amounts paid on behalf of an insured when calculating the insured's contribution to any out-of-pocket maximum, deductible or copayment when a drug does not have a generic equivalent or was obtained through prior authorization, a step therapy override exception or an exception or appeal process.  The law requires that a third party who pays any amount on behalf of a covered person for a covered prescription drug must notify the covered person prior to or within 7 days of the acceptance of the financial assistance of the total amount of assistance available and the duration for which it is available and prohibits the conditioning of the assistance on enrollment in a specific health plan or type of health plan. The requirements do not apply when their application to a person who has a health savings account would result in a covered person’s ineligibility for that health savings account under federal law, except for items or services that are determined to be preventive care.  The requirements apply to prescription drug benefits provided pursuant to a contract or policy of insurance by a carrier or a pharmacy benefits manager on behalf of a carrier on or after January 1, 2023. | | ☐ |  |
| Continuity of Prescription Drugs | [24-A M.R.S.A.](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html)  [§4303(7)(A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html) | 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 § 2332-J](https://www.mainelegislature.org/legis/statutes/24/title24sec2332-J.html)(4)  [Title 24-A § 2756](https://legislature.maine.gov/statutes/24-A/title24-Asec2756.html)(3)  [Title 24-A § 2847-G](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-G.html)(4)  [Title 24-A § 4247](https://legislature.maine.gov/statutes/24-A/title24-Asec4247.html)(4) | **24 MRSA §2332-J, sub-§4; 24-A MRSA §2756, sub-§3; 24-A MRSA §2847-G, sub-§4;** and **24-A MRSA §4247, sub-§4** all now require the following coverage:  Coverage of contraceptive supplies. Coverage required under this section must include coverage for contraceptive supplies in accordance with the following requirements. For purposes of this section, "contraceptive supplies" means all contraceptive drugs, devices and products approved by the federal Food and Drug Administration to prevent an unwanted pregnancy.  A. Coverage must be provided without any deductible, coinsurance, copayment or other cost-sharing requirement.  B. If the federal Food and Drug Administration has approved one or more therapeutic equivalents of a contraceptive supply, an insurer is not required to cover all those therapeutically equivalent versions in accordance with this subsection, as long as at least one is covered without any deductible, coinsurance, copayment or other cost-sharing requirement in accordance with this subsection.  C. Coverage must be provided for the furnishing or dispensing of prescribed contraceptive supplies intended to last for a 12-month period, which may be furnished or dispensed all at once or over the course of the 12 months at the discretion of the health care provider.  **Application**: to all policies, contracts, and certificates executed, continued or renewed on or after January 1, 2023. | | ☐ |  |
| Coverage for HIV Prevention Drugs | [Title 24-A § 4317-D](https://legislature.maine.gov/statutes/24-A/title24-Asec4317-D.html) | 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. | | ☐ |  |
| Dispensing an Emergency Supply of Chronic Maintenance Drugs | [24-A MRSA §4317-E](https://legislature.maine.gov/statutes/24-A/title24-Asec4317-E.html)  [32 MRSA §13786-F](https://legislature.maine.gov/statutes/32/title32sec13786-F.html) | **§4317-E. Coverage for emergency supply of chronic maintenance drugs**  1. Definition. "Chronic maintenance drug" has the same meaning as in Title 32, section 13786-F, subsection 1. "Chronic maintenance drug" means a medication prescribed to treat a chronic, long-term condition and that is taken on a regular, recurring basis.  A pharmacist may dispense an emergency supply of a chronic maintenance drug to a patient without a prescription if the pharmacist is unable to obtain authorization to refill the prescription from a health care provider and the pharmacist has a record of the prescription in the name of the patient, including the amount of the drug dispensed in the most recent prescription or the standard unit of dispensing the drug, and that record does not indicate that no emergency supply is permitted. A pharmacist may dispense an emergency supply of a chronic maintenance drug to a patient as long as the following conditions are met:  1. The drug dispensed may not be a controlled substance included in Schedules I and II under the federal Controlled Substances Act;  2. The amount dispensed may not exceed a 30-day supply or, if the standard unit of dispensing exceeds a 30-day supply, may not exceed the smallest standard unit of dispensing, except that, if the drug is included on Schedule III or IV of the federal Controlled Substances Act, the amount dispensed may not exceed a 7-day supply;  3. The pharmacist may not dispense the chronic maintenance drug in an emergency supply to the same patient more than twice in a 12-month period; and  4. The pharmacist must determine, in the pharmacist’s professional judgment, that the prescription is essential to sustain the life of the patient or to continue therapy for a chronic condition of the patient and that failure to dispense the drug could reasonably produce undesirable health consequences or cause physical or mental discomfort.  The law requires that the pharmacist notify the practitioner who issued the prescription or another practitioner responsible for the patient's care no later than 72 hours after the emergency supply is dispensed.  Public Law 2021, chapter 566 also requires health insurance carriers to make available coverage in all health plans for an emergency supply of a chronic maintenance drug dispensed in this manner. Any cost-sharing requirement applicable to that chronic maintenance drug may be imposed by a health insurer on an emergency supply. | | ☐ |  |
| Diabetes supplies | 24-A M.R.S.A. [§4240](http://legislature.maine.gov/statutes/24-A/title24-Asec4240.html) | Benefits must be provided for medically necessary equipment and supplies used to treat diabetes (insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets) and approved self-management and education training authorized by the State's Diabetes Control Project within the Maine Bureau of Health. | | ☐ |  |
| Drug Mail Order Opt Out | 45 CFR §156.122(e) | A health plan that provides an essential health benefits (EHB) package cannot have a mail-order only prescription drug benefit. | | ☐ |  |
| Early refills of prescription eye drops | [24-A M.R.S.A. §4314-A](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4314-A.html) | A carrier offering a health plan in this State shall provide coverage for one early refill of a prescription for eye drops if the following criteria are met:    A. The enrollee requests the refill no earlier than the date on which 70% of the days of use authorized by the prescribing health care provider have elapsed;    B. The prescribing health care provider indicated on the original prescription that a specific number of refills are authorized;    C. The refill requested by the enrollee does not exceed the number of refills indicated on the original prescription;    D. The prescription has not been refilled more than once during the period authorized by the prescribing health care provider prior to the request for an early refill; and    E. The prescription eye drops are a covered benefit under the enrollee's health plan.    2.  Cost sharing. A carrier may impose a deductible, copayment or coinsurance requirement for an early refill under this section as permitted under the health plan. | | ☐ |  |
| Electronic transmission of prior authorization requests for prescription drugs | [Title 24-A § 4304(2-B)](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)  [Title 24-A § 4304(2)](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html) | 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. | | ☐ |  |
| No Prior Authorization or step therapy for mental illness drugs | [Title 24-A § 4304(2-C)](https://legislature.maine.gov/statutes/24-A/title24-Asec4304.html)  [24-A M.R.S. §4320-N](https://legislature.maine.gov/statutes/24-A/title24-Asec4320-N.html) | 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. | | ☐ |  |
| Prescription Drug Exception Process & External Exception Review and Notice of adverse change to formulary | [24-A MRSA §4311(1-A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4311.html)   [24-A MRSA §4311(1-A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4311.html)(A)  [24-A MRSA §4311(1-A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4311.html)(B)  [24-A M.R.S. § 4311(1)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4311.html)  45 CFR 156.122(c)(1)  45 CFR 156.122(c)(2)  45 CFR §156.122(c)(3) | A carrier must allow an enrollee, the enrollee's designee or the person who has issued a valid prescription for the enrollee to request and gain access to a clinically appropriate drug not otherwise covered by the health plan. The carrier's process must comply with section 4304 and with this subsection.  **Treatment as EHB.** If the carrier approves a request under this subsection for a drug not otherwise covered by the health plan, the carrier must treat the drug as an essential health benefit, including counting any cost sharing toward the plan’s annual limit on cost sharing and including it when calculating the plan’s actuarial value.  **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.  **Expedited review within 24 hours in exigent circumstances:**   * The carrier must have a process for requesting an expedited review in exigent circumstances. * Exigent circumstances exist when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee’s life, health or ability to regain maximum function, or when an enrollee is undergoing a current course of treatment using a nonformulary drug. * The carrier must determine whether it will cover the drug requested and 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 24 hours following receipt of the request. * If coverage granted, the carrier must cover the drug for the duration of the exigency.   **External Exception Review**:  If the health plan denies an exception request for a non-formulary drug, the issuer must have a process for an enrollee, the enrollee’s designee, or the enrollee’s prescribing physician (or other prescriber, as appropriate) to request that an independent review organization review the exception request and the denial of that request by the plan.  (i) The independent review organization would have to make its determination and the health plan would have to notify the enrollee or enrollee’s designee and the prescribing physician (or other prescriber, as appropriate) no later than 72 hours after the time it receives the external exception review request.  (ii) If the initial exception request is for an expedited review and that request is denied by the plan, then the independent review organization would have to make its coverage determination and provide appropriate notification no later than 24 hours after the time it receives the external exception review request.  **Notice of adverse change:** must provide at least 60 days' written notice to an enrollee of an adverse change to a formulary; less than 60 days' notice is allowed when a drug is being removed from the formulary due to safety concerns.   * "adverse change to a formulary" means a change that removes a drug currently prescribed for that enrollee from the formulary applicable to the enrollee's health plan **or** a change that moves the prescribed drug to a tier with a higher cost-sharing requirement if the carrier uses a formulary with tiers * Notice must use conspicuous font * Notice must inform enrollee of the change **and** advise enrollee to consult with provider about the change * If a drug is removed from a formulary, must notify an enrollee affected by the change of the ability to request an exception **and** provide a form for requesting exception   + If an enrollee has already received prior authorization for the drug, must continue to honor the authorization until it expires, as long as the enrollee continues to be covered under the same plan and the drug has not been removed due to safety concerns   If a drug has been removed from a formulary (except if removed due to safety concerns), and an exception request is received prior to the effective date of the change, must continue to cover the drug until a decision is reached on the exception request. | | ☐ |  |
| Prescription insulin drugs | 24-A M.R.S. §4317-C | A carrier that provides coverage for prescription insulin drugs may not impose any deductible, copayment, coinsurance or other cost-sharing requirement on an enrollee for that coverage that results in out-of-pocket costs to the enrollee that exceed $35 per prescription for a 30-day supply of covered prescription insulin drugs, regardless of the amount of insulin needed to fill the enrollee's insulin prescriptions.  This maximum amount does not prevent a carrier from setting an enrollee’s cost-sharing requirement for one or more insulin drugs at a lower amount.  For purposes of this statute, “insulin” includes various types of insulin analogs and insulin-like medications, regardless of activation period or whether the solution is mixed before or after dispensation.”  32 M.R.S. § 13786-D(1)(A) (enacted by P.L. 2019, ch. 666). | | ☐ |  |
| Formulary Drug List | 45 CFR §156.122(d) | A health plan must publish an up-to-date, accurate, and complete list of all covered drugs on its formulary drug list, including any tiering structure that it has adopted and any restrictions on the  manner in which a drug can be obtained, in a manner that is easily accessible to plan enrollees, prospective enrollees, the State, the Exchange, HHS, OPM, and the general public.  Issuers’ formulary drug lists must include any tiering structure that it has adopted and any restrictions on the manner in which a drug can be obtained.  **Must be a public website, without requiring an access account.** | | ☐ |  |
| Information about prescription drugs | [24-A MRSA §4303, sub-§20](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4303.html) | 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. | | ☐ |  |
| Off-label use of prescription drugs for cancer, HIV or AIDS | 24-A M.R.S.A. [§4234-D](http://legislature.maine.gov/statutes/24-A/title24-Asec4234-D.html)  [§4234-E](http://legislature.maine.gov/statutes/24-A/title24-Asec4234-E.html) | Coverage required for off-label use of prescription drugs for treatment of cancer, HIV, or AIDS. | | ☐ |  |
| Orally Administered Cancer Therapy | [24-A M.R.S.A. §4317-B](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4317-B.html) | 1. Coverage. A carrier that provides coverage for cancer chemotherapy treatment shall 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.  2. Construction. 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.  Sec. 2. Application. This Act applies to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2015. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date. | | ☐ |  |
| Prescription Drug Access | 24-A M.R.S.A. [§4311](http://legislature.maine.gov/statutes/24-A/title24-Asec4311.html) | Access to prescription drugs for contracts that provide coverage for prescription drugs and medical devices. | | ☐ |  |
| Prescription Drug Coverage | [Rule 755, Sec. 6(F)(1)(i)](http://www.maine.gov/sos/cec/rules/02/031/031c755.doc) | 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 During Emergency Declared by the Governor | [24-A M.R.S.A. §4311 (2-A)](https://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4311.html) | Except as provided in this subsection, a carrier shall provide coverage for the furnishing or dispensing of a prescription drug in accordance with a valid prescription issued by a provider in a quantity sufficient for an extended period of time, not to exceed a 180-day supply, during a statewide state of emergency declared by the Governor in accordance with Title 37-B, section 742. This subsection does not apply to coverage of prescribed contraceptive supplies furnished and dispensed pursuant to section 2756, 2847-G or 4247 or coverage of opioids prescribed in accordance with limits set forth in Title 32. | | ☐ |  |
| Prescription drug formulary: Exceptions to formulary and Notice of adverse change to formulary | [24-A M.R.S. § 4311(1)](http://www.mainelegislature.org/legis/bills/bills_128th/chapters/PUBLIC429.asp) | The following requirements apply if a plan limits prescription drug coverage to drugs in a formulary:  **Exceptions:** must allow exceptions to the formulary when a nonformulary alternative is medically indicated consistent with the UR standards in §4303.  **Notice of adverse change:** must provide at least 60 days' written notice to an enrollee of an adverse change to a formulary; less than 60 days' notice is allowed when a drug is being removed from the formulary due to safety concerns   * "adverse change to a formulary" means a change that removes a drug currently prescribed for that enrollee from the formulary applicable to the enrollee's health plan **or** a change that moves the prescribed drug to a tier with a higher cost-sharing requirement if the carrier uses a formulary with tiers * Notice must use conspicuous font * Notice must inform enrollee of the change **and** advise enrollee to consult with provider about the change * If a drug is removed from a formulary, must notify an enrollee affected by the change of the ability to request an exception **and** provide a form for requesting exception   + If an enrollee has already received prior authorization for the drug, must continue to honor the authorization until it expires, as long as the enrollee continues to be covered under the same plan and the drug has not been removed due to safety concerns   If a drug has been removed from a formulary (except if removed due to safety concerns), and an exception request is received prior to the effective date of the change, must continue to cover the drug until a decision is reached on the exception request. | |  |  |
| Prescription synchronization | [24-A M.R.S.A. §2769](http://www.mainelegislature.org/legis/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 | [24-A M.R.S. §4304(2-A)](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4304.html) | 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. | [24-A M.R.S.A. §4315](http://legislature.maine.gov/statutes/24-A/title24-Asec4315.html)  42 USC 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—  (i) the actual charge for the item; or  (ii) 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%. | | ☐ |  |
| Specialty tiered drugs - Adjustment of out-of-pocket limits | [24-A M.R.S.A. §4317-A](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4317-A.html) | A carrier may adjust an out-of-pocket limit, as long as any limit for prescription drugs for coinsurance does not exceed $3,500, to minimize any premium increase that might otherwise result from the requirements of this section. Any adjustment made by a carrier pursuant to this subsection is considered a minor modification under section 2850-B. | | ☐ |  |
| Step therapy requirements | [24-A M.R.S. §4320-N](http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec4320-N.html) | **Clinical review criteria.** Clinical review criteria used to establish a step therapy protocol must be based on clinical practice guidelines that:  A. Recommend that the prescription drugs be taken in the specific sequence required by the step therapy protocol;  B. Are developed and endorsed by a multidisciplinary panel of experts that manages conflicts of interest among the members of the writing and review groups by:  (1) Requiring members to disclose any potential conflicts of interest with entities, including carriers and pharmaceutical manufacturers, and recuse themselves from voting if they have a conflict of interest;  (2) Using a methodologist to work with writing groups to provide objectivity in data analysis and ranking of evidence through the preparation of evidence tables and facilitating consensus; and  (3) Offering opportunities for public review and comments;  C. Are based on high-quality studies, research and medical practice;  D. Are created by an explicit and transparent process that:  (1) Minimizes biases and conflicts of interest;  (2) Explains the relationship between treatment options and outcomes;  (3) Rates the quality of the evidence supporting recommendations; and  (4) Considers relevant patient subgroups and preferences; and  E. Are continually updated through a review of new evidence, research and newly developed treatments.  In the absence of clinical practice guidelines that meet the above requirements, peer-reviewed publications may be substituted.  **Consideration of atypical populations and diagnoses.** When establishing a step therapy protocol, a utilization review organization (“URO”) shall also take into account the needs of atypical patient populations and diagnoses when establishing clinical review criteria.  **Construction.** This statute may not be construed to require carriers or the State to set up a new entity to develop clinical review criteria used for step therapy protocols.  **Exceptions process.** When coverage of a prescription drug for the treatment of any medical condition is restricted for use by a carrier or URO through the use of a step therapy protocol, the enrollee and prescriber must have access to a clear, readily accessible and convenient process to request a step therapy override exception determination from that carrier or utilization review organization.  A. A carrier or URO may use its existing medical exceptions process to provide step therapy override exception determinations, and the process established must be easily accessible on the carrier's or utilization review organization's website.  B. A carrier or URO shall expeditiously grant a step therapy override exception determination if:  (1) The required prescription drug is contraindicated or will likely cause an adverse reaction in or physical or mental harm to the enrollee;  (2) The required prescription drug is expected to be ineffective based on the known clinical characteristics of the enrollee and the known characteristics of the prescription drug regimen;  (3) The enrollee has tried the required prescription drug while under the enrollee's current or previous health insurance or health plan, or another prescription drug in the same pharmacologic class or with the same mechanism of action, and the prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse reaction;  (4) The required prescription drug is not in the best interest of the enrollee, based on medical necessity; or  (5) The enrollee is stable on a prescription drug selected by the enrollee's health care provider for the medical condition under consideration while on a current or previous health insurance or health plan.  Nothing in paragraph B may be construed to encourage the use of a pharmaceutical sample for the sole purpose of meeting the requirements for the granting of a step therapy override exception determination.  C. Upon the granting of a step therapy override exception determination, the carrier or URO shall authorize coverage for the prescription drug prescribed by the prescriber.  D. **Unless exigent circumstances exist**, a carrier or URO shall grant or deny a request for a step therapy override exception determination or an appeal of a determination within **72 hours, or 2 business days, whichever is less,** after receipt of the request.  **If exigent circumstances exist,** a carrier or URO shall grant or deny the request within **24 hours** after receipt of the request. The carrier shall provide coverage for the prescription drug prescribed by the prescriber during the pendency of the request for a step therapy override exception determination or an appeal of a determination. If a carrier or URO does not grant or deny the request within the time required under this paragraph, the exception or appeal is granted.  Exigent circumstances exist when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee's life, health or ability to regain maximum function or when an enrollee is undergoing a current course of treatment using a nonformulary drug. 24-A M.R.S. § 4311(1-A)(B) (enacted by [P.L. 2019, ch.5](http://www.mainelegislature.org/legis/bills/bills_129th/chapters/PUBLIC5.asp)).  E. An enrollee may appeal a step therapy override exception determination.  F. This section does not prevent:  (1) A carrier or URO from requiring an enrollee to try a generic drug, as defined in 32 M.R.S. § 13702-A(14), or an interchangeable biological product, as defined in 32 M.R.S. § 13702-A(14-A), prior to providing coverage for the equivalent brand-name prescription drug; or  (2) A health care provider from prescribing a prescription drug that is determined to be medically necessary.  **See statute for definitions of terms.** | | ☐ |  |
| Third Party Prescription Act (Any Willing Pharmacy) | [32 M.R.S.A. §13771](http://www.mainelegislature.org/legis/statutes/32/title32sec13771.html)  [24-A M.R.S.A. §4317](http://www.mainelegislature.org/legis/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. | | ☐ |  |