**State of Maine: Notice of Agency Rulemaking – December 8, 2021**

**PROPOSALS: none this week**

**ADOPTIONS**

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch. 168** *(New)*, Statewide Greenhouse Gas Emissions Regulation

ADOPTED RULE NUMBER: **2021-237**

CONCISE SUMMARY: The new rule defines the overall reductions in GHG emissions that the State must achieve by both 2030 and 2050. The rule translates the statewide percentage reduction requirements for greenhouse gas emissions as established in 38 MRS §576-A into tonnage reductions based on carbon dioxide equivalents (MMTCO2e) for gross emissions of greenhouse gases for each of the target years. The Department will use these reduction targets to document progress in emissions reductions in the biennial report to the Legislature on the State GHG inventory.

EFFECTIVE DATE: November 28, 2021

AGENCY CONTACT PERSON: Stacy Knapp, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333. Telephone: (207) 287-2235. Email: Stacy.R.Knapp@Maine.gov.

DEP WEBSITE: <https://www.maine.gov/dep/>.

DEP RULEMAKING LIAISON: Mark.Margerum@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 511**, Standards for Activity Seeking Work *(Repeal and replace)*

ADOPTED RULE NUMBER: **2021-241**

CONCISE SUMMARY: This rule sets out the standards and definitions to be applied in determining under 5 M.R.S.A. §§ 17929(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work. The adopted rule repeals and replaces the current rule. The new rule: (1) Updates job-seeking requirements by eliminating required in-person job seeking contacts and permitting online applications; (2) Specifies that job applications must be submitted to employers who are accepting applications; (3) Elaborates on activities required to be taken with the Maine Department of Labor Career Center; (4) Clarifies that decisions to suspend benefits are subject to the informal hearing, written decision, and appeals rights in 5  MRS §17105-A; (5) Changes from six to three the number of months that the member can be noncompliant in any twelve-month period before benefits are terminated; (6) Deletes an obsolete provision; and (7) Removes unnecessary language and improves readability.

EFFECTIVE DATE: December 8, 2021

MAINEPERS CONTACT PERSON / 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.

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

AGENCY: **90-590 - Maine Health Data Organization (MHDO)**

CHAPTER NUMBER AND TITLE: **Ch. 247** *(New)*, Uniform Reporting System for Non-Claims Based Primary Care Payments *(Routine technical)*

ADOPTED RULE NUMBER: **2021-242**

CONCISE SUMMARY: MHDO is required by statute to create and maintain a useful, objective, reliable and comprehensive health information database that is used to improve the health of Maine citizens and to issue reports and or support the development of reports as mandated. The reason for proposing this new rule is so that MHDO’s data for Primary Care payments is accurate and comprehensive in that it reflects both payments made under the traditional fee for service model (governed under ch. 243) and alternative payment models, which are non-claims based payments (governed under this new rule). PL 2019 ch. 244 requires the Maine Quality Forum to develop an annual report to submit to the legislature on primary care spending in the state of Maine, using data from the Maine Health Data Organization. Currently, MHDO’s data set does not reflect the total investment that payors (both private and public) are making in primary care and therefore understates the level of spending in the state of Maine.

This rule provides the structure for the submission of data for non-claims based primary care payments. This will allow for accurate reporting and better inform future policy decisions specific to investments in primary care.

Copies of these proposed rules can be reviewed and printed from the MHDO website at <https://mhdo.maine.gov/rules.htm> or, to receive a paper copy call (207) 287-6722.

This rule will not have a fiscal impact on municipalities or counties, or any adverse economic impact on small businesses.

EFFECTIVE DATE: December 12, 2021

CONTACT PERSON: Karynlee Harrington, Executive Director, Maine Health Data Organization, 151 Capitol Street - 102 State House Station, Augusta, ME 04333-0102. Telephone: (207) 287-6722. Email: Karynlee.Harrington@Maine.gov.

MHDO WEBSITE: <https://mhdo.maine.gov/>.

MHDO RULEMAKING LIAISON: Debra.J.Dodge@Maine.gov.

AGENCY: **10-148** - Department of Health and Human Services (DHHS), **Office of Child and Family Services (OCFS)**

CHAPTER NUMBER AND TITLE: **Ch. 35** *(New)*, Children’s Residential Care Facilities Licensing Rule *(also* ***repeals******10-144 ch. 36****, same title)*

ADOPTED RULE NUMBER: **2021-243, 244**

CONCISE SUMMARY: The Office of Child and Family Services is repealing 10-144 CMR ch.36, *Children’s Residential Care Facilities Licensing Rule*, and is replacing with 10-148 CMR ch. 35, *Children’s Residential Care Facilities Licensing Rule*. Substantive changes include adding new federal requirements in accordance with the *Family First Prevention Services Act (FFPSA) of 2018* and removing, modifying, and adding requirements to meet the health and safety needs of residents receiving services.

Specific changes include: specifying exemptions or modifications applicable to specific service types throughout the rule; removing, adding, and clarifying definitions; adding the requirement for participation in quality assurance reviews; adding requirements for licensure application and policies; adding the requirement for accreditation for consideration as a Qualified Residential Treatment Provider (QRTP); requiring a trauma informed treatment model for consideration as a QRTP; requiring a unique license for each physical site; adding a policy for aftercare; removing requirement for medical examination of staff; adding guardian participation as appropriate and required for a QRTP; clarifying requirements for reportable events for all facilities; changing reporting requirement from next business day to 72 hours; adding additional requirements to the comprehensive assessment; removing requirement for crisis units to do a full comprehensive assessment; modifying service plan review requirements to include a 30-day internal review; modifying the frequency requirement for a crisis plan; adding additional discharge requirements; adding new post discharge requirements for consideration as a QRTP; clarifying the requirements of physical health of residents; adding requirements regarding medication administration; clarifying language in behavior management; clarifying previously allowed practice of standing in or near the doorway while engaging in approved de-escalation techniques as the only form of allowed seclusion; adding explicit language that locked seclusion is prohibited in children’s residential care facilities except for Level 2 facilities; adding requirement for Behavioral Health Professional (BHP) certification for QRTP; adding requirements in records management; expanding good judgement to include professional boundaries; adding requirements for comprehensive background checks with fingerprinting and inclusion of specific disqualifying conditions aligning with FFPSA; adding additional comprehensive background check requirements to include professional registries and Adult Protective Services; adding disqualifying driving offenses that prohibit a staff member from transporting residents; removing, clarifying and adding requirements to staff training; clarifying requirement for seatbelts and child safety seats; adding requirements for QRTP to have both a licensed clinician and registered nurse available 24 hours a day/7 days a week; expanding allowable credentials to include clinical conditional LCSW, LCPC and LMFT; eliminating requirement for six month clinical review; specifying treatment and facility requirements for persons with intellectual and/or developmental disability as a specialized program and including requirements for assessment and staff supervision; adding ancillary service to include BCBA in Level 2 facilities; clarifying language regarding enforcement; and adding a requirement to notify guardians of current and prospective residents of licensing action.

EFFECTIVE DATE: December 12, 2021

OCFS CONTACT PERSON: Janet Whitten, Office of Child and Family Services, 2 Anthony Avenue - 11 State House Station, Augusta, ME 04333-0011. Telephone: (207) 287-7068. Email: Janet.Whitten@Maine.gov.

OCFS WEBSITE: <https://www.maine.gov/dhhs/ocfs>.

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

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