

**A CONSUMER'S GUIDE  
TO  
GETTING AND KEEPING HEALTH INSURANCE  
IN  
MAINE**

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This guide is intended to help consumers understand their protections under federal and state law. The authors have made every attempt to assure that the information presented in this guide is accurate as of the date of publication. However, the guide is a summary, and should not be used as a substitute for legal, accounting, or other expert professional advice. Readers should consult insurance regulators or other competent professionals for guidance in making health insurance decisions. The authors, Georgetown University, and the Institute for Health Care Research and Policy specifically disclaim any personal liability, loss or risk incurred as a consequence of the use and application, either directly or indirectly, of any information presented herein.

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# A CONSUMER'S GUIDE TO GETTING AND KEEPING HEALTH INSURANCE IN MAINE

As a Maine resident, you have rights under federal and state law that will protect you when you seek to buy, keep, or switch your health insurance, even if you have a serious health condition.

This guide describes your protections as a Maine resident. Chapter 1 gives an overview of your protections. Chapters 2 and 3 explain your protections under group and individual health plans. Chapter 4 highlights your protections as a small employer. Chapter 5 summarizes help that may be available to you if you cannot afford health coverage. If you move away from Maine, your protections may change. Since this guide is a summary, it may not answer all of your questions. For places to contact for more information, see page 26. For information about how to find consumer guides for other states on the Internet, see page 26. A list of helpful terms and their definitions begins on page 27. These terms are in **boldface type** the first time they appear.

<b>Contents</b>	
1. A summary of your protections .....	2
How am I protected? .....	2
What are the limits on my protections? .....	3
2. Your protections under group health plans.....	5
When does a group health plan have to let me in? .....	5
Can a group health plan limit my coverage for pre-existing conditions? .....	7
Limits to protections for certain government workers .....	10
As you are leaving group coverage.....	10
3. Your protections when buying individual health insurance.....	11
Individual health insurance sold by private insurers .....	11
Cobra and state continuation coverage.....	14
4. Your protections as a small employer or self-employed person .....	19
Do insurance companies have to sell me health insurance? .....	19
Can I be charged more because of my group's health status? .....	19
What if I am self-employed?.....	20
A word about association plans .....	20
5. Financial assistance .....	21
Medicaid .....	21
Cub care .....	23
For more information.....	25
Helpful terms.....	26

# CHAPTER 1

## A SUMMARY OF YOUR PROTECTIONS

Numerous state and federal laws make it easier for people with **pre-existing conditions** to get or keep **health insurance**, or to change from one **health plan** to another. A federal law, known as the **Health Insurance Portability and Accountability Act (HIPAA)** sets national standards for all health plans. In addition, states can pass different reforms for the health plans they regulate (**fully insured group health plans** and **individual health plans**), so your protections may vary if you leave Maine. Maine has enacted comprehensive reforms to expand your access to health insurance and to guarantee fair pricing of policies. Neither federal nor state laws protect your access to health insurance in all circumstances. So please read this guide carefully.

The following information summarizes how federal and state laws do – or do not – protect you as a Maine resident.

### HOW AM I PROTECTED?

In **Maine**, your health insurance options do not depend on your **health status**.

- *Coverage under your group health plan (if your employer offers one) cannot be denied or limited, nor can you be required to pay more, because of your health status. This is called **nondiscrimination**. (See page 5.)*
- *All health plans in Maine must limit exclusion of pre-existing conditions. There are rules about what counts as a pre-existing condition and how long you must wait before a new health plan will begin to pay for care for that condition. Generally, if you join a new plan your old coverage will be credited toward the **pre-existing condition exclusion period**, provided you did not have a long break in coverage. (See pages 7 and 14.)*
- *You cannot be turned down for an individual health plan because of your health status, age, or any other factor that might predict your use of health services. This is called **guaranteed issue**. (See page 12.)*
- *If you are buying an individual health plan, you cannot be charged more for your health insurance due to health status or gender. This is called **modified community rating**. (See page 14.)*

- *Your individual or group health insurance cannot be canceled because you get sick. Most health insurance is **guaranteed renewable**. (See pages 14 and 20.)*
- *If you leave your job, you may be able to remain in your old group health plan for a certain length of time. This is called **COBRA** continuation coverage or **state continuation coverage**. It can help when you are between jobs or waiting for a new health plan to cover your pre-existing condition. There are limits on what you can be charged for this coverage. (See page 15.)*
- *If you are a small employer buying a group health plan, you cannot be turned down because of the health status, age, or any factor that might predict the use of health services of those in your group. All health plans for small employers must be sold on a guaranteed issue basis. (See page 20.)*
- *If you are a small employer buying a group health plan, you cannot be charged more due to the health status or gender of those in your group. This is called modified community rating. (See page 20.)*
- *If you have low or modest household income, you may be eligible for free or subsidized health coverage for yourself or members of your family under the **MaineCare** program. This program includes **Medicaid**, which offers free health coverage for pregnant women, families with children, elderly and disabled individuals with very low-incomes. It also includes **Cub Care**, which offers free or subsidized health coverage for uninsured children. (See Chapter 5.)*

## WHAT ARE THE LIMITS ON MY PROTECTIONS?

As important as they are, the federal and state health insurance reforms are limited. Therefore, you also should understand how the laws do *not* protect you.

- *If you change jobs, you usually cannot take your old health benefits with you. Except when you exercise your federal COBRA or state continuation rights, you are not entitled to take your actual group health coverage with you when you leave a job. Your new health plan may not cover all of the benefits or the same doctors that your old plan did.*
- *If you change jobs, your new employer may not offer you health benefits. If your employer offers coverage, it is required only to make sure that its decision is based on factors unrelated to your health status.*

- *If you get a new job with health benefits, your coverage may not start right away. Employers can require **waiting periods** before your health benefits begin. (See page 6.)*
- *If you have a break in coverage of 90 days (or 180 days if you lost your prior coverage due to unemployment), you may have to satisfy a new pre-existing condition exclusion period when you join a new health plan. (See pages 8 and 14.)*
- *Even if your coverage is **continuous**, there may be a pre-existing condition exclusion period for some benefits if you join a **group health plan** that covers benefits your old plan did not. For example, say you move from a group plan that does not cover prescription drugs to one that does. You may have to wait up to one year before your new health plan will pay for drugs prescribed to treat a pre-existing condition. (See page 9.)*
- *If you work for a non-federal public employer in Maine, not all of the group health plan protections may apply to you. (See page 10.)*
- *If you move away from Maine, you may not be able to buy individual health insurance in another state unless you are federally eligible. (See page 13.)*

## CHAPTER 2

# YOUR PROTECTIONS UNDER GROUP HEALTH PLANS

This chapter describes the protections that you have in group health plans, such as those offered by employers or labor unions. Your protections will vary somewhat, depending on whether your plan is a fully insured group health plan or a **self-insured group health plan**. The plan's benefits information must indicate whether the plan is self-insured.

### WHEN DOES A GROUP HEALTH PLAN HAVE TO LET ME IN?

- *You have to be eligible for the group health plan.* For example, your employer may not give health benefits to all employees. Or, your employer may offer an HMO plan that you cannot join because you live outside of the plan's service area.
- *You cannot be turned away or charged more because of your health status.* Health status means your medical condition or history, **genetic information**, or disability. This protection is called nondiscrimination. Employers may refuse or restrict coverage for other reasons (such as part time employment), as long as these are unrelated to health status and applied consistently.

#### Discrimination due to health status is not permitted

The Acme Company has 200 employees and offers two different health plans. Full time employees are offered a high option plan that covers prescription drugs; part time employees are offered a low option plan that does not. This is permitted under the law. By contrast, in a cost-cutting move, Acme restricts its high option plan to those employees who can pass a physical examination. This is not permitted under the law.

- *You must be given a special opportunity to sign up for your group health plan if certain changes happen to your family.* In addition to any regular enrollment period your employer or group health plan offers, you must be offered a special, 30-day opportunity to enroll in your group health plan after certain events. You can elect coverage at this time. If your group plan offers family coverage, your dependents can elect coverage as well. Enrollment during a **special enrollment period** is not considered **late enrollment**.

### **Certain changes can trigger a special enrollment opportunity**

- The birth, adoption, or placement for adoption of a child
- Marriage
- Loss of other coverage (for example, that you or your dependents had through yourself or another family member and lost because of death, divorce, legal separation, termination, retirement, or reduction in hours worked)

- *Under Maine law, newborns and adopted children are automatically covered under the parents' fully insured health plan for the first 30 days, if the plan covers dependents. The insurer may require that the parent enroll the baby within the 30 days in order to continue coverage beyond the 30 days.*
- *When you begin a new job, your employer may require a waiting period before you can sign up for health coverage. This waiting period, however, must be applied consistently and cannot vary due to your health status.*
- *If you work for a company with 15 or more employees, you may have similar family leave protections under the Maine Family Medical Leave Law. For more information about the law, contact the Maine Department of Labor at 207-624-6400.*
- *If you have to take leave from your job due to illness, the birth or adoption of a child, or to care for a seriously ill family member, you may be able to keep your group health coverage for a limited time. A federal law known as the **Family and Medical Leave Act (FMLA)** guarantees you up to 12 weeks of job-protected leave in these circumstances.*

The FMLA applies to you if you work at a company with 50 or more employees.

If you qualify for leave under FMLA, your employer must continue your health benefits. You will have to continue paying your share of the premium.

If you decide not to return to work at the end of the leave period, your employer may require you to pay back the employer's share of the health insurance premium. However, if you don't return to work because of factors outside your control (such as a need to continue caring for a sick family member, or because your spouse is transferred to a job in a distant city), you will not have to repay the premium.

For more information about your rights under the FMLA, contact the **U.S. Department of Labor**.

## CAN A GROUP HEALTH PLAN LIMIT MY COVERAGE FOR PRE-EXISTING CONDITIONS?

When you first enroll in a group health plan, the employer or insurance company may ask if you have any pre-existing conditions. Or, if you make a claim during the first year of coverage, the plan may **look back** to see whether it was for such a condition. If so, it may try to exclude coverage for services related to that condition for a certain length of time. However, federal and state laws protect you by placing limits on these pre-existing condition exclusion periods under group health plans. In some cases your protections will vary, depending on the type of group health plan you belong to.

- *A group health plan can count as pre-existing conditions only those for which you actually received (or were recommended to receive) a diagnosis, treatment or medical advice within the 6 months immediately before you joined that plan. This period is also called the look back period.*
- *Under group health plans, coverage for pre-existing conditions can generally be excluded for no longer than 12 months. However, if you enroll late in a self-insured group health plan (after you are hired and not during a regular or special enrollment period), you may have an 18-month pre-existing condition exclusion period. Late enrollees in fully insured health plans can only be subject to a 12-month pre-existing condition exclusion period.*
- *Group health plans cannot apply a pre-existing condition exclusion period for pregnancy, newborns or newly adopted children, children placed for adoption, or genetic information.*
- *No pre-existing condition exclusion period can be applied without appropriate notice. Your group health plan must inform you, in writing, if it intends to impose such a period. Also, if needed, it must help you get a **certificate of creditable coverage** from your old health plan.*

## What is creditable coverage?

Most health insurance counts as creditable coverage, including:

Federal Employees Health Benefits (FEHBP)	Medicare
Group health insurance (including COBRA)	Military health coverage (CHAMPUS, TRICARE)
Indian Health Service	State health insurance high risk pools
Individual health insurance	
Medicaid	

In most cases, you should get a certificate of creditable coverage when you leave a health plan. You also can request certificates at other times. If you cannot get one, you can submit other proof, such as old health plan ID cards or statements from your doctor showing bills paid by your health insurance plan.

- *If you join a new group health plan, the law protects you from a new pre-existing condition exclusion period, provided you maintain continuous creditable coverage. The definition of continuous coverage varies depending on the type of group health plan you are joining. If you are joining a fully insured group health plan, coverage counts as continuous if it is not interrupted by a break of 90 days or more. If you lost your coverage because of unemployment, coverage is continuous if it is not interrupted by a break of 180 days or more. If you are joining a self-insured group health plan, coverage counts as continuous if it is not interrupted by a break of 63 or more days in a row.*

In determining continuous coverage, employer-imposed waiting periods do not count as a break in coverage. If your new plan imposes a pre-existing condition exclusion period, you can credit time under your prior continuous coverage toward it. If your employer requires a waiting period, the pre-existing condition exclusion period begins on the first day of the waiting period.

## What is Continuous Coverage?

You can get continuous coverage as long as you don't have a lapse of 63 or more days for self-insured plans and 90 or more days for fully insured plans.

Art, who is diabetic, worked for the Ajax Company and was covered under its group health plan for 9 months. He left his job and was without coverage for 75 days. Fortunately, on the 76th day after leaving Ajax, Art found a new job at Beta Corporation. He enrolled immediately in Beta's fully insured group health plan, which covers care for diabetes but requires a pre-existing condition exclusion period. In Maine, fully-insured group health plans count as continuous all creditable coverage that is not interrupted by a lapse of 90 consecutive days or more. Therefore, because Art's lapse in coverage was less than 90 days, he will get credit for his coverage at Ajax. Beta's plan will begin paying for Art's diabetes care after 3 months (12-month exclusion period minus 9 months of creditable coverage).

Now consider a slightly different situation. Assume Art worked for a self-insured group health plan. Self-insured group health plans count as continuous all creditable coverage that is not interrupted by a lapse of 63 consecutive days or more. In this case, Art will not get credit for his prior coverage at Ajax because it was followed by a break of more than 63 days. Beta's plan will begin paying for Art's diabetes care at the end of the full 12-month exclusion period.

- *Your protections may differ if you move to a group health plan that offers more benefits than your old one did.* Plans can look back to determine whether your previous health plan covered prescription drugs, mental health, substance abuse, dental care, or vision care. If you did not have continuous coverage for one or more of these categories of benefits, your new group health plan may impose a pre-existing condition exclusion period for that category. Plans that use this method of crediting prior coverage must use it for everyone and must disclose this to you when you enroll.

**Even if coverage is continuous, there may be an exclusion for certain benefits**

Sue needs prescription medication to control her blood pressure. She had 2 years of continuous coverage under her employer's group health plan, which did not cover prescription drugs. Sue changes jobs, and her new employer's fully insured plan does cover prescription drugs. However, because her prior policy did not, the new plan refuses to cover her blood pressure medicine for 6 months.

**Question:** Is this permitted?

**Answer:** Yes. However, the plan must pay for covered doctor visits, hospital care, and other services for Sue's high blood pressure. It also must pay for covered prescription drugs she needs for other conditions that were not pre-existing.

**LIMITS TO PROTECTIONS FOR CERTAIN GOVERNMENT WORKERS**

- *Federal law permits state, county, and local governments to exempt their employees in self-insured plans from some of the protections discussed previously in this chapter.* Public employers must make this choice annually. When they do so, they are required to notify the federal government and specify which health insurance protections will not apply to their employees' health plan.

According to the latest list available from the federal government, the City of Portland has decided that certain health insurance protections will not apply to its employees. If you have group health coverage through this employer, you should contact it for more information. Other non-federal public employers in Maine may have made this choice after this guide was written. If you are not sure about your protections under your public employee health plan, you should contact your employer.

**AS YOU ARE LEAVING GROUP COVERAGE...**

- *If you are leaving your job or otherwise losing access to your group health coverage, you may be able to remain covered under the group health plan for a limited time.* In addition, you may have special protections when buying certain kinds of individual health coverage. See Chapter 3 for more information about COBRA continuation coverage, state continuation coverage, and individual health plan coverage for "federally eligible individuals."

## CHAPTER 3

# YOUR PROTECTIONS WHEN BUYING INDIVIDUAL HEALTH INSURANCE

If you do not have access to employer-sponsored group insurance, you may want to buy an individual health plan from a private health insurance company. Maine has enacted extensive insurance reforms to guarantee residents access to this kind of insurance. There are some alternatives to individual health insurance – such as continuation and conversion coverage. This chapter summarizes your protections under different kinds of health plan coverage.

### INDIVIDUAL HEALTH INSURANCE SOLD BY PRIVATE INSURERS

#### *WHEN DO INDIVIDUAL HEALTH INSURERS HAVE TO SELL ME COVERAGE?*

In Maine, your ability to buy individual health coverage does not depend on your health status.

- *Companies that sell individual health insurance in Maine are not permitted to turn you down because of your health status and other factors.*
- *In Maine, insurers that sell individual health insurance must offer family coverage to persons who are interested in purchasing it. Some HMOs may also offer husband-wife plans and parent-child(ren) plans.*
- *In Maine, newborns and newly adopted children are automatically covered under the parents' individual health plan for the first 30 days. The insurer may require that the parent enroll the child within the 30 days in order to continue coverage beyond the 30 days.*
- *If you are federally eligible, you are guaranteed the same right to purchase individual health insurance as other individuals. However, private insurers cannot impose any pre-existing condition exclusion periods on the plan you purchase.*

### **To be federally eligible, you must meet certain criteria**

If you are federally eligible you are guaranteed the right to buy an individual health plan and are exempted from pre-existing condition exclusion periods. In Maine, where state law is more protective, you do not need to meet all of the requirements of federal eligibility to have this protection. However, if you move out of Maine, this information may be important to you.

To be federally eligible, you must meet all of the following:

- You must have had 18 months of continuous creditable coverage, *at least the last day of which was under a group health plan.*
- You also must have used up any COBRA or state continuation coverage for which you were eligible.
- You must not be eligible for Medicare, Medicaid or a group health plan.
- You must not have health insurance. (Note, however, if you know your group coverage is about to end, you can apply for coverage for which you *will* be federally eligible.)
- You must apply for health insurance for which you are federally eligible within 63 days of losing your prior coverage.

Federal eligibility ends when you enroll in an individual plan, because the last day of your continuous health coverage must have been in a group plan. You can become federally eligible again by maintaining continuous coverage and rejoining a group health plan.

### ***WHAT WILL MY INDIVIDUAL HEALTH PLAN COVER?***

- *Maine requires that health insurers that choose to offer individual coverage, and all HMOs, offer a standardized policy to all consumers. You may select either the basic or standard policies. Non-standardized plans can be sold as well.*

The Maine Bureau of Insurance issues a free buyer's guide which lists plan options and the companies selling them.

## **WHAT ABOUT COVERAGE FOR MY PRE-EXISTING CONDITION?**

- *If you buy an individual health plan, there are limits on pre-existing condition exclusion periods that can be imposed. Pre-existing condition exclusion periods cannot exceed 12 months. Individual health plans can look back 6 months to see if you actually received care or treatment for a condition. In Maine, pregnancy can be considered a pre-existing condition in individual health plans, but plans can only exclude it from coverage for 10 months. Genetic information cannot be considered a pre-existing condition.*
- *In Maine, individual health plans are not allowed to impose elimination riders, which permanently exclude coverage for a health condition, body part, or body system.*
- *You will get credit for prior continuous coverage that was not interrupted by a break of 90 or more days in a row (or 180 days, if you lost your prior coverage due to unemployment). No pre-existing condition exclusion periods can be imposed on you if you are federally eligible.*

## **WHAT CAN I BE CHARGED FOR INDIVIDUAL HEALTH COVERAGE?**

- *Premiums for individual health plans in Maine cannot vary due to your gender or health status. This is called modified community rating. Premiums may vary by as much as 20% above or below the community rate depending on your age, occupation, and smoking status. Premiums also will vary based on family size, where you live in the state, and the type of plan you select. The buyer's guide lists the community rate for each insurance company's basic and standard plan. Check with the company for the most current premium rates.*

## **CAN MY INDIVIDUAL HEALTH INSURANCE POLICY BE CANCELLED?**

- *Your coverage cannot be canceled because you get sick. This is called guaranteed renewability. You have this protection provided that you pay the premiums.*

## COBRA AND STATE CONTINUATION COVERAGE

### ***WHEN DO I HAVE TO BE OFFERED COBRA COVERAGE?***

If you are leaving your job and you had group coverage, you may be able to stay in your group plan for an extended time through COBRA or state continuation coverage. The information presented below was taken from publications prepared by the U.S. Department of Labor. You should contact it for more information about your rights under COBRA.

- *To qualify for COBRA continuation coverage, you must meet 3 criteria:*

First, you must work for an employer with 20 or more employees. If you work for an employer with 2-19 employees, you may qualify for state continuation coverage. (See next page.)

Second, you must be covered under the employer's group health plan as an employee or as the spouse or dependent child of an employee.

Finally, you must have a qualifying event that would cause you to lose your group health coverage.

#### **COBRA QUALIFYING EVENTS**

##### *For employees*

- Voluntary or involuntary termination of employment for reasons other than gross misconduct
- Reduction in numbers of hours worked

##### *For spouses*

- Loss of coverage by the employee because of one of the qualifying events listed above
- Covered employee becomes eligible for Medicare
- Divorce or legal separation of the covered employee
- Death of the covered employee

##### *For dependent children*

- Loss of coverage because of any of the qualifying events listed for spouses
- Loss of status as a dependent child under the plan rules

- *Each person who is eligible for COBRA continuation can make his or her own decision.* If your dependents were covered under your employer plan, they may independently elect COBRA coverage as well.
- *You must be notified of your COBRA rights when you join the group health plan, and again if you qualify for COBRA coverage.* The notice rules are somewhat complicated and you should contact the U.S. Department of Labor for more information.

In general, if the event that qualifies you for COBRA coverage involves the death, termination, reduction in hours worked, or Medicare eligibility of a covered worker, the employer has 30 days to notify the group health plan of this event. However, if the qualifying event involves divorce or legal separation or loss of dependent status, YOU have 60 days to notify the group health plan. Once it has been notified of the qualifying event, the group health plan has 14 days to send you a notice about how to elect COBRA coverage. Each member of your family eligible for COBRA coverage then has 60 days to make this election.

Once you elect COBRA, coverage will begin retroactive to the qualifying event. You will have to pay premiums dating back to this period.

- *To qualify as federally eligible, you must choose and use up any COBRA or state continuation coverage available to you.*
- *In Maine, you can buy individual health insurance regardless of whether you used up your COBRA coverage.* Compare the options to see which is best for you. If you are planning to move to another state, you may need to be federally eligible to buy individual coverage. In this case, you may want to consider COBRA.

### **WHAT WILL COBRA COVER?**

- *Your covered health benefits under COBRA will be the same as those you had before you qualified for COBRA.* For example, if you had coverage for medical, hospitalization, dental, vision, and prescription drug benefits before COBRA, you can continue coverage for all of these benefits under COBRA. If these benefits were covered under more than one plan (for example, a separate health insurance and dental insurance plan) you can choose to continue coverage under any or all of the plans. Life insurance is not covered by COBRA.

If your employer changes the health benefits package after your qualifying event, you must be offered coverage identical to that available to other active employees who are covered under the plan.

### ***WHAT ABOUT COVERAGE FOR MY PRE-EXISTING CONDITION?***

- Because your group coverage is continuing, you will not have a new pre-existing condition exclusion period under COBRA. However, if you were in the middle of a pre-existing condition exclusion period when your qualifying event occurred, you will have to finish it.

### ***WHAT CAN I BE CHARGED FOR COBRA COVERAGE?***

- *You must pay the entire premium (employer and employee share, plus a 2% administrative fee) for COBRA continuation coverage. The first premium must be paid within 45 days of electing COBRA coverage.*
- *If you elect the 11-month disability extension, the premium will increase to 150% of the total cost of coverage. See below for more information about the disability extension.*

### ***HOW LONG DOES COBRA COVERAGE LAST?***

- *COBRA coverage generally lasts up to 18 months and cannot be renewed. However, dependents are sometimes eligible for up to 36 months of COBRA continuation coverage, depending on their qualifying event. In addition, special rules for disabled individuals may extend the maximum period of coverage to 29 months. To qualify for the disability extension, you must have been disabled at the time of your COBRA qualifying event (such as termination of employment or reduction in hours) or be determined to have become disabled within 60 days of that qualifying event. You must obtain this disability determination from the Social Security Administration, and you must notify your group health plan within 60 days of this disability determination.*

- *Usually, COBRA continuation coverage ends when you join a new health plan. However, if your new plan has a waiting period or a pre-existing condition exclusion period, you can keep whatever COBRA continuation coverage you have left during that period. For specifics, ask your former employer or contact the U.S. Department of Labor.*
- *COBRA coverage also ends if your employer stops offering health benefits to other employees.*

<b>HOW LONG CAN COBRA COVERAGE LAST?</b>		
Qualifying event(s)	Eligible person(s)	Coverage
Termination Reduced hours	Employee Spouse Dependent child	18 months *
Employee enrolls in Medicare Divorce or legal separation Death of covered employee	Spouse Dependent child	36 months
Loss of "dependent child" status	Dependent child	36 months

\* Certain disabled persons and their eligible family members can extend coverage an additional 11 months, for a total of up to 29 months.

- *COBRA coverage might end if you are in a managed care plan that is available only to people living in a limited geographic area and you move out of that area. However, if you are eligible for COBRA and are moving out of your current health plan's service area, your employer must provide you with the opportunity to switch to a different plan, but only if the employer already offers other plans to its employees. Examples of the other plans your employer may offer you are a managed care plan whose service area includes the area you are moving to, or another plan that does not have a limited service area.*

## **WHAT ABOUT MAINE CONTINUATION COVERAGE?**

- *If your employer offers health benefits and has fewer than 20 workers, you may also be eligible for up to 12 months of continuation coverage under a Maine law that is similar to COBRA. State continuation coverage is only available if you lose coverage when temporarily laid-off or because of a work related injury or illness. Ask your former employer or the Maine Bureau of Insurance about state continuation coverage if you think it applies to you.*
- *In Maine, you can buy individual health insurance regardless of whether you used up your state continuation coverage. Compare the options to see which is best for you. If you are planning to move to another state, you may need to be federally eligible to buy individual coverage. In this case, you may want to consider continuation coverage.*

## CHAPTER 4

# YOUR PROTECTIONS AS A SMALL EMPLOYER OR SELF-EMPLOYED PERSON

Federal law extends certain protections to employers seeking to buy health insurance for themselves and their workers. Maine has enacted comprehensive reforms to expand small employer's access to health insurance and to limit premium variation due to health status. Generally, small employers are those that employ 2-50 employees. Check with the Maine Bureau of Insurance to be sure that you know which protections apply to your group.

### DO INSURANCE COMPANIES HAVE TO SELL ME HEALTH INSURANCE?

- *With few exceptions, small employers cannot be turned down.* This is called guaranteed issue. If you employ at least 2 but not more than 50 people, health insurance companies must sell you any **small group health plan** they sell to other small employers. HMOs cannot require that a minimum percentage of your eligible employees participate in your group health plan, but other insurers are allowed to set such requirements. If you are buying a **large group health plan** for 51 or more employees, your group can be turned down.
  
- *Your insurance cannot be canceled because someone in your group becomes sick.* This is called guaranteed renewability and it applies to group plans of all sizes. Insurers can impose other conditions, however. They can require you to meet minimum participation and contribution rates in order to renew your coverage. Additionally, they can refuse to renew your coverage for nonpayment of premiums or if you commit fraud.

### CAN I BE CHARGED MORE BECAUSE OF MY GROUP'S HEALTH STATUS?

- *Premiums for all health plans sold to small employers in Maine are based on modified community rating.* That means your premium cannot vary due to the health status or gender of people in your group. Premiums may vary due to age, occupation, smoking status, family size and location of your business.

## WHAT IF I AM SELF-EMPLOYED?

- *If you are self-employed with no other workers, you may be eligible to buy a group health plan on your own (or you may be able to join another group health plan through a family member). However, insurance companies that sell both individual and group coverage can choose to offer you individual coverage only. If you cannot find a carrier that sells group coverage to sole proprietors, you can buy an individual health plan and be protected by the laws that apply to individuals. (See Chapter 3.)*
- *If you are self-employed and buy your own health insurance, you are eligible to deduct an increasing percentage of the cost of your premium from your federal income tax. This deduction is 70% for 2002, and 100% in 2003 and thereafter.*

## A WORD ABOUT ASSOCIATION PLANS

- *Some small employers, self-employed people, and other individuals buy health insurance through professional or trade associations. The laws applying to association health coverage can be different than those for other health plans. Check with the Maine Bureau of Insurance about your protections in association health plans.*

## CHAPTER 5

# FINANCIAL ASSISTANCE

Help is available to certain low-income residents of Maine who cannot afford to buy health insurance. Medicaid and Cub Care offer free or subsidized health insurance coverage, direct medical services or other help. This chapter provides summary information about these programs and contact information for further assistance.

### MEDICAID

Medicaid is a program that provides health coverage to some low-income Maine residents. Medicaid covers families with children and pregnant women, medically needy individuals, the elderly, and people with disabilities, if state and federal guidelines are met. Children or pregnant women who are not citizens may be eligible for Medicaid or Cub Care. Other temporary residents who are not U.S. citizens may be eligible for Medicaid if they have emergency needs only. Enrolling in Medicaid or Cub Care will not affect an immigrant family's ability to get a green card or become a citizen.

- *Families who get cash benefits from TANF can get Medicaid.*

Parents should know that when you get a job and your TANF benefits end, you generally can stay on Medicaid for a 12-month transitional period.

Parents should know that when your family's TANF benefits end, your children may also qualify for transitional Medicaid coverage for 12 months. Or, they may qualify for Medicaid themselves if your family's income meets the Medicaid income standards. (See below.)

- *Continuous Medicaid coverage for children (up to the age of 19) is provided for 12 months following eligibility determination regardless of any changes in income or circumstances.*
- *Very poor elderly or disabled people who get Supplemental Security Income (SSI) benefits can also qualify for Medicaid.*
- *Disabled individuals should know that if your income earned from a job increases so that you no longer qualify for SSI, you may be able to continue your Medicaid coverage at least for a limited time.*

- *Being on TANF or SSI, is not the only way to qualify for Medicaid.* For certain categories of people, eligibility for Medicaid is based on the amount of your household income.

In Maine you may be eligible for Medicaid if you are an infant, a child, a pregnant woman, or a parent of a child, and your family income meets the Medicaid income standards.

Income eligibility levels for these categories are described below. Your assets and some expenses also may be taken into account, so you should contact you local department of social services for more information.

### **Low-income persons eligible for Medicaid in Maine\***

<u>Category</u>	<u>Income eligibility</u> (as percent of federal poverty level)
Infant	200% (monthly income of about \$2,430 for family of 3)
Child 1-19	150%
Parent	104% (approximate)
Pregnant woman	200%

\* Eligibility information was compiled from secondary sources, including Center for Budget and Policy Priorities, the Henry J. Kaiser Family Foundation, Families USA, and the Robert Wood Johnson Foundation Covering Kids Program, and may have changed since this guide was published. Contact your local department of social services for the most up to date information and for other eligibility requirements that may apply.

To get an idea of how your income compares to the federal poverty level,\* use the federal poverty guideline issued by the U.S. Department of Health and Human Services for the year 2001:

<u>Size of Family Unit</u>	<u>Poverty Guideline (annual income)</u>
\$ 8,590	
11,610	
14,630	

For larger families            add \$3,020 for each additional person

So, for example, using this guideline, 200% of the federal poverty level for a family of 3 would be an annual income of \$29,260, or a monthly income of \$2,438.

\* Contact your local department of social services for the most up to date information and for other eligibility requirements that may apply.

- *People who have high medical expenses may also qualify for Medicaid.* You may qualify as medically needy if you have high medical expenses that, when subtracted from your income, would make you eligible for Medicaid coverage. For example, people who have to pay a lot for prescription drugs, nursing home care, or other long term care services sometimes qualify as medically needy if they don't have health insurance that covers these services.
- *Retired or disabled people who have low-incomes and are enrolled in Medicare may also qualify for help from Medicaid.* Even though your income may be too high to qualify for Medicaid insurance coverage, there may be other ways Medicaid can help you.
- *If your household income is below the poverty level, Medicaid will pay your Medicare monthly premium and your Medicare deductibles and coinsurance.* This is called the Specified Low-Income Medicare Beneficiary (SLMB) program.
- *If your household income is between 100% and 135% of the federal poverty level, Medicaid will pay for your monthly Medicare premiums only.* This is called the Specified Low-Income Medicare Beneficiary (SLMB) program.
- *Contact your local department of social services for more information about other eligibility requirements.*
- *There may be other ways that Medicaid can help.* To find out if you or other members of your family qualify for Medicaid, contact the department of social services.
- *To obtain the locations and telephone number of an office near you, call the Maine Department of Human Services at (207) 287-2826, or visit the internet at [www.state.me.us/dhs/bfi](http://www.state.me.us/dhs/bfi).*

## CUB CARE

Cub Care is a state-designed program that provides health coverage to low-income children under the age of 19 who are not eligible for Medicaid and who have limited or no health insurance.

- *Coverage is free to families with family incomes between 150% and 200% of the federal poverty level.* For a small premium, coverage is available to families for as long as 18 months who have incomes up to 200% of the federal poverty level.

- *Eligibility is guaranteed for one year unless the child moves from the state, enrolls in Medicaid, or is found to have other insurance coverage.*
- *No child is denied eligibility based on disability.*
- *For more information on Cub Care, contact the Maine Department of Human Services at (800) 442-6382.*

## FOR MORE INFORMATION...

As a summary, this guide will not answer every question for every person in every circumstance. In addition, it is not a substitute for legal advice. If you have more questions, contact the agencies listed below or consult an attorney.

<b>For questions about:</b>	<b>Contact:</b>
Individual health insurance State continuation coverage Fully insured group health insurance	Maine Bureau of Insurance (800) 300-5000 (207) 624-8475 <a href="http://www.state.me.us/pfr/ins/ins_index.htm">http://www.state.me.us/pfr/ins/ins_index.htm</a>
Self-insured group health plans COBRA continuation coverage Family and Medical Leave Act	U.S. Department of Labor, Boston Regional Office (617) 565-9600, or contact  U.S. Department of Labor, Division of Technical Assistance and Inquiries, Washington, D.C. (202) 219-8776  For Department of Labor publications: (800) 998-7542 <a href="http://www.dol.gov/dol/pwba">http://www.dol.gov/dol/pwba</a>
Medicaid Cub Care	Maine Department of Human Services, Bureau of Family Independence (207) 287-2826 (800) 442-6382 <a href="http://www.state.me.us/dhs.bfi">http://www.state.me.us/dhs.bfi</a>

Finally, if you would like to obtain a consumer guide for a different state, visit the web at <http://www.healthinsuranceinfo.net>.

## HELPFUL TERMS

***Certificate of Creditable Coverage.*** A document provided by your health plan that lets you prove you had coverage under that plan. Certificates of creditable coverage will usually be provided automatically when you leave a health plan. You can obtain certificates at other times as well. See also Creditable Coverage.

***COBRA.*** Stands for the Consolidated Omnibus Budget Reconciliation Act, a federal law in effect since 1986. COBRA permits you and your dependents to continue in your employer's group health plan after your job ends. If your employer has 20 or more employees, you may be eligible for COBRA continuation coverage when you retire, quit, are fired, or work reduced hours. Continuation coverage also extends to surviving, divorced or separated spouses; dependent children; and children who lose their dependent status under their parent's plan rules. You may choose to continue in the group health plan for a limited time and pay the full premium (including the share your employer used to pay on your behalf). COBRA continuation coverage generally lasts 18 months, or 36 months for dependents in certain circumstances. See also State Continuation Coverage.

***Continuous Coverage.*** If you are joining a self-insured group health plan or if you want to be federally eligible, health insurance coverage is continuous if it is not interrupted by a break of 63 or more consecutive days. Employer waiting periods do not count as gaps in health insurance coverage for the purpose of determining if coverage is continuous. See also Creditable Coverage, Federally Eligible, Fully Insured Group Health Plan, Individual Health Plan, Self-Insured Group Health Plan.

***Creditable Coverage.*** Health insurance coverage under any of the following: a group health plan; an individual health plan; Medicare; Medicaid; CHAMPUS and TRICARE (health coverage for military personnel, retirees, and dependents); the Federal Employees Health Benefits Program; Indian Health Service; the Peace Corps; or a state health insurance high risk pool. See also Continuous Coverage, Group Health Plan, Individual Health Plan.

***Cub Care.*** Maine's Cub Care program provides insurance for children under the age of 19 who are not eligible for Medicaid and who have limited or no health insurance.

***Enrollment Period.*** The period during which all employees and their dependents can sign up for coverage under an employer group health plan. Besides permitting workers to elect health benefits when first hired, many employers and group health insurers hold an annual enrollment period, during which all employees can enroll in or change their health coverage. See also Group Health Plan, Special Enrollment Period.

***Elimination Rider.*** An amendment permitted in health plan contracts in some states that permanently excludes your coverage for a health condition, body part, or body system. Elimination riders are not permitted in Maine.

***Family and Medical Leave Act (FMLA).*** A federal law that guarantees up to 12 weeks of job-protected leave for certain employees when they need to take time off due to serious illness, to have or adopt a child, or to care for another family member. When you qualify for leave under FMLA, you can continue coverage under your group health plan.

***Federally Eligible.*** Status you attain once you have had 18 months of continuous creditable health coverage. To be federally eligible, you also must have used up any COBRA or state continuation coverage; you must not be eligible for Medicare or Medicaid; you must not have other health insurance; and you must apply for individual health insurance within 63 days of losing your prior creditable coverage. No matter where you live in the U.S., if you are federally eligible you must be offered at least some type of individual health plan with no pre-existing condition periods. In Maine, you do not need to meet all the requirements of federal eligibility to have this protection. See also COBRA, Continuous Coverage, Creditable Coverage, State Continuation Coverage.

***Fully Insured Group Health Plan.*** Health insurance purchased by an employer from an insurance company. Fully insured health plans are regulated by Maine. See also Self-Insured Group Health Plans.

***Genetic Information.*** Includes information about family history or genetic test results indicating your risk of developing a health condition. A health plan cannot consider pre-existing (and therefore exclude coverage for) a condition about which you have genetic information, unless that health condition has been diagnosed by a health professional.

***Group Health Plan.*** Health insurance (usually sponsored by an employer, union or professional association) that covers at least 2 employees. See also Fully Insured Group Health Plan, Self-Insured Group Health Plan.

***Guaranteed Issue.*** A requirement that health plans must permit you to enroll regardless of your health status, age, gender, or other factors that might predict your use of health services. All health plans sold to individuals and small employers with 2 to 50 employees in Maine are guaranteed issue. Plans that are guaranteed issue can turn you away for other reasons.

***Guaranteed Renewability.*** A feature in health plans that means your coverage cannot be canceled because you get sick. HIPAA requires all health plans to be guaranteed renewable. The precise definition of guaranteed renewable may vary based on what type of insurance you have. Your coverage can be canceled for other reasons unrelated to your health status.

***Health Insurance or Health Plan.*** In this guide, the term means benefits consisting of medical care (provided directly or through insurance or reimbursement) under any hospital or medical service policy, plan contract, or HMO contract offered by a health insurance company or a group health plan. It does not mean coverage that is limited to accident or disability insurance, workers' compensation insurance, liability insurance (including automobile insurance) for medical expenses, or coverage for on-site medical clinics. Health insurance also does not mean coverage for limited dental or vision benefits to the extent these are provided under a separate policy.

**Health Plan Year.** That calendar period during which your health plan coverage is in effect. Many group health plan years begin on January 1, while others begin in a different month.

**Health Status.** When used in this guide, refers to your medical condition (both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), and disability. See also Genetic Information.

**HIPAA.** The Health Insurance Portability and Accountability Act, sometimes known as Kassebaum-Kennedy, after the two senators who spearheaded the bill. Passed in 1996 to help people buy and keep health insurance, even when they have serious health conditions, the law sets a national floor for health insurance reforms. Since states can and have modified and expanded upon these provisions, consumers' protections vary from state to state.

**HMO.** Health maintenance organization. A kind of health insurance plan. HMOs usually limit coverage to care from doctors who work for or contract with the HMO. They generally do not require deductibles, but often do charge a small fee, called a copayment, for services like doctor visits or prescriptions. HMOs in the individual market in Maine must offer a point of service (POS) option, which permits you to get care from providers outside the HMO network. You will pay a greater share of charges when you get care under the POS option. See also Point-of-Service (POS).

**Individual Health Plan.** Policies for people not connected to an employer group. Individual health plans are regulated by Maine.

**Kassebaum-Kennedy.** See HIPAA.

**Large Group Health Plan.** One with more than 50 employees.

**Late Enrollment.** Enrollment in a health plan at a time other than the regular or a special enrollment period. If you are a late enrollee, you may be subject to a longer pre-existing condition exclusion period. See also Special Enrollment Period.

**Look Back.** The maximum length of time, immediately prior to enrolling in a health plan, which can be examined for evidence of pre-existing conditions. See also Pre-existing Condition.

**Medicaid.** A program providing comprehensive health insurance coverage and other assistance to certain low-income Maine residents. All other states have Medicaid programs, too, though eligibility levels and covered benefits will vary.

**Modified Community Rating.** A rule that prohibits health plans in Maine from varying premiums based on health status. Small group and individual health plan premiums are subject to modified community rating.

***Nondiscrimination.*** A requirement that group health plans not discriminate against you based on your health status. Your coverage under a group health plan cannot be denied or restricted, nor can you be charged a higher premium, because of your health status. Group health plans can restrict your coverage based on other factors (such as part time employment) that are unrelated to health status. See also Group Health Plan, Health Status.

***Point-of-Service (POS).*** A type of managed care plan that lets you decide whether to get care from providers in or out of the HMO network. When you get care in-network, your out-of-pocket costs will be less than if you get care outside of the network. See also HMO.

***Pre-existing Condition.*** Any condition (either physical or mental) for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period immediately preceding enrollment in a health plan. Pregnancy cannot be counted as a pre-existing condition. Genetic information about your likelihood of developing a disease or condition, without a diagnosis of that disease or condition, cannot be considered a pre-existing condition. Newborns, newly adopted children, and children placed for adoption covered within 30 days cannot be subject to pre-existing condition exclusions.

***Pre-existing Condition Exclusion Period.*** The time during which a health plan will not pay for covered care relating to a pre-existing condition. See also Pre-existing Condition.

***Self-Insured Group Health Plans.*** Plans set up by employers who set aside funds to pay their employees' health claims. Because employers often hire insurance companies to run these plans, they may look to you just like fully insured plans. Employers must disclose in your benefits information whether an insurer is responsible for funding, or for only administering the plan. If the insurer is only administering the plan, it is self-insured. Self-insured plans are regulated by the U.S. Department of Labor, not by Maine.

***Small Group Health Plans.*** Plans with at least 2 but not more than 50 employees.

***Special Enrollment Period.*** A time, triggered by certain specific events, during which you and your dependents must be permitted to sign up for coverage under a group health plan. Employers and group health insurers must make such a period available to employees and their dependents when their family status changes or when their health insurance status changes. Special enrollment periods must last at least 30 days. Enrollment in a health plan during a special enrollment period is not considered late enrollment. See also Late Enrollment.

***State Continuation Coverage.*** A program similar to COBRA. In Maine, if you are in a fully insured group health plan, you may also have rights to continue your health coverage for up to 12 months when you lose your coverage because you were temporarily laid off or had a work related illness or injury. See also COBRA.

***Supplemental Security Income (SSI).*** A program providing cash benefits to certain very low-income disabled and elderly individuals. When you qualify for SSI, you generally also qualify for Medicaid. In addition, Medicaid coverage often continues for a limited time if your income increases so that you no longer qualify for SSI.

***Temporary Assistance for Needy Families (TANF).*** A program (also known as the Family Assistance Program or FAP) that provides cash benefits to low-income families with children. When you qualify for TANF, you generally also qualify for Medicaid. In addition, Medicaid coverage often continues for a limited time or longer if you no longer qualify for TANF. See also Medicaid.

***U.S. Department of Labor.*** A department of the federal government that regulates employer provided health benefit plans. You may need to contact the Department of Labor if you are in a self-insured group health plan, or if you have questions about COBRA or the Family and Medical Leave Act. See also COBRA, Family and Medical Leave Act.

***Waiting Period.*** The time you may be required to work for an employer before you are eligible for health benefits. Not all employers require waiting periods. Waiting periods do not count as gaps in health insurance for purposes of determining whether coverage is continuous. If your employer requires a waiting period, your pre-existing condition exclusion period begins on the first day of the waiting period. See also Pre-existing Condition Exclusion Period.