



February 27, 2023

Testimony in Opposition to LD 595 – An Act to Require Major Substantive Rulemaking for the Companion Animal Sterilization Fund To the Committee on Agricultural, Conservation and Forestry

Senator Ingwersen, Representative Pluecker, and members of the Agriculture, Conservation and Forestry Committee:

My name is Katie Lisnik and I am the Executive Director the Greater Androscoggin Humane Society in Lewiston and Secretary of the Maine Federation of Humane Societies (MFHS). I am offering testimony in opposition to LD 595 on behalf of MFHS whose board also includes representatives from the Animal Refuge League of Greater Portland in Westbrook, Animal Welfare Society in Kennebunk, Bangor Humane Society in Bangor, Greater Androscoggin Humane Society in Lewiston, Humane Society of the United States, Maine State Society for the Protection of Animals in Windham, PAWS Animal Adoption Center in Camden, Pope Memorial Humane Society in Thomaston, and Spirits Place Cat Sanctuary in St. Albans.

We have been participating in various discussions and efforts to make needed improvements to the Companion Animal Sterilization Fund, more commonly known as the Help Fix ME Program (HFM), for quite some time. While there is still more to do, we believe that progress is being made under the new Animal Welfare Program leadership, and that these efforts to improve and modernize the program ought to be given a fair chance.

As you are aware, rule-making is already well underway, with final proposed revisions in the hands of the Attorney General's Office. We submitted the attached written comments and markup to the Department of Agriculture, Conservation and Forestry in connection with the proposed rule changes to Chapter 702 during the public comment period. Contrary to what proponents of this bill may have stated the current active rules are not adequate to allow for an outside entity to be able to run the program effectively and efficiently, nor are they flexible enough to allow the program to evolve to address current issues and needs in our state.

While the proposed draft rules are not perfect, we believe they improve the functionality of the program, and allow it to grow into a hybrid model that supports collaborative efforts that have proven successful across the state in recent years, and indeed are the only thing bringing spay/neuter services to rural and remote parts of Maine.

With the state poised to finalize the draft rules and to move into the RFP phase, this bill proposes to require major substantive rulemaking for the HFM program, which, if applied retroactively to the current rule-making effort, will cause further delays and prevent needed surgeries from happening. The shelters in the Maine Federation of Humane Societies are getting calls every day from individuals who qualify for and want to use Help Fix ME support for their animals' sterilization. Further delays are only going to cause more pregnancies, unwanted litters and animals being surrendered or abandoned due to unwanted hormonal behaviors.

As the RFP moves forward, we also encourage the incorporation of a framework for handling complaints and/or oversight with respect to things such as the standards of care being utilized. Having adequate checks and balances in place to ensure quality of care is important for transparency and the success of the program.

We understand and share in the frustration surrounding this important and life-saving program. We all want to see this program used effectively, efficiently and successfully to help animals across our state and especially in areas of most need. The Animal Welfare Program has put in a good faith effort to improve this program whether it stays within the Department, or is contracted out. We believe the current draft rules will allow for a more nimble program and that the RFP needs to move ahead without any further delays.

Thank you for your consideration and opportunity to submit testimony.

Sincerely,

Katie Lisnik

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Executive Director
Greater Androscoggin Humane Society, Lewiston

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President, Maine Federation of Humane Societies
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Lee Palmer

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Board Member, Maine Federation of Humane Societies
President
Spirit's Place Cat Sanctuary, St. Albans



January 28, 2023

RE: Proposed Rule Changes to Chapter 702, Rules for the Low Income Spay Neuter Program

Director Steciuk:

Thank you for the opportunity to submit comments regarding the proposed rule changes to Ch. 702, Rules for the Low Income Spay Neuter Program. The Maine Federation of Humane Societies' Board appreciates and supports the Animal Welfare Program's efforts to improve the Help Fix ME program, but we do have some recommendations for your consideration.

Our suggested changes are described below as well as set forth in the attached mark-up of the rulemaking proposal in blue text. Our suggestions seek to provide further improvements to the Help Fix ME program rules in the following three ways: recognizing that since the program's inception there have been significant changes in the veterinary field and Maine's pet, shelter, and feral cat populations requiring a broadening of the program's focus to reflect current needs; adding needed flexibility for some specifics of the program administration; and adding clarity and/or consistency in some sections.

The Help Fix ME program has played a large part in the great progress made in Maine and it is essential it remain a resource and evolve to better help address current challenges such as immense financial and geographic barriers to accessing veterinary and pet care services. Doing so can help keep people and pets together by providing a way to close the service gap that exists for in underserved areas with veterinary and pet resources deserts.

SUMMARY

- Add to the program's purpose list "g) Under-resourced areas lacking access to basic veterinary care"

1. DEFINITIONS

- **FERAL CAT**: Add to the definition "For purposes of program administration this term can also include community cats who may vary in sociability to people, but are not owned."
- **OVERPOPULATION**: This definition is not necessary because there will always be a need for the program in low-income pet owning households due to the lack of access to care, which is a growing problem. Also, with respect to feral cats the use of the term "sustainable size" isn't appropriate as the goal of TNR efforts is to ultimately have the population get to zero over time. Any unaltered feral cat could be considered an overpopulation.
- **SPAY/NEUTER EVENT**: Change "twenty or more" to "multiple" because there could be an event that should be eligible where there could be fewer than 20 surgeries because the event is focused on large dogs.
- **STRAY ANIMAL**: Add "lost" to the definition.
- **VETERINARY PROVIDER**: Since there is no definition of "Animal Welfare Organization" change it to "licensed animal shelter" which is defined.

2. ELIGIBILITY

- **A.3.**: Change "veterinarian" to "veterinary provider"
- **A.4.**: Maintain the reference to "and/or the Administrator" because the if the program is contracted out it would be burdensome for the Administrator to have to contact the AWP Director in every instance of considering the waiving of a co-pay. It would be more efficient for there to be an agreement/understanding between the AWP Director and the Administrator of when the waiving of a co-pay is acceptable the specifics of which do not need to be included in the rules.
- **A.5.**: Income eligibility should be more flexible and broadened by removing references to percentages of the poverty level and simply refence and moving the language from B up into this section.

3. VETERINARY PARTICIPATION

- **B.**: Add "or Administrator" since there is the option for the program to be contracted out and in that case the funds would be paid to the veterinary providers by the Administrator.

4. PROGRAM ADMINISTRATION

- **A.1.:** Keep as "Issuing vouchers" to maintain flexibility with such specific details of administration. Preference for a coding system can an agency policy, which can more easily be updated, if necessary, but such detail does not need to be in the rules.
- **A.4.** Remove the descriptor "large" since there is since there is a spay/neuter event definition.
- There are some instances where it still says "veterinarian" that should be updated to "veterinary provider"
- **A.5.:** Change "veterinarians" to "veterinary providers" and add "an" before "application"
- **A.6.:** Change "veterinarians" to "veterinary providers" and add "; and"
- **A.7.** Change "AWP" to "Commissioner" since this section applies whether AWP or a contracted entity is administering the program. Add "provider" after "veterinary"
- **B:** Remove "The contracted organization shall submit quarterly financial reports to the Commissioner. This report shall include but not be limited to the number of vouchers issued, an accounting of funds dispersed, and balance of the account." as this is duplicative of the quarterly reporting requirement in A.7.

5. PERFORMANCE MEASUREMENT

- This section should be broadened to include additional measurements reflecting the many purposes of the HFM program listed in the summary section. Accordingly, add "Additional information to be considered in assessing the success of the program, includes, but is not limited to, annual municipal animal control reports filed in accordance with 7 MSRA §3948 §§4, dog bite data, rabies data, and number of vouchers issued in under-served areas."

6. DISTRIBUTION OF FUNDS

- Similarly, this section should also be updated to provide flexibility and reflect the many purposes of the program and changes described above since the inception of the program and not just focus on references to overpopulation, which can be difficult to assess. Additionally, there is no longer a need to have any sort of breed restricting language. Accordingly, replace the entirety of A. 1-4 with "In order for the Companion Animal Sterilization/Help Fix ME funds to be used effectively in accordance with the program's purpose they shall be expended according to requests for assistance from qualifying applicants and/or veterinary providers. Additionally, the Commissioner shall consult with licensed animal shelters, veterinary providers, and other stakeholders the Commissioner deems appropriate to make determinations for prioritizing funding for certain geographic areas or species as needed." We did not include "low-income" as a descriptor of applicants as there is no such requirement for those applying for vouchers for feral cats.

Thank you for your consideration and we would be happy to discuss our comments or provide additional information.

Sincerely,

Katie Lisnik

Katie Lisnik

Secretary

Maine Federation of Humane Societies

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MFHS Board Members: Shelly Butler, Katie Hansberry, Katie Lisnik, Patsy Murphy, Lee Palmer, Suzan Prendergast, Tracy Sala, Abigail Smith, and Kathy Woodbury.

01-001 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

Chapter 702: RULES FOR THE LOW INCOME SPAY/NEUTER PROGRAM

Summary: This Chapter establishes and implements a low-income spay/neuter program for cats and dogs. Eligibility requirements for participation in the program and procedures for veterinarian reimbursement, and program administration and performance measurements are contained in these rules.

The purpose of the low-income spay/neuter program is to reduce:

- a) Stray and unwanted cats and dogs
- b) Cat and dog euthanasia rates
- c) Dog bites
- d) Feral cats
- e) Threats to public health and safety from rabies and other zoonotic diseases.

- f) Community and state animal control costs
 - g) Under-resourced areas lacking access to basic veterinary care
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1. DEFINITIONS

- A. CAT – A member of the genus and species known as ~~felis~~Felis catus.
- B. COMMISSIONER – The Commissioner of the State of Maine Department of Agriculture, Conservation and Forestry.
- C. DEPARTMENT – The Department of Agriculture, Conservation and Forestry.
- D. DOG – A member of the genus and species known as ~~canis~~Canis familiaris.
- E. DOG LICENSE – A State of Maine license obtained by the owner or keeper of a dog at the age of 6 months or more, on or before January 1st of each year.
- F. FERAL CAT – A cat without owner identification of any kind that consistently exhibits extreme fear in the presence of people. For purposes of program administration this term can also include community cats who may vary in sociability to people, but are not owned.
- G. KEEPER – A person in possession or control of an animal becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.
- H. LICENSED ANIMAL SHELTER – ~~A facility, Facility licensed by the state, which includes a physical structure or part of a physical structure that provides temporary or permanent shelter to houses domesticated animals and operates for the purpose of providing stray, abandoned, abused, or owner-surrendered animals, with sanctuary or finding the animals temporary or permanent adoptive homes; or a rescue group licensed by the state.~~
- I. ~~OVERPOPULATION – Pets: a surplus of pets when compared to demand for ownership by people. Feral Cats: when a population of feral cats exceeds its sustainable size within a particular environment or habitat.~~
- I. OWNER – Any person, firm, partnership, association or corporation that owns, keeps or harbors a dog or other animal.
- J. PROGRAM – The Low-Income Spay/Neuter Program for dogs and cats.
- K. SPAY/NEUTER – To sterilize a female animal by removing the ovaries or to castrate a male animal by removing the testicles or by FDA approved pharmaceutical sterilization.
- L. SPAY/NEUTER EVENT – A scheduled event by a veterinary provider, whether in a mobile clinic, pop-up clinic or fixed location, where twenty or more multiple surgeries will be provided per day to eligible Help Fix ME participants.
- ~~L.M.~~ STRAY ANIMAL – A cat or dog with no known owner that may be deserted, sick, lost, or injured.
- ~~N.~~ VETERINARY PROVIDER – Veterinarian licensed in the State of Maine, Veterinary Clinic Licensed in the State of Maine, or Animal Welfare Organization licensed animal shelter that has at least one veterinarian on staff and regularly provides spay/neuter services to the public.
- ~~M.O.~~ UNWANTED – A cat or dog abandoned or not wanted by its owner or keeper.

2. ELIGIBILITY

- A. To be eligible for the low-income spay/neuter program for a pet cat or dog a person must:
 - 1. Be an independent adult (18 years or older and not declared as a dependent for tax purposes by another person);
 - 2. Be a Resident of the State of Maine;
 - 3. Be the owner or keeper of the cat or dog being spayed or neutered by a participating ~~veterinarian~~ veterinary provider;
 - 4. Make a co-payment determined on an annual basis by the Commissioner. The requirement for a co-payment may be waived if the Director of the Animal Welfare Program and/or the Administrator determines that its payment by the owner or keeper of the animal would create a financial hardship; and
 - 5. ~~Have a household income less than 133% of the federal poverty level. If program funding allows, the Commissioner may increase the household income limit for the purposes of this requirement up to 150% of~~

the poverty level. Determination and the approval of any government public assistance program that may be used to indicate eligibility shall be at the Commissioner's discretion.

- B. Dogs and cats imported or transferred from out of state to a licensed or unlicensed shelter or rescue organization are not eligible for participation in the program.
- C. Feral cats will be spayed/neutered without a copay or any requirement of eligibility by the person producing them for surgery as feral cats are unowned.

3. VETERINARIAN PARTICIPATION

- A. Any veterinarian-licensed in this state may veterinary provider may request funding to participate in the program established under this Chapter. To participate, a veterinarian/veterinary provider must file a signed application requesting funding for the surgeries committed to in the 12-month period following application and must sign an agreement with the Commissioner on a biennial/annual basis on a form provided by the Commissioner agreeing to all pre-set fees and program conditions. Pre-set fees shall be set by the Commissioner on a biennial/annual basis in consultation with the Maine Veterinary Medical Association.
- B. For all cats and dogs sterilized under this program the The Commissioner or Administrator shall reimburse the veterinarians provide funding to the veterinary provider, pre-paid in a single or multiple installments for services on a monthly basis in accordance the number of surgeries agreed to, with the pre-set amount future installments conditioned upon usage of at least 75% of the first installment monies and availability of funding. Veterinary providers shall collect co-pays and account for them in the reporting process. The pre-set fee per surgery shall cover the cost of the pre-surgical exam, the spay/neuter surgery and a rabies vaccination. The veterinary provider may charge the pre-set fee for necessary additional approved procedures including FVRCP vaccine, DHLPP vaccine, flea and tick treatment, pain management, and e-collar. The owner shall be responsible for the payment of any additional procedures administered by the veterinarian that are not covered under this program.

4. PROGRAM ADMINISTRATION

- A. The Department's Animal Welfare (AWP) or an organization or individual that meets the statutory requirements of Title 7 M.R.S. §3910-B ¶1-A Companion Animal Sterilization Fund and can show that it has sufficient staff to administer the program and experience managing programs of similar funding on a statewide basis, shall administer the program for the Commissioner and shall be responsible for:
 - 1. Issuing vouchers:
Issuing unique vouchers or voucher numbers to participants to participants that are coded to indicate the type of animal and surgery (example: F for Feral, D dog, C cat, S spay, N neuter) and whether in come status is verified or conditional (example V or C); and or issuing batch vouchers or voucher numbers to veterinary providers for spay/neuter events;
 - 2. Procuring veterinarian/veterinary provider participation agreements and maintaining positive relations with the veterinarians/veterinary providers;
 - 3. Maintaining a list of participating veterinarians/veterinary providers;
 - 4. Determining individual owner eligibility;
 - 5. Notifying and/or in the case of large spay/neuter events held by veterinary providers, establishing a process ensuring that participating veterinarians of the co-payment as determined by the Commissioner on a yearly basis; veterinary providers are verifying eligibility;
 - 6. Collecting of co-payments; and
 - 7. Reimbursing veterinarians in accordance with the agreements and those rules.
 - 5. Dispensing funds to veterinarians/veterinary providers in a timely manner once an application for funding is approved;
 - 6. Collecting and reviewing progress reports from veterinarians veterinary providers including specific vouchers redeemed, fund expenditures, funds remaining, changes needed for additional funding, accounting for copays paid directly to veterinarians veterinary providers etc.; and
 - 7. Reporting quarterly to AWP/the Commissioner on program progress including a reconciliation of all funding, vouchers issued/redeemed, veterinary provider participant progress vs funding applications.
- B. If the program is contracted to an organization or individual, the Commissioner shall deposit all available funds in the Companion Animal Sterilization Fund directly into the Help Fix ME account of the organization or individual as determined by the Department of Administrative and Financial Services. The contracted organization or individual shall submit quarterly financial reports to the Commissioner. This report shall include but not be limited to the number of vouchers issued, an accounting of funds dispersed, and balance of the account.

C. In avoidance of any conflict of interest, the administrator of the program shall not be eligible to receive payments or vouchers from the fund, with the exception of the administration fee not to exceed 15%.

5. PERFORMANCE MEASUREMENT

Performance Measurement is necessary to determine the success of the program and to assess if any changes in the program should be made. To measure the performance of this program, the AWP shall require standardized reporting of statewide cat and dog intake by type (including but not limited to owner surrenders, strays, seizure, and transfers in from within the state and out of state) and euthanasia by type numbers to the AWP by licensed animal shelters, which are required to keep and maintain such information in accordance with 01-001 CMR Chapter 701: *Rules Governing Animal Welfare* 1C. The reporting will be on forms provided by the Department. Additional information to be considered in assessing the success of the program, includes, but is not limited to, annual municipal animal control reports filed in accordance with 7 MSRA §3948 §§4, dog bite data, rabies data, and number of vouchers issued in under-served areas.

6. DISTRIBUTION OF FUNDS

A. In order for the Companion Animal Sterilization Fund /Help Fix ME funds to be used effectively in accordance with the program's purpose they shall be expended according to requests for assistance from qualifying applicants and/or veterinary providers. Additionally, the Commissioner shall consult with licensed animal shelters, veterinary providers, and other stakeholders the Commissioner deems appropriate to make determinations for prioritizing funding for certain geographic areas or species as needed ~~and reduce animal overpopulation and euthanasia, the apportionment of the funds to be shall be applied to the program shall be determined as follows:~~

1. ~~The Director of the Animal Welfare Program and/or Administrator shall apportion available funds between cats and dogs according to the need to control overpopulation of cats or dogs.~~
2. ~~If one species is overpopulated but not the other, then no more than 10% of the program's funds can be spent on that the species that is not overpopulated, with priority given to those breeds that are most difficult to place for adoption.~~
3. ~~If herethere is no overpopulation of either species, then the funds shall be expended according to requests for assistance from qualifying low-income applicants and/or qualified veterinary providers.~~
4. ~~The Commissioner shall consult with Maine humane societies, shelters and other stakeholders the Commissioner deems relevantappropriate to make the determinations regarding overpopulation and breeds that are difficult to adopt.~~

7. FUNDING

A Low-Income Spay/Neuter Fund shall be established for this program. Any monies received by the Commissioner in accordance with the authority provided by 7 M.R.S. §~~3906~~3910-B(13), shall be deposited into a separate, non-lapsing account and shall be dedicated for use by the Commissioner exclusively for implementation of this program, including veterinarian reimbursementpayments, administration, promotions and other costs associated with the program. Interest earnings credited to the assets of the fund shall become part of the fund.

STATUTORY AUTHORITY: 7 M.R.S. §3906-B and §3910-B

EFFECTIVE DATE:

June 9, 2004 - filing 2004-206

AMENDED:

May 8, 2011 – filing 2011-137, filing 2011-137

CORRECTIONS: February, 2014 – agency names, formatting