**State of Maine: Notice of Agency Rulemaking – July 20, 2022**

**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 (DHHS), **Office of MaineCare Services (OMS) - Division of Policy**

CHAPTER NUMBER AND TITLE: **Ch. 101,** MaineCare Benefits Manual (MBM): **Ch. II Section 25,** Dental Services *(repeal)*; **Ch. III** **Section 25,** Allowances for Dental Services *(repeal)*; **Ch. II Section 25,** Dental Services and Reimbursement Methodology *(new - this rule replaces the two repealed rules)*

PROPOSED RULE NUMBERS: **2022-P122, P123**

CONCISE SUMMARY: This rulemaking proposes to repeal Ch. II and Ch. III Section 25, and replace them with a new Ch. II Section 25 rule. On July 1, 2022, the Department implemented these changes via emergency rulemaking, pursuant to PL 2021 Ch. 398 (eff. July 1, 2021), Section A-17 (the “Budget”), Part CCC Section CCC-1, Part GGGG, and Section GGGG-1. Following notice and comment on the proposed routine technical rule, the Department shall permanently adopt the new Ch. II Section 25.

Between August 2021 and May 2022, the Department met with the dental subcommittee of the MaineCare Advisory Committee (“MAC”) ten times and with the full MAC once. The Department also held two stakeholder forums to receive input on the benefit design and reimbursement methodology. Stakeholders included MaineCare dental providers and various oral health advocates, including representatives from Maine Equal Justice, Maine Primary Care Association, and Children’s Oral Health Network of Maine. This rule incorporates recommendations from this stakeholder engagement, invests $45 million to increase rates and expand the adult dental benefit, as well as fully integrates the children and adult benefits and rates into a single rule. The proposed rule adds a comprehensive array of dental services for adult members, per 22 MRS §3174-F(1).

Additionally, this proposed rule implements the recommendations from the Department’s Comprehensive Rate System Evaluation, conducted by the firm Myers and Stauffer. The new Section 25 dental reimbursement rates will be posted on a website, and those rates will be set based on either the “Commercial Median Benchmark” or the “All-States Medicaid Average Benchmark,” as defined by the proposed rule. The dental code benchmarks shall undergo updates every two years, per the methodology included in the proposed rule. Since April 11, 2022, the Department has conferred multiple times with providers and the MAC regarding this new reimbursement methodology.

The differences between the proposed rule and the former Ch. II and III Section 25, rules include the following:

**1. Section 25.06 (Reimbursement Methodology). The rule replaces specified rates with a reimbursement methodology.** Whereas the former Ch. II Section 25, rule stated rates would be the amount listed in Ch. III Section 25, the proposed rule implements a reimbursement methodology that increases overall reimbursement consistent with recommendations from the comprehensive rate setting evaluation.

The reimbursement methodology sets rates for diagnostic, endodontic, periodontic, and preventive services based on 67% of the Commercial Median Benchmark or 133% of the Medicaid State Average Benchmark, if the Commercial Median Benchmark rate is unavailable or unreliable.

The reimbursement methodology sets rates for adjunctive, oral and maxillofacial surgery, orthodontics, prosthodontics, and restorative services based on 50% of the Commercial Median Benchmark or 100% of the Medicaid State Average Benchmark if the Commercial Median Benchmark rate is unavailable or unreliable.

**2. In addition, the rule eliminates inconsistent payment for services billed as medical versus dental services.** To ensure that there is not a rate disparity between CDT and CPT codes that represent the same service, the proposed rule removes coverage of some oral and maxillofacial surgery and maxillofacial prosthetic services so that they are solely covered under Section 90, “Physician Services”. The Department removes services from the proposed rule that have a CPT code equivalent, that are medical in nature, and are primarily delivered by oral surgeons who already bill the services under Section 90, “Physician Services”.

**3. Replaces emergency-only adult dental coverage with comprehensive adult dental coverage.** To implement the new comprehensive adult dental benefit, the proposed rule adds coverage for adults for diagnostic, preventive, restorative, endodontic, periodontic, prosthodontic, oral and maxillofacial surgery, and adjunctive services. To enable this comprehensive adult coverage, the proposed rule removes the Section 25.04 requirement that adult dental care be limited to acute surgical care directly related to an accident; oral medical procedures not involving the dentition and gingiva; extraction of teeth that are severely decayed and pose a serious threat of infection during cardiovascular surgery; or treatment necessary to relive pain, eliminate infection, or prevent imminent tooth loss.

**4. Replaces separate adult and child coverage provisions with a single covered services description generally applicable to all members.** As a result of removing the restrictions on adult dental coverage, the proposed rule contains one “Covered Services” provision, which includes the services, limits, and other requirements for all members, regardless of age, unless otherwise specified. Some services will continue to be age-limited, and they are noted as such in the rule.

**5. In addition to adding broad coverage for adult dental services, the proposed rule adds or increases coverage for many existing services, including the following:**

 **a.** Comprehensive periodontal evaluations

 **b.** Counseling for the control and prevention of adverse oral, behavioral, and systemic health effects associated with high-risk substance use

 **c.** Removable unilateral space maintainers

 **d.** Multiple types of crowns

 **e.** Prefabricated crowns

 **f.** Apicoectomies

 **g.** Immediate partial dentures

 **h.** Complete denture repairs

 **i.** Partial denture relines

 **j.** Multiple types of pontics and prosthodontic retainers

 **k.** Re-cement or re-bond and repairs of fixed partial dentures

 **l.** Dental case management

 **m**. Single bitewings

 **n.** Panoramic radiographs

 **o.** Topical fluoride

 **p.** Denture adjustments

**6. Aligns limits and prior authorization requirements with other state Medicaid agencies, commercial payers, and stakeholder recommendations**. Because of the limited scope of the adult dental benefit in the current rule, the proposed rule makes changes to align the covered services and limits with typical comprehensive dental coverage. Specifically:

 **a.** The proposed rule removes the requirement that adults have a qualifying medical condition to receive removable prosthodontics (dentures).

 **b.** The proposed rule establishes medically appropriate limitations where none previously existed, based on recommendations from clinical consultation and alignment with other comprehensive dental coverage (commercial payers and other Medicaid agencies).

 **c.** The proposed rule adds and removes prior authorizations to align with other payors and based on recommendations from clinical consultation. Additionally, the proposed rule adds certain prior authorization requirements that were not in the emergency Section 25 rule: Section 25.03-3(B) (Crowns); 25.03-5(E) (periodontal scaling and root planning); and 25.03-9(A) (sedation for members 21 and over). There was not clear consensus from pre-rulemaking consultation with stakeholders and Department clinical resources on whether these services should require PA and including the PA requirements in the proposed rule allows for further public comment and Department deliberation to determine whether to adopt the requirements in the final rule.

 **d.** The proposed rule removes the “more than once every 150 days” requirement for detailed and extensive and periodic oral evaluations and prophylaxis treatments.

**7. Removes unnecessary and overly detailed provisions**. The proposed rule removes the following from the rule:

 **a.** Unnecessary and unused definitions.

 **b.** Reference to coverage for members residing in an “Intermediate Care Facility for Persons with Mental Retardation (ICF-IID)” because these members will now receive the services covered for members 21 and over (adults).

 **c.** Requirements that address the covered services certain provider types can provide under their scope of practices because providers’ scope of practices are already defined in 32 MRS Ch. 147.

 **d.** Prescriptive descriptions of services that are overly detailed for the rule.

 **e.** Section 25.03-9, Temporomandibular Joint Services, because it is not clear what specific services this provision encompasses and because services that are related to the temporomandibular joint are listed in the new covered services Section.

 **f.** Section 25.06-1, Member’s Records, because Ch. I Section 1.03-8(M) and Board rule 02-313 CMR Chapter 12 both contain member/patient record requirements.

 **g.** Section 25.06-2, The Division of Program Integrity, because it only refers providers to Ch. I, which already applies to all providers.

 **h.** Requirements and instructions in Section 25.06-3, Prior Authorization of Dental Services, because they either exist in Ch. I of the MBM or in MaineCare’s Prior Authorization Manual on the HealthPAS Portal.

 **i.** Section 25.06-5, Case Management, because it describes standard health care provider practices and because the proposed rule adds coverage for a dental case management service.

 **j.** Sections 25.07-4, Denturist Services, and 25.07-5, Dental Hygienist Services, because it is unnecessary to include the services that these providers can deliver under their scopes of practice, which are defined in 32 MRS Ch. 147. Section 25.07-5 also includes outdated guidance.

 **k.** Section 25.07-6, Independent Practice Dental Hygienist (IPDH) Services, because IPDHs must comply with their scope of practice, as defined in 32 MRS Ch. 143 §18375, and it is redundant to list services that IPDHs can deliver in rule. In addition, the requirements for IPDHs delivering temporary fillings no longer have a basis in Board rules and have been a roadblock to delivering this service. The requirements for processing and exposing radiographs are also no longer in effect.

 **l.** The appendix because the forms either exist on the HealthPAS Portal or will no longer be required.

The Department shall seek approval from the Centers for Medicare and Medicaid Services (CMS) of state plan amendments (SPAs) for the changes in this rulemaking. In addition, on June 29, 2022, the Department published a notice of change in reimbursement methodology pursuant to 42 CFR §447.205.

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

PUBLIC HEARING: 1:00pm; Monday, August 8, 2022*Due to the ongoing threat posed by COVID-19, DHHS has determined that its public hearing will be conducted solely remotely, via Zoom. This is in accordance with the DHHS Remote Rulemaking Hearings Policy issued September 10th, 2021.*

(Link to Remote Hearings Policy: <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/9%209%2021%20Remote%20Rulemaking%20Hearings%20Policy.pdf>)

Zoom Meeting link: <https://mainestate.zoom.us/j/88309744257>)

Meeting ID: 883 0974 4257

*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.*

COMMENT DEADLINE: Comments must be received by 11:59 p.m. on August 18, 2022.

OMS CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION:Henry Eckerson, Comprehensive Health Planner II, MaineCare Services, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4085. Fax: (207) 287-6106. TTY: 711 (Deaf or Hard of Hearing). Email: Henry.Eckerson@Maine.gov.

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

STATUTORY AUTHORITY:22 MRS §§ 42, 3173; PL 2021 Ch. 39, Section A-17 Part CCC and Part GGGG

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

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

OMS RULEMAKING LIAISON: Jennifer.Patterson@Maine.gov.

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

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

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 509**, Determination of Impossibility to Perform the Duties of the Employment Position

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P124**

BRIEF SUMMARY: This rule specifies the standard and definitions to be applied under 5 MRS §§ 17921 and 18521 in determining whether a disability applicant is unable to perform the essential functions of the employment position with reasonable accommodation. The proposed amendments incorporate the provisions of PL 2021 c. 277 that change the standard that must be met in order for an applicant to be found eligible for disability retirement benefits. The proposed rule also makes non-substantive changes and removes obsolete language.

PUBLIC HEARING: August 11, 2022 - 10:45 a.m., Maine Public Employees Retirement System, 139 Capitol Street, Augusta, Maine

COMMENT DEADLINE: August 22, 2022

EMAIL FOR PUBLIC TO SUBMIT COMMENTS: rulemaking@mainepers.org.

CONTACT PERSON FOR THIS FILING/ SMALL BUSINESS IMPACT INFORMATION / MainePERS RULEMAKING LIAISON: Kathy J. Morin, Director, Actuarial and Legislative Affairs, Maine Public Employees Retirement System, P.O. Box 349, Augusta, ME 04332-0349. Telephone: 1 (800) 451-9800 or (207) 512-3190. Email: Kathy.Morin@mainepers.org.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §§ 17103(4), 17921, 18521

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

AGENCY WEBSITE: <https://www.mainepers.org/>.

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 702,** Appeals of Decisions of the Executive Director

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P125**

BRIEF SUMMARY: This rule sets out the process for appeals of decisions of the Chief Executive Officer to the Board of Trustees. It provides for the appointment of a hearing officer to conduct an appeal and to prepare a recommended decision for action by the Board. The proposed amendments incorporate the provisions of PL 2021 c. 277 that: (1) include a mechanism for the appellant to participate in selection of the hearing officer, and (2) provide a process for a successful appellant to receive attorney’s fees. The proposed changes also incorporate the title change from Executive Director to Chief Executive Officer and remove obsolete language.

PUBLIC HEARING: August 11, 2022 - 10:45 a.m., Maine Public Employees Retirement System, 139 Capitol Street, Augusta, Maine

COMMENT DEADLINE: August 22, 2022

EMAIL FOR PUBLIC TO SUBMIT COMMENTS: rulemaking@mainepers.org.

CONTACT PERSON FOR THIS FILING/ SMALL BUSINESS IMPACT INFORMATION / MainePERS RULEMAKING LIAISON: Kathy J. Morin, Director, Actuarial and Legislative Affairs, Maine Public Employees Retirement System, P.O. Box 349, Augusta, ME 04332-0349. Telephone: 1 (800) 451-9800 or (207) 512-3190. Email: Kathy.Morin@mainepers.org.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §§ 9051-9064, 17103(4), 17106(A), 17106(B), 17451

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

AGENCY WEBSITE: <https://www.mainepers.org/>.

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 16**, Hunting: **16.07**, Deer Hunting (Antlerless Deer Permit Allocations and Expanded Archery Areas)

ADOPTED RULE NUMBER: **2022-127**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife has adopted antlerless deer permit (ADP) numbers for the 2022 deer hunting seasons and special muzzle-loading season by setting specific permit allocations by Wildlife Management District (WMD) or deer management subunit and also clarifying where antlerless harvest without a permit during the youth day and regular archery and crossbow deer hunting seasons will occur. The rule also includes language to better describe the expanded archery season including information on allowable weapons and required permits. These changes will not affect how the season will function but add clarification. Two additions to the expanded archery areas include land area impacting the towns of North Yarmouth and Yarmouth as well as the coastal islands of WMD 27. A complete copy of the rule may be requested by contacting the Agency Contact Person.

EFFECTIVE DATE: August 8, 2022

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water 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. 16**, Hunting: **16.06(1.E.)**, Hunting (Submission of Teeth)

ADOPTED RULE NUMBER: **2022-128**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife has amended Ch. 16 rules to adjust the information required during mandatory submission of teeth for bobcat at the time of registration. Each tooth will be labeled with species, sex, and seal number; a change from existing labeling requirements of: month and year, sex, species, method of take (trap or hunt), and town of kill. This change will reduce the amount of information required on the label while adding seal number as a means of linking all biological data collected on each animal. A copy of the complete rule can be requested from the Agency Contact Person.

EFFECTIVE DATE: July 16, 2022

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water 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. 17**, Trapping

ADOPTED RULE NUMBER: **2022-129**

CONCISE SUMMARY: The Commissioner of Inland Fisheries and Wildlife has amended Ch.17 rules to adjust the information required during mandatory submission of teeth for bobcat, marten, fisher, and river otter at the time of registration. Each bobcat tooth will be labeled with species, sex, and seal number; a change from previous labeling requirements which included month, year, sex, species, method of take (trapped/hunted), and town of kill. This change reduces the amount of information required on the label while adding seal number as a means of linking all biological data collected on each animal. The rule also clarifies that the entire lower jaw or canine tooth is acceptable for marten, fisher, and otter. Also included are annual adjustments to the areas where beaver trapping is opened or prohibited and additional changes to beaver and muskrat trapping regulations to simplify rules for trap placement during beaver and muskrat trapping seasons. A standard 5 ft. setback distance is required for trapping near beaver houses and dams, near muskrat houses, and near another trapper’s beaver traps. A copy of the rule can be requested from the Agency Contact Person.

EFFECTIVE DATE: July 16, 2022

IFW CONTACT PERSON / RULEMAKING LIAISON: Becky Orff, Inland Fisheries and Wildlife, 353 Water 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: **12-181** - Department of Labor (DOL), **Maine Apprenticeship Program**

CHAPTER NUMBER AND TITLE: **Ch. 1**, Rules Relating to Labor Standards for Registration of Apprenticeship Programs

ADOPTED RULE NUMBER: **2022-130**

BRIEF SUMMARY: The purpose of this chapter is to update the standards for approval and registration of apprenticeships by the Maine Apprenticeship Program to conform with Title 26 Ch. 37.

EFFECTIVE DATE: July 19, 2022

AGENCY CONTACT PERSON / 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.

PROGRAM WEBSITE: <https://www.maine.gov/labor/jobs_training/apprenticeship/>.

AGENCY: **12-181** - Department of Labor (DOL), **Maine Apprenticeship Program**

CHAPTER NUMBER AND TITLE: **Ch. 2**, Rules Pertaining to Equal Opportunity for Employment in Registered Apprenticeship Programs in the State of Maine

ADOPTED RULE NUMBER: **2022-131**

BRIEF SUMMARY: The purpose of this chapter is to promote equality of opportunity and affirmative action in apprenticeship programs.

EFFECTIVE DATE: July 19, 2022

AGENCY CONTACT PERSON / 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.

PROGRAM WEBSITE: <https://www.maine.gov/labor/jobs_training/apprenticeship/>.

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

CHAPTER NUMBER AND TITLE: **Ch. 21**, Immunization Requirements for EMS Personnel

ADOPTED RULE NUMBER: **2022-132**

CONCISE SUMMARY: Chapter 21 is a new chapter to be added to the Maine EMS Rules. No Entity may permit a Covered Emergency Medical Services Person to provide Direct Patient Care as defined by the rule without a Certificate of Immunization, or documentation of an Exemption pertaining to the Diseases enumerated in the Chapter. New employees must have begun the COVID-19 series, or have an approved medical exemption, prior to employment, and will have three months to come into compliance with the remaining immunizations identified in this rule. Required vaccines include influenza, and COVID-19.

EFFECTIVE DATE: August 7, 2022

EMS CONTACT PERSON / RULEMAKING LIAISON: Jason A. Oko, Maine Emergency Medical Services, 152 State House Station, Augusta, ME 04333. Telephone: (207) 626-3863. Email: Jason.A.Oko@Maine.gov.

AGENCY: **65-407 – Maine Public Utilities Commission (MPUC)**

CHAPTER NUMBER AND TITLE: **Ch. 305**, Licensing Requirements, Annual Reporting, Enforcement and Consumer Protection Provisions for Competitive Provision of Electricity

ADOPTED RULE NUMBER: **2022-133**

CONCISE SUMMARY: The Public Utilities Commission adopts amendments to Ch. 305 of its rules, which governs the licensing requirements, annual reporting, enforcement, and consumer protection provisions for the competitive provision of electricity. The amended rule conforms Ch. 305 to recent legislative changes regarding competitive electricity providers (CEPs), the door-to-door marketing of retail energy supply, and the registration of third-party sales agents. The Commission also adopts amendments to improve customer protection standards regarding the marketing practices of CEPs, to provide consistency and clarity, and to reflect the current electronic filing practices of the Commission.

EFFECTIVE DATE: July 13, 2022

MPUC CONTACT PERSON / RULEMAKING LIAISON: Jamie Waterbury, Maine Public Utilities Commission, 18 State House Station, Augusta, Maine 04333. Telephone: (207) 287-1360. Email: Jamie.A.Waterbury@Maine.gov.

MPUC WEBSITE: <https://www.maine.gov/mpuc/>.

AGENCY: **99-346 - Maine State Housing Authority (MaineHousing)**

CHAPTER NUMBER AND TITLE: **Ch. 16**, Low-Income Housing Tax Credit Rule

ADOPTED RULE NUMBER: **2022-134**

CONCISE SUMMARY: The rule, as repealed and replaced, is the qualified allocation plan for allocating and administering the federal low-income housing tax credit in the State of Maine, including without limitation the State’s housing credit ceiling for calendar years 2023 and 2024, as required pursuant to Section 42 of the *Internal Revenue Code*. The rule repeals and replaces the current Ch. 16, *Low-Income Housing Tax Credit Rule,* regarding the allocating and administering of the credit for calendar years 2021 and 2022.

EFFECTIVE DATE: July 13, 2022

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Ashley Janotta, Chief Counsel, Maine State Housing Authority, 26 Edison Drive, Augusta, Maine, 04330-6046. Telephone: (207) 626-4600 or 711 (Maine Relay). Email: AJanotta@MaineHousing.org.

WEBSITE: <https://www.mainehousing.org/>.

AGENCY: **99-346 - Maine State Housing Authority (MaineHousing)**

CHAPTER NUMBER AND TITLE: **Ch. 24**, Home Energy Assistance Program Rule

ADOPTED RULE NUMBER: **2022-135**

CONCISE SUMMARY: This replacement rule repeals and replaces in its entirety the current *Home Energy Assistance Program Rule*. The rule establishes standards for administering fuel assistance, emergency fuel assistance, TANF Supplemental Benefits, weatherization, heat pumps, and heating system repair and replacement funds to low-income households in the State of Maine. This replacement rule: allows for categorical income eligibility for Households receiving TANF or SNAP assistance; expands the time period in which eligible medical expenses can be deducted for income determination; allows for HEAP categorical eligibility for Weatherization, CHIP and Heat Pump programming; and permits TANF Supplemental Benefits to be sent to HEAP Vendors pre-delivery in the same manner as regular HEAP Benefits. Other changes correct errors or provide clarification to the previous version of the rule.

EFFECTIVE DATE: July 13, 2022

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Ashley Janotta, Chief Counsel, Maine State Housing Authority, 26 Edison Drive, Augusta, Maine, 04330-6046. Telephone: (207) 626-4600 or 711 (Maine Relay). Email: AJanotta@MaineHousing.org.

WEBSITE: <https://www.mainehousing.org/>.

AGENCY: **99-346 - Maine State Housing Authority (MaineHousing)**

CHAPTER NUMBER AND TITLE: **Ch. 35**, State Low Income Housing Tax Credit Rule

ADOPTED RULE NUMBER: **2022-136**

CONCISE SUMMARY: This rule repeals and replaces in its entirety the current *State Low Income Housing Tax Credit Rule*, which provides for the allocation and administration of the state’s refundable credit for the development and preservation of certain affordable multifamily rental housing in Maine. The law establishing the credit requires MaineHousing to recapture credit for noncompliance and provides for a lien to enforce repayment of recapture. This replacement rule adds procedures for determining what constitutes noncompliance that causes recapture and when recapture is calculated and collected. The new procedures limit recapture to material noncompliance that is not corrected within a reasonable period of time and, except in cases of severe or repeated noncompliance, will defer recapture to the end of the 15-year compliance period and limit recapture to the period of noncompliance to maintain the affordability of the projects, particularly the very low-income units, to the greatest extent possible during the compliance period and to minimize the financial impact on the projects.

EFFECTIVE DATE: July 13, 2022

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Ashley Janotta, Chief Counsel, Maine State Housing Authority, 26 Edison Drive, Augusta, Maine, 04330-6046. Telephone: (207) 626-4600 or 711 (Maine Relay). Email: AJanotta@MaineHousing.org.

WEBSITE: <https://www.mainehousing.org/>.

AGENCY: **94-411 - Maine Public Employees Retirement System (MainePERS)**

CHAPTER NUMBER AND TITLE: **Ch. 803**, Participating Local District Consolidated Retirement Plan

ADOPTED RULE NUMBER: **2022-137**

CONCISE SUMMARY: This rule governs the Consolidated Plan for Participating Local Districts. Under the current rule, cost-of-living adjustments to eligible retirees are capped at 2.5%. The amendments to the rule set the cost-of-living adjustment for the period September 1, 2021 to August 31, 2022, to 3.5%. The amendments also remove obsolete language and correct cross-references.

EFFECTIVE DATE: July 23, 2022

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Kathy Morin, Maine Public Employees Retirement System, P.O. Box 349, Augusta, Maine 04332-0349. Telephone:1 (800) 451-9800 or (207) 512-3108. Email: Kathy.Morin@MainePERS.org.

MainePERS WEBSITE: <https://www.mainepers.org/>.