

Disability Rights Legal Center



Cancer Legal Resource Center

**Cancer Legal Resource Center**

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*The CLRC is a joint program of the Disability Rights Legal Center & Loyola Law School*

## Health Insurance in Maine

### Types of Private Health Insurance

#### Group vs. Individual Insurance

*Group insurance* is usually offered through your employer or some form of a trade association (ex. a union, etc.). *Individual insurance* means that you are contracting directly with an insurance company (ex. when you purchase a plan from Blue Cross or Blue Shield, etc.). People who purchase group or individual health insurance plans are called “members” of that insurance company.

#### HMO, PPO, and POS Plans

There are three types of managed care plans. There are HMO, PPO, and POS plans.

*HMO* stands for a health maintenance organization. There are generally two forms: 1) independent physician associations (IPAs), and 2) stand alone facilities. IPAs have physicians that practice in their own offices and sometimes join with other providers to form a medical group.

*PPO* stands for Preferred Provider Organization. A PPO is a group of health care providers who have agreed to provide services to an insurance company’s members at a reduced rate.

*POS* stands for Point of Service Plan. A POS Plan is a cross between an HMO and a PPO. Members of a POS plan decide which type of service they want to use at the point when they are ready to use it.

HMO	PPO	POS
Participating doctors and hospitals. Generally have a primary care physician who coordinates care	Usually many health care provider and hospital choices	Can see providers in- or out-of-network
HMO	PPO	POS
Generally have to select doctors and hospitals from within the participating group	Can select from all participating providers	If selecting within network, generally have a minimal co-pay. If selecting from larger group, member will pay more
Limited choices	More choices in doctors, specialists, overall providers	More choice when needed
Usually less expensive	Usually more expensive	Cost is between that of a PPO and an HMO

## What to consider when choosing a health insurance plan

- 1) Look at the summary of *benefits*. What benefits are included? What benefits are excluded?
- 2) Look at *costs*. How much are the monthly premiums, annual deductibles, and co-payments?
- 3) When are the *enrollment periods*? Do they offer annual open enrollment periods to make changes to your policy?
- 4) How much *flexibility* do they offer? Can you change plans if you need to? How?

Health insurance companies are required to renew an individual's existing health coverage, but there is no cap on the rate increases companies may impose at the time of renewal. This is called guaranteed renewability. Guaranteed renewability is not portable, so you do not have the right to switch to another company or even another product offered by the same company.

## **Ways to Get and Keep Health Insurance**

### Employment-Based Health Insurance

The most common way that people obtain health insurance coverage is through their own employment or a family member's employment. There are certain rights that are guaranteed to people who are insured through their own or a family member's employment. These rights have to do with the continuation of coverage during certain leaves of absence (under the Family and Medical Leave Act) or upon termination of employment (see COBRA, discussed below). Persons with employment-based health insurance are also protected from health insurance discrimination based on their pre-existing conditions under the Health Insurance Portability & Accountability Act (see HIPAA, discussed below).

### COBRA

COBRA is a federal law that allows you to continue the same health insurance coverage that you had through your or your family member's employer. It's the same health insurance policy you had when you were employed, so you don't have to worry about changing providers.

COBRA is available to an employee or family member after an employee has terminated their employment or has reduced their work hours to a point that they are no longer eligible to receive coverage from their employer. This termination or reduction in hours is referred to as a "qualifying event." Other qualifying events for COBRA are divorce or death of a spouse (when the person seeking COBRA coverage was insured by a plan provided through the spouse's employment), or a child aging out of a parent's health insurance policy.

Federal law defines the terms of COBRA coverage and its availability as follows:

- COBRA applies to employers with 20 or more employees.
- COBRA coverage generally lasts for 18 months.<sup>1</sup>
- The cost of the monthly premium paid by the employee can be up to 102% of what the employer was paying for the same benefits.
- The person insured is responsible for the full premium for the coverage.
- Who is responsible for notifying the health plan of the qualifying event depends on which qualifying event has occurred.

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<sup>1</sup> COBRA coverage can last up to 29 months if the person insured has a qualifying disability, or up to 36 months if the person became eligible for COBRA coverage because of certain qualifying events or a combination of qualifying events.

- A health plan has 14 days after the plan administrator is notified of the qualifying event to notify the employee of the right to elect COBRA.
- An employee must elect COBRA within 60 days after being notified of their COBRA rights. The employee then has 45 days after electing coverage to pay the initial premium.

If you elect COBRA coverage, you will have to pay the premiums for each month since you became eligible. So, even if you wait until the last day of your eligibility to elect COBRA coverage, you will still have to back-pay the premiums to the date your eligibility began.

### Maine State Continuation Coverage

Maine has a state version of COBRA, which is only available if you are temporarily laid off or lost employment because of an injury or disease that would be covered under workers' compensation.

State law defines the terms of Maine's state continuation coverage and its availability as follows:

- Maine state continuation coverage is available for up to 12 months.
- Maine state continuation coverage applies to employers with 2 to 19 employees.<sup>2</sup>
- The payment amount for Maine state continuation coverage may not exceed 102% of the group rate.
- Maine state continuation coverage is available if the applicant has been an employee for at least 6 months before the layoff.
- The employee has 31-day period from the termination of coverage in which to elect the Maine state continuation coverage.

### Health Insurance Portability & Accountability Act (HIPAA)

HIPAA prohibits health insurance discrimination against individuals based on their pre-existing conditions, when going from a group health insurance plan to another group health insurance plan or from a group plan to a HIPAA guarantee issue plan.

HIPAA also: 1) provides a federal right to an individual health insurance plan (called a guarantee issue plan); 2) reduces the maximum pre-existing condition exclusion period to 12 months; and 3) gives you credit for the time that you had health insurance coverage in the past to eliminate or reduce a pre-existing condition exclusion period.

### *Guarantee Issue Plan*

Normally when you apply for an individual health insurance plan, you are required to go through a process called medical underwriting. During this process, the insurance company looks at your past and current medical condition in order to decide whether or not they want to issue you a health plan. If you currently have, or in the past have had, a serious medical condition, the insurance company will likely decide that it is not worth the risk to them to issue you a health plan, and they will deny you coverage.

A guarantee issue plan, also known as a "federally insured plan" or "HIPAA plan," is an individual health insurance plan that you have a right to purchase under federal law. A HIPAA plan isn't a specific plan – it's just a right to purchase an individual plan. In Maine, HIPAA plan information is

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<sup>2</sup> Some employers do not contract with an insurance company to insure their employees, but they have enough employees to do risk pooling like an insurance company would. These employers are "self-insured." Since self insurance does not involve a contract between an insurance company and an employer, it is not subject to state insurance regulations. Therefore, Maine's state continuation coverage option is not available to employees who have been covered by an employer's self-insured plan.

available from the Bureau of Insurance at the Maine Department of Professional & Financial Regulation.<sup>3</sup>

A HIPAA plan is different than COBRA coverage. Under COBRA, you keep the same health insurance you had through your employer. Under HIPAA you are buying new insurance, so you need to compare all of the available plans and pick the one that is right for you. Compare the premiums, deductibles, and co-payments. Check to make sure your healthcare providers accept any insurance plan you are considering, and check to make sure that your prescription drugs are on the formulary list of drugs covered by the plan.

You must meet the following requirements to be eligible for a HIPAA plan:

- You must exhaust your COBRA coverage, meaning that you use all 18 months of COBRA coverage, and any additional COBRA coverage available to you.
- You cannot have a break in coverage longer than 63 days.
- You must be ineligible for Medicare, Medicaid, or any other form of group coverage.

### *Pre-existing Condition Exclusion Period (PECEP)*

When you are going from one employer's group health plan to another employer's plan, the new plan is required to insure you, but they can impose a PECEP, which means that for a certain period of time, they will not cover any treatment or services related to a pre-existing medical condition. Before HIPAA, a two-year PECEP was the industry standard. HIPAA limited the maximum PECEP that may be imposed to one year.

Maine does not change the HIPAA maximum PECEP of one year.

### *Creditable Coverage*

Creditable coverage is any previous period of health insurance coverage that was not interrupted by a break in coverage of more than 63 days. HIPAA reduces any PECEP by the length of time that you previously had creditable coverage. Example: If you previously had coverage for four months, have not had a break in coverage of more than 63 days, and your new insurance plan has a PECEP of 12 months, then you get a credit for your 4 previous months of coverage, leaving you with only 8 months left on your PECEP. So, if you have 12 months or more of previous health insurance coverage, and you never have a break in coverage of more than 63 days, you will never face a PECEP.

Almost all types of health insurance can qualify as creditable coverage. (Medicare, Medicaid, group, individual, COBRA, and HIPAA plans can all qualify.) One exception is student health insurance plans because they are not typically a full policy with catastrophic coverage. If a particular condition was not covered by the policy that you are claiming as creditable coverage, then your new health plan may still subject that condition to a PECEP.

To show that you have creditable coverage, call your insurance company to request a "certificate of creditable coverage," which lists the dates that you have been insured by that company. If you have been insured by multiple companies, you need certificates of creditable coverage from each one.

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<sup>3</sup> For more information on HIPAA plans contact the Bureau of Insurance at 800-300-5000 or visit them online at <http://www.maine.gov/pfr/insurance>.

## Handling Health Insurance Disputes

If you disagree with a decision that your health insurance provider has made regarding coverage, you have the right to appeal that decision. The appeals process varies depending on what state you live in. Maine provides for two levels of internal appeal before being able to appeal externally.

### *Internal review*

This is the health plan's own review of its decision. There are state and federal laws and rules that apply to internal review processes.

### *External or independent review*

If you receive an adverse determination from your health plan, meaning that the plan has decided that the treatment provided or requested is not medically necessary or is experimental or investigational, then you can ask your plan to arrange external review of their decision. Your health plan will determine whether or not to grant an external review based upon criteria established by Maine state law.

### Before you begin an appeal, understand your coverage and applicable laws.

An *employer-sponsored* health plan is one that a person can get through their own employment or through a family member's employment. The employer usually makes a contribution toward the cost of the employee's coverage. An *individually purchased* plan is one that you purchase directly from a health plan. The person purchasing the insurance pays the entire premium. Different laws apply depending on whether your plan is employer-sponsored or individually-purchased.

If your plan is an employer-sponsored plan, you need to know whether it is a *self-insured* plan. A self-insured plan is one in which the employer does not contract with an insurance company to insure their employees. Instead, the employer does their own risk pooling like an insurance company would, and pays directly for their employees' health costs. Since self-insurance does not involve a contract between an insurance company and an employer, it is not subject to state insurance regulations. Federal laws still apply to self-insured plans.

Know what is *covered* and what is not covered by your plan. Also know what *procedures* and *deadlines* are required by your plan.

### Next, exhaust your plan's internal complaint process.

If you have a problem with your health plan, you have the right to file a complaint with your health plan. A complaint can also be called a grievance or an appeal. You may be able to file your complaint by phone, mail, or on the internet.

You must exhaust your plan's internal grievance process before you may pursue an external review. Maine allows your health plan provider to request an informal reconsideration; if the issue cannot be resolved you can proceed with the internal appeals process. There are two levels of internal appeal within each health plan. For the first level appeal, a decision must be made within 20 working days of the initial request. An expedited appeal is available in emergency situations and a response must be returned within 72 hours after the review is initiated. The second level of appeal is available if the first is not successful.

### Then, you may request external review.

An external review is available through the Maine Bureau of Insurance; who will then assign your complaint, if you qualify for an external review, to an external review organizations (ERO).

You must apply for the external review within 12 months after the second level appeal is denied. The ERO is required to complete the external review within 30 days after it initially receives the case for review. They will send you and your health insurance carrier a written decision within a week after the hearing. The external review decision is binding on the health insurance carrier.

## **Additional Health Care Rights in Maine**

### Second Opinions

In Maine, when there is a disputed material issue, the aggrieved party is entitled to an independent second medical opinion. The second opinion must be paid for by the health plan and the second opinion must be provided by a physician with the same specialty participating in the plan. If a physician is not available within the plan then the health plan must pay for a nonparticipating physician.

### Clinical Trials

In Maine, health plans must cover clinical trials for individuals who have a life-threatening or serious illness for which no standard treatment is effective. The trial must be approved by a specified agency.

## **Resources in Maine**

### For Assistance With Insurance Disputes or Questions About State Health Insurance Continuation Coverage

#### **Maine Bureau of Insurance**

34 State House Station  
Augusta, Maine 04333  
(800) 300-5000 (in Maine) or (207) 624-8475  
<http://www.maine.gov/pfr/insurance>

### For Questions About COBRA

#### **U.S. Department of Labor**

Employee Benefits Security Administration  
(617) 565-9600 or (866) 275-7922  
<http://www.dol.gov/ebsa/>

### For Questions About HIPAA

#### **Maine Bureau of Insurance**

(800) 300-5000 (in Maine) or (207) 624-8475  
<http://www.maine.gov/pfr/insurance>

### For Assistance for Children

#### **Maine Department of Health & Human Services**

877-KIDS-NOW (1-877-543-7669) or (800) 965-7476  
<http://www.maine.gov/dhhs/OIAS/services/cubcare/CubCare.htm>

### For Questions About Medicaid

#### **Office of MaineCare Services**

11 State House Station,  
Augusta, Maine 04333-0011  
(207) 624-7539 or 1-800-321-5557  
<http://www.maine.gov/dhhs/oms/>

### For Questions About Medicare

#### **U.S. Department of Health & Human Services**

Centers for Medicare & Medicaid Services  
(800) 633-4227 <http://www.cms.hhs.gov/>

#### **Maine State Health Insurance Assistance Program**

(800) 262-2232  
<http://www.maine.gov/dhhs/oes/hiap/>

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