# TITLE 22-A

# HEALTH AND HUMAN SERVICES

## SUBTITLE 1

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## CHAPTER 1

## DEPARTMENTAL ORGANIZATION AND OPERATION

## SUBCHAPTER 1

## GENERAL PROVISIONS

### §101. Definitions

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 689, Pt. A, §1 (NEW).]

**1. Commissioner.** "Commissioner" means the Commissioner of Health and Human Services.
[PL 2003, c. 689, Pt. A, §1 (NEW).]

**1-A. Adult developmental services.** "Adult developmental services" has the same meaning as in Title 34-B, section 1001, subsection 1-A.
[PL 2011, c. 542, Pt. A, §49 (NEW).]

**2. Department.** "Department" means the Department of Health and Human Services.
[PL 2003, c. 689, Pt. A, §1 (NEW).]

**3. Seal.** The department has an official seal which must be judicially noticed.
[PL 2003, c. 689, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 689, §A1 (NEW). PL 2011, c. 542, Pt. A, §49 (AMD).

## SUBCHAPTER 2

## ORGANIZATION

### §201. Department established

**1. Establishment.** The Department of Health and Human Services is established as a cabinet-level department.
[PL 2003, c. 689, Pt. A, §1 (NEW).]

**2. Units.**

[PL 2007, c. 539, Pt. N, §41 (RP).]

**2-A. Division of departmental responsibilities.** The responsibilities of the department are divided as follows:

A. Financial responsibilities, including but not limited to budget forecasting; audit; Medicaid finance, program and fiscal coordination; purchased services; and ratesetting; [PL 2007, c. 539, Pt. N, §42 (NEW).]

B. Healthcare management and quality responsibilities, including but not limited to licensing and regulatory services, quality improvement, facilities management, Medicaid services oversight, public assistance eligibility and public health and disease control and prevention; and [PL 2007, c. 539, Pt. N, §42 (NEW).]

C. Integrated services responsibilities, including but not limited to:

(1) Adult and elder services, including but not limited to aging, substance use disorder, mental health and disability services;

(2) Child and family services responsibilities, including but not limited to child welfare, children's behavioral health and early childhood services; and

(3) Regional operations. [PL 2017, c. 407, Pt. A, §89 (AMD).]

[PL 2017, c. 407, Pt. A, §89 (AMD).]

SECTION HISTORY

PL 2003, c. 689, §A1 (NEW). PL 2005, c. 412, §5 (AMD). PL 2007, c. 539, Pt. N, §§41, 42 (AMD). PL 2017, c. 407, Pt. A, §89 (AMD).

**§202. Mission; guiding principles**

**1. Mission.** The mission of the department is to provide health and human services to the people of Maine so that all persons may achieve and maintain their optimal level of health and their full potential for economic independence and personal development. Within available funds, the department shall provide supportive, preventive, protective, public health and intervention services to children, families and adults, including the elderly and adults with disabilities. The department shall endeavor to assist individuals in meeting their needs and families in providing for the developmental, health and safety needs of their children, while respecting the rights and preferences of the individual or family.

[PL 2003, c. 689, Pt. A, §1 (NEW).]

**2. Guiding principles.** The following principles are adopted to guide the department. In the performance of its duties, the department shall strive to:

A. Improve the health and well-being of Maine residents, with this goal guiding all decisions, programs and services of the department; [PL 2003, c. 689, Pt. A, §1 (NEW).]

B. Treat consumers with respect and dignity; [PL 2003, c. 689, Pt. A, §1 (NEW).]

C. Treat service providers with professionalism and collegiality; [PL 2003, c. 689, Pt. A, §1 (NEW).]

D. Value and support department staff as the critical connection to the consumer; [PL 2003, c. 689, Pt. A, §1 (NEW).]

E. Involve consumers, providers, advocates and staff in long-term planning; [PL 2003, c. 689, Pt. A, §1 (NEW).]

F. Use relevant, meaningful data and objective analyses of population-based needs in program planning, decision making and quality assurance; and [PL 2003, c. 689, Pt. A, §1 (NEW).]

G. Deliver services that are individualized, family-centered, easily accessible, preventive, independence-oriented, interdisciplinary, collaborative, evidence-based and consistent with best practices. [PL 2003, c. 689, Pt. A, §1 (NEW).]

[PL 2003, c. 689, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 689, §A1 (NEW).

**§203. Programs and services of department**

The department shall, as appropriate to the individual and family and as permitted by the availability of funds, provide programs and services as specified in this section and otherwise by law. [PL 2003, c. 689, Pt. A, §1 (NEW).]

**1. Programs and services for adults, children and families.** The department shall provide adults, children and families with the following programs and services:

A. Economic assistance and employment support services; [PL 2003, c. 689, Pt. A, §1 (NEW).]

B. Mental health and behavioral health services; [PL 2003, c. 689, Pt. A, §1 (NEW).]

C. Developmental disability services; [PL 2011, c. 542, Pt. A, §50 (AMD).]

D. Physical health services; [PL 2003, c. 689, Pt. A, §1 (NEW).]

E. Public health services; and [PL 2003, c. 689, Pt. A, §1 (NEW).]

F. Substance use disorder prevention, treatment and recovery services. [PL 2019, c. 524, §17 (AMD).]

[PL 2019, c. 524, §17 (AMD).]

**2. Additional programs and services for children and families.** The department shall provide children and families with additional programs and services to assist them in meeting their needs, including, but not limited to:

A. Child welfare services; [PL 2003, c. 689, Pt. A, §1 (NEW).]

B. Head Start and child care services; [PL 2003, c. 689, Pt. A, §1 (NEW).]

C. Maternal and child health services, including home visiting programs; [PL 2003, c. 689, Pt. A, §1 (NEW).]

D. Paternity establishment and child support enforcement services; and [PL 2003, c. 689, Pt. A, §1 (NEW).]

E. Residential and long-term care services for children with disabilities. [PL 2003, c. 689, Pt. A, §1 (NEW).]

[PL 2003, c. 689, Pt. A, §1 (NEW).]

**3. Additional programs and services for adults.** The department shall provide adults, including the elderly and persons with disabilities, with additional programs and services to assist them in meeting their needs, including, but not limited to:

A. Adult protective services; and [PL 2003, c. 689, Pt. A, §1 (NEW).]

B. Long-term care services for the elderly and adults with disabilities. [PL 2003, c. 689, Pt. A, §1 (NEW).]

[PL 2003, c. 689, Pt. A, §1 (NEW).]

**4. Delivery of programs and services.** The department shall deliver programs and services through a coordinated and efficient administrative structure and an integrated delivery system that focuses on meeting the needs of individuals and families. The department shall use a combination of public personnel and contracts with private agencies to deliver programs and services.

[PL 2003, c. 689, Pt. A, §1 (NEW).]

**5. Pilot projects.** The department shall develop pilot projects and demonstration projects required by law, and shall apply for any authorization necessary to undertake such projects.

[PL 2017, c. 184, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 689, §A1 (NEW). PL 2011, c. 542, Pt. A, §50 (AMD). PL 2017, c. 184, §1 (AMD). PL 2017, c. 407, Pt. A, §90 (AMD). PL 2019, c. 524, §17 (AMD).

**§204. Commissioner**

The department is under the control and supervision of the Commissioner of Health and Human Services, who reports directly to the Governor. [PL 2003, c. 689, Pt. A, §1 (NEW).]

**1. Appointment.** The Governor shall appoint the commissioner, subject to review by the joint standing committee of the Legislature having jurisdiction over health and human services matters and confirmation by the Senate. The commissioner serves at the pleasure of the Governor.
[PL 2003, c. 689, Pt. A, §1 (NEW).]

**2. Vacancy; deputy commissioner.** A vacancy in the office of the commissioner must be filled as follows.

A. Any vacancy of the commissioner's position must be filled in accordance with Title 5, section 1. [PL 2003, c. 689, Pt. A, §1 (NEW).]

B. The commissioner shall appoint one of the department's deputy commissioners to perform the duties of the commissioner, in addition to the duties of that deputy commissioner, during the commissioner's temporary absence or disability. [PL 2003, c. 689, Pt. A, §1 (NEW).]

[PL 2003, c. 689, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 689, §A1 (NEW).

**§205. Powers and duties of commissioner**

The commissioner has all of the powers and duties necessary to carry out the mission and responsibilities of the department. The commissioner has the power to distribute the functions and duties given to the commissioner under this Title, Title 5, Title 19-A, Title 22 and Title 34-B among the various offices of the department so as to integrate the work properly and to promote the most economical and efficient administration of the department. Wherever in this Title, Title 5, Title 19-A, Title 22 or Title 34-B powers and duties are given to the commissioner or the department, these must be assumed and carried out by the offices that the commissioner designates, and these powers and duties may in turn be delegated to subordinates by those office directors with the approval of the commissioner. [PL 2007, c. 539, Pt. N, §43 (AMD).]

**1. Administration.** The commissioner shall administer the department in accordance with the requirements of this Title and shall fulfill the duties prescribed to the commissioner by state and federal law.
[PL 2003, c. 689, Pt. A, §1 (NEW).]

**2. Rulemaking.** The commissioner shall adopt rules to implement this Title. Rules adopted pursuant to this subsection are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, unless otherwise specified.
[PL 2003, c. 689, Pt. A, §1 (NEW).]

**3. Employees.** The commissioner may employ personnel as necessary to carry out the work of the department. All personnel of the department are under the immediate supervision, direction and control of the commissioner. Department personnel must be employed subject to the Civil Service Law, except for positions subject to appointment by the commissioner under subsection 4.
[PL 2005, c. 412, §6 (AMD).]

**4. Appointments.** All deputy commissioners, all office directors, the regional systems integration directors and the superintendents of any state institutions are appointed by the commissioner and serve at the pleasure of the commissioner.

A. [PL 2007, c. 539, Pt. N, §44 (RP).]

B. [PL 2007, c. 539, Pt. N, §44 (RP).]

C. [PL 2007, c. 539, Pt. N, §44 (RP).]

D. [PL 2007, c. 539, Pt. N, §44 (RP).]

E. [PL 2007, c. 539, Pt. N, §44 (RP).]

F. [PL 2007, c. 539, Pt. N, §44 (RP).]

G. [PL 2007, c. 539, Pt. N, §44 (RP).]

H. [PL 2007, c. 539, Pt. N, §44 (RP).]

I. [PL 2007, c. 539, Pt. N, §44 (RP).]

J. [PL 2007, c. 539, Pt. N, §44 (RP).]

K. [PL 2007, c. 539, Pt. N, §44 (RP).]

L. [PL 2007, c. 539, Pt. N, §44 (RP).]

M. [PL 2007, c. 539, Pt. N, §44 (RP).]

N. [PL 2007, c. 539, Pt. N, §44 (RP).]

O. [PL 2007, c. 539, Pt. N, §44 (RP).]

Deputy commissioners and office directors appointed pursuant to this subsection must have educational qualifications and professional experience directly related to the functions of and services provided by the relevant unit or office.
[PL 2007, c. 539, Pt. N, §44 (AMD).]

SECTION HISTORY

PL 2003, c. 689, §A1 (NEW). PL 2005, c. 236, §3 (REV). PL 2005, c. 412, §6 (AMD). PL 2007, c. 539, Pt. N, §§43, 44 (AMD).

**§206. Additional duties of the commissioner**

In addition to other duties set out in this Title, the commissioner has the following duties. [PL 2007, c. 539, Pt. N, §45 (NEW).]

**1. General.** The commissioner has general supervision, management and control of the research and planning, grounds, buildings, property, officers, employees and clients of all state institutions.
[PL 2007, c. 539, Pt. N, §45 (NEW).]

**2. Enforcement of laws.** The commissioner shall enforce all laws concerning the institutions within the department, unless specific law enforcement duties are given by law to other persons.
[PL 2007, c. 539, Pt. N, §45 (NEW).]

**3. Rules.** Rules adopted pursuant to section 205, subsection 2 must be established as set out in this subsection.

A. The commissioner shall establish such rules, regulations, procedures and practices as the commissioner may determine appropriate or necessary for the care and management of the property of all state institutions, for the production and distribution of the products of the institutions, for guiding the institutions in determining whether to approve admissions and for the execution of the statutory purposes and functions of the institutions. [PL 2007, c. 539, Pt. N, §45 (NEW).]

B. The central principle underlying all rules relating to residents of the institutions within the department is that the residents retain all rights of ordinary citizens, except those expressly or by necessary implication taken from them by law. [PL 2007, c. 539, Pt. N, §45 (NEW).]

[PL 2007, c. 539, Pt. N, §45 (NEW).]

**4. Grievance procedures.** The commissioner shall establish procedures for hearing grievances of clients who receive mental health services or adult developmental services or of children who receive behavioral health services. The procedures must include the opportunity for a timely hearing before a state hearing examiner or an independent fair hearing examiner. The commissioner may contract for the services of the hearing examiner, who shall conduct adjudicatory proceedings pursuant to the Maine Administrative Procedure Act.

[PL 2011, c. 542, Pt. A, §51 (AMD).]

**5. Residential child care facilities.** The commissioner shall approve all programs for the provision of mental health services to residential child care facilities, as defined in Title 22, section 8101, subsection 4, and shall participate in licensure of these programs in accordance with Title 22, section 8104.

[PL 2007, c. 539, Pt. N, §45 (NEW).]

**6. Abuse allegations in state institutions.** The commissioner shall ensure appropriate intervention and remediation in cases of substantiated abuse and neglect in state institutions. The commissioner shall ensure, through inspection on a periodic basis, that all state institutions meet appropriate federal and state standards relating to the health, safety and welfare of clients of these institutions.

[PL 2007, c. 539, Pt. N, §45 (NEW).]

**7. Establish standards of care.** The commissioner shall establish standards of care for patients at the Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center.

[PL 2007, c. 539, Pt. N, §45 (NEW).]

**8. Substance use disorder prevention, treatment and recovery.** The commissioner shall administer and carry out the purposes of the Maine Substance Use Disorder Prevention, Treatment and Recovery Act.

[PL 2019, c. 524, §18 (AMD).]

**9. Annual reporting.**

[PL 2019, c. 612, §4 (RP).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §45 (NEW). PL 2011, c. 542, Pt. A, §51 (AMD). PL 2017, c. 284, Pt. NNNNNNN, §17 (AMD). PL 2017, c. 407, Pt. A, §91 (AMD). PL 2019, c. 524, §18 (AMD). PL 2019, c. 612, §4 (AMD).

**§207. Additional powers of the commissioner**

In addition to other powers granted in this Title, the commissioner has the powers set out in this section. [PL 2007, c. 539, Pt. N, §46 (NEW).]

**1. General powers.** The commissioner may perform any legal act relating to the care, custody, treatment, relief and improvement of the residents of state institutions or may purchase residential services when the department does not provide the appropriate institutional services for the client.

[PL 2007, c. 539, Pt. N, §46 (NEW).]

**2. Appointments of deputy commissioner and other employees.** The commissioner's powers to appoint any deputy commissioner and other employees are as set out in this subsection.

A. The commissioner may appoint, subject to the Civil Service Law and except as otherwise provided, any employees who may be necessary. [PL 2007, c. 539, Pt. N, §46 (NEW).]

B. The commissioner may appoint and set the salaries for one or more deputy commissioners to assist in carrying out the responsibilities of the department. Each appointment must be for an indeterminate term and until a successor is appointed and qualified or at the pleasure of the commissioner. [PL 2007, c. 539, Pt. N, §46 (NEW).]

C. The commissioner, with the approval of the Governor, may employ and set the salaries up to the maximum adjusted pay grade for clinical director positions. Clinical director positions are excluded from the definition of state employee under Title 26, section 979-A, subsection 6 and are not subject to the Civil Service Law. Employees in that classification hired after July 1, 1989 serve at the pleasure of the commissioner and must, as a condition of continued employment, maintain clinical privileges to practice medicine as determined by the respective medical staff and the superintendent of the facility. [PL 2007, c. 539, Pt. N, §46 (NEW).]

D. Employees in the classification of clinical director may elect to retain current bargaining unit and civil service status. Employees so grandfathered retain salary and benefit entitlements provided for in current pay schedules and collective bargaining agreements. [PL 2007, c. 539, Pt. N, §46 (NEW).]

[PL 2007, c. 539, Pt. N, §46 (NEW).]

**3. Delegation.** The commissioner's delegation powers are as set out in this subsection.

A. The commissioner may delegate powers and duties given under this Title to any deputy commissioner and chief administrative officers of state institutions. [PL 2007, c. 539, Pt. N, §46 (NEW).]

B. The commissioner may empower any deputy commissioner and chief administrative officers of state institutions to delegate further powers and duties delegated to them by the commissioner. [PL 2007, c. 539, Pt. N, §46 (NEW).]

[PL 2007, c. 539, Pt. N, §46 (NEW).]

**4. Funding sources.** In carrying out this Title, the commissioner may apply for and accept from any other agency of government, person, group or corporation any funds that may be available.

[PL 2007, c. 539, Pt. N, §46 (NEW).]

**5. Appearance of designated employees in Probate Court.** The commissioner may designate employees of the department to represent the department in Probate Court only in:

A. Matters relating to the performance of duties in uncontested guardianship, conservatorship or termination of guardianship or conservatorship proceedings; and [PL 2007, c. 539, Pt. N, §46 (NEW).]

B. Requests for emergency guardianships arising from the need for emergency medical treatment or placement in adult foster homes, boarding homes or nursing homes or for orders necessary to apply for or preserve an estate in emergency situations. [PL 2007, c. 539, Pt. N, §46 (NEW).]

[PL 2007, c. 539, Pt. N, §46 (NEW).]

**6. Physicians.** Department employees in the classifications of physician I, II and III are unclassified state employees, as defined by Title 26, section 979-A, subsection 6, and are members of bargaining units, subject to Title 26, chapter 9-B. An employee in any of these classifications must, as a condition of continued employment, maintain necessary clinical privileges to practice medicine in that employee's position as determined by the respective medical staff and the superintendent of the facility. Any termination of employment due to a loss of clinical privileges to practice medicine under this subsection is not subject to the grievance procedure under any collective bargaining agreement.

[PL 2007, c. 539, Pt. N, §46 (NEW).]

**7. Contracts with health care servicing entities.** The commissioner may enter into contracts with health care servicing entities for the financing, management and oversight of the delivery of mental health, adult developmental and substance use disorder services to clients pursuant to a state or federally sponsored health program in which the department participates or that the department administers. For the purposes of this subsection, "health care servicing entity" means a partnership, association, corporation, limited liability company or other legal entity that enters into a contract with the State to provide or arrange for the provision of a defined set of health care services; to assume responsibility for some aspects of quality assurance, utilization review, provider credentialing and provider relations or other related network management functions; and to assume financial risk for provision of such services to clients through capitation reimbursement or other risk-sharing arrangements. "Health care servicing entity" does not include insurers or health maintenance organizations. In contracting with health care servicing entities, the commissioner:

A. Shall include in all contracts with the health care servicing entities standards, developed in consultation with the Superintendent of Insurance, to be met by the contracting entity in the areas of financial solvency, quality assurance, utilization review, network sufficiency, access to services, network performance, complaint and grievance procedures and records maintenance; [PL 2007, c. 539, Pt. N, §46 (NEW).]

B. Prior to contracting with any health care servicing entity, must have in place a memorandum of understanding with the Superintendent of Insurance for the provision of technical assistance, which must provide for the sharing of information between the department and the superintendent and the analysis of that information by the superintendent as it relates to the fiscal integrity of the contracting entity; [PL 2007, c. 539, Pt. N, §46 (NEW).]

C. May require periodic reporting by the health care servicing entity as to activities and operations of the entity, including the entity's activities undertaken pursuant to commercial contracts with licensed insurers and health maintenance organizations; [PL 2007, c. 539, Pt. N, §46 (NEW).]

D. May share with the Superintendent of Insurance all documents filed by the health care servicing entity, including documents subject to confidential treatment if the information is treated with the same degree of confidentiality as is required of the department; and [PL 2007, c. 539, Pt. N, §46 (NEW).]

E. May make all necessary rules for the administration of contracts with health care servicing entities. All rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 539, Pt. N, §46 (NEW).]

[PL 2017, c. 407, Pt. A, §92 (AMD).]

**8. Ad hoc committee compensation.** The commissioner is authorized to provide compensation to persons who are consumers or family members of consumers of departmental services who are members of ad hoc committees. The compensation may not exceed $25 per day and payment of expenses. Total compensation expenses of the department under this subsection in any fiscal year may not exceed $7,500.

[PL 2007, c. 539, Pt. N, §46 (NEW).]

**9. Operation of a facility.** The commissioner may contract with a privately operated corporation for the operation of a facility to replace the Elizabeth Levinson Center effective October 1, 2008.

[PL 2007, c. 539, Pt. N, §46 (NEW).]

**10. Adjudicatory subpoena power.** In an adjudicatory proceeding conducted by the department, the commissioner may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence or discovery relating to an issue of fact in the proceeding and may designate employees of the department to issue such subpoenas. Subpoenas must be issued in accordance with Title 5, section 9060.

[PL 2013, c. 202, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §46 (NEW). PL 2011, c. 542, Pt. A, §52 (AMD). PL 2013, c. 202, §1 (AMD). PL 2017, c. 407, Pt. A, §92 (AMD).

**§208. Maintenance of state mental health institutes**

The commissioner shall maintain 2 state mental health institutes for the mentally ill, one at Bangor called the Dorothea Dix Psychiatric Center and the other at Augusta called the Riverview Psychiatric Center. [PL 2007, c. 539, Pt. N, §47 (NEW).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §47 (NEW).

**§209. Municipal grants**

The department is authorized to make grants to cities and towns within the State, or to nonprofit corporations organized for purposes related to public health or welfare, out of federal funds when such grants are permitted by the terms under which the federal funds are available. Such grants must be made in conformity with applicable federal requirements and standards and with appropriate state accounting requirements and in accordance with regulations of the department. [PL 2007, c. 539, Pt. N, §48 (NEW).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §48 (NEW).

**§210. Fees for service**

**1. Reasonable fees authorized.** The department may charge reasonable fees for any services provided under this Title, Title 5, Title 22 or Title 34-B, whether directly or indirectly provided by the department. Any fees thus received constitute a permanent fund for use by the department as special revenue income and do not become part of the General Fund. Fees so generated must be used in accordance with federal regulations.
[PL 2007, c. 539, Pt. N, §49 (NEW).]

**2. Sliding fee scale.** The department may establish a sliding fee scale for the provision of community-based purchased services administered by the department.

A. The sliding fee scale must be based on gross family income and family size. [PL 2007, c. 539, Pt. N, §49 (NEW).]

B. Any fees charged as a result of implementing this subsection must be paid to the provider of the service and be used by the provider for additional services of the same or related type for which the fees were paid. [PL 2007, c. 539, Pt. N, §49 (NEW).]

[PL 2007, c. 539, Pt. N, §49 (NEW).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §49 (NEW).

**§211. Federal funds and commodities**

The commissioner, with the consent and approval of the Governor, is authorized and empowered to accept any allotments of federal funds and commodities, to manage and dispose of the same in whatever manner required by federal law and put into effect the United States Social Security Act and any amendments of that act and of other federal acts relating to public welfare. [PL 2007, c. 539, Pt. N, §50 (NEW).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §50 (NEW).

**§212. Coordination and reporting on expenditure of funds pertaining to homeland security and bioterrorism prevention**

The commissioner shall coordinate in a mutually agreed upon manner with the Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management on the planning and expenditure of all federal funds received by the department for homeland security emergency preparedness purposes or for the prevention of bioterrorism and provide a report annually, beginning December 15, 2008, to the Homeland Security Advisory Council established in Title 37-B, section 708. The advisor for the Homeland Security Advisory Council shall report by January 15th of each year, beginning in 2009, on the expenditure of such funds to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The report must include, but is not limited to, the amount of funds expended in the prior year, the purpose of those expenditures, the effect of those expenditures on homeland security and bioterrorism prevention and the plans for coordination with the Maine Emergency Management Agency for the expenditure of the funds received or anticipated for such purposes in the 2 years following submission of the report. [PL 2007, c. 539, Pt. N, §51 (NEW).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §51 (NEW).

**§213. Funds for social services**

The department shall administer any funds that may be available from private, local, state or federal sources for the provision of social services as defined by the department. Within any limitation that may apply from the sources of such funds, the department may provide said social services itself, or assure itself of the provision of such services by purchase of services, by contracts or by grants, or by joint provision of services, by contracts or by grants, or by joint provision of services with other agencies through matching agreements. [PL 2007, c. 539, Pt. N, §52 (NEW).]

The department shall adopt rules as necessary to define eligibility for social services, contractual terms, conditions for grants, matching ratios and quality of performance standards and such others as are necessary for the administration of this section. These rules must be published and subject to a 30-day public review prior to taking final effect. [PL 2007, c. 539, Pt. N, §52 (NEW).]

The department may expend any unidentified child support payments and any interest earned on those funds that the department has received when the department cannot identify the child for which payment was made. The department may expend these funds only in its efforts to enforce child support laws in accordance with Title 19-A, chapters 53, 63, 65 and 67. Before making any expenditure, the department must wait at least 12 months from the date the unidentified funds were received. [PL 2007, c. 539, Pt. N, §52 (NEW).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §52 (NEW).

**§214. Performance-based contracts**

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the commissioner shall manage all funds available for the provision of social services in accordance with the provisions of this section. [PL 2007, c. 539, Pt. N, §53 (NEW).]

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding written document between 2 or more parties, including such documents as are commonly referred to as accepted application, proposal, prospectus,

contract, grant, joint or cooperative agreement, purchase of service or state aid. [PL 2007, c. 539, Pt. N, §53 (NEW).]

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided. [PL 2007, c. 539, Pt. N, §53 (NEW).]

[PL 2007, c. 539, Pt. N, §53 (NEW).]

**2. Performance-based contract.** The commissioner shall ensure that all agreements to purchase social services are performance-based contracts.

[PL 2007, c. 539, Pt. N, §53 (NEW).]

**3. Rules.** The commissioner shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

[PL 2007, c. 539, Pt. N, §53 (NEW).]

**4. Procedures.** The procedures in this subsection apply whenever the commissioner commences a request-for-proposal procedure.

A. The commissioner may hold at least one informational meeting at least 14 days before the due date for submission of the notice of intent to bid. The commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions. [PL 2019, c. 590, §3 (AMD).]

B. The commissioner may require any interested party to submit a notice of intent to bid at least 7 days before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract. [PL 2019, c. 590, §4 (AMD).]

C. If only one community service provider submits a notice of intent to bid, the commissioner may enter into negotiations concerning a contract with that provider in accordance with the procedures established for performance-based contracts. [PL 2007, c. 539, Pt. N, §53 (NEW).]

D. For purposes of this section, the commissioner retains the right to reject any bids submitted and any proposals made during negotiations pursuant to paragraph C. [PL 2007, c. 539, Pt. N, §53 (NEW).]

[PL 2019, c. 590, §§3, 4 (AMD).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §53 (NEW). PL 2019, c. 590, §§3, 4 (AMD).

**§215. State wards**

When a state ward becomes 18 years of age and the state ward and the department agree that need for care and support for educational, social or physical reasons exists, the department is authorized to continue care and support of this person up to 21 years of age. [PL 2007, c. 539, Pt. N, §54 (NEW).]

When a state ward who is enrolled in a postsecondary education program becomes 21 years of age prior to the completion of the postsecondary education program, the department is authorized, at its discretion and by agreement with that state ward, to continue providing support for room, board and related education expenses until the state ward becomes 23 years of age. Funds allocated under this section must come from an identified education and training account specifically established for the

postsecondary education-related costs of state wards after they become 21 years of age and before they become 23 years of age. [PL 2007, c. 539, Pt. N, §54 (NEW).]

SECTION HISTORY

PL 2007, c. 539, Pt. N, §54 (NEW).

**§216. Health Care Liability Retirement Fund**

The Health Care Liability Retirement Fund, referred to in this section as "the fund," is established as a nonlapsing fund within the Department of Health and Human Services. The fund consists of proceeds from the sale of liquor operation revenue bonds pursuant to Title 30-A, section 6053. The money in the fund must be used for the purpose of making payments to health care providers for services provided prior to December 1, 2012 under the MaineCare program established by Title 22, chapter 855. When, as determined by the commissioner, there exist no outstanding amounts owed to health care providers eligible to be paid from the fund, the State Controller shall transfer all amounts in the fund to the Liquor Operation Revenue Fund established in Title 30-A, section 6054. [PL 2013, c. 269, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 269, Pt. B, §1 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 129th Maine Legislature and is current through October 1, 2020. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.