

Comments of Dan Demeritt

2023 Public Hearing

Maine Office of Affordable Health Care

October 6, 2023

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The Maine Association of Health Plans (MeAHP) includes Anthem Blue Cross and Blue Shield, Cigna, CVS / Aetna, Community Health Options, Harvard Pilgrim Health Care, and UnitedHealthcare. Our members provide or administer health insurance coverage for about 600,000 Maine people. Our mission as an association is to improve the health of Maine people by promoting affordable, safe, and coordinated health care.

The guiding principles the Maine Office of Affordable Health Care (OAHC) shared at its public hearing align with our mission. We appreciate this opportunity to comment and look forward to collaborating with stakeholders across health care to deliver achievable results.

**1. Top concerns of MeAHP related to reducing health care cost growth and promoting affordability of health care for consumers (and purchasers):**

Health insurance premiums reflect the underlying costs of healthcare. We continue to see unsustainable growth in the cost of providing quality health care in our rural, aging state. While health plans are subject to annual rate-setting reviews and market loss ratios, the premiums consumers and employers pay each month are indicative of a healthcare system constantly straining to meet ever-increasing demand.

MeAHP’s top concerns include:

**Limits on Utilization Management**

The Journal of American Medical Association (JAMA) estimates in a 2019 study that wasteful over-treatment or low-value care accounts for 25% of U.S. Health care spending.[[1]](#footnote-2)

Patients deserve the most effective, safest, and most affordable care. Health insurance providers have a comprehensive view of the healthcare system and each patient’s medical claims history.

Prior authorization and other utilization management tools bring value to our healthcare system by promoting the use of patient-specific, evidence-based medicine to ensure better outcomes and greater value for consumers and employer-based purchasers.

Commercial insurance providers continue to modulate prior authorization processes to strike the right balance of adherence to coverage requirements with ease of access for patients and providers alike. In the best tradition of free markets and open competition, some of the nation’s largest carriers are rolling out market-informed initiatives to provide better service for all and drive change in the marketplace.[[2]](#footnote-3)

State policies should encourage collaboration among providers and payers to implement electronic prior authorizations and other process improvements that promote administrative simplification.

**Pharmaceutical Costs**

In 2021, national spending on prescription drugs grew to $603 billion or more than $1,800 per capita. The growth in spending is driven by increases in utilization and expenditures – up 10.9% and 16%, respectively, over five years.[[3]](#footnote-4)

The escalating cost of prescription drugs is a significant driver in the cost of health insurance and has made pharmaceuticals the most expensive component of America’s health care system -- more than $0.22 of every health care dollar spent.[[4]](#footnote-5)

We do not have to choose between innovation and affordable medications for Mainers. Good prescription drug policy can provide support for the research that leads to true advancements in care while strengthening accountability for manufacturers and the protections it takes to ensure a fair marketplace for patients, purchasers, and payers.

**Restrictions and Unfair Practices Related to Agreements between Plans and Providers**

Research shows that fair healthcare markets are more affordable and provide patients with access to the evidence-based care they need. In Maine, provider consolidation and policies that advantage providers over payers have created barriers to competition, limit market-informed innovation, inflated prices, and drive-up costs for everyone.

The Medicare Payment Advisory Commission (MedPAC) is an independent congressional agency established to advise the U.S. Congress on issues affecting the Medicare program and other healthcare issues. In its March 2020 Report to Congress on Health Care Provider Consolidation MedPAC found:

* Commercially insured patients appear to pay higher prices for care and higher prices for insurance in consolidated markets (p. 459);
* Data from the AHA [American Hospital Association] indicate that prices charged to commercial insurers are more than 50 percent above hospitals’ costs (on average), indicating hospitals’ market power to negotiate prices at this level (p. 468); and,
* It is estimated that the average monopolist hospital system obtains 12 percent higher rates than the average hospital (p.470). 2

The Federal Trade Commission cited a Maine example in a policy paper it issued in August of 2022 warning that some hospital mergers subject to Certificate of Public Advantage Agreements led to higher prices and reduced quality. The paper references MaineHealth’s acquisition of Southern Maine Medical Center. It reports that prices increased by 62% at Maine Medical Center and almost 50% at SMMC following the expiration of the COPA in 2015.[[5]](#footnote-6)

Overall spending trends in our state tell a similar story.

According to Maine Health Data Organization, healthcare spending by commercial carriers in Maine has increased by $385 million to $5.3 billion over the last five years. Per capita spending for patients covered by commercial insurance has increased from $5,080 to $5,304 over the same period.[[6]](#footnote-7)

Maine law should protect consumers and payers from potential abuses of monopolistic power of consolidated healthcare networks in contract negotiations. Preventing the use of anti-tiering, all-or-nothing, and anti-steering clauses that could force one-sided agreements and restrict the development of provider networks would be a common-sense step forward.

Tiered plans, for example, can help consumers understand that there are differences in costs based on where services are performed while preserving patient choice. Carriers can use tiers to provide more affordable options, incent consumers, and to promote the use of certain providers based on value and quality measures.

**Unintended Impact of Public Policy**

A final concern we will share involves the unintended costs and impacts of well-intended policy decisions. There are three prominent examples that we provide to illustrate the point.

**Maine’s Hidden Healthcare Tax on Employers and Consumers:** About a third of all Mainers are enrolled in MaineCare and the Children’s Health Insurance Program (377,068).[[7]](#footnote-8)

The access to preventive services and care provided by Maine’s Medicaid program is essential to a substantial proportion of our population. Unfortunately, private health insurance purchasers and consumers pay more – a hidden healthcare tax – because of low MaineCare reimbursement rates.

The MaineCare fee schedule reimburses providers at rates that do not measure up to the actual cost of providing care. MaineCare rates are also lower than the rates established by Medicare and reimbursements negotiated among providers and private payors.[[8]](#footnote-9)

Not all providers accept MaineCare patients because they do not want to accept reimbursement rates that do not meet the actual cost of their service. Providers who do see patients covered by MaineCare are forced to shift costs to other payers in the healthcare system, creating inefficiencies and stress across our healthcare system.

**Maine’s Merged Insurance Market:** Maine merged its individual and small group markets as part of an effort to achieve savings in small group premiums by expanding coverage by the Maine Guaranteed Access Reinsurance Association (MGARA).

The merger of Maine’s small group and individual markets significantly dilutes MGARA’s impact by extending its coverage to a larger pool without any additional sources of funding.[[9]](#footnote-10) In a few years, changes made to MGARA for a short-term impact on small-group premiums will erode the program's viability as a tool to manage risk and maintain affordability in Maine’s individual and small group markets.

**Health Insurance Mandates:** Every year the Maine Legislature considers many well-intended proposals to further regulate our health insurance markets with new mandates for coverage, limits on cost sharing, new rules for provider networks and regulations impacting private business relationships between providers and payers.

The costs add up quickly and directly for consumers and employers. The Maine Bureau of Insurance estimates that the cumulative cost of state mandates on health insurance coverage adds more than 12% to premiums for groups of twenty or fewer members.[[10]](#footnote-11)

**2. Characteristics specific to Maine that contribute to the significance of the issue here:**

**The Demographic, Logistical, and Socioeconomic Realities of Maine**

Maine is America’s oldest state and among its most remote. While telehealth, home health care, and mail order prescriptions offer some promise, our healthcare system will continue to be stressed by the investments we have to make to deliver care in rural settings.

Further, Maine is a poor state compared to our New England neighbors and the national average. Our median household income of $64,767 trails the national average by about $10,000.[[11]](#footnote-12)

**Provider Monopolies**

Medical volume has tripled to 49.7 billion transactions over ten years nationally, increasing costs directly and creating strain and shortages across our national healthcare system. That strain creates even more challenges in Maine given the costs and inefficiencies of delivering health care in our rural state.[[12]](#footnote-13)

Consolidations pursued for competitive purposes and to preserve access to care in rural communities have resulted in provider monopolies that create barriers to competition and put too much pricing power in the hands of the provider.

**Health Insurance Overregulation**

Maine’s individual and small group health insurance consumers have few opportunities to shop for services and savings. Every decision by policy makers to require new coverage, limit cost sharing, or define a network limits the ability of health insurance carriers to tailor solutions that fits the needs of patients. Everyone ends up paying more for coverage and services they may not want or need, and every increase drives more people out of the insured market.

**3. Top strategies MeAHP recommends, metrics for success and results observed:**

The guiding principles of OAHC includes a focus on cost control policies that provide relief for end-payers and the avoidance of policies that simply shift costs unless cost-shifting is undertaken intentionally to promote better outcomes. Our recommended strategies align with these principles.

**Address Pharmaceutical Industry Patent Abuse and Protectionism**

The ever-expanding costs of pharmaceuticals are not fair to consumers who cannot afford the cost of their medications. Maine must address the gimmicks and tactics pharmaceutical manufacturers use to unfairly protect their patents, pricing power, and market share.

Maine should consider steps it can take to limit drug prices to 105% of prices negotiated by Medicare. This should include medications administered in hospitals.

It should also develop responses to tactics like copay coupons intended to drive utilization of high-priced prescription drugs. There are opportunities for significant savings using biosimilar or generic products if we can get past the predatory practices of manufacturers.

The data health insurance carriers provide to the Maine Health Data Organization can provide metrics we can assess and measure over time.

**Align Mandated Coverages and Cost Shares to ACA Requirements**

The annual consideration of coverage expansions and cost share restrictions in the Legislature are driven by compelling personal stories that need to also consider the impact on the costs of our healthcare system. The ongoing enrichment of health insurance coverage increases costs for everyone.

The Affordable Care Act establishes a baseline for health care coverage for every American. Mandates beyond Maine’s defined Essential Health Benefits and state limits on cost shares and plan designs that exceed federal requirements should be examined for impact, effectiveness, and potential elimination.

**Reduce Barriers to Value Based Care**

Demands for services, workforce challenges, and supply chain constraints are creating unsustainable stress throughout Maine’s healthcare system. Policy makers in Maine, informed by stakeholders across health care, should work to identify and implement proven reforms that can reduce barriers to value-based care and create operational efficiencies. Centering this exploration on improving outcomes and value for patients is essential.

For example, improved access to telehealth, home-based care, and biosimilar drugs can give patients and consumers more control while lowering costs and the demands on our most expansive health care resources.

Greater transparency and stronger protections for patients and health care purchasers are needed. Focusing on value-based care, good policy can prevent unwarranted facilities fees, unreasonable contract terms, and unfair price increases.

While our challenges are vast, we must remember that Maine is part of a much larger national healthcare system. Also, state policies do not have the same impact on Maine purchasers and consumers participating in self-funded health plans. Our policies and practices should seek alignment with federal guidance and accepted national standards.

**4. Top state health policy changes MeAHP recommends supporting health plan efforts to improve affordability:**

There are many policy changes Maine must implement to pursue the strategies we identified in response to item #3 above. A few immediate policy changes could include:

**Decouple Maine’s Health Insurance Markets:** Combining Maine’s small and individual group markets provided short term relief for small Maine employers. As anticipated, that policy decision is eroding the value of MGARA. With expenses now exceeding revenue on an annual basis, MGARA is on a path to irrelevancy in the next few years.

**Require Coverage Mandates and Plan Design Studies:** Every proposal to expand mandated health care coverage includes a too-often ignored requirement for a mandate study. Lawmakers should follow the law and conduct a mandate study for all proposed coverage expansions. A similar, premium-focused study should be conducted when proposals are considered that limit plan design and cost sharing tools.

Several pieces of legislation were enacted in the First Special Session of the 131st Legislature that expanded coverages (e.g., LD 267, *An Act to Require Private Insurance Coverage for Donor Breast Milk*) or restricted plan design or cost shares (e.g., LD 936, *An Act to Remove Barriers to Abortion Coverage in Private Insurance*) without a full understanding of the impact on outcomes or cost.

**Enact Anti-Competitive Contracting Protections:**  Maine should enact protections against anti-competitive contracting protections that monopolistic providers use to limit negotiations and protections for healthcare consumers and purchasers.

**5. Additional comments:**

More than half of all Mainers access health care through private insurance carriers. Maine health plans add value through their comprehensive understanding of the healthcare system, individual insights into each patient, and a shared focus on quality outcomes and consumer value.

While everyone shares concerns about affordability, Maine consumers value the services, choices, and access to health care they receive through their existing private health insurance.

A few states have considered what could be accomplished by transitioning to a public, single-payer model of providing health insurance for everyone. Each of these proposals has failed or are falling short of expectations because individual states lack the resources and regulatory certainty needed to establish a lasting single-payer model.

We urge OAHC and everyone to remain focused on initiatives, policies, and reforms that are achievable in Maine and promise the greatest opportunity for lasting impact.

1. <https://jamanetwork.com/journals/jama/article-abstract/2752664> [↑](#footnote-ref-2)
2. <https://www.wsj.com/articles/dreaded-medical-paperwork-required-by-health-insurers-to-be-trimmed-d2b3f1f5> [↑](#footnote-ref-3)
3. <https://aspe.hhs.gov/sites/default/files/documents/88c547c976e915fc31fe2c6903ac0bc9/sdp-trends-prescription-drug-spending.pdf> [↑](#footnote-ref-4)
4. <https://www.ahip.org/resources/where-does-your-health-care-dollar-go> [↑](#footnote-ref-5)
5. <https://www.ftc.gov/system/files/ftc_gov/pdf/COPA_Policy_Paper.pdf>, p.10 [↑](#footnote-ref-6)
6. <https://mhdo.maine.gov/tableau/baselineHealthcareExpQuality.cshtml> [↑](#footnote-ref-7)
7. <https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html> [↑](#footnote-ref-8)
8. <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/MaineCare%20Comprehensive%20Rate%20System%20Evaluation%20Interim%20Report%202021.01.20.docx.pdf> [↑](#footnote-ref-9)
9. <https://legislature.maine.gov/backend/app/services/getDocument.aspx?doctype=test&documentId=171987> [↑](#footnote-ref-10)
10. <https://www.maine.gov/pfr/sites/maine.gov.pfr/files/inline-files/LD1539-and-LD922-Mandated-Benefit-Analysis.pdf> [↑](#footnote-ref-11)
11. <https://worldpopulationreview.com/state-rankings/median-household-income-by-state> [↑](#footnote-ref-12)
12. <https://www.caqh.org/sites/default/files/2022-caqh-index-report%20FINAL%20SPREAD%20VERSION.pdf> [↑](#footnote-ref-13)