**State of Maine: Notice of Agency Rulemaking – March 25, 2020**

**PROPOSALS**

AGENCY: **01-670** - Department of Agriculture, Conservation and Forestry (DACF), **Bureau of Parks and Lands (BPL)**

CHAPTER NUMBER AND TITLE: **Ch. 57**, Logging and Forestry Education Grant Program

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P032** *(2nd publication)*

BRIEF SUMMARY: The Bureau of Parks and Lands is updating the rules regarding the Logging and Forestry Education Grant program. The purpose of the logging and forestry education grant program is to provide grants to eligible education programs to develop loggers capable of working on the State of Maine's public reserved lands.

PUBLIC HEARING: March 26, 2020 public hearing is cancelled; reposted for written comment only.

COMMENT DEADLINE: April 24, 2020 - 5:00 p.m. local time.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Doug Reed, DACF, 22 State House Station, Augusta, Maine 04330. Telephone: (207) 557-1037. Email: Doug.C.Reed@Maine.gov .

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

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §1859 (PL 2017 ch. 289 §9)

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

AGENCY WEBSITE: https://www.maine.gov/dacf/parks/index.shtml .

DACF RULEMAKING LIAISON: Shannon.Ayotte@Maine.gov .

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Maine Center for Disease Control and Prevention (Maine CDC)**

CHAPTER NUMBERS AND TITLES:

(1) **Ch. 257**, Schedule of Charges for Testing and Services Provided by the Maine Health and Environmental Testing Laboratory;

(2) **Ch. 233**, Rules Relating to Testing Private Water Systems for Hazardous Contaminants

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2020-P034, P035** *(2nd publication)*

BRIEF SUMMARY: This proposed routine technical rule proposes to repeal and replace the existing 10-144 CMR ch. 257, as well as repeal 10-144 CMR ch. 233, *Rules Relating to Testing of Private Water Systems for Potentially Hazardous Contaminants*. Ch. 233 includes outdated information about the waiving of Health and Environmental Testing Laboratory (HETL) fees incurred from testing of private residential water supplies for potentially hazardous contaminants. This information is addressed in the proposed rulemaking for ch. 257, which is proposing to implement a new fee schedule for testing performed by HETL. These test fees include but are not limited to the chemical and microbiological testing and examination of food products, public and private drinking water surface water and well samples, and environmental and forensic samples; the examination of cases and suspected cases of infectious and communicable diseases; and other public health services required by the recently revised 22 MRS ch. 601, sub-ch. 8. This rule proposes to adopt a formal rate setting methodology for HETL testing and services. This rule proposes to implement uniform testing recommendations, specifically for private residential well testing. Additionally, this rule proposes a specific fee that is mandated for the Private Well Safe Drinking Fund collection; and updates to lab reporting requirements, waiver considerations, and administrative costs that may be charged for licensing, manual data entry, and collection services.

PUBLIC HEARING: Not scheduled. *During a State of Civil Emergency, public hearings requested pursuant to 5 MRS §8052, will be conducted in accordance with Public Law 2020 ch. 617.*

COMMENT DEADLINE: Friday, April 24, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Bridget Bagley; 11 State House Station 286 Water Street, Augusta, ME 04333. Telephone: (207) 287-9394. Fax: (207) 287-2887. Email: Bridget.Bagley@Maine.gov .

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

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 565(3), 2602-A, 2609, 2660-U, and 2660-X

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

MAINE CDC RULES WEBSITE: http://www.maine.gov/dhhs/mecdc/rules/ .

MAINE CDC WEBSITE: http://www.maine.gov/dhhs/mecdc/ .

MAINE CDC RULEMAKING LIAISON: Tera.Pare@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 301**, Food Supplement Program: Sections 444-12 and 666-6, Food Supplement **Rule #211P** – 2019 Updates to the Lottery Rule

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P046**

BRIEF SUMMARY: The purpose of this rule is to bring the eligibility requirements for Maine’s Food Supplement program in line with federal requirements articulated in the 2014 Farm Bill, PL 113-79, and the subsequent clarifying rules, 7 USC §2015 (s)(1)-(3).

Per 22 MRS §3104 (16), Maine’s rule disqualifies households with $5,000 in net lottery or gambling winnings in a month. Under the new federal requirement, the disqualification also applies to households with a member or combination of members with gross winnings from a single game that exceed the elderly and disabled asset limit (adjusted annually). This rule change adds the federal requirement to the requirement set in Maine statute.

The rule adds language to reporting requirements (consistent with federal rules) requiring households experiencing such winnings to report them by the 10th day of the following month.

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

PUBLIC HEARING: None.

COMMENT DEADLINE: Sunday, April 26, 2020.

CONTACT PERSON FOR THIS FILING: Ian Miller, Senior Program Manager, Food Supplement, Department of Health and Human Services, Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-4138. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Ian.Miller@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §42 (1); 7 USC §2015(s)(1)-(3); and 7 CFR §§ 273.11(r), §273.12, §273.17

OFI RULES WEBSITE: http://www.maine.gov/dhhs/ofi/rules/index.shtml .

OFI WEBSITE: http://www.maine.gov/dhhs/ofi/ .

DHHS WEBSITE: http://www.maine.gov/dhhs/ .

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 301**, Food Supplement Program: **Section 777-3**,Food Supplement **Rule #FS213P** - Overpayment and Compromise Updates

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P047**

BRIEF SUMMARY: The purpose of this rule is to update procedures regarding the establishment, compromise and collections of Food Supplement overpayments. This rule will more closely align Maine policy with that of other states in the Northeast SNAP Region.

Due to cost effectiveness, Maine will no longer establish overpayments equal to or less than $200 for households still participating in the Food Supplement program or $500 for households no longer participating in the program. Maine will now compromise unintentional household errors. Maine may compromise agency and unintentional household errors at the time the claim is established. Additionally, when calculating unintentional household errors Overpayment Specialists will now go back two years from discovery rather than six years.

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

PUBLIC HEARING: None.

COMMENT DEADLINE: Sunday, April 26, 2020.

CONTACT PERSON FOR THIS FILING: Ian Miller, Senior Program Manager, Food Supplement, Department of Health and Human Services, Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-4138. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Ian.Miller@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §42 (1), and 7 CFR §273.18

OFI RULES WEBSITE: http://www.maine.gov/dhhs/ofi/rules/index.shtml .

OFI WEBSITE: http://www.maine.gov/dhhs/ofi/ .

DHHS WEBSITE: http://www.maine.gov/dhhs/ .

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 607**; ASPIRE-TANF Program Rules, **Rule #26P** – Support Services

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P048**

BRIEF SUMMARY: This rule increases travel reimbursement for ASPIRE participants to support their ability to engage in required work activities and is reflective of current travel related costs.

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

PUBLIC HEARING: None.

COMMENT DEADLINE: Sunday, April 26, 2020.

CONTACT PERSON FOR THIS FILING: Dawn Croteau, ASPIRE Program Manager, Department of Health and Human Services, Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-6968. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Dawn.Croteau@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42(1), 3762(3)(A), 3769-A

OFI RULES WEBSITE: http://www.maine.gov/dhhs/ofi/rules/index.shtml .

OFI WEBSITE: http://www.maine.gov/dhhs/ofi/ .

DHHS WEBSITE: http://www.maine.gov/dhhs/ .

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 607**; ASPIRE-TANF Program Rules, **Rule #27P** – Good Cause

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P049**

BRIEF SUMMARY: The proposed change provides ASPIRE participants with additional process and information regarding the Good Cause exception.

The rule also implements changes to Maine’s Work Verification Plan dated September 30, 2019, to incorporate basic skills activities, including English for Speakers of Other Languages (ESOL), Adult Basic Education (ABE), General Education Diploma (GED), and High School Equivalency (HSE), into vocational educational training.

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

PUBLIC HEARING: None.

COMMENT DEADLINE: Sunday, April 26, 2020.

CONTACT PERSON FOR THIS FILING: Dawn Croteau, ASPIRE Program Manager, Department of Health and Human Services, Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04330-6841. Telephone: (207) 624-6968. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Dawn.Croteau@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42(1), and 3785-A; 45 CFR 400.301; 45 CFR 261.62; and Ch. 67 Resolves

OFI RULES WEBSITE: http://www.maine.gov/dhhs/ofi/rules/index.shtml .

OFI WEBSITE: http://www.maine.gov/dhhs/ofi/ .

DHHS WEBSITE: http://www.maine.gov/dhhs/ .

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov .

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

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

CHAPTER NUMBER AND TITLE: **Ch. 609**; Maine Food Supplement Employment and Training Program Rules, **FSET Rule #4P**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P050**

BRIEF SUMMARY: The proposed rulemaking updates the Maine Food Supplement Employment and Training (FSET) program rules to detail current administration, available services and supports, and operating procedures of the FSET program. The rules clarify that FSET services may be delivered by the Department or by contracted providers who must deliver service components that meet federal standards. The rules identify priority target groups, and annual support service limits for participants, since annual funding is limited.

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

PUBLIC HEARING: None.

COMMENT DEADLINE: Sunday, April 26, 2020

CONTACT PERSON FOR THIS FILING: Patricia Dushuttle, Special Projects Program Manager, Department of Health and Human Services, Office for Family Independence

109 Capitol Street – 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 624-6907. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Patricia.Dushuttle@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §42 (1), 7 CFR §273.7

OFI RULES WEBSITE: http://www.maine.gov/dhhs/ofi/rules/index.shtml .

OFI WEBSITE: http://www.maine.gov/dhhs/ofi/ .

DHHS WEBSITE: http://www.maine.gov/dhhs/ .

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov .

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

AGENCY: **16-163** - Department of Public Safety (DPS), **Maine Emergency Medical Services (Maine EMS)**

CHAPTER NUMBER AND TITLE: **Ch. 1** *thru* **19**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBERS: **2020-P051** *thru* **P072**

BRIEF SUMMARY: Over the past several years the Maine EMS board conducted a systematic review of the Maine EMS rules. These proposed changes include updates to language in the following chapters:

* **Ch. 1**, Mission and Goals of the Maine EMS System
* **Ch. 2**, Definitions
* **Ch. 3**, Ground Ambulance Service and Non-transporting Service Licenses
* **Ch. 3-A**, Emergency Medical Dispatch Center Licenses
* **Ch. 4**, Air Ambulance Service Licenses
* **Ch. 5**, Personnel Licenses
* **Ch. 5-A**, Emergency Medical Dispatcher Licenses
* **Ch. 6**, Advanced Life Support Drugs and Medications
* **Ch. 7**, State Licensure Examinations
* **Ch. 8**, Training Courses and Continuing Education Programs Used for Licensure
* **Ch. 8-A**, Training Centers
* **Ch. 9**, Instructor Coordinator Licenses
* **Ch. 9-A**, Emergency Medical Dispatch Training, Instructors, and Continuing Education Programs
* **Ch. 10**, Reciprocity
* **Ch. 11**, Standards and Procedures for Refusing to Issue or Renew a License, and for Modifying, Suspending, or Revoking a License
* **Ch. 12**, Procedures For Licensing Actions and Board Actions
* **Ch. 13**, Waiver of the Rules
* **Ch. 14**, Sexual Misconduct
* **Ch. 15**, Maine EMS Regions and regional Councils
* **Ch. 16**, Death Benefits for Emergency Medical Services Persons Who Die in the Line of Duty
* **Ch. 17**, Equipment Lists For Maine EMS Services and regional EMS Radio Frequencies
* **Ch. 18**, Quality Assurance and Improvement

PUBLIC HEARING: none

COMMENT DEADLINE: April 24, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MAINE EMS RULEMAKING LIAISON: Jason A. Oko, Maine EMS 152 State House Station, Augusta, ME 04333-0152. Telephone: (207) 626-3863. Fax: (207) 287-6251. TTY: (207) 287-3659. Email: Jason.A.Oko@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES:

* The litter retention systems referenced in ch. 3 will be approximately $5,000/ambulance. This is a requirement only for new ambulances licensed after these rules are in effect. It will not require agencies to upgrade existing litter retention systems. In 2018, Maine EMS issued 37 New Vehicle Applications. There are 161 Ground Ambulance Services licensed by Maine EMS, with 512 licensed vehicles.
* Ground Ambulance Service and Non-Transporting Service applicants that are applying at or permitting to the Advanced EMT, or Paramedic level, must have a service-specific Medical Director.
* In ch. 3-A, an Emergency Medical Dispatch Center is now required to have the electronic version of the EMD Protocol, there are costs associated with this, however, there is currently no licensed EMD center in the State of Maine that does not comply with this already.
* Ch. 17 is the required equipment chapter; potential financial impact exists in this chapter where Maine EMS has clarified the equipment list.
* The count of required nasal airways has gone from four to seven.
* The count of required oral airways has gone from four to eight
* These above devices have been added to the rules, most if not, all services already comply with these requirements, as an example, our previous requirements of Oral airway, adult small, is not a size that is available on the market.
* A Bougie has been added for Paramedic level services and air ambulance services.
* CPAP devices have been added to the AEMT, Paramedic and Air Ambulance service levels.
* Gastric Tubes have been added to the Paramedic and air ambulance services.
* A Mucosal Atomization device has been added for all levels.
* Hemostatic Agents have been added for all levels.
* Tourniquets have been added for all levels.
* Medication Pumps have been added for Paramedic and Air Ambulance Services.
	+ These items are additions from the MDPB Approved equipment list and the Maine EMS Protocols, these items are already a part of every ambulance service in the state, adding them to rule is a formality.

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS ch. 2-B §88(2-B)

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

MAINE EMS WEBSITE: https://www.maine.gov/ems/ .

AGENCY: **05-071 - State Board of Education**

CHAPTER NUMBER AND TITLE: **Ch. 112**, Professional Standards Board

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P073**

BRIEF SUMMARY: This rule contains procedures guiding the operations of the Professional Standards Board in its role under Title 20-A ch. 502-B to make recommendations to the State Board and advise the Department of Education.

PUBLIC HEARING: none

COMMENT DEADLINE: April 24, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / EDUCATION RULEMAKING LIAISON: Jaci Holmes, Department of Education, 23 State House Station, Augusta, Maine 04333. (207) 624-6669. Email: Jaci.Holmes@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 20-A MRS §13104

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

DOE WEBSITE: https://www.maine.gov/doe/home .

AGENCY: **99-626 - Maine Rural Development Authority**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Rural Manufacturing and Industrial Site Redevelopment Program

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P074**

BRIEF SUMMARY: The rule amendment amends the current provisions relating to Program Grants. The amendment creates a new grant category for otherwise eligible projects that are also eligible for grant funds under a federal grant from the Northern Border Regional Commission. The amendment provides the eligibility requirements for this additional grant category, the terms and conditions applicable to such grants, as well as the application and selection process related thereto.

PUBLIC HEARING: None scheduled

COMMENT DEADLINE: April 24, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / AUTHORITY RULEMAKING LIAISON: Christopher Roney, General Counsel, Finance Authority of Maine, PO Box 949, Augusta, ME 04332-0949. Telephone: (207) 620-3520. Fax: (207) 213-2615. Email: croney@famemaine.com .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None Anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §§ 13120-L & 13120-R

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

MAINE RULE DEVELOPMENT AUTHORITY WEBSITE: https://www.mainerda.org/ .

FAME WEBSITE: www.famemaine.com .

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

CHAPTER NUMBER AND TITLE: **Ch. 18** *(New)*, Rules Governing Earned Paid Leave

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P075**

**BRIEF SUMMARY**: The purpose of this chapter is to provide definitions and procedures for implementing earned paid leave for certain employees pursuant to 26 MRS §637.

**DETAILED SUMMARY**: The purpose of this chapter is to provide definitions and procedures for implementing earned paid leave for certain employees pursuant to 26 MRS §637. This rule explains that the obligation for earned paid leave applies to employers that employ more than 10 employees in employment as defined by the *Maine Employment Security Act* for more than 120 days in any calendar year. The rule explains the coverage of the law, to include full-time, part-time and per diem workers. The rule explains the exceptions, such as employees who work in a seasonal industry for an employer registered as a seasonal employer with a Bureau of Unemployment Compensation, and employees covered by a collective bargaining agreement on January 1, 2012. Covered employers shall permit each employee to accrue earned paid leave based on the employee's base rate of pay as defined by existing law, 26 MRS §664(3). Unused hours of earned paid leave roll over to the following year of employment, but hours are only required to continue to accrue up to forty hours in the current year of employment. The balance of earned paid leave at the separation of employment is governed by the employer’s established practice in accordance with existing law, 26 MRS §626. An employer may require up to four weeks’ notice of an intention to use earned leave, but notice is not required for an emergency, illness or other sudden necessity if advance notice is not feasible. Employees may take leave in increments of at least one hour. The employer cannot require the employee to use earned paid leave when the employee closes the business, cancels a shift or otherwise causes the employee to be unable to perform their job. An employer shall not deny an employee the right to use earned paid leave, and such denial or other violation is subject to a penalty.

PUBLIC HEARING: April 15, 2020 - 5:30 – 7:30 p.m., SafetyWorks Training Institute, 45 Commerce Drive, Augusta, Maine 04330. *Remote arrangements will be made available.*

COMMENT DEADLINE: April 27, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / 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 .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES:

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §42 and §637

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

DOL WEBSITE: http://www.maine.gov/labor .

**ADOPTIONS**

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. 1 Section 5** *(New)*, COVID-19 Public Health Emergency Services

ADOPTED RULE NUMBER: **2020-057** *(Emergency)*

CONCISE SUMMARY: This emergency rulemaking institutes measures, effective immediately, to expedite and improve access to medical care for MaineCare members due to the 2019 Novel Coronavirus (COVID-19). Pursuant to 5 MRS §§ 8054 and 8073, the Department has determined that immediate adoption of this rule is necessary to avoid a potentially severe and immediate threat to public health, safety or general welfare. The Department’s findings of emergency are included in detail in the Emergency Basis Statement. Maine is facing a substantial public health threat posed by the global spread of COVID-19. On March 11, 2020 the World Health Organization declared COVID-19 a worldwide pandemic. On March 15, 2020, Governor Janet T. Mills declared a state of civil emergency in Maine.

This is a single new section of the *MaineCare Benefits Manual* that implements emergency changes for multiple types of MaineCare services. The following sections of MaineCare policy are affected by this rulemaking: Ch. 1 Section 1 (General Administrative Policies and Procedures); Ch. I Section 4 (Telehealth Services); Chs. II and III Section 31 (Federally Qualified Health Center Services); Chs. II and III Section 40 (Home Health Services); Chs. II and III Section 45 (Hospital Services); Ch. II Section 55 (Laboratory Services); Ch. II Section 60 (Medical Supplies and Durable Medical Equipment); Chs. II and III Section 65 (Behavioral Health Services); Ch. II Section 80 (Pharmacy Services); Ch. II Section 90 (Physician Services); Chs. II and III Section 96 (Private Duty Nursing and Personal Care Services; Ch. II Section 101 (Medical Imaging); and Chs. II and III Section 103 (Rural Health Clinic Services).

The Department is waiving certain co-payment requirements for all MaineCare members, including pharmacy, clinical visits, medical imaging, laboratory services, behavioral health services, medical supplies and durable medical equipment, private duty nursing, and home health services. Should COVID-19 specific treatments or vaccines become available during the duration of this rule, co-payments will be waived for those services as well.

The Department is altering some of the MBM Section 80, Pharmacy Services, requirements in order to expedite and improve access to prescriptions. Restrictions are lifted for asthma and immune-related prescriptions. Prior Authorizations for COVID-19 treatments and vaccines, should they come available, are waived. Early refills of prescriptions are allowed, and the physical assessment requirements for Buprenorphine and Buprenorphine Combination products for SUD are waived.

Prior Authorization requirements for certain durable medical equipment are being extended and early refills allowed for individuals with COVID-19, awaiting test results for COVID-19, or in the high-risk category for developing complications from COVID-19.

Home Health Services document submission requirements are being extended for Plans of Care submissions.

The Department is waiving the advance written notice/consent for telehealth services, waiving the comparability requirement for services specifically approved by the Department, and allowing telephone-only evaluation and management services.

In the event of conflict between the COVID-19 Public Health Emergency Services rule and any other MaineCare rule, the terms of this rule supersede other rules and shall apply.

The Department shall seek and anticipates receiving approval of those changes from the Centers for Medicare and Medicaid Services (CMS) retroactive to March 18, 2020.

Except for the changes affecting MBM, Chs. II and III Section 40, Home Health Services, these emergency rule changes shall be effective for ninety (90) days, per 5 MRS §8054. MBM Chs. II and III Section 40, Home Health Services, are major substantive rules, thus, if CMS approves, the emergency rules changes affecting Section 40 shall be effective for up to one year pursuant to 5 MRS §8073.

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

EFFECTIVE DATE: March 20, 2020

AGENCY CONTACT PERSON: Anne E. Labonte, Comprehensive Health Planner II, Division of Policy, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4082. Fax: (207) 287-1606. TTY users call Maine relay 711. Email: Anne.Labonte@Maine.gov .

OMS RULES WEBSITE: https://www.maine.gov/dhhs/oms/rules/index.shtml .

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

DHHS WEBSITE: http://www.maine.gov/dhhs/ .

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

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

AGENCY: **16-219** – Department of Public Safety (DPS), **Office of State Fire Marshal**

CHAPTER NUMBER AND TITLE: **Ch. 52** *(proposed as Ch. 51)*, Certification Standards for Municipal Code Enforcement Officers and Third-Party Inspectors

ADOPTED RULE NUMBER: **2020-058**

CONCISE SUMMARY: This adopted rule establishes the standards and procedures that the Department of Public Safety, Office of State Fire Marshal uses to certify and recertify local code enforcement officers, local plumbing inspectors, building officials, and third party inspectors. The chapter establishes the minimum standards for all code enforcement officers appointed in Maine and recertification standards that recognize the experience and diverse job responsibilities of Maine's professional code enforcement community. The rules are intended to be flexible to accommodate the range of experiences of code enforcement officers, while laying out basic requirements for newly appointed code enforcement officers.

EFFECTIVE DATE: March 25, 2020

AGENCY CONTACT PERSON: Michelle Mason Webber, Sr. Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Michelle.Mason@Maine.gov .

FIRE MARSHAL WEBSITE: http://www.maine.gov/dps/fmo/ .

FIRE MARSHAL RULEMAKING LIAISON: Joseph.E.Thomas@Maine.gov .

AGENCY: **13-188 – Department of MarineResources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 32**, Eel Regulations: **32.03**, Elver Harvesting Regulations Area Closures

ADOPTED RULE NUMBER: **2020-059** *(Emergency)*

CONCISE SUMMARY: The Commissioner adopts this emergency rulemaking to close the coastal waters of the state to the fishing for, or taking of elvers. The elver fishery is undertaken in a manner that causes fishermen to be in close proximity on Maine's rivers, which could result in the continued spread of COVID-19. Early in the season, fishermen will be concentrated in the southern part of the State, where the number of cases and evidence of community spread is highest. In order to protect public health; the Commissioner is closing the coastal waters of the State to the fishing for and taking of elvers for a minimum of two weeks. Conditions will be reassessed at that time, and the emergency regulation repealed when appropriate. For these reasons, the Commissioner hereby adopts an emergency closure of the coastal waters of the state to the fishing for or taking of elvers to protect public health as authorized by 12 MRS §6171-A.

EFFECTIVE DATE: March 22, 2020

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