



**Statement of Kate Ende, Policy Director
Consumers for Affordable Health Care**

**To the Joint Standing Committee on Health and Human Services
LD 265: An Act To Provide Women Access to Affordable Postpartum Care**

Senator Claxton, Representative Meyer, and members of the Committee on Health and Human Services, thank you for the opportunity to submit these comments in support of LD 265.

My name is Kate Ende, and I am the policy director at Consumers for Affordable Health Care, 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 and as such, 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 regarding using insurance and accessing care, including helping people file complaints and appeal coverage denials. We also serve as the Ombudsman program for Maine's Medicaid program, MaineCare, and help people with applying for and navigating the enrollment process for MaineCare coverage, and with transitioning to new coverage after the loss of MaineCare. It is our experience assisting Mainers in navigating the health care and coverage systems that drives our support for this bill today.

Unlike the rest of the developed world, [the U.S. has seen a rise in maternal mortality and has the highest rate of maternal death of any developed country](#). According to the CDC, [60% of these deaths could have been prevented with better medical care](#). [More than half of pregnancy-related deaths happen after delivery during the first year after childbirth](#). Allowing new moms to keep their Medicaid coverage for a full year could go a long way in improving maternal health and reducing the rate of preventable maternal death and improving maternal health.

Postpartum women can often experience severe or chronic conditions that continue far beyond the 60 days. However, many women who lose their MaineCare coverage 60 days after giving birth face significant barriers to accessing affordable coverage and care. A 2019 issue brief published by CMS, titled "Improving Access to Maternal Health Care in Rural Communities," highlighted the risks of terminating Medicaid coverage for postpartum women, "There is a need for coverage beyond that immediate postpartum period, given the ongoing pregnancy related risks and chronic conditions that women experience up to a year after giving birth. Women who lose their coverage 60 days postpartum are vulnerable to postpartum and interconception health risks."¹

While some women are able to enroll in other health coverage when pregnancy-related Medicaid is terminated, many become uninsured or experience gaps in coverage. An analysis of Pregnancy Risk Assessment Monitoring System (PRAMS) data from 2015-2017 found that nearly 30% of women experienced a change in their health insurance from delivery to 3-6 months postpartum.

¹ <https://www.cms.gov/files/document/rural-maternal-health-forum-summary.pdf>



Women who experienced insurance churn at some point during their pregnancy or in the 3-6 months following delivery were more likely to move between having insurance and being uninsured than they were to have transitioned between Medicaid and private insurance, and nearly 60% of transitions involved some period of uninsurance.²

Transitions in health insurance can be complicated and oftentimes gaps in coverage are difficult to avoid. We often hear from people on our HelpLine who are having trouble figuring out what coverage they can qualify for, or with the application or enrollment process. Our healthcare system includes a patchwork of many different types of coverage all with unique eligibility criteria. People cannot reasonably be expected to have a nuanced understanding of complex administrative rules regarding application deadlines, for a program on which they may never have expected to rely on, in order to enjoy continuity of coverage.

Enclosed with this testimony is a description of coverage programs people may be eligible for after losing pregnancy-related MaineCare, along with examples of some of the barriers associated with obtaining and using each type of coverage. While not exhaustive, this list illustrates the patchwork of different coverage programs and categories, each with their own applications and eligibility criteria, that people have to navigate when their pregnancy-related MaineCare ends, and how easy it is to fall through the cracks when trying to find and enroll in other affordable health coverage.

Even for woman who are able to find health coverage with manageable premium costs, cost-sharing requirements in plans often pose significant affordability barriers to actually accessing health care services once enrolled. As previously discussed, studies of the effect of cost-sharing requirements, particularly within Medicaid populations, have shown that cost is a significant barrier to accessing care in a timely manner.³ Even women who qualify for a subsidized Marketplace plan may still not be able to afford the health care she needs. A new mother in a family of 3, living in Kennebec county, with household income of 200% FPL could qualify for Marketplace subsidies that reduce premium amounts, as well as lower out-of-pocket cost-sharing requirements for silver-level health plans. After taking these subsidies into account, this mother would still have to pay over \$230 per month for the cheapest available silver plan, on top of copays, coinsurance, and a \$2,000 deductible. The CMS issue brief on increasing access in rural communities to maternal health care, states:

As they do before pregnancy, women living in rural areas experience lower access to and utilization of care after pregnancy. Depending on their state coverage policies, women insured by Medicaid may lose their coverage 60 days postpartum. Although the loss of Medicaid eligibility is a qualifying event to enroll in Exchange coverage, these women are at further risk of receiving either inadequate or no health care services heightening their risk of morbidity or mortality or not receiving support for conditions that emerge after the 60-day window.⁴

² <https://www.healthaffairs.org/doi/10.1377/hblog20190913.387157/full/>

³ http://www.healthlaw.org/publications/search-publications/Medicaid-Premiums-Cost-Sharing#.WRzw_Wjyvb1

⁴ <https://www.cms.gov/files/document/rural-maternal-health-forum-summary.pdf>

In addition to the risks of delaying or forgoing medical care, receiving medical care carries financial risks that could potentially jeopardize a family's financial stability. Findings from the 2017 Kaiser Women's Health Survey revealed:

- one in four women reported they delayed or did not receive care in the previous year due to costs;
- one in four women reported having trouble paying for medical bills in the prior year; and
- one in three women reported they were currently paying off medical bills.⁵

No mother should not have to choose between going into debt and getting the health care and medicine they need to get or stay healthy and be able to take care of their new baby or go to work or attend school. Whether through the Marketplace, an employer, or other source, a health insurance plan that has high deductibles and cost-sharing are not a sufficient replacement for Medicaid coverage for new mothers experiencing, or at risk of developing, serious health conditions.

For all of the reasons outlined above, we urge you to support LD 265. Recognizing that not all people who are or have been pregnant are women, in order to realize the full intended impact of this bill, we also respectfully suggest using language that is inclusive or non-gendered, such as a "qualified person during their pregnancy," so that all eligible new and soon-to-be parents can benefit from MaineCare coverage during and after their pregnancy.

Please do not hesitate to contact me with any questions at kende@mainecahc.org or 207-480-2136.

Thank you.

Kate Ende

⁵ <https://www.kff.org/womens-health-policy/issue-brief/womens-coverage-access-and-affordability-key-findings-from-the-2017-kaiser-womens-health-survey/>

Possible types of coverage available to people losing pregnancy-related MaineCare

Below is list of coverage programs people may be eligible for after losing pregnancy-related MaineCare, along with examples of some of the barriers associated with obtaining and using those types of coverage. While not exhaustive, this list illustrates the patchwork of different coverage programs and categories, each with their own applications and eligibility criteria, that people have to navigate when their pregnancy-related MaineCare ends, and how easy it is to fall through the cracks when trying to find and enroll in other affordable health coverage.

Countable household income at or below 138% FPL:

Women whose countable household income is at or below 138% FPL⁶ may be eligible for MaineCare through the parent/caretaker relative category or MaineCare expansion. However, there are some exceptions to eligibility and barriers to coverage even for those who are eligible.

Women eligible for Medicare due to a disability: People who are eligible for Medicare do not qualify for MaineCare coverage under expansion. Depending on income and assets, some women eligible for Medicare may be able to qualify for MaineCare under the Parent/Caretaker relative category, which caps income eligibility at 105% FPL or SSI-related Categorically Needy MaineCare, which has an income limit of 100%, but this category of MaineCare utilizes a different methodology from pregnancy-related MaineCare coverage to calculate a woman's countable household size and income, which can cause confusion. In addition, unlike pregnancy-related MaineCare, assets are also used to determine eligibility for SSI-related MaineCare.

However, women who are eligible for Medicare with countable household income over the 100% and 105% FPL limits for coverage under SSI-related and parent/caretaker relative categories, cannot qualify for MaineCare coverage through Medicaid expansion, even if their income is under 138% FPL.

Individuals who are eligible for Medicare are not allowed to purchase coverage through individual Qualified Health Plans (QHP), which means they cannot get coverage through the Marketplace or any other individual health plan. Some women may be able to qualify for help through the Medicare Savings Program (MSP), if their countable household income does not exceed 175% FPL and their countable liquid assets are less than or equal to \$50,000 for an individual or \$75,000 for a couple. MSP provides assistance with Medicare premium and out-of-pocket costs, at varying degrees, depending on whether an individual qualifies as a Qualified Medicare Beneficiary, Specified Low Income Medicare Beneficiary, or Qualifying Individual, based on their income. Individuals may also qualify for MSP as a Qualified Disabled and Working Individual with income up to 200% FPL, if they lost entitlement to Social Security disability benefits due to excess income from wages and their countable assets do not exceed \$4,000. Depending on the individual's health care needs and what level of MSP they qualify for, this may not provide a sufficient alternative to comprehensive MaineCare coverage.

Noncitizens legally admitted to the United States: Many legally present noncitizens cannot qualify MaineCare during the first 5 years they have a qualified status, unless they are pregnant

⁶ Including 5% income disregard under MAGI-based budgeting principles under 10-144 Chapter 332, Part 4, Section 2 (C).

or a child. This means postpartum women who lose their pregnancy-related MaineCare may not qualify for MaineCare coverage under another category during for the duration of this 5 year period, including new mothers who have legal permanent resident status, asylee-seekers, women who qualify as a battered spouse or a parent of a battered person with a petition pending, women paroled into the U.S., and women granted conditional entrance.⁷ Legally present noncitizens may be eligible for a Marketplace plan during the 5 year waiting period for MaineCare. However, even with subsidies, most cannot afford to pay private insurance premiums, or for the deductible and other out-of-pocket costs they would have to pay to use the coverage.

Eligible for MaineCare through “gap-filling”: MaineCare uses MAGI (Modified Adjusted Gross Income) budgeting methodology to determine eligibility for most categories of MaineCare, including eligibility under Medicaid expansion. The Marketplace also uses MAGI to determine eligibility for Marketplace subsidies. However, there are important key differences between Medicaid MAGI and Marketplace MAGI. For example, Medicaid uses point-in-time income, whereas the Marketplace uses projected annual income. There are also differences in how each program constructs a family’s household or assistance unit size. For these reasons, it is possible that someone may be determined by the Marketplace to be under income to qualify for subsidies, but also appear to be over-income for Medicaid when using Medicaid-MAGI budgeting methods.

Medicaid includes a “gap-filling” provision to account for this, which essentially says that if someone is found ineligible for MaineCare using Medicaid-MAGI, but their household income is below 100% FPL when determined in accordance with Marketplace-MAGI, then MaineCare eligibility must be determined using Marketplace-MAGI.⁸ The MaineCare Eligibility Manual states that, “Under this circumstance, the individual will be asked by OFI to provide documentation to explain the difference between the two determinations. If the documentation provided adequately substantiates the reason for the difference, Medicaid financial eligibility for the individual will be determined in accordance with 26 CFR 1.36B-1(e).”

Although this provision exists to protect people from falling in the gap between the Marketplace and MaineCare, most people aren’t aware of the nuances of Marketplace or MaineCare eligibility criteria, never mind the differences between the two, which means most people don’t realize they could be eligible for coverage under this provision. Through our HelpLine, we often hear from people who stop pursuing MaineCare coverage after receiving an initial denial and believe they are ineligible for both MaineCare and Marketplace subsidies.

Other eligible but uninsured: Postpartum women who continue to be eligible for MaineCare under another category, such as a parent/caretaker relative or through Medicaid expansion, may still end up losing coverage due to errors or administrative burdens associated with eligibility redeterminations. Submitting documents to verify income or other paperwork during the first two months after giving birth, all while caring for an infant, can be a barrier in and of itself, especially for new mothers struggling with postpartum depression or other health conditions, as

⁷ For a complete list of eligible non-citizen statuses and related conditions of eligibility, see 10-144 Chapter 332, Part 2, Section 3.4 (1).

⁸ See MaineCare Eligibility Manual, Part 4, Section 7: If an individual is found ineligible through the application of this Part, but his/her household income is below 100% FPL when determined in accordance with 26 CFR 1.36B-1(e), eligibility will be determined in accordance with the latter.

well as for moms with low levels of literacy or limited English proficiency. In some situations, women can also lose coverage as a result of a processing or administrative error that is of no fault of their own.

Regardless of the reason for loss of coverage, once terminated from MaineCare, many women, understandably, believe they are no longer eligible and subsequently stop trying to pursue coverage through MaineCare. Individuals who are eligible for Medicaid are not eligible for Marketplace subsidies. People with incomes at or below 138% FPL who apply for Marketplace coverage will generally be determined ineligible for subsidies and will have their information sent to DHHS to be processed for MaineCare. However, as previously mentioned, once someone has been denied or terminated from MaineCare, they may be less likely to follow through with completing the application process since they believe they will not be eligible. We often hear from individuals through our HelpLine who eventually give up on enrolling in coverage after being bounced between the Marketplace and MaineCare. As previously mentioned, individuals who are eligible for MaineCare through the “gap-filling” provision are especially prone to having their application bounced between MaineCare and the Marketplace.

Countable household income over 138% FPL:

MaineCare/CHIP Coverage for Young adults: Young women who lose pregnancy-related coverage may still be eligible for MaineCare or CHIP if they are 18 years old or under and have countable household income that does not exceed 162% FPL⁹ or 213% FPL¹⁰, respectively. Individuals under 26 years old who aged out of foster care in Maine are eligible for MaineCare regardless of income level. However, as previously described, each time somebody is rescreened for MaineCare in a new coverage category, there is always a risk of an error or simple mistake causing someone who is otherwise eligible to lose their MaineCare coverage.

Employer-sponsored private insurance: Some women may have access to employer-sponsored insurance (ESI). However, these plans often raise the same affordability concerns, if not more so, than the barriers explained above for Marketplace plans. Although a family may be offered employer coverage, it doesn’t mean they can afford it. The national average employee contribution for family coverage in 2019 was over \$6,000.¹¹ In addition to premiums, postpartum women would also have copays, coinsurance, and deductibles with a private employer health plan that they would have to pay in order to access care. The 2017 Kaiser Women’s Health Survey found that one in five women with private health insurance through an employer reported their plan “would not pay anything for care she or a family member thought was covered.”¹²

⁹ Including 5% income disregard under MAGI-based budgeting principles under 10-144 Chapter 332, Part 4, Section 2 (C).

¹⁰ Including 5% income disregard under MAGI-based budgeting principles under 10-144 Chapter 332, Part 4, Section 2 (C).

¹¹ 2019 Employer Health Benefits Survey, Kaiser Family Foundation. Available at: <https://www.kff.org/report-section/ehbs-2019-summary-of-findings/>

¹² <https://www.kff.org/womens-health-policy/issue-brief/womens-coverage-access-and-affordability-key-findings-from-the-2017-kaiser-womens-health-survey/>

Marketplace insurance: People with incomes over the limit for MaineCare are generally eligible to purchase a Marketplace plan with subsidies if they are not eligible for Medicare¹³ or other public coverage programs, like Medicaid or TRICARE, and do not have an offer of “affordable”¹⁴ ESI and have countable household income that does not exceed 400% FPL. However, there are several notable exceptions and barriers that may impact a women’s ability to access or use coverage available on the Marketplace.

Family Glitch: As previously mentioned, individuals with an “affordable” offer of ESI are not eligible for subsidies on the Marketplace. However, what is considered to be affordable is determined by the cost of coverage as a share of family income in relation to the “required contribution percentage,” which is an amount set by the federal government and updated each year by the IRS. Currently, the required contribution percentage is 9.83 for 2021.¹⁵ Coverage that costs more than 9.83 percent of family income is not considered an affordable health plan according to the ACA, for the purposes of determining eligibility for subsidies.ⁱ

However, this calculation is based on how much an ESI plan would cost for the **employee** only. Many employers contribute significantly more towards the cost for an employee’s coverage than the cost adding the employee’s spouse and dependents to the plan. Families fall into the “glitch” when an employee has an offer of ESI that meets the affordability threshold for a single-person plan, but the cost of extending that coverage to the rest of the family is unaffordable. In this scenario, the entire family is ineligible to receive Marketplace subsidies to purchase insurance, even though the spouse and dependents do not have any offer of affordable coverage. For example, a postpartum woman is married, and her spouse has ESI that costs 2% of their income for an individual plan to cover just her spouse (the employee). To get a family plan to cover the postpartum woman, which the employer does not contribute to, it would cost 30% of their household income. However, since only the cost to cover the employee is considered by the Marketplace, the postpartum woman is ineligible for Marketplace subsidies, leaving her without any affordable option for coverage.

Marriage and tax-filing status: Married women who do not plan on filing a joint tax return with their spouse are generally not eligible for Marketplace subsidies, which may be a barrier for some women who are separated or in the process of a divorce that has not been finalized yet.¹⁶ This can also be a barrier for women who are separated from their spouses but file jointly. In this situation, the woman typically must include her spouse’s income on her Marketplace application until the divorce or legal separation is finalized, even if they live separately and are financially independent from one another. This may cause a postpartum woman’s countable income for the Marketplace to look much higher than what she has access to in reality. However, MaineCare eligibility takes this into consideration when determining pregnancy-related MaineCare coverage for women who live separately and do not file jointly with their spouse.

¹³ Individuals who are eligible for Medicare that are required to pay a premium for Medicare Part A may purchase a Marketplace plan with subsidies, if otherwise eligible.

¹⁴ Under the ACA, an offer of employer coverage is affordable if it costs less than 9.78% of household income.

¹⁵ <https://www.irs.gov/pub/irs-drop/rp-20-36.pdf>

¹⁶ Exceptions to requirement to file jointly: individuals impacted by domestic violence or spousal abandonment may claim and claim an exception to this requirement for up to 3 years; individuals who obtain a legal separation through a court order; and individuals who can file with head of household tax status do not have to file jointly with their spouse in order to be eligible for subsidies.

Application barriers and coverage gaps: The application process for Marketplace insurance can be confusing for many people. This is especially true for individuals who apply through a Special Enrollment Period (SEP), which requires applicants to upload additional documents to their online Marketplace accounts in order to prove they are eligible for the SEP. Furthermore, in order to avoid a gap in coverage, individuals must apply for Marketplace coverage prior to losing their MaineCare coverage. Otherwise, even if postpartum women successfully enroll in a Marketplace plan through a SEP, they will still experience a gap in coverage for one to two months.

¹ See 26 CFR § 1.36B-2(c)(3)(v)(A)