**State of Maine: Notice of Agency Rulemaking – May 29, 2024 (web)**

**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: 17-387 Maine Pilotage Commission

CHAPTER NUMBER AND TITLE: Chapter 2: Pilotage Rates

TYPE OF RULE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P175

BRIEF SUMMARY: The Maine Pilotage Commission proposes setting pilotage rates that Maine state licensed pilots may charge customers to pilot vessels that transit Maine pilotage waters within the jurisdiction of the Maine Pilotage Commission. The new rates would take effect October 1, 2024. The rule codifies the rates, as authorized by 38 MRSA § 90.

PUBLIC HEARING (if any): June 18, 2024; 10:30 am; Maine DOT Headquarters, 24 Child Street, Augusta, Maine 04330. The public may submit written comments and other information to: Brian Downey via e-mail at brian.downey@marinecs.com.

COMMENT DEADLINE: June 28, 2024, at 10:00 a.m.

CONTACT PERSON FOR THIS FILING: Brian J. Downey; Maine Pilotage Commission; 16 State House Station

Augusta, ME 04333-0016; (207) 899-7123; brian.downey@marinecs.com

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (if different): Same as above.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (if any): This rule is not anticipated to have any financial impact on municipalities or counties.

STATUTORY AUTHORITY FOR THIS RULE: 38 M.R.S.A. § 90 (1) (B).

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): None.

AGENCY WEBSITE: www.mainepilotage.org

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: brian.downey@marinecs.com

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

CHAPTER NUMBER AND TITLE: 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, Chapter II, Section 43, Hospice Services

RULE TYPE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P176

CONCISE SUMMARY: Background: In January 2024, the Department adopted changes to the Ch. II, Section 43 (Hospice Services), which included adding a new provision (Section 43.06-7) adding an Electronic Visit Verification (EVV) requirement for hospice services that are delivered in-home, with a prospective effective date of July 1, 2024 for that EVV requirement.

After the Ch. II Section 43 rule was adopted, the Maine Legislature enacted legislation which provided that the Department may not implement EVV for hospice providers earlier than March 1, 2025, and that rules providing for such EVV requirements are major substantive rules. P.L. 2023, ch. 576 (LD 2055). This Public Law became law without the Governor’s signature on March 27, 2024. The law is codified at 22 M.R.S. Sec. 3174-NNN.

The Department’s rule proposal: In accordance with P.L. 2023 ch. 576, the Department of Health and Human Services (the “Department”) proposes to repeal the Ch. II, Sec. 43.06-7 provision (with the EVV requirement). Because this routine technical rule will likely not be adopted until after July 1, 2024, the Department proposes a retroactive effective date of June 30, 2024 for the repeal of the provision.

The Department shall submit to the Centers for Medicare & Medicaid Services, and anticipates approval, for a State Plan Amendment related to this provision.

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

STATUTORY AUTHORITY: 22 M.R.S. §42 and 42(8); P.L. 2023, ch. 576 (LD 2055).

DATE, TIME, AND PLACE OF PUBLIC HEARING: Monday, June 17, 2024, 1:00 PM EST at 109 Capitol Street, Augusta, Maine 04333. The Department has determined that its public hearing will be hybrid, conducted both in-person and remotely, via Zoom. Zoom meeting link: https://mainestate.zoom.us/j/81239971139; Meeting ID: 812 3997 1139; One Tap Mobile: 1-305-224-1968; Find your local number: https://mainestate.zoom.us/u/kj07AVplS

Some devices may require downloading a free app from Zoom prior to joining the public hearing event. The Department requests that any individual requiring special arrangements to participate in the hearing contact the person listed for this filing 5 days in advance of the hearing. In addition to the public hearing, individuals may submit written comments to DHHS by the date listed in this notice.

DEADLINE FOR COMMENTS: Comments must be received by 11:59 PM on Friday, June 28, 2024.

AGENCY CONTACT PERSON: Julieanna Scott, Comprehensive Health Planner II; Office of MaineCare Services; 109 Capitol Street, 11 State House Station, Augusta, Maine 04333-0011; TELEPHONE: 207-287-2286 FAX: (207) 287-6106; TTY: 711 (Deaf or Hard of Hearing)

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): N/A

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S.A, ch. 855 § 3173

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: emily.a.cathcart@maine.gov

AGENCY: 10-144 Department of Health and Human Services, Maine Center for Disease Control and Prevention

CHAPTER NUMBER AND TITLE: 10-144 CMR Chapter 223, Rules Relating to Tanning Facilities

TYPE OF RULE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P177

BRIEF SUMMARY: Maine CDC is proposing amendments to its Rules Relating to Tanning Facilities that include updating the recent Maine statute (22 MRS § 689-A(2)) to prohibit minors from using a tanning device. These proposed amendments will further protect individuals from the harmful effects of exposure to UV radiation from indoor tanning, by prohibiting minors from using indoor ultraviolet tanning facilities and by requiring other new customer safety additions in Sections 4 and 6 that include further customer consent and notifications, restrictions to exposure-time controls for facility personnel, limitations of tanning-facility use to every 24 hours, requirements for facilities to provide free eye protective wear, and stricter controls to ensure customers are at least 18 years of age. Maine CDC also proposes to update the rule title to “Tanning Facilities Rule”, to align with Maine CDC rule formatting convention and to add a definition for Phototherapy device and Tanning facility, for clarity, as well as update two existing definitions: Tanning equipment and Tanning facility.

DATE, TIME AND LOCATION OF PUBLIC HEARING (if any): 30-day comment period: no public hearing.

A public hearing may be requested by contacting the person identified below for this filing. (5 MRS § 8053(3)(B).)

COMMENT DEADLINE: June 28, 2024

CONTACT PERSON FOR THIS FILING: Andrew Hardy, 11 SHS-286 Water Street, Augusta, ME 04333-0011; Tel: (207) 287-4490; TTY 711; Email: andrew.hardy@maine.gov;

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (if different):

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS § 689-A (10)

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

AGENCY WEBSITE: http://www.maine.gov/dhhs/mecdc/rules/

E-MAIL FOR OVERALL DEPARTMENT RULE-MAKING LIAISON: emily.a.cathcart@maine.gov

AGENCY: 01-683 **­-** Land for Maine’s Future

CHAPTER NUMBER AND TITLE: Chapter 1: DEFINITIONS & Chapter 2: RULES OF PROGRAM ADMINISTRATION

TYPE OF RULE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P178, -P179

BRIEF SUMMARY: The proposed rules are in response to directives in Title 5 M.R.S. Chapter 353 §§6203-A, 6203-B, 6203-C, 6203-E, and 6203-F that grants **are** or **must** be made according to rules adopted by the Board. Chapter 1 of these proposed rules defines common LMF Program terminology, Chapter 2 clarifies and standardizes certain procedures in connection with the issuance of Requests for Proposals; the processing of Proposals received in response to those Requests; the award of funds pursuant to 5 M.R.S. §§ 6203-A, 6203-B, 6203-C, 6203-E, and 6203-F and attendant obligations of recipients; and the delegation of certain authority by the Board to LMF staff.

Date, time and location of PUBLIC HEARING *(if any)*: June 17, 2024, 3 p.m. at 19 Elkins Lane, First Floor Large Conference Room #110C and via Microsoft Teams Platform:  [https://teams.microsoft.com/l/meetup-join/19%3ameeting\_YmViODhjNzctYTlkYi00YTdhLWJhODgtYWVlNDk0MTA0ZTJk%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%22a011899d-1fe9-4e18-8ef3-9e335588ef62%22%7d](https://teams.microsoft.com/l/meetup-join/19%3Ameeting_YmViODhjNzctYTlkYi00YTdhLWJhODgtYWVlNDk0MTA0ZTJk%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%22a011899d-1fe9-4e18-8ef3-9e335588ef62%22%7d)

COMMENT DEADLINE: July 5, 2024, 5 p.m.

CONTACT PERSON FOR THIS FILING: Laura Graham, 19 Elkins Lane, 22 SHS, Augusta, ME 04333-0022, (207) 592-6135,Laura.Graham@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*: same as above. This rulemaking is not anticipated to have any impact on small businesses.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 5 M.R.S. §§6203-A, 6203-B, 6203-C, 6203-E, 6203-F, and 6205

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: None.

AGENCY WEBSITE: <https://www.maine.gov/dacf/lmf/>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Shannon.Ayotte@Maine.gov

AGENCY: 01-672 MAINE LAND USE PLANNING COMMISSION, Department of Agriculture, Conservation & Forestry

CHAPTER NUMBER AND TITLE: Chapter 2, Definitions; Chapter 10, Land Use Districts and Standards

TYPE OF RULE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P180, -P181

BRIEF SUMMARY: Currently, the Land Use Planning Commission has standards for exterior lighting associated with development that requires a permit (Chapter 10, Section 10.25,F,2). There are also standards for lighted signs (Chapter 10, Section 10.27,J). The current standards are 20 years old and are outdated. The proposed rulemaking aims to update the standards to reflect the changes in lighting technology since they were adopted, and to help ensure there are no undue adverse impacts to natural or scenic resources from unnecessary or inappropriate lighting. Specifically, the proposed update would: require lights to be less than or equal to 3,000 Kelvin; require fully shielded light fixtures for lights over 1,800 lumens; address ski areas and outdoor recreation venues; amend the list of exempted activities; require fully shielded and downward directing lighting for externally illuminated signs; and, require a black or dark background for internally illuminated signs. The changes also include clerical edits and minor editing for clarity and conciseness in the included sections.

DATE, TIME AND LOCATION OF PUBLIC HEARING (if any): None

COMMENT DEADLINE: Written comments must be submitted on or prior to Monday, July 15, 2024. Written rebuttal comments must be submitted on or prior to Monday, July 29, 2024.

CONTACT PERSON FOR THIS FILING: Stacy Benjamin, Maine Land Use Planning Commission, 22 State House Station, Augusta, Maine 04333-0022. Telephone: (207) 441-3761. Email: stacy.benjamin@maine.gov.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (if different): Not applicable.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (if any): Not applicable per 12 M.R.S. § 685-A(7-A)(B)

STATUTORY AUTHORITY FOR THIS RULE: 12 M.R.S. §§ 685-A(3); 685-A(7-A); and 685-C(5)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): Not applicable.

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Stacie.r.beyer@maine.gov

AGENCY: 10-144 Department of Health and Human Services, Office for Family Independence

CHAPTER NUMBER AND TITLE: 10-144 C.M.R. Chapter 301 – Supplemental Nutrition Assistance Program (SNAP) Rules; Section 444-12, SNAP Rule #233P – Lottery and Gambling Winnings

RULE TYPE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P182

BRIEF SUMMARY: The proposed rule change would update Section 444-12 based on a legislative change to 22 M.R.S. § 3104(16) made by P.L. 2024, ch. 501. The rulemaking matches recent changes to Maine law. These changes align the state and federal limitations on gambling and lottery winnings for SNAP recipients. This clarifies requirements for recipients and the Department without harming program integrity.

See http://www.maine.gov/dhhs/about/rulemaking for rules and related rulemaking documents.

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S. §§ 42(1); 3104(16)

PUBLIC HEARING: None scheduled.

COMMENT DEADLINE: Monday, July 1, 2024, at 5:00 p.m. ET.

Written public comments may be submitted via the link at https://www.maine.gov/dhhs/about/rulemaking

CONTACT PERSON FOR THIS FILING: Michael Downs, Senior Program Manager – SNAP; Department of Health and Human Services, Office for Family Independence; 109 Capitol Street, Augusta, ME 04330-6841

Phone: (207) 624-4135/Fax: (207) 287-3455; TT Users Call Maine Relay – 711; Micheal.E.Downs@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

AGENCY WEBSITE: https://www.maine.gov/dhhs/ofi

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Emily.A.Cathcart@maine.gov

AGENCY: 10-144 Department of Health and Human Services, Office for Family Independence

CHAPTER NUMBER AND RULE TITLE: 10-144 C.M.R. Ch. 301 – Supplemental Nutrition Assistance Program (SNAP) Rules, Section FS 777-3 Claims and Collections, SNAP 225P – Overpayments during the PHE

RULE TYPE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P183

BRIEF SUMMARY: This rule change would halt collection of SNAP overpayments that resulted from errors originating from March 1, 2020 through May 11, 2023, the end of the Federal Public Health Emergency related to CoViD-19 (the PHE), unless they were the result of an Intentional Program Violation (IPV) on the part of the household. Additional changes are part of an ongoing effort to modernize the chapter and improve its readability. See http://www.maine.gov/dhhs/about/rulemaking for rules and related rulemaking documents.

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S. §§ 42(1) and 3104 and 5 M.R.S. § 8054

PUBLIC HEARING: None scheduled.

COMMENT DEADLINE: Monday, July 1, 2024, at 5:00 p.m. ET.

Written public comments may be submitted via the link at https://www.maine.gov/dhhs/about/rulemaking.

CONTACT PERSON FOR THIS FILING: Michael Downs, Senior Program Manager – SNAP; Department of Health and Human Services, Office for Family Independence; 109 Capitol Street, Augusta, ME 04330-6841; Phone: (207) 624-4135/Fax: (207) 287-3455; TT Users Call Maine Relay – 711; Michael.E.Downs@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

AGENCY WEBSITE: https://www.maine.gov/dhhs/ofi

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Emily.A.Cathcart@maine.gov

AGENCY: 10-144 Department of Health and Human Services, Office for Family Independence

CHAPTER NUMBER AND TITLE: 10-144 C.M.R. Chapter 332; MaineCare Eligibility Manual – Part 8, MaineCare Rule #307P – Medicare Savings Program Income Eligibility Changes

RULE TYPE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P184

BRIEF SUMMARY: The proposed rule changes would increase the Federal Poverty Levels (FPLs) in the MaineCare Eligibility Manual, Part 8, Medicare Savings Program (Buy-In) and are based on a legislative change to 22 M.R.S. § 3174-LLL made by P.L. 2023, ch. 412. Part 8, Section 4.1(I)(B) would increase the FPL to 185% from 150% FPL. Part 8, Section 4.2 would add “The rules in this Section apply through June 30, 2024.”

In addition, Section 4.3(I)(B) would increase the Federal Poverty Level to 250% from 185%. The proposed rule changes would increase access to health insurance. The proposed rule changes would be effective July 1, 2024. Retroactive rulemaking is permissible under 22 M.R.S. § 42(8) as these updates provide a benefit to recipients and applicants. See http://www.maine.gov/dhhs/about/rulemaking for rules and related rulemaking documents.

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S. §§ 42(1) and (8); 3174-G; 3174-FFF and 3174-LLL

PUBLIC HEARING: No public hearing is scheduled.

COMMENT DEADLINE: Monday, July 1, 2024, at 5:00 p.m. ET.

Written public comments may be submitted via the link at https://www.maine.gov/dhhs/about/rulemaking

CONTACT PERSON FOR THIS FILING: Adam Hooper, MaineCare Program Manager; Department of Health and Human Services, Office for Family Independence; 109 Capitol Street, Augusta, ME 04330-6841; Phone: (207) 624-4178/Fax: (207) 287-3455; TT Users Call Maine Relay – 711; Adam.Hooper@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

AGENCY WEBSITE: https://www.maine.gov/dhhs/ofi

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Emily.A.Cathcart@maine.gov

AGENCY: 94-391 State Board of Property Tax Review

CHAPTER NUMBER AND TITLE: Chapter 1 – Rules of Practice and Procedure in Appeals before the State Board of Property Tax Review

TYPE OF RULE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P185

BRIEF SUMMARY: The Board is proposing these amendments to Chapter 1 to update the Board’s rules of practice and procedure to make them consistent with statutory changes; streamline the pre-hearing and hearing process; clarify existing language; correct minor errors; and update outdated language.

Date, time and location of PUBLIC HEARING (if any): None planned. Requests to hold a public hearing by any interested person may be submitted in writing to the identified agency contact person.

COMMENT DEADLINE: Friday, June 28, 2024

CONTACT PERSON FOR THIS FILING: Phil St. Onge, Executive Director, Maine State Board of Property Tax Review; 49 State House Station, 19 Elkins Lane, Augusta ME 04330-004; Phone: 207-592-5074; Email: Phil.St.Onge@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (if different):

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (if any):

STATUTORY AUTHORITY FOR THIS RULE: 36 M.R.S. § 271(2)(C)

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

AGENCY WEBSITE: https://www.maine.gov/dafs/boardproptax

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Phil.St.Onge@maine.gov

AGENCY: 02-288 Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers.

CHAPTER NUMBER AND TITLE: Amend: Chapter 13, Licensure of Landscape Architects

TYPE OF RULE: ROUTINE TECHNICAL

PROPOSED RULE NUMBER: 2024-P186

BRIEF SUMMARY: The rulemaking proposes a repeal and replace of Chapter 13: Licensure of Landscape Architects. Changes to this rule are required as a result of PL 2023, c. 548, An Act to Amend Licensing Requirements for Landscape Architects, effective March 19, 2024. The revised law allows landscape architect exam applicants to apply directly to the Council of Landscape Architectural Registration Boards (CLARB) without first paying a fee to the Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers or completing education and experience requirements. Prior to adoption of PL 548, landscape architect examination candidates were required to meet education and experience requirements to qualify for admission to the exam.

Date, time and location of PUBLIC HEARING (if any): N/A. Pursuant to 5 M.R.S. § 8052(1) and § 8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this filing.

COMMENT DEADLINE: Friday, June 28, 2024 by 5:00 p.m. Comments may be submitted in writing to the contact person for this filing.

CONTACT PERSON FOR THIS FILING: Catherine E. Pendergast, 35 State House Station, Augusta, ME 04333-0035, 207-624-8518, TTY: Maine relay 711, Catherine.Pendergast@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (if different): N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (if any): N/A

STATUTORY AUTHORITY FOR THIS RULE: This proposed rulemaking is authorized by 32 M.R.S. §§ 214(1), 220(2)(B)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): PL 2023, c. 548 (eff. Mar. 19, 2024)

AGENCY WEBSITE: https://www.maine.gov/pfr/professionallicensing/professions/board-of-licensure-architects-landscape-architects-interior-designers

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Kristin.Racine@maine.gov

**ADOPTIONS**

AGENCY: 10-144 Department of Health and Human Services, Office for Family Independence

CHAPTER NUMBER AND TITLE: 10-144 C.M.R. Chapter 332; MaineCare Eligibility Manual, Parts 2, 3, and 8

MaineCare Rule #304A – CHIP Coverage Group Change and Medicare Savings Program Change

ADOPTED RULE NUMBER: 2024-127

CONCISE SUMMARY: The adopted rule removes the asset test for the Medicare Savings Program (MSP) based on a legislative change to 22 M.R.S. § 3174-LLL made by P.L. 2023, ch. 412.

In addition, the Department submitted and received approval from the Center for Medicaid and CHIP Services for a CHIP State Plan Amendment to establish a Health Services Initiative (HSI) to provide comprehensive coverage during the 12-month postpartum period for individuals whose newborns had been eligible as targeted low-income children under the from-conception-to-end-of-pregnancy (FCEP) option. The benefits provided during this postpartum period are identical to the benefits provided to pregnant individuals enrolled in MaineCare. The Department’s recently approved SPA is consistent with Social Security Act § 2105(a)(1)(D)(ii) and 42 C.F.R. § 457.10. The adopted rule changes increase access to health insurance coverage.

The adopted rule amends Part 2, Section 1, Cub Care, to “This program provides coverage for children under the age of 19 within certain income limits and different eligibility rules than Medicaid.”

Part 3, Section 4.2.1 and Section 4.3 are changed to allow Transitional MaineCare (TM) coverage to begin the month after the individual becomes ineligible for MAGI coverage. In addition, the Department proposes to change the examples in these sections to show that the 12 months of TM coverage begins the month after the MAGI coverage closes due to the report of increased earnings or increased alimony.

The adopted rule updates Part 3, Section 2.2(II) and Part 3, Section 4.1.1(IV) with pregnant individual replacing pregnant woman.

The adopted rule amends Part 2, Section 13.1(III) to include “Effective December 1, 2023, pregnant individuals who are found eligible for Children’s Health Insurance Program (CHIP), and enrolled in CHIP while pregnant, under Part 3, Section 2.3(III) are continuously eligible for 12 months beyond the date the pregnancy ends.”

Part 3, Section 2.3(III) is updated to “Effective December 1, 2023, pregnant individuals who are found eligible for the Children’s Health Insurance Program (CHIP), and enrolled in CHIP while pregnant, eligibility from conception to end of pregnancy extends 12 months beyond the month in which the pregnancy ends, regardless of any subsequent changes in household income.” In addition, the adopted rule updates the countable income section to state: “Countable income is equal to or less than 208% FPL.”

Part 8, Section 4 removes the asset test for all Medicare Savings Plan coverage types effective retroactive to January 1, 2024.

Retroactive rulemaking is permissible under 22 M.R.S. § 42(8) as these updates provide a benefit to recipients and applicants.

The Department determined it necessary to make non-substantial changes to the final rule to align the MaineCare Eligibility Manual with legislative changes to 22 M.R.S. §§ 2127 (2 & 6), 3173-K, and 3174-B(3), 3174-G(1B),(D &E), 3174-T, 3174-U, 3174-X(A), 3174-BB(1), 3174-NNN and 24 M.R.S. § 2332-A(2), 24-A MRSA §§ 2844(2) and 2849-B (3, C-1) made by P.L. 2024, Ch. 597, An Act to Correct Language Related to Medicaid Coverage for Children. Throughout the open Parts of this rule, CHIP replaces Cub Care. The final rule is consistent in substance with the rule that was proposed.

An additional non-substantial change was made to Part 2, 13.1, II “It does not apply to those enrolled in Katie Beckett or those receiving coverage under Transitional MaineCare.” The adopted rule removed “enrolled in Katie Beckett or those” as individuals enrolled in Katie Beckett receive 12 months of continuous coverage consistent with Section 1902(e)(12) and 42 C.F.R. § 435.225. Further, Part 3, Section 2.3(III) removed “prenatal care and pregnancy related.” Covered services are detailed in 10-144 C.M.R. CH. 101, § 106-3(B).

This rule will not have an adverse impact on municipalities or small businesses.

See https://www.maine.gov/dhhs/about/rulemaking for rules and related rulemaking documents.

EFFECTIVE DATE: May 26, 2024

AGENCY CONTACT PERSON:

Adam Hooper, Program Manager - MaineCare

Office for Family Independence

Department of Health & Human Services

109 Capitol Street

Augusta, ME 04333

Phone: (207)624-4178/ Fax: (207)287-3455

TT Users Call Maine Relay – 711

Adam.Hooper@maine.gov