**State of Maine: Notice of Agency Rulemaking – September 7, 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: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE: **Ch. 303**, Procedures Regarding Legal Research Access and Materials

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P163**

BRIEF SUMMARY: This proposed rule establishes the procedures for rostered MCILS attorneys to request access to legal research services and to request reimbursement for the purchase of legal research materials.

PUBLIC HEARING: September 28, 2022, 2:00 p.m., Room 228, State House, Augusta, Maine

COMMENT DEADLINE: October 9, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MCILS RULEMAKING LIAISON: Justin Andrus, Executive Director, 154 State House Station, Augusta, ME 04333. Telephone: (207) 287-3254. Fax: (207) 287-3293. Email: Justin.Andrus@Maine.gov.

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

STATUTORY AUTHORITY FOR THIS RULE: 4 MRS §§ 1804(2)(G), (3)(A) and (4)(D)

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

MCILS WEBSITE: [www.maine.gov/mcils/](http://www.maine.gov/mcils/).

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

CHAPTER NUMBER AND TITLE: **Ch. 180**, Insurance Holding Company System Model Rule with Reporting Forms and Instructions

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P164**

BRIEF SUMMARY: The proposed revisions update the rule to implement amendments to the *Maine Insurance Holding Company Act*, 24-A MRS §222, enacted by PL 2021 Ch. 521. These changes are based on amendments to the NAIC Insurance Holding Company System Model Rule (Model #450) adopted in 2020 and 2021, addressing the Group Capital Calculation and the continuity of essential services provided by affiliates.

PUBLIC HEARING: September 29, 2022, at 10:00 a.m. from the Department of Professional and Financial Regulation, Bureau of Insurance, 76 Northern Avenue, Gardiner, ME 04345. *Instructions for registering for and attending the hearing remotely, by audio-visual link or telephone, are on the Bureau of Insurance website,* [*https://www.maine.gov/pfr/insurance/news-public-notices/public-event-notices*](https://www.maine.gov/pfr/insurance/news-public-notices/public-event-notices)*.*

COMMENT DEADLINE: 4:30 p.m. October 10, 2022 by mail or email to the Contact Person.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Karma Lombard, Bureau of Insurance, 34 State House Station, Augusta, ME 04333-0034. Telephone: (207) 624-8540. TTY users use Maine Relay 711. Email: Karma.Y.Lombard@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: none

STATUTORY AUTHORITY FOR THIS RULE: 24-A MRS §§ 212, 222

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: n/a

BUREAU RULEMAKING WEBSITE: <https://www.maine.gov/pfr/insurance/legal/rules/index.html#proposed>.

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

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

CHAPTER NUMBER AND RULE TITLE: **Ch.** **331**, Public Assistance Manual (TANF)— Table of Contents; Ch. III, Eligibility Requirements (Financial); Ch. V, Transitional Benefits, and Appendix. **TANF Rule #119** – Expansion of Transitional Transportation, and Adjustments to TANF Budgeting

PROPOSED RULE NUMBER: **2022-P165**

BRIEF SUMMARY: This rulemaking would provide clarity in Chapter III on the treatment of one-time cash assistance such as that provided by the Build HOPE Project. This rulemaking would amend Chapter III to clarify the exclusion of certain non-recurring payments as assets. This rulemaking would update Chapter III Section (B) to increase the excluded gift threshold in recognition of inflation since the original figure was established.

This rulemaking would update Chapter V Section B to incorporate changes required by PL 2021 Ch. 1 §N-1 which amended the Transitional Transportation Program to extend this benefit to working families with income below 200% of the federal poverty level (FPL) even if they did not participate in ASPIRE-TANF, or lost TANF for a reason other than employment.

Additionally, PL 2021 Ch. 1 §N-1, restricted eligibility for this group to $1,400,000 per year.

This rule would update Chapter V Section B and change the window to apply for Transitional Transportation based on TANF closure from 12 months to three months and allows families to receive a full 18 months of Transitional Transportation benefits to align with the new eligibility category. It would also make clarifications regarding the application process including requirements for applicants to provide requested information and for the Department to issue decisions.

This rulemaking would make changes related to Chapter V Sections B(4) and (5) regarding the payment of Transitional Transportation supports. It would apply the $20 daily cap uniformly to all months rather than reduce it to $15 for the second six months. It would clarify that the benefit is available so long as a transportation expense is incurred regardless of the mode of transportation. These increases would provide additional support for working families and reduce the complexity of the program for them and Department staff.

Chapter V(B)(6)(a)(v) would be amended to clarify that households only need to report increases in income that put them over the applicable limit.

Appendix Charts page 1, The Table of Percentages for First Month Payment, would have the rate for the 31st day of the month corrected from 3.20 percent to 3.23 percent consistent with the formula used for other days.

It would make minor changes such as correcting typographical errors, making enumeration and formatting changes necessitated by the more substantive changes, adding clarifying language, and reducing the use of stigma inducing language as well as modernizing the asset type list to include crypto currency.

All the above proposed changes would be effective upon adoption.

Additionally, this rule proposes to make retroactive changes. It would change Chapter V Section B(4) to increase the reimbursement rate to 46¢ per mile consistent with the rate afforded to those covered under the Maine State Employees Association contract. This change would be effective October 1, 2022, consistent with the contractual change.

22 MRS §3769-C(1)(D) requires that the Department increase Appendix Charts page 2, Standard of Need and Maximum Grant, each October based on the Cost of Living Increase used by the Social Security Administration. This rulemaking would apply these changes for federal fiscal year 2023.

To comply with 22 MRS §3762(8)(C), Appendix Charts page 3, Worksheet For Calculating TCC Parent Fees and Subsidy Payments, would be updated based on Federal Poverty Level (FPL) figures published in the Annual Update of the HHS Poverty Guidelines, Federal Register 87:14 (January 21, 2022) p. 3315:

<https://www.federalregister.gov/documents/2022/01/21/2022-01166/annual-update-of-the-hhs-poverty-guidelines.>

The Department is proposing to adopt this provision with a retroactive application to February 1, 2022.

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.

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

PUBLIC HEARING: Thursday, September 29, 2022, at 1:00 p.m. *DHHS is committed to maintaining essential functions while protecting the health and safety of employees, clients, and the public. If public hearings for rules are held in person, which are indoor gatherings that may not allow for physical distancing, there is a reasonable chance that individuals’ health and safety may be compromised. To avoid the threat to public health and safety, DHHS finds that it is necessary to conduct all rulemaking public hearings per 5 MRS §8053 solely remotely. (See the policy at* [*https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/9%209%2021%20Remote%20Rulemaking%20Hearings%20Policy.pdf*](https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/9%209%2021%20Remote%20Rulemaking%20Hearings%20Policy.pdf)*.) 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\_MTVkZThhNDktOTkxMC00MDVmLTk1NjktZGI2YjM2ZDljNGU2%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_MTVkZThhNDktOTkxMC00MDVmLTk1NjktZGI2YjM2ZDljNGU2%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: 552 615 466#.*

*The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before Thursday, September 22, 2022.*

COMMENT DEADLINE: Monday, October 10, 2022, at 5:00 p.m. 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: Alexandria Lauritzen, TANF Program Manager, Department of Health and Human Services, Office for Family Independence, 109 Capitol Street, 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: 22 MRS §§ 42, 3762(3)(A) & (8)(B), 3769-A, 3769-C(1)(D), 3786

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

OFI WEBSITE: <http://www.maine.gov/dhhs/ofi/>.

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

OFI CONTACT PERSON: Sara.Gagne-Holmes@Maine.gov.

OFI RULEMAKING LIAISON: Dan.Cohen@Maine.gov.

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

AGENCY: **13-188 - Department of Marine Resources (DMR)**

CHAPTER NUMBER AND TITLE: **Ch. 34**, Groundfish Regulations: **34.06**, Recreational Groundfish Restrictions (for Cod and Haddock)

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P166**

BRIEF SUMMARY: On September 1, 2022, DMR adopted an emergency rule to be consistent with a NOAA Fisheries federal rulemaking. DMR is proposing to adopt the emergency rule as part of its regular rules. Consistent with the existing emergency rule, this proposal would implement regulatory changes for charter, party and recreational fishing vessels operating in state waters regarding Gulf of Maine cod and haddock. The bag limit for Gulf of Maine haddock is increased to 20 fish, with the fishing season and minimum size remaining unchanged. The season for Gulf of Maine cod is expanded such that cod may be possessed on board charter, party, or recreational fishing vessels from April 1-14, inclusive, and from September 1–October 7, inclusive. The minimum size for Gulf of Maine cod is also increased to 22 inches, and there is no change to the 1-fish bag limit. This action ensures compliance with the federal fishery management plan. It also expands recreational fishing opportunities for these species in Maine state waters.

PUBLIC HEARING: None scheduled. *Hearing facilities: If you require accommodations due to disability, please contact Meredith Mendelson at (207) 624-6553.*

COMMENT DEADLINE: October 7, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Amanda Ellis, Marine Resources, 21 State House Station, Augusta, Maine 04333-0021. Telephone: (207) 624-6573. Fax: (207) 624-6024. TTY: (207) 624-6500 (Deaf/Hard of Hearing). Email: dmr.rulemaking@maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Same

DMR WEBSITE: <http://www.maine.gov/dmr/rulemaking/>.

DMR RULE-MAKING LIAISON: Deirdre.Gilbert@Maine.gov.

**ADOPTIONS**

AGENCY: **18-691** - Department of Administrative and Financial Services (DAFS), **Office of Cannabis Policy**

CHAPTER NUMBER AND TITLE: **Ch. 1**, Adult Use Cannabis Program Rule

ADOPTED RULE NUMBER: **2022-165**

CONCISE SUMMARY: This rule is the primary rule regulating the operation of licensed cannabis establishments in the Adult Use Cannabis Program. The changes proposed are intended to implement changes to the governing statute enacted by the second regular session of the 130th Legislature, specifically, PL 2021, ch. 558, 612, 667, and 669, *An Act To Allow for a Variance Rate in the Amount and Potency of Cannabinoids in Adult Use Edible Marijuana Products, An Act To Improve Testing Requirements for Adult Use Marijuana, An Act To Permit Curbside Pickup and Limited Delivery of Adult Use Marijuana,* and *An Act To Promote Equity and Increase Opportunities in the Cannabis Industry by Removing Restrictions Related to Convictions for Drug Offenses and To Replace the Term "Marijuana" with the Term "Cannabis" in the Maine Revised Statutes*, respectively. Additionally, the changes proposed are intended to provide clarity to licensees regarding delivery and curbside pickup at cannabis stores, as well as changes to the requirements for mandatory testing.

EFFECTIVE DATE: September 8, 2022

AGENCY CONTACT PERSON: Gabi Pierce, Office of Cannabis Policy, Department of Administrative and Financial Services, 162 State House Station, Augusta, ME 04333. Telephone: (207) 530-0507. Email: Gabi.Pierce@Maine.gov.

AGENCY WEBSITE: <https://www.maine.gov/dafs/ocp/>.

AGENCY RULEMAKING LIAISON: Erik.Gundersen@Maine.gov.

AGENCY: **18-691** - Department of Administrative and Financial Services (DAFS), **Office of Cannabis Policy**

CHAPTER NUMBER AND TITLE: **Ch. 5**, Rules for the Certification of Cannabis Testing Facilities

ADOPTED RULE NUMBER: **2022-166**

CONCISE SUMMARY: This rule is the primary rule regulating the certification of cannabis testing facilities in the Adult Use Cannabis Program. The changes are intended to implement changes to the governing statute and reduce mandatory testing costs for licensees, and allow for variance in the potency of edible cannabis products in excess of the statutory limits.

EFFECTIVE DATE: September 8, 2022

AGENCY CONTACT PERSON: Gabi Pierce, Office of Cannabis Policy, Department of Administrative and Financial Services, 162 State House Station, Augusta, ME 04333. Telephone: (207) 530-0507. Email: Gabi.Pierce@Maine.gov.

AGENCY WEBSITE: <https://www.maine.gov/dafs/ocp/>.

AGENCY RULEMAKING LIAISON: Erik.Gundersen@Maine.gov.

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

CHAPTER NUMBER AND TITLE: **Ch. 420**, Safety Standards for Natural Gas and Liquefied Natural Gas Facility Operators

ADOPTED RULE NUMBER: **2022-167**

CONCISE SUMMARY: The Public Utilities Commission adopts amendments to Ch. 420, *Safety Standards for Natural Gas and Liquefied Natural Gas Facility Operators*. The amendments update and modernize the Commission’s gas safety rules.

EFFECTIVE DATE: September 5, 2022

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

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

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Maine Center for Disease Control and Prevention (MaineCDC)**

CHAPTER NUMBER AND TITLE: **Ch. 252**, Syringe Services Program Rules (*formerly* Rules Governing the Implementation of Hypodermic Apparatus Exchange Programs)

TYPE OF RULE: Routine Technical

ADOPTED RULE NUMBER: **2022-168** *(Emergency)*

CONCISE SUMMARY: This emergency amendment allows Department-certified Syringe Services Programs to implement a needs-based distribution model instead of requiring syringes to only be exchanged on a one-to-one basis. Pursuant to 5 MRS §8054, and as further set forth in the Basis Statement, the Department finds that the emergency adoption of 10-144 CMR Ch. 252 is necessary to avoid an immediate threat to public health, safety or general welfare and to comply with PL 2022 ch. 545, *An Act to Amend Syringe Services Programs*, which became effective on August 8, 2022.

EFFECTIVE DATE: September 1, 2022

MAINECEC CONTACT PERSON: Bridget Bagley, DHHS – MaineCDC, 11 State House Station – 286 Water Street, Augusta, ME 04333-0011. Telephone: (207) 287-9394. Email: Bridget.Bagley@Maine.gov.

MAINECDC RULES WEBSITE: <http://www.maine.gov/dhhs/mecdc/rules/>.

MAINECDC RULEMAKING LIAISON: Tera.Pare@Maine.gov.

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

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

AGENCY: **02-313 - Maine Board of Dental Practice** (*Affiliated with the* Department of Professional and Financial Regulation - PFR)

CHAPTER NUMBER AND TITLE: **Ch. 15** *(New)*, Practice Requirements for Teledentistry Services

ADOPTED RULE NUMBER: **2022-169**

CONCISE SUMMARY: This is a new rule identifying the practice requirements when dental professionals licensed by the Board utilize teledentistry services. This rule proposal includes language specific to definitions, general requirements, scopes of practice, supervision and delegation, privacy and security, emergency services, codes of professional conduct, technology and equipment, and patient disclosure requirements.

EFFECTIVE DATE: September 7, 2022

AGENCY CONTACT PERSON / RULEMAKING LIAISON: Penny Vaillancourt, Executive Director, Maine Board of Dental Practice, 143 State House Station, Augusta, ME 04333-0143. Telephone: (207) 287-3333. Email: PennyVaillancourt@Maine.gov.

AGENCY WEBSITE: <https://www.maine.gov/dental/>.