DATE: December 11, 2018

TO: Interested Parties

FROM: Stefanie Nadeau, Director, MaineCare Services

SUBJECT: PROVISIONALLY ADOPTED MAJOR SUBSTANTIVE RULE:
Section 29, Chapter III, Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder

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


The September 12, 2018 emergency major substantive rule increased reimbursement rates for eighteen (18) procedure codes in Chapter III, Section 29, with a retroactive effective date of July 1, 2018. 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. Pursuant to 5 M.R.S. § 8073, the Emergency Major Substantive Rule will be effective for up to twelve months or until the Legislature has completed its review of the rule.

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 21 and Section 29, to lessen administrative complications for providers.

In addition, the Department sought, and obtained, approval from the Centers for Medicare and Medicaid Services ("CMS") to be able to submit a waiver amendment that will make the rate increases for these Medicaid waiver services retroactive to July 1, 2018.

This major substantive rule increases the following rates:

- 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
In Section 1400, the maximum amount that can be billed in a single day for respite has been increased (to reflect the rate increases made in Appendix I).

In Section 1810, the group rates for work support have been increased (to reflect the rate increases made in Appendix I).

Pursuant to 5 M.R.S. § 8072, the Department will submit this provisionally adopted rule to the Maine Legislature for its review and action. Although this rule will not be effective until it is finally adopted by the Department, pursuant to Legislative review and action, the September 12, 2018 emergency major substantive rule remains in effect pending Legislative action and final adoption.

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.

This provisionally adopted rule will remain in effect pending legislative action whether to approve it but in any case not longer than one year.
Notice of Agency Rule-making Provisional Adoption

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

ADOPTED RULE NUMBER:

CONCISE SUMMARY: This is a PROVISIONALLY ADOPTED MAJOR SUBSTANTIVE RULE and requires Legislative approval prior to final adoption. On September 12, 2018 the Department adopted an Emergency Major Substantive Rule to comply with P.L. 2017, ch. 459 An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government, which required the Department to increase Ch. III, Sec. 29 reimbursement rates by rulemaking for the specific procedure codes in equal proportion to the funding provided for that purpose.

These increased rates will be effective retroactive to July 1, 2018, as directed by the Act. The retroactive application of this rule comports with 22 M.R.S. Sec. 42(8) which authorizes the Department to adopt rules with a retroactive application for a period not to exceed 8 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 Center for Medicare and Medicaid Services (“CMS”) to be able to submit a waiver amendment that will make the rate increases for these Medicaid waiver services retroactive to July 1, 2018.

In this rulemaking, the Department is provisionally adopting rules to make permanent the September 12, 2018 rate increases. Pursuant to 5 M.R.S. § 8072, the Department will submit this provisionally adopted rule to the Maine Legislature for its review and action. Although this rule will not be effective until it is finally adopted by the Department pursuant to Legislative review and action, the September 12, 2018 emergency major substantive rule remains in effect pending Legislative action and final adoption.


EFFECTIVE DATE: December 16, 2018

AGENCY CONTACT PERSON: Trista Collins, Comprehensive Health Planner

AGENCY NAME: Division of Policy

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TELEPHONE: (207)-624-4094 FAX: (207) 287-1864
TTY users call Maine relay 711
MAINECARE BENEFITS MANUAL
CHAPTER III

### TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1000</td>
</tr>
<tr>
<td>1100</td>
</tr>
<tr>
<td>1200</td>
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<td>2000</td>
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<td>APPENDIX 1</td>
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</tbody>
</table>
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;
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 $110.21.

1500  REQUIREMENTS FOR PARTICIPATION IN MAINECARE PROGRAM

Providers must comply with all requirements as outlined in Chapter 1, General Administrative

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 Effective 7/1/18*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>$4.24</td>
</tr>
<tr>
<td>3</td>
<td>$2.82</td>
</tr>
<tr>
<td>4</td>
<td>$2.12</td>
</tr>
<tr>
<td>5</td>
<td>$1.69</td>
</tr>
<tr>
<td>6</td>
<td>$1.41</td>
</tr>
</tbody>
</table>

*The Department 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.
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.
**APPENDIX I**

<table>
<thead>
<tr>
<th>PROCEDURE CODE</th>
<th>SERVICE</th>
<th>MAXIMUM ALLOWANCE Effective 7/1/18</th>
</tr>
</thead>
<tbody>
<tr>
<td>T2017</td>
<td>Home Support-Quarter Hour</td>
<td>$7.75 per ¼ hour</td>
</tr>
<tr>
<td>T2017 QC</td>
<td>Home Support-Remote Support-Monitor Only</td>
<td>$1.63 per ¼ hour</td>
</tr>
<tr>
<td>T2017 GT</td>
<td>Home Support-Remote Support-Interactive Support</td>
<td>$7.75 per ¼ hour</td>
</tr>
<tr>
<td>S5140</td>
<td>Shared Living (Foster Care, adult)-Shared Living Model-One member served</td>
<td>$156.00 per diem</td>
</tr>
<tr>
<td>S5140 UN</td>
<td>Shared Living (Foster Care, adult)-Shared Living Model-Two members served</td>
<td>$78.02 per diem</td>
</tr>
<tr>
<td>T2021</td>
<td>Community Support (Day Habilitation)</td>
<td>$6.53 per ¼ hour</td>
</tr>
<tr>
<td>T2021 SC</td>
<td>Community Support (Day Habilitation)- with Medical Add On</td>
<td>$8.05 per ¼ hour</td>
</tr>
<tr>
<td>T2019</td>
<td>Employment Specialist Services (Habilitation, Supported Employment waiver)</td>
<td>$9.09 per ¼ hour</td>
</tr>
<tr>
<td>T2019 SC</td>
<td>Employment Specialist Services (Habilitation, Supported Employment waiver)-with Medical Add On</td>
<td>$10.51 per ¼ hour</td>
</tr>
<tr>
<td>H2023</td>
<td>Work Support (Supported Employment)-Individual</td>
<td>$8.46 per ¼ hour</td>
</tr>
<tr>
<td>H2023 SC</td>
<td>Work Support (Supported Employment)-Individual with Medical Add On</td>
<td>$9.89 per ¼ hour</td>
</tr>
<tr>
<td>H2023 UN</td>
<td>Work Support (Supported Employment)-Group 2 members served</td>
<td>$4.24 per ¼ hour</td>
</tr>
<tr>
<td>H2023 UP</td>
<td>Work Support (supported employment)-Group 3 members served</td>
<td>up to $2.82 per ¼ hour</td>
</tr>
</tbody>
</table>

*The Department is seeking CMS approval for these changes effective July 1, 2018.*
### ALLOWANCES FOR SUPPORT SERVICES FOR ADULTS WITH INTELLECTUAL DISABILITIES OR AUTISM SPECTRUM DISORDER

**Established:** 1/1/08  
**EFFECTIVE:** 12/16/18

<table>
<thead>
<tr>
<th>PROCEDURE CODE</th>
<th>SERVICE</th>
<th>MAXIMUM ALLOWANCE</th>
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</thead>
<tbody>
<tr>
<td>H2023 UQ</td>
<td>Work Support (supported employment)-Group 4 members served</td>
<td>up to $2.12 per ¼ hour</td>
</tr>
<tr>
<td>H2023 UR</td>
<td>Work Support (supported employment)-Group 5 members served</td>
<td>up to $1.69 per ¼ hour</td>
</tr>
<tr>
<td>H2023 US</td>
<td>Work Support (supported employment)-Group 6 members served</td>
<td>up to $1.41 per ¼ hour</td>
</tr>
<tr>
<td>T2015</td>
<td>Career Planning (Habilitation, prevocational)</td>
<td>$34.29 per hour</td>
</tr>
<tr>
<td>S5165</td>
<td>Home Accessibility Adaptations</td>
<td>Per invoice</td>
</tr>
<tr>
<td>S5165 CG</td>
<td>Home Accessibility Adaptations repairs</td>
<td>Per invoice</td>
</tr>
<tr>
<td>97755</td>
<td>Assistive Technology-Assessment</td>
<td>$14.44 ¼ hour</td>
</tr>
<tr>
<td>T2035</td>
<td>Assistive Technology-Transmission (Utility Services)</td>
<td>Up to $50.00 per Month</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>
<td>Per invoice up to $6,000.00 per year</td>
</tr>
<tr>
<td>S5150</td>
<td>Respite Services - ¼ hour</td>
<td>$3.31 per ¼ hour</td>
</tr>
<tr>
<td>S5151</td>
<td>Respite Services - Per Diem</td>
<td>$110.21 per diem</td>
</tr>
</tbody>
</table>

**Modifiers**  
- **CG:** Policy Criteria Applied  
- **SC:** Medical Add On  
- **HQ:** Group Setting  
- **QC:** Remote Support-Monitor Only  
- **GT:** Remote Support-Interactive Support  
- **UN:** Two Members Served  
- **UP:** Three Members Served  
- **UQ:** Four Members Served  
- **UR:** Five Members Served  
- **US:** Six Members Served

*The Department is seeking CMS approval for these changes effective July 1, 2018.*