An Act To Clarify the Timing of an Appeal of a Finding Regarding Involuntary Mental Health Treatment at a Designated Nonstate Mental Health Institution

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204. Received by the Secretary of the Senate on January 11, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed.

Presented by Senator CLAXTON of Androscoggin.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 34-B MRSA §3861, sub-§3, ¶F, as amended by PL 2011, c. 657, Pt. DD, §4, is further amended to read:

F. The provisions of this paragraph apply to the review and appeal of an order of the clinical review panel entered under paragraph B.

(1) The order of the clinical review panel at a state mental health institute is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

(2) The order of the clinical review panel at a designated nonstate mental health institution may be reviewed by the commissioner or the commissioner's designee upon receipt of a written request from the patient submitted no later than one business day after the patient receives the order of the clinical review panel. Within 3 business days of receipt of the request for review, the designated nonstate mental health institution shall submit the full clinical review panel record to the commissioner or the commissioner’s designee. Within 3 business days of receipt of the request for review, the patient and the designated nonstate mental health institution may submit written arguments to the commissioner or the commissioner's designee. The commissioner or the commissioner's designee shall review the full clinical review panel record and issue a written decision and any written arguments submitted pursuant to this subparagraph for abuse of discretion, error of law or findings not supported by substantial evidence in the record. Within 4 business days of the receipt of the full clinical review panel record and any written arguments, the commissioner or the commissioner’s designee shall issue a decision. The decision of the commissioner or the commissioner's designee may affirm the order, modify the order or vacate the order. The decision of the commissioner or the commissioner's designee takes effect one business day after the commissioner or the commissioner's designee issues a written decision. The decision of the commissioner or the commissioner's designee is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

SUMMARY

This bill amends the process governing a request for review by the Commissioner of Health and Human Services or the commissioner's designee of an order of a clinical review panel regarding involuntary mental health treatment at a designated nonstate mental health institution.