**State of Maine: Notice of Agency Rulemaking – October 21, 2020**

**PROPOSALS**

AGENCY: **03-201 - Maine Department of Corrections (MDOC)**

CHAPTER NUMBER AND TITLE: **Ch. 1**, Detention and Correctional Standards for Counties and Municipalities

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P204**

BRIEF SUMMARY: The primary reason this rule is being proposed is to amend the current rule to make permanent and expand the emergency amendment governing plans to prevent and control outbreaks of coronavirus and other infectious and communicable diseases; to make the rule consistent with a recently passed statute governing visits to jail inmates; and to add provisions governing pregnancy services, medication-assisted treatment, naloxone, and use of force.

Copies of the proposed rule are available upon request by contacting the Department contact person or on the Department of Corrections website at https://www.maine.gov/corrections/about/policies-procedures-proposed-rules. Pursuant to Maine law, interested parties are publicly notified of the proposed rulemaking and are provided an opportunity for comment. Written comments may be submitted by mail, e-mail or fax to the contact person before the end of the comment period. To ensure the comments are considered, they must include your name and the organization you represent, if any.

PUBLIC HEARING: None

COMMENT DEADLINE: November 20, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MDOC RULEMAKING LIAISON: Mary Lucia, Department of Correction, 111 State House Station, Augusta ME 04333. Telephone: (207) 287-4681. Fax: (207) 287-4370. Email: Mary.A.Lucia@maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: Title 34-A §1208

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

MDOC WEBSITE: <https://www.maine.gov/corrections/> .

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

CHAPTER NUMBER AND TITLE: **Ch. 7**, Rules for Importation, Possession, Propagation, Rehabilitation, and Exhibition of Wildlife

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P205**

BRIEF SUMMARY: The Department of Inland Fisheries and Wildlife is proposing to amend ch. 7 rules to provide the Department with the ability for strategic recruitment and permitting for wildlife rehabilitators. This change will allow the Department to address factors such as geographic location, unique animal care, and changing levels of sick or injured wildlife in the assessment of permitting prospective wildlife rehabilitators. Addressing Departmental needs will enable the wildlife rehabilitation program to provide consistent and reliable rehabilitative support for distressed wildlife. A copy of the complete proposal can be requested from the agency contact person. The public is strongly encouraged to submit any comments in writing to the agency contact person. However, if you would like to submit comment via video conference, please contact Becky Orff at (207) 287-5202 or Becky.Orff@Maine.gov by November 9, 2020 for details.

PUBLIC HEARING: Tuesday, November 10, 2020 @ 4:00 p.m. - via video conference (Microsoft Teams). *Contact the agency contact person by November 9, 2020 for details.*

COMMENT DEADLINE: November 20, 2020

CONTACT PERSON FOR THIS FILING / 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, 12152

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED:

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

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

CHAPTER NUMBER AND TITLE: **Ch. 301**, Food Supplement Program, **FS #215P** (FFY 2021, Budgeting Figures): **Section FS 999-3**, Charts

PROPOSED RULE NUMBER: **2020-P206**

BRIEF SUMMARY: A rule change is necessary to remain in compliance with Federal regulation 7 CFR §273.9(d). 7 CFR §273.9 requires that Food Supplement Program income and asset limits, maximum and minimum allotments, standard deductions, maximum shelter deductions, homeless shelter deductions, standard utility allowances (SUAs) and income change reporting thresholds be updated each year, effective October 1. This year, the United States Department of Agriculture (USDA) COLA Memo FY2021 provided more generous income limits, maximum allotments, standard deductions (for most households), maximum shelter deduction, and homeless shelter deduction. The same memo showed no change in minimum allotments, the standard deductions for households of one to three members, asset limits or income change reporting thresholds. Each state agency is charged with determining standard utility allowances and having those approved by USDA. The utility allowance values were calculated to remain the same using The Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, and were submitted to and approved by USDA. Non-compliance could result in federal penalties or loss of federal funds.

The Department implemented these changes on an emergency basis on October 1, 2020, effective October 1, 2020, in Rule No. FS215E. Because the emergency rule is effective for only 90 days, this rulemaking is necessary to make the changes permanent.

Retroactive rulemaking is necessary to keep Maine’s policies in line with federal requirements, and is authorized under 22 MRS §42(8) as it benefits Food Supplement recipients and does not have an adverse financial impact on any provider, member, recipient or beneficiary.

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

PUBLIC HEARING: Thursday, November 12, 2020 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\_M2Y2YmQ5ZGYtNDhjZC00YTllLWE4Y2QtOTgzMTZhZGYzODk1%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_M2Y2YmQ5ZGYtNDhjZC00YTllLWE4Y2QtOTgzMTZhZGYzODk1%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: 356 692 248#. The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before Thursday, November 5, 2020.*

COMMENT DEADLINE: Monday, November 23, 2020 at 5:00 p.m. EST. 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: 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), and 3107; 7 CFR §273.9(d)

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

E-MAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Kevin.Wells@Maine.gov .

AGENCY: **10-149** - Department of Health and Human Services (DHHS), **Office of Aging and Disability Services (OADS)**

CHAPTER NUMBER AND TITLE: **Ch. 5**, Office of Aging and Disability Services Policy Manual: **Section 16** *(Repeal)*, Adult Protective Services: Administration

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P207**

BRIEF SUMMARY: This rule repeal is being proposed to remove outdated guidance on Adult Protective Services (APS) case records, including retention, transfer, maintenance, and case reviews. Now that APS files are exclusively electronic, this rule fails to reflect the practices of OADS. This rule, effective October 6, 2007, was part of the *Office of Elder Services Policy Manual*. The Office of Elder Services and the Office of Adults with Cognitive and Physical Disabilities Services merged in 2012, and the Office of Aging and Disability Services was established. As a unit within the Office of Aging and Disability Services, APS follows the record retention policies established by the Department of Health and Human Services as well as the Maine Secretary of State.

See <https://www.maine.gov/dhhs/oads/trainings-resources/policy.html> for rules and related rulemaking documents.

PUBLIC HEARING: No public hearing scheduled. The Department will accept email and standard mail comments for 30 days from the publication date of the notice of rulemaking by the Secretary of State.

COMMENT DEADLINE: Friday, November 20, 2020

CONTACT PERSON FOR THIS FILING: Hilary Gove, Policy Writer, Maine Department of Health and Human Services, Office of Aging and Disability Services, 41 Anthony Avenue - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 446-8305. Fax: (207) 287-9915. TTY: 711 (Deaf or Hard of Hearing).

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT: N/A

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

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §§ 42, 3493

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

OADS WEBSITE: <https://www.maine.gov/dhhs/oads> .

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

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Division of Licensing and Certification (DLC)**

CHAPTER NUMBER AND TITLE: **Ch. 113**, Regulations Governing the Licensing and Functioning of Assisted Housing Programs

TYPE OF RUL: Major Substantive

PROPOSED RULE NUMBER*:* **2020-P208**

BRIEF SUMMARY: This major substantive rulemaking institutes measures to improve and clarify infection surveillance, control, mitigation, and crisis staffing planning in Maine's assisted housing facilities, including assisted living, residential care facilities, and private non-medical institutions. This rulemaking revises 10-144 CMR ch. 113, *Regulations Governing the Licensing and Functioning of Assisted Housing Programs*, which is published in nine parts, by adding a new part. The provisions related to Infection Prevention and Control will apply to all types of Assisted Housing Programs subject to licensure under 22 MRS §7801. These provisions are consistent with State and Federal Center for Disease Control guidance, in response to the increased spread of the 2019 Novel Coronavirus (COVID-19) and will help to mitigate any future outbreaks of novel contagious illnesses.

In compliance with 22 MRS §7853(1), the Department developed this rule in consultation with the Long-Term Care Ombudsman Program (LTCOP). On June 25, 2020, the Department submitted draft rules to Brenda Gallant, Executive Director of the LTCOP, for her review and input. Department staff and LTCOP Executive Director Gallant and staff discussed the rulemaking on or about June 26, 2020, at which time Executive Director Gallant expressed no concerns regarding the draft rule.

The Department, through OADS, has requested federal *CARES Act Covid Relief Funding (CRF)* to hire an infection control consultant, who will work with facilities to help them develop an Infection control consultant, who will work with facilities to help them develop an Infection Control and Prevention plan, which will be required by this rule. The Department received approval for the Covid Relief Funding at the end of September, 2020. The Department anticipates that the facilities' plan development/infection control consultation costs will be defrayed though the CRF. The rule provides a requirement for PPE and supplies, but these measures should have been in place in the facilities in response to the Covid pandemic.

This is a major substantive rulemaking, and this new rule will be provisionally adopted following public comment and review by the Office of the Attorney General. The provisionally adopted rule will not become effective until after Legislative review and approval.

PUBLIC HEARING*: Because this is a major substantive rulemaking, the APA requires a public hearing be held. 5 MRS §8052(1). Due to the current public health emergency, the public hearing will he held virtually via Zoom from 10 a.m. - 12 noon on Thursday, 11/12/20. Participants may join the hearing at:* [*https://us02web.zoom.us/j/85219782122?pwd=NllRMERjalR1Zmh5allnUTYwMy9OOT09*](https://us02web.zoom.us/j/85219782122?pwd=NllRMERjalR1Zmh5allnUTYwMy9OOT09) *.*

*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 attend the hearing contact the Department contact person listed above.*

COMMENT DEADLINE: Written Comments will be accepted until 11/22/20, in accordance with 5 MRS §8053.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION*:* Jonathan Leach, Compliance Analyst Division of Licensing and Certification, 41 Anthony Avenue – 11 State House Station, Augusta, ME 04333. Telephone: (207) 287-8025. Email: Jonathan.H.Leach@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES*:* The Department expects no financial impact on municipalities or counties.

STATUTORY AUTHORITY FOR THIS RULE: 22 MRS §7853.

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

AGENCY WEBSITE: [h](http://h)[ttps://www.maine.gov/dhhs/dlc/about-us/rules-regulations/rulemaking](http://ttps://www.maine.gov/dhhs/dlc/about-us/rules-regulations/rulemaking)

DHHS RULE-MAKING LIAISON: Kevin.Wells@Maine .

**ADOPTIONS**

AGENCY: **18-125** - Department of Administrative & Financial Services (DAFS), **Bureau of Revenue Services (Maine Revenue Services (MRS))**

CHAPTER NUMBER AND TITLE: **Ch. 812**, Credit for Educational Opportunity

ADOPTED RULE NUMBER: **2020-219** *(Emergency)*

CONCISE SUMMARY: These emergency changes add a new section to Rule 812, reconciling two provisions in the law governing the Credit for Educational Opportunity (Credit) and permitting MRS to consider the payment amount that would be due but for forbearance or deferment when calculating the Credit. If the payment amount due but for forbearance or deferment cannot be established, the benchmark loan payment as determined under 36 MRS §5217-D(1)(A) may be used instead.

EFFECTIVE DATE: October 21, 2020

MRS CONTACT PERSON: Alex Weber, General Counsel, Maine Revenue Services, 24 State House Station, Augusta, ME 04333-0024. Telephone: (207) 624-9712. Email: Alexander.J.Weber@Maine.gov .

MRS WEBSITE: <https://www.maine.gov/revenue/> .

MRS RULEMAKING LIAISON: Anya.Trundy@Maine.gov .

AGENCY: **02-031** - Department of Professional & Financial Regulation (PFR), **Bureau of Insurance**

CHAPTER NUMBER AND TITLE: **Ch. 365** *(New)*, Standards for Independent Dispute Resolution of Emergency Medical Service Bills

ADOPTED RULE NUMBER: **2020-220**

CONCISE SUMMARY: The purpose of the rule is to implement the Independent Dispute Resolution (IDR) process established by PL 2019 ch. 668, *An Act To Protect Consumers from Surprise Emergency Medical Bills.*

EFFECTIVE DATE: October 24, 2020

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Benjamin Yardley, Senior Staff Attorney, Department of Professional & Financial Regulation, Bureau of Insurance, 76 Northern Avenue, Gardiner, ME 04345. Telephone: (207) 624-8537. Email: Benjamin.Yardley@Maine.gov .

BUREAU WEBSITE: <https://www.maine.gov/pfr/insurance/> .