**State of Maine: Notice of Agency Rulemaking – January 29, 2020**

**PROPOSALS**

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Office of MaineCare Services (OMS) - Division of Policy**

CHAPTER NUMBER AND TITLE: **Ch. 101**, MaineCare Benefits Manual (MBM): **Ch. II & III Section 106**, School-Based Services

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P018**

CONCISE SUMMARY: This rule is being proposed to implement specific requirements for the provision of School-Based Services. MaineCare members have been receiving MaineCare covered services in school settings, but additional clarity was needed regarding the requirements for the provision and reimbursement of these services. Section 106 consolidates policy for various types of covered MaineCare-covered services provided to children so they can thoroughly access their education, as required by the *Individuals with Disabilities Education Act* (IDEA). Federal Medicaid law requires that School-Based Services be included in the student’s Individualized Education Program (IEP) or an Individualized Family Service Plan (IFSP) and may be covered by Medicaid if all relevant statutory and regulatory requirements are met, including generally: (1) the services are listed in section 1905(a) of the Act and are medically necessary; (2) all Federal and State regulations are followed, including those specifying provider qualifications; and (3) the services are included in the State Plan or are available under the Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT) benefit.

Through Ch. III, which covers reimbursement, this rule will also allow the Department to more clearly identify claims for School-Based Services in order to properly account for “seed” payments that must be paid by the Department of Education (DOE) to the Department.

The Department has worked since July 2016 on drafting this new policy, which includes input from the DOE and various other stakeholders.

In addition to generally consolidating policy for various MaineCare covered services provided in schools, Section 106 also implements new covered services, including Behavior Supports and Developmental Preschool. Some other major changes in Section 106 include:

* Moving Behavioral Health Services, Children’s Behavioral Health Day Treatment Section 65 to this new section.
* More clearly defining School-Based Services that are currently under Section 28, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations, and moving them to this new section;
* Allowing members to receive Social Work, Crisis Assistance and Counseling services outside of the day treatment program when needed;
* Allowing for reimbursement for Adaptive Behavior Assessments;
* Clarifying that electronic signatures are allowable for the provision of services;
* Providing clear detail regarding eligibility and documentation requirements for all services.

The Department is seeking and anticipates receiving approval from CMS for this section. Pending CMS approval, this policy will be effective July 1, 2020. This will allow time for providers to prepare for the transition to this new policy.

See http://www.maine.gov/dhhs/oms/rules/index.shtml for rules and related rulemaking documents.

PUBLIC HEARING: Tuesday, February 18, 2020 - 9 a.m., Augusta Civic Center, 76 Community Drive, Augusta, ME 04330. *The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before Thursday, February 13, 2020.*

DEADLINE FOR COMMENTS: Comments must be received by 11:59 p.m. on Thursday, February 28, 2020.

OMS CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION: Trista Collins, State Medicaid Educational Liaison, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4094. Fax: (207) 287-6106. TTY: 711 (Deaf or Hard of Hearing). Email: Trista.Collins@Maine.gov .

IMPACT ON MUNICIPALITIES OR COUNTIES: The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

STATUTORY AUTHORITY: 22 MRS §§ 42, 3173

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

OMS WEBSITE: http://www.maine.gov/dhhs/oms/ .

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OMS RULEMAKING LIAISON: Thomas.Leet@Maine.gov .

DHHS RULEMAKING LIAISON: Kevin.Wells@Maine.gov .

AGENCY: **13-188 - Department of Marine Resources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 30**, River Herring (Pilot Project Exemption)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P019**

BRIEF SUMMARY: This proposed rule-making adds an exemption to the existing prohibition on the taking, possession, harvest and sale of river herring to include three ponds that were approved for a pilot project by the Atlantic States Marine Fisheries Commission Shad and River Herring Management Board in October 2019. Specific harvest limitations will be established in the authorization provided by the Commissioner. The exemption is proposed to expire in December 2025, because within a five-year period, the municipal ponds selected for inclusion must meet the established sustainability criteria for harvest to continue under the sustainable fisheries management plan.

PUBLIC HEARING: No hearing scheduled.

COMMENT DEADLINE: February 28, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, DMR, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

DMR RULEMAKING WEBSITE: http://www.maine.gov/dmr/rulemaking/ .

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DMR RULEMAKING LIAISON: Deirdre.Gilbert@Maine.gov .

AGENCY: **13-188 - Department of Marine Resources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 40**, Smelt Regulations

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P020**

BRIEF SUMMARY: This proposed rule-making is a reorganization of daily limits in the smelt regulation, for improved clarity regarding daily limits in specific zones during different times of year. The proposed rule does not change any existing limits. The proposed rule also removes a repealed statutory reference.

PUBLIC HEARING: No public hearing.

COMMENT DEADLINE: February 28, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, DMR, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

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**ADOPTIONS**

AGENCY: **13-188 - Department of Marine Resources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 11**, Scallops: **11.08**, Targeted Closures: **(10)** Chandler & Eastern Bays

ADOPTED RULE NUMBER: **2020-011** *(Emergency)*

CONCISE SUMMARY: The Commissioner adopts this emergency rulemaking to expand the scallop conservation closure to include Chandler and Eastern Bay areas in Zone 2. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed in the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Chandler and Eastern Bay areas.

For these reasons, the Commissioner hereby adopts an emergency closure of Maine’s scallop fishery in these areas as authorized by 12 MRS §6171(3)(A).

EFFECTIVE DATE: January 19, 2020

AGENCY CONTACT PERSON: Melissa Smith, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6558. Fax: (207) 624-6024. TTY: (888) 577-6690 (Deaf/Hard of Hearing). Email: Melissa.Smith@Maine.gov .

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