DATE: February 14, 2019

TO: Interested Parties

FROM: Stefanie Nadeau, Director, MaineCare Services

SUBJECT: Adopted Rule: 10-144 C.M.R., Chapter 101, MaineCare Benefits Manual, Chapter III, Section 17, Allowances for Community Support Services

This letter gives notice of an adopted rule: MaineCare Benefits Manual, Chapter III, Section 17, Allowances for Community Support Services.

The Department of Health and Human Services (“the Department”) adopts this rule to finalize the increases in the rates of reimbursement for Community Support Services pursuant to Public Law 2017, ch. 460, An Act Making Certain Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government (the “Act”), Part D.

The Act requires the Department to amend its rules for reimbursement rates for Community Support Services provided under the provisions of 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, Chapter III, Section 17, Allowances for Community Support Services.

Specific changes are as follows:

- Part D of P.L. 2017, ch. 460 directs the Department to increase the rate of reimbursement for all services by two percent. Sec. D-1 and D-2 specifically requires the increase in reimbursement to be applied to the wages and benefits of employees who provide direct services and not to administrators or managers.

The Act requires the Department to implement “immediate rate increases,” effective July 1, 2018. However, the Act did not become law until July 9, 2018, following a Legislative override of the Governor’s veto.

Because the Act involves MaineCare reimbursement, these rule changes are also governed by federal Medicaid law. 42 C.F.R. § 447.205(d) requires that public notice of changes in reimbursement for State Plan services must “be published before the proposed effective date of the change.” The Department published its notice of reimbursement methodology change for the Section 17 rates on July 31, 2018. Upon the advice of the Office of the Attorney General, the increased rates will be effective August 1, 2018; this date comports with the federal law requirement. Pending approval of the proposed changes to the Section 17 State Plan Amendment that were submitted to the Centers for Medicare and Medicaid Services, the increased rates will be implemented with an August 1, 2018 effective date.

To remedy the difference between the July 1, 2018 effective date set forth in the Act and the August 1, 2018 date that is permissible pursuant to federal Medicaid law, the Department has recalculated the annual appropriation of funds for this service into a temporary eleven month rate. As such, providers will, over the course of eleven months, receive equivalent aggregate payments as would have been received under a twelve month rate. Beginning on July 1, 2019, rates will be annualized (based upon a twelve month appropriation).
This is not an effective rate decrease, but rather a redistribution of the annual appropriation over twelve months, rather than eleven months.

The retroactive application of the rate increases to August 1, 2018 comports with 22 M.R.S. § 42(8), which authorizes the Department to adopt rules with a retroactive application (where there is no adverse impact on providers or members) for a period not to exceed eight calendar quarters. Rules and related rulemaking documents may be reviewed at, or printed from, the Office of MaineCare Services 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 call Maine Relay at 711.

A concise summary of the adopted 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.
Notice of Agency Rule-making Adoption

AGENCY: Department of Health and Human Services, Office of MaineCare Services

CHAPTER NUMBER AND TITLE: 10-144 C.M.R., Chapter 101, Chapter III, Section 17, Allowances for Community Support Services

ADOPTED RULE NUMBER:

CONCISE SUMMARY:

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The retroactive application of the rate increases to August 1, 2018, comports with 22 M.R.S. § 42(8), which authorizes the Department to adopt rules with a retroactive application (where there is no adverse impact on providers or members) for a period not to exceed eight calendar quarters.

EFFECTIVE DATE: February 14, 2019

AGENCY CONTACT PERSON: Dean Bugaj, Comprehensive Health Planner II
AGENCY NAME: Division of Policy
ADDRESS: 242 State Street
11 State House Station
Augusta, Maine 04333-0011
EMAIL: Dean.Bugaj@maine.gov
TELEPHONE: (207)-624-4045 FAX: (207) 287-1864
TTY users call Maine relay 711
### ALLOWANCES FOR COMMUNITY SUPPORT SERVICES

<table>
<thead>
<tr>
<th>PROC CODE</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>MAXIMUM ALLOWANCE</th>
<th>MAXIMUM ALLOWANCE</th>
<th>MAXIMUM ALLOWANCE</th>
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<tbody>
<tr>
<td>HIPAA CODES</td>
<td>SECTION 17 SERVICES</td>
<td>RATE through 7/31/2018*</td>
<td>RATE from 8/1/18 to 6/30/19**</td>
<td>RATE from 7/1/19**</td>
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<tr>
<td>H2015</td>
<td>Comprehensive Community Support Services</td>
<td>15 minutes</td>
<td>$20.86</td>
<td>$21.32</td>
<td>$21.28</td>
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<tr>
<td>H0040</td>
<td>Assertive Community Treatment</td>
<td>Per Diem</td>
<td>By Report</td>
<td>By Report</td>
<td>By Report</td>
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<tr>
<td>H0038</td>
<td>CIPSS-Self Help/peer services</td>
<td>15 minutes</td>
<td>$11.10</td>
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<td>H2017</td>
<td>Psychosocial Rehabilitation Service</td>
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<td>H2018</td>
<td>Psychosocial Rehabilitation Service</td>
<td>Per Diem</td>
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<td>$75.88</td>
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<td>H2014</td>
<td>Skills Training and Development</td>
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<td>$12.20</td>
<td>$12.46</td>
<td>$12.44</td>
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<td>H2014 HQ</td>
<td>Skills Training and Development</td>
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<td>$3.05</td>
<td>$3.32</td>
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<td>H2025</td>
<td>Ongoing Support to Maintain Employment</td>
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<td>$12.20</td>
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<td>H2012</td>
<td>Behavioral Health Day Treatment</td>
<td>Per hour</td>
<td>By Report</td>
<td>By Report</td>
<td>By Report</td>
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*The Department is seeking and anticipates receiving CMS approval for this Section. Pending approval, the Department will reimburse providers under the new increased rate retroactively to 7/1/2016 through 7/31/2018 pursuant to P.L. 2015, ch. 477 (eff. Apr. 15, 2016).

**The Department is seeking and anticipates receiving CMS approval for this Section. Pending approval, the Department will reimburse providers under the new increased rate retroactively to 8/1/2018 pursuant to P.L. 2017, ch. 460, Part D. Providers must ensure that the increase in reimbursement rates effective August 1, 2018 is applied in full to wages and benefits for employees who provide direct services. Providers must document compliance with this requirement in their financial records and provide such documentation to the Department upon request.