

Janet T. Mills  
Governor

Jeanne M. Lambrew, Ph.D.  
Commissioner



Maine Department of Health and Human Services  
Commissioner's Office  
11 State House Station  
109 Capitol Street  
Augusta, Maine 04333-0011  
Tel: (207) 287-3707; Fax: (207) 287-3005  
TTY: Dial 711 (Maine Relay)

September 4, 2020

Chairs Sen. Cathy Breen and Rep. Drew Gattine  
Joint Standing Committee on Appropriations and Financial Affairs  
Chairs Sen. Geoff Gratwick and Rep. Patty Hymanson  
Joint Standing Committee on Health and Human Services  
#100 State House Station  
Augusta, Maine 04333-0100

Dear Senator Breen, Representative Gattine, Senator Gratwick, Representative Hymanson, and Members of the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services:

Please find attached a summary of the work from the working group established by Public Law 2019, Ch. 485 (LD 1774), *An Act to Reduce Child Poverty by Leveraging Investments so Families Can Thrive*. The law tasked the Commissioner of Health and Human Services or the Commissioner's designee to convene a working group to review and make recommendations to improve the operations of systems and programs administered by the Department of Health and Human Services providing services to persons in need. As the report states, the Department has not taken any position on the recommendations made by the working group.

This report was prepared in February 2020. Due to the attention directed toward COVID-19 response, its finalization and transmission to the Legislature was delayed. The recommendations of the working group reflect work that happened before COVID-19.

It should be noted that the Legislature did not provide any resources to the Department for the convening, research, and writing of this report.

Sincerely,

A handwritten signature in blue ink that reads "jeanne m. lambrew".

Jeanne M. Lambrew, Ph.D.  
Commissioner

JML/klv

Attachment

## Report to the Legislature pursuant to Public Law 2019, Ch. 485 February 2020

### Introduction and Background

The 129<sup>th</sup> Maine State Legislature passed PL 2019, Ch. 485 (LD 1774) *An Act to Reduce Child Poverty by Leveraging Investments so Families Can Thrive*. Section 7 directed, “*the Commissioner of Health and Human services or the commissioner’s designee to convene a working group to review and make recommendations to improve the operations of systems and programs administered by the Department of Health and Human Services providing services to persons in need.*” (See Appendix A).

This report summarizes and includes; the activities of the working group, the recommendations provided, and draft legislation needed to implement certain policy recommendations.

The Administration supports participation in task forces and commissions and, when possible, offers information and technical assistance. For recommendations from task forces and commissions, agencies follow a formal administrative process to evaluate proposals, provide views on legislation, and engage on policies with budget implications. As a result, the Department of Health and Human Services does not take a position on the recommendations of the working group.

Membership of the working group consisted of “*at least 12 members, in addition to department staff as the commissioner determines appropriate, including persons that now receive or previously received assistance from department core safety net programs; members of advocacy organizations with expertise in policy or legal matters related to programs administered by the department; providers of health care or social services serving persons receiving assistance from the department; and persons with technological expertise who could assist with recommendations related to creating efficiencies in program enrollment, recertification and improved program integration. The working group may create subgroups to work on specific issues or initiatives and may include persons who are not working group members.*” There were 27 members of the working group covering all the required make up including immigrant representation. (See Appendix B).

Department of Health and Human Services (DHHS) staff assigned to support and convene the working group:

1. Bethany Hamm, Deputy Commissioner
2. Molly Bogart, Director of Government and Legislative Affairs, Commissioner’s Office
3. Anthony Pelotte, Director, Office for Family Independence
4. Ian Miller, Senior Food Supplement Program Manager, Office for Family Independence
5. David Simsarian, Director of Business Technology, Commissioner’s Office
6. Leana Amaez, Manager of Diversity, Equity, and Inclusion
7. Kelly Roman, Assistant to the Deputy Commissioner



The working group met 3 times in Augusta between November 21, 2019 and January 21, 2020 to carry out the statutory requirements. Working group subgroups were also established as discussed further below and met numerous times throughout this period.

### **Working Group Activities**

The working group was provided the statutory language and the goals required by law. The group was charged with specific duties that included the following:

- a) *Review opportunities to simplify operations and improve business processes that facilitate cross-enrollment and linkages connecting eligible persons enrolled in one program to other core services available to them related to health care, nutrition and help meeting basic needs;*
- b) *Examine the potential for improved electronic data sharing between department programs to streamline and promote efficiencies in verification processes required for eligibility and recertification determinations;*
- c) *Review state policy and procedural options available under federal law to improve or increase access to services to reduce food insecurity and improve the health and well-being of persons in the State living in poverty;*
- d) *Investigate ways to transform the department into a more holistic and person-centered and better coordinated human services system with an approach that puts the varying needs of persons and families first and ensures more efficient access, clarity of information and respectful interactions;*
- e) *Determine the extent to which the department could facilitate enrollment for families and persons receiving its services in programs administered by other agencies of State Government, including low-income home energy assistance benefits and the property tax fairness credit under the Maine Revised Statutes, Title 36, section 5219-KK; and*
- f) *Make recommendations related to improvement targets for reduced levels of poverty and food insecurity and improved health outcomes to be considered by the department as it establishes improvement targets pursuant to the Maine Revised Statutes, Title 22, section 3109, subsection 3.*
- g) *Lastly, “No later than February 15, 2020, submit a report including the recommendations developed pursuant to this section, including any suggested legislation, to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human.”* The proposed legislation prepared by Maine Equal Justice to implement certain working group recommendations that require legislative changes is attached as Appendix C.

As part of the first working group session, there was consensus to form 3 subgroups to accomplish the objectives. The group decided the 3 subgroups would focus on; People and Process, Technology, and Policy.

- People and Process – Focused on the charges of D and E above.
- Technology – Focused its work on A, B and E above.
- Policy – Focused on C and F above.

All 3 subgroups, each of which included at least one Department staff member, met between 3-4 times in order to develop recommendations for the larger working group.

**People and Process Recommendations** – The subgroup came together to explore the strengths and challenges of professional preparation for Department Staff, assess the compassionate and culturally considerate treatment of clients, and examine the ways in which interdepartmental processes of communication and service can be improved.

**The working group recommended the Department build into its strategic plan for advancing diversity, equity and inclusion, a structure that provides for meaningful and regular engagement with communities of color, immigrant communities and other underserved groups.** This forum should include impacted individuals, organizations advocating with and on behalf of low-income people, leadership at DHHS across programs, and front-line DHHS workers. The working group appreciates the opportunity that the hiring of a Manager of Diversity, Equity & Inclusion provides to engage in meaningful work to advance solutions that promote equal opportunity for all across Department programs and initiatives.

The working group encourages the Department, in partnership with community members, to survey and solicit regular and consistent feedback from a diverse pool of people being served by DHHS. This could include conducting unbiased surveys about people's experiences with DHHS that are well-representative of diverse communities receiving services. The Department should also make it a regular practice to consult with impacted individuals, and work collaboratively with them to test new systems, trainings and programs. Such engagement will make the work of the Department stronger and more responsive to the needs of the people it serves. As part of the Department's continued engagement with impacted individuals, the working group encourages the Department to:

- a) **Collect and analyze data related to poverty, hunger, homelessness including the extent to which these conditions exist for Black/African American persons; American Indians; Hispanic/Latino; non-Hispanic White individuals, persons with limited literacy or English language proficiency, persons with disabilities, LGBTQ+ individuals and those who have experienced trauma.** The working group also recommends reviewing data related to employment of recipients of Department programs, including wage levels, sustainability of employment, educational attainment, and the extent to which education and training opportunities are available by race and gender. The working group urges the Department to look particularly at employment achieved as a result of participation in Department programs such as ASPIRE. The working group encourages the Department to establish a dashboard to bring visibility to these issues within the State. This work would complement the responsibilities already required by 22 MRSA §3109 which instructs the Department to identify measures of child and family economic security and measure the impact of Department policy on those measures.
- b) **Increase the number of people it serves in underserved, disproportionately impacted, and new communities, including establishing more equitable policies**



**relating to TANF, Food Supplement, Child Care, MaineCare and other benefits for persons who would be eligible but for the immigrant provisions of the Personal Responsibility and Work Opportunity Act of 1996.** The working group believes that the Department's efforts to change its own culture to be more welcoming and equitable would be more effective if its own policies reflect those values.

- c) **Ensure that DHHS workers visit hard to reach communities by going in person once a month, especially rural communities with lack of public transportation and no DHHS office.**
- d) **Partner with community-led organizations, especially with a broad group of immigrant-led organizations, and with immigrant service providers to educate communities about opportunities to access culturally competent support for these communities.**
- e) **Improve language access, translation of resources and quality of interpretation in appropriate dialects.** The working group encourages the Department to adopt language access standards that ensure quality and community centered interpretation in appropriate dialects. These standards should be implemented consistently across every DHHS office and resource access point. All front-line staff should be required to complete language access training to ensure language competencies and tools necessary for staff to meet language barrier needs. Staff should be trained to follow trauma-informed protocols in language access and translation services when serving victims of crime and/or violence, including (but not limited to) human trafficking, domestic violence, and sexual assault. In addition, the Department should make sure the most frequently used documents on DHHS' website are translated appropriately (using private translation services), as well as include informational videos in major languages spoken in Maine on the DHHS website.
- f) **Implement ongoing training for staff to promote cultural understanding and competency, including issues of implicit bias, to build a climate of equity and inclusion.** The working group appreciates the Department's commitment in this area, as evidenced through the recently developed Culture of Respect and Empathy (CORE) training. The working group encourages the Department to improve and expand upon the CORE training, working towards adopting key cultural competency practices across the agency that:
  - Are person-centered and oriented to the unique needs of diverse populations;
  - Impart critical-awareness and knowledge;
  - Promote effective communication across language barriers;
  - Promote safety and respect the privacy and confidentiality of vulnerable populations;
  - Ensure accountability when systems harm community members;
  - Are trauma-informed;
  - Involve active-listening.

Based on the Office for Family Independence (OFI) work creating and implementing the CORE trainings, an important first step in improving DHHS services, the working group recommends the following trainings be provided on an ongoing basis throughout the year as a continuing curriculum. It is recommended that the following trainings be created and facilitated by external experts. The working group also recommended that DHHS work

with community partners to identify trainers and training organizations who are aligned with the values set out in these recommendations, namely excellent customer service, cultural competency and equity, accountability and trauma-informed practice. Ultimately, one of the most important indicators as to whether staff are fulfilling their role throughout DHHS is how they treat people seeking services.

Staff development curriculum should include the following:

- Trauma-informed care and service delivery training for every staff person at DHHS. Specifically, the working group encourages the Department to:
    - Ensure domestic violence and sexual assault training is provided to staff within OFI in collaboration with the Maine Coalition to End Domestic Violence (MCEDV) and the Maine Coalition Against Sexual Assault (MECASA). This should include training OFI staff on the existence of the co-located/embedded CPS DV Liaisons around the State and encouraging consultation.
    - Mandate annual training for OFI staff on Maine's adoption and implementation of the Family Violence Option as it relates to waiver of TANF time limits/ASPIRE participation and child support enforcement as well as the existence of and DHHS's responsibilities to survivors in the Address Confidentiality Program and those who have selected the Family Violence Indicator. Currently, in accessing benefits/waivers specific to victims of domestic and sexual violence, survivors experience a high degree of inconsistency from local office to local office with regards to the application of DHHS's stated policies and/or relevant statutes.
    - Ensure cultural considerations trainings are provided for OCFS & OFI staff to increase the level of understanding and needs of domestic and sexual violence in New Mainer communities.
  - Bringing racial equity training to DHHS managers through Race Forward trainings: <https://www.raceforward.org/trainings>
  - Implicit Bias training with Mindbridge: <https://mindbridgecenter.org/programs/>
  - ACES and resilience training: <https://maineresilience.org/>
  - Self-awareness: What About You? A Workbook for Those Who Work with Others (by the National Center on Family Homelessness);
  - Staff Statistic survey to review what the staff need to assist in daily work. Staff feedback is critical during a time of institutional culture change;
  - Agency by agency year-round consistency on training and communication.
  - With regard to these trainings, the working group encourages the Department to first test them with impacted individuals; permit impacted individuals and other community members to sit in on staff training; and collect staff data to improve workforce tenure and stability.
- g) **Improve inter- and intra-departmental communications to make Department processes more efficient and reduce the potential for clients' emotional burden and trauma.** Clients are often tasked with giving data they have already provided to other offices within the Department or to external agencies. This creates an extra time burden



for clients, and raises the possibility of client harm or re-traumatization when painful information must be continually repeated. While the working group has addressed this issue in a separate memo to the technology subgroup, it reiterates here the need for complete data records that are updated and shared between offices and agencies, as it relates to these sensitive issues. The working group understands that confidentiality issues are raised by this recommendation but believe that concern (which it shares) can be addressed by giving the client the opportunity to give affirmative consent to share this information if they so choose.

Specifically, when it comes to survivors of domestic violence and sexual assault, the working group encourages the Department to examine ways in which OCFS caseworkers can help survivors better address the financial realities often associated with separating/have separated from their abusers in collaboration with OFI, including providing training around the various OFI programs, eligibility requirements and processes. It also encourages the Department to create mechanisms for OCFS to facilitate connecting and navigating survivors to OFI, with careful attention paid to needs around safety and confidentiality of a survivor's personal information.

If a client informs one agency about a protection from abuse order and provides relevant paperwork, that information should be updated across agencies with the client's permission, as a client could be a survivor of sexual violence or domestic abuse. It's important both that staff is trained in trauma-informed practice, but also that data is shared to prevent the client from needing to re-disclose about traumatic events. The effect of accidental re-traumatization of clients is not just a data problem; caseworker files and public facing systems need to be designed properly to mitigate for human error. The more complex a system, the more important it is to be designed in a way that is easy to understand and access.

If a caseworker is dealing with a client file, it's important that the file itself is designed properly. Information like the status of a client with regards to trauma or a history of violence or abuse could be missed by a caseworker if it is not designed to stand out from the rest of the case file. The data could be made available to all case files, but the client still has the impact of getting re-traumatized, because the system wasn't designed in a user-centered way and important information was not designed to stand out. When designing, the Department must take into account that there are multiple users: clients and caseworkers.

**Technology Recommendations** - Recommendations to improve business processes, data sharing, and cross-enrollment for families and persons receiving services from the department, in order to alleviate poverty, food insecurity, and hardship (See Appendix D).

**Improved technology to make services easier to access.** The working group understands that the Department is in the process of designing and issuing a Request for Proposal (RFP) for work to drastically improve the online benefits application system (currently My Maine Connection). The working group urges the Department to use this as an opportunity to engage with impacted

individuals, advocates and front-line staff to create an online system that is truly more human-centered.

Code for America's 2019 [report](#), *Bringing Social Safety Net Benefits Online: Examining online platforms for all 50 States*, outlines a number of recommendations to improve user experience and access. In part, the working group relies on the evidence-based findings in this report in making our recommendations.

**Online application and features.** The working group appreciates the Department's commitment to keeping benefit applications integrated and online. It believes the online system could be further improved by adopting the following recommendations:

1. **Ability to upload and scan supporting documents in real time, including via mobile phone or tablet.** Currently, people are required to email, fax, or mail their documents to the Department to substantiate their applications. Lost documents and lengthy back and forth communications between Department staff and clients cause significant delays in the processing of benefits. Long wait times between initial application and approval could be significantly reduced if people could scan and upload supporting documents providing them in real time along with their application. In addition, once this function is established, there needs to be clear linkages established to deliver these documents to the correct location, and proof of receipt provided to the submitter.
2. **Tracking case status and progress.** After submitting their application, clients often have no easy way of determining their application status. The ability to monitor where an application is as it moves through the approval process would improve transparency and user experience. It would also save clients and DHHS staff the time, as clients would not have to call or visit a DHHS office to inquire about an application's status. This would also provide a way for DHHS to request additional information if the status of the application is "incomplete;" DHHS could provide a list of the information the client needs to provide with examples of what constitutes "proof."
3. **Reducing the number of fields required to complete an application.** An important measure of user experience is the number of fields that need to be entered for clients to complete to submit their application. The working group urges the department to make online benefit applications as simple and clear as possible by eliminating unnecessary fields and auto-populating fields that have been entered by the user in previous forms or from other trusted sources. Online applications should also be designed in a way that encourages users to complete the application. While the number of fields and pages required to complete an application will differ based on a client's circumstances, the working group urge the Department to try to reduce the number of pages and fields a typical client has to navigate to fill out an application. My Maine Connection had 60 screens at the time Code for America's report was written, while Michigan, for example, has just 25 (the lowest in the country), while including more programs in its integrated system.
4. **Shortening the time it takes to complete the application.** Related to the number of fields required to complete an application is the length of time an application takes to complete. "Time to completion aggregates all of the little frictions in the user experience,



like registration challenges, page complexity, and form designs. And regardless of a state's eligibility system, it is measurable by simply shadowing real users," according to Code for America's report. Currently, Maine's application takes 45 minutes to complete, while Michigan's, for example – a state with more programs in its combined benefits application than Maine has in its application – now takes 20 minutes to complete. While Michigan's is currently the application that takes the least amount of time to complete, people working closely on these issues believe there is no reason a well-designed integrated application should take any longer than 15 minutes to complete.

5. **Adding an online chat feature.** Clients often express frustration at their inability to speak to a live person when needed and long telephone wait times to obtain or report information necessary to complete applications or recertifications. Adding a chat feature to the online system would enable people to chat electronically with DHHS workers in real time, improving user experience and making communications more efficient and less time consuming. This type of improved communication feedback loop could also be achieved by allowing for communication via text message between DHHS workers and clients (which was piloted in Michigan). These online chat and text options could complement any automated off-hours phone solution currently being contemplated.
6. **Clearer and less restrictive data input fields on applications.** On Maine's current online benefits application, the input fields for data such as income and household size are hard for many users to navigate. If people are unsure of the answer to a specific question, there is no option to skip that field or write an explanatory note, as one could do on a paper application. This creates a barrier for people who are reluctant to electronically sign and certify the accuracy of their entire application when they are unsure if they've answered all of the questions correctly. Additionally, any new system should auto-populate anything that has already been entered in previous forms.
7. **Easier online recertification process.** We encourage the Department to continue taking steps to reduce the barriers people face recertifying their eligibility, including using trusted third-party information available to the Department to pre-populate the data needed for recertification. This would help ensure that people don't go without gaps in their coverage and also eases the Department's administrative burden.
8. **Remove registration as a requirement for submitting an online application/make resetting accounts easier.** Requiring registration can be an additional barrier to uptake and is not necessary for processing applications. Code for America's report estimates that about 25% of state benefit applications *do not* require registration (and instead, likely rely on some sort of identifier like social security number). Relatedly, clients have reported issues occurring when they do not remember their login information, become locked out of their account, and are unable to reset their password online. Any new online application system should have an easy and user-friendly process for resetting account passwords.
9. **Creating "device agnostic" applications that function equally well across devices, particularly mobile phones.** Another critical feature of a human-centered benefits design is whether the website functions well on a mobile device. According to Code for America's report, "smartphone-dependent" households are on the rise (1 in 5 in 2018)

across demographics and income levels. Many low-income households do not have a computer, do not have access to a printer, or have unreliable WIFI. While Maine's application is already mobile friendly, the working group encourage the Department to enhance mobile capacity in any new design, including considering:

10. The ability to upload photos of documents directly from one's phone;
11. Enabling text notifications;
12. Enabling DHHS workers and clients to communicate via text if the client desires this mode of communication.

### **Potential Impact of Improved Technology**

Investing in better technology improves people's access to and receipt of public benefits.

[Data](#) from Michigan, which recently worked with Code for America and other partners to improve its online benefits application system, show that these changes really work. Michigan saw the following [results](#) after making some of the technological improvements outlined above:

- 2+ million applications (40% average monthly increase)
- 20 minutes average time to apply (down from 45+ minutes)
- 2.5+ million documents submitted online (123% average monthly increase)
- 58% of traffic is mobile

The working group urges DHHS to track and leverage metrics around the current use of My Maine Connection, including barriers people are currently experiencing and the "online application funnel" (the points in the online application process where people to drop off and never complete their application). These metrics can be used as a baseline to measure the impact of any new system, as well as help inform the design of the new system. In order to achieve the type of iterative process necessary to make a truly user-centered system, DHHS should incorporate user testing and feedback in their re-design process from the beginning, and practice rapid prototyping.

### **Opportunities to streamline and consolidate applications and enrollment across anti-poverty programs, including the extent to which ACES data can be used to make it easier for people to apply for benefits:**

**Streamline application processes to promote enrollment in certain important, but underutilized DHHS public programs.** Streamlining can be used to eliminate one of more steps in an application process by allowing one program to satisfy certain eligibility requirements of another. While additional steps may be required to enroll in the other program, this approach eliminates duplication in data collection and verification processes, shortens the application process, and allows program staff to more efficiently focus on any supplemental information required to complete the application.

Creating this type of connectivity across programs would also mean that if someone updates information (address, income, etc.) for one program, that information would be



automatically updated for other programs, reducing unnecessary time spent by clients and DHHS staff doing duplicative work.

In addition, in order to help connect clients to services across agencies, the application process should describe the programs in plain language and make smart recommendations to applicants based on the entries they make. This could be done immediately for the programs on My Maine Connection. The working group recommends the following short descriptions of the programs people can currently apply or be screened for on My Maine Connection:

- TANF: Monthly cash assistance and education, training and employment services for low-income families with children.
- MaineCare: MaineCare provides free or very low-cost health insurance to Mainers who meet certain requirements. It covers doctor visits, emergencies, substance use disorder and mental health treatment, prescription drugs, and more.
- SNAP: SNAP, or the Supplemental Nutrition Assistance Program (formerly known as the food stamp program), provides food assistance to low-income Mainers.
- Child Care Subsidy Program: Helps eligible families to pay for *child care* so they can work, go to school or participate in a job training *program*.
- EITC: The earned income credit (EITC or EIC) is a refundable tax credit for lower-income workers.
- WIC: The Special Supplemental Nutrition Program for Women, Infants and Children (WIC), provides supplemental food as well as health and nutrition information and supports to low-income pregnant and post-partum women, and to infants and children up to age five.

The working group offers the following three recommendations utilizing this approach and urges the Department to consider implementing each:

- 1. Streamline the WIC eligibility determination and recertification processes using Food Supplement and/or MaineCare as a proxy for financial eligibility; Initiate the full eligibility determination through My Maine Connection.** Currently a person seeking to apply for WIC can prescreen, but not actually apply for WIC benefits, using My Maine Connection. At the conclusion of the prescreening the person is advised whether they may be eligible, and if so, given a link to the Department's WIC program website. Presumably the individual must then initiate a next step in the application process themselves, again indicating their interest in applying and along with their desire to schedule an appointment to complete the application process with a WIC agency.

This process could be simplified by allowing a person to indicate their intent to apply when they first go to My Maine Connection. If they check a box indicating that they want to apply, and a second box stating that they already

receive SNAP or MaineCare, that information could be verified establishing financial eligibility (referred to as adjunct eligibility<sup>i</sup>) by DHHS. A prepopulated application could then be sent to the health agency to initiate an appointment for the applicant and complete health related elements of the application.

This streamlined approach would take applicants to the next step in the application process automatically, without the necessity for an interim step. It can also eliminate the financial eligibility component of the application, allowing the health agency to spend more time on the nutritional assessment and other health-related elements necessary for the final eligibility determination.

2. **Streamline the Child Care Subsidy Program eligibility determination by using Food Supplement eligibility as a proxy for financial eligibility in that Program.** Similar to the recommendation made above, the working group urges the Department to deem persons receiving Food Supplement Program benefits automatically income-eligible for subsidized childcare services.

The State of North Carolina has been using this approach for several years and continues to use it today as indicated in its state plan<sup>ii</sup>. It instituted this policy after determining that a large percentage of childcare subsidy recipients also receive SNAP benefits.<sup>iii</sup> In implementing this approach North Carolina relies on broad federal authority designed to allow states to adopt policies to simplify and expedite the eligibility process:

“(h) A description and demonstration of eligibility determination and redetermination processes to promote continuity of care for children and stability for families receiving CCDF services, including...

(7) Other policies and practices such as timely eligibility determination and processing of applications;<sup>iv</sup>

Once SNAP eligibility is established for these applicants for CCDF services, North Carolina simply asks the family to review and confirm the accuracy of the relevant SNAP data for those family members who fit into the childcare household definition. This process is used at both initial application and recertification for childcare benefits. Once financial eligibility is established, the childcare agency can complete the information related to employment and childcare needed to finalize the application for the childcare subsidy.

Maine’s application process for the childcare subsidy program has recently undergone some changes that, in certain ways, makes the process for applicants more burdensome by requiring for many that redundant information be provided. The working group urges the Department to consider the approach



described herein as a method to simplify the application process by taking advantage of a determination already made by DHHS to reduce the burden of determining the financial component of the eligibility determination process as is successfully modelled by the state of North Carolina.

- 3. Improve child enrollment in Medicaid and CHIP through Express Lane Eligibly.** In 2018, Maine had one of the steepest percentage declines in child Medicaid and CHIP enrollment in the nation (-4.9%).<sup>v</sup> Moreover, according to the most recent data available, Maine also had the lowest Medicaid/CHIP participation rate in New England, and ranked lower than the national average.<sup>vi</sup> In light of these concerning data, the working group recommends that the Department take immediate action to more actively promote child enrollment in these programs.

One of the key tools that Congress created to promote efficient initial and renewed enrollment of eligible children in the CHIP and child Medicaid Programs is “express lane eligibility” (ELE). ELE permits states to rely on findings of other public agencies to determine whether a child satisfies one or more requirements for Medicaid or CHIP eligibility.<sup>vii</sup> These programs include SNAP, TANF, school lunch programs, Head Start, and WIC. This approach allows states to disregard technical differences in how these programs define the household members whose earnings are considered as well as other methodological differences in assessing whether children meet applicable requirements. The provision gives states the option to rely on an applicant’s reported income as shown by state income tax records or returns.

While Maine has an integrated eligibility system including MaineCare/CHIP; SNAP and TANF, the working group does not believe that the Department has recently explored options available to coordinate eligibility through the school lunch program or the state income tax system. While it assumes that there will be strong enrollment among WIC children, that program could be explored as well. Given Maine’s relatively low enrollment rates in these key health programs, the working group urges the Department to consider these options to boost program enrollment.

**Keep more Mainers warm with Improved access to the Low-Income Home Energy Assistance Program by integrating it into My Maine Connection.** Particularly in a cold state like Maine the Low-Income Home Energy Assistance Program (HEAP) is very important to low income households often challenged to stay warm as multiple needs compete for the limited dollars in their budget. Yet despite this outsized need, Maine is serving only a small fraction of eligible households.

In 2017 (the most recent year for which comparative state data is available) fewer than one in five *federally* income-eligible Mainers received HEAP Heating Assistance—that’s nearly 9

percentage points lower than in 2013, and the lowest percent of eligible households served in New England.<sup>viii</sup> The percent of our total *state* income-eligible population served is 23%, or less than one in four of eligible persons.<sup>ix</sup> Yet our neighbor Vermont is serving 55%, or one in every two of state income-eligible persons.<sup>x</sup>

Households with children age 5 and younger fare even worse. They represent a considerably smaller share of households receiving heating assistance than in the nation and other New England states. Households with children age 5 and younger represent only 9% of all heating assistance households served.<sup>xi</sup> The national average is 17.9%--nearly twice as high<sup>xii</sup> and similar to the percentage found in other New England states.

While HEAP is administered by MaineHousing through local community action agencies, and not DHHS, there is considerable intersection of eligible persons with DHHS-administered programs. In fact, in the majority of states HEAP is primarily administered by the state welfare agency.<sup>xiii</sup> Given Maine's poor performance in reaching eligible HEAP households, particularly those with young children, the working group urges the Department to engage with MaineHousing immediately to develop a strategy to remedy these inequities.

Given the wealth of eligibility data held by DHHS on the majority of HEAP applicants who are also frequently enrolled in the SNAP, MaineCare or TANF programs, it makes sense administratively—and for the sake of applicant accessibility—to create a stronger linkage between DHHS and MaineHousing, at least for the purpose of prepopulating LIHEAP applications with previously verified data. Approximately 90% of HEAP households also receive assistance through SNAP, MaineCare or TANF, all programs with eligibility determined through ACES.

The working group believes that the most efficient way to do this is to allow households to apply for HEAP through ACES, a system that most are already familiar with and where many applications could be partially prepopulated with previously verified data. These prepopulated applications could then be sent through MaineHousing to their contract agencies to complete the housing and fuel use elements of the application process. While work may be needed to conform data elements between the agencies, the working group notes that there is considerable flexibility in the HEAP program to adjust eligibility criterion. There is also potential for categorical eligibility using SNAP and TANF as a proxy for HEAP financial eligibility.

Data from the state of Vermont illustrates the benefit of this approach. Vermont, which is serving 55%, or one in every two of state income-eligible persons,<sup>xiv</sup> also uses a common application for SNAP, TANF, and LIHEAP.<sup>xv</sup> When an existing SNAP or TANF household subsequently applies for LIHEAP, verified data from other programs is used for the HEAP application provided it is reasonably current. A number of states coordinate HEAP applications with other programs, in fact, at Section 7.1 the HEAP State Plan form asks whether the state uses a joint application for multiple programs.



It is further important to note that there is ample evidence that this approach is not error prone. In examining such linkages in the context of its review of the need for greater fraud prevention controls, the Government Accounting Office determined that basing HEAP eligibility on these other programs was not a factor prone to excessive fraudulent activity.<sup>xvi</sup>

In recent years (2011-2015), as federal dollars for HEAP have been reduced by nearly 30%, actual enrollment in the program here in Maine has reduced more drastically—by 40%.<sup>xvii</sup> It is our understanding that there are often unspent dollars in HEAP at the end of the season. This is, at least in part, the result of inefficient administrative processes that could be significantly simplified through greater reliance on DHHS data as described above.

This issue has been discussed for nearly a decade, but has been thwarted by the incompatibility of computer systems at MaineHousing and DHHS. Now that MaineHousing has done a technology upgrade data sharing should be more feasible between these two agencies and the working group urges discussions to begin between these two agencies immediately toward this end. Moreover, MaineHousing has recently expressed interest in meeting with DHHS and advocates to further explore this idea.

**Improve Access to state tax credits through My Maine Connection.** A working group was established in the first session of the 129<sup>th</sup> Legislature to improve access to various state tax credits including the sales tax fairness credit, the property tax fairness credit, the child care tax credit, the state earned income tax credit and the adult dependent care credit.<sup>xviii</sup> This working group was charged, in part, to:

“D. Determine methods to facilitate claims for cost-of-living tax credits, including any consolidated payments recommended by the working group, for persons applying for assistance from the Maine Department of Health and Human Services through its automated client eligibility system;”<sup>xix</sup>

Moreover, when the Property Tax Fairness Credit was enacted in 2013, that law mandated that,<sup>xx</sup> “The Department of Health and Human Services shall add the property tax fairness credit established in the Maine Revised Statutes, Title 36, section 5219-II to the automated client eligibility system application processes to identify renters, persons with disabilities, low-income seniors and others who may be eligible for the credit but do not file an income tax return. The department shall develop a process to assist persons who are eligible for the credit with completing the necessary income tax forms to apply for the credit.”

This statutory requirement has never been implemented, yet many DHHS clients would greatly benefit from this assistance.

The urgency for such action is underscored by findings that these credits are significantly underutilized, particularly by those who may have very low incomes, including renters and non-income tax filers. According to data received in late October from Maine Revenue Services:

- For renters in 2015, the ratio of PTFC claims to the estimated total eligible filers is about 42%; including non-filers drops this ratio to 28%.
- For homeowners in 2015, the ratio of PTFC claims to the estimated total eligible filers is about 66%; including non-filers drops this ratio to 46.4%.

The great majority of persons served by DHHS are eligible for one or most of these credits. Thus, DHHS has both access to these populations, and verified data that may be useful in facilitating enrollment for these individuals in state tax credit programs.

DHHS could facilitate application for these credits through My Maine Connection, enabling people to access the programs through a system they are already using and familiar with. As with HEAP, described above, DHHS could take the application, pre-populate it with verified eligibility data, and then forward it to Revenue Services to collect any additional information needed and distribute the benefit. Alternatively, DHHS could determine people's intent and interest in applying for the PTFC, and send relevant information over to MRS, which would then follow up with people to acquire and verify additional needed information.

The working group urges DHHS to take immediate action to work with Maine Revenue Services to coordinate application for these credits in a way that meaningfully increases access to these important benefits for those it serves, such as those options outlined above.

**Increase access to MaineCare and CHIP, including the new Expansion Group, through use of state income tax filing to streamline enrollment.** The working group appreciates efforts that DHHS is making to expeditiously enroll persons eligible under the new expansion category. While approximately 61% of the enrollment target has been reached in the first year of enrollment, nearly 28,000 potentially eligible persons are yet to be enrolled. As noted above, Maine's child Medicaid and CHIP enrollment is also lower than desirable.

The states of Virginia and New Mexico are both exploring using their state income tax systems to increase enrollment in Medicaid and CHIP. In a nutshell, under these initiatives, income tax filers would be asked to identify whether their household includes a member who is uninsured and, if so, whether they would like to permit data on their income tax return to be shared with the Medicaid agency to assess eligibility for Medicaid. Individuals would also be asked that, if the Medicaid agency has sufficient information between its own data and that provided by the Department of Taxation to determine eligibility, the individual would want to be automatically enrolled in Medicaid.

The working group understand that this approach would require a much more detailed analysis, but since both DHHS and Maine Revenue Services are currently in the process of upgrading their technology systems, it wants to raise this issue now so that it can be considered as these



system upgrades begin. Members of the group will speak shortly to persons working on these issues in both states and will provide additional information as it becomes available to us.

The working group asks the Department to examine the feasibility of achieving the recommendations in this section on streamlining and consolidating applications and enrollment across anti-poverty programs from a technology *and* business process standpoint. The working group ask that the Department look at the recommendations to ensure nothing is missing from their IT development plans that would preclude the Department from adopting any of these recommendations. Of the recommendations made in this section, the working group asks that the Department prioritize LIHEAP and tax credit integration, if necessary.

For additional information on opportunities under federal law to streamline the application and enrollment process by relying on eligibility determinations made by other programs, please see Center on Budget and Policy Priorities 2017 [report](#): *Opportunities to Streamline Enrollment Across Public Benefit Platforms*.

The working group appreciates the Department's offer to facilitate ongoing engagement between members of this subcommittee and DHHS staff on technology issues related to programs administered by OFI and other programs that would benefit clients receiving assistance from OFI through continued monthly technology meetings.

After the working group concluded, members discovered a report that Code for America produced for DHHS on Maine's integrated benefit portal. Members of the working group hope to review this with Department staff at the first monthly technology meeting, and expect it may lead to additional recommendations, including recommendations around piloting, prototyping, and user testing.

<sup>i</sup> 42 USC §1786; 7 CFR 246.7

<sup>ii</sup> [https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/2/2019-2021\\_Child\\_Care\\_and\\_Development\\_Fund\\_Plan\\_Approved.pdf?ver=2019-02-04-090519-383](https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/2/2019-2021_Child_Care_and_Development_Fund_Plan_Approved.pdf?ver=2019-02-04-090519-383)

<sup>iii</sup> [https://www.urban.org/research/publication/confronting-child-care-eligibility-maze/view/full\\_report](https://www.urban.org/research/publication/confronting-child-care-eligibility-maze/view/full_report)

<sup>iv</sup> 7 CFR §246.7(h)(7); <https://www.law.cornell.edu/cfr/text/45/98.16>

<sup>v</sup> "Medicaid and CHIP Enrollment Decline Suggests the Child Uninsured Rate May Rise Again"; Brooks, Tricia; Parks, Edwin; Roygardner, Lauren. Georgetown University Health Policy Institute. May 2019. <https://ccf.georgetown.edu/wp-content/uploads/2019/06/Enrollment-Decline.pdf>

<sup>vi</sup> Medicaid/CHIP child participation rates; Kaiser State Health Facts. <https://www.kff.org/medicaid/state-indicator/medicaidchip-child-participation-rates/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

<sup>vii</sup> 42 USC §1396a(e)(13)(F)

<sup>viii</sup> [https://liheappm.acf.hhs.gov/data\\_warehouse/index.php?report=adHocQueries&years=2013|2014|2015|2016|2017|&grantees=20|22|7|30|40|46&reportId=26](https://liheappm.acf.hhs.gov/data_warehouse/index.php?report=adHocQueries&years=2013|2014|2015|2016|2017|&grantees=20|22|7|30|40|46&reportId=26)

<sup>ix</sup> [https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2017/FY2017\\_ME\\_grantee\\_prof\\_final.pdf](https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2017/FY2017_ME_grantee_prof_final.pdf)

<sup>x</sup> [https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2017/FY2017\\_VT\\_grantee\\_prof\\_final.pdf](https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2017/FY2017_VT_grantee_prof_final.pdf)

<sup>xi</sup> [https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2017/FY2017\\_ME\\_grantee\\_prof\\_final.pdf](https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2017/FY2017_ME_grantee_prof_final.pdf)

<sup>xii</sup> [https://liheappm.acf.hhs.gov/data\\_warehouse/index.php?report=adHocQueries&years=2017%7C&grantees=AG&reportId=13](https://liheappm.acf.hhs.gov/data_warehouse/index.php?report=adHocQueries&years=2017%7C&grantees=AG&reportId=13)

<sup>xiii</sup> <https://liheapch.acf.hhs.gov/adminintro.htm>

<sup>xiv</sup> [https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2017/FY2017\\_VT\\_grantee\\_prof\\_final.pdf](https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2017/FY2017_VT_grantee_prof_final.pdf)

<sup>xv</sup> <https://dcf.vermont.gov/mybenefits/apply>

**Policy Recommendations:** State policy and procedural options available under federal law to improve or increase access to services to reduce food insecurity and improve the health and well-being of persons in the State living in poverty.

### **Recommended Policy Changes for the Food Supplement Program (SNAP)**

**Background:** Maine has the highest rate of food insecurity in New England and the 12<sup>th</sup> highest in the nation. Nationally, Maine also has the 7<sup>th</sup> highest rate of very low food security—that’s real hunger.<sup>xx</sup> Families with children, older Mainers, people with disabilities, and low-wage workers are all impacted by this crisis.

The working group recommends implementing the following policy options to address this crisis:

1. **Repeal child support-related disqualifications.** In 2017 Maine DHHS adopted a rule denying SNAP benefits to non-custodial parents who fail to make child support payments when due or are in arrears of a court order. Maine and Mississippi are the only states in the nation the impose this harsh penalty.<sup>xx</sup>

The reason that so few states adopt this federal option is because it is expensive and is shown to be unlikely to meaningfully boost child-support collections. Seven states that previously adopted this penalty have rescinded it when it failed to be cost-effective. Moreover, non-custodial parents often live in new families with children who would be negatively impacted by what is effectively a loss of food assistance for the entire household. Finally, the working group understands that although this policy was finally promulgated into rule it has never been implemented yet it remains as part of the Food Supplement rules today. For these reasons, and to ensure that state rules are consistent with practice, the working group urgently recommends repeal of this rule.

2. **Repeal “comparable disqualifications.”** Comparable disqualifications deny SNAP benefits to any household member that has been sanctioned in another public “means-tested” program, like TANF. Again, Maine is one of a small minority of states (13) that apply this disqualification.<sup>xx</sup> This rule imposes a “double” penalty on families compounding the difficulties of living in poverty. The working group urges the Department to join the large majority of states that reject this harmful and excessive state option.
3. **Prevent disqualification of chronically homeless individuals otherwise subject to the 3-month limit, by determining them as “unfit for employment” pursuant to federal**



**guidance.** States are required to carefully screen for exemptions from the 3-month limit on SNAP eligibility for persons between the ages of 18 and 49. USDA/FNS guidance notes that “federal law and regulations exempts certain individuals from the time limit...including those who may be unable to work due to physical or mental challenges” and requires states to assess “an individual’s fitness for work methodically and comprehensively.”<sup>xx</sup> This guidance goes on to suggest that “a chronically homeless individual who is living on the street may be considered unfit for employment as determined by the State,” indicating that federal rules at 7 CFR 273.24(c)(ii) allows states this flexibility to prevent placing unnecessary burden on individuals who are clearly unfit for employment.”<sup>xx</sup>

The working group urges the Department to immediately adopt a rule to exempt persons who are homeless from the 3-month time limit. The working group also urges the Department to consider whether this standard could also apply to persons experiencing domestic violence or those attempting recovery from a substance use disorder.

- 4. Implement SNAP “12% Exemptions”.** Recognizing that a 3-month limit on SNAP could create significant hardship in certain circumstances, Congress has allowed states the flexibility to establish their own exemption criteria for 12% of SNAP cases subject to the time limit. Maine does not take advantage of this option and currently has approximately 40,740 available exemptions, accruing approximately 12,000 additional exemptions annually.<sup>xx</sup> Again, Maine is in the minority of states that do not use this federal option to relieve food insecurity.<sup>xx</sup>

For example, these exemptions could be used for people who are homeless but not covered by the “unfit for employment” exemption above, or for a 3-month period following homelessness to assist with re-establishing housing stability; victims of domestic violence, those without access to reliable transportation; or those who temporarily fall out of treatment for ongoing drug or alcohol addiction.

The working group recommends that the Department work with this subcommittee and anti-hunger advocates to design and promptly implement the best use of these accumulated and ongoing exemptions to ensure greater food security for Maine people.

- 5. Increase Access to SNAP for needy students.** The SNAP student rules are complicated, preventing many students from accessing needed food assistance, even as it is now widely recognized that hunger is a growing problem on college campuses. While there is a general prohibition preventing many students from receiving SNAP, states have the flexibility to exempt many others including those who are enrolled in programs to increase employability. This includes any “program for low-income households that is operated by a State or local government where one or more of the components of such program is at least equivalent to an acceptable SNAP employment and training program component as specified in § 273.7(e)(1).”<sup>xx</sup> The individual does not need to be enrolled in a SNAP E&T program, per se, but simply be enrolled in a program meeting those

standards. These standards are where the requirement that the program must improve employability come from.

This exemption applies to students assigned or placed in an institution of higher education through or in compliance with the requirements of certain programs, including those operated by a state or local government for the purpose of increasing employability. It also includes those who self-initiate or volunteer for enrollment in such programs.<sup>xx</sup> The working group recommends that the Department work with this subcommittee and anti-hunger advocates to design and promptly implement rules that will most effectively increase access to needed food assistance for students enrolled at an institution of higher education in a program that will increase their employability in accordance with federal law.

6. **Eliminate the SNAP asset test for all Mainers.** While the working group is grateful that DHHS has recently eliminated the asset test for certain households, including persons 60 years of age and older and those with disability, the SNAP asset policy remains more restrictive than it was previous to actions of the last Administration. While most people with limited incomes otherwise eligibility for SNAP have very few assets, what they do have is essential to their economic security. Asset tests are also among the most error prone elements in determining eligibility and result in high error rates in states that consider them. The working group urges the Department to eliminate the asset test for everyone, regardless of age or disability status or the presence of a child in the household.
7. **Repeal the language at 22 MRSA subchapter § 1,** requiring the commissioner to place a photo of a recipient for public benefits on the recipient's electronic benefits transfer card if agreed to in writing by the recipient (see Appendix C).

### **Recommended Policy Changes for the Temporary Assistance for Needy Families Program (TANF)**

**Background.** TANF provides cash assistance to help families with children living in poverty meet their most basic needs. The program also provides employment and training opportunities for parents.

Maine's TANF caseload has dropped from 14,046 (November 2010) to 3,722 families (November 2019).<sup>xx</sup> More than 18,000 poor children have lost assistance during this period mainly as a result of inflexible time limits and harsh sanction policies. Today only 19% of children living in poverty receive TANF assistance, the lowest reciprocity ratio in New England.<sup>xx</sup>

To improve the effectiveness of the TANF Program in helping poor families with children meet their basic needs and access economic opportunity and a path out of poverty the working group makes the following recommendations:

1. **Eliminate full family sanctions in TANF.** Full family sanctions are a punitive policy that harm children and families by completely eliminating their assistance, leaving them



without income to pay their rent or purchase everyday necessities. National research has shown that this policy disproportionately harms persons with disabilities including mental health problems and does little to increase work. The working group urges the repeal of Maine's law that disqualifies children from needed assistance as a result of their parent's sanction. (See Appendix C).

2. **Working families.** Currently families only qualify for this extension if they are working at least 35 hours a week at the time of TANF termination and continue to be eligible for TANF. The working group urges the Department to remove the express 35-hour per week requirement replace it with a standard tied to the TANF work hours requirements (E.g. 20 or 30 hours depending on age of child and family composition), along with consideration of good cause for those who cannot meet those standards. The working group makes this request for three reasons:

- a. **Minimum wage increases.** As the minimum wage increases fewer people remain eligible for TANF when working 35 hours per week (after exhaustion of the enhanced disregards). For example, a family of 3 eligible working 35 hours at minimum wage will no longer be eligible for TANF. This provision should be updated to better reflect current wage levels and the cost of living.
- b. **The need to accommodate persons with disabilities.** A person's physical or mental health limitations may prevent them from working 35 hours per week, yet there is no opportunity to accommodate that limitation under the current rule as is required by the Americans with Disabilities Act. This results in an unfair, and discriminatory impact on those unable to meet this requirement.
- c. **Changes in the workforce.** Changes in the nature of work makes regular 35-hour work weeks unavailable to many. While work should bring stability to people's lives, this is increasingly not the case for many low wage workers. Mainers work at part-time and seasonal jobs at higher rates than their national counterparts. In 2017, 26,000 Maine persons worked part time because they couldn't find full time work, or because their hours had been reduced. That is more than the number of persons "officially unemployed" during this same period.<sup>xx</sup>

Hours of work are also becoming increasingly unpredictable. Day-to-day work scheduling is becoming increasingly common, especially in the low wage job market. One in five Maine employees works on an unpredictably variable schedule set completely by their employer. Mainers are more likely than other Americans to have their employer dictate their work schedule and Maine employers tend to give their workers less notice of their schedule than the average U.S. employer. Half of Maine employees with irregular schedules — or one in 10 Maine workers — learn their schedule day-by-day, unsure what their workday will look like until the day

before. Another 30 percent learn about their schedule two to six days in advance, and only one-fifth have at least a week's notice of their work schedules.<sup>xx</sup>

3. **Loss of Job.** Currently a person can only receive an exemption for job loss if, among other factors, the person “has applied for unemployment benefits and would be eligible except that (s)he has not worked for a sufficient length of time.” This requirement represents a failure to adequately understand the unemployment insurance program rules and to recognize the many reasons that a person may be ineligible through no fault of their own. In fact, Maine’s unemployment insurance “reciency rate”—that is the number of persons unemployed that receive UI benefits—is 23.2%, meaning that fewer than one in 4 unemployed workers receive benefits.<sup>xx</sup> There are myriad reasons for this, including uncovered employment, disqualifications resulting from loss of child care and transportation or other emergencies, the treatment of partial wages, low wages, and many other factors. To simply use the single reason of “insufficient length of time” ignores the totality of reasons a person would fail to qualify for unemployment benefits through no fault of their own and should not serve as the basis for also denying a TANF extension.
4. **Occurrence of an Emergency Situation.** The working group urges the Department to expand and amend the examples used in defining an “emergency” situation to encourage a more reasonable application of this provision. Currently the rule defines an emergency situation as one that is beyond the control of the family and prohibits them from engaging in employment. It then goes on to give the following examples of “emergency”: death of child, spouse or parent; homelessness due to a disaster such as fire, flood or act of nature; or being a victim of violent crime. Clearly these are among the most severe examples of an emergency and would lead caseworkers to apply a higher standard than appropriate for providing these exemptions. The working group recommends removing the limitation on homelessness in the current rule—that is, that it must result from a natural disaster—and recognizing homelessness itself as an emergency regardless of cause.

The working group also recognizes that in some cases individuals facing an emergency may be more effectively served through the Alternative Aid Program, which could include, for example, situations in which a person working or looking for employment is experiencing homelessness. In these circumstances, the working group urges the Department to develop a process by which families are informed about both alternatives and given the choice of the one that they prefer (provided they meet the eligibility requirements for both programs).

Finally, the working group urges the Department to provide for additional incremental extensions in cases of emergency where warranted.

5. **Disability.** Maine law requires that the department shall consider situations beyond the control of the adult recipient including a “physical or mental condition that prevents the adult from obtaining or retaining gainful employment”<sup>xxx</sup> as qualifying events for an extension.



After nearly a decade of talking with families subject to the 60-month time limit, the working group continues to see people erroneously denied an extension under the disability category. The current rule defines these relevant terms as follows:

“Disabled” is defined as the inability to engage in gainful employment based on medical evidence. The disability must substantially reduce the recipient's ability to support the family.

“Gainful employment” is defined as activities that a person can perform and pursue intended to provide an income and are a source of consistent revenue for the worker such as a steady job.

The working group believes that the lack of precision in this rule results in non-uniform and inaccurate application of this provision. The working group encourages the Department to establish a “bright line” that will make this standard easier to understand and apply. To this end, the working group recommends:

- a. **Using the time-tested Social Security definition of “substantial gainful activity.”** The working asks that the Department use this term to define what is meant by “gainful employment” to interpret Maine law cited above. Under the Social Security Act, in order for a person to be eligible for disability benefits, they must be unable to engage in substantial gainful activity (SGA). A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. For 2020, that amount is \$1,260 for a person that is not blind, and \$2110 for a blind person.<sup>xx</sup> This standard gives clear guidance to persons making disability determinations and provides a bright line that is not easily misinterpreted for making these determinations.
- b. **Good Cause.** The working group recommends that any person who has been determined to have good cause based on the person’s illness or incapacity pursuant to 22 MRSA §3785 (1) at the time just prior to TANF termination, continue to be considered to have a physical or mental condition that prevents the adult from obtaining or retaining gainful employment pursuant to 22 MRSA §3762 (18) for the purpose of receiving an extension.

6. **Participation in an education or training program.** The working group suggests two tweaks related to the extension:
  - a. **Correct the inconsistency between TANF and ASPIRE rules regarding incremental extensions.** Currently the ASPIRE rules provide for a 6 month and additional incremental extensions for persons participating in an approved education and training program when they reach their 60<sup>th</sup> month. Yet the TANF rules do not provide for incremental extensions. The working group prefers the ASPIRE language which appropriately provides students who have

made a commitment to gaining a degree the time needed to reach that goal. It also ensures that the Department's investment in these students' education is not lost.

The working group also asks the Department to consider the recommendation coming from the Parents as Scholars working group, that would allow individuals terminated from TANF as a result of the time limit to return if they are eligible for and seek to participate in an approved education or training program.

- b. Define HiSet (high school completion) and ESL (English as a Second Language) programs as education and training programs that qualify for an extension.** The working group urges the Department to include HISET and ESL in the programs for which a person may receive extensions beyond the time limit to allow for program completion. It is difficult to image how either a non-English speaker or person without a high school diploma can successfully support their family in today's economy. Investing in the completion of these programs will greatly improve these families' futures.

- 7. Supporting Asylum-Seeking Families to Maintain Employment.** As Maine welcomes New Mainers into our communities and our workforce it is essential that the State also find ways to help these families find and maintain access to quality, affordable childcare. Until recently childcare was available for families who became employed through the Child Care Subsidy Program, but that assistance has now ceased. Not only does lack of childcare place family employment at serious risk, in also puts immigrant children at a learning disadvantage relative to their US-born peers. For these reasons, the working group recommends amending Maine TANF rules to provide Transitional Child Care to families leaving TANF for work, and supporting a state-funded program that will provide child care subsidies to working New Mainer families (See Appendix C).

### **Recommended Policy Changes for MaineCare**

- 1. Extend presumptive eligibility to ensure prompt and efficient enrollment of MaineCare applicants.** Presumptive eligibility allows people that need MaineCare services to get access to those services through qualified providers without having to wait for their application to be fully processed.

For years, Maine has used presumptive eligibility (PE) to enroll pregnant women in MaineCare. Yet, it has not taken advantage of that federal option to provide that same streamlined enrollment opportunity for children, and other populations. The Affordable Care Act now permits states that have adopted presumptive eligibility for children or pregnant women, to also allow authorized entities to enroll parents and adults covered by



the state's expansion program. Additionally, states may use presumptive eligibility to temporarily enroll former foster youth and people seeking family planning services.<sup>xx</sup> Particularly given out collective interest in enrolling expansion members as expeditiously as possible, the working group urges the Department to establish presumptive eligibility for all populations for which it may apply.

- 2. Reconsider scope of Medicaid Estate Recovery policies to increase MaineCare enrollment in the expansion category.** Maine seeks recovery from the estates of deceased MaineCare members for *all* MaineCare payments made on behalf of individuals *receiving any MaineCare service* after age 55. This policy is stricter than that required by federal law and is having the effect of discouraging enrollment among the newly eligible expansion population. While federal law requires recovery of expenditures for long term care services incurred after age 55, e.g. nursing facility, home and community-based waiver as well as related hospital fees and prescription drugs, it leaves to state option whether the state will recover for all other services.<sup>xx</sup>

Maine's new expansion members age 55 and older are now subject to this provision and there is evidence that it is having a chilling effect on their enrollment.

Maine has the opportunity to rethink this federal option to exclude services other than long term care services from estate recovery. Such action would remove the disincentive to enroll for many resulting in more individuals taking advantage of the important new coverage option to maintain and improve their health. The working group recommends the support for the Governor's supplemental budget initiative that would implement this recommendation.

- 3. Follow the lead of most other states by eliminating the 3-month waiting period for CHIP for low-income children with unaffordable employer-based coverage.** While federal law generally intends to discourage people from dropping employer-based coverage to receive CHIP, it recognizes that there are circumstances where it may prevent access to needed care for some children. Accordingly, federal law allows states to provide exceptions to this waiting period requirement, allowing families to drop private coverage without penalty under certain circumstances.<sup>xx</sup> To promote continuity of care, states are increasingly opting for no waiting period for eligible low-income children in this transition, with only 15 states maintaining *any* wait time for CHIP enrollment.<sup>xx</sup> Yet, Maine continues to have a 3-month waiting period for CHIP eligibility.<sup>xx</sup>

The working group urges the Department to support an amendment to current law to eliminate this waiting period eliminating the untenable choice between unaffordable employer-based coverage and CHIP coverage. That opportunity may arise if LD 1539 is finally enacted into law in the upcoming legislative session in its amended form eliminating the CHIP 3-month waiting period, or a freestanding piece of legislation could be presented to achieve this result. (see Appendix C).<sup>xx</sup>

- 4. Re-define the scope of Emergency Medical Condition in rule to ensure coverage for serious medical conditions for people who are not eligible for MaineCare due to their immigration status; defer to medical providers in determining the scope of care that falls within this definition.** Some people are not eligible for full MaineCare due to their immigration status or lack of documentation. Yet, these individuals still have serious medical needs meaning that efficient and effective administration of emergency Medicaid is important.

The federal emergency Medicaid statute provides that health care costs are covered if “the absence of immediate medical attention could reasonably be expected to result in-- (A) placing the patient's health in serious jeopardy, (B) serious impairment to bodily functions, or (C) serious dysfunction of any bodily organ or part.”<sup>xx</sup>

For the most part, the federal definition of “emergency medical condition” does not specify what types of treatment and medical services are covered.<sup>xx</sup> Maine’s rule, however, unnecessarily limits that scope as follows:

“[e]xamples of services that are not considered an emergency medical condition include, but are not limited to: dialysis, organ transplants, school-based services, personal care services, waiver services, nursing facility services and hospice services.”<sup>xx</sup>

What is more, the Maine rule provides a durational scope of reimbursable coverage when the federal law does not. The proposed rule as currently drafted narrows the federal definition providing that “MaineCare coverage for emergency services for undocumented non-citizens, Non-Qualified Aliens and Qualified Aliens ineligible for full MaineCare benefits extends only to those services *necessary to stabilize* the emergency condition.”<sup>xx</sup> Thus, the rule goes beyond the plain language of the federal statute,<sup>xx</sup> which encompasses payment for care beyond that which is immediately necessary to stabilize a patient.

Congress established a broad definition of “emergency medical condition” and federal DHHS wisely chose to maintain a broad definition. The federal agency intended to ensure that decisions with respect to the scope of emergency coverage are supported by professional medical judgment. A broad definition helps to ensure that determinations with respect to coverage of treatment and services are based on professional medical judgment. This approach affords greater deference to health care providers, who are best-positioned to determine the types of treatment and services that are required to avoid the immediate risk of the three serious health consequences provided in the Medicaid statute.

The working group urges the Department to adopt a broader definition of emergency services and remove the durational limits on coverage, allowing for more flexibility so



these decisions can be made more appropriately on a case-by-case basis, relying on medical expertise to evaluate the individual facts of each case.

**Recommendations to ensure uniformity in program administration of existing programs.**

**1. Ensure accurate and uniform administration of Department rules related to TANF, Food Supplement and SSI eligibility for certain asylum seekers.**

Members of the working group have encountered examples of non-uniform application of eligibility rules, particularly related to TANF and Food Supplement benefits, for certain immigrant groups.

Working group members urged the Department to clarify eligibility policy where necessary to ensure uniform and appropriate application of law and rule so that families and individuals will get the vital assistance needed to make a successful transition to their new homes.

**2. Address issues related to denials of assistance resulting from delays in data entry into the SAVE system by establishing an alternative mechanism for establishing eligibility for public benefits.**

Due to changes in how federal immigration laws are being administered, there are now often long delays in entering information about individuals into the Systematic Alien Verification for Entitlements Program (SAVE) system used to verify immigration status. As a result, working group members have had multiple reports of families being denied public benefits because they do not yet have a status in SAVE. The working group encourages the department to consider alternative mechanism that may be available to establish eligibility to prevent these delays, perhaps by using processes already in place in the General Assistance Program.

**3. Facilitate access to fee waivers where allowable under federal law for persons on a path toward citizenship.**

Those engaged in a path toward citizenship, must complete numerous forms, many of which require a filing or processing fee unaffordable to them.

Federal law recognizes that these costs may be prohibitive and thus provides an opportunity to seek a fee waiver. Currently, if the applicant provides documentation that

they are receiving means tested benefits they can get the fee waived without providing a considerable amount of additional documentation and information.

While the working group understands that the Department is aware of this opportunity and is cooperative in attempting to assist people seeking a waiver, there is currently no formal system in place to address these requests in a uniform and efficient manner. The working group recommends that the department establish a system to better facilitate these requests.

**4. Establish a uniform practice of consulting with knowledgeable immigration experts when creating rules, guidance or other policy material related to immigration status.**

Members of the working group greatly appreciate the extent to which the Department has consulted with immigration experts in the past as it establishes policy in this complex area. However, the working group asks that this practice be systematized and routinely utilized as early as appropriate in the policy development process. As is widely recognized, immigration law is complex, subject to frequent change, and has a dramatic impact on those to whom it applies.

### **General Regulatory Recommendations**

As noted throughout the policy sections for this report, the working group made several recommendations that the department could implement through administrative rulemaking. The group made these recommendations in response to the overarching goal of the LIFT legislation (PL 2019 Ch. 485) to reduce child poverty and improve the economic and social wellbeing of Maine families served by the Department. This legislation charges the Department with the responsibility to consider how its programming can “contribute to improvements in child and family economic security, including increased ability to meet basic needs, improved educational levels and increased incomes.” The LD 1774 working group was asked to assist in this effort by recommending policies that would result in “reduced levels of poverty and food insecurity and improved health outcomes” for the Department’s consideration.

All of the recommendations that the department has the authority to address through rulemaking involve can be achieved by adopting certain federal policy options, or are otherwise within the scope of its administrative policy-making authority. These recommendations are noted in this report.



To ensure that these recommendations were properly within the scope of its authority, the Department reviewed each of these proposals to ensure that:

1. It was consistent with any federal law governing the program.
2. It promoted the purpose of improving child and family economic security and was consistent with the Department's overall mission and responsibilities.
3. It could be implemented properly within the administrative authority of the Department, was consistent with any existing state law, and did not require any new legislative action.

The Department found that in each case the administrative recommendations made by the working group met these criteria.

The Department also examined each proposal to determine the administrative resources that would be required for implementation, including the time value of those resources, and the extent to which the policy proposed fit within Department priorities.

In response to these administrative rulemaking recommendations, the Department has agreed to amend its current Regulatory Agenda adopted pursuant to 5 MRSA §8064, or include in its forthcoming regulatory agenda required by 5 MRSA §8060, those which can be implemented within its administrative resources and that are consistent with its priorities. The Department has agreed to consult with stakeholders representing the LD 1774 working group prior to February 28<sup>th</sup> to identify how these recommendations might be included in its regulatory agenda. In accordance with Maine law (22 MRSA §8053-A) the Department's regulatory agenda, or any amendments thereto, must be provided to the Legislature, including members of the Health and Human Services Committee, prior to the initiation of any rulemaking and that will be done. The only exception to this rule is the issuance of any emergency rule, which the Department may issue without inclusion in its regulatory agenda but must also provide to the legislature immediately upon issuance.

## Appendix A

### Sec. 7.

**Working group to improve performance of Department of Health and Human Services programs and systems to alleviate poverty, food insecurity and hardship.** The Commissioner of Health and Human Services or the commissioner's designee shall convene a working group to review and make recommendations to improve the operations of systems and programs administered by the Department of Health and Human Services providing services to persons in need. The Page 12 - 129LR0035(03)-1 commissioner or the commissioner's designee shall convene the first meeting of the working group no later than November 1, 2019.

**1. Members.** The working group consists of at least 12 members, in addition to department staff as the commissioner determines appropriate, including persons that now receive or previously received assistance from department core safety net programs; members of advocacy organizations with expertise in policy or legal matters related to programs administered by the department; providers of health care or social services serving persons receiving assistance from the department; and persons with technological expertise who could assist with recommendations related to creating efficiencies in program enrollment, recertification and improved program integration. The working group may create subgroups to work on specific issues or initiatives and may include persons who are not working group members.

**2. Duties.** In developing its recommendations under this section, the working group shall:

A. Review opportunities to simplify operations and improve business processes that facilitate cross-enrollment and linkages connecting eligible persons enrolled in one program to other core services available to them related to health care, nutrition and help meeting basic needs;

B. Examine the potential for improved electronic data sharing between department programs to streamline and promote efficiencies in verification processes required for eligibility and recertification determinations;

C. Review state policy and procedural options available under federal law to improve or increase access to services to reduce food insecurity and improve the health and well-being of persons in the State living in poverty;

D. Investigate ways to transform the department into a more holistic and person-centered and better coordinated human services system with an approach that puts the varying needs of persons and families first and ensures more efficient access, clarity of information and respectful interactions;

E. Determine the extent to which the department could facilitate enrollment for families and persons receiving its services in programs administered by other agencies of State Government, including low-income home energy assistance benefits and the property tax fairness credit under the Maine Revised Statutes, Title 36, section 5219-KK; and



F. Make recommendations related to improvement targets for reduced levels of poverty and food insecurity and improved health outcomes to be considered by the department as it establishes improvement targets pursuant to the Maine Revised Statutes, Title 22, section 3109, subsection 3.

**3. Report.** No later than February 15, 2020, the Commissioner of Health and Human Services shall submit a report including the recommendations developed pursuant to this section, including any suggested legislation, to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services.

## **Appendix B**

### **Working Group Members:**

Abdullahi Ali, Gateway Community Service

Leana Amaez, Department of Health and Human Services

Molly Bogart, Department of Health and Human Services

Em Burnett, Code for America

Stephanie Chase, Former Recipient

Ann Danforth, Maine Equal Justice

Rita Furlow, Maine Children's Alliance

Amy Gallant, Good Shepherd Food Bank

Moriah Geer, Maine Equal Justice

Bethany Hamm, Department of Health and Human Services

Chris Hastedt, Maine Equal Justice

Fatuma Hussein, United Somali Women of Maine

Andrea Mancuso, Maine Coalition to End Domestic Violence

Shannon McHarg,

Ian Miller, Department of Health and Human Services

Flavia Olivera, Maine Equal Justice Intern and Former Recipient

Tony Pelotte, Department of Health and Human Services

Dave Simsarian, Department of Health and Human Services

Robyn Young, Dartmouth College

Heather Zimmerman, Preble Street Housing



## Appendix C

### TANF FULL FAMILY SANCTION REPEAL

#### **An Act to Protect Children from Extreme Poverty**

**Section 1.** 22 MRSA §3763, sub-§1-A, as last amended by PL 2011, c. 380, Pt. PP, §4 is further amended to read:

#### **§3763. Program requirements**

**1. Family contract.** During the TANF orientation process, a representative of the department and the TANF recipient shall enter into a family contract. The family contract must state the responsibilities of the parties to the agreement including, but not limited to, cooperation in child support enforcement and determination of paternity, the requirements of the ASPIRE-TANF program and referral to parenting activities and health care services. Except as provided in section 3762, subsection 4, refusal to sign the family contract or to abide by the provisions of the contract, except for referral to parenting activities and health care services, will result in termination of benefits under subsection 1-A. Failure to comply with referrals to parenting activities or health care services without good cause will result in a review and evaluation of the reason for noncompliance by the representative of the department and may result in sanctions. Written copies of the family contract and a notice of the right to a fair hearing must be given to the individual. The family contract must be amended in accordance with section 3788 when a participant enters the ASPIRE-TANF program and when participation review occurs.

Benefits that have been terminated under subsection 1-A must be restored once the adult recipient signs a new family contract and complies with its provisions.

**1-A. Partial and full termination of benefits.** Benefits under this chapter must be terminated by the department under the provisions of subsection 1 and sections 3785 and 3785-A in accordance with this sub-section, as follows: Failure to meet the conditions of a family contract shall cause a reduction in the family's grant by removing the noncomplying adult family member from the assistance unit.

~~A. For a first failure to meet the conditions of a family contract, termination of benefits applies to the adult recipient;~~

~~B. For a first failure to meet the conditions of a family contract for which termination of benefits under paragraph A lasts for longer than 90 days and for a 2nd and subsequent violation, termination of benefits applies to the adult recipient and the full family unit; and~~

~~C. Prior to the implementation of a full family unit sanction, the department shall offer the adult recipient an opportunity to claim good cause for noncompliance as described in section 3785.~~

Benefits that have been terminated under this subsection must be restored once the noncomplying adult recipient signs a new contract under subsection 1 and complies with the provisions of the family contract.

Summary

Under current law the Department of Human Services terminates assistance under the Temporary Assistance for Needy Family (TANF) Program to the entire family, including children, if the children's parent fails to comply with requirements of the family contract for a period of 90 days, or for any subsequent failure. This bill would continue to eliminate benefits for the non-complying parent but would continue to provide assistance to the children.

FISCAL NOTE

129th MAINE LEGISLATURE

LD

LR

An Act to Protect Children from Extreme Poverty

Note for Bill as Engrossed with:

Committee: Health and Human Services

Fiscal Note

FY 2019-20FY	2020-21	FY 2021-22	FY 2022-23
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Appropriations/Allocations

Other Special Revenue Funds

Revenue

Other Special Revenue Funds

Fiscal Detail and Note

This bill requires the Department of Health and Human Services to eliminate the full family sanction and sanction only the non-compliant adult.

**CUB CARE PREMIUMS AND 3-MONTH WAIT**

**An Act to Increase Access to Affordable Health Care for Children with Low Incomes**



**Sec. 1. 22 MRS §3174-T**, as amended by PL 2017, c. 284, Pt. SSSSSS, §1, is further amended to read:

**§ 3174-T. Cub Care program**

**1. Program established.** The Cub Care program is established to provide health coverage for low-income children who are ineligible for benefits under the Medicaid program and who meet the requirements of subsection 2. The purpose of the Cub Care program is to provide health coverage to as many children as possible within the fiscal constraints of the program budget and without forfeiting any federal funding that is available to the State for the State Children's Health Insurance Program through the federal Balanced Budget Act of 1997, Public Law 105-33, 111 Stat. 251, referred to in this section as the Balanced Budget Act of 1997.

**2. Eligibility; enrollment.** Health coverage under the Cub Care program is available to children under 19 years of age whose family income is above the eligibility level for Medicaid under section 3174-G and below the maximum eligibility level established under paragraphs A and B who meet the requirements set forth in paragraph C ~~and for whom premiums are paid under subsection 5.~~

A. The maximum eligibility level, subject to adjustment by the commissioner under paragraph B, is 200% of the nonfarm income official poverty line.

B. If the commissioner has determined the fiscal status of the Cub Care program under subsection 8 and has determined that an adjustment in the maximum eligibility level is required under this paragraph, the commissioner shall adjust the maximum eligibility level in accordance with the requirements of this paragraph.

(1) The adjustment must accomplish the purposes of the Cub Care program set forth in subsection 1.

(2) If Cub Care program expenditures are reasonably anticipated to exceed the program budget, the commissioner shall lower the maximum eligibility level set in paragraph A to the extent necessary to bring the program within the program budget.

(3) If Cub Care program expenditures are reasonably anticipated to fall below the program budget, the commissioner shall raise the maximum eligibility level set in paragraph A to the extent necessary to provide coverage to as many children as possible within the fiscal constraints of the program budget.

(4) The commissioner shall give at least 30 days' notice of the proposed change in maximum eligibility level to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters.

C. All children resident in the State are eligible except a child who:

- (1) Is eligible for coverage under the Medicaid program;
- (2) Is covered under a group health insurance plan or under health insurance, as defined in Section 2791 of the federal Public Health Service Act, 42 United States Code, Section 300gg(c) (Supp. 1997); or
- (4) Is an inmate in a public institution or a patient in an institution for mental diseases; ~~or.~~
- ~~(5) Within the 3 months prior to application for coverage under the Cub Care program, was insured or otherwise provided coverage under an employer-based health plan for which the employer paid 50% or more of the cost for the child's coverage, except that this subparagraph does not apply if:
  - (a) The cost to the employee of coverage for the family exceeds 10% of the family's income;
  - (b) The parent lost coverage for the child because of a change in employment, termination of coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, COBRA, of the Employee Retirement Income Security Act of 1974, as amended, 29 United States Code, Sections 1161 to 1168 (Supp. 1997) or termination for a reason not in the control of the employee; or
  - (c) The department has determined that grounds exist for a good cause exception.~~

D. Notwithstanding changes in the maximum eligibility level determined under paragraph B, the following requirements apply to enrollment and eligibility:

- (1) Children must be enrolled for 12-month enrollment periods. Prior to the end of each 12-month enrollment period the department shall redetermine eligibility for continuing coverage; and
- (2) Children of higher family income may not be covered unless children of lower family income are also covered. This subparagraph may not be applied to disqualify a child during the 12-month enrollment period. Children of higher income may be disqualified at the end of the 12-month enrollment period if the commissioner has lowered the maximum eligibility level under paragraph B.

E. Coverage under the Cub Care program may be purchased for children described in subparagraphs (1) and (2) for a period of up to 18 months as provided in this paragraph at a premium level that is revenue neutral and that covers the cost of the benefit and a contribution toward administrative costs no greater than the maximum level allowable under COBRA. The department shall adopt rules to implement this paragraph. The following children are eligible to enroll under this paragraph:



(1) A child who is enrolled under paragraph A or B and whose family income at the end of the child's 12-month enrollment term exceeds the maximum allowable income set in that paragraph; and

(2) A child who is enrolled in the Medicaid program and whose family income exceeds the limits of that program. The department shall terminate Medicaid coverage for a child who enrolls in the Cub Care program under this subparagraph.

**3. Program administration; benefit design.** With the exception of ~~premium payments under subsection 5 and any other~~ requirements imposed under this section, the Cub Care program must be integrated with the Medicaid program and administered with it in one administrative structure within the department, with the same enrollment and eligibility processes, benefit package and outreach and in compliance with the same laws and policies as the Medicaid program, except when those laws and policies are inconsistent with this section and the Balanced Budget Act of 1997. The department shall adopt and promote a simplified eligibility form and eligibility process.

**4. Benefit delivery.** The Cub Care program must use, but is not limited to, the same benefit delivery system as the Medicaid program, providing benefits through the same health plans, contracting process and providers. Copayments and deductibles may not be charged for benefits provided under the program.

**5. Premium payments.** ~~Premiums must be paid in accordance with this subsection.~~

A. ~~Premiums must be paid at the beginning of each month for coverage for that month according to the following scale:~~

~~(1) Families with incomes between 150% and 160% of the federal nonfarm income official poverty line pay premiums of 5% of the benefit cost per child, but not more than 5% of the cost for 2 children;~~

~~(2) Families with incomes between 160% and 170% of the federal nonfarm income official poverty line pay premiums of 10% of the benefit cost per child, but not more than 10% of the cost for 2 children;~~

~~(3) Families with incomes between 170% and 185% of the federal nonfarm income official poverty line must pay premiums of 15% of the benefit cost per child, but not more than 15% of the cost for 2 children; and~~

~~(4) Families with incomes between 185% and 200% of the federal nonfarm income official poverty line must pay premiums of 20% of the benefit cost per child, but not more than 20% of the cost for 2 children.~~

B. ~~When a premium is not paid at the beginning of a month, the department shall give notice of nonpayment at that time and again at the beginning of the 6th month of the 6-month enrollment period if the premium is still unpaid, and the department shall provide an opportunity for a hearing and a grace period in which the premium may be paid and no penalty~~

~~will apply for the late payment. If a premium is not paid by the end of the grace period, coverage must be terminated unless the department has determined that waiver of premium is appropriate under paragraph D. The grace period is determined according to this paragraph.~~

~~(1) If nonpayment is for the first, 2nd, 3rd, 4th or 5th month of the 6-month enrollment period, the grace period is equal to the remainder of the 6-month enrollment period.~~

~~(2) If nonpayment is for the 6th month of the 6-month enrollment period, the grace period is equal to 6 weeks.~~

~~C. A child whose coverage under the Cub Care program has been terminated for nonpayment of premium and who has received coverage for a month or longer without premium payment may not reenroll until after a waiting period that equals the number of months of coverage under the Cub Care program without premium payment, not to exceed 3 months.~~

~~D. The department shall adopt rules allowing waiver of premiums for good cause.~~

**6. Incentives.** In the contracting process for the Cub Care program and the Medicaid program, the department shall create incentives to reward health plans that contract with school-based clinics, community health centers and other community-based programs.

**7. Administrative costs.** The department shall budget 2% of the costs of the Cub Care program for outreach activities. After the first 6 months of the program and to the extent that the program budget allows, the department may expend up to 3% of the program budget on activities to increase access to health care. Administrative costs must include the cost of staff with experience in health policy administration equal to one full-time equivalent position.

**8. Quarterly determination of fiscal status; reports.** On a quarterly basis, the commissioner shall determine the fiscal status of the Cub Care program, determine whether an adjustment in maximum eligibility level is required under subsection 2, paragraph B and report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters on the following matters:

A. Enrollment approvals, denials, terminations, reenrollments, levels and projections. With regard to denials, the department shall gather data from a statistically significant sample and provide information on the income levels of children who are denied eligibility due to family income level;

B. Cub Care program expenditures, expenditure projections and fiscal status;

C. Proposals for increasing or decreasing enrollment consistent with subsection 2, paragraph B;

D. Proposals for enhancing the Cub Care program;



E. Any information the department has from the Cub Care program or from the Bureau of Insurance or the Department of Labor on employer health coverage and insurance coverage for low-income children;

F. The use of and experience with the purchase option under subsection 2, paragraph ~~D~~E; and

G. Cub Care program administrative costs.

**9. Provisions applicable to federally recognized Indian tribes.** After consultation with federally recognized Indian nations, tribes or bands of Indians in the State, the commissioner shall adopt rules regarding eligibility and participation of children who are members of a nation, tribe or band, consistent with Title 30, section 6211, in order to best achieve the goal of providing access to health care for all qualifying children within program requirements, while using all available federal funds.

**10. Rulemaking.** The department shall adopt rules in accordance with Title 5, chapter 375 as required to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II A.

**11. Cub Care drug rebate program.** Effective October 1, 1999, the department shall enter into a drug rebate agreement with each manufacturer of prescription drugs that results in a rebate equal to that which would be achieved under the federal Social Security Act, Section 1927.

~~**12. Premium rate review; adjustment.** Effective July 1, 2004, the department shall periodically evaluate the amount of premiums charged under this section to ensure that the premiums charged reflect the most current benefit cost per child. The commissioner shall adjust the premiums by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

#### Summary

This bill would increase access to health care coverage for low income children by eliminating the three-month waiting period for otherwise eligible children to enroll in the Cub Care Program if they were previously covered by certain employer-based insurance plans. It would also eliminate the premiums charged to families of children enrolled in the Cub Care Program.

#### FISCAL NOTE

129th MAINE LEGISLATURE

LD

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An Act to Increase Access to Affordable Health Care for Children with Low Incomes

Note for Bill as Engrossed with:

Committee: Health and Human Services

Fiscal Note

FY 2019-20FY                      2020-21                      FY 2021-22                      FY 2022-23

Appropriations/Allocations

Other Special Revenue Funds

Revenue

Other Special Revenue Funds

Fiscal Detail and Note

This bill requires the Department of Health and Human Services to eliminate the three-month waiting period and premiums in the Cub Care Program.

**CHILD CARE DEVELOPMENT FUND**

**An Act to Ensure Equal Access to Child Care for Low Income Working Families**

**Sec. 2. 22 MRSA 3736-A is enacted to read:**

**§3736-A. Child Care for Needy Families Seeking Citizenship.**

**1. Child care assistance.** The department shall provide child care assistance to a household that would be eligible for assistance under the Child Care and Development Block Grant Act of 2014, 42 United States Code, Section 9857 et seq., but for provisions of Sections 401, 402 and 403 of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, including to any person in the household who, in accordance with 8 United States Code, Section 1621(d), is:

- A. Lawfully present in the United States with the knowledge and permission of the United States Department of Homeland Security and whose departure is not required by the United States Department of Homeland Security. This includes, but is not limited to, a person described in 45 Code of Federal Regulations, Section 152.2, subsections (1) to



(7); a person with deferred action under the United States Department of Homeland Security's deferred action for childhood arrivals process; or a person engaged in another legal proceeding to establish lawful presence in the United States.

B. Pursuing a lawful process to apply for immigration relief under the federal Immigration and Nationality Act, as long as the person has submitted an application for immigration relief or can provide verification that the person is taking reasonable steps to pursue the application process.

**2. Amount of assistance.** The total amount of child care assistance provided under this section must equal the amount that the household would be eligible to receive under the federal Child Care and Development Block Grant Act of 2014, 42 United States Code, Section 9857 et seq., if the household were eligible for either of those programs.

### Summary

This legislation provides access to affordable child care assistance for certain non-citizen working families who are lawfully present in the United States or pursuing a lawful process to apply for immigration relief. Such assistance would be provided in accordance with rules governing the Child Care and Development Block Grant Program.

### FISCAL NOTE

#### 129th MAINE LEGISLATURE

LD

LR

An Act to Increase Access to Affordable Health Care for Children with Low Incomes

Note for Bill as Engrossed with:

Committee: Health and Human Services

Fiscal Note

FY 2019-20FY	2020-21	FY 2021-22	FY 2022-23
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Appropriations/Allocations

Other Special Revenue Funds

Revenue

Other Special Revenue Funds

Fiscal Detail and Note

This bill requires the Department of Health and Human Services to provide state-funded child care subsidy to families who are lawfully present in the United States or pursuing a lawful process to apply for immigration relief.

## **REPEAL LANGUAGE TO REQUIRE PHOTOS ON ELECTRONIC BENEFIT CARDS**

**An Act to Reduce Costs in the Food Supplement Program and Ensure Recipients are not Denied Access to Benefits they are Eligible for.**

### **22 MRSA Subchapter 1 §24. Photographs on electronic benefits transfer cards**

~~The commissioner shall place a photograph of a recipient of benefits under a program specified in section 22 on the recipient's electronic benefits transfer card if agreed to in writing by the recipient. When a recipient of benefits is a minor or incapacitated individual, the commissioner may place a photograph of the recipient's parent or legal guardian on the EBT card if agreed to in writing by that parent or legal guardian.—~~

### **Summary**

This legislation repeals the requirement for the commissioner to place photos on EBT cards and reduces costs in the administration of the Food Supplement Program associated placing photos on EBT cards. It further ensures that recipients are not denied access to benefits by retailers if they don't have a photo on their EBT card.



## Appendix D

### **The following planned OFI technology initiatives will address most LD 1774 workgroup business improvement and data sharing recommendations**

**My Maine Connection Replacement** - This effort will replace the current My Maine Connection online service with a more robust, client-focused service.

#### **Among the expected improvements:**

- New data infrastructure like Service Object Architecture facilitating real-time data connections to trusted data sources such as the Federal Services Data Hub and Equifax services.
- Improved presentation for all formats, particularly mobile, and customization to the client's requested needs.
- Real-time eligibility decisions, when applicable.
- Improved accuracy in pre-screening service.
- New client self-service features, such as account management, document uploading, status tracking, messaging features.

#### **Peripheral Impacts of MMC Replacement completion:**

- Ex parte recertifications will be realized due to addition of real time data infrastructure.
- Telephonic signature will be realized.
- Infrastructure will provide data and eligibility rules support to the State Based Marketplace.

#### **LD 1774 Technology Subcommittee addressed recommendations:**

- Ability to upload and scan supporting documents in real time, including via mobile phone.
- Tracking case status and progress.
- Reducing the number of fields required to complete an application.
- Shortening the time it takes to complete the application.
- Clearer and less restrictive data input fields on applications.
- Adding an online chat feature.
- Easier online recertification process.
- Remove registration as a requirement for submitting an online application/make resetting accounts easier.
- Creating applications that function equally well across devices, or are “device agnostic.”

**Telephony** - This effort is to assess the current telephony services and determine what aspects of the system can be replaced or improved. Key areas:

- Review the current base system Avaya to ensure it establishes a foundation that meets the prospective needs for at least 5 years.
- Layer on new functions that improve efficiencies for both the client and OFI staff, such as forecasted client call information (screen pop), telephonic signature, chat functionality and scheduled call back functionality.
- Explore artificial intelligence opportunities which are becoming more streamline in the service industry.
  - Off-hours pilot using A.I. to answer general questions, such as how and where can I apply, what materials will I need when I apply, etc.

**Document Imaging** - This effort is to assess the current document imaging solution and determine if the existing product meets the future goals for OFI, including Optical Character Recognition and web service uploads of documents. Current product may meet those goals with some enhancement work or purchase of options.

**LD 1774 Technology Subcommittee recommendations, addressed items:**

- Ability to upload and scan supporting documents in real time, including via mobile phone. *This may or may not tie in as a dependency for the MMC replacement solution.*

**LD 1774 Technology Subcommittee recommendations, items outside of planned OFI technology initiatives:**

- Streamline the WIC eligibility determination and recertification processes using Food Supplement and/or MaineCare as a proxy for financial eligibility; Initiate the full eligibility determination through My Maine Connection.  
*This is multi-office effort within DHHS that first needs agreement and possible policy changes; if affirmed, MMC replacement would be able to implement a solution, operations would be explored to support.*
- Streamline the Child Care Subsidy Program eligibility determination by using Food Supplement eligibility as a proxy for financial eligibility in that Program.  
*This is multi-office effort within DHHS that first needs agreement and possible policy changes; if affirmed, operations and technology would be explored.*
- Improve child enrollment in Medicaid and CHIP through Express Lane Eligibility.  
*This requires DHHS to first authorize policy changes, as well as CMS approval, to expand to consider school lunch programs, WIC, Head Start, etc. as determinations for Medicaid/CHIP eligibility; if affirmed, operations and technology would be explored.*
- Keep more Mainers warm with Improved access to the Low-Income Home Energy Assistance Program by integrating it into My Maine Connection.  
*This requires agreement between DHHS and MaineStateHousing and would allow for HEAP applications to be processed by OFI staff in person and through the*



*MyMaineConnection replacement; if affirmed, operations and technology would be explored.*

- Improve Access to state tax credits through My Maine Connection.  
*This requires agreement between DHHS and Maine Revenue Services and would allow for EITC applications to be processed by OFI staff in person and through the MyMaineConnection replacement; if affirmed, operations and technology would be explored.*
- Increase access to MaineCare and CHIP, including the new Expansion Group, through use of state income tax filing to streamline enrollment.  
*This requires agreement between DHHS and Maine Revenue Services and would allow for collected tax information by MRS to be passed for processing by OFI staff in person and through the MyMaineConnection replacement; if affirmed, operations and technology would be explored.*