DATE: October 3, 2017

TO: Interested Parties

FROM: Stefanie Nadeau, Director, MaineCare Services

SUBJECT: Proposed Rule: Chapter III, Section 29, Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder

PUBLIC HEARING: October 31, 2017 1:00 P.M.
Augusta Civic Center
Kennebec-Penobscot Room
76 Commerce Drive
Augusta, ME 04330

COMMENT DEADLINE: November 10, 2017

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. 284, An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019 (“Act”). This Act provides funding to increase reimbursement rates for 16 procedure codes in Chapter III, Section 29. See Part ZZZZZZ, ZZZZZZ-9. 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. See Part MMMMMM, Sec. MMMMMM-2(2) through -2(4). In accordance with Part TTTT, Sec. TTTT-1 of the Act, the Department adopted these provisions as emergency substantive rules effective October 1, 2017. The emergency major substantive rules will be in effect for twelve (12) months, or until the Legislature has completed its review.

In addition to the rate increases required by the Act, the Department has also increased the rate for a 17th procedure code: T2017QC (Home Support-Remote Support-Monitor Only). Increasing the rate for the procedure code that was “left out” creates consistency with the other codes, in line with the Section 29 service and reimbursement scheme.

These increased rates will be effective retroactive to July 1, 2017. 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).

The Legislature did not appropriate additional funding for these rate increases beyond June 30, 2018; therefore, rates will revert to their current levels (pre July 1, 2017) on July 1, 2018.

In addition, the Department is adding two procedure codes for Shared Living services (S5140 and S5140 UN). The Department is concurrently adopting a rule for Chapter II, Section 29 to add this benefit to available covered services.
for members. The Department is seeking and anticipates approval from the Centers for Medicare and Medicaid Services for this change. The Shared Living rates added to Section 29 are consistent with rates for these same services under Section 21 to ensure parity. Because the Legislature has appropriated funds to increase the rates for Shared Living services under Section 21 for SFY ending July 1, 2018, the Department is implementing these higher rates of reimbursement for Shared Living services under Section 29 for the same period. See P.L. 2017, ch. 284, Part MMMMM, Sec. MMM-2(1).

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.

The proposed rule makes the following changes:

- In Section 1400:
  - Shared Living is added to the list of services being reimbursed at a standard rate.

- In Section 1810, the group rates for Work Support have been increased:
  - 2 Members in Group: rate increased to $3.83 per quarter hour
  - 3 Members in Group: rate increased to $2.54 per quarter hour
  - 4 Members in Group: rate increased to $1.91 per quarter hour
  - 5 Members in Group: rate increased to $1.53 per quarter hour
  - 6 Members in Group: rate increased to $1.27 per quarter hour

- In Appendix I:
  - S5140 Shared Living (Foster Care, adult) has been added at $127.39 per diem
  - S5140 UN Shared Living (Foster Care, adult)-Shared Living Model-Two members has been added at $70.46 per diem
  - T2017 Home Support-Quarter Hour has been increased to $7.00 per quarter hour
  - T2017 GT Home Support-Remote Support-Interactive Support has been increased to $7.00 per quarter hour
  - T2017 QC Home Support-Remote Support-Monitor only has been increased to $1.80 per quarter hour, to ensure that all the T2017 Home Support rates were increased.
  - T2021 Community Support (Day Habilitation) has been increased to $5.89 per quarter hour
  - T2021 SC Community Support (Day Habilitation) with Medical Add-On has been increased to $7.27 per quarter hour
  - T2019 Employment Specialist Services (Habilitation, Supported Employment waiver) has been increased to $8.21 per quarter hour
  - T2019 SC Employment Specialist Services (Habilitation, Supported Employment waiver) with Medical Add-On has been increased to $9.49 per quarter hour
  - H2023 Work Support (Supported Employment)-Individual has been increased to $7.64 per quarter hour
  - H2023 SC Work Support (Supported Employment)-Individual with Medical Add-On has been increased to $8.94 per quarter hour
  - H2023 UN Work Support (Supported Employment)-Group 2 members served has been increased to $3.83 per quarter hour
  - H2023 UP Work Support (Supported Employment)-Group 3 members served has been increased to $2.54 per quarter hour
  - H2023 UQ Work Support (Supported Employment)-Group 4 members served has been increased to $1.91 per quarter hour
  - H2023 UR Work Support (Supported Employment)-Group 5 members served has been increased to $1.53 per quarter hour
  - H2023 US Work Support (Supported Employment)-Group 6 members served has been increased to $1.27 per quarter hour
  - T2015 Career Planning (Habilitation, prevocational) has been increased to $30.97 per hour
  - S5150 Respite Services-1/4 hour has been increased to $2.99 per quarter hour
  - S5151 Respite Services-Per Diem has been increased to $99.54 per diem
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

MAJOR SUBSTANTIVE RULE

PROPOSED RULE NUMBER:

CONCISE SUMMARY: The Department is proposing this rulemaking in accordance with P.L. 2017, ch. 284 (An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019), §§§ ZZZZZZZ-9, MMMMMMM-2, which provided funding to increase reimbursement rates for 16 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. The Department has also increased the rate for a 17th procedure code in order to create consistency among similar services within the waiver. These rates will be effective retroactive to July 1, 2017. Funding for these rate increases was only appropriated for SFY18. The Legislature did not appropriate additional funding for these rates beyond June 30, 2018; therefore, rates increased for SFY18 will revert to their current levels (pre July 1, 2017) on July 1, 2018.

In accordance with Part III, Sec. TTTT-1 of the Act, the Department adopted these provisions as emergency major substantive rules effective October 1, 2017. The emergency major substantive rules will be in effect for twelve (12) months, or until the Legislature has completed its review. 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.

In addition, the Department is adding two procedure codes for Shared Living services as the Department is contemporaneously adopting an emergency rule for Chapter II, Section 29 to add this benefit as a covered service for members. These rates are consistent with the rates for the same services under Section 21, and include increased rates for SFY18 that will revert to their current levels (pre July 1, 2017) pursuant to P.L. 2017, ch. 284.

This change is not expected to have an adverse effect on the administrative burdens of small businesses.


STATUTORY AUTHORITY: 22 M.R.S. §§ 42, 3173; P.L. 2017, ch. 284, § MMMMMMM-2

PUBLIC HEARING:

Date: October 31, 2017
Time: 1:00 P.M.
Location: Augusta Civic Center
Kennebec-Penobscot Room
The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before October 20, 2017.

**DEADLINE FOR COMMENTS:** Comments must be received by 11:59 PM on November 10, 2017.

**AGENCY CONTACT PERSON:** Rachel Posner, Comprehensive Health Planner II  
[Rachel.Posner@maine.gov](mailto:Rachel.Posner@maine.gov)

**AGENCY NAME:** MaineCare Services

**ADDRESS:**  
242 State St.  
11 State House Station  
Augusta, Maine 04333-0011

**TELEPHONE:**  
207-624-6951  
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.

**CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different):** N/A
TABLE OF CONTENTS

PAGE
1000 PURPOSE.................................................................................................................. 1
1100 DEFINITIONS........................................................................................................... 1
1200 AUTHORITY ............................................................................................................. 1
1300 COVERED SERVICES.............................................................................................. 1
1400 REIMBURSEMENT METHODS.................................................................................. 1
1500 REQUIREMENTS FOR PARTICIPATION IN MAINECARE PROGRAM ............... 2
1600 RESPONSIBILITIES OF THE PROVIDER............................................................ 2
1700 RECORD KEEPING AND RETENTION OF FINANCIAL RECORDS ................. 2
1800 BILLING PROCEDURES ......................................................................................... 3
1810 WORK SUPPORT-GROUP RATE .......................................................................... 3
1900 AUDIT OF SERVICES PROVIDED ......................................................................... 3
2000 RECOVERY OF PAYMENT .................................................................................... 4
APPENDIX 1.................................................................................................................... 5
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.A.§§ 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;
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 ($90.00) 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
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:

<table>
<thead>
<tr>
<th>Members in Group</th>
<th>Rate per Unit Prior to 7/1/17 and After 6/30/18*</th>
<th>Rate per Unit 7/1/17 – 6/30/18</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>$3.46</td>
<td>3.83</td>
</tr>
<tr>
<td>3</td>
<td>$2.30</td>
<td>2.54</td>
</tr>
<tr>
<td>4</td>
<td>$1.73</td>
<td>1.91</td>
</tr>
<tr>
<td>5</td>
<td>$1.38</td>
<td>1.53</td>
</tr>
<tr>
<td>6</td>
<td>$1.15</td>
<td>1.27</td>
</tr>
</tbody>
</table>

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

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 correspond 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.
B. Staffing Schedules per facility – Documentation showing the hours and the name of the direct care staff scheduled to work at the facility.
### ALLOWANCES FOR SUPPORT SERVICES FOR ADULTS WITH INTELLECTUAL DISABILITIES OR AUTISM SPECTRUM DISORDER

<table>
<thead>
<tr>
<th>SECTION 29</th>
<th>MAJOR SUBSTANTIVE RULE</th>
<th>Established: 1/1/08</th>
<th>EFFECTIVE: 8/26/17</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>AUDIT OF SERVICES PROVIDED (cont.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C. Member Records - Documentation that supports the service delivery of services that a member received.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>RECOVERY OF PAYMENTS</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The Department may recover any amounts due the Department based on Chapter I of the MaineCare Benefits Manual.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### APPENDIX I

<table>
<thead>
<tr>
<th>PROCEDURE CODE</th>
<th>SERVICE</th>
<th>MAXIMUM ALLOWANCE Prior to 7/1/17 and After 6/30/18*</th>
<th>MAXIMUM ALLOWANCE Effective 7/1/17-6/30/18</th>
</tr>
</thead>
<tbody>
<tr>
<td>T2017</td>
<td>Home Support-Quarter Hour</td>
<td>$6.33 ¼ hour</td>
<td>$7.00 ¼ hour</td>
</tr>
<tr>
<td>T2017 QC</td>
<td>Home Support-Remote Support-Monitor Only</td>
<td>$1.63 ¼ hour</td>
<td>$1.80 ¼ hour</td>
</tr>
<tr>
<td>T2017 GT</td>
<td>Home Support-Remote Support-Interactive Support</td>
<td>$6.33 ¼ hour</td>
<td>$7.00 ¼ hour</td>
</tr>
<tr>
<td>S5140**</td>
<td>Shared Living (Foster Care, adult)-Shared Living Model-One member served</td>
<td>$127.39</td>
<td>$140.89</td>
</tr>
<tr>
<td>S5140 UN**</td>
<td>Shared Living (Foster Care, adult)-Shared Living Model-Two members served</td>
<td>$63.71</td>
<td>$70.46</td>
</tr>
<tr>
<td>T2021</td>
<td>Community Support (Day Habilitation)</td>
<td>$5.33 ¼ hour</td>
<td>$5.89 ¼ hour</td>
</tr>
<tr>
<td>T2021 SC</td>
<td>Community Support (Day Habilitation)- with Medical Add On</td>
<td>$6.57 ¼ hour</td>
<td>$7.27 ¼ hour</td>
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<tr>
<td>T2019</td>
<td>Employment Specialist Services (Habilitation, Supported Employment waiver)</td>
<td>$7.42 ¼ hour</td>
<td>$8.21 ¼ hour</td>
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<td>T2019 SC</td>
<td>Employment Specialist Services (Habilitation, Supported Employment waiver)-with Medical Add On</td>
<td>$8.58 ¼ hour</td>
<td>$9.49 ¼ hour</td>
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<td>H2023</td>
<td>Work Support (Supported Employment)-Individual</td>
<td>$6.91 ¼ hour</td>
<td>$7.64 ¼ hour</td>
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<tr>
<td>H2023 SC</td>
<td>Work Support (Supported Employment)-Individual with Medical Add On</td>
<td>$8.08 ¼ hour</td>
<td>$8.94 ¼ hour</td>
</tr>
<tr>
<td>H2023 UN</td>
<td>Work Support (Supported Employment)-Group 2 members served</td>
<td>$3.46 ¼ hour</td>
<td>$3.83 ¼ hour</td>
</tr>
<tr>
<td>H2023 UP</td>
<td>WORK SUPPORT (supported employment)-Group 3 members served</td>
<td>up to $2.30 per ¼ hr</td>
<td>$2.54 per ¼ hr</td>
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<tr>
<td>H2023 UQ</td>
<td>WORK SUPPORT (supported employment)-Group 4 members served</td>
<td>up to $1.73 per ¼ hr</td>
<td>$1.91 per ¼ hr</td>
</tr>
<tr>
<td>H2023 UR</td>
<td>WORK SUPPORT (supported employment)-Group 5 members served</td>
<td>up to $1.38 per ¼ hr</td>
<td>$1.53 per ¼ hr</td>
</tr>
</tbody>
</table>

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

**The Department is seeking and anticipates CMS approval for the addition of these procedure codes and corresponding rates.
### MAINECARE BENEFITS MANUAL

#### CHAPTER III

**SECTION 29**

**MAJOR SUBSTANTIVE RULE**

**ALLOWANCES FOR SUPPORT SERVICES FOR ADULTS WITH INTELLECTUAL DISABILITIES OR AUTISM SPECTRUM DISORDER**

**Established:** 1/1/08  
**EFFECTIVE:** 8/26/17

<table>
<thead>
<tr>
<th>PROCEDURE CODE</th>
<th>SERVICE</th>
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<tr>
<td>H2023 US</td>
<td>WORK SUPPORT (supported employment) - Group 6 members served</td>
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<tr>
<td>T2015</td>
<td>Career Planning (Habilitation, prevocational)</td>
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<tr>
<td>S5165</td>
<td>Home Accessibility Adaptations</td>
</tr>
<tr>
<td>S5165 CG</td>
<td>Home Accessibility Adaptations repairs</td>
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<tr>
<td>97755</td>
<td>Assistive Technology-Assessment</td>
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<td>T2035</td>
<td>Assistive Technology-Transmission (Utility Services)</td>
</tr>
<tr>
<td>A9279</td>
<td>Assistive Technology-Devices(Monitoring feature/device, stand alone or integrated, any type, includes all accessories, components and electronics, not otherwise classified)</td>
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<tr>
<td>S5150</td>
<td>Respite Services- ¼ hour</td>
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<tr>
<td>S5151</td>
<td>Respite Services- Per Diem</td>
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</table>

<table>
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<th>SERVICE</th>
<th>MAXIMUM ALLOWANCE Prior to 7/1/17 and After 6/30/18*</th>
<th>MAXIMUM ALLOWANCE Effective 7/1/17–6/30/18</th>
</tr>
</thead>
<tbody>
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<td>H2023 US WORK SUPPORT (supported employment) - Group 6 members served</td>
<td>up to $1.15 per ¼ hr</td>
<td>$1.27 per ¼ hr</td>
</tr>
<tr>
<td>T2015 Career Planning (Habilitation, prevocational)</td>
<td>$28.00 Per hr</td>
<td>$30.97 per hr</td>
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<tr>
<td>S5165 Home Accessibility Adaptations</td>
<td>Per invoice</td>
<td>Per invoice</td>
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<tr>
<td>S5165 CG Home Accessibility Adaptations repairs</td>
<td>Per invoice</td>
<td>Per invoice</td>
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<td>97755 Assistive Technology-Assessment</td>
<td>$14.44 ¼ hour</td>
<td>$14.44 per ¼ hour</td>
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<td>T2035 Assistive Technology-Transmission (Utility Services)</td>
<td>Up to $50.00 per Month</td>
<td>Up to $50.00 per Month</td>
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<tr>
<td>A9279 Assistive Technology-Devices(Monitoring feature/device, stand alone or integrated, any type, includes all accessories, components and electronics, not otherwise classified)</td>
<td>Per invoice up to $6,000.00 per year</td>
<td>Per invoice up to $6,000.00 per year</td>
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<tr>
<td>S5150 Respite Services- ¼ hour</td>
<td>$2.70 ¼ hour</td>
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<td>S5151 Respite Services- Per Diem</td>
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**Modifiers**

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<th>Description</th>
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<td>CG</td>
<td>Policy Criteria Applied</td>
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<td>SC</td>
<td>Medical Add On</td>
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<td>HQ</td>
<td>Group Setting</td>
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<td>QC</td>
<td>Remote Support-Monitor Only</td>
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<td>GT</td>
<td>Remote Support-Interactive Support</td>
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<td>UN</td>
<td>Two Members Served</td>
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<td>UP</td>
<td>Three Members Served</td>
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<td>UQ</td>
<td>Four Members Served</td>
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<td>UR</td>
<td>Five Members Served</td>
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<tr>
<td>US</td>
<td>Six Members Served</td>
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