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*Kristin L. Clouser, Secretary*

## **INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) AGENDA** **Monday, August 14, 2023, 2:00 p.m.**

To attend virtually via Microsoft Teams, please [click here to join the meeting](#) for full meeting audio and visual. If you require a call-in option to participate (e.g., computer does not have a microphone), dial 802-828-7667 and enter Phone Conference ID: 106 522 523#.

Physical meeting location suspended until July 1, 2024 due to [Open Meeting Law temporary provisions](#).

- Welcome
- Review and approval of the [minutes](#) from the June 12, 2023 meeting
- Note any additions or deletions from the agenda
- Note: The following emergency rules were supported:
  - 1) On 06/30/23: 'Pandemic-Era General Assistance Emergency Housing Transition' from the Agency of Human Services, Department for Children and Families
    - a) The Department for Children and Families must establish eligibility criteria to continue providing temporary housing assistance to the populations identified in Act 81 and the Executive Order dated June 30, 2023.
      - i) This rule expands categorical eligibility for temporary housing assistance under General Assistance rule 2652.3 from families with children age six or under to families with children under 18 years of age or who are 18 or 19 years of age and attending secondary school on full-time basis or an equivalent level of vocational or technical training, pursuant to the Executive Order. This rule updates the basic needs standard chart in rule 2652.4 to align with the current Reach Up basic needs standard and amends the methodology in rule 2652.4 for calculating the 30 percent income contribution. This rule establishes two new sections: (1) rule 2652.5, which implements sec. 6 of Act 81 of 2023; and (2) rule 2652.6, which clarifies that the maximum number of days a household may receive housing assistance resets July 1, 2023 and rescinds all waivers and variances of the rules previously in place from March 2020 through June 2023.
  - 2) On 07/28/23: 'Rules Governing Medication-Assisted Treatment for Opioid Use Disorder', Agency of Human Services
    - a) This emergency rule eliminates the X Waiver requirements, which can no longer be met due to federal changes. This update will ensure Vermont's MAT regulations do not inhibit access to MAT providers by those in need.
      - i) On December 29, 2022, Congress eliminated the federal requirement for healthcare providers who dispense medication for opioid use disorder to obtain an "X Waiver" prior



to dispensing buprenorphine and ended the program that issued those waivers. However, the legislation does not impact current state regulations; the current (non-emergency) Vermont MAT regulations still require providers to obtain this X Waiver (which is no longer obtainable) in order to dispense buprenorphine to treat substance use disorder. This emergency rule eliminates the X Waiver requirements. Doing so will ensure Vermont's MAT regulations do not inhibit access to MAT providers by those in need. The Department is currently drafting amendments to the regular MAT Rule and that rulemaking is anticipated to be completed before the expiration of this emergency rule.

- 3) On 08/03/23: 'Reportable and Communicable Diseases Rule', Agency of Human Services, Department of Health
    - a) This rule adds Mpox to the list of reportable diseases, due to the virus' increased public health threat. This also reduces the administrative burden for reporters by eliminating the need to report negative COVID results.
      - i) This rulemaking does the following: 1) Removes the requirement to report negative and indeterminate SARS-CoV-2 results to the Department of Health, the lab test to determine if someone has COVID-19; 2) Changes the required reporting period for positive SARS-CoV-2 results from "immediately" to "within 24 hours"; 3) Adds the virus Mpox to the list of reportable diseases and the associated laboratory finding, Non-variola Orthopoxvirus, to the list of reportable laboratory findings; 4) Clarifies that immediate reporting for identified diseases and laboratory findings means they must be reported by telephone to the Department; and 5) Clarifies the difference between the laboratory finding that causes the virus SARS and the laboratory finding that causes the virus COVID-19.
  - 4) On 08/07/23: Amyotrophic Lateral Sclerosis (ALS) Registry Rule, Agency of Human Services, Department of Health
    - a) 18 V.S.A. § 176 requires the Department to establish this registry by 7/1/23. The regular ALS Registry rule will not be adopted for several months. Without this e-rule, some incidence data may not be reported as required.
      - i) This rule implements the Vermont Amyotrophic Lateral Sclerosis (ALS) Registry created by 18 V.S.A. Chapter 4A that requires the Commissioner of Health to establish an ALS incidence registry system for the collection of information determining the incidence of ALS and related data.
- Public comment
  - Presentation of the following proposed rules:
    - 1) Vermont Passenger Tramway Rules, Vermont Department of Labor
      - a) This is an amendment of an existing rule, which is being revisited primarily for the purpose of adopting by reference the most recent industry standard. This is the 2022 edition of ANSI B77.1, the American National Standard for Passenger Ropeways - Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors Safety Requirements. The rule also includes a Vermont-specific Addendum, further supplementing the national standard.
    - 2) Health Benefits Eligibility and Enrollment Rule, General Provisions and Definitions (Part 1), Agency of Human Services
      - a) This proposed rulemaking amends Parts 1-5, and 7-8 of the 8-part Health Benefits Eligibility and Enrollment (HBEE) rule. Parts 1, 2, 3, 5, and 7 were last amended effective January 1, 2023. Part 4 was last amended effective January 15, 2019. Part 8 was last amended effective October 1, 2021. Substantive revisions include: implementing 12 months of Medicaid continuous eligibility for children; codifying ineligibility for Qualified Health Plan subsidy if failure to reconcile tax credits for 2 consecutive years; allowing self-



attestation of income for Qualified Health Plan subsidies if no tax information is available through data sources; and codifying 2 new income and resource exclusions for purposes of Medicaid eligibility for the Aged, Blind, and Disabled (MABD).

- 3) Health Benefits Eligibility and Enrollment Rule, Eligibility Standards (Part 2), Agency of Human Services
  - a) This proposed rulemaking amends Parts 1-5, and 7-8 of the 8-part Health Benefits Eligibility and Enrollment (HBEE) rule. Parts 1, 2, 3, 5, and 7 were last amended effective January 1, 2023. Part 4 was last amended effective January 15, 2019. Part 8 was last amended effective October 1, 2021. Substantive revisions include: implementing 12 months of Medicaid continuous eligibility for children; codifying ineligibility for Qualified Health Plan subsidy if failure to reconcile tax credits for 2 consecutive years; allowing self-attestation of income for Qualified Health Plan subsidies if no tax information is available through data sources; and codifying 2 new income and resource exclusions for purposes of Medicaid eligibility for the Aged, Blind, and Disabled (MABD).
- 4) Health Benefits Eligibility and Enrollment Rule, Nonfinancial Eligibility Requirements (Part 3), Agency of Human Services
  - a) This proposed rulemaking amends Parts 1-5, and 7-8 of the 8-part Health Benefits Eligibility and Enrollment (HBEE) rule. Parts 1, 2, 3, 5, and 7 were last amended effective January 1, 2023. Part 4 was last amended effective January 15, 2019. Part 8 was last amended effective October 1, 2021. Substantive revisions include: implementing 12 months of Medicaid continuous eligibility for children; codifying ineligibility for Qualified Health Plan subsidy if failure to reconcile tax credits for 2 consecutive years; allowing self-attestation of income for Qualified Health Plan subsidies if no tax information is available through data sources; and codifying 2 new income and resource exclusions for purposes of Medicaid eligibility for the Aged, Blind, and Disabled (MABD).
- 5) Health Benefits Eligibility and Enrollment Rule, Special Rules for Medicaid Coverage of Long-Term Services and Supports - Eligibility and Post-Eligibility (Part 4), Agency of Human Services
  - a) This proposed rulemaking amends Parts 1-5, and 7-8 of the 8-part Health Benefits Eligibility and Enrollment (HBEE) rule. Parts 1, 2, 3, 5, and 7 were last amended effective January 1, 2023. Part 4 was last amended effective January 15, 2019. Part 8 was last amended effective October 1, 2021. Substantive revisions include: implementing 12 months of Medicaid continuous eligibility for children; codifying ineligibility for Qualified Health Plan subsidy if failure to reconcile tax credits for 2 consecutive years; allowing self-attestation of income for Qualified Health Plan subsidies if no tax information is available through data sources; and codifying 2 new income and resource exclusions for purposes of Medicaid eligibility for the Aged, Blind, and Disabled (MABD).
- 6) Health Benefits Eligibility and Enrollment Rule, Financial Methodologies (Part 5), Agency of Human Services
  - a) This proposed rulemaking amends Parts 1-5, and 7-8 of the 8-part Health Benefits Eligibility and Enrollment (HBEE) rule. Parts 1, 2, 3, 5, and 7 were last amended effective January 1, 2023. Part 4 was last amended effective January 15, 2019. Part 8 was last amended effective October 1, 2021. Substantive revisions include: implementing 12 months of Medicaid continuous eligibility for children; codifying ineligibility for Qualified Health Plan subsidy if failure to reconcile tax credits for 2 consecutive years; allowing self-attestation of income for Qualified Health Plan subsidies if no tax information is available through data sources; and codifying 2 new income and resource exclusions for purposes of Medicaid eligibility for the Aged, Blind, and Disabled (MABD).

- 7) Health Benefits Eligibility and Enrollment Rule, Eligibility-and-Enrollment Procedures (Part 7), Agency of Human Services
    - a) This proposed rulemaking amends Parts 1-5, and 7-8 of the 8-part Health Benefits Eligibility and Enrollment (HBEE) rule. Parts 1, 2, 3, 5, and 7 were last amended effective January 1, 2023. Part 4 was last amended effective January 15, 2019. Part 8 was last amended effective October 1, 2021. Substantive revisions include: implementing 12 months of Medicaid continuous eligibility for children; codifying ineligibility for Qualified Health Plan subsidy if failure to reconcile tax credits for 2 consecutive years; allowing self-attestation of income for Qualified Health Plan subsidies if no tax information is available through data sources; and codifying 2 new income and resource exclusions for purposes of Medicaid eligibility for the Aged, Blind, and Disabled (MABD).
  - 8) Health Benefits Eligibility and Enrollment Rule, State Fair Hearings and Expedited Eligibility Appeals (Part 8), Agency of Human Services
    - a) This proposed rulemaking amends Parts 1-5, and 7-8 of the 8-part Health Benefits Eligibility and Enrollment (HBEE) rule. Parts 1, 2, 3, 5, and 7 were last amended effective January 1, 2023. Part 4 was last amended effective January 15, 2019. Part 8 was last amended effective October 1, 2021. Substantive revisions include: implementing 12 months of Medicaid continuous eligibility for children; codifying ineligibility for Qualified Health Plan subsidy if failure to reconcile tax credits for 2 consecutive years; allowing self-attestation of income for Qualified Health Plan subsidies if no tax information is available through data sources; and codifying 2 new income and resource exclusions for purposes of Medicaid eligibility for the Aged, Blind, and Disabled (MABD).
  - 9) Judicial Nominating Board Rule Amendments, Judicial Nominating Board
    - a) These amendments: update conflict of interest standards to conform to recently passed legislation; reduce unnecessarily duplicative interviews; emphasize the importance of writing for Supreme Court candidates; and minor miscellaneous edits to conform to statute and practice.
  - 10) Water Supply Rule, Agency of Natural Resources
    - a) The Rule amendment proposes to incorporate by reference the federal Revised Total Coliform Rule, responsible for assessing bacteriological and pathogen vulnerability of all public drinking water systems. It adds a few Vermont-specific topics required by the federal regulation when incorporating by reference as required to be specifically identified in our primacy application to EPA. This amendment also seeks to revise the standards and process for operator licensing/certification to better-protect public health at larger or more complicated public drinking water systems by requiring additional certified staff. It makes minor amendments to the treatment specifications for PFAS in drinking water. The rule also provides greater and more uniform protection for isolation distances from public drinking water sources (wells) by aligning better with existing Wastewater System and Potable Water Supply Rule. There are also a series of minor changes, primarily fixing internal citations.
- Other business
  - Next meeting dates:
    - Wednesday, September 6, 2023 at 1:00 p.m. – Special Meeting for Committee Discussion only
    - Monday, September 11, 2023 at 2:00 p.m. – Regular monthly meeting
  - Adjournment

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