**State of Maine: Notice of Agency Rulemaking – April 14, 2021**

**PROPOSALS**

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 264**, Immunization Requirements for Healthcare Workers

TYPE OF RULE: Routine Technical

ADOPTED RULE NUMBER: **2021-068**

CONCISE SUMMARY: The Department is adopting routine technical rule changes to amend 10-144 CMR ch. 264, *Immunization for Healthcare Workers* rule, which include (1) Adding and updating references to the statutory authority for the rule; (2) Clarifying, in the Summary, that the rule is purposed to reduce the risk for exposure to and transmission of vaccine-preventable diseases; (3) Updating the definition of *Designated Healthcare Facility* to clarify the term applies to facilities subject to licensure by the Department; (4) Updating the term *Intermediate Care Facility for the Mentally Retarded (ICF/MR)* to *Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)*; (5) Adding definitions for *Public Health Emergency,* *Public Health Threat,* and *Extreme Public Health Emergency*; (6) Removing outdated H1N1 2009-10 reporting language; (7) Adding influenza to the list of vaccine-preventable diseases for which healthcare facilities must require all employees to provide proof of immunization, or immunity, or documentation of an authorized exemption; (8) Adding a description of the Department’s authority during a declared Extreme Public Health Emergency, to impose additional disease prevention control measures, including mandatory and mass vaccinations and recommended dosages therefor; and (9) Clarifying that records of Designated Healthcare Facility employee vaccinations must be maintained by the facility for six years following termination.

EFFECTIVE DATE: April 14, 2021

MAINE CDC CONTACT PERSON: Bridget Bagley, Maine CDC, 286 Water Street - 11 State House Station, Augusta, ME, 04333-0011. Telephone: (207) 287-9394. Email: Bridget.Bagley@Maine.gov .

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

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

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

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

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. III Section 21**, Allowances for Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder

ADOPTED RULE NUMBER: **2021-069** *(Emergency)*

CONCISE SUMMARY: The Department is adopting this emergency major substantive rule in accordance with PL 2019 ch. 616 part A §A-7, *An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2020 and June 30, 2021.* The Act provides funding to increase reimbursement rates for specific procedure codes in ch. III section 21, “Allowances for Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder”.

The Department has determined that these rate increases are necessary to avoid an immediate threat to public health, safety, or general welfare. The Department’s findings of an emergency are as follows: Delivery of Medicaid services is predicated on an adequate provider pool to treat and meet the unique needs of the most vulnerable populations of members; and The increases will seek to ensure reimbursement rates are adequate to provide members with access to important services through an adequate provider pool.

The emergency major substantive rule increases the rates effective January 1, 2021 for four (4) services: Supported Employment Services, Career Planning Services, Employment Specialist Services, and Home Support-Quarter Hour Services. The Maine Legislature has authorized the Department to adopt rules with a retroactive application where the Department has sought CMS approval for such changes, and where the change does not have an adverse financial impact on any MaineCare provider or Member. 42 MRS §42(8).

This emergency major substantive rule is effective upon adoption and filing with the Secretary of State. Pursuant to 5 MRS §8054 (3), this emergency major substantive rule may be effective for up to 12 months, or until the Legislature has completed its review. The Department intends to proceed with major substantive rulemaking, which will be provisionally adopted, and then submitted to the Legislature for its review.

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

EFFECTIVE DATE: April 7, 2021

OMS CONTACT PERSON: Heather Bingelis, Comprehensive Health Planner, Division of Policy, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-6951. Fax: (207) 287-6106. TTY users call Maine relay 711. Email: Heather.Bingelis@Maine.gov .

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 101**, MaineCare Benefits Manual (MBM): **Ch. III Section 29**, Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder

ADOPTED RULE NUMBER: **2021-070** *(Emergency)*

CONCISE SUMMARY: The Department is adopting this emergency major substantive rule in accordance with PL 2019 ch. 616 part A §A-7, *An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2020 and June 30, 2021.* The Act provides funding to increase reimbursement rates for specific procedure codes in ch. III section 29, “Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder”.

The Department has determined that these rate increases are necessary to avoid an immediate threat to public health, safety or general welfare. The Department’s findings of an emergency are as follows: delivery of Medicaid services is predicated on an adequate provider pool to treat and meet the unique needs of the most vulnerable populations of members, and the increases will seek to ensure reimbursement rates are adequate to provide members with access to important services through an adequate provider pool.

The emergency major substantive rule increases the rates with a retroactive application date of January 1, 2021 for four (4) services including: Supported Employment Services, Career Planning Services, Employment Specialist Services, and Home Support-Quarter Hour Services. The Maine Legislature has authorized the Department to adopt rules with a retroactive application where the Department has determined that the change does not have an adverse financial impact on any MaineCare provider or Member. 42 MRS §42(8). Here, the rule change is a positive change for the providers.

This emergency major substantive rule is effective upon adoption and filing with the Secretary of State. Pursuant to 5 MRS §8054 (3), this emergency major substantive rule may be effective for up 12 months, or until the Legislature has completed its review. The Department intends to proceed with major substantive rulemaking, which will be provisionally adopted, and then submitted to the Legislature for its review.

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

EFFECTIVE DATE: April 7, 2021

OMS CONTACT PERSON: Heather Bingelis, Comprehensive Health Planner, Division of Policy, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-6951. Fax: (207) 287-6106. TTY users call Maine relay 711. Email: Heather.Bingelis@Maine.gov .

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

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

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

AGENCY: **09-137- Department of Inland Fisheries and Wildlife (IFW)**

CHAPTER NUMBER AND TITLE: **Ch. 16**, Hunting: **16.11**, Migratory Game Bird Hunting

ADOPTED RULE NUMBER: **2021-071**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife has adopted rules pertaining to season dates and bag limits for the hunting of ducks, geese and other migratory game birds. These rules will protect migratory game birds from over-harvest by setting these limitations. Of note this season in accordance with USFWS guidelines is the earlier start date for Woodcock season of September 25, 2021 which coincides with the season start date for grouse and other upland species. For both common snipe and rails, the season ends two weeks later than in previous seasons, the result of compensatory days being counted for all states that do not allow Sunday hunting. Please contact the agency contact person for a complete copy of these rules.

EFFECTIVE DATE: April 13, 2021

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Email: Becky.Orff@Maine.gov .

IFW WEBSITE: <https://www.maine.gov/ifw/> .

AGENCY: **09-137- Department of Inland Fisheries and Wildlife (IFW)**

CHAPTER NUMBER AND TITLE: **Ch. 24**, Licensed Guides (Recreational Classification)

ADOPTED RULE NUMBER: **2021-072**

CONCISE SUMMARY: The Department of Inland Fisheries and Wildlife has amended rules as they pertain to the testing process for the recreational classification for licensed guides. Exams have been created to accommodate hunting and recreational classifications as well as fishing and recreational classifications. The rule also enables currently licensed hunting and/or fishing guides to pay the $100 exam fee, take a written exam and upgrade their license to include the recreational classification. Please contact the agency contact person for a complete copy of the amended rule.

EFFECTIVE DATE: April 13, 2021

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Email: Becky.Orff@Maine.gov .

IFW WEBSITE: <https://www.maine.gov/ifw/> .

AGENCY: **18-125** - Department of Administrative & Financial Services (DAFS), **Bureau of Revenue Services** (Taxation)

CHAPTER NUMBER AND TITLE: **Ch. 205**, Certification of Assessors *(Repeal and replace)*

ADOPTED RULE NUMBER: **2021-073**

CONCISE SUMMARY: The Bureau has amended the rule to clarify and consistently use the terms “continuing education,” “advanced continuing education,” and “advanced assessor training.” The Bureau also removed the limitation on continuing education credit carryovers, which is rarely used and unnecessary. Other changes were made for clarification.

EFFECTIVE DATE: April 13, 2021

BUREAU CONTACT PERSON / RULEMAKING LIAISON: Alex Weber, General Counsel, Maine Revenue Services, 51 Commerce Drive – 24 State House Station, Augusta, Maine 04330. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov .

BUREAU WEBSITE: <https://www.maine.gov/revenue/> .

DAFS RULEMAKING LIAISON: Anya.Trundy@Maine.gov .

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

CHAPTER NUMBER AND TITLE: **Ch. 5**, Portable Fire Extinguishers

ADOPTED RULE NUMBER: **2021-074**

CONCISE SUMMARY: This adopted rule includes the adoption of NFPA #10, *Standard for Portable Fire Extinguishers*, 2018 edition, to allow for flexibility in the inspection and verification of fire extinguishers within a structure. There are also allowances for installation of additional extinguishers without requiring strict adherence to the standard, providing the protection provided by the additional extinguishers is not required as minimum compliance.

EFFECTIVE DATE: April 17, 2021

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Sr., Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Richard.E.Taylor@Maine.gov .

FMO WEBSITE: <https://www.maine.gov/dps/fmo/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 7** *(Repeal)*, Dry Cleaning Plants

ADOPTED RULE NUMBER: **2021-075**

CONCISE SUMMARY: This rule is repealed because the adoption of the 2018 edition of NFPA #1, *Uniform Fire Code* in ch. 3 has incorporated the subject matter of the State Fire Marshal’s rule ch. 7.

EFFECTIVE DATE: April 17, 2021

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Sr., Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Richard.E.Taylor@Maine.gov .

FMO WEBSITE: <https://www.maine.gov/dps/fmo/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 8** *(Repeal)*, Spray Applications

ADOPTED RULE NUMBER: **2021-076**

CONCISE SUMMARY: This rule is repealed because the adoption of the 2018 edition of NFPA #1, *Uniform Fire Code* in ch. 3 has incorporated the subject matter of the State Fire Marshal’s rule ch. 8.

EFFECTIVE DATE: April 17, 2021

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Sr., Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Richard.E.Taylor@Maine.gov .

FMO WEBSITE: <https://www.maine.gov/dps/fmo/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 9** *(Repeal)*, Dip Tanks

ADOPTED RULE NUMBER: **2021-077**

CONCISE SUMMARY: This rule is repealed because the adoption of the 2018 edition of NFPA #1, *Uniform Fire Code* in ch. 3 has incorporated the subject matter of the State Fire Marshal’s rule ch. 9.

EFFECTIVE DATE: April 17, 2021

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Sr., Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Richard.E.Taylor@Maine.gov .

FMO WEBSITE: <https://www.maine.gov/dps/fmo/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 11** *(Repeal)*, Bulk Oxygen and Hydrogen Systems

ADOPTED RULE NUMBER: **2021-078**

CONCISE SUMMARY: This rule is repealed because the adoption of the 2018 edition of NFPA #1, *Uniform Fire Code* in ch. 3 has incorporated the subject matter of the State Fire Marshal’s rule ch. 11.

EFFECTIVE DATE: April 17, 2021

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Sr., Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Richard.E.Taylor@Maine.gov .

FMO WEBSITE: <https://www.maine.gov/dps/fmo/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 13** *(Repeal)*, Welding, Cutting and Allied Processes and Acetylene Cylinder Charging Plants

ADOPTED RULE NUMBER: **2021-079**

CONCISE SUMMARY: This rule is repealed because the adoption of the 2018 edition of NFPA #1, *Uniform Fire Code* in ch. 3 has incorporated the subject matter of the State Fire Marshal’s rule ch. 13.

EFFECTIVE DATE: April 17, 2021

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Richard E. Taylor, Sr., Planning and Research Analyst, Office of State Fire Marshal, 52 State House Station, Augusta, Maine 04333-0052. Telephone: (207) 626-3873. Email: Richard.E.Taylor@Maine.gov .

FMO WEBSITE: <https://www.maine.gov/dps/fmo/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 50**, Death Benefits for Firefighters Who Die in the Line of Duty

ADOPTED RULE NUMBER: **2021-080**

CONCISE SUMMARY: This rule is brings the death benefit amount in line with the amount set forth in statute 25 MRSA §1612.

EFFECTIVE DATE: April 17, 2021

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