

Thank you for your submission on June 23, 2021, of Maine's request for a modification of normal post-award forum procedures during the public health emergency pursuant to 45 CFR § 155.1320(c)(2). After evaluating your request, the Department of Health and Human Services and the Department of the Treasury have determined that your proposed modified post-award forum procedures to hold your forum virtually meet the requirements set forth in 45 CFR § 155.1320(c)(2).

Within 15 calendar days of your receipt of this modification determination, please post it and your modification request to your public website along with any information related to the approved revised timeline to hold the post-award forum, as applicable and consistent with 45 CFR § 155.1320(c)(2)(ii)(E). Please also ensure that you summarize your modified post-award forum procedures in applicable quarterly and annual reports consistent with 45 CFR § 155.1320(c).

Sincerely,

CMS Waiver Support Team



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From: Yates, Robert F. (CMS/CCIIO)

Sent: Friday, June 25, 2021 10:18 AM

To: Christopher Howard <Choward@PierceAtwood.com>; Laren Walker <larenwalker@river9.net>; 'dianekopecky@river9.net' <dianekopecky@river9.net>; 'Doherty, Holly' <Holly.Doherty@maine.gov>; 'Hooper, Mary M' <Mary.M.Hooper@maine.gov>

Cc: Mary McGillicuddy <mmcgillicuddy@PierceAtwood.com>; Mary McGillicuddy <mmcgillicuddy@PierceAtwood.com>

Subject: RE: Post-Award Forum Modification Requests

Chris,

Many thanks for the follow-up information. I will circle back if we have any additional questions.

Thanks,

Rob

From: Christopher Howard <Choward@PierceAtwood.com>

Sent: Thursday, June 24, 2021 6:58 PM

To: Yates, Robert F. (CMS/CCIIO) <Robert.Yates@cms.hhs.gov>; Laren Walker <larenwalker@river9.net>; 'dianekopecky@river9.net' <dianekopecky@river9.net>; 'Doherty, Holly' <Holly.Doherty@maine.gov>; 'Hooper, Mary M' <Mary.M.Hooper@maine.gov>

Cc: Mary McGillicuddy <mmcgillicuddy@PierceAtwood.com>; Mary McGillicuddy <mmcgillicuddy@PierceAtwood.com>

Subject: RE: Post-Award Forum Modification Requests

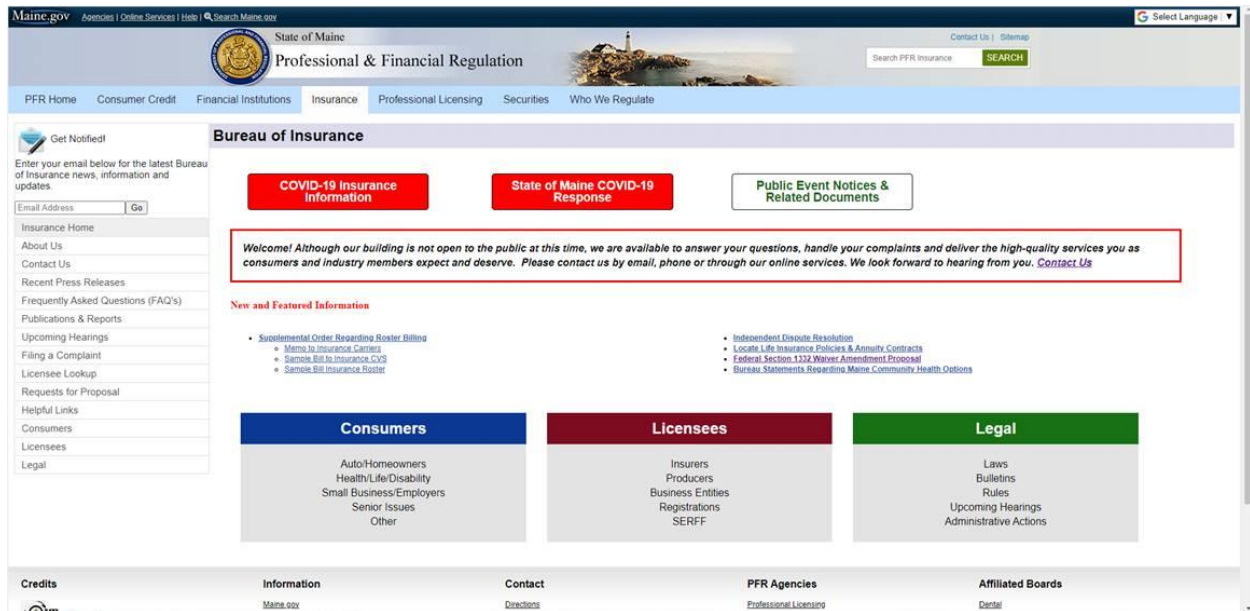
Rob,

This is further to my reply of earlier today on the annual Public Forum. Holly Doherty from the MBOI reports:

The MBOI's website and the homepage where notice for the public forum was posted has the following features:

- MBOI's website must comply with the accessibility standards set forth in the state's accessibility policy for state websites. On BOI's homepage, <https://www.maine.gov/pfr/insurance/index.html>, there is a link at the bottom of the page titled "Accessibility" that takes you to a page that explains this.
- At the top of the MBOI homepage, there is a drop down menu to "Select Language," which allows someone to change the language of the website text.
- Also on the MBOI homepage, there is an introductory welcome (see screenshot below) with a link titled "Contact Us," which takes you to BOI's contact page that provides all of the ways to reach BOI, including TTY for the hearing impaired and speech disabled.
- MBOI staff have access to phone interpreters to allow language interpretation for communication over the phone.
- MBOI staff have resources to arrange auxiliary aids, including interpreters, for communication at meetings and hearings when requested.

Going forward the MBOI and MGARA will include the following language in the Public Forum notices: "Individuals in need of auxiliary aid for effective communication in the hearing are invited to make their needs and preference known to Ms. Greenleaf either by e-mail or telephone at (207) 624-8491 sufficiently in advance of the hearings so that appropriate arrangements can be made."



Please get back to me with any questions or concerns,

Chris

Christopher E. Howard

PIERCE ATWOOD LLP

PH 207.791.1335

From: Yates, Robert F. (CMS/CCIIO) <Robert.Yates@cms.hhs.gov>
Sent: Wednesday, June 23, 2021 8:56 AM
To: Christopher Howard <Choward@PierceAtwood.com>; Laren Walker <larenwalker@river9.net>; 'dianekopecky@river9.net' <dianekopecky@river9.net>; 'Doherty, Holly' <Holly.Doherty@maine.gov>; 'Hooper, Mary M' <Mary.M.Hooper@maine.gov>
Cc: Mary McGillicuddy <mmcgillicuddy@PierceAtwood.com>
Subject: RE: Post-Award Forum Modification Requests

*****This message originated outside your organization*****

Chris,

Thank you for letting me know and apologies again for the confusion. I will discuss with other federal reviewers and circle back with you but can't imagine that we would ask you to re-do the process given that you acted in good faith. I had just a few follow-up questions on ME's forum:

- Did you track attendance?
- How did you ensure compliance with applicable federal civil rights requirements and other accessibility requirements (see [preamble of 2012 rule](#), p. 7 of 22), including any specific examples measures you took?

Thanks,

Robert F. Yates

Robert.Yates@cms.hhs.gov | 301-492-5151



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From: Christopher Howard <Choward@PierceAtwood.com>

Sent: Wednesday, June 23, 2021 8:40 AM

To: Yates, Robert F. (CMS/CCIIO) <Robert.Yates@cms.hhs.gov>; Laren Walker <larenwalker@river9.net>; 'dianekopecky@river9.net' <dianekopecky@river9.net>; 'Doherty, Holly' <Holly.Doherty@maine.gov>; 'Hooper, Mary M' <Mary.M.Hooper@maine.gov>

Cc: Mary McGillicuddy <mmcgillicuddy@PierceAtwood.com>

Subject: RE: Post-Award Forum Modification Requests

Rob,

As you suspected, we did not receive the communication regarding advance approval of virtual public forums. The State of Maine held a joint MBOI/MGARA Public Forum on June 7, 2021 at 1:00 pm EST pursuant to the attached Notice posted to both the MGARA and MBOI web sites more than 30 days in advance of the Public Forum. At that time State government was still not permitting in person conduct of meetings.

Please advise whether our 2021 Public Forum is valid, or whether we will need to re-do the process.

Thank you, Chris

Christopher E. Howard

PIERCE ATWOOD LLP

PH 207.791.1335

From: Yates, Robert F. (CMS/CCIIO) <Robert.Yates@cms.hhs.gov>

Sent: Wednesday, June 23, 2021 8:29 AM

To: Christopher Howard <Choward@PierceAtwood.com>; Laren Walker <larenwalker@river9.net>; 'dianekopecky@river9.net' <dianekopecky@river9.net>; 'Doherty, Holly' <Holly.Doherty@maine.gov>;

'Hooper, Mary M' <Mary.M.Hooper@maine.gov>; Mary McGillicuddy
<mmcgillicuddy@PierceAtwood.com>

Subject: Post-Award Forum Modification Requests

Importance: High

*****This message originated outside your organization*****

Dear Maine/MGARA team:

We sent out a mass e-mail communication on post-award forum modification requests in May, but I have reason to believe that not all members of the Maine/MGARA team were on that distribution list, so I am re-sending below (and my apologies for any confusion). Per recent regulatory updates, we will now need to provide advance approval of requests to hold post-award forums virtually.

As you plan for quarterly reports and post-award forums in line with the requirements of 45 CFR § 155.1320(c), we wanted to ensure that you are aware of our discretion to modify normal post-award forum procedures under 45 CFR § 155.1320(c)(2) during the COVID-19 public health emergency. As a reminder, the Q1 reports are due by 5/31 and Q2 reports are due by 8/31. In addition, within at least 6 months after the implementation date of a section 1332 waiver and annually thereafter, states must hold a public forum to solicit comments on the progress of a section 1332 waiver. The state must publish the date, time, and location of the public forum in a prominent location on the state's public web site, at least 30 days prior to the date of the planned public forum.

Please e-mail all requests for modification of normal post-award forum procedures to 1332-WaiverSupport@cms.hhs.gov. In your request there are several critical topics that we request you cover in terms of detailing your alternative procedures. First, please detail your reason(s) for modifying the normal post-award procedures (e.g., to mitigate the potential risk associated with COVID-19). Please also confirm that you will publish notice of the meeting and ensure that the public can attend to ensure the greatest opportunity and level of meaningful public comment. If you proceed with a virtual meeting, please ensure that you inform the public of the virtual "location, date and time of public hearings" and detail the same in your request. Specifically, please publish the date, time, and location of the forum in a prominent location on the state's public web site at least 30 days prior to the scheduled date. Other considerations to include in your request are how you will ensure residents can ask questions, track attendance (if possible), and ensure compliance with applicable civil rights requirements and other laws pertaining to accessibility (which are discussed in the preamble of the 2012 rule). You should also plan to document any modifications to your post-award forum process that were utilized in the soonest quarterly report after which the forum was held and next year's annual report consistent with §155.1324(a) and (b).

After receipt of your request, we will inform you of our determination within approximately 15 calendar days of receipt. Within 15 days of receiving our determination, please publish your request and our determination on your public website along with any information related to revising your normal timeline to hold the forum.

Thanks,

Robert F. Yates

Robert.Yates@cms.hhs.gov | 301-492-5151



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