Consumers for Affordable Health Care
Advocating the right to quality, affordable health care for all Mainers.

mainecahc.org
PO Box 2490
Augusta ME 04338
1-800-965-7476

Comments to the Office of Affordable Health Care

9/25/24 Annual Affordability Public Hearing
Comment Deadline 10/4/24

Ann Woloson, Executive Director, Consumers for Affordable Health Care

Thank you for the opportunity to submit comments regarding affordability barriers Mainers face in accessing the health care and coverage they need. I am Ann Woloson, Executive Director of Consumers for Affordable Health Care. Consumers for Affordable Health Care (CAHC) is a nonprofit working to improve access to quality, affordable, and equitable health care for all Mainers.

Consumers for Affordable Health Care (CAHC) is designated by Maine's Attorney General as Maine's Health Insurance Consumer Assistance Program (CAP). The CAP program provides toll-free and in-person access to Certified Application Counselors and trained individuals who help Mainers understand their health coverage options, apply for and enroll in private health insurance, and in appealing inappropriate health insurance denials. Based upon our experience assisting Mainers, and survey data published last year, we offer the following comments.

Affordability Barriers Facing Mainers. Our survey of Maine voters released last year [1]revealed:

- Two out of three Mainers believe a major medical event would result in financial disaster.
- Almost half of those surveyed experienced discomfort or pain for longer than they needed to and more than one in three reported they delayed or skipped going to the doctor when they were sick due to high healthcare costs.

Furthermore, when Mainers do access care, they often struggle to pay for their medical bills and often go into debt.

- Nearly six out of ten with commercial insurance said that have difficulty paying costs applied to their deductible.
- Over half indicated they could not afford a prescription drug or the medicine they needed.
- One in three struggled to pay for basic necessities, such as food, heat, or housing, as a result of a medical bill.
- Among those who struggled to pay for basic necessities, nearly three quarters attributed this problem to the burden of a hospital bill.
- Nearly one in three Mainers had been contacted by a collection agency about a medical bill; most said the bill sent to collections was from a hospital.[2]

Unfortunately, too many Mainers are struggling to afford the health care services they need, including prescription drugs and hospital services. With these concerns in mind, I highlight the following barriers.

- **Rising Medical and Rx Costs**. Four years of Maine Health Data Organization (MHDO) reports[3] show that, each year, Mainers have been saddled with steep cost increases for life-saving drugs.

[1] CAHC will be updating the survey this fall.
[2] https://www.mainecahc.org/wp-content/uploads/2023/05/Polling-Views-of-Maine-Voters-On-Health-Care-Affordability.pdf.
[3] https://mhdo.maine.gov/tableau/prescriptionReports.cshtml#Dashboard2023

In fact, MHDO's most recent report shows that Mainers spent *over $170 million dollars more* for the 25 most costliest drugs compared to the previous year. Mainers and other payors cannot sustain these exorbitant increases year after year; they will be forced to make the difficult choice between paying for medicine or attending to basic needs.

We also remain concerned about high hospital costs. Our survey[4] released this past spring showed that four out of ten Mainers have taken on medical debt within the past five years. Hospital-owned facilities are, by far, the most common source of medical debt, with almost six out of ten reporting the largest share of their debt was from a hospital facility. Consumers are also confused about facility fees; when they are charged, how much are charged, and how such fees are developed.

- **Unaffordable Insurance Premiums & Increased Out-of-Pocket Costs.** We also hear from people who cannot afford to pay for their health coverage or medically necessary care, or who have gone into debt to pay for the treatment they needed. Six out of ten Mainers with commercial insurance reported[5] they are concerned they will lose their coverage because they cannot afford it. More than 90% of respondents to our survey who were uninsured cited expensive premiums as a barrier to obtaining health insurance.

  We applaud Maine's new Superintendent of Insurance for his work with carriers to reduce proposed individual and small business rates for 2025. In the individual market, average proposed rates of 14.2% were reduced and approved to 8.6%. For small businesses, the initial proposed average increase was 14.5%; the final rate approved at 9.4%. The Superintendent cited[6] larger than expected resources from Maine's reinsurance program as part of the reason for the lower rates. He also cited adjustments to geographic rate factors that helped individuals and small groups in Northern and DownEast Maine see more modest or no premium increases. Nevertheless, we remain concerned. Our small non-profit, for example, has seen double digit increases each year over the nearly 6 years I have served as Executive Director. Other small group purchasers have experienced similar increases. More needs to be done to address ever-increasing costs of health coverage in Maine.

- **Confusing plans.** CAHC often hears from people who find their coverage confusing. Tiered drug formularies and provider networks, baffling prior authorization requirements, and changes in cost-sharing, including copayments and coinsurance, etc., are often described as barriers to coverage and care.

- **Gaps in Eligibility for Coverage.** In 2011, Maine's then-governor restricted access to MaineCare coverage for many immigrants living in Maine, leaving a gap in coverage that persists today. Although eligibility regardless of immigration status has been restored for people under the age of 21 and pregnant people, large segments of the population are excluded. Expanding access would also provide a revenue stream for our hospitals and clinic systems that provide significant uncompensated and free care to people with low income who are not eligible for MaineCare. Our survey found that more than two out of three Mainers support ensuring all Mainers qualify for health coverage, regardless of immigration status.

[4] 24FEB SURVEY Mainers Perceptions of Health Care Affordability and Facility Fees.pdf
[5] Polling Views of Maine Voters On Health Care Affordability.pdf
[6] Maine Bureau of Insurance Approves 2025 Health Insurance Rates for Individuals and Small Groups | PFR Insurance

- **Lack of awareness of, confusion about and difficulties applying for Hospital Free Care**. Helpline staff often hear from people who are concerned about a hospital bill they are unable to pay. Some may be uninsured, others may have insurance but may have a high deductible plan. Helpline advocates screen people for Hospital Free Care and often find that callers are being billed for services that should have been provided as Free Care. Callers often tell us that they were unaware of Free Care, how to apply for the program or that they experienced difficulties or barriers accessing or completing an application. We have been told people who speak languages other than English face even greater difficulties understanding and accessing Free Care and that the application process is burdensome.

Policy Recommendations

Policies to Reduce Medical Debt and Improve Affordability of Health Care Services

- **Expand and Improve Access to Hospital Financial Assistance Programs.** Non-profit hospitals are required to provide Charity Care (Free Care in Maine) as a requirement for maintaining their tax-exempt status. As more Mainers have obtained health insurance coverage through the Affordable Care Act, the amount of Charity Care (Free Care in Maine) hospitals have provided has decreased. Nevertheless, a significant number of people in Maine lack health coverage and should be screened for Free Care. Yet we often hear from consumers and partner organizations that low-income people find the process of accessing hospital Free Care opaque and unpredictable. In part because of these onerous processes, these Mainers are at high risk of accumulating medical debt. We consequently recommend that hospitals be required to expand and strengthen their Free Care programs and simplify and streamline their application process. This change would ensure greater accessibility to Free Care for those who need it most and who are most at risk of accumulating medical debt.

- **Adopt Greater Protections Against Misleading Medical Credit Cards.** Medical credit cards are often aggressively promoted to pay for routine medical care. The cards are promoted as interest free but charge very high interest rates on the original debt if a payment is late. Consumers who pay for care with medical credit cards often lose medical bill negotiating power, cannot access hospital Free Care or other assistance, and face aggressive debt collection practices, lawsuits, and loss of credit reporting protections. Of the six out of ten Maine families who have experienced financial impacts due as a result of medical bills, nearly one third incurred credit card debt. We suggest stronger consumer protections be required: 1) patients should be screened for eligibility for safety net programs, such as Hospital Free Care, prior to being offered a credit card; 2) providers must make clear, transparent information available about a medical credit card interest rate(s) and the circumstances under which rates increase ; and 3) policy makers implement protections that would prevent medical debt from being reported to Credit Bureaus.

Policies to Address Rising Medical and Drug Costs

- **Utilize Reference Pricing.** As you know, the Inflation Reduction Act, passed in 2022, contained several provisions requiring the Secretary of Health and Human Services (HHS) to negotiate prices for some of the costliest prescription drugs covered by Medicare. The list has been released and all the drugs on the list are included in the Maine Health Data Organization's

(MHDO) most costly drug list or 25 drugs with the highest cost increases. MHDO also estimates[7] potential savings of $171.1 Million that could have been achieved last year from the use of reference pricing based on Canadian prices. We suggest recommendations include having state and other public payers utilize and/or take into account, reference rates as a starting point when negotiating with Pharmacy Benefit Mangers and/or allowed amounts to be paid by Carriers, etc. Maryland's Prescription Drug Affordability Board (PDAB) is moving forward with establishing upper payment limits and we believe Maine's PDAB and Maine policymakers should consider similar and other policies that would constrain the rising cost of prescription drugs. Maine policy makers have for example, put limits on what consumers pay for life saving insulin and should consider implementing policy that would do the same for other lifesaving drugs Mainers need.

We also recommend that other drugs and other health care services be considered for reference pricing as well. For example, Our review of hospital financial data last year revealed that commercial prices relative to Medicare prices for a Maine hospital were in the 9th decile (out of 10, where 10 is the highest relative prices), at 292% for inpatient services and 302% for outpatient services. Prices system-wide were slightly lower for inpatient (254%) but still 302% for outpatient services. Considering that Maine' s average per capita income is lower than the national average, that hospital services contribute the most to total health care spending in Maine[8], and that Maine's per capita hospital expenditures are higher and have grown faster than the U.S. average,[9] we believe and recommend that commercial hospital charges need to be capped at something less than where they are.

- **Prohibit Anti-Competitive Practices and Private Equity Purchasing of Maine Healthcare.** Nationally, some dominant health systems have used anticompetitive contract provisions to keep high-cost, low-value providers in preferred plan networks and to raise hospital prices, including anti-tiering, anti-steering, and all-or-nothing clauses. We are concerned about private equity companies purchasing health care systems in other states. While It is unclear if such practices are happening in Maine, we worry about components of Maine's healthcare systems being sold off to entities (lab services, for example) that are not Maine based, that drive prices up and that cause confusion for patients and that may not be covered by health plans or other safety-net programs in Maine, Including Hospital Free Care.

- **Limit Facility Fees for Certain Services and Settings.** The types of services and settings subject to facility fees have increased over recent years and are now often charged for routine services and outpatient care, which has led to higher costs and confusion for patients. We assume it has but we urge the OAHC to look closely at the Task Force to Evaluate the Impact of Facility Fees on Patients[10] report, released early last year and recommend that policy makers consider adopting some of the recommendations in the report to address affordability issues related to facility fees.

---

[7] Rx Reference Rates (maine.gov)
[8] Centers for Medicare & Medicaid Services, Office of the Actuary, National Health Statistics Group. (2024). National Health Expenditure Data: Health Expenditures by State of Residence, August 2022
[9] Centers for Medicare & Medicaid Services, Office of the Actuary, National Health Statistics Group. (2024). National Health Expenditure Data: Health Expenditures by State of Residence, August 2022. and Federal Reserve Bank of St. Louis. (2024). Real Median Household Income in Maine
[10] 10648 (maine.gov), January, 2024

Policy Recommendations to Reduce Premium and Out-of-Pocket Costs:

- **Ensure Alignment of Silver Premiums for ACA compliant plans.** An analysis published by Families USA estimated the impacts of realigning metal-tier premiums based on coverage generosity in 2020 Marketplace plans. The analysis found metal-tier premium realignment would have saved Marketplace enrollees an average of $739 in Maine, amounting to $46 million of total projected premium savings on 2020 Marketplace plans in Maine.[11] Several states have already taken action to realign silver premiums with the value of coverage provided. New Mexico requires a Cost Saving Reduction Load of 44% be added to Marketplace silver plans. Vermont and Texas also mandate a specified CSR load of 41.87% and 35%, respectively. Illinois has also enacted a law requiring a uniform CSR adjustment factor that "assumes that the only on-Exchange silver plans that will be purchased are the 87% and 94% cost-sharing reduction variations." Illinois rates must also "apply an induced demand factor based on the following formula: (Plan Actuarial Value)2 - (Plan Actuarial Value) + 1.24.[12]

- We urge the Office to include in its recommendations that the Bureau of Insurance adopt policies to prevent premium misalignment in Maine including:

    - Requiring induced demand assumptions used by carriers to project higher utilization when plans have lower overall cost sharing.

    - Prohibiting carriers from varying metal-level premiums based on their past utilization in a particular metal tier. Carriers should rely instead on the utilization patterns experienced by all enrollees pooled together, without distinguishing between silver, gold, and bronze utilization patterns.

    - Establishing standardized metal level and CSR variant enrollment projections.

- **Limit Cost-Sharing Requirements.** We encourage the Office to explore additional strategies to lower out-of-pocket costs in order to reduce affordability barriers to accessing needed medical care. Strategies should maximize pre-deductible coverage, as well as utilize copays over coinsurance, to the greatest extent possible without exceeding Actuarial Value limits.

- **Increase Standardization of Clear Choice Plans.** When shopping for plans, consumers should be able to enroll in a Clear Choice Plan with the assurance that they will not have to pay any more for a covered in-network service or prescription drug, than the cost-sharing amounts specified in the Clear Choice benefit design for that plan. The benefit structure established in a Clear Choice benefit design should set the floor for the level of benefits offered in any Clear Choice plan utilizing that benefit design.

- **Strengthen Rate Review in Maine.** While the Bureau of Insurance reviews proposed individual and small group rates submitted by carriers each year, several other states have granted their state regulatory agency greater latitude and authority to disapprove rates on the basis of affordability. Rhode Island and Vermont are examples of states that have implemented strengthened rate review law.

[11] https://familiesusa.org/resources/misalignment-between-premiums-and-coverage-generosity-imposes-heavy-cost-burdens-on-consumers-in-health-insurance-exchanges
[12] https://www.ilga.gov/legislation/103/HB/PDF/10300HB5395lv.pdf

- **Cost Trends:** We encourage the Office to recommend that the Bureau of Insurance carefully analyze carrier's future anticipated cost trends for and, where discrepancies exist between carrier projections and other recent data available on anticipated health care and prescription drug cost trends, we urge the Bureau to require carriers to provide ample data showing where, how, and why their projections (or experience) differ from these national trends. We also suggest that the Bureau ask carriers what measures they are taking – such as rate negotiations, provider payment structures, or benefit designs to reduce cost growth and improve health outcomes for their members, rather than simply passing those costs back to their enrollees in the form of increased premiums. We also strongly urge the Bureau to require greater transparency and impose greater standardization in the development of medical trend estimates within Maine. There are some significant variations in the cost and utilization trend estimates among the carriers, often with little explanation as to how the trend was developed.

- **Geographic Rating:** According to the analysis commissioned by the Bureau and conducted by Wakely in 2022, carriers in Maine applied the highest geographic rating factors to Hancock, Aroostook, and Washington counties and the lowest geographic rating factors in Cumberland, York, and Sagadahoc counties. The analysis also found there was an inverse relationship between higher geographic rating factors and medical cost ratio. Although areas in northern and DownEast counties identified had the highest geographic rating factor, it also had the lowest average medical cost ratio. Conversely, the more southern counties had the lowest rating factor, but had the highest medical cost ratio. This suggests that regional differences in the costs of providing care are not the basis for the proposed geographic rating factor.

  The Unified Rate Review Instructions published by CMS describes rating factors that may be used to develop the Consumer Adjusted Premium Rate, as allowed in 45 CFR § 147.102, including geographic rating areas. The CMS instructions require that "The geographic rating factors reflect **only differences in the costs of delivery** [emphasis added] (which can include unit cost and provider practice pattern differences) and do not include differences for population morbidity by region." The instructions also state that "The Actuarial Memorandum should explain how the geographic rating factor is calculated and state the rating factor only reflects differences in the costs of delivery (which can include unit cost and provider practice pattern differences) and not differences in population morbidity by geographic area." It appears the Bureau considered these factors in its latest review of rates which we appreciated. We recommend such efforts continue to reduce disparities in rates in different regions of Maine

- **Provide State-Level Subsidies.** Other states have succeeded in both increasing enrollment in private coverage, reducing their uninsured rates and improving their risk pools through providing state financial assistance in addition to the federal subsidies. This has helped to further lower coverage costs for populations likely to face financial barriers to enrolling in coverage.

- **Establish a Public Option Health Plan.** We encourage the Office to explore public option models that increase consumer choice and strengthen market competition to in the effort to lower health care costs. Several states have established or enacted legislation to establish or are currently considering some form of a public option, including Colorado, Washington, and Nevada. We are grateful to the OAHC for exploring the "utility" of a public option in Maine, as laid out in its report released last year, *A PUBLIC OPTION FOR MAINE: CONSIDERATIONS FOR POLICYMAKERS*. *Benefits* included increased competition, the ability to control costs by

constraining provider prices, improvements to Maine's risk pool, simplification of and the ability to limit out of pocket costs and reducing costs via administrative simplification. The report also suggests, however, that priorities for a public option should be considered along with other factors, including priority populations who might benefit and overall impact. The report highlights other policy initiatives that policy makers might also consider improving affordability including state-funded subsidy programs, integration of affordability standards in insurance rate review, promoting value-based benefit designs and payment models, and implementation of a cost growth target.

Policies to Close Coverage Gaps and Improve Access to MaineCare Coverage

- **Close Coverage Gap for Immigrants.** Governor Mills and the Maine Legislature took a significant step in improving health care affordability and advancing health care equity by restoring eligibility for MaineCare to children and pregnant people regardless of their immigration status. However, the coverage gap still exists for adults and many immigrants living and working in Maine who are ineligible for MaineCare due to their immigration status. Removing this discriminatory exclusion so that all income-eligible people living in Maine can have access to coverage for the same scope of services through MaineCare, regardless of their immigration status, is crucial to addressing health care affordability in Maine.
- **Provide Continuous Eligibility for Children with MaineCare through federal innovation waivers,** such as those approved in Oregon and Washington.[13]

Conclusion

CAHC appreciates the opportunity to provide these comments and looks forward to working with the Office and other stakeholders on these issues in the future.

[13] https://ccf.georgetown.edu/2023/05/01/expedited-cms-approvals-in-washington-and-oregon-can-further-minimize-coverage-disruptions-aid-unwinding/