

Notice of Agency Rule-making Proposal

MAPA 3

AGENCY: 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), Rule - Table of Contents, Chapter I, Eligibility Process, Chapter II, Eligibility Requirements (non-financial), Chapter III, Asset Limits, Chapter 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

PROPOSED RULE NUMBER:

BRIEF SUMMARY: The proposed rule 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. Throughout the proposed rule’s affected sections “Noncitizens” replaces “aliens.”

The 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 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 Chapter V (A)(1)(a)(ii);
- J(3)(g)(ii)(a)(2)(a) and (b): Disability consistent with the Social Security Administration’s definition of substantial gainful activity;
- J(3)(g)(ii)(4): Participation in a Training or Education Program proposes to remove “in the 60th month of receipt of TANF/PaS as well as (a) through (d) as these are identified in 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 (c) add 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.”;
- 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 beyond the verification due date caused by a third-party in obtaining non-financial verifications required to make a hardship extension eligibility determination. 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 MRS § 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) as well as (H)(3)(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 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 provider or recipients.

See <https://www.maine.gov/dhhs/about/rulemaking> for rules and related rulemaking documents.

STATUTORY AUTHORITY FOR THIS RULE: 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 3789; 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 below before Tuesday, January 23, 2023.

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>

CONTACT PERSON FOR THIS FILING:

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FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None anticipated.

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON:

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** Check one of the following two boxes.*

The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.
