

Rule-Making Fact Sheet

AGENCY: Department of Health and Human Services, Office for Family Independence

AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE TITLE: 10-144 C.M.R Chapter 331; Public Assistance Manual Temporary Assistance for Needy Families (TANF) – Table of Contents, Chapter I, Eligibility Process, Chapter II, Eligibility Requirements (non-financial), Chapter III, Asset Limits, IV, Budgeting Process, Chapter V, Transitional Benefits, Appendices – Maximum Benefit and Standard of Need and Worksheet for Calculating TCC Parent Fees and Subsidy Payments
TANF Rule #118P – Noncitizen Language

TYPE OF RULE (*check one*): Routine Technical Major Substantive

STATUTORY AUTHORITY: 22 M.R.S. §§ 42(1) and (8); 3762(3)(A) and (8)(C); 3763(1) and (1-A); 3769-A; 3769-C(1)(D); and 3786; P.L. 2021, ch. 97, §§ 1 and 2

PUBLIC HEARING: Tuesday, January 30, 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 Tuesday, January 23, 2024.

COMMENT DEADLINE: Monday, February 12, 2024, at 5:00 p.m. ET.

Written public comments may be submitted via the link at

<https://www.maine.gov/dhhs/about/rulemaking>

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: The proposed rulemaking seeks to clarify program requirements in Chapters I, II, IV and V for applicants and the Department as they relate to non-citizen eligibility. These requirements are consistent with 42 U.S.C. § 602 and 45 C.F.R. § 260. Proposed Asset limit changes in Chapter III are consistent with P.L. 2023 Ch. 366, *An Act to Allow Maine Families to Increase Their Savings by Changing the Asset Limits for Eligibility for the Temporary Assistance for Needy Families Program*. Throughout the proposed rule’s affected sections “Noncitizens” replaces “aliens.”

This rulemaking proposes additions to the Table of Contents to provide ease in locating updated language in the affected sections of the rule.

The definition of “Elderly” has been updated in the Introductions and General Definitions consistent with 22 M.R.S. § 3762(3)(B)(2)(a). The definition of Federal Poverty Level (FPL) includes reference to periodic updates in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).

This rulemaking proposes Chapter I updates to the hardship extension categories and eligibility criteria for clarity and consistency, including:

- Consistent with 20 C.F.R. § 404.1505 incapacity would be replaced with impairment in Ch. I (J)(3)(g)(ii)(a)(2)(a) and (b) and Ch. V(A)(1)(a)(ii);
- (J)(3)(g)(ii)(a)(2)(a) and (b): Disability is defined consistent with that of the Social Security Administration;
- (J)(3)(g)(ii)(4): Participation in a Training or Education Program proposes to remove the requirement that an individual is only eligible for this extension if they are participating in a training or education program “in the 60th month of receipt of TANF/PaS”. J(4)(a) through (d) are removed as these are identified elsewhere (10-144 C.M.R. Ch. 60, ASPIRE-TANF Program Rules, Section (3)(IV)(A)(3)(a));
- (J)(3)(g)(ii)(5): Working Families proposes to remove the requirement that an individual is only eligible for this extension if they are participating in paid employment “for at least 35 hours a week” and proposes to add (a) through (e) to provide clarification regarding paid employment standards consistent with 42 U.S.C. § 607(c)(B)(i);
- (J)(3)(g)(ii)(6): Pregnancy proposes to remove “in the 60th month of TANF/PaS receipt.” And proposes to add “This extension is limited to one occurrence in the adult’s lifetime;”
- (J)(3)(g)(ii)(7)(c): Loss of Job proposes to remove “and would be eligible except that they have not worked for a sufficient length of time”. In addition, “provided there is a break in TANF for at least 12 months between the two extension periods” is intended to be removed;
- (J)(3)(g)(ii)(8): Occurrence of an Emergency Situation “This extension must be approved by the TANF Program Manager” is proposed to be removed. In addition, b through e would be added to provide clarification regarding homelessness, inadequate or unavailable childcare or transportation required to engage in substantial gainful activity, and a delay caused by a third-party in obtaining non-financial verifications required to make a hardship extension eligibility determination beyond the verification due date. In addition, “additional incremental extensions of up to six months each may be granted” is proposed; and
- (J)(3)(i)(v)(c)(3) “DSER or QC” is added for clarification to “fails to cooperate with their Family Contract Amendment during the temporary hardship extension period.”

Consistent with 8 U.S.C. Ch. 12, the Department proposes significant Chapter II updates which provide clarification for program citizenship and noncitizen eligibility requirements, verification requirements and application processing timeframes.

The Department proposes to clarify Chapter V (3)(c) by waiving the Parent Fee Requirement for any family with a gross weekly income equal to or less than 250%. Ch. V (4)(c)(ii) calculation of the parent fee is updated to align with Ch. V (3)(c) as permitted by 22 M.R.S. § 3762(8)(C).

All the above proposed changes would be effective upon adoption.

The proposed rule would remove “Escalating Sanctions” and associated language from Ch. II (F)(1)(d), (H)(3), and (H)(3)(a)(i and ii). Ch. II (H)(3) proposes clarification to benefits termination due to failure to comply with program requirements. In addition, this rule proposes to remove Chapter II (H)(3)(f). The Department proposes this provision with a retroactive application to October 18, 2021, as required by P.L. 2021, ch. 97, §§ 1 and 2.

Pursuant to 22 M.R.S. § 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, 88 Fed. Reg. 3424. <https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines>. The Department proposes this provision with a retroactive application to February 5, 2023.

Chapter III, Asset limit changes consistent with P.L. 2023 Ch. 366 would be effective retroactive to October 25, 2023.

22 M.R.S. § 3769-C(1)(D) requires that the Department increase Appendix Chart, 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 effective retroactive to October 1, 2023.

Retroactive rulemaking is authorized by the Legislature in accordance with 22 M.R.S. § 42(8) because the rule provides a benefit to recipients and beneficiaries and does not have an adverse financial effect on either providers or recipients.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? The updated Federal Poverty Levels published at <https://aspe.hhs.gov/poverty-guidelines>

Work Requirements consistent with 42 U.S.C. § 607(c)(1)(A)

ANALYSIS AND EXPECTED OPERATION OF THE RULE: The proposed rulemaking is intended to provide clarification to participants, potentially eligible participants and Department front line staff regarding noncitizen eligibility and processing requirements. Department front line staff will continue to accept and process applications for TANF. Department staff will apply new standards as appropriate. In addition, cost of living increases will benefit participants as well as local businesses where participants shop.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING

DEVELOPMENT OF THE RULE: The following federal statutes and public laws were considered during the development of this proposed rule:

The current Social Security Administration COLA rate and calculation method at

<https://www.ssa.gov/OACT/COLA/colasummary.html>;

Federal Poverty Levels published in the Annual Update of the HHS Poverty Guidelines, 88 Fed. Reg. 3424 (January 19, 2023) <https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines>;

22 M.R.S. § 3763(1) and (1-A) as amended by P.L. 2021, ch. 97;

H.R. 2617 Consolidated Continuing Appropriations Act, 2023;

Section 2502 of the Afghanistan Supplemental Appropriations Act of 2022 (PL 117-43);

P.L. 2023 Ch. 366

42 U.S.C. 608(a)(7); and

10-144 C.M.R. Ch.s 330, 607, and 609.

ESTIMATED FISCAL IMPACT OF THE RULE: The increased benefit amounts will result in an anticipated additional expenditure of \$4,715,653 per year from the Federal TANF Block Grant for federally funded benefits and \$449,568 per year from in state General Funds for state funded benefits. These expenditures will primarily be realized as income for Maine businesses where they are spent.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS: The increased benefit amounts will result in an anticipated additional expenditure of \$4,715,653 per year from the Federal TANF Block Grant for federally funded benefits and \$449,568 per year in state General Funds for state funded benefits.

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: These expenditures are anticipated to primarily be realized as income for Maine landlords and businesses where they are spent.

BENEFITS OF THE RULE: Benefits of this rule are anticipated to be realized by TANF participants and the larger Maine economy as noted above.

Note: If necessary, additional pages may be used.