Consumers for Affordable Health Care

Advocating the right to quality, affordable health care for every person in Maine.

Consumer Assistance HelpLine
1-800-965-7476

Testimony of Kate Ende, Policy Director
Consumers for Affordable Health Care

In Support of LD 1463, An Act To Make Health Care Coverage More Affordable for Working Families and Small Businesses

Senator Sanborn, Representative Tepler, and members of the Joint Standing Committees on Health Coverage, Insurance and Financial Services, thank you for the opportunity to provide this testimony in support of LD 1463, An Act To Make Health Care Coverage More Affordable for Working Families and Small Businesses. I would also like to thank Representative Tepler for introducing this important legislation.

My name is Kate Ende and I am the policy director at Consumers for Affordable Health Care (CAHC), a nonpartisan, nonprofit organization that advocates for Maine people to be heard, respected, and well-served in a health system that provides coverage, access and quality, affordable care to all.

As designated by Maine's Attorney General, CAHC serves as Maine's Consumer Assistance Program for health insurance. We operate a toll-free confidential HelpLine staffed by trained experts in eligibility and enrollment in private and public health insurance coverage. We answer questions about eligibility, help people apply for and enroll in health coverage, including private Marketplace health plans, and assist with other issues using insurance and accessing care.

Over the past decade, Maine has made significant progress in reducing the uninsured rate and improving access to comprehensive coverage, thanks in large part to the coverage programs under the Affordable Care Act (ACA). Despite this progress, gaps in the ACA have left many people behind. Health coverage is still out of reach for many Mainers, including working families stuck in the so-called "family glitch."

Events of this past year underscore the importance of making health care affordable for all Mainers. Maine now has an opportunity to lower high insurance costs for those facing the greatest affordability challenges, including thousands of working Maine families. Maine can achieve this goal by continuing to collect a recently expired federal assessment on insurance carriers at the state level. This assessment would generate $35.5 million in revenue for a new Healthcare Affordability Fund.

The Family Glitch. When the ACA Marketplace was established, the intent was to make subsidized insurance available to people without other affordable health insurance coverage.[1] The "family glitch" arises in cases where an employer extends an offer of coverage to the family members of an employee, but the cost of adding those members to the policy is unaffordable to the family.

The root of the problem stems from the definition of what is considered an "affordable" offer of health coverage. Coverage offered by an employer is considered "affordable" as long as the premium cost to cover the individual *employee*, doesn't exceed 9.83% of the employee's household income.[2] For the purposes of determining eligibility for Marketplace subsidies, the cost required to cover the entire family is *not* used to determine affordability. Most employers that offer health benefits pay for a portion, if not

[1] The Marketplace under the ACA was not intended to provide subsidized coverage for people who qualify for coverage through programs such as Medicaid, Medicare, or TRICARE, or for people who could get an affordable health plan through an employer.
[2] https://www.irs.gov/pub/irs-drop/rp-20-36.pdf

most of the premium costs for the employee. However, many employers contribute significantly less towards the costs of covering the employee's family under the plan.

For example, a Maine State employee with a household income of $50,000 may have to pay only about $52/ month, or roughly 1.25% of her household income to enroll in the State Employee Health Plan.[3] However, if she were to add her husband and child to the plan, the monthly cost would be $656, or 15.75% of their total household income. Because the definition of "affordable" takes into account the cost to cover only the employee and not her entire family, this plan would meet the definition of an affordable offer of coverage. Since the coverage is technically "affordable" under the ACA, her husband and child would not qualify for any subsidies on the Marketplace. As a result, they would fall into the "family glitch," with coverage that is "affordable" in theory, but not in real life. If the family glitch did not exist, the husband and child could get a silver plan on the Marketplace for about $134/month, or 3% of their household income.

Through our HelpLine, we regularly hear from people who fall into the family glitch, some of whom you will hear from later this morning. For many people, the cost of covering the entire family is much higher than the example of above, often costing significantly more than 15.75% of household income. In some instances, we can help family members apply for MaineCare or connect a family with a hospital free care program. Unfortunately for most people who fall into the family glitch, these outcomes are the exception. Most folks in the glitch are over income for these types of programs. I remember explaining to a mother who was working full time why she and her child did not qualify for help paying for coverage on the Marketplace, even though the cost of getting coverage through her husband's employer plan was astronomical. She and her daughter ended up going without any insurance at all. At the time, the mother was pregnant and trying to figure out how they were going to try to budget for the delivery costs without insurance.

Kaiser Family Foundation (KFF) recently released a report that estimates there are 34,000 Mainers who fall into the family glitch.[4] In establishing a Healthcare Affordability Fund, LD 1463 would address this problem by providing subsidies for private health insurance plans sold through the Marketplace to working families stuck in the glitch. LD 1463 would also help others who are also struggling to afford coverage and would set aside a portion of the fund to be used for other initiatives to increase affordability of health coverage for Maine people or small businesses, improve access to coverage, or reduce disparities in health coverage.

LD 1463 Funding Mechanism. The largest obstacle to establishing any new benefit or innovative program is often how to fund it. In this case, however, a funding mechanism already exists. Maine consequently has a golden opportunity to help people struggling with health insurance affordability and the means to do it.

The Health Insurance Providers Fee, also called the Health Insurance Assessment (HIA), was established in Section 9010 of the ACA (ACA). It was a small annual fee charged to insurance companies based on their health policy premium revenue. It was first implemented in 2014 and remained in effect through the end of 2020. However, thanks to insurance industry lobbying efforts, the assessment was temporarily suspended for the years 2017 and 2019, and then was permanently eliminated starting in 2021, as part of the federal compromise spending package that was passed in December 2019.

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[3] https://www.maine.gov/bhr/oeh/benefits/som-health-plan/premium-rates
[4] https://www.kff.org/health-reform/issue-brief/the-aca-family-glitch-and-affordability-of-employer-coverage/

New Jersey, Maryland, Colorado, and Delaware have all created state-level HIAs to replace the federal assessment and are using those funds to make health coverage more affordable for people in their states. Similar legislation was recently signed into law in New Mexico and has also been proposed in Virginia.

LD 1463 would establish a small assessment on insurance carriers in Maine to replace the federal HIA that expired at the beginning of this year. This state assessment would generate roughly $35.5 million that would be used to lower premium and insurance costs for Mainers with the greatest affordability barriers to getting and using their coverage. I expect you will hear from others today who will claim that such an assessment will have the opposite of its intended effect and will lead to higher insurance costs and reduced affordability. Here is why I disagree.

This assessment cannot be described fairly as a new cost to carriers, since until recently the federal HIA was still in place. In truth, carriers who insist that this assessment will necessitate increases to premiums are being disingenuous. In fact, speaking at a Goldman Sachs conference shortly after it was announced that the federal assessment would be eliminated, the CEO of the insurance company Humana told his investors the repeal of the federal assessment was going to be “a substantial benefit to the company’s stakeholders.”[5] *Forbes* called the repeal of the federal HIA a $15 billion “election-year gift to the health insurance industry.”[6]

If Maine were to assess carriers at the same rate as the federal HIA, government, many carriers would see a net savings. A state assessment, unlike the federal assessment, can be deducted from federal corporate income taxes. This deduction would reduce the overall cost to for-profit carriers by 21%, compared to paying the same amount in a federal assessment. All health insurance carriers, regardless of whether they are for-profit or non-profit, would also see benefits from the state-level subsidies and other initiatives that improve affordability.

Benefits of LD 1493. Indisputably, providing subsidies and improving affordability will lead to more people purchasing private insurance coverage. Carriers will benefit from new enrollees and the additional premiums generated by these members. The demographic makeup of people in the family glitch, which exclusively impacts working families, tend to be healthy and skew younger than the overall population. During the most recent open enrollment period for 2021, only 13% of Marketplace enrollees in Maine were children under 18 years old.[7] KFF estimates that more than half of people in the family glitch are children under the age of 18.[8] It also reports that most people in the family glitch are relatively healthy. Providing subsidies to people stuck in the family glitch would benefit risk pool composition and increase stability within Maine’s insurance market. In the proposed merged individual and small group Market slated to go into effect by 2023, this would help stabilize premium rates for small group plans.

The Fund could also be used to help lower private insurance costs for people with low incomes who are struggling to afford coverage. Many people with household incomes under 200% of the Federal Poverty Level (FPL) face affordability barriers that prevent them from enrolling in, or using, health insurance coverage.

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[5] https://www.axios.com/humana-aca-health-insurance-tax-repeal-57d0d323-b225-4205-8841-1963cca50ba5.html
[6] https://www.forbes.com/sites/brucejapsen/2019/12/23/trump-and-pelosi-bring-15b-gift-to-health-insurers/?sh=52381e7825ad
[7] https://www.kff.org/health-reform/state-indicator/marketplace-plan-selection-by-age/?dataView=1&currentTimeframe=0&selectedRows=%7B%22states%22:%7B%22maine%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D
[8] https://www.kff.org/health-reform/issue-brief/the-aca-family-glitch-and-affordability-of-employer-coverage/

A study in Massachusetts found that increasing subsidies by only $40 led to increased enrollment, particularly among people with lower income levels. It also found that people who enroll as a result of lower premiums are, on average, healthier and have lower health care spending than people who purchase coverage with less financial assistance.[9]

Other states have succeeded in both increasing enrollment and improving their risk pools through providing state financial assistance to supplement the federal Advance Premium Tax Credit ("APTC") subsidies, which lowers costs for populations facing financial barriers to enrolling in coverage.[10] Massachusetts, for example, which had the highest state rate of enrollment among potentially eligible populations in 2019, provides state "wrap around" subsidies to supplement federal financial assistance for people with incomes up to 300% FPL. A Families USA report estimates that if Maine achieved the same level as Massachusetts's Marketplace enrollment among its potential APTC-eligible populations with income below 300% FPL, enrollment would increase by 21,000 people. These consumers would draw down an additional $152 million in APTC subsidies, based on subsidy amounts prior to the enactment of the American Rescue Plan Act of 2021 (ARPA).[11] ARPA, however, dramatically increased eligibility for APTC subsidies for plan years 2021 and 2022. For these two years, people are eligible for larger subsidies and more Mainers can now qualify for APTC subsidies. As a result, the amount of increased APTC subsidies that could be drawn down from increased enrollment in Maine would be even larger than the $152 million previously estimated.

One of the primary funding sources under Maine's current 1332 waiver for the individual market reinsurance program, MGARA, is from federal pass-through funds directly tied to the amount of APTC subsides for which enrollees in Maine qualify. In an analysis conducted by Milliman on behalf of MGARA on the impact of merging the individual and small group markets, Milliman concluded there has been a decrease in the federal pass-through funds available for the reinsurance program due to decreased enrollment of highly subsidized enrollees who have transitioned to Medicaid coverage.[12] According to estimates from KFF, only 63% of people in Maine who were eligible for subsidies through the Marketplace were enrolled in a subsidized Marketplace plan in 2020.[13] The Healthcare Affordability Fund would drive more subsidy-eligible people to enroll in Marketplace coverage, particularly people with larger premium subsidies, making more federal pass-through funds available for reinsurance.

Providing state subsidies to people under 200% FPL will directly expand access to coverage and reduce financial burdens on Mainers struggling to make ends meet, including members of marginalized and vulnerable communities. Increasing participation in coverage among this APTC-eligible populations will expand the risk pool. In addition, by increasing funding available for reinsurance under a 1332 waiver, it will help lower premiums for both small businesses and individuals who don't qualify for ATPCs in the proposed merged market.

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[9] https://www.cbpp.org/research/health/improving-aca-subsidies-for-low-and-moderate-income-consumers-is-key-to-increasing
[10] https://familiesusa.org/wp-content/uploads/2019/09/NCCI_State-Coverage-Policy-Options-Report_Report.pdf
[11] https://familiesusa.org/wp-content/uploads/2020/03/COV_How-States-Individual-Market_Report_03-13-20a.pdf
[12] https://www1.maine.gov/pfr/insurance/legal/notices/pdf/milliman_individual-smallgrp_merge_analysis.pdf
[13] https://www.kff.org/health-reform/state-indicator/marketplace-enrollees-eligible-for-financial-assistance-as-a-share-of-subsidy-eligible-population/?currentTimeframe=0&selectedRows=%7B%22states%22:%7B%22maine%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

While the expanded subsidies under ARPA are temporary, the Biden Administration has proposed a plan to make these permanent.[14] As previously mentioned, ARPA both increased the amount of financial assistance available to individuals as well as the number of people who qualify for subsidies. The changes under ARPA eliminate the so- called "subsidy cliff" that prevented people with income over 400% FPL from qualifying for APTC subsidies. People over 400% may now qualify for APTCs, if premium costs exceed 8.5% of household income. Currently, there is no limit on the amount of income someone can have and still qualify for APTCs. In Maine, ARPA has expanded eligibility for subsidies to an additional 16,300 uninsured people, as well as thousands more who were previously insured but spending more than 8.5% of their income on insurance premiums. **Notably, ARPA did not address affordability barriers related to high cost-sharing amounts when using insurance (deductibles, coinsurance, etc.) or the family glitch.**

Conclusion. So, will establishing a state HIA and Healthcare Affordability Fund increase the cost of insurance and reduce affordability? We doubt it. Last year, even before the subsidy cliff was eliminated, 86% of Maine people with Marketplace coverage qualified for ATPC subsidies.[15] Now that APTC eligibility has expanded to include people over 400% FPL, virtually all enrollees can qualify for premium assistance. The method used to calculate APTC amounts is based on the enrollee's income level and the cost of the second lowest silver plan premium. If premiums decrease for individual plans, APTC subsidies amounts will decrease in tandem. Likewise, if the premium rates increase, APTC subsidy amounts will increase to offset the difference. This means rate increases do not make the cost of coverage any less affordable for the vast majority of individual market enrollees. It also means rate decreases do nothing to improve affordability for most people purchasing individual market coverage. 43% of Maine's remaining uninsured population are eligible for a subsidized Marketplace plan but have not enrolled.[16] Furthermore, many Mainers with subsidized Marketplace plans face financial barriers to using their coverage, due to high out-of-pocket costs. Increasing subsidies will help make obtaining and using health coverage more affordable for Maine people purchasing individual coverage.

Year after year, insurance companies cite contraction of the market and worsening morbidity to defend increases in individual and small group premium rates. Providing subsidies to working families in the family glitch and to Mainers with incomes below 200% FPL will increase enrollment of younger and healthier populations, growing and improving the risk pool. It will also increase federal pass-through funding available for reinsurance- both of which will help to reduce premiums for small businesses in a single merged market.

While Mainers struggle to afford health insurance and to pay for the prescription drugs and health care they need, health insurance companies have seen record profits. Now is not the time to boost insurance industry profits. Now is the time to help Maine people and working families get the coverage and health care they need. I strongly urge you to support this bill and am happy to answer any questions.

Thank you.

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[14] https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/28/fact-sheet-the-american-families-plan/

[15] https://www.kff.org/other/state-indicator/effectuated-marketplace-enrollment-and-financial-assistance/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

[16] https://www.kff.org/health-reform/state-indicator/distribution-of-eligibility-for-aca-coverage-among-the-remaining-uninsured/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D