



Maine Equal Justice
People Policy Solutions

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MEJ Testimony *in opposition* to LD 612, An Act to Require the Department of Health and Human Services to Review Medicaid, Supplemental Nutrition Assistance Program and Electronic Benefits Transfer Card Transactions and Lottery Operations

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Good afternoon, Senator Ingwerson, Representative Meyer, and members of the Health and Human Services Committee. My name is Kathy Kilrain del Rio, I use she/her pronouns, and I'm the Advocacy and Programs Director for Maine Equal Justice, a nonprofit legal aid provider working to increase economic security, opportunity, and equity for people in Maine.

MaineCare and the Supplemental Nutrition Assistance Program (SNAP) provide essential supports to individuals and families in every community in our state. For many Mainers with low incomes, accessing health care and putting adequate food on the table would be impossible without these supports. They help keep people healthy, support school success and the ability to work, and they reduce financial stress for those struggling to make ends meet – a challenge that has gotten harder in recent years due to rising costs for everyday food and goods and due to the housing crisis.

We oppose this bill both because it is not needed and parts of it conflict with federal laws around Medicaid and SNAP. I'll start by focusing on the sections of the bill related to lottery winnings.

First, under federal law, we can't recoup money from Medicaid or SNAP participants except in limited circumstances. For Medicaid, we can and do participate in the mandatory estate recovery process for individuals in certain MaineCare categories who utilize the program to pay for long-term care. In this circumstance, if someone had lottery winnings in their estate, the State would be able to take some or all of those funds based on how much was spent on their health care. But it is also important to remember that eligibility for people who are 65 and older or who are disabled includes an asset limit – and those are the individuals subject to estate recovery rules. Under Medicaid law, lottery winnings are counted as income in the month they are received and then considered an asset after that month. For those who are in an eligibility category subject to the asset limit, any significant lottery winnings would make them ineligible for coverage until those funds were spent down – and there are specific rules around spending down assets that would need to be followed if the individual wanted to be eligible for Medicaid in the near future.

Under federal law, states do look at "substantial" lottery winnings in determining eligibility – even in states like Maine that do not have an asset limit. In Maine, our rules include an asset limit chart and if a household's lottery winnings exceed the amount in the chart, then they are

ineligible for SNAP while those winnings remain an asset. You can find that chart in Section 999-3 of the rules and it is Chart 6.

It's important to know that under federal law, you cannot look back at Medicaid or SNAP participation and recoup funds spent in the past from lottery winnings now. That means Section 1 Part 2 B (at line 26) is not allowed. With that being unallowed, Section 1 Part 1 A, Part 3, Part 4, and Part 5 are unnecessary. Given how rare it is to have substantial lottery winnings, this seems to be a solution in search of a problem.

Now I'll turn to out-of-state purchases. First, I want to remind everyone that SNAP funds on EBT cards are completely federal funds. I note that because individuals who utilize SNAP funds out of state are not spending funds from the State of Maine out of state, they are spending federal funds in another of the fifty states. Second, it's important to remember that many Mainers live along the border with New Hampshire (NH). For these households, it may be closer or easier to shop at a store in NH. Many people live in Maine and work in NH or Massachusetts (MA). Again, for many low-income people, it is easier to shop near where you work to save on transportation costs. Many Mainers also have families in other states. For them, it can be easier to shop while visiting or caring for family out of state near their home even if it means using their EBT card out of state.

I'll share a personal example. When my father died, I drove back to New York (NY) every week for months to care for my mother on the weekends. Because my husband's job as a 911 operator and police/fire dispatcher has a challenging schedule with significant overtime, he can't do much of our grocery shopping. Therefore, I did most of our shopping in NY when I did my mom's shopping. I would just pick up perishables that wouldn't travel well even in a cooler when I did a quick shop in Maine. While I wasn't using SNAP EBT funds for those purchases, someone utilizing SNAP could easily be in a similar situation. And since SNAP doesn't provide enough for all of a household's food needs each month – it is meant to be a supplement – they could use their EBT card out of state and then be using other funds when they are home. Requiring DHHS to monitor this spending and check on individuals' reasons for being out of state is an unnecessary burden both to SNAP participants and to OFI.

For these reasons, we urge you to vote Ought Not to Pass on LD 612. Thank you for the opportunity to comment. I'm happy to answer any questions you may have.