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An Act To Provide Maine Children Access to Affordable Health Care

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3174-G, sub-§1, ¶B, as repealed and replaced by PL 2007, c. 695, Pt. C, §9, is amended to read:

B. An infant under one year of age when the infant's family income is equal to or below 200% of the nonfarm income official poverty line, except that the department may adopt a rule that provides that infants in families with income over 185% and equal to or below ~~200%~~325% of the nonfarm income official poverty line who meet the eligibility requirements of the Cub Care program established under section 3174-T are eligible to participate in the Cub Care program instead of Medicaid. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

Sec. 2. 22 MRSA §3174-G, sub-§1, ¶D, as repealed and replaced by PL 2007, c. 695, Pt. C, §10, is amended to read:

D. A child one year of age or older and under 19 years of age when the child's family income is equal to or below 200% of the nonfarm income official poverty line, except that the department may adopt a rule that provides that children described in this paragraph in families with income over 150% and equal to or below ~~200%~~325% of the nonfarm income official poverty line who meet the eligibility requirements of the Cub Care program established under section 3174-T are eligible to participate in the Cub Care program instead of Medicaid. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

Sec. 3. 22 MRSA §3174-T, as amended by PL 2017, c. 284, Pt. SSSSSS, §1, is further amended to read:

§ 3174-T.Cub Care program

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

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

A. The maximum eligibility level, subject to adjustment by the commissioner under paragraph B, is ~~200%~~325% of the nonfarm income official poverty line.

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

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

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

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

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

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

(1) Is eligible for coverage under the Medicaid program;

(2) Is covered under a group health insurance plan or under health insurance, as defined in Section 2791 of the federal Public Health Service Act, 42 United States Code, Section 300gg(c) (Supp. 1997); or

(4) Is an inmate in a public institution or a patient in an institution for mental diseases; ~~or.~~

~~(5) Within the 3 months prior to application for coverage under the Cub Care program, was insured or otherwise provided coverage under an employer-based health plan for which the employer paid 50% or more of the cost for the child's coverage, except that this subparagraph does not apply if:~~

~~(a) The cost to the employee of coverage for the family exceeds 10% of the family's income;~~

~~(b) The parent lost coverage for the child because of a change in employment, termination of coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, COBRA, of the Employee Retirement Income Security Act of 1974, as amended, 29 United States Code, Sections 1161 to 1168 (Supp. 1997) or termination for a reason not in the control of the employee; or~~

~~(c) The department has determined that grounds exist for a good-cause exception.~~

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

(1) Children must be enrolled for 12-month enrollment periods. Prior to the end of each 12-month enrollment period the department shall redetermine eligibility for continuing coverage; and

(2) Children of higher family income may not be covered unless children of lower family income are also covered. This subparagraph may not be applied to disqualify a child during the 12-month enrollment period. Children of higher income may be disqualified at the end of the 12-month enrollment period if the commissioner has lowered the maximum eligibility level under paragraph B.

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

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

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

F. The department may not apply an asset test to a child or child's family when the child is otherwise eligible for the Cub Care program under this section.

2-A. Persons 19 and 20 years of age. Health coverage under the Cub Care program is available to a person 19 or 20 years of age whose family income is above the eligibility level for Medicaid under section 3174-G and below the maximum eligibility level established under subsection 2, paragraphs A and B and who meets the requirements set forth in subsection 2, paragraph C. All the requirements of eligibility, program administration, benefit delivery and outreach established in this section apply to persons 19 and 20 years of age.

2-B. Noncitizens. Health coverage under the Cub Care program is available to a person under 21 years of age who is not a citizen of the United States and whose family income is above the eligibility level for Medicaid under section 3174-G and below the maximum eligibility level established under subsection 2, paragraphs A and B and who meets the requirements set forth in subsection 2, paragraph C. All the requirements of eligibility, program administration, benefit delivery and outreach established in this section apply to a person under 21 years of age who is not a citizen of the United States.

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

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

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

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

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

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

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

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

~~B. When a premium is not paid at the beginning of a month, the department shall give notice of nonpayment at that time and again at the beginning of the 6th month of the 6-month enrollment period if the premium is still unpaid, and the department shall provide an opportunity for a hearing and a grace period in which the premium may be paid and no penalty will apply for the late payment. If a premium is not paid by the end of the grace period, coverage must be terminated unless the department has determined that waiver of premium is appropriate under paragraph D. The grace period is determined according to this paragraph.~~

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

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

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

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

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

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

additional federal funds available for Medicaid outreach activities. The goal of outreach activities under this subsection is to enroll 100% of children eligible for the Cub Care program or the MaineCare program. The department shall contract with one or more organizations with experience in providing health care information and services to the public on a statewide basis for the outreach activities pursuant to this subsection.

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

- A. Enrollment approvals, denials, terminations, reenrollments, levels and projections. With regard to denials, the department shall gather data from a statistically significant sample and provide information on the income levels of children who are denied eligibility due to family income level;
- B. Cub Care program expenditures, expenditure projections and fiscal status;
- C. Proposals for increasing or decreasing enrollment consistent with subsection 2, paragraph B;
- D. Proposals for enhancing the Cub Care program;
- E. Any information the department has from the Cub Care program or from the Bureau of Insurance or the Department of Labor on employer health coverage and insurance coverage for low-income children;
- F. The use of and experience with the purchase option under subsection 2, paragraph ~~D~~E; and
- G. Cub Care program administrative costs.

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

10. Rulemaking. The department shall adopt rules in accordance with Title 5, chapter 375 as required to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter ~~H-A~~2-A.

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

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

Sec. 4. Federal Medicaid waivers or state plan amendments; funding. The Department of Health and Human Services shall establish coverage under the Maine Revised Statutes, Title 22, section 3174-T, subsections 2-A and 2-B as of the effective date of this Act using state funds. The department may seek to acquire matching federal funds under the Medicaid program by submitting any waivers or state plan amendments to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services determined necessary.

Sec. 5. Contracts required. The Department of Health and Human Services shall contract for outreach activities, as required in the Maine Revised Statutes, Title 22, section 3174-T, subsection 7, beginning no later than January 1, 2020. The department shall apply for federal grant funds available for use for outreach activities, including those established under the federal Helping Ensure Access for Little Ones, Toddlers, and Hopeful Youth by Keeping Insurance Delivery Stable Act, Public Law 115-120, and any subsequent amended versions, and the federal Advancing Chronic Care, Extenders and Social Services (ACCESS) Act, Public Law 115-123, and any subsequent amended versions. These funds must be used to supplement the 2% funding and may not supplant that funding.

Sec. 6. Express lane eligibility; state plan amendment; report. The Department of Health and Human Services shall, no later than January 1, 2020, submit a state plan amendment to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to implement the use of the express lane eligibility option available under the federal Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3, and any subsequent amended versions, and to implement the option no later than 6 months after receiving approval for the state plan amendment. The department shall implement a model of express lane eligibility that determines eligibility for children under the MaineCare program and the Cub Care program, including the state-funded Cub Care program serving persons 19 and 20 years of age and noncitizens under 21 years of age established under the Maine Revised Statutes, Title 22, section 3174-T, subsections 2-A and 2-B. The department shall report its progress on submitting the state plan amendment and implementing the express lane eligibility option to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than January 1, 2021.

SUMMARY

This bill makes the following changes to the Cub Care program.

1. It changes the maximum eligibility level for family income from 200% of the federal poverty level to 325% of the federal poverty level.
2. It removes the 3-month waiting period for enrollment in the Cub Care program following the loss of health insurance or coverage under an employer-based plan.

3. It establishes that eligibility is not subject to an asset test.

4. It provides coverage to persons 19 and 20 years of age and to noncitizens under 21 years of age. The Department of Health and Human Services is required to use state funds to fund the program but may apply for waivers or state plan amendments to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to receive federal matching funds.

5. It repeals the provisions regarding premium payments for the Cub Care program.

6. It requires the department to contract for outreach activities rather than providing them directly. The department must have a contract or contracts in place no later than January 1, 2020. The department is also required to seek federal grant funds for additional outreach activities under the federal Helping Ensure Access for Little Ones, Toddlers, and Hopeful Youth by Keeping Insurance Delivery Stable Act, Public Law 115-120 and the federal Advancing Chronic Care, Extenders and Social Services (ACCESS) Act, Public Law 115-123.

7. It requires the department to submit a state plan amendment to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to implement the use of the express lane eligibility option no later than January 1, 2020 and to implement it no later than 6 months after receiving approval.