**State of Maine: Notice of Agency Rulemaking – February 16, 2022**

**PROPOSALS**

AGENCY: **12-170** - Department of Labor (DOL), **Bureau of Labor Standards (BLS)**

CHAPTER NUMBER AND TITLE: **Ch. 13**, Rules Governing the Establishment and Use of Fair Minimum Wage Rates on State Construction Projects

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P016**

**BRIEF SUMMARY**: The purpose of this chapter is to implement changes made by statute PL 2019 ch. 545, update two incorporation by reference sources and streamline the data collection process.

**DETAILED SUMMARY**: The purpose of these rule change is to implement PL 2019 ch. 545, update the two incorporation-by-reference sources and streamline the mail survey process. The changes relating to PL 2019 ch. 545 allow for the introduction of the second, certified payroll survey, clarify the new period of the surveys and define the criteria for selecting the higher rate from the two surveys to take locality into account. Additional non-statutory changes update and augment the two incorporation-by-reference sources and define a one and two-family residence building category whose businesses will be excluded from the mailed survey going forward. The rates for projects for one and two-family residences are seldom requested and the rates for the Building II category will be used for the one and two-family residential projects. The effect of these changes will be that fewer businesses will be subject to the annual mailed survey requirement, mostly excluding those businesses with under 5 trade workers whose data is excluded by statute.

PUBLIC HEARING: None planned unless requested.

COMMENT DEADLINE: March 18, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT STATEMENT / DOL RULEMAKING LIAISON: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, Maine 04333-0054. Telephone: (207) 626-6232. Email: [Isaac.H.Gingras@Maine.gov](mailto:Isaac.H.Gingras@Maine.gov).

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

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §42

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

DOL RULEMAKING 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)**.**

BUREAU WEBSITE: <https://www.maine.gov/labor/bls/>.

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 202**, Medical Board *(Repeal)*

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P017**

BRIEF SUMMARY: This rule governs the establishment of the Medical Board of the Maine Public Employees Retirement System. The rule is being repealed. Public Law 2021 ch. 277 amended the law to eliminate the use of a Medical Board, eliminating the need for rule ch. 202.

PUBLIC HEARING: None

COMMENT DEADLINE: March 18, 2022

EMAIL FOR PUBLIC TO SUBMIT COMMENTS: [rulemaking@mainepers.org](mailto:rulemaking@mainepers.org).

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MainePERS RULEMAKING LIAISON: Kathy J. Morin, Manager, Actuarial and Legislative Affairs, Maine Public Employees Retirement System, PO Box 349, Augusta, ME 04332-0349. Telephone: 1 (800) 451-9800 or (207) 512-3190. Email: [Kathy.Morin@mainepers.org](mailto:Kathy.Morin@mainepers.org).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §17103(4)

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

AGENCY WEBSITE: <https://www.mainepers.org/>.

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 512** *(New)*, Independent Medical Examinations

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P018**

BRIEF SUMMARY: This new rule implements and describes procedures for conducting independent medical examinations for applicants for disability retirement benefits under 5 MRS §7106-B(2), as enacted by Public Law 2021 ch. 277.

PUBLIC HEARING: None

COMMENT DEADLINE: March 18, 2022

EMAIL FOR PUBLIC TO SUBMIT COMMENTS: [rulemaking@mainepers.org](mailto:rulemaking@mainepers.org).

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MainePERS RULEMAKING LIAISON: Kathy J. Morin, Manager, Actuarial and Legislative Affairs, Maine Public Employees Retirement System, PO Box 349, Augusta, ME 04332-0349. Telephone: 1 (800) 451-9800 or (207) 512-3190. Email: [Kathy.Morin@mainepers.org](mailto:Kathy.Morin@mainepers.org).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §17103(4)

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

AGENCY WEBSITE: <https://www.mainepers.org/>.

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Bureau of Revenue Services (Maine Revenue Services (MRS) – Taxation)**

CHAPTER NUMBER AND TITLE: **Ch. 803**, Income Tax Withholding Reports and Payments

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P019**

BRIEF SUMMARY: MRS is proposing to amend Rule 803 (“Income Tax Withholding Reports and Payments”) to reflect recent legislative changes and to make other technical changes by adding language to address partnership audit requirements related to pass-through entity withholding and to reflect recently enacted penalties for failure to furnish, or for furnishing fraudulent or false, information statements (e.g., Forms W-2, 1099) to MRS.

PUBLIC HEARING: N/A

COMMENT DEADLINE: March 25, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: [Alexander.J.Weber@Maine.gov](mailto:Alexander.J.Weber@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112

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

MRS WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue).

DAFS RULEMAKING LIAISON: [Anya.Trundy@Maine.gov](mailto:Anya.Trundy@Maine.gov).

AGENCY: **18-125** - Department of Administrative and Financial Services (DAFS), **Bureau of Revenue Services (Maine Revenue Services (MRS) – Taxation)**

CHAPTER NUMBER AND TITLE: **Ch. 805**, Composite Filing

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P020**

BRIEF SUMMARY: MRS proposes to amend Rule 805 to add language to address partnership audit requirements related to composite filing and to make other technical changes. Affected partnerships must file amended composite returns within 180 days of the final determination date of a partnership-level audit to report additional Maine income tax due.

PUBLIC HEARING: N/A

COMMENT DEADLINE: March 25, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MRS RULEMAKING LIAISON: Alex Weber, Office of General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: [Alexander.J.Weber@Maine.gov](mailto:Alexander.J.Weber@Maine.gov).

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §112

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

MRS WEBSITE: [www.maine.gov/revenue](http://www.maine.gov/revenue).

DAFS RULEMAKING LIAISON: [Anya.Trundy@Maine.gov](mailto:Anya.Trundy@Maine.gov).

**ADOPTIONS**

AGENCY: **02-031** – Department of Professional & Financial Regulation (PFR), **Bureau of Insurance**

CHAPTER NUMBER AND TITLE: **Ch. 735** *(New)*, Term and Universal Life Insurance Reserve Financing

ADOPTED RULE NUMBER: **2022-019**

CONCISE SUMMARY: The Bureau has adopted the rule, based on National Association of Insurance Commissioners (NAIC) Model Regulation 787, *Term and Universal Life Insurance Reserve Financing*, to implement uniform national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, life insurance policies containing guaranteed nonlevel benefits, and universal life insurance policies with secondary guarantees; and to ensure that there is adequate security as to each such financing arrangement.

EFFECTIVE DATE: February 15, 2022

AGENCY CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION / AGENCY RULEMAKING LIAISON: Benjamin Yardley, Senior Staff Attorney, Department of Professional & Financial Regulation - Bureau of Insurance, 76 Northern Avenue, Gardiner, ME 04345. Telephone: (207) 624-8537. Email: [Benjamin.Yardley@Maine.gov](mailto:Benjamin.Yardley@Maine.gov).

AGENCY WEBSITE: <https://www.maine.gov/pfr/insurance/>.

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

CHAPTER NUMBER AND TITLE: **Ch. 101**, MaineCare Benefits Manual (MBM: **Ch. VII Section 5**, Estate Recovery

ADOPTED RULE NUMBER: **2022-020**

CONCISE SUMMARY: This adopted rule implements PL 202, ch. 398 part A §A-1 pg. 99 to modify MaineCare estate recovery rules to conform with the minimum mandatory federal requirements, which are set forth in 42 USC 1396p(b).

These rule changes were originally implemented via an emergency rule, effective November 24, 2021; routine technical emergency rules are effective for 90 days. This final adopted rule permanently changes the Department’s estate recovery claim so that it is limited to the amount paid by MaineCare for all nursing facility services, home and community-based services, and related hospital and prescription drug services paid on behalf of the Member. The effective date of this change is November 24, 2021, since that is when the emergency rule was implemented.

Additionally, this adopted rule clarifies the definition of life estate, including how life estates are valued.

Finally, this adopted rule removes language regarding CMS’s pending approval of changes that are approved and includes minor typographical corrections.

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

EFFECTIVE DATE: February 20, 2022

OMS CONTACT PERSON: Nicole Jurdak, OMS - Division of Policy, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Email: Telephone: (207) 624-4058. Fax: (207) 287-6106. TTY users call Maine relay 711. Email: [Nicole.Jurdak@Maine.gov](mailto:Nicole.Jurdak@Maine.gov).

OMS WEBSITE: <https://www.maine.gov/dhhs/oms>.

OMS RULEMAKING LIAISON: [Jennifer.Patterson@Maine.gov](mailto:Jennifer.Patterson@Maine.gov).

DHHS WEBSITE: <https://www.maine.gov/dhhs>.

DHHS RULEMAKING LIAISON: [Kevin.Wells@Maine.gov](mailto:Kevin.Wells@Maine.gov).

AGENCY: **99-346 - Maine State Housing Authority (MaineHousing)**

CHAPTER NUMBER AND TITLE: **Ch. 24**, Home Energy Assistance Program Rule ADOPTED RULE NUMBER: **2022-021** *(Emergency)*

CONCISE SUMMARY: This is an emergency amendment to the Home Energy Assistance Program Rule. The rule establishes standards for administering fuel assistance, emergency fuel assistance, TANF Supplemental Benefits, weatherization, heat pumps, and heating system repair and replacement funds to low-income households in the State of Maine. The emergency amendment establishes a one-time bill credit program for certain low income electricity customers.

EFFECTIVE DATE: February 15, 2022

MAINEHOUSING CONTACT PERSON: Linda Uhl, Chief Counsel, Maine State Housing Authority, 26 Edison Drive, Augusta, Maine, 04330-6046. Telephone: (207) 626-4600, or Maine Relay 711. Email: [LUhl@MaineHousing.org](mailto:LUhl@MaineHousing.org).

MAINEHOUSING WEBSITE: <https://www.mainehousing.org/>.