

16 DEPARTMENT OF PUBLIC SAFETY

163 BUREAU OF EMERGENCY MEDICAL SERVICES (MAINE EMS)

**CHAPTER 24: IMPLEMENTING THE MAINE EMS STABILIZATION PROGRAM
(EMERGENCY)**

§1. Purpose. The purpose of this rule is to implement procedures for allocating stabilization funds totaling \$12,000,000 to emergency medical services entities from the Emergency Medical Services Stabilization and Sustainability Program created by 32 M.R.S. § 98 and referred to herein as “the Program.” These funds are intended to provide financial assistance to emergency medical services entities at immediate risk of failing and leaving their communities without access to adequate emergency medical services.

§2. Definitions

1. “Eligible emergency medical services entity” or “eligible EMS entity” means an actively licensed ground ambulance service or non-transporting ground emergency medical service.
2. “Qualified applicant” means an eligible EMS entity that has applied for and qualified to receive stabilization funding from the Program.

§3. Applications

1. **Eligible Entities. Only eligible EMS entities may apply for stabilization funding from the Program.** All eligible EMS entities that apply for funding and meet all the following criteria shall receive funding from the Program:

A. Risk of Imminent Failure. An applicant must demonstrate an immediate risk of failing either by an inability to finance daily operations or due to recruitment and retention issues. All applicants for funding must complete the assessment for their ability to finance daily operations as part of the application even if they do not seek eligibility under that pathway.

I. Assessment of an Applicant’s Ability to Finance Daily Operations. If an applicant’s Operating Margin is less than or equal to 10% of its Total Revenue it will be considered to be at immediate risk of failing due to an inability to finance daily operations. Each applicant shall provide the following information to determine if its Operating Margin is at or below 10% of its Total Revenue.

a. “Total Expenses” equals the sum of the following expenses.

i. Labor costs.

1. If the eligible EMS entity is staffed with volunteers or a combination of volunteer staff persons, labor costs should be estimated based on a rate of \$28.89 for volunteer hours. That amount should also be included as revenue as an in-kind donation of volunteer labor.

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2. If the service's average compensation, including benefits, for an actively licensed EMS person, is below \$28.89, regardless of licensure level, the actual labor costs should be calculated and disclosed; however, the agency may use the rate of \$28.89 for the determination of eligibility calculation.
 - ii. Non-labor/equipment costs. This includes supplies and materials (e.g., equipment costs, consumables/disposable equipment, and other associated costs).
 - iii. Purchased services costs. This includes service-level medical director contracting, quality assurance and improvement, training support, etc.
- b. "Total Revenue" equals the sum of the following revenues.
 - i. Transport revenue, if applicable.
 - ii. Local subsidy or subsidies. This includes any funds generated from tax revenues received by the EMS entity.
 - iii. Hospital subsidy or subsidies. This includes any funds hospitals or other entities provide for services rendered for that facility or health system outside of transporting revenue. For example, if a hospital reimburses an EMS entity for an interfacility transport and provides a \$100,000 contractual fee, only the \$100,000 would be represented here.
 - iv. Subscription services, if applicable.
 - v. Grant funding, if applicable.
 - vi. Donations. This includes in-kind donations of labor from volunteers. Volunteer hours should be calculated using the rate of \$28.89 per hour, irrespective of the EMS person's licensure level.
 - vii. Any additional revenue.
- c. Calculations
 - i. For purposes of this rule, Operating Margin is calculated by subtracting Donations and Total Expenses from Total Revenue.
- d. Determination
 - i. If an applicant's Operating Margin is less than or equal to 10% of its Total Revenue, the applicant will have demonstrated an immediate risk of failing due to an inability to finance daily operations and thereby qualify to receive funding.

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- ii. If an applicant's Operating Margin is greater than 10% of its Total Revenue, the applicant is not eligible for funding based on an inability to finance daily operations. The applicant may still receive funding based on Employee Recruitment and Retention (see II).
- II. Employee Recruitment and Retention. If an applicant is not eligible for funding based on its current financial situation, it still may seek funding based on potential workforce recruitment and retention concerns. Such applicants shall provide employee data on a form and in a manner prescribed by the Director.
 - a. Applicants utilizing a volunteer or augmented voluntary staffing model (i.e., stipend, per call pay, etc.).
 - i. An applicant with a monthly average of fewer than fourteen (14) actively licensed emergency medical services persons providing clinical care as documented within the Maine EMS and Fire Incident Reporting System (MEFIRS) over the past three years for each response unit (Maine EMS-licensed emergency response vehicle) that is available for at least 60 hours per week shall be considered at immediate risk of failing due to employee recruitment or retention issues and thereby qualify to receive funding.
 - b. Applicants utilizing a paid staffing model.
 - i. An applicant with a monthly average of fewer than seven (7) actively licensed emergency medical services persons providing clinical care as documented within the Maine EMS and Fire Incident Reporting System (MEFIRS) over the past three years for each response unit (Maine EMS-licensed emergency response vehicle) that is available for at least 60 hours per week shall be considered at immediate risk of failing due to employee recruitment or retention issues and thereby qualify to receive funding.
- B. An applicant must submit financial statements covering the most recent complete fiscal year and the current fiscal year to date as part of its application.
 - I. These statements must include a balance sheet and income statement from the most recent complete fiscal year and the current fiscal year to date, which may be used to verify financial information provided in the application to demonstrate financial hardship.
- C. An applicant must demonstrate that it provided 9-1-1 emergency medical services to its community during the previous calendar year, including as follows;
 - I. If an applicant underwent a merger in 2022 or 2023, it must also provide proof of consolidation of operations. For such an applicant, the combined volumes of the merged entities will be used for calculations.

- D. An applicant must currently provide and intend to continue to provide emergency medical services coverage to the community it serves.
- E. If the applicant is a transporting ambulance service, it must participate in the MaineCare Program and maintain an electronic funds account with the Maine Department of Health and Human Services.

2. Announcement of Funding Opportunity

- A. The Director shall announce via electronic communication pathways, at a time to be determined by the Director, that the application is available for completion, including instructions on how it can be accessed. The application shall be made available for at least 30 days and can be extended at the discretion of the Director.

3. Application Form

- A. The Director shall develop an application to ensure compliance with this rule.
- B. All applications for funding must comply with this rule, all instructions provided in the Announcement of Funding Opportunity, and any instructions and formatting requirements within the application.
- C. All applicants shall submit the following additional documents to the Director based on instructions provided within the Announcement of Funding Opportunity and Application Form.
 - I. Current fiscal (year to date) income statement
 - II. Current fiscal (year to date) balance sheet
 - III. Most recently completed fiscal year income statement
 - IV. Most recently completed fiscal year balance sheet

§4. EMS Entity Funding Allocation

1. Maximum and Minimum Allocations

- A. Transporting EMS Entities
 - I. Minimum allocation shall be no less than \$15,000 per qualified applicant that functions as a transporting ambulance service.
 - II. Maximum allocation shall not exceed \$200,000 per qualified applicant that functions as a transporting ambulance service.

B. Non-Transporting EMS Entities

- I. Minimum allocation shall be no less than \$5,000 per qualified applicant that functions as a non-transporting service.
 - II. Maximum allocation shall not exceed \$50,000 per qualified applicant that functions as a non-transporting service.
2. **Allocation Algorithm.** The Director shall use the following algorithm to determine the allocation for each qualified applicant:

A. Components

I. Rurality Score by Zip Code.

- a. The Director shall use the Frontier and Remote Area Codes published by the United States Department of Agriculture’s Economic Research Service (updated April 15, 2015), which this rule incorporates by reference. However, in situations where there is no score for a specific zip code, or the data is older than ten (10) years at the time of calculating the algorithm, the Director shall formulate the rurality score using the “Rural Indicators” in the Ambulance Fee Schedule and ZIP Code Files published by the US Centers for Medicare and Medicaid Services (published December 2023), which is incorporated into this rule by reference.
 - i. United States Department of Agriculture’s Frontier and Remote Area Codes: “EXCEL file containing ZIP-code-level FAR codes and related data”, last updated on April 15, 2015, which is available for download from <https://www.ers.usda.gov/webdocs/DataFiles/51020/FARcodesZIPdata2010WithAKandHI.xlsx?v=6390.1>
 - ii. Centers for Medicare and Medicaid Services’ Ambulance Fee Schedule and ZIP Code Files: “2023 End of Year Zip Code File (ZIP)”, published in December 2023, which is available for download from <https://www.cms.gov/files/zip/2023-end-year-zip-code-file.zip>
- b. If using the Frontier and Remote Area Codes, the Director shall assign the following scores based on the Frontier and Remote (FAR) classification for each zip code:
 - i. No FAR Classification: Score of One (1)
 - ii. FAR Classification of One (1): Score of Two (2)
 - iii. FAR Classification of Two (2): Score of Three (3)
 - iv. FAR Classification of Three (3): Score of Four (4)

v. FAR Classification of Four (4): Score of Five (5)

c. If using the Ambulance Fee Schedule and ZIP Code Files, the Director shall assign the following scores based on the Rural Indicator field for each zip code:

i. Blank/Urban: Score of One (1)

ii. R (Rural): Score of Three (3)

iii. B (Super Rural): Score of Five (5)

II. Call Volume

a. The Director shall query de-identified electronic patient care reporting information from the Maine EMS and Fire Incident Reporting System (MEFIRS) to determine the number of 9-1-1 activations, including scene responses, mutual aid requests, and ambulance intercepts that each eligible EMS entity experienced for each zip code.

B. Calculations

I. The Director shall perform the calculations below to determine the distribution percentage or “DP” for each eligible EMS entity. These calculations shall be performed separately for transporting and nontransporting eligible EMS entities.

II. A rurality-weighted call volume or “RWCV” will be calculated for each eligible EMS entity by multiplying the number of activations the entity experienced for each zip code by each zip code’s rurality score and then totaling the resulting products.

III. The total rurality-weighted call volume or “TRWCV” for each category (transporting and nontransporting) will be the sum of the RWCVs of all the eligible EMS entities in the respective category.

IV. An eligible EMS entity’s distribution percentage or “DP” will equal the eligible EMS entity’s RWCV divided by the TRWCV of the eligible entity’s respective category (transporting or nontransporting).

C. Allocation Process

I. The Director shall identify all transporting and non-transporting eligible EMS entities based on the information available to the Bureau of Emergency Medical Services and determine the final maximum allocation or “FMA” for each of these entities. The Director shall provide a list of these entities and their corresponding FMAs in the Announcement of Funding Opportunity.

a. Nontransporting Eligible EMS Entities.

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- i. Initial maximum allocations or “IMAs” for all nontransporting eligible EMS entities will be calculated by multiplying the entity’s distribution percentage by the total amount of stabilization funds available for nontransporting entities.
- ii. If an entity’s IMA is less than or equal to \$5,000, the entity’s FMA will be \$5,000.
- iii. If an entity’s IMA is greater than or equal to \$50,000, the entity’s FMA will be \$50,000.
- iv. If an entity’s IMA is greater than \$5,000 but less than \$50,000, its IMA will be recalculated by multiplying the entity’s distribution percentage by the total amount of stabilization funds available for nontransporting entities minus the amounts applied as FMAs to entities pursuant to subsections ii and iii above.
- v. If the recalculation of IMAs in subsection iv above generates IMAs that are either less than or equal to \$5,000 or greater than or equal to \$50,000, FMAs will be assigned to those applicable entities in accordance with subsections ii and iii above.
- vi. IMAs greater than \$5,000 but less than \$50,000 will continue to be recalculated in accordance with subsections iv and v above until no IMAs are less than or equal to \$5,000 or greater than or equal to \$50,000. At that point, the entity’s last recalculated IMA will become its FMA.

b. Transporting EMS Entities

- i. Initial maximum allocations or “IMAs” for all transporting eligible EMS entities will be calculated by multiplying the entity’s distribution percentage by the total amount of stabilization funds available for transporting entities.
- ii. If an entity’s IMA is less than or equal to \$15,000, the entity’s FMA will be \$15,000.
- iii. If an entity’s IMA is greater than or equal to \$200,000, the entity’s FMA will be \$200,000.
- iv. If an entity’s IMA is greater than \$15,000 but less than \$200,000, its IMA will be recalculated by multiplying the entity’s distribution percentage by the total amount of stabilization funds available for transporting entities minus the amounts applied as FMAs to entities pursuant to ii and iii above.
- v. If the recalculation of IMAs in subsection iv above generates IMAs that are either less than or equal to \$15,000, or greater than or equal to \$200,000, FMAs will be assigned to those applicable entities in accordance with subsections ii and iii above.

- vi. IMAs greater than \$15,000 but less than \$200,000 will continue to be recalculated in accordance with subsections iv and v above until no IMAs are less than or equal to \$15,000 or greater than or equal to \$200,000. At that point, the entity's last recalculated IMA will become its FMA.

D. Posting. The Director shall provide the final maximum allocation for each EMS entity as determined by this algorithm as a component of the Announcement of Funding Opportunity.

§5. Requirements, Criteria, and Unauthorized Uses of Funds

1. **Requirements.** An application must:

- A. Be completed and submitted by an eligible EMS entity and its agent.
- B. Be completed in accordance with this rule and any guidance provided by the Director through Announcement of Funding Opportunity and Application.
- C. Include a project plan that meets the standards for the use of the funding; those standards are:
 - I. The funding shall only be utilized for the following activities:
 - a. Supplementing wages, benefits, stipends, and incentives for actively licensed emergency medical services persons;
 - b. Supporting training directly related to the provision of clinical care, leadership, or management of EMS;
 - c. Supplementing wages, benefits, stipends, and incentives for administrative support staff (e.g., service-level medical director, quality assurance and improvement officer, infection control officer, and training officer);
 - d. Implementation of programming directly related to the *Maine EMS Plan for a Sustainable EMS System in the State of Maine: A Vision for 2035*, with this incorporated by reference and available for download online from <https://www.maine.gov/ems/sites/maine.gov.ems/files/inline-files/20230522-Maine-EMS-Vision-and-Plan.pdf>; and
 - e. Investment in capital expenditures not to exceed \$50,000 in the aggregate.
 - D. Include a project budget that meets the standards for use of the funding.

2. **Programmatic Criteria for Evaluating Applications.** An application that meets the requirements of subsection one must be evaluated based on the following programmatic criteria:

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- A. Based on the proposed programming, whether it aligns with the activities authorized in the previous section and whether the action will likely result in improved financial stability or workforce resiliency.
 - B. If supplementing wages, ensure that EMS entities are not paying any individual staff member more than \$76,500 annually with the awarded funding. This is not inclusive of associated standard employee benefits.
 - C. If utilizing funding for programming related to the *Maine EMS Plan for a Sustainable EMS System in the State of Maine: A Vision for 2035*, ensuring that there is clear alignment with the vision document and/or any associated guidance, agenda, or action plan that has been published related to this document.
 - D. If making a capital expenditure, ensure that all capital expenditures collectively do not exceed \$50,000 in total.
 - I. Only purchases valued at \$5,000 or more are considered capital expenditures for the purposes of this rule.
3. **Unauthorized Uses of Funds.** Applications shall also be reviewed for potential unauthorized uses of funding. Applications may be denied should it be determined that the applicant EMS entity intends to use the funding for unauthorized uses. The following are unauthorized uses of the funding:
- A. Expenses or losses reimbursed from any other source(s) or that other sources are obligated to repay.
 - B. Expenses related to staffing needs that exceed an annual salary of \$76,500, as prorated over the applicable period. This limit does not include standard employee benefit offerings (i.e., the cost of a staff member may be higher because the cost of benefits and salary exceeds \$76,500).
 - C. Construction, renovation, purchase, or acquisition costs for facilities.
 - D. Payment for existing indebtedness.
 - E. Payment on obligations incurred prior to the award of funds.
 - F. Supplanting existing local subsidies or funding sources except if they replace volunteer labor, donated services, donated goods, or funds raised through community fundraising efforts (e.g., bake sales, dinners, etc.)

§6. Evaluation of Applications

1. **Evaluation Panel.** The Director shall establish an evaluation panel of at least three people who will serve to evaluate each of the applications to ensure compliance with the requirements, programmatic criteria, and to screen for identifiable unauthorized uses of the funding.
2. **Process.** Each panel member shall review each application separately and determine if the proposed programming and budget align with the previous section.
 - A. If a single member of the panel, following their review, believes that an application is out of compliance with any component of Section Five of this rule, all members of the evaluation panel shall meet to discuss.
 - I. If it is determined by a majority of the evaluation panel that the application is or may be out of compliance with one or more components outlined in Section Five of this rule, they may take any or all, of the following actions:
 - a. Request additional information from the applicant
 - b. Offer the applicant an opportunity to modify its application within 15 calendar days to come into compliance with the Announcement of Funding Opportunity.
 - II. If following these actions, the majority of the evaluation panel determines that all or part of the application remains out of compliance, they may deny all or part of the proposed programming and its associated budget line. This is considered final agency action.
 - B. If all members of the evaluation panel determine separately that the application is compliant with all components of Section Five of this rule, they shall inform the Director and the Director shall offer a funding agreement to the qualified applicant that conforms with the requirements of 32 M.R.S. § 98(3)(B) and allows for the transfer of funds to the recipient organization in the amount it requested or the applicant's potential maximum allocation, whichever is lower.
 - C. If the committee fails to reach a resolution within 30 calendar days following the initiation of the review, the Director may act on the application and take any of the actions afforded to the committee as described above. That action is considered final agency action.
 - D. If an application is denied in totality, the applicant will not be eligible for funding under the applicable Announcement of Funding Opportunity. Funds comprising the denied applicants potential maximum allocation shall be retained for future stabilization funding opportunities under the Program.

§7. Reporting

1. **Reporting Requirements.** The Director shall define the reporting requirements for this funding opportunity and incorporate them into the funding agreements with qualified applicants. The agreement shall detail specific due dates and expectations for reporting. At a minimum, qualified applicants should anticipate providing quarterly and annual updates no later than 60 days

following the specific reporting period. Recipients must track expenditures, detail their purpose, and provide evidence of the impact of the funding on the stability of the agency. The Director shall also include the following as part of any resultant funding agreement:

- A. Sustainability Planning. All recipients shall submit a sustainability plan within 180 calendar days of receiving the funds detailing how they intend to sustain the programming and projects initiated using the funds afforded by this grant.

- I. Workforce Sustainability. Recipients that were made eligible for this funding in part by workforce challenges as defined in Section Three covering Employee Recruitment and Retention, shall detail their staffing sustainability plan in their plan.

§8. Dispensing Funds

- 1. **Awards.** After review, the Director shall enter into an agreement with each qualified applicant in the amount of the pre-determined allocation or their requested amount, whichever is lower.

- 2. **Delegation.** The Board delegates authority to the Director to enter agreements with qualified applicants for the disbursement of stabilization funds in amounts totaling no more than \$200,000 for any eligible EMS entity. Following approval of an application by the evaluation panel or the Director, as the case may be, the Director may enter the agreement without any additional authorization from the Board.

AUTHORITY: 32 MRSA §84(1), 32 MRSA §98

EFFECTIVE DATE: December 13, 2023