Office of
The Governor

No. 3 FY 20/21
DATE July 22, 2020

AN ORDER REGARDING CERTAIN MAINECARE LAWS

WHEREAS, I proclaimed a state of emergency on March 15, 2020 and renewed states of emergency on April 14, 2020, May 13, 2020, June 9, 2020 and July 8, 2020 to authorize the use of emergency powers in order to expand and expedite the State's response to the serious health and safety risks of the highly contagious COVID-19; and

WHEREAS, during this pandemic, case managers for individuals with intellectual disabilities are a critical source of stability and familiarity for individuals and their families; and

WHEREAS, the pandemic has made it more difficult for provider agencies to fill case management vacancies as the risks and demands of these essential workers have increased; and

WHEREAS, these pressures affect the ability of provider agencies to meet standards for case management ratios, personal plan reviews and updates, and training for such personal plans; and

WHEREAS, the federal Centers for Medicare and Medicaid Services (CMS) has acknowledged these pressures and approved case management and personal planning flexibilities in Maine and in 34 other states and territories; and

WHEREAS, enforcement of related Maine Statutes and rules must be temporarily suspended in order to fully implement approved federal flexibilities; and

WHEREAS, action is necessary to avoid provider agencies discharging case management clients and disrupting important relationships in order to meet current standards that did not foresee these pressures, to enable provider agencies to keep their primary focus on health and safety issues affecting their clients, and to make it more efficient for providers to access DHHS' training resources; and

WHEREAS, the governor's emergency powers expressly include pursuant to 37-B M.R.S. § 742(1)(C)(1) and § 834 the authority to suspend the enforcement of statutes and agency rules that prescribe the procedures for the conduct of state business and are inconsistent with managing the emergency;

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to 37-B M.R.S. Ch. 13, including but not limited to provisions cited above, do hereby Order the following:

I. ORDERS

To respond to the temporary conditions identified above, the procedures for enforcing 34-B M.R.S.:

A. §5201(6)(D) and related rule 14-197 CRM Ch. 10 section VI.D.1 regarding caseload ratios are temporarily suspended;

B. §5470-B (2)(F) and related rule 14-197 CRM Ch. 10-144 Ch. 101 section II.13.02 (D) regarding annual reviews and updates of personal plans are temporarily suspended; and

C. §5470-B(8) regarding DHHS-provided training in the personal planning process are temporarily suspended.

The DHHS Office of Aging and Disability Services shall during the pendency of this Order issue guidance that provides an alternative manner of protection for the interests served by the above statutes and rules during this temporary period.

II. EFFECTIVE DATE

This Order is effective from May 1, 2020 and shall remain in effect until rescinded, the State of Civil Emergency to Protect Public Health is terminated, or until CMS approval for related temporary changes to the personal planning process expires, whichever occurs first.

Janet T. Mills
Governor