STATE OF MAINE
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES

TO: Senator James Hamper, Senate Chair
Representative Drew Gattine, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Eric L. Brakey, Senate Chair
Patricia Hymanson, House Chair
Joint Standing Committee on Health and Human Services

DATE: March 30, 2017

RE: LD 390, An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019

The Health and Human Services Committee is pleased to provide its recommendations on LD 390, the biennial budget bill. Committee votes are contained in the attached spreadsheets. This memo is to summarize some of the information contained in the spreadsheets and to provide additional information and reasoning on some initiatives with divided reports.

Unanimous votes. Most votes shown on the attached spreadsheets were unanimous, some of which are highlighted here. The Committee was in unanimous agreement to:

- Fund an increase in the Section 29 cap to provide support services for adults with intellectual disabilities or autistic disorder (lines 84-88).
- Continue Fund for a Healthy Maine funding through the biennium for 5 limited-period positions relating to lead inspections (line 319 with amendment). The department testified at the public hearing that the change package will fund the positions through the biennium and the committee agrees with that.
- Approve all of the initiatives transferring accounts from the former Department of Behavioral and Developmental Services programs to the equivalent programs in DHHS (lines 481-628 and Part LLLL). These initiatives are found on the HHS gold document.
- Reimbursement parity between facility-based and independent physicians (lines 370-371). The committee voted unanimously to reject this proposal. The negative impact on hospitals would be too great and there are explanations for the existence of differential rates.

- Maintain funding for the Maine Rx Plus program (lines 318, 338-339 and Part YYY). The department testified at the public hearing that this initiative would be removed in the change package.

Unanimous additional initiative

- Opioid Health Homes. The Committee voted unanimously to continue the Opioid Health Home program that was enacted in Public Law 2017, chapter 2, Part P.

Majority votes

- Community family planning (line 247). The Committee voted 12-1 in favor of the initiative to reduce the GF appropriation for the community family planning program. The Committee has been assured that this program will continue using TANF funding.
- Head Start (line 257). The Committee voted 7-6 against the initiative to eliminate General Fund funding for the Head Start Program. There were two minority reports regarding this initiative. Two legislators voted to replace the GF money with Fund for Healthy Maine money or another revenue source. Four legislators voted to move the initiative in as proposed.
- DEEP (line 263, Part XXX). The Committee voted 7-6 against the initiative to transfer the Driver Education and Evaluation Program (DEEP) and related positions from the Office of Substance Abuse and Mental Health Services to the Department of the Secretary of State. The minority of the Committee voted the initiative in as proposed.
- Fund for a Healthy Maine Community/School Grants (lines 320-322). The Committee voted 7-6 against this initiative. The minority of the Committee voted the initiative in as proposed.
- Fund for a Healthy Maine Tobacco Control and Prevention (lines 322-325). The Committee voted 7-6 against this initiative. The minority of the Committee voted this initiative in with an amendment to recognize the department's intention to remove the Tobacco Helpline from the initiative.
- MaineCare eligibility for 19 and 20 year olds (lines 364-365). The Committee voted 7-6 against this initiative. The minority of the Committee voted the initiative in as proposed.
- Eliminate MaineCare eligibility for parents greater than 40% FPL (lines 366-367). The Committee voted 7-6 against this initiative. The minority of the Committee voted the initiative in as proposed but with the recognition that the department needs to submit language to accompany this initiative.
- Reimbursement rates to Critical Access Hospitals (lines 368-369). The Committee voted 7-6 against the initiative to reduce the reimbursement rate from 109% of cost to 101%. The majority of the Committee voted to reject the proposal. The minority of the Committee voted to amend the proposal from 109% to 107% of cost. The department indicated that changing the reimbursement rate will require language to implement the minority's recommendation.
- Hospital tax rebasing (lines 374-375, Part IIII). The Committee voted 9-4 against the initiative to rebase the hospital tax year from FY 2012 to FY 2014.

- Estate Recovery (lines 372-373). The Committee voted 7-6 in favor of permitting estate recovery recoupment against property held in joint tenancy for long-term care members. The department testified at the work session that the change package will include language necessary to implement this initiative. The minority of the Committee voted to reject the initiative.
- Medical Review Team privatization (lines 259-262). The Committee voted 7-6 against the initiative to privatize the Medical Review Team that determines disability for Medicaid. The minority of the Committee voted to accept the initiative as presented.
- Disability determination and 45 day application (lines 396-397, Part GGGG). The Committee voted 7-6 against the initiative that would direct the department to seek relief from the decision process required by the Polk v. Longley consent decree in Part GGGG. Therefore the majority of the Committee voted to amend lines 396-397 to fund the limited period positions that process the MaineCare eligibility determinations through the entire biennium. The minority of the Committee voted for the initiative as presented.
- SNAP-Ed (lines 398-399). The Committee voted 7-6 to amend the initiative to continue the SNAP-Ed limited period position. Although all members of the committee are in favor of continuing this position, the majority of the committee amended the initiative to require the continuation of the SNAP-Ed program for evidence-based nutrition education, cooking classes, health promotion and obesity prevention programs. The majority are not in favor of the department's request to FNS seeking a waiver to move educational funds for SNAP-Ed into direct distribution of food to food banks and community organizations with educational programs remaining only in schools. This language is attached at the end of this memo.
- Public assistance programs for non-citizens (lines 402-404, Part KKKK). The Committee voted 7-6 against the initiatives that would eliminate state-funded SNAP, TANF and state supplement to SSI. The minority of the Committee voted for the initiatives as presented.
- General assistance (lines 405, 414-415, Part ZZZ and HHHH). The Committee voted 7-6 against the proposals that would eliminate the General Assistance program completely and eliminate the program for non-citizens. The minority of the Committee voted for both sets of initiatives as presented.
- TANF (Parts EEEE and FFFF). The Committee voted 7-6 against the proposals to amend the TANF program including eliminating coverage for individuals with drug felony convictions, removing most good cause exceptions, limiting lifetime coverage to 36 months, creating a fund the payment of federal fines and other provisions. The minority of the Committee voted for Part FFFF as proposed but amended Part EEEE to allow an individual to qualify for TANF after a period of 10 years has passed since the completion of incarceration for a drug felony conviction. This language is attached at the end of this memo.
- Reducing allocations in federal expenditure funds (lines 214-215). The Committee voted 12-1 to accept these two initiatives to reduce allocations in federal expenditure funds. (All other initiatives related to reducing allocations were unanimous.)
- Position eliminations (lines 272-303). The Committee voted unanimously to approve the following initiatives related to position eliminations: the ASPIRE positions; the Agency

Info Security Officer position; the Asst Dir Div Medicaid/Medicare Services position; and the Chemist II position. However, the Committee voted 7-6 against all other initiatives to eliminate positions.

Minority votes

- General Assistance. 6 members of the Committee voted to include additional changes to the General Assistance program. This minority initiative would do the following: (1) eliminate General Assistance for an individual that has timed off TANF until a period of 5 years has passed and (2) make an applicant for General Assistance who voluntarily abandons or refuses to use an available resource without just cause ineligible for 120 days from the date of abandoning the resource. This language is attached at the end of this memo.

Committee members are prepared to discuss this report with you. We will be available to work with the AFA Committee and your staff if drafting is required for any of our HHS program items. Thank you for your consideration.

cc: Members, Health and Human Services Committee
Mary Mayhew, Commissioner of the Department of Health and Human Services
David Sorenson, Office of the Governor
Maureen Dawson, OFPR
Luke Lazure, OFPR
Christopher Nolan, OFPR
Anna Broome, OPLA
Erin Lundberg, OPLA

Majority amendment to lines 398-399:

Sec. __. Required nutrition education. The Department of Health and Human Services shall provide evidence-based nutrition education, cooking classes, health promotion and obesity prevention programs through the SNAP-Ed program to children and adults, including the elderly and families. The Department shall provide the annual report on the expenditures within the SNAP-Ed program to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

SUMMARY

This amendment requires the Department of Health and Human Services to provide evidence-based nutrition education, cooking classes, health promotion and obesity prevention programs through the SNAP-Ed program to children and adults, including the elderly and families. The department shall provide an annual report on the expenditures within the program to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

Minority report amendment to EEEE:

Sec. EEEE-4 to be amended as follows:

14-A. Denial of assistance based on felony drug offense. An individual convicted of a felony drug offense after August 22, 1996 is not eligible for food assistance until a period of 10 years after the completion of a sentence from imprisonment for that conviction has elapsed. As used in this subsection, "felony drug offense" means an offense that, at the time of conviction, is punishable by imprisonment for one year or more under any law of the United States or of any state and that has as an element the possession, use, or distribution of a controlled substance as defined in Section 102(6) of the Controlled Substances Act, 21 United States Code 802(6) or a scheduled drug as defined in Title 17-A, section 1101, subsection 11. "Felony drug offense" does not include conviction of a crime under the laws of another state that is classified by laws of that state as a misdemeanor and is punishable by a term of imprisonment of 2 years or less. This subsection applies to current recipients of and new applicants for food assistance.

SUMMARY

This amendment allows a person who has been convicted of a felony drug offense to be eligible for assistance after a period of 10 years after the completion of imprisonment for that conviction has elapsed.

Minority report – new initiative related to General Assistance:

Sec. __. 22 MRSA §4301, sub-§1-B is enacted to read:

1-B. Available resource. "Available resource" means any resource that is immediately available or can be secured without delay, including but not limited to cash on hand or in bank accounts; support from relatives; any state, federal or nonprofit health or social service provider assistance; or any housing, employment or unemployment assistance that an applicant is receiving or is immediately eligible to receive.

Sec. __. 22 MRSA §4301, sub-§3, as amended by PL 2013, c. 368, Pt. OO, §4, is further amended to read:

3. Eligible person. "Eligible person" means a person who is qualified to receive general assistance from a municipality according to standards of eligibility determined by the municipal officers whether or not that person has applied for general assistance. "Eligible person" does not include a person who is a fugitive from justice as defined in Title 15, section 201, subsection 4. "Eligible person" does not include a person who is ineligible to receive benefits under the Temporary Assistance for Needy Families program pursuant to section 3762, subsection 18 until a period of 5 years or more has elapsed except that a person to whom the process is not yet complete may be considered eligible.

Sec. __. 22 MRSA §4317, first ¶, as amended by PL 1993, c. 410, Pt. AAA, §11, is further amended to read:

An applicant or recipient must make a good faith effort to secure any potential resource ~~that may be available, including, but not limited to, any state or federal assistance program, employment benefits, governmental or private pension programs, available trust funds, support from legally liable relatives, child support payments and jointly held resources where the applicant or recipient share may be available to the individual~~. Assistance may not be withheld pending receipt of such resource as long as application has been made or good faith effort is being made to secure the resource.

Sec. __. 22 MRSA §4317, 3rd ¶, as amended by PL 1993, c. 410, Pt. AAA, §11, is further amended to read:

An applicant who refuses to utilize potential resources without just cause, after receiving a written 7-day notice, is disqualified from receiving assistance until the applicant has made a good faith effort to secure the resource. It is the responsibility of the applicant to establish the presence of just cause.

Sec. __. 22 MRSA §4317-A is enacted to read:

§ 4317-A. Use of available resources

1. Abandonment and refusal to use available resource. An applicant who abandons or refuses to use an available resource without just cause is not eligible to receive general assistance to replace the abandoned or refused available resource for a period of 120 days from the date the applicant abandoned or refused to use the available resource. An available resource is considered abandoned if the applicant without just cause voluntarily terminates receipt of an available resource. It is the responsibility of the applicant to establish the presence of just cause.

2. Forfeiture of benefits. An applicant who forfeits receipt of or causes reduction in benefits from an available resource because of fraud, misrepresentation or a knowing or intentional violation of a rule governing an available resource or a refusal to comply with a rule governing an available resource without just cause is not eligible to receive general assistance to replace the forfeited benefits for the duration of a sanction imposed on the applicant for violation of a rule governing an available resource or 120 days, whichever is greater. It is the responsibility of the applicant to establish the presence of just cause.

Failure of an otherwise eligible person to comply with this section may not affect the general assistance eligibility of any member of the person's household.

SUMMARY

This amendment makes an applicant for general assistance who voluntarily abandons or refuses to use an available resource without just cause ineligible to receive general assistance for a period of 120 days from the date the applicant abandons the resource. It also makes an applicant who forfeits an available resource due to fraud, misrepresentation or intentional violation or refusal to comply with rules without just cause ineligible to receive general assistance to replace the forfeited resource for the duration of the sanction imposed on the applicant for violation of a rule or 120 days, whichever is greater. It also provides that a person who has exhausted the 60-month lifetime limit on Temporary Assistance for Needy Families program benefits is ineligible to receive municipal general assistance program benefits.

To: Committee on Appropriations and Financial Affairs
From: Committee on Health and Human Services Democrats
Re: Report Back on Biennial Budget Initiatives
Date: Thursday, March 30, 2017

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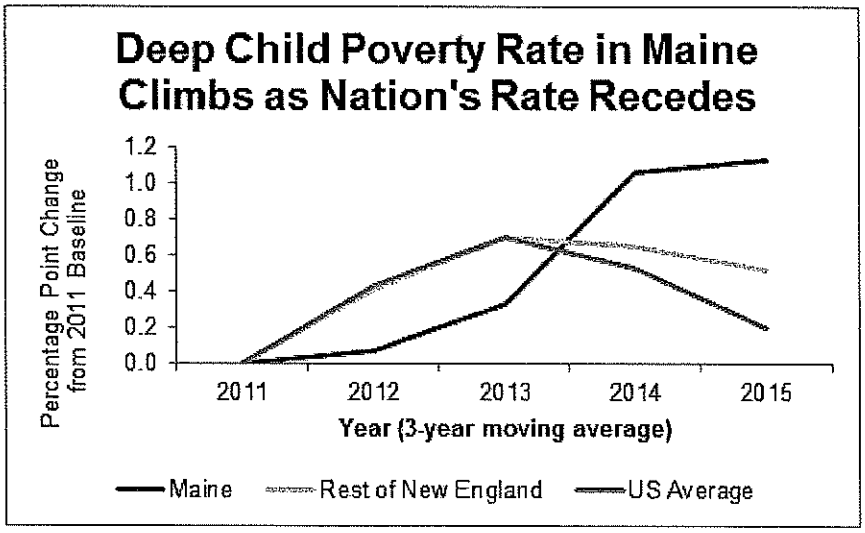
Maine needs a budget that fixes problems, not creates them.

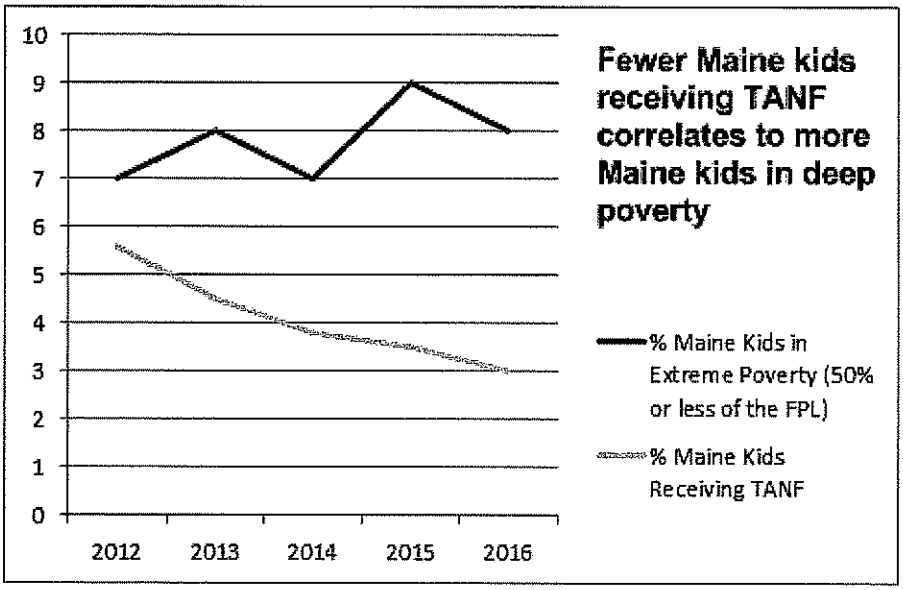
For the last six years, we have failed to invest in Maine's future. We've driven children and families deeper into poverty, increased childhood hunger, and removed basic health care from struggling families. We are now seeing the effects of these short-sighted policies: our children are experiencing high levels of hunger and stress in their development, and an increasing number of children are starting school unready to learn. With a significant decrease in health insurance for low-income Mainers, we've found ourselves unable to deal effectively with an unprecedented opioid crisis. We hear from leaders across public and private sectors that this strategy is failing Maine kids and our collective future. Meanwhile, the Administration has been masterful in its choice of terminology. Whenever vulnerable children and families are pushed aside, the rationale is always that we must take these actions to direct funds toward the "*most* vulnerable." Desperate Mainers are pitted against desperate Mainers and poor Mainers who may have medical, behavioral, or substance use challenges are deemed "able-bodied" for political gain.



The Department of Health and Human Services is tasked, in statute, with executing "supportive, preventive, protective, public health and intervention services to children, families and adults, including the elderly and adults with disabilities.The department shall endeavor to assist individuals in meeting their needs and families in providing for the developmental, health and safety needs of their children." This proposed budget runs counter to all of those directives. The programs DHHS administers should seek to empower Mainers and provide them with opportunities to be healthy, strong, and productive. Simply cutting participation in these programs to fund tax cuts does not help

to improve Mainer's lives, but rather contributes to them becoming less healthy, poorer, and less able to participate successfully in work and community.

Since 2011, over 9,000 Maine families, including nearly 16,000 children, lost support from the TANF program, which helps families meet their most basic needs. Over 42,000 Mainers lost food assistance, and hunger increased in Maine while it decreased in the rest of the country. Tens of thousands of Mainers lost health coverage under MaineCare and the Elderly Drug Program. These lost supports affected seniors, children, working parents, adults under the poverty level, and immigrant families[1]. As you can see below, reduced enrollment in critical programming (which resulted from cuts to eligibility and funding for these services), has coincided with an increase in deep poverty among Maine's children.



Mainers value dignity, hard work, practicality, and independence. Our government must reflect those values by ensuring that people can meet their most basic needs, while at the same time providing the services and supports necessary to help prepare them to live healthy, productive, independent lives. The programs carried out by DHHS are meant to create a bridge from challenging circumstances to the ability to live out these ideals. Mainers work hard for their money, but they are also willing to help their neighbors going through tough times to get back on their feet. They trust us as legislators to be thoughtful, practical, and expedient. Rather than cutting people off from lifelines to security, we must do what we can to support our people to reach independence and achieve their goals. These lifelines are not intended to be long term solutions, merely a bridge to stability and financial independence. To paraphrase Maine Governor Joseph Brennan and President Ronald Reagan, the best welfare program is a job, and the best social welfare agency is a family.

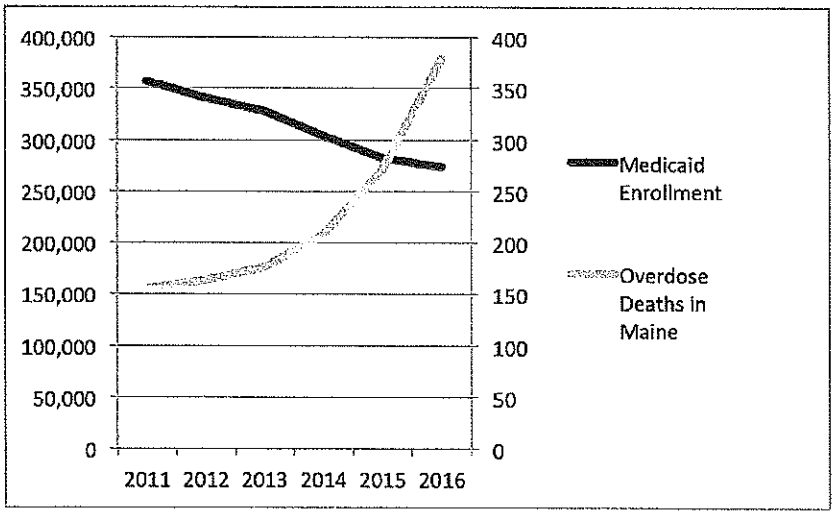
[1] http://www.mejp.org/sites/default/files/Real-Reform-Must-Solve-Real-Problems-Feb-2017_1.pdf

The budget proposed by the Executive branch for the Department of Health and Human Services scales back programming intended to carry out the mission of the Department and invest in the future of Maine. These cuts are not proposed to balance budgets or address financial crises; instead, they are proposed to fund tax breaks for a small segment of Maine's wealthiest population. They are unnecessary, punitive, and counter to the values Mainers hold. The administration has repeatedly taken credit for eliminating budget crises in the Medicaid program, but the result of significant cut backs has been serious collateral damage that will affect Maine well into the future.

It is imperative that we invest *now* in Maine's children experiencing poverty. They are the future of our communities and of our workforce, and investment in them now will pay great dividends in the future. In public testimony we heard pediatricians and teachers tell us that children who suffer from Adverse Childhood Experiences (ACEs), among them hunger, poverty, inadequate early education, and inadequate health coverage, experience lifelong and permanent consequences[2]. These experiences also correlate to poorer economic performance and statistics[3], which is a curse not only for these children's futures, but for our state as well.

Additionally, Health and Human Services Democrats were shocked that the budget didn't contain any initiatives to combat Maine's opioid crisis. These proposals actually move us backward, away from necessary addiction treatment, by cutting Medicaid eligibility as well as public health positions and programming. We are grateful that the supplemental budget made an investment in opioid health homes, but we can't stop there. It's necessary to fund the opioid health homes beyond the 2017-2018 supplemental budget, as well as look for other ways to fund some of the innovative and evidence-based treatment and prevention proposals that will come before the Health and Human Services Committee this session.

Overdose Deaths and Medicaid Enrollment in Maine



Data sourced from DHHS & Attorney General's Office

[2] https://legislature.maine.gov/bills/getTestimonyDoc.asp?id=40621
[3] https://legislature.maine.gov/bills/getTestimonyDoc.asp?id=40620

The Attorney General announced earlier this year that in 2016, over one person died per day in Maine of an opioid overdose[4]. These tragedies reverberate through families and communities, and are stunting the next generation of Mainers. Families destabilized by the death of a loved one, or crippled by addiction, cannot live as healthfully, productively, and safely as they should. It's critical that we support people facing substance use disorders with evidence-based treatment options, and invest in effective prevention for all Maine people. Here is a place where truly an ounce of prevention is worth a pound of cure.

The Governor's budget proposal for the Department of Health and Human Services would have dire consequences for Maine consumers as well as the functioning of state government, so we think it prudent to walk through each change and our reasoning for rejecting or amending them.

MAJORITY REPORTS

Initiative on line 257 of the Biennial Budget Proposal: Reduction in General Fund appropriation for Head Start

Maine people want a budget that invests in our communities and workforce from the earliest age, and ensures Maine kids get a sound educational foundation and a healthy start in life. Investing in these children is critical. Philip Trostel, an economist at the University of Maine, was quoted at the Public Hearing,

> "The notion that a high-quality early childhood education system is too costly for Maine in the current tight budgetary environment is shortsighted. What is truly costly is the status quo. We cannot afford, now just as much as any other time, to *not* invest enough in putting more of our young children on paths leading to fiscally responsible futures.[5]

Head Start ensures that low-income Maine kids get that opportunity by providing the strong educational programming and family support and engagement that prepares them for success in K-12 schooling and beyond. Leaders across sectors including national security leaders[6], the Maine Chamber of Commerce[7], Chiefs of Police[8],

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[4] http://www.pressherald.com/2017/02/02/number-of-drug-deaths-in-maine-hit-record-in-2016/
[5] https://legislature.maine.gov/bills/getTestimonyDoc.asp?id=41001
[6] http://www.pressherald.com/2017/03/03/maine-voices-lack-of-early-education-funding-is-becoming-a-national-security-issue/
[7] http://www.pressherald.com/2017/03/21/letter-to-the-editor-pre-k-education-a-vital-service-for-children-businesses-society/

pediatricians, and teachers all agree that investment in early childhood education is critical.

An article in the Bangor Daily News[9] and recent report from the Maine Center for Economic Policy[10] outline how access to childcare vouchers in Maine has decreased significantly, and how in each of the last four years, Maine has left at least four million dollars in federal money for childcare and head start programming on the table.

This is not a time in which we should be shortsighted when it comes to our children. Head Start isn't just about access to child care, it's about quality early care and education for children and providing support, such as connections with health care, for children and their families. Maine kids need more investment made in their futures so they can be healthy, productive, and engaged in our communities throughout their lives. This is critical to Maine's economic future. A healthy, educated, engaged workforce is key to Maine's future prosperity. We should be putting more resources toward critical programs like Head Start and Child Care reimbursements, not less.

For all the reasons outlined, we reject these initiatives. Instead, we believe the Appropriations Committee should bolster Head Start by filling the $575,000/year hole[11] created in this budget by one-time funding appropriated by the 127th Legislature and funding proposals like that put forward in LD 230, which would increase funding for the Head Start program and is supported by a wide coalition of law enforcement, health care professionals, teachers, advocates, and parents. We also encourage the Appropriations Committee to increase the childcare voucher rate from the 50th percentile of the market rate study to the 75th percentile, to provide more parents with access to quality child care.

Initiatives on lines 259-262 of the Biennial Budget Proposal: Eliminates DHHS medical review services, including 9 positions, and puts services out to contract.

We were unconvinced that this change would ensure better results in eligibility determination and the move would result in job loss for state workers. Additionally, there was no indication that this would result in a savings for the Department. For this reason we reject this budget initiative.

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[8] legislature.maine.gov/backend/app/services/getDocument.aspx?doctype=test&documentId=46559
[9] http://mainefocus.bangordailynews.com/2017/03/a-working-moms-dilemma/#.WNLTAzvyuUk
[10] http://www.mecep.org/wp-content/uploads/2017/03/Lost-Federal-Funds-FINAL.pdf
[11] http://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=40982

Initiative on line 263 & part XXX of the Biennial Budget Proposal: transfer of the Driver Education and Evaluation Program from the Office of Substance Abuse and Mental Health Services to the Office of the Secretary of State.

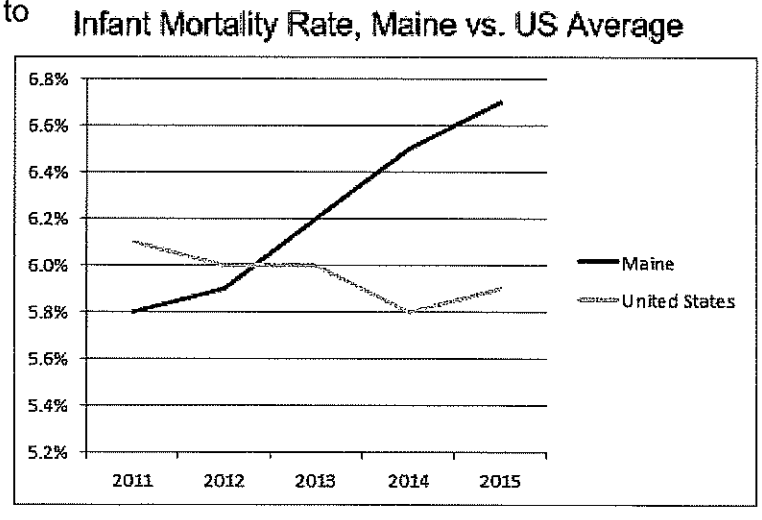
The Driver Education and Evaluation Program is one of many license reinstatement requirements for people whose licenses are suspended for alcohol-related vehicle infractions. This program is intended to influence the substance use choices rather than driving proficiency.

The Secretary of State testified to the many reasons that DEEP should remain in DHHS. as "they are charged with the responsibility for planning, developing, implementing, coordinating, and evaluating all of the State's alcohol and other drug abuse prevention and treatment activities and services.[12]" The Secretary of State's office does not have the requisite expertise to deal with substance use issues.

The Department of Health and Human Services is tasked with the above, and should be focused on solving Maine's substance use problems in a holistic, well-rounded, and all encompassing way. As the experts on this topic and hopefully on the treatment of these issues, DHHS is the best place for this program, and we reject this initiative.

Initiatives on lines 272-290 and 292-303 of the Biennial Budget Proposal: Position elimination in critical programming provided by DHHS

Public health nursing is absolutely critical to the health and wellbeing of Mainers, and especially Maine kids. Mainers want, and Maine needs, a healthy population, and a strong public health infrastructure, and public health nursing is the backbone of that effort.



Data sourced from Kids Count Data Center

Public health nursing had successfully addressed infant and maternal mortality for decades. However, more recently, the infant mortality rate in Maine has been climbing[13]. Lisa Harvey-McPherson

[12] http://legislature.maine.gov/bills/getTestimonyDoc.asp?id=40973

[13] http://bangordailynews.com/2016/08/17/mainefocus/why-you-should-take-maines-rising-infant-mortality- rate-seriously/

of Eastern Maine Healthcare Systems testified that physicians in community-based programs "rely upon public health nurses and post-delivery community resources to provide in-home services providing a vital safety net for parents and newborns at risk." She continued to express that previous changes in the program have already eroded essential services and that needs are currently going unmet[14].

Additionally, the public health nursing program is an essential workforce for preventative health care, infectious disease outbreak control and disaster response. During the public hearings, we heard several testimonies asserting that Maine is not prepared for threats posed by outbreaks. For all these services, Maine has seen an erosion in staffing for public health nursing. This workforce used to be about 80 statewide, became approximately 50 four years ago, and is now under 20, with 11 positions proposed to be eliminated in the Governor's budget.

Additionally, we are skeptical about proposals to eliminate vacant positions. The Administration appears to have a broad strategy of outsourcing and contracting services. However, the plan and rationale for these changes have never been communicated to the Legislature. Before we can be comfortable with implementation of this strategy, we reasonably require an understanding of the larger vision. Simply because a position is vacant does not mean that it is not necessary. For example, the budget proposed to cut positions in Data, Research, and Vital Statistics, which does critical work to collect information that becomes the basis of Maine's public health programs and informs grant applications, among other functions of DHHS. Vital records show population health problems as they emerge, such as the opioid epidemic, as well as trends over time, like Maine's rising infant mortality rate, and assures that resources can be targeted appropriately to the most serious health problems. Throughout DHHS programming, we need more and better data, not less. Without adequate information about what the positions up for disposal provide to the Department, and what would be missing if they were left unfilled, we are not willing to endorse these cuts.

It is critical that we salvage the remains of Maine's public health nursing program, and look for opportunities to restore, in efficient and effective ways, the capacity of the program that previously existed. Mainers need a public health infrastructure prepared to defend against infectious disease outbreak, provide preventative health services and education, and prepare our communities to live full, healthy lives. We reject these cuts and instead support investing in the public health nursing program as is envisioned in the bipartisan LD 1108 brought forth by Senator Carson.

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[14] http://legislature.maine.gov/bills/getTestimonyDoc.asp?id=40736

Initiatives on lines 320-325 of the Biennial Budget Proposal: Reallocation of monies in the Fund for a Healthy Maine.

The Fund for a Healthy Maine was established with tobacco settlement money for the purposes of supporting good health and preventing costly diseases. For many years these funds have been invested in tobacco and other chronic disease prevention efforts across the state. This investment had paid off in significant reductions in tobacco use and related improved health outcomes. However, due to staff vacancies and unspent funds, these efforts had stalled in recent years.

In response to legislative concerns for more accountability by the Tobacco Control Program, the Department redesigned the entire program and made significant changes. Contracts for implementation were signed only a few months ago. This redesigned effort is just getting started and should be allowed to continue with robust evaluation toward determining efficacy using the Federal CDC's best practices guidelines.

We have a tobacco crisis in our state. Nearly 40% of Maine's 18-year olds have used a tobacco product in the past 30 days. It is critical that significant resources be directed at preventing all youth from becoming addicted to tobacco, including focused evidence-based strategies on high priority populations. These not only include low-income populations, but also LGBT and tribal populations, and geographic areas with high youth tobacco use rates. Evidence-based strategies include community-based and counter-marketing efforts that happen outside of the doctor's office.

This transfer of FHM dollars to Mainecare means a 93% cut in the statewide tobacco program, 100% cut for the statewide Obesity Program (Let's Go!), the elimination of 15 school based health centers, as well as the elimination of prevention funding for youth, and the elimination of a key funding source for the 9 district coordinating councils and the tribal public health liaison.

Rather than continuing evidence-based programming, or even bolstering Mainecare-supported prevention programming, the Department and the Governor are proposing in this initiative to supplant General Fund dollars with dollars from the Fund for a Healthy Maine (FHM). Not only does this eliminate essential programming, but expects that without any mandate or additional resources, primary care providers, who usually see patients for just minutes a year, will effectively take on the responsibility for tobacco and obesity prevention. These providers have necessarily relied on Fund for a Healthy Maine-funded programming to deliver strong and effective tobacco use prevention and other public health messages in the community to enhance and support their own efforts

and to reach those who do not typically see the doctor, including the uninsured. We heard from providers at the public hearings that they count on the community-based prevention programs and do not have the capacity to do prevention on their own.

These funds must remain in primary prevention programming so that we deflect health problems before they can occur. We see no justification in these unconscionable initiatives and reject them along with any further erosion to Maine's public health infrastructure.

Initiatives on lines 364 - 367 of the Biennial Budget Proposal: elimination of Medicaid eligibility for 19 & 20 year olds effective January 1, 2018 and for parents earning greater than 40% of the federal poverty limit to 100% of the federal poverty limit as of July 1, 2018.

Mainers want more access to healthcare, **NOT** less. Over the last 5 years over 40,000 Mainer people have lost access to the MaineCare as a result of cuts to eligibility.

Young adults and low income parents often work entry level positions that don't pay well or offer benefits. They often work in low wage seasonal tourism jobs, which employers already have a hard time filling. We should be doing all we can to help keep our youth in Maine. Providing health coverage that enables them to fill these jobs as they move forward with their education and career is one way to do so. Additionally, when family members, such as parents, are in distress, that translates into distress for the children and has ripple effects in their health and well-being. Ensuring access to healthcare for low income parents ensures stability and healthy homes for Maine's growing kids.

The Commissioner asserted that Medicaid, or Mainecare, has been transformed into a more efficient and effective program under the current administration, and that the Department has achieved significant savings over the last several years. DHHS and the Governor's office claim that this initiative would contribute to those savings by encouraging people below the poverty level to find jobs that provide health insurance.

The real story of recent changes in Mainecare is vastly different. Savings within the program have come from harmful cuts resulting in the removal of more than 40,000 people from the program and withdrawal of millions from Maine's health care economy. These changes correspond with a sharp decline in Maine's overall health status compared to other states. The Department offered no evidence that sufficient jobs that provide health care are available for the thousands of people living in poverty that would lose coverage and these individuals are not eligible for subsidies in the healthcare marketplace.

The testimony HHS & AFA heard during public hearings demonstrated that these cuts will harm municipalities and hospitals and make Mainers less healthy. The City of Bangor testified that previous cuts in MaineCare have dramatically increased spending on prescription drugs through the General Assistance Program. Additionally, the Maine Hospital Association testified that we "have to look at the tens of thousands of Mainers who had their Medicaid coverage removed due to eligibility cuts enacted into law in the 125th Legislature... the people who lost coverage didn't all leave Maine. Many remain here and are uninsured and now rely on hospital charity care." Additional cuts to MaineCare eligibility, whether affecting young people trying to launch into the workforce, or parents making less than half the Federal poverty level, serve only to further burden our hospitals, our property tax payers & municipalities, and everyone in our communities who rely on a healthy and productive workforce.

The Paraprofessional Healthcare Institute reports that 45% of direct care workers in Maine currently rely on Mainecare for their primary health coverage[15]. Ensuring a strong health infrastructure includes making sure that employees in the healthcare field are able to carry out their work. Health care, both preventative and responsive, is integral to holding a job, and cutting access to this for employees in all sectors will have dire consequences for Maine's families and Maine's economy.

Primary care access also provides substance use disorder prevention and intervention. Eliminating this access for at-risk populations is a problem for these individuals and for our communities. It is no coincidence that as Mainecare rolls decrease, our opioid crisis and especially overdose deaths have increased significantly.

For all these reasons, we soundly reject these cuts. Instead, we support the ballot initiative that would enable Maine people to vote to expand access to quality affordable health care for 70,000 low income Mainers in November, the great majority of whom have no access to health insurance at work or on the marketplace exchange.

Initiatives on lines 368-369 and lines 370-371: Changes to reimbursement rates, and fee structures for Critical Access Hospitals.

Critical access hospitals serve a poorer population that is more likely to be uninsured or older and eligible for Medicare. These hospitals also serve as a major employer in rural Maine, providing quality jobs, serving as an economic hub as well as part of the identities of their communities. The initiatives in the Governor's proposed budget would cost these

[15] https://phinational.org/node/16515/public-assistance

hospitals (including federal match dollars), at least $66M per year going forward. Along with other economic stressors, Maine's critical access hospitals cannot absorb these cuts, and would be significantly threatened if asked to shoulder this additional burden.

These proposals won't lead to more opportunity in rural Maine, better paying jobs or better healthcare. In fact, they would eliminate healthcare for thousands of Mainers. They have been deemed imprudent for the last several budget cycles, and we find them imprudent now. Maine people, especially those in rural areas, rely on these critical access hospitals for needed care. We reject these initiatives.

Initiatives on lines 374-375 & IIII: Changes to base year for the hospital tax.

Maine needs strong and successful hospitals as a critical part of our health care infrastructure. We reject these proposals at this time as the future of our nation's healthcare system is uncertain and this would increase taxes on the majority of hospitals, many of which are on the edge of financial instability as is.

Initiatives on line 414, 415 & part ZZZ of the Biennial Budget Proposal: repeal of the General Assistance program.

Mainers want us to do our job by taking on the challenges we face, rather than passing proposals that will make these problems worse. Proposals like this, that shred Maine's most basic safety net, is out of step with Maine values of caring for our neighbors when they are in crisis. That is just what the General Assistance Program is designed to do, and has done since before Maine became a State.

The Department proposed, as it has in previous years, eliminating all state funding for General Assistance. Nick Adolphsen from the Department asserted in an HHS Work Session that this change is proposed because the role of government is currently too expansive and needs to be reduced, and funding reprioritized, to serve people with disabilities and seniors - people the department characterized as "truly needy." Additionally, they claim that private charity can fill any gap created by this initiative.

When considering this initiative, it is important to note that General Assistance, in practice, is primarily a housing program. Over 75% of GA funds are spent in housing vouchers, and that number jumps to over 85% when you include emergency housing such as shelters[16]. Were Maine to eliminate GA, we would see homelessness skyrocket.

[16] http://legislature.maine.gov/legis/opla/OFIOrientationPresentationJanuary2017.pdf

Several studies demonstrate how permanent supportive housing benefits not only the individual, but the community. A study produced in 2009 showed significant cost savings in health care, mental health care, emergency room visits, jails, and ambulance & police services in greater Portland[17] in the second year of permanent supportive housing. The first and most important step we can take to eradicate poverty in Maine and get people healthy and back to work is to ensure they have stable housing.

Pine Tree Legal Assistance provided testimony showing that even though Cumberland and Penobscot Counties have the largest numbers of people living in poverty, they have many fewer evictions per persons living in poverty than other counties. This is because of the strong, professionally administered General Assistance Programs in Portland and Bangor.

During the Public Hearing, we heard from several municipalities who project steep increases in property taxes to make up for lost state funding. Lewiston estimates that their mill rate would increase by approximately .33 to raise the $630,000 they would need in additional funds to continue to run the program. In Bangor, the mill rate would increase by .65 to raise the additional $1.55 M it would need to continue GA. These property tax hikes fall disproportionately on Maine's elderly, many of whom live on the edge of poverty as it is.

The Department claims that it would like to prioritize the individuals they see as most vulnerable -- people with disabilities, the elderly, and children. In Bangor over 20% of GA recipients have a physical or mental disability that makes working and earning a living wage difficult if not impossible. In Sanford, over 30% of GA recipients are children. Many local General Assistance administrators testified that one of the most important roles GA serves is to help people with disabilities meet their basic needs while they are waiting for a disability determination from the Social Security Administration.

We heard from the Department that community programs and charities could fill this gap. This is simply untrue. Charities, religious groups, and community agencies, one after another, came to the podium during public hearing and shared that they can not absorb this program elimination. When asked what more they could do, a clergy member in Thomaston said they were already stretched thin, and the only other thing they could do was "hold their hands and pray." This is not a burden they can bare, and this is not the way Mainers treat their neighbors facing hard times.

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[17] https://www.mainehousing.org/docs/default-source/housing-reports/the-effectiveness-of-permanent-suppor tive-housing-in-maine-10-2009.pdf?sfvrsn=8

Along with the elderly Mainers who will likely see property tax increases, many that would be affected by this cut are those very people that the Department claims to be prioritizing. This initiative, however, only serves to pull the rug out from underneath them. For these reasons, we encourage members of the Committee on Appropriations and Financial Affairs to reject these proposals.

Instead, we acknowledge that poverty, homelessness, and hunger are state-wide problems, and support the state paying 100% of the cost of this program. Since GA is a state program that is required for towns to administer, we believe it is only right that the state cover 100% of the costs of this mandate. This would ensure that service centers like Bangor, Lewiston, and Portland, that absorb many of the GA-seeking families from rural communities, are not on the hook for the needs of the entire state. If the current state/municipality cost breakdown is continued, we suggest AFA consider including the cost of administration toward the 30% contribution of municipalities. Employing a GA Administrator and managing the logistics of this program is costly for towns, and should figure into their funding from the state. Additionally, municipalities should be granted the legal authority to extend financial assistance, similar to General Assistance, to individuals in their communities who are not permitted to receive General Assistance beyond 24 months, provided that municipalities use their own funds to provide such support. Such assistance, to be determined with local control, would help meet local needs, such as reduction of homelessness.

Initiatives on line 402-405 & part HHHH & KKKK of the Biennial Budget Proposal: elimination of TANF, SNAP, other cash benefits, and state-funded General Assistance benefits for certain non-citizens.

It is imperative that we preserve access to critical supports for asylum seekers and other immigrants who rely on them to get their feet on the ground in their new home. Providing assistance for asylum seekers and other immigrants while they are forbidden by the Federal Government from working is a relatively small investment today that will pay large dividends into our future. Assistance through anti-poverty programs increases the likelihood of a successful transition here while people try to gain stability and wait for permission to work from the federal government. We heard testimony at the public hearing that illustrated this point compellingly. We intend to support policies that don't leave anyone behind or shut anyone out. We intend to invest in Maine's future; and preserve policies that will help to build an economy that works for all of us.

The Governor and DHHS propose to eliminate state funding for municipally administered General Assistance and the state-funded TANF, SNAP and SSI programs to certain

non-citizens. The Department justified this proposal saying that the State needs to prioritize its funds, and continues to incorrectly insinuate that Maine is currently out of "alignment" with federal law by spending this money on non-citizens. It is important to note that federal law explicitly allows states to do exactly as Maine is doing by using its own funds to support New Mainers' transition from unimaginable violence and tragedy in their homelands to becoming future workers, taxpayers, and contributing members of their communities here in Maine.

We agree that the state needs to prioritize its funds, but we do not have a budget shortfall and do not have to make unnecessary and difficult choices between serving one group of people at the expense of another. Given that these cuts are proposed to fund tax breaks for a small segment of Maine's wealthiest population, we do not agree that such tax cuts take priority over investing in asylum seekers and assisting elderly and disabled Mainers.

To ensure Maine's vitality, and out of moral obligation, we must create and sustain a welcoming community that embraces diversity and shows humanity and respect for those who seek a new life here.

Dana Connors, President of the Maine State Chamber of Commerce, recently stated to the Portland Press Herald, "If we are to continue to have the strong economy we all seek for our people we have to have the immigrant influence on our future the same way we have in the past... we cannot address our workforce needs without being welcoming to immigrants." In many industries, such as healthcare and tourism, immigrant workers are essential, and supporting them through the rough transition of settling in Maine will only benefit our state for generations to come. In addition, New Mainers are starting businesses at greater rates than any other group in our state, and helping to drive our economic growth. Assistance such as GA greatly increases the likelihood of a successful transition for new immigrants while they get their feet on the ground and wait for permission to work from the federal government.

The Department has proposed to eliminate these services several times in recent years. While past Legislatures have agreed on significantly scaling back eligibility, they have consistently chosen to reject the idea of eliminating this assistance altogether. We are resolute in our belief that the elimination of public assistance benefits for non-citizens will only serve to weaken Maine's workforce and communities, and set us up for a less successful future. Therefore, we implore the members of AFA to reject these initiatives.

Initiatives on line EEEE of the Biennial Budget Proposal: eliminates prohibition in TANF and Food Supplement statutes that prohibit DHHS from denying benefits based on a felony drug conviction.

Mainers believe in redemption and second chances. People who have been convicted and served time have done just that -- served their time. There is no reason to put in jeopardy the livelihood of whole families because of a past mistake by one member. This denial of benefits would not only punish previously-convicted persons, but also hurt the kids in their family who rely on these benefits for necessary nutrition. Moreover, denying assistance needed to meet basic needs to persons without resources just released from prison, reentering their communities, threatens their chances for a successful reentry. Research shows that providing access to resources reduces the chances that a person who has served time will reenter jail. Additionally, denying access to basic needs will only exacerbate our state's drug crisis.

Initiatives on line FFFF of the Biennial Budget Proposal: Changes to the TANF program

Mainers support initiatives that lift people out of poverty by helping them get back on their feet through education, job training, and supports that help them succeed in the workplace like child care and transportation. Yet those very services are exactly what hundreds of families will lose under myriad proposals that impose harsh penalties, including making the nationally recognized Parents as Scholars that helps low income single parents go to college inaccessible to most. In Part FFFF, the Department proposes more than a dozen initiatives that, if adopted, would put Maine in a distinct minority states that impose such punitive and ineffective strategies.

So-called "reforms" in the last five years have increased Maine's rate of deep child poverty faster than any other state in the nation. Dozens of people testified against these TANF cuts, including two pediatricians testifying on behalf of the American Academy of Pediatrics that described the chronic health problems and lifelong challenges associated with growing up in poverty, and a former Maine teacher of the year that spoke of the educational disadvantages that face children living in poverty.

We believe in reform, but, as we all know that means improving people's lives, not driving them deeper into poverty as we have seen here in Maine. Real reforms are based on a vision that would reduce child poverty by creating opportunities for Maine families. Real reforms would help stabilize families so that they can meet their basic needs, break down barriers to work, eliminate the welfare "cliff," expand access to

education for better paying jobs, make child care and transportation more accessible and affordable, and hold government accountable to administer programs that truly reduce poverty.

We reject these cuts not only because we disagree with the premise of decreasing access to this lifeline, but also because the Department recently launched a total restructure of its TANF ASPIRE program through an outsourced contract. While it is too early to draw conclusions about this new program, we are hopeful that this Break the Cycle initiative will obviate the need for many of the proposed changes. We should not hinder these programs before they've been given a chance to be successful.

Initiatives on line GGGG of the Biennial Budget Proposal: Changes disability determination cut-off from 45 to 90 days for applications for aid based on a disability and eliminates the requirement to provide state-funded temporary medical coverage.

Mainers expect their state government to operate fairly and efficiently. Persons applying for MaineCare, particularly those with disabilities need prompt access to health care to ensure access to needed prescription drugs and other care that supports their health and keeps them out of the emergency room. Maine is currently required by court order to make an eligibility determination within 45 days or provide temporary coverage until it does. The Department has been meeting this deadline. The Department has proposed to double the number of days to determine eligibility with no consequence if it fails to meet the requirement. It also proposes to eliminate the current staff that is enabling them to make prompt decisions today.

We reject this proposal because the system is working effectively now to provide prompt coverage that meets people's needs in a reasonable time, and prevents higher costs for the emergency care that could be otherwise needed. Moreover, the Department was not able to offer sufficient assurance that the court would release it from the consent decree requiring an eligibility determination or temporary coverage within 45 days.

Initiatives on line JJJJ of the Biennial Budget Proposal: Prohibition on DHHS obtaining waivers from USDA that would expand program access.

Mainers pay taxes to the Federal Government. The federal government has offered to return some of those tax dollars to provide needed food assistance to unemployed individuals in high unemployment areas provided they are looking for work. Mainers understand that jobs are not always plentiful, particularly in Maine's more rural counties.

It makes no sense to make a rigid rule that would prevent us from taking advantage of those funds no matter what the circumstance. Instead, we should be looking to require State agencies to seek out and apply for opportunities to use Federal dollars to improve the health and wellbeing of Maine people.

We do not believe in tying the hands of any future administration or commissioner, regardless of which party may be in control. This initiative seeks to perpetuate this Administration's ideology beyond its tenure. Such a proposal is inconsistent with the very premise of representative government and we reject this poorly-conceived initiative.

VOTES SUPPORTIVE OF INITIATIVES WITH NOTES & AMENDMENTS

Initiatives on lines 84-88 Of the Biennial Budget Proposal: Increase in the annual cap for services provided under the MaineCare Benefits Manual, Chapters II and III, Section 29.

This expansion seeks to bridge the gap between too many and too few services between Section 21 and Section 29 services. We were thrilled to see the Governor join us in support of filling this services gap and continue to strongly support this initiative.

The Committee is concerned with the ongoing rate study of community based behavioral health and substance use services as well as developmental disabilities services. We understand that this is still 'in process,' but proposals we have seen raise serious concerns about the impact on the access to services as well as quality of services available, particularly given the serious workforce shortages this sector faces. We have attached the letter of concern we sent to DHHS to this report so that your Committee is aware of these concerns and can address these rates as the process moves forward. As we receive more information from the Department, we will continue to keep the Appropriations Committee apprised.

Initiative on line 247 of the Biennial Budget Proposal: Change in funds used to support community family planning services.

Mainers believe in fact-based sexuality education that equips people to be safe and healthy. We trust the Department to use those dollars most prudent to fund this program. It is imperative, however, that this programming continues at current levels, regardless of how it is funded.

Community family planning is demonstrated to reduce unintended pregnancies, as well as the prevalence of sexually transmitted infections and diseases. It is more efficient and effective to prevent unintended pregnancy and STIs than it is to deal with the consequences. Additionally, we are concerned that funding for these services is being threatened at the federal level, and we must be vigilant about coming funding gaps and how to fill them. Community family planning is a critical piece of our public health infrastructure, and we believe it is a necessary investment to make.

Initiatives on lines 398-399 of the Biennial Budget Proposal: Extension of a limited period position to administer SNAP-Ed. Majority report includes an amendment to require DHHS to continue the SNAP-Ed program, rather than rejecting SNAP-Ed funds or using funds for other purposes.

Public education efforts in recent years have helped all Mainers to become more aware of the strong link between healthy eating and better health outcomes. Many also understand first hand how difficult it is to purchase and prepare health food on limited incomes. As a partner to the Supplemental Nutrition Assistance Program (SNAP), SNAP-Ed provides critical educational programming that helps low income families improve their health and lower health care costs. Families learn how to stretch SNAP dollars and prepare healthy meals for growing children.

SNAP-Ed provides nutrition education statewide for over 173,000 low-income Mainers every year and is 100% funded by USDA. A recent DHHS press release and letter to the USDA indicated that DHHS proposes to eliminate the SNAP-Ed program, or spend the funds on other strategies. This program currently pays for 44 nutrition educators located throughout the state through Maine's network of community health coalitions. Changes to this programming would contribute to the dismantling of Maine's community health coalition network, also known as the Healthy Maine Partnerships.

We hear concern from the Department about childhood obesity and related risks when they propose products bans for public assistance, but SNAP-Ed provides evidence-based healthy living and obesity prevention programming. It is imperative that we maintain this critical function of DHHS.

We support the initiative to continue the position charged with administering SNAP-Ed, and also seek to require DHHS to continue SNAP-Ed programming rather than rejecting SNAP-Ed funds or using funds for alternative purposes, as DHHS has indicated in a press release describing a proposed waiver to the US Department of Agriculture.

MINORITY REPORTS

Minority report on initiatives on lines 372-373: implementation of estate recovery recoupment for long term care members who have joint tenancy.

The minority who voted out initiatives on lines 372-373 assert that estate recovery recoupment disproportionately affects the low income elderly and those in poverty, without the resources or knowledge to shelter their assets. We reject this proposal as we see it unfairly affecting those with limited resources.

ADDITIONAL CONCERNS

After repeated attempts to get information from the department about their recent hiring of several attorneys, we remain concerned about the quality of work produced by these duplicative in-house legal positions. The positions themselves are legally questionable given the responsibilities assigned to the AG in Title 5 section 191, "All legal services required by those officers, boards and commissions in matters relating to their official duties must be rendered by the Attorney General or under the Attorney General's direction. The officers or agencies of the State may not act at the expense of the State as counsel, nor employ private counsel except upon prior written approval of the Attorney General. In all instances where the Legislature has authorized an office or an agency of the State to employ private counsel, the Attorney General's written approval is required as a condition precedent to the employment."

For these reasons we encourage member of the Appropriations committee to closely scrutinize funding for these positions, and carefully consider the funding for non-general counsel legal positions within the Department.

We will gladly discuss any part of this memo with members of Appropriations and Financial Affairs.

Signed,
Representative Patricia Hymanson, House Chair
Senator Benjamin Chipman
Representative Dale Denno
Representative Scott Hamann
Representative Colleen Madigan
Representative Jennifer Parker
Representative Anne Perry

STATE OF MAINE
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES

March 10, 2017

Mary Mayhew, Commissioner
Department of Health and Human Services
221 State Street
Augusta, ME 04333-0040

Dear Commissioner Mayhew,

The Health and Human Services Committee was briefed by Deputy Commissioner Alec Porteous and Stephen Pawlowski from Burns & Associates on February 10th on the behavioral health rate study undertaken pursuant to departmental policy to review all MaineCare rates, Public Law 2015, chapter 267 Part AA, and Resolve 2015, chapter 88. The presenters were very thorough, detailed and clear in the presentation of proposed rate changes to Sections 13, 17, 28 and 65 of the MaineCare Benefits Manual Chapter 101. We were very pleased that Mr. Pawlowski was able to travel to Maine to brief the Committee. We support the Department's intention to review rates, apply a systematic approach and involve the provider community. In addition, we understand the importance of balancing the adequacy of rates with tax payer value. Mr. Porteous stated several times that the Department is eager to hear comments from providers with specific data helpful to setting rates at appropriate levels through the rulemaking process. The Committee considers this to be very important and was glad to hear it explicitly expressed.

After the Department presentation, the Committee was also briefed by representatives from Sweetser, Woodfords, BerryDunn on behalf of the Alliance for Addiction and Mental Health Services, the Maine Association of Community Service Providers and the Behavioral Health Collaborative, and a parent of an impacted child. We are writing this letter to relay our thoughts and concerns about the possible impacts of the rate study. We hope that you will take into account our concerns and those of the provider community in the rulemaking process and make further adjustments, as necessary, to the proposed rates. As you know, there is already a shortage of behavioral health providers, particularly in rural areas of the state. If rates do not reflect the ability of providers to provide services, those shortages could become dire.

These are some of the specific concerns that the Committee heard from providers during the February 10th meeting:

1. Section 13 providers are assumed in the model not to be subject to the service provider tax but providers at the meeting stated that they are subject to the tax. Our understanding is that section 13 providers are subject to the tax under community support services for persons with mental health diagnoses. By contrast, section 28 included a service provider tax in the Burns & Associates study that is not levied.

2. The 25th percentile of wages is used for section 13 targeted case management wage rates even though most of the rates in the study use the 50th percentile.
3. An additional concern related to targeted case management services is the plan to move over 1,200 individuals with intellectual disabilities currently receiving targeted case management services from the state into the private sector with limited warning and insufficient private sector capacity. Combined with a 26% proposed rate cut, providers are concerned about the ability to absorb an additional number of cases this large. While we understand the importance of conflict-free case management, there is a legitimate concern about private sector capacity.
4. The model sets program costs of $25 per day to all relevant MaineCare sections (with the exception of medication management and outpatient therapy under Section 65). Program costs include costs that are largely out of the control of providers including staff training, supervisory functions, rent, equipment, utilities and insurance. These costs vary according to the service ($50-$90 a day) but all are above the $25 allotted in the models.
5. Productivity assumptions (the number of billed hours provided in a week) appear to be overstated in some models. Paid time off is not included. Children's center/school based services assume a productivity standard based on unrealistic attendance rates and a less than available number of hours available in a week. Travel times and mileage are understated. The in-home children's services under Section 28 presume a travel time of 1.76 hours for 100 miles of travel – speed and traffic that is not possible in urban areas and less than the amount of driving in rural areas. Similarly, community integration under Section 17 understates the amount of travel time necessary.
6. Nurse Practitioner and Physician Assistant medication management rates are identified in the rate study to be cut by 44%. Holes for psychiatric services are filled by nurse practitioners, particularly in rural areas. Nurse practitioners are increasingly required to have doctorates and that should be taken into account when assuming salary levels for these individuals. In addition, many nurse practitioners are independent practices with more overhead than those working in agencies.
7. Proposed increases in educational requirements will have an adverse impact on providers. For example, Behavioral Health Professionals currently require a high school education and certification and this is being increased to 60 college credit hours. For Section 28 services, this increase in qualifications may have a compounding effect on the workforce shortage. Grandfathering existing workers will be short lived in a field with such high turnover of staff.

During the presentation, Mr. Pawlowski stated that he would be happy to provide the list of providers that participated in the rate study. We would like to follow up on that request and formally ask for that list to be provided. In addition, we have requested, through Nick Adolphsen, that the Department gives us an update on proposed rates in the near future and are pleased that this will occur.

Thank you for your attention to this very important matter. If you have any questions, please let us, or our legislative analysts, know.

Sincerely,

Sen. Eric L. Brakey
Senate Chair

Rep. Patricia Hymanson
House Chair

cc: Members, Joint Standing Committee on Health and Human Services