

MAINE STATE LEGISLATURE

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Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



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December 5, 2019

Senator Geoff Gratwick, Chair
Representative Patricia Hymanson, Chair
Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, Maine 04333-0100

Senator Gratwick, Representative Hymanson, and Members of the Joint Standing Committee on Health and Human Services:

Please find attached a summary of the work of the stakeholder group established by Resolve 2019, Chapter 41, which was tasked with reviewing asset limits for various programs administered by the Department. As is noted in the report, the Department has not taken any position on the recommendations made by the stakeholder group.

This report does not include steps the Department has taken over the last several months to make many of these programs more accessible to Mainers who need them. In the Governor's biennial budget, eligibility for the Drugs for the Elderly (DEL) and Medicare Savings Program (MSP) was increased¹ to 185% of the federal poverty level. Additionally, the Department announced earlier this year that it is amending Food Supplement (SNAP) eligibility rules to eliminate the asset limit for households where recipients are disabled or over 65 years of age, extend access to SNAP in economically disadvantaged regions of the state, and update the standard utility allowance methodology² to ensure more accurate reflections of Mainers' energy costs. Additionally, leveraging previously unspent Temporary Assistance for Needy Families (TANF) program, the Department increased the worker's supplement benefit³ to the then-cap of \$50 per month for families who are eligible and increased transportation supports⁴ for families on TANF.

Finally, it should be noted that the Legislature did not provide any resources to the Department for the convening, research, and writing of this report.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne M. Lambrew".

Jeanne M. Lambrew, Ph.D.
Commissioner

JML/klv

¹ <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0743&item=4&snum=129>

² <https://www.maine.gov/dhhs/ofi/updates/update-100219.shtml>

³ <https://www.maine.gov/tools/whatsnew/index.php?topic=DHS+Press+Releases&id=1100668&v=article>

⁴ <https://www.maine.gov/dhhs/ofi/updates/update-071719.shtml>

Report to the Legislature pursuant to Resolve 2019, Chapter 41 December 2019

Introduction and Background

The 129th Maine State Legislature passed legislation, *Resolve 2019, Chapter 41: Resolve, To Review Asset Limits for Social Service Programs*. The Resolve directed the Department of Health and Human Services (DHHS) to convene a stakeholder group to examine the asset limits for eligibility that are applied to the elderly low-cost drug program pursuant Maine Revised Statutes, Title 22, section 254-D, the Medicare savings program established in department Rule Chapter 332, the Temporary Assistance for Needy Families program under Title 22, chapter 1053-B and the statewide food supplement program established in Title 22, section 3104 and under department Rule Chapter 301. The Resolve directed the stakeholder group to examine asset limits to determine if they meet the appropriate missions of the programs or present barriers and to determine whether asset limits meet compliance with federal laws and guidelines. The Resolve also directed the Department to submit a report, no later than December 1, 2019, to the Joint Standing Committee on Health and Human Services with its findings, legislative recommendations and any rulemaking activities related to asset limits. The Legislature did not provide any resources to the Department for the convening, research, and writing of this report.

This report summarizes the stakeholder group activities as it was convened to review and conduct analysis of these asset limits and develop recommendations.

The Department convened the following individuals who testified on the bill or otherwise expressed interest in the conversation:

- Leo Delicata, Legal Services for the Elderly
- Jean Dempster, New Ventures Maine
- Amy Gallant, AARP Maine
- Kathy Kilrain del Rio, Maine Equal Justice
- Chris Hastedt, Maine Equal Justice
- Jess Maurer, Maine Council on Aging
- Lori Parham, AARP Maine
- Fran Seeley, Maine resident impacted by DEL asset limits and foster grandparent.

DHHS staff assigned to support and convene the stakeholder group include:

- Patricia Dushuttle, Maine DHHS Office for Family Independence, Special Projects Manager and
- Liz Ray, Maine DHHS Office for Family Independence, Associate Director, Policy and Programs

Stakeholder meetings were held on October 22, 2019 and November 18, 2019. A meeting scheduled for November 12, 2019 was cancelled due to inclement weather.

The stakeholder group reviewed current asset limits for all four benefits identified in the Resolve, including: Drugs for the Elderly (DEL), Food Supplement (also known as the Supplemental Nutrition Assistance Program or SNAP), Medicare Savings Plan (MSP), and Temporary Assistance for Needy Families (TANF). To facilitate discussion, the Department distributed copies of rules and statutes for each benefit and developed a chart identifying current state and federal asset limits and citation sources (Attachment 1) as a discussion tool. Stakeholder group members reviewed details of each asset limit including state and federal asset limits, historical changes to the limits, and impacts on recipients and the state. Stakeholder group members also provided testimony they delivered during the legislative process. The stakeholder group made recommendations for each asset limit following this review.

Stakeholder Group Discussion

A summary of discussion for each benefit asset limit listed in the Resolve follows. For each asset limit, the group discussed current asset limit tests in place, federal guidelines, and impacts and barriers for recipients and/or potential benefit applicants.

It is noted that the summary of these discussions and recommendations reflect statements and recommendations of stakeholder group members only. The Department staff's role was to support and convene the stakeholder group; the Department has not taken any position on these recommendations.

- I. Drugs for the Elderly (DEL) and Medicare Savings Program (MSP): The DEL and MSP asset limits were analyzed together due to the similarity of the asset limits and populations served.

Maine Current Asset Limits:

DEL: Liquid assets of no more than \$50,000 for individual or \$75,000 for a couple

MSP: Liquid assets of no more than \$50,000 for individual or \$75,000 for a couple

Federal Current Asset Limits: No minimum threshold required.

Review and Analysis: The stakeholder group examined current Maine and Federal asset limits. One attendee noted that a Kaiser report⁵ indicates that seven states have no asset limits at all for MSP, while Maine now has the highest asset limits in the country for MSP. The group noted that the definition of liquid assets is important in this consideration, since these asset limits pertain only to liquid assets that are limited to checking and savings accounts, stocks, and bonds, cash or other resources that can be converted into cash on demand. Because these definitions are often not clear or understood, they can create real or perceived barriers for applying for benefits.

Stakeholder group members reviewed Maine historic changes to asset limits, and several group members noted that significant changes occurred in 2007 and 2013 during difficult budget cuts. One stakeholder group member gave the history that in 2007. According to this account, Maine significantly expanded access to MSP both with respect to income and through the elimination of the asset test. After enactment of the federal Part D program in 2003, the state made proactive changes to both the Elderly Drug Program and the Medicare Savings Program to ensure that Maine people did not lose ground as a result of that federal policy change. In 2013, during difficult budget cuts, Maine reinstated the asset test and reduced the income eligibility limits. It was agreed by stakeholder group members that this change in 2013 drastically reduced eligibility for DEL and MSP benefits. It was also noted by another stakeholder member that Maine has traditionally been a leader by establishing the DEL benefit, since not many states have a comparable benefit.

The stakeholder group then discussed impacts of these changes on potential applicants and recipients of DEL and MSP benefits. Several attendees agreed that the 2013 changes were difficult to see implemented due to the resulting negative impact on those who might have otherwise received these benefits. The group agreed the changes were contrary to the notion that people should be encouraged to save for their retirement, since the changes penalized those elders who did so. Several members of the stakeholder group indicated that elders impacted by these asset limits often have very low incomes but have retirement savings or other assets that they need to be able retain to stay in their homes for as long as possible during retirement. Stakeholders agreed that maintaining savings is crucial for elders who will incur necessary home repairs (roofs, septic systems), property taxes, long term care and medical expenses, fuel, and other living expenses.

⁵ <https://www.kff.org/statedata/>

It was noted that these asset limits unnecessarily jeopardize those who have saved all their lives to plan for remaining independent, a goal that is in the benefit of individuals, families, and the state.

Several group members noted that the historic changes increasing asset limits had costs extending to the state government and economy. They noted that limiting access for MSP benefits limits the ability to leverage federal funds and creates unnecessary DHHS administrative costs for determining eligibility. Limiting access to the MSP program also limits access to another federal program (Low Income Subsidy) that helps pay the costs of Medicare Part D prescription drugs. Those eligible for MSP benefits qualify for that extra help which is provided with 100% federal funds, with no state match.

Recommendations: The stakeholder group recommends removing asset limits for both the DEL and MSP benefits. The group hopes that by removing asset limits, elders will be encouraged to apply for these benefits that will assist them in remaining independent in their own homes during retirement for as long as possible. Implementing these recommendations would require rulemaking in DEL and MSP rules cited in the Attachment 1 Table below. The DEL change would also require statutory change. The estimated increase in eligibility and costs of these recommendations is unknown at this time.

II. Food Supplement Benefit:

Maine Current Asset Limits: No asset limit for TANF households, SSI children under age 18 or children age 18 and attending high school; Broad-based Categorical Households: \$5000 countable assets; Non-Categorical Households with an Aged or Disabled Member: \$3500 countable assets; Non-Categorical Households with no Aged or Disabled Members: \$2250 countable assets. Exemptions: house lived in, one vehicle, some household and personal effects.

Federal Current Asset Limits: No minimum threshold.

Review and Analysis: It was noted that asset limits are not federally required for the Food Supplement benefit. The group discussed Kaiser Foundation data that indicates that 36 states currently do not impose asset limits. In 2019, the Department changed rules to eliminate the asset limits on individuals with disabilities and people age 65 and older. Effective on December 1, 2019, this removes asset limits on households where adult members are at or over 65 years of age and/or have disabilities

Stakeholder group members reviewed the history of asset limit changes in Maine, with several attendees agreeing that the most recently implemented asset limits have had negative impact on needy families and have increased food insecurity rate in Maine. Another stakeholder group member noted that it is problematic that the Department has the authority to make these changes administratively through rulemaking rather than legislatively, asserting that when food is at risk, such changes should not be at the whim of changing administrations or politics but instead conducted through a public and legislative debate.

The stakeholder group discussed national statistics that indicate that Maine food insecurity rates have escalated and suggested that those outcomes are linked to imposing unnecessary asset limits. The group agreed these limits result in reduced eligibility for benefits that negatively impact quality of life for poor Mainers and reduces their ability to get out of poverty.

The particular asset limit exemption of one vehicle was noted as problematic, as the group agreed this can impact the ability of family members to get to work and also transport children to necessary activities. It was suggested that this limit takes away incentives for more than one family member to work.

Stakeholder group members concurred that unnecessary asset limits contribute to a negative impact on Maine's economy, noting that asset limits decrease SNAP eligibility, thereby turning away SNAP federal dollars. It was noted that this results in negative impact on retailers and overall state economy. Attendees also agreed this shifts costs elsewhere, creating potentially economic impacts on food pantries and food banks and other charitable agencies.

Stakeholder group members indicated that there are DHHS administrative costs incurred in reviewing assets, and one attendee requested the Department should estimate these costs. Another stakeholder group member emphasized that when the Department implemented asset limits, it increased Food Supplement program administrative error rates, which resulted in economic penalties.

Recommendations: The stakeholder group agreed that asset limits should be removed from the Food Supplement benefit. They agreed that removal of these limits will help reduce Maine food insecurity. They noted that the Department recently changed rules that reduce asset limits for the elderly and disabled populations. However, stakeholders suggest that the proposed changes stop short of desired outcomes. Implementing these recommendations would require rulemaking in the Maine Food Supplement Manual cited in Attachment 1 Table below. The estimated increase in eligibility and costs of these recommendations is unknown at this time.

III. Temporary Assistance for Needy Families (TANF):

Maine Current Asset Limits: \$2000 countable assets. Exemptions: house lived in, one vehicle, certain household and personal effects.

Federal Current Asset Limits: No minimum threshold.

Review and Analysis: The stakeholder group discussed Kaiser Foundation data for TANF asset limits that indicate that 8 states currently have no asset limits, and that 12 states exempt all vehicles in their consideration of asset limits. Another 20 states have higher asset limits than Maine, and many allow for more than one vehicle for each household or allow one vehicle for each licensed driver or adult. It was also noted that 31 states exempt Family Development Savings accounts.

The stakeholder group asserted that asset limits have a direct negative impact on the TANF eligibility and linked that to decreased ability of families eligible for TANF to get out of poverty. The group also expressed concern about asset limits creating an inherent disincentive to save.

The stakeholder group discussed particular exemptions to asset limits. The exemption of only one vehicle was discussed, with stakeholder group members agreeing that this limit, like the Food Supplement asset limit, inhibits the ability of family members to get to work and also transport children to necessary activities. They agreed that this could take away incentives for more than one family member to work. Exemption of Family Development Savings Accounts were also discussed, with the group noting that 31 states with asset limits do not limit these incentivizing savings accounts.

Recommendations: Stakeholder group members recommend that, because there is not a federal requirement to have an asset limit, Maine should not continue to impose one. Short of this, the stakeholder group recommends that Family Development Savings Accounts should be exempted from asset limits. The group recommends removing the asset limits for TANF benefits by conducting rulemaking in the section cited in the Attachment 1 Table below. The estimated increase in eligibility and costs of these recommendations is unknown at this time.

Conclusions:

Stakeholder group members agreed that all the asset limits cited in the Resolve exceed federal requirements and unnecessarily negatively impact families living in poverty. Stakeholder group members agreed that there are resulting significant negative impacts on the economy, increased food insecurity and shifts of food and medical costs to other agencies. The stakeholder group members emphasized that these asset limits create real or perceived barriers to benefits that can help Mainers living in and trying to lift themselves out of poverty. Stakeholder group members also asserted that unnecessary asset limits increase the DHHS administrative burden and lead to increased errors. The stakeholder group members recommend eliminating all asset limits with rulemaking, and specific sections of rule requiring changes are cited in the **Attachment 1** Table below. As noted previously, the DEL statute will also require statutory changes.

Attachment 1- Maine Asset Limits

For Benefits Listed in Chapter 41, LD 765, Resolve to Review Asset Limits for Social Service Programs

Benefit	Current Asset Limits	Source in State Rule and Statute	Source in Federal Law	Federal Threshold
Drugs for the Elderly (DEL)	Liquid assets of no more than \$50,000 for individual or \$75,000 for a couple	Assets in Rule: 10-144 Chapter 333, Low Cost Drugs for the Elderly and Disabled Statute: Assets not referenced, 22 M.R.S.A. §254-D (7) in statute.	Not Applicable	Not Applicable
Food Supplement (SNAP)	Household with TANF, SSI, children under 18 or children 18 and attending Highschool: No asset limit test; Certain Broad-based Categorical Households: \$5000 countable assets. Non-Categorical Households with an Aged or Disabled Member: \$3500 countable assets. Non-Categorical Households with no Aged or Disabled Members: \$2250 countable assets. Exemptions: House lived in, one vehicle, some household and personal effects. Other exemptions in Rules.	Assets in Rule: 10-144 Chapter 301, Food Supplement Manual, Section FS-333-1, Statute: Assets not referenced In 22 M.R.S.A. §3104 statute.	7 C.F.R § 273.8	No minimum threshold; Asset limits may vary by state
Medicare Buy-In or Medicare Savings Program (MSP)	Liquid assets* only of no more than \$50,000 for individual or \$75,000 for a couple *Liquid assets are limited to checking and savings accounts, stocks, and bonds.	Rules: 10-144 Chapter 332: MaineCare Eligibility Manual, Part 8- Medicare Buy-In (Medicare Savings Program); Statute: Assets not referenced in 22 M.R.S.A. §254-D.	42 C.F.R. § 423.773	No minimum threshold; Asset limits may vary by state
Temporary Assistance for Needy Families (TANF)	\$2000 countable assets. Exemptions: House lived in, one vehicle, certain household and personal effects. Other exemptions in Rules.	Rules: 10-144, Maine Public Assistance Manual, Chapter 331, Chapter III, Statute: Assets not referenced in 22 M.R.S.A § 3761.	45 C.F.R § 260	No minimum threshold; Asset limits may vary by state