

Basis Statement and Summary of Changes

Chapter 100: Enforcement Procedures *(Major Substantive)*

*This rule requires legislative approval prior to final adoption*.

Chapter 100 establishes a schedule of fines and other enforcement actions for failure to file clinical, quality, financial, restructuring, health care claims and prescription drug price data; failure to pay the annual assessment; and for intentional or knowing failure to protect the disclosure of confidential or privileged data.

The proposed changes summarized below (except for updates to two definitions in Section 2) are a result of the new requirements in 24-A M.R.S. §6951, including those in PL 2021, c603, “An Act Regarding Reporting on Spending for Behavioral Health Care Services and To Clarify Requirements for Credentialing by Health Insurance Carriers”.

The MHDO Board met on April 7, 2022, and authorized the MHDO to initiate rulemaking to Chapter 100, as required under 22 M.R.S. §8705-A. The proposed rule was publicly noticed on September 14, 2022, and a public hearing was held on October 6, 2022. No public comments were received at the public hearing or by the 10-day comment period deadline of October 17, 2022. The Board provisionally adopted the major substantive rule on December 1, 2022. Subsequently, the Board submitted the provisionally adopted rule to the Maine State Legislature for its review, in accordance with 5 MRS Sec. 8072.

Since the Legislature failed to act on this rule authorizing adoption or disapproving adoption of the rule during the legislative review session, the MHDO Board had 60 days from the Legislature adjournment date (July 26, 2023) to finally adopt the rule. On September 7, 2023, the Board finally adopted this rule, which makes the following changes:

**Section 2. Definitions (page 2)**

Revised definitions for manufacturer and wholesale drug distributor to align with definitions in 22 MRS Chapter 1683 and 90-590 C.M.R. Chapter 570, Uniform Reporting System for Prescription Drug Price Data Sets.

**Rationale:** Uniformity in definitions across various agency rules.

**Section 3. Penalties; fines. (page 3)**

This proposed rule change is necessary in order to align the enforcement requirements in Public Law 2021, Chapter 603 and in 90-590 C.M.R. Chapter 247, with the enforcement provisions described in 90-590 C.M.R. Chapter 100: Enforcement Procedures. These proposed changes add a new provision under Section 3. Penalties; fines, for a payor that fails to file supplemental health care data sets and/or to meet the standards for data as defined in 90-590 Chapter 247.

**Rationale:** Alignment of PL 2021, Chapter 603 with 90-590 C.M.R. Chapter 247 & Chapter 100.

**Statutory Authority:**  22 M.R.S. Section 8705-A and 24-A M.R.S. §6951

**Effective Date:** October 14, 2023