**State of Maine: Notice of Agency Rulemaking – January 10, 2024**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one - the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions**: you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 §11112). **World‑Wide Web**: Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: <http://www.maine.gov/sos/cec/rules>. There is also a list of rulemaking liaisons (<http://www.maine.gov/sos/cec/rules/liaisons.html>), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **12-172 -** Department of Labor, **Bureau of Unemployment Compensation**

CHAPTER NUMBER AND TITLE: Ch. 14, Education Institutional Employees

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P257** *(Second publication – public hearing rescheduled)*

DETAILED SUMMARY:Repealsand replaces the rule to clarify the analysis as to whether an education institution employee is eligible for unemployment benefits during an established and customary vacation period. In particular, this Rule clarifies the criteria for determining whether an “annual written reasonable assurance” exists and defining a “contract” as those terms are used in 26 M.R.S. § 1192(7). The rule further provides clarity and guidance on when adjunct faculty may qualify for unemployment benefits, as directed by Resolves 2023, ch. 38.

PUBLIC HEARING: Friday, February 2, 2024 at 1:00 p.m., at the Maine Department of Labor, Frances Perkins Room, 45 Commerce Dr., Augusta, ME 04330 (rescheduled due to office closures during winter storm December 19, 2023)

COMMENT DEADLINE: Friday, February 13, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, Maine 04333-0054. Phone: 207-626-6232. Email: Isaac.H.Gingras@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §1082(1) and Resolves 2023, ch.38

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [https://www.maine.gov/labor/proposedrulemaking/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Flabor%2Fproposedrulemaking%2F&data=04%7C01%7CJohn.L.Rioux%40Maine.gov%7Cc587b0cc66dd4c6882e008d9d5223572%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637775165159189394%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=SYytkCFa4Pf0uDFJnsVO10csMwXP0vi8xnIy7K1krFQ%3D&reserved=0)

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Isaac.H.Gingras@maine.gov

AGENCY: **12-172 -** Department of Labor, **Bureau of Unemployment Compensation**

CHAPTER NUMBER AND TITLE: **Ch. 27,** Work-Share Rules

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P258** *(Second publication – public hearing rescheduled)*

DETAILED SUMMARY:This is a new Rule to set forth the procedures and requirements for employers who choose to participate in Maine’s Short-Term Compensation Program, known as the Work-Share Program. this Rule provides additional guidance and clarifies definitions and processes set forth in 26 M.R.S. § 1198 of the Employment Security Act.

PUBLIC HEARING: Friday, February 2, 2024 at 2:00 p.m., at the Maine Department of Labor, Frances Perkins Room, 45 Commerce Dr., Augusta, ME 04330 (rescheduled due to office closures during winter storm December 19, 2023)

COMMENT DEADLINE: Tuesday, February 13, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, Maine 04333-0054. Phone: 207-626-6232. Email: Isaac.H.Gingras@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §§ 1082(1) and 1198

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [https://www.maine.gov/labor/proposedrulemaking/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Flabor%2Fproposedrulemaking%2F&data=04%7C01%7CJohn.L.Rioux%40Maine.gov%7Cc587b0cc66dd4c6882e008d9d5223572%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637775165159189394%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=SYytkCFa4Pf0uDFJnsVO10csMwXP0vi8xnIy7K1krFQ%3D&reserved=0)

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Isaac.H.Gingras@maine.gov

AGENCY: **10-144 -** Department of Health and Human Services, **Office for Family Independence**

CHAPTER NUMBER AND TITLE: **Ch. 331,** Public Assistance Manual Temporary Assistance for Needy Families (TANF), Rule - Table of Contents, Chapter I, Eligibility Process, Chapter II, Eligibility Requirements (non-financial), Chapter III, Asset Limits, Chapter IV, Budgeting Process, Chapter V, Transitional Benefits, Appendices – Maximum Benefit and Standard of Need and Worksheet for Calculating TCC Parent Fees and Subsidy Payments; **TANF Rule #118P** – Noncitizen Language

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P001**

BRIEF SUMMARY:The proposed rule seeks to clarify program requirements in Chapters I, II, IV and V for applicants and the Department as they relate to non-citizen eligibility. These requirements are consistent with 42 U.S.C. § 602 and 45 C.F.R. § 260. Throughout the proposed rule’s affected sections “Noncitizens” replaces “aliens.”

The rulemaking proposes additions to the Table of Contents to provide ease in locating updated language in the affected sections of the rule.

 The definition of “Elderly” has been updated in the Introductions and General Definitions consistent with 22 M.R.S. § 3762(3)(B)(2)(a).

 The rulemaking proposes Chapter I updates to the hardship extension categories and eligibility criteria for clarity and consistency, including:

* Consistent with 20 C.F.R. § 404.1505 incapacity would be replaced with impairment in Ch. I J(3)(g)(ii)(a)(2)(a) and (b) and Chapter V (A)(1)(a)(ii);
* J(3)(g)(ii)(a)(2)(a) and (b): Disability consistent with the Social Security Administration’s definition of substantial gainful activity;
* J(3)(g)(ii)(4): Participation in a Training or Education Program proposes to remove “in the 60th month of receipt of TANF/PaS as well as (a) through (d) as these are identified in 10-144 C.M.R. Ch. 60, ASPIRE-TANF Program Rules, Section (3)(IV)(A)(3)(a);
* J(3)(g)(ii)(5): Working Families proposes to remove the requirement that an individual is only eligible for this extension if they are participating in paid employment “for at least 35 hours a week” and proposes to add (a) through (c) add to provide clarification regarding paid employment standards consistent with 42 U.S.C. § 607(c)(B)(i);
* J(3)(g)(ii)(6): Pregnancy proposes to remove “in the 60th month of TANF/PaS receipt.”;
* J(3)(g)(ii)(7)(c): Loss of Job proposes to remove “and would be eligible except that they have not worked for a sufficient length of time. In addition, “provided there is a break in TANF for at least 12 months between the two extension periods” is intended to be removed;
* J(3)(g)(ii)(8): Occurrence of an Emergency Situation “This extension must be approved by the TANF Program Manager” is proposed to be removed. In addition, b through e would be added to provide clarification regarding homelessness, inadequate or unavailable childcare or transportation required to engage in substantial gainful activity, and a delay beyond the verification due date caused by a third-party in obtaining non-financial verifications required to make a hardship extension eligibility determination. In addition, “additional incremental extensions of up to six months each may be granted” is proposed; and
* J(3)(i)(v)(c)(3) “DSER or QC” is added for clarification to “fails to cooperate with their Family Contract Amendment during the temporary hardship extension period.”

 Consistent with 8 U.S.C. Ch. 12, the Department proposes significant Chapter II updates which provide clarification for program citizenship and noncitizen eligibility requirements, verification requirements and application processing timeframes.

 The Department proposes to clarify Chapter V (3)(c) by waiving the Parent Fee Requirement for any family with a gross weekly income equal to or less than 250%. Ch. V (4)(c)(ii) calculation of the parent fee is updated to align with Ch. V (3)(c) as permitted by 22 MRS § 3762(8)(C).

 All the above proposed changes would be effective upon adoption.

 The proposed rule would remove “Escalating Sanctions” and associated language from Ch. II (F)(1)(d), (H)(3) as well as (H)(3)(i and ii). Ch. II (H)(3) proposes clarification to benefits termination due to failure to comply with program requirements. In addition, this rule proposes to remove Chapter II (H)(3)(f). The Department proposes this provision with a retroactive application to October 18, 2021, as required by P.L. 2021, ch. 97, §§ 1 and 2.

 Pursuant to 22 M.R.S. § 3762(8)(C), Appendix page 3, Worksheet For Calculating TCC Parent Fees and Subsidy Payments, would be updated based on Federal Poverty Level (FPL) figures published in the Annual Update of the HHS Poverty Guidelines, 88 Fed. Reg. 3424. <https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines>. The Department proposes this provision with a retroactive application to February 5, 2023.

 Chapter III, Asset limit changes consistent with P.L. 2023 Ch. 366 would be effective retroactive to October 25, 2023.

 22 M.R.S. § 3769-C(1)(D) requires that the Department increase Appendix Chart, page 2, Standard of Need and Maximum Grant, each October based on the Cost-of-Living Increase used by the Social Security Administration. This rulemaking would apply these changes effective retroactive to October 1, 2023.

 Retroactive rulemaking is authorized by the Legislature in accordance with 22 M.R.S. § 42(8) because the rule provides a benefit to recipients and beneficiaries and does not have an adverse financial effect on either provider or recipients.

 See <https://www.maine.gov/dhhs/about/rulemaking> for rules and related rulemaking documents.

PUBLIC HEARING:Tuesday, January 30, 2024, at 9:00 a.m. in room Maine A/B at 109 Capitol Street, Augusta, ME 04333. The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before Tuesday, January 23, 2023.

COMMENT DEADLINE:Monday, February 12, 2024, at 5:00 p.m. ET.

Written public comments may be submitted via the link at <https://www.maine.gov/dhhs/about/rulemaking>

CONTACT PERSON FOR THIS FILING: Alexandria Lauritzen, TANF Program Manager

Department of Health and Human Services, Office for Family Independence, 109 Capitol Street, Augusta, ME 04330-6841. Phone: (207) 624-4109/Fax: (207) 287-3455, TT Users Call Maine Relay – 711. Email: Alexandria.Lauritzen@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES:None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S. §§ 42(1) and (8); 3762(3)(A) and (8)(C); 3763(1) and (1-A); 3769-A; 3769-C(1)(D); and 3789; P.L. 2021, ch. 97, §§ 1 and 2

AGENCY WEBSITE: <https://www.maine.gov/dhhs/ofi>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Emily.A.Cathcart@maine.gov

AGENCY: **16-633 –** Department of Public Safety, **Gambling Control Unit**

CHAPTER NUMBER AND TITLE: **Ch. 62,** Geolocation and Remote Access; **Ch. 67,** Involuntary Placement of Persons on the Unauthorized Persons List

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P002, 2024-P003**

BRIEF SUMMARY: This rule is to establish rules required under 8 M.R.S. §1203(2)(K)&(G) to create standards for involuntary placement on the unauthorized list and for removal from the list in Chapter 67 and adds the requirements for geolocation providers to furnish the Director with a real time dashboard and data feed in Chapter 62.

PUBLIC HEARING: None applicable

COMMENT DEADLINE: February 9, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Milton Champion, Gambling Control Unit, 45 Commerce Drive, Augusta ME 04333. Phone: 207-626-3900. Email: Milton.F.Champion@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 8 M.R.S.A. §1203(2.)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [Gambling Control Unit (maine.gov)](https://www.maine.gov/dps/gamb-control/index.html)

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Paul.F.Cavanaugh@maine.gov

**ADOPTIONS**

AGENCY: **02-298 -** Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, **Board of Real Estate Appraisers**

CHAPTER NUMBER AND TITLE: **Ch. 230,** Supervisory Appraiser Duties; **Ch. 240,** Standards of Professional Practice

ADOPTED RULE NUMBER: **2024-001, 2024-002**

CONCISE SUMMARY: **Chapter 230:** Supervisory Appraiser Duties more clearly and explicitly sets forth the role and responsibilities of a supervisory appraiser. The replacement rule clarifies experience acceptable for credit, experience log content and submission requirements. Additionally, the rule aligns rule terminology with the statute.

**Chapter 240:** Standards of Professional Practice incorporates the Uniform Standards of Professional Appraisal Practice (“USPAP”), 2024 Edition, Copyright © 2024, The Appraisal Foundation, effective January 1, 2024, into the Board’s rules by reference as the standard of practice for licensees.

EFFECTIVE DATE: January 9, 2024

AGENCY CONTACT PERSON:Catherine Pendergast, Board Administrator, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Real Estate Appraisers, 35 State House Station, Augusta, ME 04333. Telephone:207-624-8518, TTY users call Maine Relay 711. Email: Catherine.Pendergast@maine.gov

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-real-estate-appraisers>
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: kristin.racine@maine.gov

AGENCY: **05-071 – Department of Education**

CHAPTER NUMBER AND TITLE: **Ch. 41,** Offering Instruction Related to Cardiopulmonary Resuscitation and the Use of an Automated External Defibrillator in Maine Public Schools

ADOPTED RULE NUMBER: **2024-003**

CONCISE SUMMARY: As a result of the First Special Session of the 131st Maine Legislature, Public Law 2023, Chapter 460 was signed by Governor Mills on July 27, 2023. This law, An Act to Require Public Schools to Offer Training for Secondary Students on the Administration of Naloxone Hydrochloride requires all Maine public schools to offer training to secondary students in the administration of naloxone hydrochloride in nasal spray form. The law further requires the Maine Department of Education to adopt rules on how to train secondary students to administer naloxone hydrochloride in nasal spray form. The training may be provided as extracurricular instruction, is to be delivered by a qualified individual, and that the standards for instruction are based on those of a nationally recognized program, organization, or agency.

Other revisions to the rule account for updates to terminology and practice in CPR and AED administration.

EFFECTIVE DATE: January 9, 2024

AGENCY CONTACT PERSON/RULEMAKING LIAISON: Laura Cyr, Maine Department of Education, 23 State House Station, Augusta, ME 04330. Telephone: 207-446-8791. EMAIL: Laura.Cyr@maine.gov

AGENCY WEBSITE: <https://www.maine.gov/doe/home>

**AGENCY: 16-163 –** Department of Public Safety, **Maine Emergency Medical Services**

CHAPTER NUMBER AND TITLE: **Ch. 21,** Immunization Requirements

ADOPTED RULE NUMBER: **2024-004**

CONCISE SUMMARY:The Emergency Medical Service’s Board is amending its current rules regarding Immunization Requirements by removing the requirement for Covered Emergency Medical Services Persons to be immunized against COVID-19, retaining Influenza, and adding Rubeola, Mumps, Rubella, Varicella, and Pertussis as diseases for which immunization is required for EMS persons who routinely provide direct patient care. The amendments include: an option for a “Masking Agreement” to be completed annually in lieu of seasonal influenza vaccination or when a Covered Emergency Medical Services Person possesses a Medical Exemption, clarifies that Licensed Ambulance Operators are not considered Covered Emergency Medical Services Persons, sets an effective date of November 1, 2025, for immunization against the diseases enumerated except influenza, provides for new recordkeeping requirements effective January 1, 2025, and clarifies that reports are required on an annual basis.

EFFECTIVE DATE: January 10, 2024

AGENCY CONTACT PERSON: Jason J. Cooney, 152 State House Station, Augusta, ME 04333-0152. Telephone: 207-626-3864; TTY: 207-287-3659; Fax: 207-287-6251. Email: Jason.J.Cooney@Maine.gov
AGENCY WEBSITE: <https://www.maine.gov/ems/>