**State of Maine: Notice of Agency Rulemaking – March 15, 2023**

**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: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE: **Ch. 301**, Fee Schedule and Administrative Procedures for Payment of Court or Commission Assigned Counsel

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2023-P061**

BRIEF SUMMARY: This proposed rule amendment makes permanent the emergency rule adopted in February 2023 which raised the hourly rate paid to counsel to $150.00 per hour.

PUBLIC HEARIN: April 3, 2023 - 9:00 a.m. via Zoom, and Room 500, Cross Building, Augusta

COMMENT DEADLINE: April 13, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Justin Andrus, Executive Director - MCILS, 154 State House Station, Augusta, ME 04333. Telephone: (207) 287-3254. Fax: (207) 287-3293. Justin.Andrus@Maine.gov.

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

STATUTORY AUTHORITY FOR THIS RULE: 4 MRS §§ 1804(2)(F), (3)(B), (3)(F) and (4)(D)

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

AGENCY WEBSITE: [www.maine.gov/mcils](http://www.maine.gov/mcils).

MCILS RULEMAKING LIAISON: Eleanor.Maciag@Maine.gov.

AGENCY: **16-163 - Maine Emergency Medical Services (MaineEMS)**

CHAPTER NUMBER AND TITLE: **Ch. 24**, Community Grant Program

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P062**

**BRIEF SUMMARY**: The Board of Maine Emergency Medical Services (“the Board”) is required by 32 MRS §97(4) to adopt rules establishing a grant application and selection process. The Maine Emergency Medical Services Community Grant Program is established by this rule as a pilot program to provide grants to communities for the review and consideration of the provision of effective and efficient emergency medical services. This rule addresses the administration of the grant program including the application process, duties of the Board, and duties of Grant Recipients. This rule establishes that recipient communities may use grant funds to review current capacity and consider alternative models for providing emergency medical services. The purpose of the program is to provide financial assistance to communities that plan to examine or are examining the provision of emergency medical services through a process of informed community self-determination and are considering a new, financially stable structure for delivering emergency medical services that provide high-quality services effectively and efficiently.

**DETAILED SUMMARY:**

1. **Background**

The Maine Emergency Medical Services Community Grant Program is established as a pilot program to provide grants to communities for the review and consideration of the provision of effective and efficient emergency medical services.

The Legislature of the State of Maine appropriated $200,000.00 in non-lapsing funds for the 2022-2023 fiscal year. Unexpended funds are carried over to the next fiscal year until all funds are expended. The Legislature may appropriate additional monies in the future, which shall be administered in accordance with this chapter.

1. **Definitions**
2. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
3. *"Community"* means a municipality or group of municipalities.
4. *"Program"* means the Maine Emergency Medical Services Community Grant Program pilot program established under this section.
5. **Purpose**
6. The purpose of the program is to provide financial assistance to communities that plan to examine or are examining the provision of emergency medical services through a process of informed community self-determination and are considering a new, financially stable structure for delivering emergency medical services that provides high-quality services effectively and efficiently. Recipient communities may use grant funds to review current capacity and consider alternative models for providing emergency medical services, including, but not limited to, for the following activities:
7. Engaging with the community leaders, elected officials, individuals, institutions, and businesses in the community to plan for emergency medical services
8. Determining the current level and financial health of emergency medical services that serve the community
9. Identifying issues in the community that challenge or improve the provision of emergency medical services
10. Developing options for the structure, delivery and financing of emergency medical services that will effectively and efficiently serve the community, including options for ensuring long-term financial stability; and
11. Engaging with the individuals, institutions, and businesses in the community in reviewing the information collected and considering options developed through the activities engaged in under paragraphs B to D
12. **Administration**
13. Application Process
14. Communities, as defined in Section 2, shall submit to the Board of EMS its application in accordance with procedures defined by the Board. At minimum, applications must address the following:
15. Names of all communities participating in the process
16. Disclosure of any conflicts of interest of interested parties
17. A detailed plan on how the monies will be expended, including estimated dates on when the monies will be used, a full budget, names of any contractors engaged, and copies of any quotes received with a statement of work
18. Expected deliverables resulting from the grant funds
19. A detailed list of sources and uses of any other monies associated with the project
20. Duties of the Maine EMS Board
21. Approve application time frames, including due dates for applications
22. Define reporting requirements
23. Establish a subcommittee of the board to evaluate grant applications
24. The subcommittee may not include board representatives who are affiliated with, or have a financial interest in, the communities, ambulance services currently serving those communities, or services that are being considered to serve those communities
25. The subcommittee will recommend grant awardees to the Board of EMS, to include the recommended amount of award
26. The Subcommittee, during its review process, must evaluate whether the proposed project will enhance the provision of effective and efficient emergency medical services
27. The Board shall select awardees, including award amounts, and direct the Bureau of EMS to facilitate provision of those funds to the communities.
28. Duties of Grant Recipients
29. Meet the defined reporting requirements as approved by the Maine EMS Board
30. Provide a final report within three (3) calendar months of expenditure of all funds, or program completion
31. Return any unobligated funds to the State of Maine in accordance with agreements established to facilitate the initial transfer of funds.

**PUBLIC HEARING**: N/A

COMMENT DEADLINE: April 14, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Jason J. Cooney, 152 State House Station, Augusta, ME, 04333. Telephone: (207) 626-3864. Email: rulemaking.maineems@maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: The Legislature of the State of Maine appropriated $200,000.00 in non-lapsing funds for the 2022-2023 fiscal year, where unexpended funds are carried over to the next fiscal year until all funds are expended. It is anticipated that these funds will be disbursed to various communities within the State of Maine.

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §97(4)

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

MAINE EMS WEBSITE: <https://www.maine.gov/ems/home>.

MAINE EMS RULEMAKING LIAISON: Jason.A.Oko@Maine.gov.

AGENCY: **29-255** – Secretary of State (SOS), **Maine State Archives**

CHAPTER NUMBER AND TITLE: **Ch. 2**, State Records Center Facilities and Services

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2023-P063**

**BRIEF SUMMARY**: Statutory authority for this rule is 5 MRSA Ch. 6 §95-C sub-1. The State Records Center now falls under Records Management. Changes in Ch. 2 reflect those changes.

**DETAILED SUMMARY:**

CHAPTER 2 - STATE RECORDS CENTER FACILITIES AND SERVICES. This rule prescribes policies, standards, and procedures to govern the custody, use and withdrawal of agency records transferred to State Records Center facilities. The rule may be amended to comply with law and policy changes.

PUBLIC HEARING: None

COMMENT DEADLINE: April 15, 2023

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Tammy Marks, Maine State Archives, 17 Elkins Lane - Williams Pavilion, Augusta, Maine 04330. Telephone: (207) 287-5799. Fax: (207) 287-5517. Email: Tammy.Marks@Maine.gov.

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

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS Ch. 6 §95-C sub-1

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

ARCHIVES WEBSITE: <https://www.maine.gov/sos/arc/>.

**ADOPTIONS**

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch.143**, New Source Performance Standards (NSPS) *and* **Ch. 144**, National Emission Standards for Hazardous Air Pollutants (NESHAP)

ADOPTED RULE NUMBER: **2023-042, 043**

CONCISE SUMMARY: These rules accept Federal delegation of authority to enforce specific *Clean Air Act* standards at the state level, thereby reducing the time and effort required for regulated entities to comply with licensing application requirements and decreasing response times for oversight and potential remediation. The amendments update the versions of the Federal standards for which delegation has been accepted, and add new standards as appropriate.

EFFECTIVE DATE: March 13, 2023

DEP CONTACT PERSON: Erle Townsend, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-6115. Email: Erle.Townsend@Maine.gov.

DEP WEBSITE: <https://www.maine.gov/dep/>.

DEP RULEMAKING LIAISON: Mark.t.Margerum@Maine.gov.

AGENCY: **14-197** - Department of Health and Human Services (DHHS), **Office of Aging and Disability Services (OADS)**

CHAPTER NUMBER AND TITLE: **Ch. 5**, Regulations Governing Behavioral Support, Modification and Management for People with Intellectual Disabilities or Autism Spectrum Disorder in Maine

ADOPTED RULE NUMBER: **2023-044**

CONCISE SUMMARY: In January 2014, the federal Centers for Medicare and Medicaid Service (CMS) released a new rule regarding Home and Community-Based Services waiver programs authorized under Section 1915(c) of the *Social Security Act*. The federal rule requires the Department of Health and Human Services (the “Department”) to assure that people who receive home and community-based waiver services and supports funded through Medicaid (MaineCare) must receive those services and supports in settings that meet specific standards no later than March 17, 2023. The Department implemented these new federal requirements in MaineCare by adopting a new rule, “Global HCBS Waiver Person-Centered Planning and Settings Rule” (the Global HCBS Waiver Rule) as Ch. I Section 6 in the *MaineCare Benefits Manual* (“MBM”), 10-144 CMR Ch. 101, effective. “HCBS” refers to home- and community-based services provided to MaineCare waiver members.

Some persons with an Intellectual Disability or Autism Spectrum Disorder benefitted by the processes and protections of 14-197 CMR Ch. 5, “Behavioral Support, Modification and Management” (“Chapter 5”), also receive MaineCare waiver services subject to the Global HCBS Waiver Rule. The Department agreed, in its HCBS State Transition Plan, to amend Ch. 5 so as to assure it is not inconsistent with the Global HCBS Waiver Rule. To remind providers and other participants in behavioral support planning for MaineCare waiver members, the Office of Aging and Disability Services is adding a new subsection, §5.01-3 in Ch. 5 to state explicitly when the Global HCBS Waiver Rule applies.

To come into compliance with this State Transition Plan, the Office of Aging and Disability Services updates Ch. 5 to acknowledge this rule’s interaction with 10 144 CMR Ch. 101 (*MaineCare Benefits Manual*), Ch. I Section 6 – “Global HCBS Waiver Person-Centered Planning and Settings Rule” (Global HCBS Waiver Rule), which implements the new federal HCBS waiver requirements in MaineCare.

Specifically, the amended rule clarifies that when a Person experiencing Challenging Behavior receives MaineCare HCBS waiver services regulated, in part, under MBM, Ch. I Sec. 6, the provision of supports authorized under this Ch. 5 shall comply with that Global HCBS Waiver Rule.

The Department plans to further amend Ch. 5 in 2023, with a comprehensive and stakeholder-informed update to the rule.

EFFECTIVE DATE: March 16, 2023

OADS CONTACT PERSON: Derek Fales, Waiver Services Director, Public Services Manager II, Developmental Disabilities and Brain Injury Services, Maine Department of Health and Human Services - Office of Aging and Disability Services, 41 Anthony Avenue - 11 State House Station, Augusta, Maine 04333-0011.Telephone: (207) 287-6656. TTY: 711 (Deaf or Hard of Hearing). Email: Derek.Fales@Maine.gov.

OADS WEBSITE: <https://www.maine.gov/dhhs/oads>.

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

DHHS RULEMAKING LIAISON: Sara.Gagne-Holmes@Maine.gov.