



## Administrative Initiatives for 2019

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The Maine Department of Health and Human Services (DHHS) has an opportunity to make improvements to meet its mission, which is to ensure that all Maine people can truly meet their basic needs and lead safe, healthy and productive lives. Maine Equal Justice supports the following initiatives to better align DHHS's outcomes with its goals, and reduce the agency's administrative burden, allowing for more efficient and effective delivery and oversight of critical anti-poverty programs.

### I. Recommendations to improve service delivery and outcomes:

- **Create a person-centered human services system that puts the needs of individuals and families first, ensuring ease of access, clarity of information, and respectful interactions.**
  - **Interaction and engagement between people accessing DHHS for help and DHHS staff must improve.** People should leave encounters with DHHS with a sense of relief rather than shame or heightened stress.
  - **Ensure that staff demonstrate cultural competence.** Steps are needed to ensure that DHHS staff are adequately considering the race, color, religion, age, national origin, immigration or citizenship status, native languages spoken, gender, gender identity, sexual orientation, and disability of clients and how these factors inform each client's individual needs. Only then can DHHS ensure effective cross-cultural communication, necessary for reducing disparities and providing optimal service regardless of a client's background or membership in a protected class.
  - **Streamline enrollment across anti-poverty programs.** This will simplify the process for applicants and the state by streamlining eligibility processing, which uses one program's eligibility determination to approve eligibility for a related one.
  - **Improve communication with anti-poverty program applicants and recipients through clear, readable and legally adequate notices.**
  - **Standardize program appeal periods** to apply the same timeframe for appeal decisions prior to terminating assistance to simplify the process and avoid confusion and improper terminations.
- **Establish outcome measures at DHHS to track Maine's progress related to poverty, food insecurity, housing, and other indicators of well-being.** Tracking results for families and children will create more accountability to achieve better outcomes and create more opportunity for Maine people.
- **Improve collaboration between DHHS and community-based navigators to take a whole-family approach to better support basic needs and sustainable employment.** A whole-family approach better meets the needs of families struggling to access the supports and services they qualify for while also providing support from community-based organizations as families take steps to move toward economic self-sufficiency.

## II. Recommendations to Improve MaineCare:

MaineCare is Maine's Medicaid program. Medicaid is the nation's public health insurance program for people with low incomes, disabilities and those needing long term care. It is the single largest source of health coverage in the U.S. MaineCare is a means-tested program providing coverage based on income and assets. Approximately 265,000 Mainers (one in five) rely on MaineCare for health coverage. This number will increase with the implementation of Medicaid expansion. There are many changes that can be made at the administrative level to improve access to MaineCare.

### A. Eligibility and Coverage:

- **Broaden the scope of Emergency MaineCare and defer to medical providers on making these determinations.** Some people are ineligible for full MaineCare due to their immigration status or lack of documentation but do qualify for more limited Emergency MaineCare to cover emergency medical conditions. The federal definition of "emergency medical condition" was left intentionally broad in scope but Maine's rule is unnecessarily narrow. A broad definition affords greater deference to health care providers who are best-positioned to determine the types of treatment and services that should qualify as emergency medical conditions on a case-by-case basis.
- **Modernize Maine's Medically Needy program.** This program allows people with unaffordable health care costs to access health coverage. People who are over the income threshold for MaineCare can qualify with a "spend down" or deductible. The spend down is calculated using what is called the Protected Income Level (PIL). Maine's monthly PIL needs to increase. It hasn't been adjusted since 1991; it's \$168 below the US average and \$384 below the New England average.
- **Protect access to MaineCare for older Mainers and people with disabilities through extension of the cost of living adjustment (COLA) disregard.** Maine does not count the annual SSA COLA for MaineCare members who are in the elderly or disabled groups, if counting it would be the sole reason that a person exceeds the MaineCare eligibility limits. DHHS should expand this provision to also apply to people who get Veterans' or other fixed state, federal, or private pension benefits.
- **Ensure uniform and fair application of the "ineligible spouse disregard."** When a married couple applies for MaineCare based on age (65 or older) or disability, and the couple is determined to be ineligible based on income, the couple can opt for what is called the "ineligible spouse disregard." In this case, one member of the couple may be found eligible while the other is not. This is an extremely helpful rule for older Mainers and those with disabilities, but it is infrequently used and should be implemented automatically instead of having to request it.
- **Improve access to MaineCare through the Working Disabled Program.** Eliminate an unnecessary unearned income test in the Working Disabled Program. This would provide access to Medicaid for more working people with disabilities who are at or below 250% of the federal poverty level.

- **Eliminate the 3-month waiting period for low-income children with employer-based coverage to enroll in CHIP.** Sometimes employer-based coverage is unaffordable, and children need access the Children’s Health Insurance Program (CHIP) to gain access to health coverage. To promote continuity of care, many states opt for no waiting period for eligible low-income children to transition onto CHIP. Maine should take advantage of this option.
- **Ensure that children who reside in Maine who arrive here under the Interstate Compact for the Placement of Children (ICPC) have access to medically necessary services through MaineCare.** The MaineCare rules deny “residency” status, and therefore MaineCare, to abused or neglected children who are living in Maine but receiving services under the ICPC even when they are not receiving Title IV-E payments from another state. These children who reside in Maine must get their medical care from the sending state or go through a complex system to arrange for care. DHHS should get these children prompt medical care and have the payment for that care worked out behind the scenes.

## B. Enrollment and Outreach:

- **Extend presumptive eligibility (PE) to ensure prompt and efficient enrollment of MaineCare applicants.** Federal law allows hospitals to enroll likely eligible patients in MaineCare pending a final determination by DHHS, yet Maine has chosen overly restrictive options, so hospitals have chosen not to do it. Developing a comprehensive presumptive eligibility system would get more Mainers the health coverage they need when they need it.
- **Ensure that DHHS provides temporary MaineCare coverage in accordance with federal and state law.** DHHS must make MaineCare eligibility decisions within 45 days of receipt of a completed application. On the 45<sup>th</sup> day the applicant should get a temporary MaineCare card until a final determination is made. Yet, DHHS consistently fails to comply with this basic legal requirement.
- **Take steps to better ensure MaineCare coverage of former foster care children under age 26 as required by federal law.** Former foster care children are eligible for MaineCare up to age 26. Maine has been slow to enroll all eligible youth and should examine its practices for enrolling these former foster care children with a careful eye toward removing barriers and ensuring streamlined and timely continuity of Medicaid coverage for them.

## C. Service Delivery and Consumer Protections:

- **Provide needed oversight of the MaineCare transportation broker system.** Given wide-spread complaints about the broker system, including complaints about missed appointments, OMS should convene a group of consumers and others to review data, issues, and complaints and recommend changes to the system accordingly.
- **Reconsider scope of Medicaid Estate Recovery policies to ensure unconstrained access to MaineCare.** Maine seeks recovery from the estates of deceased MaineCare members for payments made on behalf of all individuals who receive any MaineCare service after age 55. While federal law requires recovery of expenditures for long-term care services, Maine could and should consider whether the state should recover for all other services. Limiting the scope of estate recovery would encourage people in the new expansion population to get coverage and relieve people with disabilities and older Mainers who do not receive long-term care services because of this provision.

- **Ensure compliance with federally required expedited MaineCare appeals.** Federal regulations require Medicaid to provide expedited appeals when the health of the person could be jeopardized by a delay in the appeals process. 42 CFR § 431.224. DHHS needs to amend its rules and notices to provide for expedited appeals.
- **Reestablish services under the MaineCare Ombudsperson Law.** Maine law establishes a MaineCare Ombudsperson program to act as an independent program to people regarding Medicaid services provided by DHHS. (22 MRS§ 3174-X). The LePage administration cancelled this program. It should be reinstated to ensure that Maine people have a place to turn if they are denied MaineCare coverage, have questions about coverage that are not answered by DHHS, and to help provide outreach to the new expansion population.
- **Amend the MaineCare rules to protect people who have an Authorized Representative.** MaineCare applicants and beneficiaries can designate an Authorized Representative (AR) to act on their behalf to make an application, receive notices, or request an appeal. At times, when a person designates the AR DHHS fails to enter the information in the system or fails to provide copies of notices to the AR when appropriate. The rules should make clear that when DHHS fails to take a required action with respect to an AR, that the department is responsible and good cause is granted to the MaineCare member to remedy the error.
- **Simplify access to Maine’s Home and Community Based Care system and maximize funding for needed services.** Maine’s current home and community-based care system for the elderly and people with disabilities needs to be simplified the eligibility process should be more consumer friendly. DHHS should convene a group of stakeholders knowledgeable in this area to simplify this process for consumers. Maine should also explore the option to use a Medicaid Section 1915i state plan amendment and related waiver opportunities to better serve people in the community and shift costs from state-funded, home-based care programs to Medicaid to receive federal reimbursement and reduce general fund costs.

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### III. Recommendations to Improve SNAP:

Food Assistance (SNAP) has served as the first line of defense against hunger for 40 years. The federal government, through the Department of Agriculture, pays for the cost of the food benefits and the administrative costs are split equally between the state and federal government. Over the last eight years the LePage Administration acted to cut off food assistance for over 50,000 Mainers and Maine has fallen drastically behind with hunger rates 33% greater than our New England neighbors. Maine is now the only New England state with a higher prevalence of very low food security compared with the national average.<sup>i</sup> Improving access to SNAP will improve the wellbeing of Maine people, our communities, and our economy. Maine Equal Justice supports the following administrative changes:

- **Take advantage of all SNAP geographic waivers for which Maine qualifies to maintain food assistance in areas with relatively high unemployment.** Eliminate the 3-month time limit for SNAP in areas with higher unemployment so people are not penalized by the loss of food if they’re unable to work after 3 months. This will help rural areas where unemployment is higher and year-round jobs are scarcer. Most states take advantage of these waivers; Maine used to and should again.

- **Increase the SNAP standard utility allowance (SUA).** This allowance adjusts SNAP benefits to reflect the impact on household budgets of increases in heating fuel and other utility costs. In the most recent annual adjustment, the Department increased Maine’s SUA by a mere 1% based on the increase in the *national* overall CPI when the governor’s own Energy Office reported an increase of more than 15% in fuel oil costs in FFY ‘18.<sup>ii</sup> Adjusting Maine’s SUA to more realistically reflect heating fuel costs based on state data would ensure that SNAP recipients receive more help with food to help offset the added cost of staying warm throughout the Maine winter.
- **Eliminate the asset test for older Mainers and people with disabilities.** In 2015, The LePage Administration reinstated an asset test for seniors, people with disabilities, and others without minor children at home causing more than 8,000 Mainers to lose food assistance simply because they put some dollars aside to protect against unexpected emergencies. Most states do not impose an asset test to households with incomes under 200% of the federal poverty level; Maine should eliminate this punitive policy.<sup>iii</sup>
- **Reinstate simplified reporting.** For many years, Maine applied the “simplified reporting” option whereby households are required to report changes only when their total countable income exceeds 130% of the federal poverty level or when work hours for able-bodied adults without dependents fall below 20 hours a week. The LePage administration eliminated this option and most changes in circumstances must be reported within ten days. Most states use simplified reporting and Maine should return to this practice because it’s less burdensome for people and for the state.
- **Repeal child support-related disqualifications.** Maine is one of only eight states in the nation to disqualify non-custodial parents from food assistance who fail to make child support payments. The reason that so few states impose this penalty is because it is expensive and unlikely to significantly boost child-support collections.<sup>iv</sup> 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. DHHS should repeal this recently imposed rule.
- **Implement SNAP 15% exemptions.** In addition to geographic waivers, states can establish individualized exemption criteria for 15% of the SNAP caseload that’s ineligible for program benefits because of the time limit. Some states exempt people with significant barriers to employment such as lack of transportation or homelessness. Other states use their exemptions to extend the 3-month limit for additional months. Maine has accumulated at least 41,000 months<sup>v</sup> of exemptions that could be made available to help people at risk of losing needed food assistance. DHHS should design the best use of these accumulated and ongoing exemptions to ensure greater food security for Maine people.
- **Increase access to food for Maine children during the summer.** Support efforts underway within Maine’s Department of Education (DOE) to apply to the Federal Office of Food and Nutrition Services for a Summer SNAP pilot program. This would mitigate the loss of school meals for eligible children during the summer months by providing their families with an increase in food assistance during that period. Pilots in other states have shown this strategy to significantly reduce food insecurity and lead to a positive change in nutritional outcomes for participating children.<sup>vi</sup>
- **Repeal SNAP comparable disqualifications.** Maine is one of a small minority of states that disqualify a household member from SNAP if that person is sanctioned in another public means-tested program.<sup>vii</sup> This rule impacts families that have lost TANF often through no fault of their own. Children in impacted households then face both hardships associated with loss of income and greater food insecurity. DHHS should repeal this punitive and counter-productive policy.

#### IV. Recommendations to improve TANF:

Temporary Assistance for Needy Families (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 their parents. Maine's TANF caseload has dropped 70% since 2010 (from 14,067 families in October 2010 to 4,100 in October 2018). Nearly 18,000 poor children lost assistance mainly as a result of inflexible time limits and harsh sanction policies.<sup>viii</sup> As a result, families suffered increased hardship and failed to see significant increases in employment or wellbeing. To improve the effectiveness of the TANF program in helping poor families with children meet their basic needs and access economic opportunity, we make the following recommendations:

- **Improve the delivery of employment, education, and training services (ASPIRE); make changes necessary to ensure program integrity and compliance with laws and regulations; and determine the most effective mechanism for delivering these services.** Approximately two years ago DHHS terminated all state employees administering the ASPIRE Program and contracted with the private contractor Fedcap to do this work. Today, almost one in five parents referred to Fedcap do not make it through the basic intake process and nearly half of those who complete an intake are sanctioned, leading to a loss of assistance. The majority of those sanctioned do not reengage with the program.

Program participants experience significant problems as a result of these changes including: (1) failure to obtain "good cause" when they are unable to participate but in need of help; (2) required activities that are inappropriate, demeaning, and irrelevant to their employment goals; and (3) being discouraged from enrolling in the Parents as Scholars program that provides opportunity for post-secondary degrees and credentials.

At a minimum, workers need better instruction and training to understand the applicable legal standards and accommodations that must be made when participants present with a good cause reason for their inability to participate in ASPIRE. Moreover, workers should provide written notice of decisions as to whether to grant good cause to comply with basic due process.

- **Ensure proper administration of TANF time limit extensions and amend the rules to ensure that extensions are available to families that cannot support themselves through no fault of their own.** Although the legislature carefully crafted specific extensions of the 5-year time limit,<sup>ix</sup> those standards were inappropriately narrowed by rule and are often not properly applied in practice. As a result, many families do not receive extensions for which they are eligible. DHHS should conduct a thorough review of the experience of families terminated from TANF as a result of the time limit.

Rules and procedures should be modified to ensure that assistance is not terminated inappropriately, leaving families without the ability to meet their basic needs or access employment and training services that will help them become self-supporting.

- **Implement the Working Cars for Working Families pilot program as early as possible.** Recognizing that the cost of transportation is a major barrier to work and education for many parents in poverty, the 128th Legislature passed legislation to create a pilot program called Working Cars for Working Families<sup>x</sup> to provide reliable cars to low-income families with children. We estimate this program could provide cars to approximately 150 families annually. The statute instructed DHHS to adopt rules for the program in fiscal year 2017-2018, but the Department failed to do so and has yet to

issue proposed rules. This is a four-year pilot set to end by July 1, 2022. Given that we are halfway through the second year of the four years allotted to this pilot, we urge DHHS to issue proposed rules as soon as possible.

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## **V. Recommendation to Improve General Assistance:**

General Assistance (GA) is the “safety net of last resort” administered by the municipalities and funded by the municipalities and the state. The program provides vouchers to pay for basic needs like shelter, food, and medicine. Most GA support helps people meet housing costs that are often unaffordable for families with low incomes.

Until 2015, GA was available to all Maine residents regardless of immigration status. The LePage Administration attempted to eliminate access for many immigrants including people seeking asylum in Maine. In response, the Legislature enacted a law providing that any individual who is “*lawfully present in the United States or who is pursuing a lawful process to apply for immigration relief*” may qualify for GA.

In 2016, DHHS issued impermissibly narrow rules that bar access for people pursuing a lawful process to apply for immigration relief, i.e. they are engaged with legal counsel or otherwise taking appropriate steps to pursue immigration relief. We recommend amending the rule so that it is consistent with Maine law and no longer disenfranchises those who should be eligible for assistance to meet their most basic needs.

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## **VI. Recommendation to Improve State-Funded SSI:**

State-funded SSI provides elderly and disabled immigrants who reside here lawfully, yet do not qualify for federal help due to their immigration status, with income support. Currently, DHHS does not make people aware of this critical support and many who may be eligible do not know about it. DHHS also needs to fix the rules related to this program to align them with state law and practice.

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## **VII. Recommendation to Improve Access to LIHEAP:**

The Low-Income Home Energy Assistance Program (LIHEAP) provides critical heating assistance for Mainers to keep warm during Maine winters. Despite the need, enrollment in Maine has decreased by 40% in recent years.<sup>xi</sup> While LIHEAP is administered by MaineHousing through local community action agencies, there is considerable intersection of eligible persons with DHHS-administered programs. Given the wealth of eligibility data held by DHHS on most LIHEAP applicants, enrollment for LIHEAP would be simplified and improved with a stronger link between DHHS and MaineHousing. We support taking steps to facilitate a more cost-effective and efficient system to determine eligibility for LIHEAP assistance.

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## **VIII. Recommendation to Improve Access to the Property Tax Fairness Credit:**

Maine’s Property Tax Fairness Credit (PTFC) provides property tax relief for Maine homeowners and renters regardless of whether they are required to file an income tax return. Unfortunately, the credit is not fully and efficiently utilized. The PTFC has considerable overlap in eligibility with many receiving services through DHHS, yet many Mainers who are served by DHHS programs are unaware of the PTFC.

When the PTFC was enacted in 2013, the law creating it required that DHHS add the program to the automated client eligibility system application processes to identify people who may be eligible for the credit who do not file an income tax return. DHHS was instructed to develop a process to assist individuals who are eligible for the credit with completing the necessary tax forms to apply. This requirement has yet to be implemented. DHHS should act to ensure that Mainers get the help they need to cope with the financial weight of burdensome property taxes.

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<sup>i</sup> USDA. Table 4: Prevalence of household food insecurity and very low food security by State, average 2015-17, p. 28. Accessed at: <https://www.ers.usda.gov/webdocs/publications/90023/err-256.pdf?v=0>

<sup>ii</sup> See [https://www.maine.gov/energy/fuel\\_prices/](https://www.maine.gov/energy/fuel_prices/) and <https://www.maine.gov/dhhs/ofi/rules/proposed.shtml#anchor815543>

<sup>iii</sup> <https://fas.org/sgp/crs/misc/R42054.pdf>

<sup>iv</sup> <https://le.utah.gov/interim/2014/pdf/00005534.pdf>

<sup>v</sup> <https://fns-prod.azureedge.net/sites/default/files/snap/FY2018-ABAWD-15%25ExemptionTotals.pdf>

<sup>vi</sup> <https://fns-prod.azureedge.net/sites/default/files/ops/sebtcfinalreport-summary.pdf>

<sup>vii</sup> <https://fns-prod.azureedge.net/sites/default/files/snap/14-State-Options.pdf>

<sup>viii</sup> <https://www.maine.gov/dhhs/ofi/reports/reports.html>

<sup>ix</sup> 22 MRS §3762(18).

<sup>x</sup> 22 MRS §3769-E.

<sup>xi</sup> [http://www.mainehousing.org/docs/default-source/policy-research/Research-Reports/Housing-Profiles/mainehousing-energy-usage-the-liheap-program-profile--march2016.pdf?sfvrsn=51aca715\\_12](http://www.mainehousing.org/docs/default-source/policy-research/Research-Reports/Housing-Profiles/mainehousing-energy-usage-the-liheap-program-profile--march2016.pdf?sfvrsn=51aca715_12)