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GOVERNOR

Maine Department of Health and Human Services
MaineCare Services
11 State House Station
Augusta, Maine 04333-0011

BETHANY L. HAMM
ACTING COMMISSIONER

DATE: September 12, 2018

TO: Interested Parties

FROM: Stefanie Nadeau, Director, MaineCare Services

SUBJECT: Proposed Rule: Chapter 101, MaineCare Benefits Manual, Chapter III, Section 29, Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder 10-144 C.M.R. ch. 101, MaineCare Benefits Manual

PUBLIC HEARING:

Date and Time: October 10, 2018, 1 p.m.
Location: Marquardt Bldg, Room 118, Door D7
32 Blossom Lane, Augusta, Maine

COMMENT DEADLINE: Comments must be received by 11:59 PM on October 20, 2018

This letter gives notice of a proposed major substantive rule: MaineCare Benefits Manual, Chapter III, Section 29, Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder.

The Department is proposing this major substantive rule in accordance with P.L. 2017, ch. 459, § 3195, *An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government ("Act")*. This Act provides funding to increase reimbursement rates for eighteen (18) procedure codes in Chapter III, Section 29. The legislation directs the Department to increase the rates for the specific procedure codes in equal proportion to the funding provided for that purpose, and to do so via major substantive rulemaking.

These increased rates will be effective retroactive to July 1, 2018. The Department has determined that a retroactive increase to the beginning of the state fiscal year is appropriate, since the appropriation is intended for the entire fiscal year. The retroactive application comports with 22 M.R.S. § 42(8).

In creating the rates for the codes shown below, the Department examined utilization of these services, and then calculated rates to ensure parity between Section 29 and Section 21, to lessen administrative complications for providers.

This major substantive rule proposes the following changes:

- In Section 1400, the maximum amount that can be in a single day for Respite has been increased.
- In Section 1810, the group rates for Work Support have been increased.
- In Appendix I, the following rates have been increased:
 - S5140 Shared Living (Foster Care, adult)-Shared Living Model-One member served
 - S5140 UN Shared Living (Foster Care, adult)-Shared Living Model-Two members served
 - T2017 Home Support-Quarter Hour
 - T2017 GT Home Support-Remote Support-Interactive Support
 - T2021 Community Support (Day Habilitation)
 - T2021 SC Community Support (Day Habilitation) with Medical Add-On
 - T2019 Employment Specialist Services (Habilitation, Supported Employment waiver)
 - T2019 SC Employment Specialist Services (Habilitation, Supported Employment waiver) with Medical Add-On
 - H2023 Work Support (Supported Employment)-Individual
 - H2023 SC Work Support (Supported Employment)-Individual with Medical Add-On
 - H2023 UN Work Support (Supported Employment)-Group 2 members served
 - H2023 UP Work Support (Supported Employment)-Group 3 members served
 - H2023 UQ Work Support (Supported Employment)-Group 4 members served
 - H2023 UR Work Support (Supported Employment)-Group 5 members served
 - H2023 US Work Support (Supported Employment)-Group 6 members served
 - T2015 Career Planning (Habilitation, prevocational)
 - S5150 Respite Services-1/4 hour
 - S5151 Respite Services-Per Diem

The Department has adopted these rate increases via emergency rulemaking. Pursuant to 5 M.R.S. §8073, the emergency major substantive rule may be effective for up to twelve months, or until the Legislature has completed its review. The Department is now engaging in proposed major substantive rulemaking to adopt these Section 29 rule changes.

Rules and related rulemaking documents may be reviewed at, or printed from, the MaineCare website at <http://www.maine.gov/dhhs/oms/rules/index.shtml> or for a fee, interested parties may request a paper copy of rules by calling (207) 624-4050 or Maine Relay number 711.

A concise summary of the proposed rule is provided in the Notice of Agency Rulemaking Proposal, which can be found at <http://www.maine.gov/sos/cec/rules/notices.html>. This notice also provides information regarding the rulemaking process. Please address all comments to the agency contact person identified in the Notice of Agency Rulemaking Proposal.

Notice of Agency Rule-making Proposal

AGENCY: Department of Health and Human Services, MaineCare Services

CHAPTER NUMBER AND TITLE: 10-144 C.M.R., Chapter 101, MaineCare Benefits Manual, Chapter III, Section 29, Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder

PROPOSED RULE NUMBER:

CONCISE SUMMARY:

The Department proposes this major substantive rule in accordance with P.L. 2017, ch. 459, § 3195, An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government (“Act”), which provided funding to increase reimbursement rates for eighteen (18) procedure codes in Chapter III, Section 29, and directed the Department – via major substantive rulemaking – to increase the rates for the specific procedure codes in equal proportion to the funding provided. These rates will be effective retroactive to July 1, 2018. The maximum amount that can be in a single day for Respite has been increased, consistent with the increased rates.

The Department has adopted these rate increases via emergency rulemaking. Pursuant to 5 M.R.S. §8073, the emergency major substantive rule may be effective for up to twelve months, or until the Legislature has completed its review. The Department is now engaging in proposed major substantive rulemaking to adopt these Section 29 rule changes.

See <http://www.maine.gov/dhhs/oms/rules/index.shtml> for rules and related rulemaking documents.

STATUTORY AUTHORITY: 22 M.R.S. §§ 42, 3173; P.L. 2017 ch. 459, § 3195.

PUBLIC HEARING:

Date and Time: October 10, 2018, 1 p.m.
Location: Marquardt Bldg, Room 118, Door D7
32 Blossom Lane, Augusta, Maine

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before October 1, 2018.

DEADLINE FOR COMMENTS: Comments must be received by 11:59 PM on October 20, 2018.

AGENCY CONTACT PERSON: Trista Collins, Comprehensive Health Planner II
Trista.Collins@maine.gov

AGENCY NAME: MaineCare Services
ADDRESS: 242 State St., 11 State House Station
Augusta, Maine 04333-0011

TELEPHONE: 207-624-4094 FAX: (207) 287-1864
TTY: 711 (Deaf or Hard of Hearing)

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

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SECTION 29 MAJOR SUBSTANTIVE RULE	ALLOWANCES FOR SUPPORT SERVICES FOR ADULTS WITH INTELLECTUAL DISABILITIES OR AUTISM SPECTRUM DISORDER	Established: 1/1/08 EFFECTIVE: 5/139/12/18
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CHAPTER III

SECTION 29	ALLOWANCES FOR SUPPORT SERVICES FOR ADULTS WITH INTELLECTUAL DISABILITIES OR AUTISM SPECTRUM DISORDER	Established: 1/1/08 EFFECTIVE: <u>5/139/12/18</u>
MAJOR SUBSTANTIVE RULE		

GENERAL PROVISIONS

1000 PURPOSE

The purpose of these regulations is to describe the reimbursement methodology for Home and Community Based Services waiver providers whose services are reimbursed in accordance with Chapters II and III, Section 29, Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder of the *MaineCare Benefits Manual*. All services reimbursed in this section are considered fee for service.

1100 DEFINITIONS

Fee-for-service - is a method of paying providers for covered services rendered to members. Under this fee-for-service system, the provider is paid for each discrete service described in Appendix I to a member.

Per Diem - A day is defined as beginning at midnight and ending twenty-four (24) hours later.

Week – A week is equal to seven consecutive days starting with the same day of the week as the provider’s payroll records, usually Sunday through Saturday.

Year - Services are authorized based on the state fiscal year, July 1 through June 30.

1200 AUTHORITY

The authority of the Department to accept and administer any funds that may be available from private, local, State or Federal sources for services under this Chapter is established in 22 M.R.S.A. §3173. The authority of the Department to adopt rules to implement this Chapter is established under 22 M.R.S. §§ 42(l) and 3173.

1300 COVERED SERVICES

Covered Services are defined in Chapter II, Section 29 of the *MaineCare Benefits Manual*.

1400 REIMBURSEMENT METHODS

Services covered under this section will be reimbursed on a fee-for-service basis using one of these methods as follows:

1. **Standard Unit rate** – A Standard unit rate is the rate paid per unit of time (an hour, a specified portion of an hour, or a day) for a specific service. Services in the standard rate include:
 - A. Assistive Technology-Assessment;

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1400 REIMBURSEMENT METHODS (cont.)

- B. Assistive Technology-Transmission (Utility Services);
- C. Career Planning;
- D. Community Support Services;
- E. Employment Specialist Services;
- F. Home Support-Quarter Hour;
- G. Home Support-Remote Support-Interactive Support;
- H. Home Support-Remote Support-Monitor Only;
- I. Respite, ¼ hour and per diem;
- J. Shared Living;
- K. Work Support-Individual;
- L. Work Support-Group.

2. Prior Approved Price – DHHS will determine the amount of reimbursement for Home Accessibility Adaptations or Assistive Technology- Devices after reviewing a minimum of two written itemized bids from different vendors submitted by the provider, prior to providing services. The written itemized bids must contain cost of labor and materials, including subcontractor amounts. DHHS will issue an authorization for the approved amount based on the written bids to the provider.

3. Respite - Reimbursement for Respite is a quarter hour billing code. After 33-quarter hour units of consecutive Respite Services, the provider must bill using the per diem billing code. The quarter hour Respite amount billed any single day cannot exceed the Respite per diem rate of ~~ninety (\$110.2190.00) dollars~~.

1500 REQUIREMENTS FOR PARTICIPATION IN MAINECARE PROGRAM

Providers must comply with all requirements as outlined in Chapter 1, General Administrative Policies and Procedures and Chapter II, Section 29 of the *MaineCare Benefits Manual*.

1600 RESPONSIBILITIES OF THE PROVIDER

Providers are responsible for maintaining adequate financial and statistical records and making them available when requested for inspection by an authorized representative of the DHHS, Maine Attorney General’s Office or the Federal government. Providers shall maintain accurate financial records for these services separate from other financial records.

1700 RECORD KEEPING AND RETENTION OF FINANCIAL RECORDS

Upon request, providers have ten (10) business days to produce fiscal records to DHHS. Complete documentation shall mean clear written evidence of all transactions of the provider and affiliated entities, including but not limited to daily census data, invoices, payroll records, copies

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1700 RECORD KEEPING AND RETENTION OF FINANCIAL RECORDS (cont.)

of governmental filings, staff schedules, time cards, member service charge schedule and amounts reimbursement by service, or any other record which is necessary to provide DHHS with the highest degree of confidence in the reliability of the costs of providing services. For purposes of this definition, affiliated entities shall extend to management and other entities for which any reimbursement is claimed, whether or not they fall within the definition of related parties.

The provider shall maintain all such records for at least five (5) years from the date of reimbursement.

1800 BILLING PROCEDURES

Providers will submit claims to MaineCare and be reimbursed at the applicable rate for the service in accordance with MaineCare billing instructions for the CMS 1500 claim form.

1810 WORK SUPPORT GROUP RATE

When billing for Work Support Services-Group the per person rate is based on the number of members served as follows:

Members in Group	Rate per Unit	Rate per Unit
	Prior to 7/1/17 and After 6/30/18 Effective 7/1/18*	7/1/17—6/30/18
2	\$3,464.24	3.83
3	\$2,302.82	2.54
4	\$1,732.12	1.91
5	\$1,381.69	1.53
6	\$1,151.41	1.27

~~*In advance of the rate changes effective July 1, 2018, the Department will~~ is seek approval from the federal Centers for Medicare and Medicaid Services (“CMS”) for these changes effective July 1, 2018.

1900 AUDIT OF SERVICES PROVIDED

The Department shall monitor provider’s claims for reimbursement by randomly reviewing the claim for services and verifying hours actually provided by collecting documentation from providers. Documentation will be requested from providers that corresponds to dates of service on claims submitted for reimbursement as follows:

- A. Payroll Records – Documentation showing the number of hours paid to an employee that covers the period of time for which the Direct Care hours are being requested.

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MAJOR	INTELLECTUAL DISABILITIES OR	5/139/12/18
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1900 AUDIT OF SERVICES PROVIDED (cont.)

- B. Staffing Schedules per facility – Documentation showing the hours and the name of the direct care staff scheduled to work at the facility.
- C. Member Records - Documentation that supports the delivery of services that a member received.

2000 RECOVERY OF PAYMENTS

The Department may recover any amounts due the Department based on Chapter I of the *MaineCare Benefits Manual*.

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 EFFECTIVE: ~~5/139/12~~/18

MAJOR SUBSTANTIVE RULE

APPENDIX I

PROCEDURE CODE	SERVICE	MAXIMUM ALLOWANCE Prior to 7/1/17 and After Effective 7/1/18 6/30/18*	MAXIMUM ALLOWANCE Effective 7/1/17-6/30/18
T2017	Home Support-Quarter Hour	\$6.33 7.75 per ¼ hour	\$7.00 per ¼ hour
T2017 QC	Home Support-Remote Support-Monitor Only	\$1.63 per ¼ hour	\$1.80 per ¼ hour
T2017 GT	Home Support-Remote Support-Interactive Support	\$6.33 7.75 per ¼ hour	\$7.00 per ¼ hour
S5140**	Shared Living (Foster Care, adult)-Shared Living Model-One member served	\$127.39 156.00 per diem	\$140.89 per diem
S5140 UN**	Shared Living (Foster Care, adult)-Shared Living Model-Two members served	\$63.71 78.02 per diem	\$70.46 per diem
T2021	Community Support (Day Habilitation)	\$5.33 6.53 per ¼ hour	\$5.89 per ¼ hour
T2021 SC	Community Support (Day Habilitation)- with Medical Add On	\$6.57 8.05 per ¼ hour	\$7.27 per ¼ hour
T2019	Employment Specialist Services (Habilitation, Supported Employment waiver)	\$7.42 9.09 per ¼ hour	\$8.21 per ¼ hour
T2019 SC	Employment Specialist Services (Habilitation, Supported Employment waiver)-with Medical Add On	\$8.58 10.51 per ¼ hour	\$9.49 per ¼ hour
H2023	Work Support (Supported Employment)-Individual	\$6.91 8.46 per ¼ hour	\$7.64 per ¼ hour
H2023 SC	Work Support (Supported Employment)-Individual with Medical Add On	\$8.08 9.89 per ¼ hour	\$8.94 per ¼ hour
H2023 UN	Work Support (Supported Employment)-Group 2 members served	\$3.46 4.24 per ¼ hour	\$3.83 per ¼ hour
H2023 UP	Work Support (supported employment)-Group 3 members served	up to \$2.30 2.82 per ¼ hour	\$2.54 per ¼ hour

*~~In advance of any rate decreases in this column that are effective July 1, 2018,~~ the Department ~~will be~~ seeking CMS approval ~~for these changes effective July 1, 2018.~~

**~~The Department is seeking and anticipates CMS approval for the addition of these procedure codes and corresponding rates.~~

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MAJOR SUBSTANTIVE RULE

PROCEDURE CODE	SERVICE	MAXIMUM ALLOWANCE PRIOR TO 7/1/17 AND AFTER 6/30/18 <u>Effective 7/1/18*</u>	MAXIMUM ALLOWANCE EFFECTIVE 7/1/17-6/30/18
H2023 UQ	Work Support (supported employment)-Group 4 members served	up to \$1.73 <u>2.12</u> per ¼ hour	\$1.91 per ¼ hour
H2023 UR	Work Support (supported employment)-Group 5 members served	up to \$1.38 <u>1.69</u> per ¼ hour	\$1.53 per ¼ hour
H2023 US	Work Support (supported employment)-Group 6 members served	up to \$1.15 <u>1.41</u> per ¼ hour	\$1.27 per ¼ hour
T2015	Career Planning (Habilitation, prevocational)	\$28.00 <u>34.29</u> per hour	\$30.97 per hour
S5165	Home Accessibility Adaptations	Per invoice	Per invoice
S5165 CG	Home Accessibility Adaptations repairs	Per invoice	Per invoice
97755	Assistive Technology-Assessment	\$14.44 ¼ hour	\$14.44 per ¼ hour
T2035	Assistive Technology-Transmission (Utility Services)	Up to \$50.00 per Month	Up to \$50.00 per Month
A9279	Assistive Technology-Devices (Monitoring feature/device, stand alone or integrated, any type, includes all accessories, components and electronics, not otherwise classified)	Per invoice up to \$6,000.00 per year	Per invoice up to \$6,000.00 per year
S5150	Respite Services- ¼ hour	\$2.70 <u>3.31</u> per ¼ hour	\$2.99 per ¼ hour
S5151	Respite Services- Per Diem	\$90.00 <u>110.21</u> per diem	\$99.54 per diem

<u>Modifiers</u>	<u>Modifier Description</u>
CG	Policy Criteria Applied
SC	Medical Add On
HQ	Group Setting
QC	Remote Support-Monitor Only
GT	Remote Support-Interactive Support

~~*In advance of any rate decreases in this column that are effective July 1, 2018,~~ the Department ~~will be~~ seeking CMS approval ~~for these changes effective July 1, 2018.~~

~~**The Department is seeking and anticipates CMS approval for the addition of these procedure codes and corresponding rates.~~

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MAJOR SUBSTANTIVE RULE

UN	Two Members Served
UP	Three Members Served
UQ	Four Members Served
UR	Five Members Served
US	Six Members Served

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~~**The Department is seeking and anticipates CMS approval for the addition of these procedure codes and corresponding rates.~~