**State of Maine: Notice of Agency Rulemaking – December 2, 2020**

**PROPOSALS**

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

CHAPTER NUMBER AND TITLE: **Ch. 15**, Batterer Intervention Program Certification

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P227**

**BRIEF SUMMARY**: The primary reason this rule is being proposed is to amend the current rule to add provisions designed to help certified batterer intervention programs deliver their classes safely during the COVID-19 pandemic and similar emergencies.

**DETAILED SUMMARY:** Under the amended rule a new section would be added (section 11) for certified batterer intervention programs to deliver their classes via video conferencing groups if they are not able to offer in-person groups that comply with health and safety guidelines when a State of Emergency has been declared by the Governor or at the discretion of the Department of Corrections. There is also a provision for allowing an individual participant for whom there are health and safety concerns to attend a group via video conferencing. There is a provision for such a participant who does not have access to video conferencing technology to attend via phone until access to video conferencing technology is gained. There are provisions for notification to victims and others when participants are not attending in person. Finally, there are provisions that allow recordings of groups by educators and monitors for quality assurance purposes.

**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 the name of the commenter and the organization represented, if any.

**PUBLIC HEARING**: Tuesday, December 22, 2020 at 1:00 p.m. *Due to the COVID-19 pandemic, this hearing will be conducted via a Zoom virtual meeting. The Zoom meeting can be accessed at* [*https://zoom.us/j/92043462733?pwd=dWlTT09XY1FJVmNPMGQxMXNBUGtEQT09*](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fzoom.us%2Fj%2F92043462733%3Fpwd%3DdWlTT09XY1FJVmNPMGQxMXNBUGtEQT09&data=04%7C01%7CDiane.E.Sleek%40maine.gov%7C8fa78c22891c4d07da3f08d89096c81d%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C637418324558793987%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=9bHkXaEpRqAGlD2vCLOz2FpYsFkDLepkCokf5vegxU8%3D&reserved=0) *. If needed, the Meeting ID is 920 4346 2733 and Passcode is 3htH91. Some devices may require downloading a free app from Zoom prior to joining the public hearing event. Directions on how to attend the hearing will also be posted on the Department of Corrections website and sent to the interested persons list.*

COMMENT DEADLINE: January 4, 2021

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) 530-0983. Fax: (207) 287-4370. Email: Mary.A.Lucia@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 19-A MRS §4014

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

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

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

CHAPTER NUMBER AND TITLE: **Ch. 3**, Schedule of Minimum Prices**, Order #01-21**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2020-P228**

BRIEF SUMMARY: The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954

PUBLIC HEARING:December 23, 2020, Wednesday, starting at 4:00 p.m. *Because* *of the COVID-19 Public Health Emergency and pursuant to 1 MRS §403-A, enacted by P.L. 2020 c. 617 part G (eff. Mar. 18, 2020), this hearing could be held remotely by telephonic conference. Directions on how to attend the hearing telephonically will be posted on the Milk Commission website and sent to the interested persons list in advance of December 23, 2020. If the civil emergency is not extended the meeting will be held in Room 101, Deering Building, Augusta, Maine.*

COMMENT DEADLINE: December 23, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MMC RULEMAKING LIAISON: Tim Drake, Maine Milk Commission, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7521. Email: Tim.Drake@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §8054; 7 MRS §2954

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

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

AGENCY: **28-248 - Office of the State Treasurer**

CHAPTER NUMBER AND TITLE: **Ch. 104**, Certain Payments Not Immediate

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2020-P229**

**BRIEF SUMMARY**: The purpose of this rule is to establish procedures for a department or agency to accept payments using automated procedures, electronic processes and computer driven technology that are not immediately deposited into the State Treasury. Pursuant to 5 MRS §131, as enacted by HP 1212 – LD 1697, the Treasurer of State and the State Controller shall adopt rules.

**DETAILED SUMMARY:** In accordance with the Act, the Treasurer of the State and the State Controller have established the rules and regulations governing the procedures to accept payments using automated procedures, electronic processes and computer driven technology that are not immediately deposited into the State Treasury.

The Office of the State Treasurer and the Office of the State Controller will have oversight and ultimate approval of a Third-Party Payment Processor for use by a state agency. The processor must make a payee aware that payments made through their services are not immediately received by the state.

**PUBLIC HEARING**: 21 December 2020, 11:00 a.m. *Hearing will be virtual via the following link* [*https://teams.microsoft.com/l/meetup-join/19%3ameeting\_NDViOGIyN2YtZjJjYi00Y2Y2LWJiNzUtMGM4NjcwYzFhMThk%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%2281e57b5b-958f-42bb-a940-c7abe1192ce2%22%7d*](https://teams.microsoft.com/l/meetup-join/19%3Ameeting_NDViOGIyN2YtZjJjYi00Y2Y2LWJiNzUtMGM4NjcwYzFhMThk%40thread.v2/0?context=%7b%22Tid%22%3a%22413fa8ab-207d-4b62-9bcd-ea1a8f2f864e%22%2c%22Oid%22%3a%2281e57b5b-958f-42bb-a940-c7abe1192ce2%22%7d) *. For those without access to a computer, access via phone at 877-455-0244 Code: 5090667396 .*

COMMENT DEADLINE: 28 December, 2020.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION \ AGENCY RULEMAKING LIAISON: Matthew Colpitts, 39 State House Station, Augusta, Maine 04333. Telephone: (207) 624.7477. Email: Matthew.Colpitts@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRS §131

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: None

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

AGENCY: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE: **Ch. 2**, Standards for Qualifications of Assigned Counsel

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2020-P230**

**BRIEF SUMMARY**: The rule amends the MCILS standards for attorney eligibility to provide indigent legal services to increase the annual continuing legal education credit hour requirement, strengthen the reporting requirements that attorneys report bar disciplinary complaints and criminal charges to the Commission and authorize the Executive Director to remove or suspend attorneys from the roster of eligible attorneys for alleged criminal conduct.

**DETAILED SUMMARY:** The Commission on Indigent Legal Services is charged with providing high quality representation in cases where indigent clients are entitled to representation at State expense. Among its responsibilities is setting standards for attorneys eligible to provide representation in these cases. This rule amendment strengthens existing standards by amending the MCILS standards for attorney eligibility to provide indigent legal services to increase the annual continuing legal education credit hour requirement, strengthen the reporting requirements that attorneys report bar disciplinary complaints and criminal charges to the Commission and authorize the Executive Director to remove or suspend attorneys from the roster of eligible attorneys for alleged criminal conduct.

**PUBLIC HEARING**: December 21, 2020 - 1:00 p.m. *The meeting will be by Zoom. Contact us the day before the hearing or check our website at* [*www.maine.gov/mcils*](http://www.maine.gov/mcils) *for information on how to connect.*

COMMENT DEADLINE: December 31, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MCILS RULEMAKING LIAISON: Eleanor Maciag, Esq., Maine Commission on Indigent Legal Services, 154 State House Station - 32 Blossom Lane, Augusta, ME 04330. Telephone: (207) 287-3258. Email: Eleanor.Maciag@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

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

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

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

AGENCY: **94-649 - Maine Commission on Indigent Legal Services (MCILS)**

CHAPTER NUMBER AND TITLE: **Ch. 3**, Eligibility Requirements for Specialized Case Types

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2020-P231**

**BRIEF SUMMARY**: This rule amends the eligibility requirements for an attorney rostered with the Commission to receive assignments in specialized case types. This amendment adds some case types to the list of specialized case types and amends eligibility and application requirements for all specialized case types.

**DETAILED SUMMARY:** The Commission on Indigent Legal Services is charged with providing high quality representation in cases where indigent clients are entitled to representation at State expense. Among its responsibilities is setting standards to ensure that attorneys are qualified for the types of cases to which they are assigned. This rule amendment strengthens the existing standards for an attorney rostered with the Commission to receive assignments in specialized case types, i.e. cases that are particularly serious or complicated. This amendment adds some case types to the list of specialized case types and amends eligibility and application requirements for all specialized case types.

**PUBLIC HEARING**: December 21, 2020 - 1:00 p.m. *The meeting will be by Zoom. Contact us the day before the hearing or check our website at* [*www.maine.gov/mcils*](http://www.maine.gov/mcils) *for information on how to connect.*

COMMENT DEADLINE: December 31, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MCILS RULEMAKING LIAISON: Eleanor Maciag, Esq., Maine Commission on Indigent Legal Services, 154 State House Station - 32 Blossom Lane, Augusta, ME 04330. Telephone: (207) 287-3258. Email: Eleanor.Maciag@Maine.gov .

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

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

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

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

**ADOPTIONS**

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

CHAPTER NUMBER AND TITLE: **Ch. 3**, Schedule of Minimum Prices**, Order #12-20**

ADOPTED RULE NUMBER: **2020-235** *(Emergency)*

CONCISE SUMMARY: Minimum December 2020 Class I price is $23.12/cwt. plus $1.63/cwt. for Producer Margins, an over-order premium of $1.04/cwt as being prevailing in Southern New England and $0.47/cwt. handling fee for a total of $26.46/cwt. that includes a $0.20/cwt. Federal promotion fee.

EFFECTIVE DATE: November 29, 2020

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION / MMC RULEMAKING LIAISON: Tim Drake, Maine Milk Commission, 28 State House Station, Augusta, ME 04333. Telephone: (207) 287-7521. Email: Tim.Drake@Maine.gov .

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

AGENCY: **29-255** – Secretary of State (SOS), **Maine State Archives**

CHAPTER NUMBERS AND TITLES:

**Ch. 1**, State and Local Government Agency Records Programs

**Ch. 2**, State Records Center Facilities and Services

**Ch. 3**, Imaging State Records

**Ch. 4**, Rules for the Public Use of Materials and Facilities in the Maine State Archives

ADOPTED RULE NUMBERS: **2020-238** *thru* **241**

CONCISE SUMMARY: Statutory authority for these rules is 5 MRS ch. 6 §95. The language for 5 MRS, *An Act to Amend the Archives and Records Management Law*, has been revised; Ch. 1 – 4 rules coincide with this Title and need to be revised as well.

CHAPTER 1 - STATE AND LOCAL GOVERNMENT AGENCY RECORDS PROGRAMS. This rule prescribes policies, standards, and procedures for the economical and efficient management of State records. The rule may be amended to comply with law and policy changes.

CHAPTER 2 - STATE RECORDS CENTER FACILITIES AND SERVICES. This rule prescribes policies, standards, and procedures to govern the custody, use and withdrawal of agency records transferred to State Records Center facilities. The rule may be amended to comply with law and policy changes.

CHAPTER 3 - IMAGING STATE RECORDS. These rules provide (a) standards to be used by State agencies for imaging records; (b) criteria for using digital and microfilm copies; (c) standards for storing digital and microfilm copies of permanent records; and (d) information concerning digital and microfilm services available from the Maine State Archives. The rule may be amended to comply with law and policy changes.

CHAPTER 4 - RULES FOR THE PUBLIC USE OF MATERIALS AND FACILITIES IN THE MAINE STATE ARCHIVES. This rule includes the policies and procedures governing the public use of agency records, archives, and deposited records in the custody of the Maine State Archives. This rule also prescribes policies and procedures governing the public use of certain facilities in the Maine State Archives. The rule may be amended to comply with law and policy changes.

EFFECTIVE DATE: November 29, 2020

ARCHIVES CONTACT PERSON / RULEMAKING LIAISON: Tammy Marks, Maine State Archives, 230 State Street - 84 State House Station, Augusta, ME 04330. Telephone: (207) 287-5799. Email: Tammy.Marks@Maine.gov .

ARCHIVES WEBSITE: <https://www.maine.gov/sos/arc/> .

AGENCY: **10-144** - Department of Health and Human Services (DHHS), **Office of MaineCare Services (OMS) – Division of Policy**

CHAPTER NUMBER AND TITLE: **Ch. 101**, MaineCare Benefits Manual (MBM): **Ch. II Section 103**, Rural Health Clinic Services

ADOPTED RULE NUMBER: **2020-242**

CONCISE SUMMARY: This rule is adopted to comply with PL 2019 ch. 530, *An Act to Prevent and Reduce Tobacco Use with Adequate Funding and by Equalizing the Taxes on Tobacco Products and To Improve Public Health*. Part C sec. C-4, of the Act requires the Department to amend the rural health clinic services reimbursement methodology to provide rural health clinics with an alternative payment methodology option. Each rural health clinic must be given the option to be reimbursed under the existing prospective payment system methodology, or as of January 1, 2020, the alternative payment methodology of being reimbursed on the basis of 100% of the average of the reasonable costs of providing MaineCare-covered services during calendar years 2016 and 2017, as long as reimbursement is no less than reimbursement received under the current prospective payment system.

The current reimbursement method is based on 100% of the average of the reasonable costs of providing MaineCare-covered services during calendar years 1999 and 2000, with historical Medicare Economic Index (MEI) adjustments.

The resulting average, under both methods, is adjusted to account for any increase or decrease in the approved scope of services furnished during the provider’s fiscal year 2001 or 2018, respectively, calculating the amount of payment on a per visit basis.

The Department submitted to CMS and anticipates approval of a State Plan Amendment (SPA) related to these provisions effective retroactive to January 1, 2020. A retroactive effective date is permissible under federal Medicaid law because the SPA was submitted in February, and pursuant to 22 MRS §42(8) because these changes benefit providers.

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

EFFECTIVE DATE: December 8, 2020

OMS CONTACT PERSON: Anne E. Labonte, Comprehensive Health Planner, DHHS – OMS - Division of Policy, 109 Capitol Street - 11 State House Station, Augusta, Maine 04333-0011. Telephone: (207) 624-4082. Fax: (207) 287-6106. TTY users call Maine relay 711. Email: Anne.Labonte@Maine.gov .

OMS WEBSITE: <https://www.maine.gov/dhhs/oms> .

OMS RULEMAKING LIAISON: Thomas.Leet@Maine.gov .

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