DATE: October 9, 2018

TO: Interested Parties

FROM: Stefanie Nadeau, Director, MaineCare Services


PUBLIC HEARING: November 5, 2018, 9:30 a.m., Room 600, Burton Cross Building, 111 Sewall Street, Augusta, ME 04330

COMMENT DEADLINE: 11:59 p.m. on November 15, 2018

This letter gives notice of a proposed rule: MaineCare Benefits Manual, Section 19, Chapter III, Home and Community Benefits for the Elderly and for Adults with Disabilities.

The Department is proposing this routine technical rule in accordance with P.L. 2017, ch. 459, Part B, An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government (“Act”). The Act requires the Department to amend its rules for reimbursement rates for home-based and community-based personal care and related services provided under the provisions of 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, Chapter III, Section 19, Home and Community Benefits for the Elderly and for Adults with Disabilities and referenced in the February 1, 2016 report “Rate Review for Personal Care and Related Services: Final Rate Models” prepared for the Department by Burns & Associates, Inc. These increased rates will be effective retroactive to July 1, 2018.

The proposed rule increases the following rates:

- S5125 U7-Attendant Care Services (Personal Care Services, Participant Directed Option)
- S5125 U7 UN-Attendant Care Services (Personal Care Services, Participant Directed Option)-2 members served
- S5125 U7 UP-Attendant Care Services (Personal Care Services, Participant Directed Option)-3 members served
- T1019 U7 (0589)-Personal Care Services (Agency PSS)
- T1019 U7 UN-Personal Care Services (Agency PSS)-2 members served
- T1019 U7 UP-Personal Care Services (Agency PSS)-3 members served
In addition, this proposed rule adds in the following code and rate, which was inadvertently deleted during final adoption of this rule in January, 2018:

- G0156 U7 TF (0571) Home Health Aide Visit – Home Health Services at $22.91 per visit.

The Department has adopted these rates through emergency rulemaking. The Legislature determined that immediate adoption is necessary for the preservation of the public peace, health, and safety under 5 M.R.S. § 8054. As such, no additional findings by the Department are required in support of this emergency rulemaking. Pursuant to 5 M.R.S. § 8054 (3), the emergency rule may be effective for up to ninety (90) days. The Department is now engaging in proposed routine technical rulemaking to permanently adopt these Section 19 rule changes.
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) which authorizes the Department to adopt rules with a retroactive application for a period not to exceed eight calendar quarters and there is no adverse financial impact on any MaineCare member or provider. In addition, the Department sought, and obtained approval, from the Centers for Medicare and Medicaid Services (“CMS”) to submit a waiver amendment making the rate changes retroactive to July 1, 2018.

In addition to this rulemaking, the Department is simultaneously adopting emergency rules as well as proposing routine technical rules for Section 19, Ch. II, which rulemaking raises the program cap, in accordance with the Act.

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, Chapter III, Section 19, Home and Community Benefits for the Elderly and for Adults with Disabilities.

PROPOSED RULE NUMBER:

CONCISE SUMMARY: The Department is proposing this routine technical rule in accordance with P.L. 2017, ch. 459, Part B, An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government (“Act”). The Act requires the Department to amend its rules for reimbursement rates for home-based and community-based personal care and related services provided under the provisions of 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, Chapter III, Section 19, Home and Community Benefits for the Elderly and for Adults with Disabilities and referenced in the February 1, 2016 report “Rate Review for Personal Care and Related Services: Final Rate Models” prepared for the Department by Burns & Associates, Inc. These increased rates will be effective retroactive to July 1, 2018.

The proposed rule increases rates for 30 procedure codes. In addition, the rule adds in the code and rate for Home Health Aide Visit—Home Health Services, which was inadvertently deleted during final adoption of this rule in January 2018.

The Department has adopted these rates through emergency rulemaking. The Legislature determined that immediate adoption is necessary for the preservation of the public peace, health, and safety under 5 M.R.S. § 8054. As such, no additional findings by the Department are required in support of this emergency rulemaking. Pursuant to 5 M.R.S. § 8054 (3), the emergency rule may be effective for up to ninety (90) days. The Department is now engaging in proposed routine technical rulemaking to permanently adopt these Section 19 rule changes.

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) which authorizes the Department to adopt rules with a retroactive application for a period not to exceed eight calendar quarters and there is no adverse financial impact on any MaineCare member or provider. In addition, the Department sought, and obtained approval, by the Centers for Medicare and Medicaid Services (“CMS”) to submit a waiver amendment making the rate changes retroactive to July 1, 2018.

In addition to this rulemaking, the Department is simultaneously adopting emergency rules as well as proposing routine technical rules for Section 19, Ch. II, which rulemaking raises the program cap, in accordance with the Act.


STATUTORY AUTHORITY: 22 M.R.S. §§ 42(1), 42(8), 3173; P.L. 2017, ch. 459, Part B

PUBLIC HEARING:

Date and Time: November 5, 2018 9:30 a.m.
Location: Room 600, Burton Cross Building, 111 Sewall Street, Augusta, ME 04330
The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before October 26, 2018

**DEADLINE FOR COMMENTS:** Comments must be received by 11:59 PM on November 15, 2018

**AGENCY CONTACT PERSON:** Rachel Posner, Comprehensive Health Planner II
**AGENCY NAME:** MaineCare Services
**ADDRESS:**
242 State St.
11 State House Station
Augusta, Maine 04333-0011
[Rachel.Posner@maine.gov](mailto:Rachel.Posner@maine.gov)

**TELEPHONE:**
207-624-6951 FAX: (207) 287-1864
TTY: 711 (Deaf or Hard of Hearing)
<table>
<thead>
<tr>
<th>PROCEDURE CODE</th>
<th>MODIFIER</th>
<th>REVENUE CODE</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>Rates Prior to 7/1/17 and After Effective 7/1/16/30/18</th>
<th>Rates Effective 7/1/17-6/30/18</th>
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<tbody>
<tr>
<td>H2014</td>
<td>U7 **</td>
<td></td>
<td>Skills Training and Development (Participant Directed Option)</td>
<td>15 minutes</td>
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<td>T2040</td>
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<td>Financial Management, self-directed, waiver (Participant Directed Option)</td>
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<td>S5125</td>
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<td></td>
<td>Attendant Care Services (Personal Care Services, Participant Directed Option)</td>
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<td>$3.473.73*</td>
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<td>S5125</td>
<td>U7 UN</td>
<td></td>
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<td>$2.04</td>
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<tr>
<td>S5125</td>
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<td>$1.47</td>
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<tr>
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<td>U7</td>
<td>0589</td>
<td>Personal Care Services (Agency PSS)</td>
<td>15 minutes</td>
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<td>0589</td>
<td>Personal Care Services (Agency PSS)- 2 members served</td>
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<td>$2.542.82*</td>
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<td>U7 UP</td>
<td>0589</td>
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<td>Care Coordination</td>
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<td>Personal Emergency Response System, Installation and Testing</td>
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<td>Customary Charge, Not to Exceed $45.00</td>
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<td>S5161</td>
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<td>Personal Emergency Response System, Service Fee</td>
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<td>Customary Charge, Not To Exceed $35.00</td>
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<td>H0045</td>
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<td>Respite Care Services, not in the home</td>
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## Procedure Code Table

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<th>Description</th>
<th>Unit</th>
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<th>Rates Effective 7/1/17-6/30/18</th>
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<td>T1005</td>
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<td>Respite Care Services, in the home (PSS)</td>
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<td>$4.625.13, Cost Not to Exceed Cap</td>
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<td>Respite Care Services, in the home (PSS)- 2 members served</td>
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<td>Respite Care Services, in the home-Participant Directed Option</td>
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<td>$3.473.73 Cost Not to Exceed Cap*</td>
<td>$3.66 Cost Not to Exceed Cap</td>
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<td>Respite Care Services, in the home-Participant Directed Option- 2 members served</td>
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<td>S5165</td>
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<td>Environmental Modifications</td>
<td>Per Service</td>
<td>By report</td>
<td>By report</td>
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<td>A9279</td>
<td>U7 **</td>
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<td>Assistive Technology- (Monitoring feature/device, stand alone or integrated, any type, includes all accessories, components and electronics, not otherwise classified)</td>
<td>1 unit</td>
<td>Per device</td>
<td>Per-device</td>
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<tr>
<td>A9279</td>
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<td>Assistive Technology-Remote Monitoring-Monthly fee</td>
<td>Monthly</td>
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<td>Assistive Technology-Transmission (Utility Services)</td>
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<td>Up to $ 50.00</td>
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<td>0669</td>
<td>Respite Care, in the home by CNA/Home Health Aide</td>
<td>15 minutes</td>
<td>$4.905.50</td>
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<td>PROCEDURE CODE</td>
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<tr>
<td>T1005 U7 UN **</td>
<td>0669</td>
<td>Respite Care, in the home by CNA/Home Health Aide-2 members served</td>
<td>15 minutes</td>
<td>$2.703.03*</td>
<td>$2.97</td>
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<tr>
<td>T1005 U7 UP **</td>
<td>0669</td>
<td>Respite Care, in the home by CNA/Home Health Aide-3 members served</td>
<td>15 minutes</td>
<td>$1.962.20*</td>
<td>$2.16</td>
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<td>Skilled Nursing Visit (RN)</td>
<td>Per Visit</td>
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<td>$53.60</td>
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<td>Skilled Nursing Visit (RN)-2 members served</td>
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<td>Skilled Nursing Visit (RN)-3 members served</td>
<td>Per Visit</td>
<td>$21.44*</td>
<td>$21.44</td>
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<td>Other Nursing (LPN)</td>
<td>Per visit</td>
<td>$39.05*</td>
<td>$39.05</td>
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<td>0559</td>
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<td>Other Nursing (LPN)-2 members served</td>
<td>Per Visit</td>
<td>$21.48*</td>
<td>$21.48</td>
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<td>0559</td>
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<td>Other Nursing (LPN)-3 members served</td>
<td>Per Visit</td>
<td>$15.62*</td>
<td>$15.62</td>
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<tr>
<td>0421</td>
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<td>Physical Therapy Visit</td>
<td>Per visit</td>
<td>$92.94*</td>
<td>$92.94</td>
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<td>0431</td>
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<td>Occupational Therapy Visit</td>
<td>Per visit</td>
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<td>$98.76</td>
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<tr>
<td>0441</td>
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<td>Speech Therapy Visit- Home Health Services</td>
<td>Per visit</td>
<td>$97.34*</td>
<td>$97.34</td>
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<td>G0151 U7 TF **</td>
<td>0421</td>
<td>Certified Physical Therapy Assistant- Home Health Services Visit Charge</td>
<td>Per visit</td>
<td>$65.72*</td>
<td>$65.72</td>
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<td>G0152 U7 TF**</td>
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<td>Per visit</td>
<td>$69.83*</td>
<td>$69.83</td>
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<td>G0156 U7 TF</td>
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<td>Home Health Aide Visit – Home Health Services</td>
<td>Per visit</td>
<td>$22.91</td>
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<tr>
<td>G0156 U7 TF UN</td>
<td>0571</td>
<td>Home Health Aide Visit- Home Health Services-2 members served</td>
<td>Per visit</td>
<td>$12.60*</td>
<td>$12.60</td>
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<td>G0156 U7 TF UP</td>
<td>0571</td>
<td>Home Health Aide Visit- Home Health Services-3 members served</td>
<td>Per visit</td>
<td>$9.16*</td>
<td>$9.16</td>
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<tr>
<td>G0155 U7 TF **</td>
<td>0561</td>
<td>Medical Social Services Visit- Home Health Services</td>
<td>Per visit</td>
<td>$84.10*</td>
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<td>PROCEDURE CODE</td>
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<tr>
<td>G0299</td>
<td>U7 **</td>
<td>0551</td>
<td>Skilled Nursing Visit (R.N.) (Non-Medicare Certified Home Health Agency) - Home Health Services</td>
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<td>G0299</td>
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<td>Skilled Nursing Visit (RN) (Non-Medicare Certified Home Health Agency) - Home Health Services- 2 members served</td>
<td>15 minutes</td>
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<td>G0299</td>
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<td>Skilled Nursing Visit (RN) (Non-Medicare Certified Home Health Agency) - Home Health Services- 3 members served</td>
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<td>U7 **</td>
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<td>Nursing Visit (LPN) (Non-Medicare Certified Home Health Agency) - Home Health Services</td>
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<td>U7 UN</td>
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<td>15 minutes</td>
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<td>G0151</td>
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<td>Speech Therapy Visit- Home Health Services</td>
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<td>T1004</td>
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<td>$4.905.50* / $5.39</td>
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<td>T1004</td>
<td>U7 UN</td>
<td>0581</td>
<td>Certified Nurse’s Aide- Home Health Services- 2 members served</td>
<td>15 minutes</td>
<td>$2.703.03* / $2.97</td>
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<tr>
<td>T1004</td>
<td>U7 UP</td>
<td>0581</td>
<td>Certified Nurse’s Aide- Home Health Services- 3 members served</td>
<td>15 minutes</td>
<td>$1.962.20* / $2.16</td>
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<tr>
<td>G0156</td>
<td>U7 **</td>
<td>0571</td>
<td>Home Health Aide- Home Health Services</td>
<td>15 minutes</td>
<td>$4.905.50* / $5.39</td>
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### Home and Community Benefits for the Elderly and Adults with Disabilities

Established 2/20/86

Last Updated 1/10/18

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<th>PROCEDURE CODE</th>
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<td>$2.97</td>
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<td>$2.16</td>
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<td>Living Well (Chronic Disease Management)</td>
<td>30 Minutes</td>
<td>$17.09</td>
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<tr>
<td>98960</td>
<td>U7 33 **</td>
<td></td>
<td>Matter of Balance (Falls Prevention)</td>
<td>30 Minutes</td>
<td>$14.83</td>
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**INDEPENDENT PRACTITIONERS ONLY**

<table>
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<tr>
<th>PROCEDURE CODE</th>
<th>MODIFIER</th>
<th>REVENUE CODE</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>Rates Prior to 7/1/17 and After 6/30 Effective 7/1/18</th>
<th>Rates Effective 7/1/17-6/30/18</th>
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</thead>
<tbody>
<tr>
<td>G0299</td>
<td>U7 **</td>
<td></td>
<td>Skilled Nursing Visit (R.N.) - Home Health Services</td>
<td>15 minutes</td>
<td>$10.9613.74*</td>
<td>$13.47</td>
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<td>G0299</td>
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<td>Skilled Nursing Visit (RN) - Home Health Services-2 members served</td>
<td>15 minutes</td>
<td>$6.037.56*</td>
<td>$7.44</td>
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### MODIFIERS

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<td>U7</td>
<td>Indicates Section 19 Services</td>
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<tr>
<td>TF</td>
<td>Intermediate Level of Care</td>
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<tr>
<td>U1</td>
<td>Other Qualified Staff</td>
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<tr>
<td>59</td>
<td>Living Well</td>
</tr>
<tr>
<td>33</td>
<td>Matter of Balance</td>
</tr>
<tr>
<td>UN</td>
<td>2 members served</td>
</tr>
<tr>
<td>UP</td>
<td>3 members served</td>
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### PROCEDURE CODES

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<th>REVENUE CODE</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>Rates Prior to 7/1/17 and After 6/30 Effective 7/1/18</th>
<th>Rates-effective 7/1/17-6/30/18</th>
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</thead>
<tbody>
<tr>
<td>G0299</td>
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<td>Skilled Nursing Visit (RN) - Home Health Services-3 members served</td>
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<td>G0152</td>
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<td>G0153</td>
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<td>Speech Therapy Visit- Home Health Services</td>
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**The Department is seeking and anticipates receiving approval for this section from the Centers for Medicare and Medicaid Services (CMS). Pending approval, the Department will reimburse providers at the rates noted above.**

**This indicates that the U7 must be used effective 9/29/2017.**