**State of Maine: Notice of Agency Rulemaking – July 21, 2021**

**PROPOSALS**

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

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

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P123**

BRIEF SUMMARY: This rule governs the Consolidated Plan for Participating Local Districts. Under the current rule, participating local district employees with optional membership who decline or terminate membership are not permitted to join or rejoin The Plan. The proposed amendments incorporate the provisions of newly enacted public laws ch. 90 and 286, which extend additional membership opportunities under specific circumstances. The proposed amendments also clarify the effective date of participation agreements entered into by local districts; exclude workers compensation earnings from wages subject to the return to work contribution payment; remove obsolete language; and correct a cross-reference.

PUBLIC HEARING: None

COMMENT DEADLINE: August 20, 2021, 5:00 p.m. EDT

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

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MAINEPERS RULEMAKING LIAISON: Kathy J. Morin, Manager, 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)

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 331**, Public Assistance Manual (TANF): **Introduction and General Definitions**; **Ch. I**, Eligibility Process; **Ch. V**, Post TANF Benefits; **Ch. IX**, Alternative Aid Assistance Program; and **Appendices**

**TANF Rule #117P** – FFY 2022 COLA, application process updates, and Post TANF services budgeting updates.

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P124**

BRIEF SUMMARY: This rule is promulgated to comply with Maine statute 22 MRS §3769-C(1)(D), which requires the Department to increase the Temporary Assistance for Needy Families (TANF) maximum benefit on an annual basis by the amount of the cost of living allowance as determined by the Social Security Administration. The statute also requires the Department to make a related increase to the standard of need, provided the funds are available.

The Department proposes to update the introductory text to simplify language, pertaining to the receipt of assistance that is counted toward the 60-month lifetime limit.

Additionally, changes are being proposed to disentangle the TANF and MaineCare application processes. The TANF manual specifies that all applications for TANF benefits are also to be treated as an application for MaineCare. 22 MRS §3790(3-A) as amended by HP 1261 – LD 1774 §6 newly requires the Department of Health and Human Services to accept referrals from an educational institution or program that is part of the University of Maine System; the Maine Community College System; Jobs for Maine’s Graduates; an adult education program; or the career centers as an application for the Parents as Scholars Program with limited conditions. This newly required process and the current TANF manual conflict with Maine’s Medicaid State Plan. As such, reference to treating the Public Assistance application as a MaineCare application would be removed from this chapter.

The requirement for Applicants and Participants to appear in-person for interviews and orientation meetings creates an unnecessary burden for them, and an administrative burden for the Department and the Department’s contractors. While these in-person meetings may expedite the application process for those able to visit an office in-person, the requirement for most slows or reduces access. Furthermore, at times of community transmission of illnesses or diseases such as Corona virus or Influenza, or hazardous traveling conditions due to weather, these in-person requirements can pose a risk to the health of Applicants, Participants and staff. These in-person interactions have not been proven to increase program integrity. As such, these requirements were recently reduced in rules TANF C19E, and TANF 114A. Recognizing the benefits of these adjustments, and not having experienced a demonstrable detriment, the Department proposes to remove all remaining in-person requirements from the manual.

To strengthen program integrity and reduce confusion, the Department proposes to add language to Ch. V(A) clarifying those children who are eligible for Transitional Child Care (TCC), and the reporting requirements for child care providers receiving TCC payments. The Department also proposes clarifying language regarding TCC overpayment responsibility and recovery procedures. A small business impact statement regarding this change can be obtained by contacting the agency person listed below.

Furthermore, the mileage reimbursement rate for Transitional Transportation Participants would be updated to align with the MSEA rate at <https://www.maine.gov/osc/travel/mileage-other-info> and the rate used by other OFI supports such as the Additional Support for People in Retraining and Employment (ASPIRE), Food Supplement Employment and Training (FSET), and Higher Opportunity for Pathways to Employment (HOPE) programs.

Similarly, in compliance with 22 MRS §3762(8)(C), the Chart of Parent Fees and Subsidy Payments would be updated based on Federal Poverty Level (FPL) figures published in the Annual Update of the Health and Human Services (HHS) Poverty Guidelines, 86 Fed. Reg. 7,732 (February 1, 2021) <https://www.federalregister.gov/documents/2021/02/01/2021-01969/annual-update-of-the-hhs-poverty-guidelines> . The Department is proposing to adopt this provision with a retroactive application to February 1, 2021. 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.

A clarification of good cause as it pertains to cooperation with child support requirements is proposed to be added to Ch. I(D)(2)(iii).

The Department proposes to update the text describing the legal foundation for the Alternative Aid program to reflect the current authority and requirement to administer said program.

The Department proposes to update or add various cross references for clarity.

The Department proposes to update the Table of Contents as a result of all proposed changes.

Finally, various changes are being proposed to formatting, punctuation, and word choice, that will not alter the meaning of the text, but will enhance readability and inclusivity.

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

PUBLIC HEARING: Wednesday, August 11, at 1:00 p.m. *Due to the COVID-19 pandemic, this hearing will be conducted virtually. Anyone wishing to attend should join the Microsoft Teams meeting accessible at* [*https://teams.microsoft.com/l/meetup-join/19%3ameeting\_NWE4YjE3MjAtOTE3OS00ZjZkLTg3NTktZDJhNDAxNzgxOTIx%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%22f89346ba-710d-4ff8-8766-4d52c4172faf%22%7d*](https://teams.microsoft.com/l/meetup-join/19%3Ameeting_NWE4YjE3MjAtOTE3OS00ZjZkLTg3NTktZDJhNDAxNzgxOTIx%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%22f89346ba-710d-4ff8-8766-4d52c4172faf%22%7d) *or by calling (207) 209-4724 and entering Conference ID: 272209344#.*

*The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before Wednesday, August 4, 2021.*

COMMENT DEADLINE: Monday, August 23, 2021, at 5:00 p.m. EDT. Written public comments may be submitted via the link at <https://www.maine.gov/DHHS/OFI/about-us/rules/proposed>.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Alexandria Lauritzen, TANF Program Manager, Department of Health & Human Services, Office for Family Independence, 109 Capitol Street – 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 624-4109. Fax: (207) 287-3455. TT Users Call Maine Relay – 711. Email: Alexandria.Lauritzen@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42(1) & (8), 3769-A, 3769-C

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: **12-170** – Department of Labor (DOL), **Bureau of Labor Standards (BLS)**

CHAPTER NUMBER AND TITLE: **Ch. 19** *(New)*, Rules Governing Apprenticeship in Construction of Energy Generation Facilities

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2021-P125**

BRIEF SUMMARY: The purpose of this chapter is to provide definitions and procedures for implementing apprenticeship standards in the construction of certain energy generation facilities pursuant to 26 MRS Ch. 43 §3501 and §3502. These rules apply to construction employers who are engaged in the construction of a generation facility.

PUBLIC HEARING: None, unless requested pursuant to 5 MRS §8052(1).

COMMENT DEADLINE: August 23, 2021

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / DOL 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 .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:

STATUTORY AUTHORITY FOR THIS RULE: 26 MRS §3502

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

DOL WEBSITE: <http://www.maine.gov/labor> .

**ADOPTIONS**

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

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

ADOPTED RULE NUMBER: **2021-146**

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: amends the definitions of "Heat Pump"; revises the calculation used to determine electricity costs for the consumption based method of determining a Benefit; updates the Benefit Matrix including rounding method used in determining poverty level brackets, language regarding heating degree days, and adding a new home energy type; updates the list of documents that can be used to document Social Security Numbers; removes reference to using an electronic verification system with the Social Security Administration; changes the fuel tank reading necessary for a household to be eligible for ECIP; adds information regarding the Heat Pump Program; updates language regarding the amount of time a Household must reside in Maine in order to be considered eligible for HEAP; and changes the income verification period from the previous three (3) or twelve (12) month period to the previous one (1) month or thirty (30) day period. Other changes correct errors or provide clarification to the previous version of the rule.

EFFECTIVE DATE: July 19, 2021

MAINEHOUSING CONTACT PERSON / RULEMAKING LIAISON: Linda Uhl, Chief Counsel, Maine State Housing Authority, 26 Edison Drive – 89 State House Station, Augusta, Maine 04330-6046. Telephone: (207) 626-4600, or Maine Relay 711. Email: LUhl@MaineHousing.org .

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