DATE: January 21, 2014

TO: Interested Parties

FROM: Stefanie Nadeau, Director, Office of MaineCare Services

SUBJECT: Proposed Rules – Chapter 104, Maine State Services Manual, Section 6, Independent Practice Dental Hygienist Services

This letter gives notice of a proposed rule: Chapter 104, Maine State Services Manual, Section 6, Independent Practice Dental Hygienist (IPDH) Services.

22 M.R.S. §3174-RR requires that by October 1, 2012, the department shall provide for the reimbursement under the MaineCare program of IPDHs practicing as authorized under Title 32 M.R.S. §1094-I for the following procedures:

A. Prophylaxis performed on a person who is 21 years of age or younger;
B. Topical application of fluoride performed on a person who is 21 years of age or younger;
C. Provision of oral hygiene instructions;
D. The application of sealants;
E. Temporary fillings; and,
F. X-rays.

22 M.R.S. §3174-RR also specifies that reimbursement must be provided to IPDHs directly or to a federally qualified health center pursuant to 22 M.R.S. §3174-V when an IPDH is employed as a provider at the center, and that the department shall adopt rules to implement this section.

This rule serves to implement state-only reimbursement of IPDHs as set forth above pending approval by the Centers for Medicare and Medicaid Services of a State Plan Amendment (SPA) to add IPDHs as a MaineCare provider under Maine’s State Plan. These rules will expire upon the effective date of that SPA and shall be superseded at that time by the IPDH subsection of Chapter 101, MaineCare Benefits Manual (MBM), Chapters II & III, Section 25, Dental Services and by the addition of IPDHs to MBM Chapter II, Section 31, Federally Qualified Health Center Services.

Rules and related rulemaking documents may be reviewed at, and printed from, 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. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 711.

A copy of the public comments and Department responses can be viewed at, and printed from, MaineCare Services website or obtained by calling 207-624-4050 or TTY: 711.

If you have any questions regarding the policy, please contact Provider Services at 1-866-690-5585 or TTY: 711.
Notice of Agency Rule-making Proposal

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

CHAPTER NUMBER AND TITLE: Chapter 104, Maine State Services Manual, Section 6, Independent Practice Dental Hygienist (IPDH) Services

PROPOSED RULE NUMBER:

CONCISE SUMMARY: 22 M.R.S. §3174-RR requires that by October 1, 2012, the Department shall provide for the reimbursement under the MaineCare program of IPDHs practicing as authorized under Title 32 M.R.S. §1094-I for the following procedures:

A. Prophylaxis performed on a person who is 21 years of age or younger;
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C. Provision of oral hygiene instructions;
D. The application of sealants;
E. Temporary fillings; and,
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This rule serves to implement state-only reimbursement of IPDHs as set forth above pending approval by the Centers for Medicare and Medicaid Services of a State Plan Amendment (SPA) to add IPDHs as a MaineCare provider under Maine’s State Plan. These rules will expire upon the effective date of that SPA and shall be superseded at that time by the IPDH subsection of Chapter 101, MaineCare Benefits Manual (MBM), Chapters II & III, Section 25, Dental Services and by the addition of IPDHs to MBM Chapter II, Section 31, Federally Qualified Health Center Services.


PUBLIC HEARING: 9:30 am February 19, 2014; 19 Union St, Room 110, Augusta, ME 04333

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before February 5, 2014.

DEADLINE FOR COMMENTS: Comments must be received by midnight Saturday, March 1, 2014.

AGENCY CONTACT PERSON: Peter Kraut, Comprehensive Health Planner II
AGENCY NAME: MaineCare Services
ADDRESS: 11 State House Station
Augusta, Maine 04333-0011

TELEPHONE: PHONE: (207) 624-4041. FAX: (207) 287-1864. TTY: 711.
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6.01 AUTHORITY

Title 22 M.R.S. §3174-RR requires that by October 1, 2012, the Department shall provide for the reimbursement under the MaineCare program of independent practice dental hygienists (IPDHs) practicing as authorized under Title 32 M.R.S. §1094-I for the following procedures:

A. Prophylaxis performed on a person who is 21 years of age or younger;
B. Topical application of fluoride performed on a person who is 21 years of age or younger;
C. Provision of oral hygiene instructions;
D. The application of sealants;
E. Temporary fillings; and
F. X-rays.

Title 22 M.R.S. §3174-RR also specifies that reimbursement must be provided to IPDHs directly or to a federally qualified health center pursuant to 22 M.R.S. §3174-V when an IPDH is employed at the center.

These rules serve to implement state-only reimbursement of IPDHs as set forth above pending approval by the Centers for Medicare and Medicaid Services of a State Plan Amendment (SPA) to add IPDHs as a provider under Maine’s State Plan. These rules will expire upon the effective date of that SPA and shall be superseded at that time by the IPDH subsection of Chapter 101, MaineCare Benefits Manual (MBM), Chapters II & III, Section 25, Dental Services and by the addition of IPDHs to MBM Chapter II, Section 31, Federally Qualified Health Center Services.

6.02 DEFINITIONS

6.02-1 Federally Qualified Health Center (FQHC): A facility or program that is federally qualified and may also be known as a community health center, migrant health center, or health-care program for the homeless. A center is “federally qualified” if it:

A. is receiving a grant under Section 330 of the Federal Public Health Service (PHS) Act;
B. is receiving funding from such a grant under a contract with the recipient of a grant and meets the requirements to receive a grant under Section 330 of the PHS Act;
C. is determined by the Secretary of the Department of Health and Human Services, to meet the requirements for receiving such a grant (look-alike), based on the recommendation of the Health Resources and Services Administration (HRSA) within the Public Health Service.
SECTION 6 INDEPENDENT PRACTICE DENTAL HYGIENIST SERVICES ESTABLISHED __/__/13
EFFECTIVE 10/1/12

6.02 DEFINITIONS (cont.)

D. was treated by the Secretary (of Health and Human Services), for purposes of Medicare Part B, as a comprehensive federally funded health center as of January 1, 1990; or

E. is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under Title V of the Indian Health Care Improvement Act.

6.02-2 Independent Practice Dental Hygienist (IPDH): Any person currently licensed by the Maine State Board of Dental Examiners as an Independent Practice Dental Hygienist as documented by written evidence from such board or licensed in accordance with the licensure of the state or province in which services are provided.

6.02-3 Public Health Supervision (PHS): Supervision of an IPDH who (1) has an active Maine license; (2) is practicing in a PHS status as described in the Maine Department of Professional and Financial Regulation, 02-313 CMR 2, under the general supervision of a dentist, although the patient being treated may not be a patient of record of the supervising dentist; and (3) is practicing in a non-traditional dental setting. These settings may include but are not necessarily limited to public and private schools, medical facilities, nursing homes, residential care facilities, dental vans, and any other setting where adequate parameters of care, infection control, and public health guidelines can and will be followed.

6.03 PROVIDER PARTICIPATION

This section pertains to reimbursement to IPDHs directly or to FQHCs providing IPDH services. Services provided by IPDHs when practicing under PHS status, or in private dental offices or for other MaineCare providers shall not be reimbursed under this Chapter and are instead reimbursed under Chapter 101, MBM, Chapters II & III, Section 25, Dental Services.

To be reimbursed under this section, IPDHs and FQHCs must be enrolled as MaineCare rendering providers at the time the claim is submitted and must meet requirements for reimbursement under the MBM.

6.04 COVERED SERVICES; MEMBER ELIGIBILITY AND PROVIDER REIMBURSEMENT FOR SPECIFIC PROCEDURES

A. General Requirements. To be reimbursed under this section, the services must meet the requirements of this subsection and must have been provided between October 1, 2012 and the effective date of the SPA to add IPDHs as a provider under Maine’s State Plan.
6.04 COVERED SERVICES; MEMBER ELIGIBILITY AND PROVIDER REIMBURSEMENT FOR SPECIFIC PROCEDURES (cont.)

B. Eligibility and rates for specific procedures. The Department will reimburse IPDHs for the procedures shown in the table below when provided to certain MaineCare members. Eligibility varies by procedure, with eligibility for each procedure indicated in the “Covered Service, Age/ICF-IID” columns in the table below. MaineCare will cover all medically necessary dental services for members under age twenty-one (21) pursuant to Section 94, MBM, Early and Periodic Screening, Diagnosis, and Treatment Services.

Codes for services are arranged in tabular form. Specific information regarding each code is given under the following headings:

1. Procedure code: The actual CDT procedure code is listed in this column.

2. CDT Description: The narrative description of the procedure code is listed in this column. Every effort should be made to utilize the correct code.

3. Covered Service: This column identifies whether a particular service is covered for a given MaineCare population, indicated by a "YES," or not covered, indicated by a "NO." It is divided into two (2) sub columns indicating services for those under 21 and all ICF-IID residents, and the second column, indicating coverage for adults 21 and over when allowed under Section 25, Dental Services, of the MaineCare Benefits Manual, Chapter II, 25.04, Special Requirements for Adult Services.

4. Prior Authorization Required: Some procedures require authorization prior to the performance of a service. If prior authorization is required, it will be indicated by the message "YES" in these columns. Reimbursement will not be provided for a service that requires prior authorization if the service is provided before authorization is granted. Again this column is subdivided into requirements for the same two populations as column 3.

5. Additional Limits: This column lists any additional limitations affecting reimbursement for services. Examples include medically necessary criteria, prior authorization criteria, reimbursement frequency or the passage of time required before further reimbursement. This column is intended to parallel restrictions also described in Section 25, Dental Services, of the MaineCare Benefits Manual, Chapter II.

6. Maximum Allowance: This column shows the maximum reimbursement that MaineCare will allow for a particular procedure when not provided in FQHCs. MaineCare will pay the lowest of this allowance, or the dentist's/denturist’s usual and customary fee, or the lowest amount allowed by Medicare.
### 6.04 COVERED SERVICES; MEMBER ELIGIBILITY AND PROVIDER REIMBURSEMENT FOR SPECIFIC PROCEDURES (cont.)

Rates provided for IPDH services provided in an FQHC shall be reimbursed at each FQHC’s rate as posted at www.maine.gov/dhhs/audit/rate-setting/index.shtml for the applicable date of service.

<table>
<thead>
<tr>
<th>Proc. Code</th>
<th>Description</th>
<th>Covered Service Age/ICF-MR</th>
<th>Prior Authorization required</th>
<th>Additional Limits</th>
<th>Max Allow</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>under age 21 &amp; all ICF-MR residents</td>
<td>age 21 &amp; over when allowed under MBM Chap II, Sec 25.04</td>
<td>age 21 &amp; over when allowed under 25.04</td>
<td></td>
</tr>
<tr>
<td>D0210</td>
<td>Intraoral - Complete Series of Radiographic Images</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>D0220</td>
<td>Intraoral - Periapical, First Radiographic Image</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>D0230</td>
<td>Intraoral - Periapical, Each Additional Radiographic Image</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>D0240</td>
<td>Intraoral - Occlusal Radiographic Image</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>D0250</td>
<td>Extraoral - First Radiographic Image</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>D0260</td>
<td>Extraoral - Each Additional Radiographic Image</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>D0270</td>
<td>Bitewing - Single Radiographic Image</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>D0272</td>
<td>Bitewings - Two Radiographic Images</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
</tbody>
</table>
### 6.04 Covered Services; Member Eligibility and Provider Reimbursement for Specific Procedures (cont.)

<table>
<thead>
<tr>
<th>Proc. Code</th>
<th>Description</th>
<th>Covered Service Age/ICF-MR</th>
<th>Prior Authorization required</th>
<th>Additional Limits</th>
<th>Max Allow</th>
</tr>
</thead>
<tbody>
<tr>
<td>D0273</td>
<td>Bitewings - Three Radiographic Images</td>
<td>yes</td>
<td>yes</td>
<td>Prior Authorization required. Posterior bitewings alone are once per calendar year. IPDHs may use this code subject to the guidelines and limitations in 6.05(A).</td>
<td>$17.50</td>
</tr>
<tr>
<td>D0274</td>
<td>Bitewings - Four Radiographic Images</td>
<td>yes</td>
<td>yes</td>
<td>Prior Authorization required. Posterior bitewings alone are once per calendar year. IPDHs may use this code subject to the guidelines and limitations in 6.05(A).</td>
<td>$20.00</td>
</tr>
<tr>
<td>D0277</td>
<td>Vertical Bitewings – 7-8 Radiographic Images</td>
<td>yes</td>
<td>yes</td>
<td>IPDHs may use this code subject to the guidelines and limitations in 6.05(A).</td>
<td>$30.00</td>
</tr>
<tr>
<td>D0330</td>
<td>Panoramic Radiographic Image</td>
<td>yes</td>
<td>yes</td>
<td>Separately billable without PA once per five (5) years when used in conjunction with any preventative and/or diagnostic service. PA required for services requested above the prescribed limit. IPDHs may use this code subject to the guidelines and limitations in 6.05(A).</td>
<td>$43.00</td>
</tr>
<tr>
<td>D1110</td>
<td>Prophylaxis – Adult</td>
<td>yes</td>
<td>no</td>
<td>Limited to age 13 and over. One every six months, except that in extenuating circumstances, the Department may reimburse a prophylaxis within 30 days before the six month limit, with written documentation noted on the claim form. Prior Authorization necessary for greater frequency, includes oral hygiene instruction. IPDHs may use this code only for members up to age 21.</td>
<td>$40.00</td>
</tr>
</tbody>
</table>
## 6.04 COVERED SERVICES; MEMBER ELIGIBILITY AND PROVIDER REIMBURSEMENT FOR SPECIFIC PROCEDURES (cont.)

<table>
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<th>Additional Limits</th>
<th>Max Allow</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>under age 21 &amp; all ICF-</td>
<td>age 21 &amp; over when allowed</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>MR residents</td>
<td>under MBM Chap II, Sec 25.04</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D1120</td>
<td>Prophylaxis – Child</td>
<td>YES</td>
<td>NO</td>
<td>One every six months, except that in extenuating circumstances, the Department</td>
<td>$30.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>may reimburse a prophylaxis within 30 days before the six month limit, with written</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>documentation noted on the claim form. Prior Authorization necessary for greater</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>frequency. Includes oral hygiene instruction.</td>
<td></td>
</tr>
<tr>
<td>D1206</td>
<td>Topical Application of Fluoride Varnish</td>
<td>YES</td>
<td>NO</td>
<td>Twice per calendar year/three per calendar year if high caries rate or new</td>
<td>$12.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>restorations within 18 months as documented in record. Includes through age 20.</td>
<td></td>
</tr>
<tr>
<td>D1208</td>
<td>Topical Application of Fluoride</td>
<td>YES</td>
<td>NO</td>
<td>Twice per calendar year. Prior Authorization necessary for a third per calendar year for</td>
<td>$12.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>members with high caries rate or new restorations within 18 months as documented</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>in record. Includes through age 20.</td>
<td></td>
</tr>
<tr>
<td>D1330</td>
<td>Oral Hygiene Instructions</td>
<td>YES</td>
<td>NO</td>
<td>Three times per calendar year. Not billable the same day as prophylaxis.</td>
<td>$13.00</td>
</tr>
<tr>
<td>D1351</td>
<td>Sealant – Per Tooth</td>
<td>YES</td>
<td>NO</td>
<td>Permanent teeth: once every three calendar years per provider per tooth. Primary</td>
<td>$16.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>teeth: once per lifetime of tooth unless documented good cause. PHS hygienists,</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>PHS IPDHs, and IPDHs may use this code.</td>
<td></td>
</tr>
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<td>age 21 &amp; over when allowed under MBM Chap II, Sec 25.04</td>
</tr>
<tr>
<td>D2940</td>
<td>Protective Restoration</td>
<td>YES</td>
<td>YES</td>
</tr>
</tbody>
</table>

C. **Non-Covered Services.** Providers may bill members for non-covered services only if, prior to the provision of the service, the provider has clearly explained to the member that such services will not be reimbursed under this Chapter and that the member will be responsible for the payment. Providers must document in the member’s record that the member was told, prior to provision, that the service was not a covered service and that the member is responsible for the payment.

6.05 GUIDELINES PERTAINING TO RADIOGRAPHS (X-RAYS) AND PROTECTIVE RESTORATION (TEMPORARY FILLINGS)

A. Guidelines pertaining to radiographs (x-rays).

Resolve 2011 Chap. 67, as amended by Resolve 2012 Chap. 153, authorizes a temporary pilot program that allows IPDHs in dental health professional shortage areas to take x-rays, as long as the IPDH has “a written agreement with a licensed dentist providing that the dentist will be available to interpret all dental radiographs within 21 days from the date the radiograph is taken and that the dentist will sign a radiographic review and findings form.”

In order to be reimbursed by MaineCare the IPDH must comply with all aspects of the Maine Board of Dental Examiners’ rule governing this pilot (02-313 CMR 16, available at www.mainedental.org).

Codes for which the Department will reimburse under this subsection cover the exposure, processing, and interpreting of the radiographs, as noted in 6.04(B). Because reimbursement for services of the IPDH and the reviewing dentist under this subsection is covered by a single code, only the IPDH may submit a claim for payment for services under this subsection. No provision is made by this subsection for direct payment to the dentist by under this Chapter.
6.05 GUIDELINES PERTAINING TO RADIOGRAPHS (X-RAYS) AND PROTECTIVE RESTORATION (TEMPORARY FILLINGS) (cont.)

B. Guidelines pertaining to protective restoration (temporary fillings).

In order to be reimbursed by MaineCare, the IPDH must follow the Maine Board of Dental Examiner’s protocols governing hygienist placement of temporary fillings (02-313 CMR 2, Appendix 1, Appendix 1, Figures 1 & 2, available at www.mainedental.org).

Nothing in these rules shall be construed as placing liability for the temporary filling on the dentist performing the follow-up visit.

6.06 BILLING INSTRUCTIONS

Notwithstanding section 1.07-2 of the Maine State Services Manual, the Department will reimburse for claims under this section for dates of services retroactive to October 1, 2012, provided that the claim is submitted no later than one year from the effective date of the SPA to add IPDHs as a provider under Maine’s State Plan. Claims for dates of service after the effective date of that SPA shall be reimbursed under Chapter 101, MaineCare Benefits Manual, Chapters II & III, Section 25, Dental Services.

Billing must be done in accordance with the American Dental Association’s “CDT 2014 Dental Procedure Codes” publication, the MBM Chapters II & III, Section 25, and the Department’s current billing instructions. Billing instructions are available upon request or at: https://mainecare.maine.gov/Billing%20Instructions/Forms/Publication.aspx.

Billing for IPDH services provided in an FQHC should follow the billing instructions in Chapter 101, MaineCare Benefits Manual, Chapters II & III, Section 31, Federally Qualified Health Center Services.