**State of Maine: Notice of Agency Rulemaking: Wednesday, November 6, 2024 ONLINE**

**NOTICE OF STATE RULEMAKING**

**PUBLIC INPUT FOR RULES** A list of state agency rule proposals is published here each Wednesday. You can get a copy of a proposed rule by contacting the person listed in the notice. You can comment on a proposed rule by submitting a written comment to the agency or by attending the public hearing, if one is scheduled. If no hearing is scheduled, you can request one.  The agency must hold a hearing if it receives 5 or more requests.  If you have a disability and need assistance to participate in a hearing you should tell the agency at least 7 days before the hearing. **ONLINE INFORMATION** Weekly notices, full text of adopted rules, and a list of agency rulemaking contacts are available at this website: [https://www.maine.gov/sos/cec/rules/index.html](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.maine.gov%2Fsos%2Fcec%2Frules%2Findex.html&data=05%7C02%7CJ.Chris.Parr%40maine.gov%7C645b27059f0346864d7008dc94834bf0%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C638548538834447354%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=K93i9Iukz%2F4M1hnG1XnmVSNiEpRD2zB99vb6RheIZ8A%3D&reserved=0)

**PROPOSALS**

**AGENCY: 01-015 Maine Milk Commission (Department of Agriculture, Conservation, and Forestry)**

**CHAPTER NUMBER AND TITLE: Ch. 29, Dealer Margin rule**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P306**

**BRIEF SUMMARY:** The principal reason for this rulemaking is to update dealer margins within the formulas for Maine’s minimum milk prices based on a study of 2023 costs conducted in 2024.

**PUBLIC HEARING:** Thursday, November 21, 2024, Thursday, starting at 10:30 A.M. Room 101, Department of Agriculture, Conservation & Forestry, Deering Building, 90 Blossom Lane, Augusta, Maine

**COMMENT DEADLINE:** Monday, December 9, 2024 by 5:00 pm (EST)

**CONTACT PERSON FOR THIS FILING:** Julie-Marie R. Bickford, Maine Milk Commission, 28 SHS, Augusta, ME 04333, 207-287-7521, [julie-marie.bickford@maine.gov](mailto:julie-marie.bickford@maine.gov)

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

**FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES** *(if any)*: This rule will not have a fiscal impact on municipalities or counties.  
**STATUTORY AUTHORITY FOR THIS RULE:** 5 M.R.S.A. Section 8054 and 7 M.R.S.A., Section 2954

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

**AGENCY WEBSITE:** <http://www.maine.gov/dacf/milkcommission/index.shtml>

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** [julie-marie.bickford@maine.gov](mailto:julie-marie.bickford@maine.gov)

**AGENCY: 16-633 Department of Public Safety, Gambling Control Board**

**CHAPTER NUMBER AND TITLE:** **Chapter 13 Exclusion**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P307**

**BRIEF SUMMARY:** This rule implements the recent change in Maine law creating a universal exclusion list for all areas of gambling under the oversite of the Gambling Control Board and Gambling Control Unit respectively.

**PUBLIC HEARING** *(if any)*: None applicable

**COMMENT DEADLINE:** Friday, December 6, 2024

**CONTACT PERSON FOR THIS FILING:** Milton Champion, 45 Commerce Drive, Suite 3, Augusta ME 04333-0087 207-626-3901 milton.f.champion@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:** 8 M.R.S. Sec. 1003(3)(I)(1); and Sec. 1006(8); and Sec. 1004 (J), and Sec. 1203 (2)(K) and Sec. 1213(5).

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

**AGENCY WEBSITE:** <https://www.maine.gov/dps/gamb-control/>

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** paul.f.cavanaugh@maine.gov

**AGENCY: 16-633 Department of Public Safety, Gambling Control Board**

**CHAPTER NUMBER AND TITLE: Chapter 19-A Criteria for Independent Laboratory Certification.**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P308**

**BRIEF SUMMARY:** This rule implements the recent change in Maine law requiring the Gambling Control Board in cooperation with the Department of Public Safety to approve qualified independent laboratories for certification of slot machines and associated equipment from distributors and service vendors.

**PUBLIC HEARING** *(if any)*: None applicable

**COMMENT DEADLINE:** Friday, December 6, 2024

**CONTACT PERSON FOR THIS FILING:** Milton Champion, 45 Commerce Drive, Suite 3, Augusta ME 04333-0087 207-626-3901 milton.f.champion@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:** 8 M.R.S. Sec. 1020 (4).

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

**AGENCY WEBSITE:** <https://www.maine.gov/dps/gamb-control/>

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** paul.f.cavanaugh@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 331; Public Assistance Manual Temporary Assistance for Needy Families (TANF) Manual, Chapter V**

**TANF Rule #122P – Mileage Reimbursement Update**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P309**

**BRIEF SUMMARY:** The proposed rule change would update Chapter V – B. TRANSITIONAL TRANSPORTATION (TT) consistent with the rate afforded to those covered under the Maine Service Employees Association (MSEA) contract. The proposed rule change would refer readers to the MSEA rate found at <https://www.maine.gov/osc/travel/mileage-other-info>.

**PUBLIC HEARING** *(if any)*: No public hearing is scheduled.

**COMMENT DEADLINE**: Friday, December 6, 2024, at 5:00 p.m. Eastern Time.

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

**CONTACT PERSON FOR THIS FILING:**

Alexandria Lauritzen, TANF Program Manager

Department of Health and Human Services

Office for Family Independence

109 Capitol Street

Augusta, ME 04330-6841

Phone: (207) 624-4109/Fax: (207) 287-3455

TT Users Call Maine Relay – 711

[Alexandria.Lauritzen@maine.gov](mailto:Alexandria.Lauritzen@maine.gov)

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

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

**STATUTORY AUTHORITY FOR THIS RULE:** 22 M.R.S. Secs. 42(1); 3762(8)(B)

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

**AGENCY WEBSITE:** [https://www.maine.gov/dhhs/ofi](https://www.maine.gov/dhhs/ofi/arules)

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** [Emily.A.Cathcart@maine.gov](mailto: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 323; Maine General Assistance (GA) Manual, Sections II, III, V, VI, VII, X, XI, XII and XIII**

**GA Rule #26P – P.L. 2024, Chapters 575 and 643**

**TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P310**

**BRIEF SUMMARY:** The proposed rule changes would update the Maine General Assistance (GA) Manual consistent with legislative changes to 22 M.R.S. Secs. 4302, 4304 and 4305 made by P.L. 2024, Chapters 575 and 643.

**PUBLIC HEARING** *(if any)*: Monday, November 25, 2024, at 9:00 a.m. in room Maine A/B at 109 Capitol Street, Augusta, ME 04333.

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed above before Monday, November 18, 2024.

**COMMENT DEADLINE:** Thursday, December 5, 2024, at 5:00 p.m. Eastern Time.

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

**CONTACT PERSON FOR THIS FILING:**

Sara Denson, General Assistance Program Manager

Department of Health and Human Services

Office for Family Independence

109 Capitol Street

Augusta, ME 04330-6841

Phone: (207) 624-4193/Fax: (207) 287-3455

TT Users Call Maine Relay – 711

[Sara.Denson@maine.gov](mailto:Sara.Denson@maine.gov)

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

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

**STATUTORY AUTHORITY FOR THIS RULE:** 22 M.R.S. Secs. 42(1) and (8); 4302-A; 4304(1); 4305(7) and 4323(1)

**SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED** *(if different)*: P.L. 2024, Chapters 575 and 634.

**AGENCY WEBSITE:** <https://www.maine.gov/dhhs/ofi>

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** [Emily.A.Cathcart@maine.gov](mailto:Emily.A.Cathcart@maine.gov)

**AGENCY: 65-407 Public Utilities Commission**

**CHAPTER NUMBER AND TITLE: Chapter 870 Late Payment Charges, Interest Rates to Be Paid on Customer Deposits And Charges For Returned Checks  
TYPE OF RULE: Routine Technical**

**PROPOSED RULE NUMBER: 2024-P311**

**BRIEF SUMMARY:** The proposed amendment prohibits transmission and distribution utilities from charging late fees to low-income customers.

**PUBLIC HEARING: November 26, 2024, at 2:00 pm** at the Public Utilities Commission, 26 Katherine Drive, Hallowell, Maine 04347. Persons unable to attend this conference in person may elect to participate virtually by emailing pamela.kowalchuk@maine.gov at the Commission and requesting a Microsoft Teams invitation. Those unable to attend via video may participate by phone using the dial-in information that appears on the Microsoft Teams invitation (obtained as described above).

**COMMENT DEADLINE:December 6. 2024**. Comments on the proposed rule may be filed electronically using the Commission’s Case Management System (CMS) or may be sent in writing to the Administrative Director on or before **December 6. 2024**. However, the Commission requests that interested persons file initial comments on the proposed amendments to the Rule using the Commission's CMS, in Docket No. 2024-00288, on or before Tuesday,**November 19, 2024**. Written comments should refer to the docket number of this proceeding, Docket No. 2024-00288, and be sent to the Administrative Director, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333-0018.

**CONTACT PERSON FOR THIS FILING:** Eric Bryant; 18 State House Station, Augusta, ME. 04333 (207)287-1566 eric.bryant@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:** 35-A M.R.S.A. Secs. 101, 104, 111, 301, 304, and 705(3)

**SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED** *(if different)*: 2023 Resolves, ch. 145

**AGENCY WEBSITE:** [www.maine.gov/mpuc](http://www.maine.gov/mpuc)

**EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:** pamela.kowalchuk@maine.gov

**ADOPTIONS**

**AGENCY: 01-683 Land for Maine’s Future Board, Department of Agriculture, Conservation and Forestry**

**CHAPTER NUMBER AND TITLE:**

* **Chapter 1, Definitions**
* **Chapter 2, Rules of Program Administration**

**ADOPTED RULE NUMBER:**

* **2024-243 (Chapter 1)**
* **2024-244 (Chapter 2)**

**CONCISE SUMMARY:**

The proposed rules define common Land for Maine’s Future Program terminology and standardize 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. Secs. 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 Land for Maine’s Future’s staff.

**EFFECTIVE DATE: Sunday, November 3, 2024**

**AGENCY CONTACT PERSON:** Laura B. Graham

AGENCY NAME: Land for Maine’s Future, Dept. of Agriculture, Conservation and Forestry

ADDRESS: 22 SHS, Augusta, ME 04333

TELEPHONE: 207-592-6135

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

**CHAPTER NUMBER AND TITLE: 10-144 C.M.R. Chapter 323 – Maine General Assistance (GA) Manual; Section V – MAXIMUMS, CATEGORIES AND LEVELS OF ASSISTANCE**

**EMERGENCY RULE: GA Rule #26 - P.L. 2024 Ch. 643**

**ADOPTED RULE NUMBER: 2024-247**

**CONCISE SUMMARY:**

The Department adopts this emergency rule, which amends 10-144 C.M.R. Ch. 323, Maine General Assistance (GA) Manual, Section V, MAXIMUMS, CATEGORIES AND LEVELS OF ASSISTANCE, to align with a legislative change to 22 M.R.S. Secs. 4308(2) made by P.L. 2024 Ch. 643.

The emergency rule makes the following change to Section V, MAXIMUMS, CATEGORIES AND LEVELS OF ASSISTANCE:

* (D)(5) “The maximum duration that an applicant may receive housing assistance for hotel, motel, inn or in a similar place of lodging in excess of the municipality’s budgeted maximum levels is 30 days in a 12-month period. This does not preclude an applicant from receiving housing assistance less than or equal to the municipality’s budgeted maximum levels for the remainder of the 12-month period as long as the applicant meets requirements.”

**Findings of Emergency:**

The Maine Legislature granted the Department of Health and Human Services authority to adopt emergency rules under 5 M.R.S. Sec. 8054, if determined necessary by the Department to implement those provision of the Supplemental Budget Act over which the Department has subject matter jurisdiction, without the requirement that it demonstrate that immediate adoption is necessary to avoid a threat to public health, safety or general welfare. P.L. 2023, ch. 643, PART VV, Sec. VV-1. The Department has determined that it is necessary to adopt this emergency rule to implement provisions of the Supplemental Budget Act regarding hospital reimbursement set forth in PART A, Sec. A-14.

Pursuant to 5 M.R.S Sec.8054, this emergency rule may be effective for up to ninety (90) days. The Department shall proceed with routine technical rulemaking to permanently adopt these rule changes.

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

**See** [**https://www.maine.gov/dhhs/about/rulemaking**](https://www.maine.gov/dhhs/about/rulemaking) **for rules and related rulemaking documents.**

**EFFECTIVE DATE: Tuesday, October 29, 2024**

**AGENCY CONTACT PERSON:**

Sara Denson, General Assistance Program Manager

Office for Family Independence

Department of Health and Human Services

19 Union Street

Augusta, ME 04333

Phone: (207) 624-4193/Fax: (207) 287-3455

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Sara.Denson@Maine.gov

**AGENCY: Department of Health and Human Services, MaineCare Services**

**CHAPTER NUMBER AND TITLE: 10-144 C.M.R. Chapter 101, Chapter III, Section 45, Principles of Reimbursement for Hospital Services**

**ADOPTED RULE NUMBER: 2024-248**

**CONCISE SUMMARY:**

The Department of Health and Human Services (the “Department”) adopts this rule to amend MaineCare Benefits Manual Chapter III, Section 45: Principles of Reimbursement for Hospital Services. On August 9, 2024, the Department adopted an emergency rule that made the following changes to this section:

1. Introduction:

* Removes specific mention of “private” classification from Acute Care Non-Critical Access Hospitals and adds the subset of Non-State Government Owned Hospitals.
* Updates Public Acute Care Non-Critical Access Hospitals to Non-State Government Owned Hospitals and specifies they will be reimbursed as Acute Care Non-Critical Access Hospitals.
* Removes Hospitals Reclassified to a Wage Area Outside Maine by the Medicare Geographic Classification Review Board (MGCRB) as the classification is no longer relevant to this updated reimbursement methodology.
* Effective July 1, 2024, updates Rehabilitation Hospital summary to reflect adoption of Medicare Severity Diagnosis Related Group (MS DRG)-based reimbursement methodology in lieu of the current set discharge rate.

1. Section 45.01- Definitions:

* Updates definitions of Ambulatory Payment Classifications (APC); Discharge; Acute Care Non-Critical Access Hospital; and Rural Hospital.
* Removes the definition of Hospital Reclassified to a Wage Area Outside Maine by the Medicare Geographic Classification Review Board (MGCRB).
* Defines Provider-Based Department, Non-State Government Owned Hospital, and Acute Care Hospitals converting from Critical Access Hospital Reimbursement Methodology to Acute Care Non-Critical Access Hospital Reimbursement Methodology.

1. Section 45.02 – General Provisions:

* 45.02-1 – Inflation: Includes application of annual inflation adjustments for MS DRG-based reimbursement rates.
* 45.02-5(F) – Adds reimbursement information pertaining to Upper Payment Limits and related compliance measures. Adds the separate UPL required by CMS for Non-State Government Owned Hospitals.
* 45.02-6 – Data for PIP Calculation: Adds cost report data requirements for hospitals approved for conversion to critical access hospital category and resulting reimbursement methodology. This requirement is added to ensure timely PIP determination and payment for converting hospitals.
* 45.02-8 – Effective July 1, 2024, Days Awaiting Placement: Updates expired provision to reintroduce the provision with new methodology which removes the 10-day waiting period, establishes a new annual cap of $1,500,000, and reimburses Acute Care Non-Critical Access Hospitals at 75% of the statewide average per diem NF rate. The Department reintroduces this provision and triples the amount of the previous cap in recognition of the fiscal impact on hospitals for delivering such care. Utilizing a percentage of the per diem NF rate is an approach consistent with methodology utilized in other state Medicaid Programs and recognizes level of care constraints within the hospital setting.
* 45.02-9 – Claims Billing: Adds new section to introduce links to the Department’s billing instructions and new supplemental Hospital Billing Guidance.
* 45.02-10 – Readmissions Penalty: To more closely align with Medicare, the Department incorporates existing operational processes and components of the former Discharge definition to enhance Readmissions Penalties applied to qualifying DRG payments effective August 9, 2024. This adjustment moves away from exact DRGs in favor of clinically related criteria, clarifies when a member is considered to be readmitted, extends the readmissions “window” from 14 days to 30 days, and describes scenarios excluded from Readmissions Adjustment review.

1. Section 45.03 – Acute Care Non-Critical Access Hospitals:

* Removes Department’s Total Obligation to the Hospital narrative as the formula is now described elsewhere within the rule.
* 45.03-1 – Inpatient Services: References updates to MS DRG-based payment methodology detailed in Appendix A, effective July 1, 2024. For Distinct Psychiatric Units and Substance Use Disorder Units: Moves the end date for cost settlement of capital costs from July 1, 2025 to September 1, 2024.
* 45.03-C – Effective July 1, 2024, Outpatient Services, Including Laboratory and Imaging: Aligns outpatient methodology across acute care non-critical access hospitals by transitioning Non-State Government Owned Hospitals from a cost reimbursement system to the Medicare Outpatient Prospective Payment System (OPPS) that also applies to Acute Care Non-Critical Access Hospitals. Updates the percent of Medicare OPPS Ambulatory Payment Classifications (APC) rates the Department pays to 109%. The Department will also pay the updated 109% of Medicare outlier payments. Fully aligns with Medicare by, effective August 9, 2024, adopting Medicare adjustments to reduce reimbursement at certain Provider Based Departments through use of the PO modifier.
* Effective July 1, 2024, removes reference to Public Hospitals as they are now absorbed in other areas of the rule.
* Removes reference to Capital and Graduate Medical Education Costs as those are now addressed in Appendix A and are no longer subject to cost settlement
* Removes Prospective Interim Payment (PIP) for Outpatient Services as Non-State Government Owned Hospitals will no longer receive PIPs.
* Effective July 1, 2024, Interim and Final Cost Settlement: Specifies cost settlement now only applies to hospital-based physician services; expired provisions are end dated. DRG and APC payments will not be cost settled.

1. Section 45.05 – Hospitals Reclassified to a Wage area Outside of Maine by the Medicare Geographic Classification Review Board (MGCRB) Prior to October 1, 2008:

* Removes section as the Hospitals Reclassified to a Wage area Outside of Maine criteria will no longer be utilized by the Department to determine hospital classification. Such hospital types will now be reimbursed as Acute Care Non-Critical Access Hospitals to assure hospital fiscal stability.

1. Section 45.06 – Rehabilitation Hospitals:

* Effective July 1, 2024, updates section to reflect adoption of MS DRG-based payment methodology. The Department adopts this updated reimbursement methodology as the current flat discharge rate does not capture changes in patient mix or costs related to patient acuity. Unlike the stagnant flat discharge rate which was last updated in 2018, the DRG-based payment methodology will receive annual inflation adjustments and updates to the Medicare MS-DRG relative weights. Rehabilitation Hospitals are a distinct peer group and will receive their own Maine Base Rate.
* Effective July 1, 2024, Interim and Final Cost Settlement is added to specify cost settlement only applies to hospital-based physician services; DRG and APC payments will not be cost settled. The discontinuation of cost settlement for these services will reduce administrative burden for both providers and the Department.
* Updates the percent of Medicare OPPS Ambulatory Payment Classifications (APC) rates the Department pays to 109%. The Department will also pay the updated 109% of Medicare outlier payments. This increase is a result of the Department’s larger hospital investment initiative.

1. Section 45.07 – Value-Based Purchasing for Supplemental Sub-Pool:

* Removes mention of Hospitals Reclassified to a Wage area Outside of Maine (as such hospital types will now be reimbursed as Acute Care Non-Critical Access Hospitals).

1. Section 45.08 – Supplemental Pool for Acute Non-Critical Access Hospitals and Rehabilitation Hospitals:

* Removes mention of Hospitals Reclassified to a Wage area Outside of Maine (as such hospital types will be reimbursed as Acute Care Non-Critical Access Hospitals).

1. Section 45.09 – Supplemental Payments for Acute Care Hospitals converting from Acute Care Critical Access Hospital Reimbursement to Acute Care Non-Critical Access Hospital Reimbursement:

* Adds this new section to address the supplemental payment for Acute Care Non-Critical Access Hospitals reimbursed by Medicare under the Prospective Payment System and reimbursed by MaineCare like a Critical Access Hospital for outpatient services on or before January 1, 2024.

1. Appendix A – DRG-Based Payment Methodology:

* Effective July 1, 2024, updates language addressing components of the updated MS DRG-Based Payment Methodology:
  + This rule also removes cost settlement provisions for Capital and GME costs for hospitals subject to the DRG-Based Payment Methodology.
  + The Department updates its DRG-Based Payment Methodology. The rule incorporates updated Maine Base Rates that reflect FY22 costs; recognize different costs of inpatient care for Acute Care Non-Critical Access and Rehabilitation hospitals; and are inclusive of capital and operating costs.
  + The Department calculates a hospital’s DRG payment for a covered inpatient service by summing the assigned peer group’s Maine Base Rate plus, for teaching hospitals, a hospital-specific GME add-on rate determined using the hospital’s FY 2022 As-filed Medicare cost report data. This sum is multiplied by the Medicare DRG relative weight, and the resulting value equals the hospital’s DRG payment. The rule updates the MS-DRG weights to the current year’s Medicare weights to account for cost differences in services delivered and patient acuity.
  + Outlier Adjustment: The Department establishes a new DRG-based outlier payment methodology which will observe updates to hospital-specific cost-to-charge ratios (CCRs) and fixed reimbursement percentages, as well as introduce a standard outlier threshold, updated in this rule to account for cost growth, for all eligible hospitals. Effective July 1, 2024 through December 31, 2024, the Department will increase the percentage it reimburses from 80% to 90% of estimated costs based on charges that exceed the threshold. This differs from previous methodology in that a new fixed reimbursement percentage is applied, a standard outlier threshold used, and hospital-specific CCRs are updated.

**Other Changes Made to the Adopted rule:**

As described in the List of Changes to the Final Rule at the end of the Summary of Comments and Responses document, the Department made the following change in the adopted rule:

* As a result of comment 11, the Department has replaced the term “cap” with “floor” in Section 45.02-7 and renamed this subsection “PIP Payment Floor” for clarity.

These changes include improved alignment with Medicare, greater consistency in reimbursement methodology across hospitals, and ensuring that reimbursement for services better reflects patient acuity. The Department adopts methodology which aligns reimbursement for facilities with similar delivery systems and cost structures, recognizing three distinct hospital peer groups that recognize distinct Maine Base Rates for inpatient services: Acute Care Non-Critical Access, Non-State Government Owned, and Rehabilitation. The Department’s updated methodology introduces mechanisms to keep pace with inflation and improve the relationship between the quality of service outcomes and payment.

Some of the rule changes have a retroactive application date of July 1, 2024, and the rule indicates the July 1, 2024 effective date for those provisions. The Department certifies that the retroactive changes comply with, and thus are authorized by, 22 M.R.S. Sec. 42(8).

On August 9, 2024, the Department adopted an emergency rule implementing these and other changes in Chapter III, Section 45. That emergency rule expires after 90 days, pursuant to 5 M.R.S. Sec. 8054(3); this rulemaking makes permanent those emergency adopted changes.

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

Rules and related rulemaking documents may be reviewed at and printed from MaineCare Services website at <http://www.maine.gov/dhhs/oms/rules/index.shtml> or, for a fee, interested parties may request a paper copy of rules by calling 207-624-4050. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 711.

If you have any questions regarding the policy, please contact Provider Services at 1-866-690-5585 or TTY users call Maine relay 711.

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

**EFFECTIVE DATE: Wednesday, November 6, 2024**

**STATUTORY AUTHORITY:** 22 M.R.S. Secs. 42, 3173-J; P.L. 2023, ch. 643.

**AGENCY CONTACT PERSON:** Julieanna Scott, Comprehensive Health Planner II

AGENCY NAME: MaineCare Services

ADDRESS: 109 Capitol Street, 11 State House Station, Augusta, Maine 04333-0011

EMAIL: julieanna.scott@maine.gov

TELEPHONE: 207-287-2286 FAX: (207) 287-6106; TTY: 711 (Deaf or Hard of Hearing)

**Notice: Beginning in January 2025, online rulemaking proposal and adoption notices will be posted each week in a .pdf document. Each .pdf document that is posted will be accessible through a link that will be listed on the main “Weekly Rulemaking Notices” website.**