**State of Maine: Notice of Agency Rulemaking – June 12, 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: 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 4 and 5

MC Rule #303P – Household Income Standard for Children and CHIP Changes

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: 2024-P189

BRIEF SUMMARY: The purpose of this rule is to increase the Federal Poverty Level (FPL) to 300% for all children. and would align the MaineCare Eligibility Manual with a legislative change to 22 M.R.S. § 3174-G(B) made by P.L. 2024 ch. 597, §5. The proposed rule changes would increase access to health insurance coverage.

Part 4, Section 4(B, D and E) would update the Federal Poverty Limit (FPL) for children under age 21 to 300% of the FPL from 208% of the FPL effective retroactive to October 1, 2023 and consistent with Maine’s State Plan Amendment approved by the Center for Medicaid and CHIP Services. In addition, the Department proposes to remove language from D and E that indicates uninsured children, with income between a certain FPL, may be covered under CHIP. Further, CHIP replaces Cub Care throughout the affected rule Parts.

Part 4, Section 1, Family Definition would make the following changes:

1) “individual” would replace “woman”

2) “one individual” would replace “herself” and “1 person”

3) “they are” would replace “she is”

CHIP would replace Cub Care throughout the open parts of this rule consistent with legislative changes to 22 M.R.S. §§ 3173-G, 3173-NNN and 3174-T made by P.L. 2024, Ch. 597, An Act to Correct Language Related to Medicaid Coverage for Children.

In order to comply with Medicaid rules at 42 C.F.R. § 433.147, Part 5, Section 3 would remove “There is no requirement to refer the non-custodial parent without health insurance to the Division of Support Enforcement and Recovery (DSER).”

Part 5, Section 6, Income Standard would increase the household income for all children from 208% of the FPL to 300% of the FPL effective retroactive to October 1, 2023.

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); 3173-G; 3173-NNN; and 3174-T

PUBLIC HEARING: No public hearing is scheduled.

COMMENT DEADLINE: Monday, July 15, 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

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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: 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 16

MC Rule #306P – Mortuary Trust Allowance Changes

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: 2024-P190

BRIEF SUMMARY: The proposed rule changes would update the MaineCare Eligibility Manual, Part 16, Section 4.6 consistent with amendments made by Resolves 2023, Ch. 34, Resolve to Update Allowable Limits on Mortuary Trusts for the Purposes of MaineCare Eligibility.

The proposed rule change would update Section 4.6(A)(2) to “Prepaid burial contracts (mortuary trusts) established on or after March 1, 2006 but prior to April 1, 2024 are excluded as long as either the contract is less than or equal to the statewide average for burial and funeral costs of $12,000. If the contract is for more than $12,000 then the estate of the Medicaid recipient must be named the beneficiary of any funds remaining after payment of funeral and burial charges.”

The proposed rule would add Section 4.6(A)(3) as “Prepaid burial contracts (mortuary trusts) established on or after April 1, 2024, that are irrevocable, are excluded so long as either the contract is less than or equal to the statewide average for burial and funeral costs of $18,000. If the contract is for more than the excluded amount, then the estate of the Medicaid recipient must be named the beneficiary of any funds remaining after payment of funeral and burial charges. Effective January 1, 2025, the excluded contract amount will increase annually, by the same percentage as the percentage increase of the Consumer Price Index for the preceding year. The Consumer Price Index is updated periodically in the Federal Register by the U.S. Department of Labor under the authority of 49 U.S.C. § 33105(c). The Consumer Price Index is found at https://www.bls.gov/cpi. To calculate the increased excluded contract amount, the Department shall multiply the current excluded amount by the percentage increase of the Consumer Price Index, for the preceding year, and then add that amount to the current excluded contract amount, with effective dates of January 1, and posted online at https://www.maine.gov/dhhs/ofi/programs-services/health-care-assistance.

The proposed rule changes are effective retroactive to April 1, 2024. Retroactive rulemaking is permissible under 22 M.R.S. § 42(8) as the updates provide a benefit to recipients and applicants.

In addition, the proposed rule would correct a typographical error in Section 4.25 to “For settlements associated with the replacement of an excluded asset, see Section 4.43 of this Part.”

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); 3173; 3174-AA

PUBLIC HEARING: No public hearing is scheduled.

COMMENT DEADLINE: Monday, July 15, 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

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Augusta, ME 04330-6841

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

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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: 18-691 – Office of Cannabis Policy, Department of Administrative and Financial Services**

CHAPTER NUMBER AND TITLE: Ch. 5 - Rules for the Certification of Cannabis Testing Facilities

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: 2024-P191

BRIEF SUMMARY: This rulemaking incorporates guidance previously issued by OCP regarding the process by which cannabis testing facilities report equipment failures to OCP and Maine CDC and the conduct of testing during those periods of equipment downtime, as well providing requirements applicable to “demonstrations of capability” by testing facility licensees, adding a requirement that microbial analyses that use plating methods use a plate reader to read all plates, clarifying sample homogenization requirements, clarifying circumstances when a cannabis testing facility can retest samples of cannabis or cannabis products that had previously failed mandatory testing, updating all cross references to reflect references to statute and the rules governing the adult use cannabis program necessitated by legislative changes to Title 28-B, ch. 1, and reformatting the rule to reflect the Secretary of State’s required rule format.

PUBLIC HEARING (if any): July 2, 2024; 10:00 a.m.; Office of Cannabis Policy, 19 Union Street., Augusta, Maine, 3rd Floor, Room 324.

COMMENT DEADLINE: Sunday, July 14, 2024 at 11:59 p.m.

CONTACT PERSON FOR THIS FILING (include name, mailing address, telephone, fax, TTY, email): Gabi Pierce; Office of Cannabis Policy, 162 State House Station, Augusta, ME 04333; Phone: (207) 530-0507; Fax: (207) 287-2671; gabi.pierce@maine.gov.

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

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

STATUTORY AUTHORITY FOR THIS RULE: Title 28-B, Chapter 1 (Cannabis Legalization Act), 22 MRS § 569

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

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

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: anya.trundy@maine.gov

**ADOPTIONS**

**AGENCY: 09-137 – Inland Fisheries and Wildlife**

CHAPTER NUMBER AND TITLE: Chapter 16.08 – Moose Hunting (depredation hunt)

ADOPTED RULE NUMBER: 2024-141

CONCISE SUMMARY: The Department of Inland Fisheries and Wildlife has amended Chapter 16 rules as they apply to the Depredation Hunt for moose. Depredation hunt locations were limited to ten (10) towns listed in the rule. Extending the locations to WMDs 3 and 6 will provide greater flexibility and increased ability to respond to immediate crop depredation by moose where it is happening outside the towns that were previously established in rule. Please contact the agency contact person for a complete copy of the rule.

EFFECTIVE DATE: Monday, June 10, 2024

AGENCY CONTACT PERSON: Becky Orff

AGENCY NAME: Inland Fisheries and Wildlife

ADDRESS: 353 Water Street, 41 SHS, Augusta, ME 04333

TELEPHONE: 207-287-5202