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Administrative Rules Division (ARD)
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REQUEST FOR RULEMAKING (RFR)

1. Department:

Treasury

2. Bureau:

Any Bureau or Bureaus that the Department of Treasury tasks with auditing the Michigan Opioid Healing and Recovery Fund, possibly to include the Local Audit and Finance Division within the Bureau of Local Government and School Services

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Michigan Opioid Healing and Recovery Fund Auditing Procedures

5. Rule numbers or rule set range of numbers:

Unknown

6. Estimated time frame:

As soon as possible

Name of person filling out RFR:

Frank Kearn, Director of Justice Partnership, Center for Popular Democracy

Email of person filling out RFR:

fkearl@populardemocracy.org

Phone number of person filling out RFR:

[REDACTED]

Address of person filling out RFR:

Center for Popular Democracy

Attn: Frank Kearn

[REDACTED]

7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The general purpose of the rule is to create an audit mechanism and structure to collect data on state- and local-level spending of the Michigan Opioid Healing and Recovery Fund, as required by MCL § 12.253(5).

The current overdose epidemic—driven largely by the synthetic opioid, fentanyl—continues unabated nationally and in Michigan. In 2022, nearly 3000 individuals died in this state, despite years of national, state, and local interventions aimed at curbing overdose deaths. Michigan's opioid settlement funds—over \$1.5 billion over the 18

years—are an opportunity to fill health disparity gaps, especially those experienced by BIPOC, Tribal, rural and justice-impacted communities. The overdose epidemic is an issue of complexity that involves acknowledgement of the addiction and mental health crisis, the social drivers of health (SDOH), structural and systemic racism, and ongoing disparities in access to necessary, life-saving resources.

A lack of settlement spending transparency and accountability in Michigan has reduced the efficacy of settlement fund spending and has limited the ability of the Michigan Opioid Advisory Commission (OAC) and the Michigan Opioids Task Force to meaningfully oversee and evaluate how the state and counties are spending their funds. Furthermore, the lack of timely spending data and information about decision-making processes has made strategic coordination between the Michigan Department of Health and Human Services and Michigan's counties difficult, and long-term planning virtually impossible.

Realizing the full power of the Department of Treasury's audit authority as relates to the Opioid Healing and Recovery Fund is imperative to help Michigan prevent fraud, improve efficiency, and develop strategic spending plans to mitigate ongoing harm from the opioid epidemic.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL § 12.253(5)

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL § 12.253(5)

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

No.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The proposed auditing rules do not conflict with or duplicate similar rules.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The general subject matter is contained in Treasury guidance to state and local government.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

No

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Under the full rulemaking process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

No federal or regional compliance requirements or other standards exist concerning the

administration of auditing the Michigan Opioid Healing and Recovery Fund, which is the subject matter of these rules.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

No

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

There have been no past evaluations because this is a recently passed statute and there are no regulations regarding the statutory duty.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No, the need for audit procedures is ongoing as localities are expected to receive money for at least the next 16 years.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No.