**State of Maine: Notice of Agency Rulemaking – May 19, 2021**

**PROPOSALS**

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

TYPE OF RULE: Routine Technical

CHAPTER NUMBER AND TITLE: **Ch. 301**, Food Supplement Program, **Section FS 777-7**, Administrative Procedures, Electronic Benefit Transfer (EBT): **FS218P**, Updates to Card Replacement and Benefit Use and Expungement

PROPOSED RULE NUMBER: **2021-P074**

BRIEF SUMMARY: A rule change is necessary to remain in compliance with 7 USC Ch. 51 §2016(h)(12)(C) as amended by PL 115-334 §4006 and subsequent amendments to 7 CFR §274.2(i). Each has reduced the threshold for expungement of unused benefits to nine months after issuance or immediately (without notice) if the Department has verified that all household members are deceased. Expungement of benefits for households in which all members are deceased will be implemented upon adoption of this rule. Expungement of benefits for households that must be given notice will be implemented as soon as possible allowing for noticing requirements.

Additionally, the Department proposes to modify this section to reflect the ability of participants to use EBT accounts to purchase approved foods, seeds, and seedlings from online platforms. This contactless purchasing expands access and supports the overall safety and well-being of Food Supplement recipients especially at times when travel may be challenging or impossible, or there is a heightened risk of illness such as a national public health emergency. Initially, Maine will be participating as a demonstration project under 7 USC §2016(k)(4) with the intent of full participation under paragraph 1 of the same.

Changes are also proposed to card replacement. Previously, three replacement cards in a 12-month period were determined “excessive”. The Department proposes to increase that threshold to five cards in a 12-month period consistent with 7 CFR §274.6(b)(5). This increase improves access to benefits for individuals and reduces the administrative burden on the Department and its vendor. This change would be made retroactively to April 23, 2020 to coincide with the expiration of Food and Nutrition Service’s Waiver number 2180009. Retroactive rulemaking is authorized by the Legislature in accordance with 22 MRS §42(8) because this rule would provide a benefit to recipients or beneficiaries and would not have an adverse financial effect on either providers or beneficiaries or recipients.

This rule change proposes to remove any reference to collecting a fee for card replacement consistent with current practice. The cost of implementing a fee collection procedure is anticipated to exceed any savings that would result from such collections. Additionally, references to contacting a local office are proposed to be generalized to contacting the Office for Family Independence (OFI). This proposed change reflects the statewide processing and accessibility of OFI staff and removes a geographic burden for those requesting replacement cards.

Finally, the following stylistic and grammatical changes are proposed to modernize the manual and enhance readability.

**1)** Minor corrections would be made to typographical errors.

**2)** Numbering and lettering of subsections, paragraphs, etc. would be added or standardized as part of an ongoing effort to standardize them not only within this manual but across OFI manuals and facilitate easier citations and cross references.

**3)** Several terms that had been used interchangeably would be consolidated to consistent terms with preference given to terms that are defined within the manual.

**4)** Whole numbers through ten would be represented only by writing out the word. All other figures would be represented, only, in numerical form. This proposed change is part of an Office wide standardization effort to improve the flow of the manual by not representing each figure twice.

**5)** Some sentence modifications are proposed to spell out responsibilities and responsible parties instead of reading like an instruction manual for Department staff.

**6)** Gender specific pronouns would be replaced with gender neutral ones as part of an Office wide effort toward inclusivity.

**7)** Redundant language would be removed where possible to enhance the readability of the manual.

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

PUBLIC HEARING: None scheduled.

COMMENT DEADLINE: June 21, 2021

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 (8)

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

OFI WEBSITE: <https://www.maine.gov/dhhs/ofi> .

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

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

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

AGENCY: **16-642** – Department of Public Safety (DPS), Office of State Fire Marshal (FMO), **Bureau of Building Codes and Standards (Bureau)**

CHAPTER NUMBER AND TITLE: **Ch. 1**, Maine Uniform Building and Energy Code - Administrative Procedures

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P075**

BRIEF SUMMARY: Ch. 1 is an administrative chapter that clarifies who needs to enforce the MUBEC, what codes make up the MUBEC. It also establishes the amendment procedure to the code. The rule contains several critical definitions as required by Statute to clarify the MUBEC. As directed by the legislature this rule makes previously optional standards part of the code and adds one new code.

PUBLIC HEARING: n/a

COMMENT DEADLINE: June 19, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Richard McCarthy, Assistant Fire Marshal, Office of the State Fire Marshal, 52 State House Station, Augusta, ME 04333-0052. Telephone: (207) 626-3886. Email: Richard.McCarthy@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 10 MRS §9722

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

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

BUREAU WEBSITE: <https://www.maine.gov/dps/fmo/building-codes> .

FMO RULEMAKING LIAISON: Richard.E.Taylor@Maine.gov .

AGENCY: **16-642** – Department of Public Safety (DPS), Office of State Fire Marshal (FMO), **Bureau of Building Codes and Standards (Bureau)**

CHAPTER NUMBER AND TITLE: **Ch. 6**, Maine Uniform Building Code and Energy Code - Energy Conservation Code of Maine

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P076**

**BRIEF SUMMARY**: This rule adopts the 2015 edition of the IECC (*International Energy Conservation Code*) as required by Statute. Title 10 §9722(6)b. requires that the Technical Codes and Standards Board adopt the most recent edition or edition prior to the most recent edition of Codes as listed.

**DETAILED SUMMARY**: This rule adopts the 2015 edition of the IECC (*International Energy Conservation Code*) as required by Statute. Title 10 §9722(6)b. requires that the Technical Codes and Standards Board adopts the most recent edition or edition prior to the most recent edition of Codes as listed. As in any code adoption some requirements are increased to provide for more efficient buildings. Some of the main areas of increased requirements are as follows. There is an increase in the insulation required on exterior walls there are several ways to achieve this requirement that are code compliant, there is a new requirement requiring a blower door test to determine the air infiltration of a structure, along with this the requirement for Air exchanges is reduced from 7 ACH to 3 ACH. There is also a requirement to install an outdoor sensor on hot water boilers to adjust water temperature depending on exterior temperature. And there are increased levels of duct insulation and pipe insulation. Depending on the size of the structure and the design approach to gain compliance the estimate for a simple 1600 sf. structure could range from $2500-$5,000.

**PUBLIC HEARING**: n/a

COMMENT DEADLINE: June 19, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Richard McCarthy, Assistant Fire Marshal, Office of the State Fire Marshal, 52 State House Station, Augusta, ME 04333-0052. Telephone: (207) 626-3886. Email: Richard.McCarthy@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 10 MRS §9722

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

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

BUREAU WEBSITE: <https://www.maine.gov/dps/fmo/building-codes> .

FMO RULEMAKING LIAISON: Richard.E.Taylor@Maine.gov .

AGENCY: **02-395** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Plumbers’ Examining Board**

CHAPTER NUMBER AND TITLE: **Ch. 4**, Installation Standards

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P077**

**BRIEF SUMMARY**: The proposed rulemaking would repeal the current ch. 4, *Installation Standards*, and replace with a rule with the same title and in the same location that adopts and establishes installation rules and incorporates by reference into board rule the International Association of Plumbing and Mechanical Officials *Uniform Plumbing Code* (“UPC”), 2021 edition, subject to certain amendments and exclusions.

Go to <https://www.maine.gov/pfr/professionallicensing/professions/plumbers-examining-board> to find the proposed rule and related rulemaking documents.

**DETAILED SUMMARY**:The proposed rule adopts the 2021 UPC with amendments to the following: Chapter 102.8, Appendices; Chapter 104.1, Permits Required; Chapter 104.2, Exempt Work; Chapter 104.3.1 Construction Documents; Chapter 104.5, Permit Fees; Chapter 105.2.6, Reinspections; Chapter 105.3, Testing of Systems; Chapter 218.0, Plumbing System; Chapter 220.0, Roughing-In; Chapter 315.1, Unions; Chapter 422.2, Separate Facilities; Chapter 605.12.2, Solvent Cement Joints; Chapter 705.6.2, Solvent Cement Joints; Chapter 807.3, Domestic Dishwashing Machine; Chapter 901.0 General by adding Chapter 901.4, Future Vents; and Chapter 906.0, Vent Termination.

The proposed rule does not adopt Chapter 104.3.2, Plan Review Fees; Chapter 104.3.3, Time Limitation of Application; Chapter 104.4.3, Expiration; Chapter 104.4.4., Extensions; Table 104.5, Plumbing Permit Fees; Chapter 105.4, Connection to Service Utilities; Chapter 106.3, Penalties; Chapter 107.0, Board of Appeals; Chapter 107.1, General; Chapter 107.2, Limitations of Authority; certain definitions contained in Chapter 203.0, 204.0, 205.0, 206.0, 207.0, 208.0, 209.0, 214.0, 215.0, 216.0, 218.0, 219.0, 221.0, 222.0, 223.0, 224.0 (please visit board website for proposed rule); Chapter 312.12.3, Tub Waste Openings; Chapter 313.7, Gas Piping; Chapter 319.0, Medical Gas and Vacuum Systems; Chapter 319.1, General; Chapter 5, Water Heaters, except for certain sections (please visit board website for proposed rule); Chapter 609.12, Pipe Insulation, including 609.12.1 and 609.12.2; Chapter 612.0, Residential Fire Sprinkler Systems, which includes Chapter 612.1 through 612.7.2 and any tables referenced therein; Chapter 713.5, Permit; Table 721.1, Minimum Horizontal Distance Required from Building Sewer (feet); Chapter 1101.6 Subsoil Drains, which includes Chapters 1101.6.1-1101.6.5; Chapter 1101.7, Building Subdrains; Chapter 1101.8, Areaway Drains; Chapter 1101.9, Window Areaway Drains; Chapter 1101.10 Filling Stations and Motor Vehicle Washing Establishments; Chapter 1101.11, Paved Areas; Chapter 12, Fuel Gas Piping; and Chapter 13, Health Care Facilities and Medical Gas and Medical Vacuum Systems.

**PUBLIC HEARING**: June 7, 2021 - 9:00 am. *If the state of emergency in response to the novel coronavirus disease known as COVID-19 is still in place at the time of the hearing, the hearing will be held through remote access pursuant to 1 MRS §403-A. The information needed to access the hearing remotely will be posted on the Board’s website at:* [*https://www.maine.gov/pfr/professionallicensing/professions/plumbers-examining-board/home/board-meeting-information*](https://www.maine.gov/pfr/professionallicensing/professions/plumbers-examining-board/home/board-meeting-information)*.*

*If the state of emergency no longer exists at the time of the hearing, the hearing will be held at the Office of Professional and Occupational Regulation, 76 Northern Avenue, Gardiner, Maine. The hearing may be continued on additional dates if necessary.* Comments on the proposed rules may be submitted to the Board Administrator no later than 5:00 p.m., Thursday, June 17, 2021 by emailing her at plumbers.board@maine.gov or by mailing your comments to her at Plumbers’ Examining Board, Attn: Catherine M. Carroll, 35 State House Station, Augusta, ME 04333-0035.

COMMENT DEADLINE: June 17, 2021 by 5:00 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON: Catherine M. Carroll, Board Administrator, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8605. TTY users call Maine Relay 711. Email: Catherine.M.Carroll@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §§ 3403-A, 3403-B(1), 3302

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

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

OPOR RULEMAKING LIAISON: Kristin.Racine@Maine.gov .

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

CHAPTER NUMBERS AND TITLES: Hazardous Waste Management Rules, 06-096 CMR Chapters 850 through 858:

**Ch. 850**, Identification of Hazardous Waste

**Ch. 851**, Standards for Generators of Hazardous Waste

**Ch. 852**, Land Disposal Restrictions

**Ch. 853**, Licensing of Transporters of Hazardous Waste

**Ch. 854**, Standards for Hazardous Waste Facilities

**Ch. 855**, Interim Licenses for Hazardous Waste Facilities

**Ch. 856**, Licensing of Hazardous Waste Facilities

**Ch. 857**, Hazardous Waste Manifest Requirements

**Ch. 858**, Universal Waste Rules

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P078** *thru* **P086**

BRIEF SUMMARY: The proposed rule updates are intended to address or incorporate federal standards and updates for: new hazardous waste listings (ch. 850), waste exclusions (ch. 850), drips pads for wood preservative wastes and waste munitions (ch. 851, 854, 855 and 856), land disposal restrictions (ch. 852), hazardous waste air emissions (ch. 851, 854, 855, and 856), landfills, surface impoundments, and incinerators (ch. 854, 855, and 856), hazardous waste manifests, including EPA’s e-Manifest rules (ch. 851 and 857), and import/export of hazardous waste (ch. 851, 853, 857, and 858). The proposed rules also include updating regulatory citations throughout the rules to conform with the Department’s “Legal Citation Standard Operating Procedure”, correcting and/or clarifying some existing provisions, and incorporating consistent language throughout the chapters.

PUBLIC HEARING: No public hearing is scheduled. *There is a 30-day written comment period. A public hearing will be held if the Department receives 5 or more requests before the end of the comment period.*

COMMENT DEADLINE: June 18, 2021 at 5 p.m.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Michael Hudson, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7884. Email: Michael.S.Hudson@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated

STATUTORY AUTHORITY FOR THIS RULE: General statutory authority for the Hazardous Waste Management Rules, ch. 850 through 858 is provided by 38 MRS §§ 341-D(1-C), 341-H, 1304(1), and 1319-O.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: The proposed rule updates generally incorporate by reference the July 1, 2019 version of volume 40 of the *Code of Federal Regulations* (40 CFR), which is the most recent published version.

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 16**, **Hunting**: 16.13, Protocol for Big Game Registration Station & Furbearer Registration Agents

PROPOSED RULE NUMBER: **2021-P087**

BRIEF SUMMARY: The Commissioner of Inland Fisheries and Wildlife is proposing to amend ch. 16 rules to remove the 25¢ tagging fee when furs are tagged by the Department. The proposed change will still allow fur tagging agents to continue charging 25¢ for each furbearer pelt that is tagged. Also being proposed is the removal of the requirement for temporary transportation tags for marten and fisher. Since 2020, temporary transportation tags for marten and fisher are no longer required, and the proposed changes will bring the section language up to date. A complete copy of the proposal may be requested by contacting the Agency Contact Person.

PUBLIC HEARING: Monday, June 7, 2021 @ 4:00 p.m. – via video conference (Microsoft Teams). *Contact the Agency Contact Person by close of business on 6/4/2021 for details.*

COMMENT DEADLINE: June 17, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Fax: (207) 287-6395. Email: Becky.Orff@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §10104

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

IFW WEBSITE: [www.maine.gov/ifw](http://www.maine.gov/ifw) .

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

CHAPTER NUMBER AND TITLE: **Ch. 17**, **Trapping**

PROPOSED RULE NUMBER: **2021-P088**

BRIEF SUMMARY: The Commissioner of Inland Fisheries and Wildlife is proposing to amend ch. 17 trapping rules as follows. As in previous years, the Department is proposing to open or close certain areas to beaver trapping in response to landowner requests. Several minor changes to clarify or simplify existing rules are also being proposed including removing the special fisher trapping season and allowing fisher trapping to occur during the general trapping season statewide, removing the 25¢ tagging fee when Department staff tag fur and removing outdated language for temporary transportation tags for marten and fisher as they are no longer required. A complete copy of the proposed rule may be requested by contacting the Agency Contact Person.

PUBLIC HEARING: Monday, June 7, 2021 @ 4:00 p.m. – via video conference (Microsoft Teams). *Contact the Agency Contact Person by close of business on 6/4/2021 for details.*

COMMENT DEADLINE: June 17, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / IFW RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 284 State Street - 41 State House Station, Augusta, ME 04333. Telephone: (207) 287-5202. Fax: (207) 287-6395. Email: Becky.Orff@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No fiscal impact anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §§ 10104, 12251

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

IFW WEBSITE: [www.maine.gov/ifw](http://www.maine.gov/ifw) .

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

CHAPTER NUMBER AND TITLE: **Ch. 297**, Dental Care Access Credit Program Rule

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P089**

BRIEF SUMMARY: The Maine CDC is proposing to update and clarify requirements for the *Dental Access Credit Program Rule*. These proposed changes include specifying the application-submission deadline, establishing when the applications process ends, outlining the competitive order of receipt process for initial applicants, and extending the certification period for eligible dentists, following the deadline for applications. The Department is also proposing to update responsibilities for certificate holders and further clarify the Department’s notification process of certificate award recipients

PUBLIC HEARING: 30-day comment period, no hearing scheduled.

COMMENT DEADLINE: June 18, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Andrew Hardy, 11 State House Station - 286 Water Street, Augusta, ME 04333. Telephone: (207) 287-4490. Fax: (207) 287-9058. TTY 711 (Maine Relay). Email: Andrew.Hardy@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: No impact anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §5219-DD; 22 MRS §42

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

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

MAINE CDC WEBSITE: <https://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), **Maine Center for Disease Control and Prevention (Maine CDC)**

CHAPTER NUMBER AND TITLE: **Ch. 298**, Rules Governing the Certification Program for Primary Care Tax Credit

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P090**

BRIEF SUMMARY: The Department of Health and Human Services Maine CDC is proposing changes to the *Rules Governing the Certification Program for Primary Care Tax Credit*, in order to update Maine CDC formatting conventions and eliminate any reference to specific tax years.

PUBLIC HEARING: 30-day comment period, no public hearing scheduled.

COMMENT DEADLINE: June 18, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Andrew Hardy, 11 State House Station - 286 Water Street, Augusta, ME 04333. Telephone: (207) 287-4490. Fax: (207) 287-9058. TTY 711 (Maine Relay). Email: Andrew.Hardy@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None is anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 36 MRS §5219-LL; 22 MRS §§ 42, 205

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

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

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

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

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

**ADOPTIONS**

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 FS444-7**, Households with Special Circumstances, Students: **FS219A**, Temporary Student Policy

ADOPTED RULE NUMBER: **2021-093**

CONCISE SUMMARY: This rule implements expanded eligibility for post-secondary students from January 16, 2021 through any certification period begun during the COVID-19 Public Health Emergency (PHE) or within 30 days of the date the COVID-19 PHE is terminated. This temporary expansion of eligibility for students changes the previous restriction on student eligibility for Food Supplement Program benefits. 7 USC §2015(e) and 7 C.R §273.5. As a result, Food Supplement benefits will be available to more individuals.

A rule change is necessary to remain in compliance with *The Consolidated Appropriations Act, 2021* (PL 116-260) Division N, Title VII Nutrition and Agriculture Relief, Subtitle A Nutrition, Section 702(e) which requires that students who are enrolled at least half-time in an institution of higher education and are eligible for work study or with an expected family contribution of $0 are not per se ineligible for Food Supplement Program benefits based on their student status. This expansion of eligibility is effective for any certification period in effect between January 16, 2021 and until 30 days after the COVID-19 Public Health Emergency (PHE) ends.

This rulemaking is distinct from 217A which was effective May 1 2021, though both arise from the same *Consolidated Appropriations Act, 2021*.

The Department implemented these changes on an emergency basis on February 18, 2021 effective January 16, 2020, in Rulemaking No. FS219E. Because the emergency rule is effective for only 90 days, this rulemaking is necessary to make the changes permanent.

The Consolidated Appropriations Act was enacted on December 27, 2020, requiring expanded student eligibility be implemented no later than January 16, 2021. Food and Nutrition Services (FNS) provided the final guidance in a February 2, 2021 memo. Accordingly, the Department is adopting this rule change to apply retroactively, effective January 16, 2021, to Food Supplement eligibility. Retroactive rulemaking is authorized by the Legislature in accordance with 22 MRS §42(8) because this rule provides a benefit to recipients or beneficiaries and does not have an adverse financial effect on either providers or beneficiaries or recipients.

Additionally, the Department regularly reviews rules for readability, consistency, and contemporaniousness. To these ends, the following changes are being made:

**1)** Formatting and enumeration are updated for ease of reference and consistency with other sections of this manual, and other Office for Family Independence manuals;

**2)** The list of exemptions to student ineligibility is reorganized to list them from the easiest to verify and apply to the most cumbersome;

**3)** Incorrect citations are corrected;

**4)** Redundant conjunctions are removed;

**5)** Names of programs are updated or added as needed;

**6)** Gender specific pronouns are replaced with gender neutral ones;

**7)** The Subsection on treatment of income is dramatically reworded to read more like a list of requirements and less like an instruction manual for Department staff, and is updated to minimize redundancies; and

**8)** A detailed example that has caused some confusion about income and expense averaging strategies is removed, and the process for that averaging is consolidated to its own paragraph for emphasis.

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

EFFECTIVE DATE: May 19, 2021

OFI CONTACT PERSON: 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 .

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

OFI WEBSITE: <https://www.maine.gov/dhhs/ofi> .

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

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

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