

MAINE STATE LEGISLATURE

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Janet T. Mills
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND
FINANCIAL SERVICES
BUREAU OF THE BUDGET
58 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0058

KIRSTEN LC FIGUEROA
COMMISSIONER

DARRYL STEWART
ACTING STATE BUDGET OFFICER

To: The Honorable Troy D. Jackson, President of the Senate
Members of the 131st Senate
The Honorable Rachel Talbot Ross, Speaker of the House
Members of the 131st House of Representatives

From: Darryl Stewart, Acting State Budget Officer

Date: December 29, 2023

Subject: Federal Mandates

The State Budget Officer is required by 5 M.R.S.A., Section 1670, to submit a list, to all members of the Legislature, of any new laws, regulations, or other actions that may require the State to comply with any new federal mandate in the current biennium or the next biennium.

Attached please find the report of federal mandates as submitted from the various State departments and agencies.

If you should have any questions regarding this report, please do not hesitate to contact the Budget Office at (207) 624-7810.

Thank you.

DFS/mlm

cc: Christopher Nolan, Director, OFPR
Kirsten LC Figueroa, Commissioner, DAFS
Alex Burnett, Deputy Director ME State Law & Legislative Reference Library
Darek M Grant, Secretary of the Senate
Robert B Hunt, Clerk of the House

FEDERAL MANDATES

DEPARTMENT OR AGENCY	PROGRAM NAME & ACCOUNT #	FED CITE	DESCRIPTION OF THE PURPOSE OF THE MANDATE	IMPLEMENT- TATION DATE (DD-MM-YY)	FUND (SEE KEY)	AMOUNT	STATE FISCAL YEAR
DACF-BAFRR	SCBGP-Specialty Crop Block Grant Program	2 CFR § 415.2 Section 11.0 Acknowledgement of USDA Support on Publications and Audiovisuals	The intended purpose of the mandate to Acknowledge USDA Support on Publications and Audiovisuals is to ensure that all written, audio, and video materials that are fully, or partially, funded by the USDA AMS are recognized as funded by USDA. This includes all print materials, reports, posters, brochures, and any publications reporting the results of a USDA AMS grant-supported activity as well as audio and video products including live or prerecorded radio or television programs. Subaward recipients must include the acknowledgment and are encouraged to use the USDA logo provided by USDA. Publishing subaward opportunities (RFA/RFPs) and announcements must include acknowledgment of the funding source (USDA AMS) and use the USDA logo.	9/30/2023	015		FY2024

FUND KEY: 010, 012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 025, 026, 027, 029, 030, 031, 032, 033, 034, 035, 036, 037, 038, 039, 040, 041, 042, 043, 044, 045, 046, 047, 048, 053, 054, 055, 056, 057, 058, 059, 060, 061, 062, 063, 064, 065, 066, 067, 068, 069, 070, 071, 072, 073, 074, 075, 076, 077, 078, 079, 080, 081, 082, 083, 085, 086, 087, 088, 089, 091, 098, 099, 100
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FEDERAL MANDATES

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Maine CDC	DWP	<u>Safe Drinking Water Act</u>	<p>Lead and Copper Rule Revisions (LCRR) and Improvements (LCRI): Both the LCRR (published 2021, enforceable deadline 2024) and the LCRI (published 2023, enforceable deadline 2027) propose changes to the original Lead and Copper Rule (1991) are aimed at removing lead from water distribution systems, reducing consumer exposure to lead, and ensuring that consumers have appropriate and timely information concerning lead in their drinking water.</p> <p>Federal PFAS regulations (proposed 2023, enforceable deadline 2027) will require Community and Non-Transient, Noncommunity Public Water Systems to test for per- and polyfluoroalkyl substances (PFAS) and take steps to limit exposure if present above proposed Maximum Contaminant Levels.</p> <p>Revised Consumer Confidence Report (CCR) Rule: On March 28, 2023, EPA announced a Notice of Proposed Rulemaking that would strengthen the Consumer Confidence Report (CCR) Rule making annual drinking water quality reports with important public health information more accessible to residents and businesses across the country.</p>				

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REV. 11/20/2023

DEPARTMENT OR AGENCY	PROGRAM NAME & ACCOUNT #	FED CITE	DESCRIPTION OF THE PURPOSE OF THE MANDATE	IMPLEMENT- TATION DATE (DD-MM-YY)	FUND (SEE KEY)	AMOUNT	STATE FISCAL YEAR
DHHS/DLC	Division of Licensing and Certification 39% 01010AZ03601 DLC 61% 01410AZ03604	QSO 21-31-ALL	20% of stand-alone surveys in Nursing Homes must be Focused Infection Control ("FIC") surveys. Although this QSO was rescinded 3/30/23, the 20% requirement was tied to CARES Act funding and was required to be completed through 10/31/23 or risk loss of a percentage of that funding. Completing these stand-alone surveys was in addition to, not instead of, surveyors' usual work, and resulted in an increasing number of overdue intake investigations, which added to the backlog of investigations overdue as a result of the PHE.	6/1/2020		\$30,624	
DHHS/DLC	Division of Licensing and Certification 39% 01010AZ03601 DLC 61% 01410AZ03604	(OSHA) [Respiratory Protection Standard], [29 CFR 1910.134], and QSO 20-39-NH	DLC's surveyors are required to wear, at a minimum, the same Personal Protective Equipment ("PPE") as that being worn by the staff within the facility DLC's surveyors are assessing. When that level includes an N-95 facemask, those must be fitted to each person, and are not interchangeable. A medical determination must be made first, requiring contracting with an outside vendor (Concentra) for them to assess each surveyor's medical ability to wear an N-95; fit-testing (to see if a surveyor can wear an N-95, and of which size and brand); fit-testing equipment; and the N-95 masks themselves are all expenses that are not federally funded.	06/27/1974-OSHA; QSO 20-39-NH issued 9/17/20, rev'd 5/8/23.		\$1,760	
DHHS/DLC	Division of Licensing and Certification 39% 01010AZ03601 DLC 61% 01410AZ03604	State Performance Standards System Admin Info 24-02-ALL, specifically Appendix 7.	Intakes are overdue for investigation (states' backlog of complaints due, in large part, to the PHE) are added to the pre-PPE requirements for completion, without additional federal funding to complete that work.	10/6/2023		38,976	

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OADS	Adult Protective Services 01010AZ04001	45 CFR 1324	Administration for Community Living (ACL) proposes to modify the implementing regulations of the Older Americans Act of 1965 (OAA) to add Subpart D related to Adult Protective Services. This is the first federal oversight rule that governs State APS systems.	Anticipated 2026	010, 013	unknown	2027
OADS	OADS Central Office (Aging Team) 01010A014001; 01310A01400	45 CFR 1321 45 CFR 1322 45 CFR 1323 45 CFR 1324	ACL proposes to modify the OAA to improve services and clarify requirements impacting Emergency Preparedness, Nutrition Services, the State Agency on Aging, Area Agencies on Aging, the Long-Term Care Ombudsman, Legal Assistance, Services for Native American Elders and Caregivers, and State Guardianship programs. This is the first major federal rulemaking for the OAA since 1988.	Unknown	010, 013	unknown	ongoing
OADS/OMS	OADS/OMS (multiple programs)	1915(i) State Plan HCBS, 5-Year Period for Waivers, Provider Payment Reassignment, Setting Requirements for Community First Choice, and 1915(c) HCBS Waivers - CMS-2249-F/CMS-2296-F Person Centered Planning Requirements (PCP rule 2014- not in full compliance).	Centers for Medicare and Medicaid Services (CMS) expected to issue sweeping new rule pertaining to client access to Home and Community Based Services (HCBS) -- i.e. MaineCare Benefits Manual Sec. 18, 19, 20, 21, and 29; DHHS reviewed the proposed rule in Summer 2023; if rule is adopted as previously written, it will require systems investments (likely for the Department and for providers) to accommodate more complex reporting.	Rule anticipated to be adopted in March 2024 with a multi-year, phased implementation	010, 013	unknown	2024

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REV. 11/20/2023

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DHHS/OMS	MaineCare	H.R. 2417, and Sections 1902(a)(25), and 1912(a)(1)(A) Social Security Act	Requires states to amend Medicaid Third Party Liability statutes to require third parties to accept State's authorization for covered services, to close out of state carrier loophole and to require third party carriers to respond to state inquiries about claims within 60 days. Department submitted LD 84 to amend 22 MRSA Subtitle 1, Chapter 1, Section 14, Subsection 2-H, to comply with this federal mandate. This was adopted into Public Law.	1-Jan-24		None	
DHHS/OMS	MaineCare	Section 5123 of the Consolidated Appropriations Act, 2023 (P.L. 117-328)	<p>Requires Medicaid and CHIP managed care entities to provide accurate, updated, and searchable provider directories and amends the Medicaid and CHIP FFS provider directory requirements.</p> <p>Section 5123(b) amends SSA Section 1902(a)(83) (42 U.S.C. §1395a) provider directory requirements and modifies the provider types that must comply. The provision requires states to make available a provider directory on the state's public-facing Medicaid website and to update this directory at least quarterly with information including the provider's name, specialty, location, telephone number, website address, and cultural and linguistic capabilities. The provider directory also must include information as to whether the provider is accepting new Medicaid patients, if the provider's office or facility has accommodations for individuals with physical disabilities, whether the provider delivers covered services via telehealth, and any other relevant provider directory requirements or information as specified by the HHS Secretary. The provision amends SSA Section 1902(mm) (42 U.S.C. §1396a(mm)) to identify the provider types that must comply with these provider directory requirements.</p> <p>Section 5123(c) amends SSA Section 2107(e)(1)(G) (42 U.S.C. §1397gg(e)(1)(G)) to add the Medicaid provider directory requirements to the list of Medicaid requirements that also apply to CHIP.</p>	1-Jul-25			

DHHS/OMS	MaineCare	Section 5121 of the Consolidated Appropriations Act, 2023 (P.L. 117-328)	<p>Amends the Medicaid requirements for states to establish a plan that provides for specified screenings and referrals for treatment within 30 days of the date that an "eligible juvenile" in a public institution is scheduled to be released. Aligns CHIP rules with certain existing Medicaid rules for eligible juveniles who are inmates of public institutions.</p> <p>Section 5121(a) amends the SUPPORT Act requirements at SSA Section 1902(a)(84) (42 U.S.C. §1396a) to direct states to establish a plan within 30 days of the date that an eligible juvenile is scheduled to be released. Such plans must provide for the following:</p> <ul style="list-style-type: none"> • Medical, dental, and behavioral health screenings or diagnostic services (as determined by the state or indicated as medically necessary under EPSDT). • Targeted case management services during the 30 days prior to and for at least 30 days after release, including referrals to the appropriate care and services available within the geographic region of the eligible juvenile's home or residence (where possible). <p>Section 5121(b) amends SSA Section 1905(a) (42 U.S.C. §1396d(a)), Subdivision A, following paragraph (31), to clarify that services provided under such plans are not subject to Medicaid's inmate payment exclusion.</p> <p>Section 5121(c) amends SSA Section 2102 (U.S.C. §1397bb) to prohibit states from terminating eligibility for CHIP enrollees who are inmates of a public institution; instead, the CAA 2023 allows states to suspend coverage during the enrollee's incarceration. The law requires states to redetermine eligibility prior to release for CHIP enrollees whose coverage is suspended. If the child continues to be eligible, the provision requires states to restore coverage upon release.</p>	1-Jan-25			
DHHS/OMS	MaineCare and OF	Section 5112 of the Consolidated Appropriations Act, 2023 (P.L. 117-328)	<p>Requires states to extend 12 months of continuous eligibility for Medicaid and CHIP enrollees under the age of 19 (amending SSA Section 1902(e)(12) (42 U.S.C. §1396a(e)) and SSA Section 2107(e)(1) (42 U.S.C. §1397gg(e)(1))). Child enrollees will be continuously eligible until the earlier of (1) the end of the 12-month continuous eligibility period, (2) the date the child attains the age of 19, or (3) the date the child enrollee ceases to be a state resident. The provision makes an exception for CHIP enrollees who are determined eligible for full Medicaid benefit coverage during the continuous eligibility period.</p>	1-Jan-24			
DHHS/OMS	MaineCare	Mandatory Medicaid and Children's Health Insurance Program (CHIP) Core Set Reporting final rule (88 FR 60278) (final rule).	<p>Section 50102(b) of the Bipartisan Budget Act of 2018, (Pub. L. 115-123, enacted February 9, 2018) made state reporting of the Child Core Set mandatory starting in FFY 2024, and section 5001 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act) (Pub. L. No. 115-271, enacted October 24, 2018) made state reporting of the behavioral health measures on the Adult Core Set mandatory starting in FFY 2024. CMS is developing a Medicaid Administrative SPA package that states will be required to submit, through the Medicaid and CHIP Program (MACPro) Portal, attesting to compliance with the mandatory reporting requirements.</p>	31-Dec-24	Not funded		SFY25

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Maine Community College System	Title IV	34 CFR 600, et seq.; 34 CFR 668, et seq.	Compliance with new Gainful Employment and Financial Value Transparency Regulations which include new data gathering and reporting obligations.	1/7/2024	N/A	\$0	2024
Maine Community College System	Title IV	34 CFR 668, et seq.	Compliance with new Financial Responsibility, Administrative Capability, Certification and Ability to Benefit Regulations which include new reporting requirements and requires career services as described in the regulations.	1/7/2024	N/A	\$0	2024

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SoS/BMV	Administration Motor Vehicles 007704		1) <u>State-to-State</u> . The federal REAL ID Act of 2005 articulated a requirement for states to "provide electronic access to all other States to information contained in the motor vehicle database of the State." The US Department of Homeland Security recognized AAMVA's State-to-State program as the platform of choice to meet this requirement; when Maine goes live in October 2024, we will be the 42nd state to join the effort. The 131st Maine Legislature provided funding and additional headcount (+4) to BMV to facilitate the stand-up of this effort. Hiring and active planning are underway as of November 2023. Additionally, the Federal Motor Carrier Safety Administration (FMCSA), an agency within the US Department of Transportation, has established two mandates for state driver licensing agencies to implement in ME SFY 24-25:	21-Oct-24	012	\$455,000	24-25
	Administration Motor Vehicles 007704		2) <u>Exclusive Electronic Exchange</u> . FMCSA codifies the statutory requirement that State driver licensing agencies (SDLAs) implement a system and practices for the exclusively electronic exchange of driver history record (DHR) information through the Commercial Driver's License Information System (CDLIS), including the posting of convictions, withdrawals, and disqualifications. The rule aligns FMCSA's regulations with existing statutory requirements set forth in the Moving Ahead for Progress in the 21st Century Act (MAP-21). See Federal Register 2021-15693, , 49 CFR Part 284. Federal suspension date is 8/22/2024.	31-Mar-24	012	TBD	23-24
	Administration Motor Vehicles 007704		3) <u>Drug and Alcohol Clearinghouse II</u> . State Driver Licensing Agencies (SDLAs) will be required to remove the commercial driving privileges from the driver's license of an individual subject to the CMV driving prohibition. This would result in a downgrade of the license until the driver completes the return-to-duty (RTD) process. See Federal Register 2021-21928, 49 CFR 382-384, 390 and 392. Federal suspension date is 18-Nov-24.	21-Oct-24	012	TBD	24-25

FUND KEY: 010, 012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 025, 026, 029, 030, 031, 032, 033, 034, 035, 036, 037, 038, 039, 040, 041, 042, 043, 044, 045, 046, 047, 048, 049, 053, 054, 055, 056, 057, 058, 059, 060, 061, 062, 063, 064, 065, 066, 067, 068, 069, 070, 071, 072, 073, 074, 075, 076, 077, 078, 079, 080, 081, 082, 083, 085, 086, 087, 088, 089, 091, 098, 099, 100
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