



Department of Health and Human Services  
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September 1, 2014

TO: Interested Parties

FROM: Stefanie Nadeau, Director, MaineCare Services

SUBJECT: Emergency Major Substantive Rule: Chapter 101, MaineCare Benefits Manual, Section 29, Chapter III, Allowances for Support Services for Adults with Intellectual Disabilities or Autistic Disorder.

This letter gives notice of an Emergency Major Substantive Rule, Section 29, Chapter III, Allowances for Support Services for Adults with Intellectual Disabilities or Autistic Disorder. Pursuant to 5 MRSA Sections 8073 and 8054, the Department has determined that immediate adoption of this rule is necessary to avoid an immediate threat to public health, safety or general welfare. The Department's findings with regard to the existence of an emergency are as follows:

Section 29 services are governed by a Centers for Medicare and Medicaid (CMS) Medicaid waiver. On April 18, 2014, CMS approved changes to the Section 29 waiver, effective July 1, 2014, adding new services as requested by the Department. In order to add these additional services to the waiver, the Department is amending Section 29, Chapter II to add the services, through routine rulemaking. However, Chapter III, Section 29 is a major substantive rule, requiring the approval of the Legislature, which may take up to one year for that process. In order to be able to reimburse for the new services effective September 1, 2014, which is a benefit to the Section 29 beneficiaries, and in order to comply with the CMS-approved waiver, the Department needs to adopt these rules immediately.

This emergency major substantive rule allows MaineCare reimbursement for the following new services:

1. Assistive Technology services, which includes (a) Assistive Technology-Assessment; (b) Assistive Technology – Transmission (Utility Services); and (c) Assistive Technology – Devices. Adding these services complies with P.L. 2013, ch 368, PART SS, which authorized MaineCare “reimbursement for the use of appropriate electronic technology as a means of reducing the costs of supporting people currently being served [on the Section 29 waiver].” Assistive Technology – Devices are limited to a cap of \$6,000 per year, and Assistive Technology – Transmission (Utility Services) are limited to a cap of \$50.00 per month.
2. Home Support services, which includes: (a) Home Support – Quarter Hour; (b) Home Support – Remote Support – Monitor Only; and (c) Home Support – Remote Support – Interactive Support. Adding these services complies with Resolves 2013, Ch. 24 (“Resolve, Directing the Department of Health and Human Services to Provide Coverage under the MaineCare Program for Home Support services for Adults with Intellectual Disabilities or Autistic Disorder”).

Additionally, the Department is clarifying the reimbursement and billing for Work Support – Group services so that the exact reimbursement rate, depending on the number of members in the group, is indicated.

Finally, the Department is deleting Home Accessibility Adaptation services from the calculation for the Standard Unit Rate, since this service is paid per invoice, as indicated in Appendix I.

On March 18, 2014, the Department proposed rules for Chapter III, Section 29, which it will provisionally adopt on or about September 1, 2014, pending Legislative approval.

This emergency major substantive rule will remain in effect for up to one year or earlier if the Legislature approves the provisionally adopted major substantive rule.

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 users call Maine relay 711.

## Notice of Agency Rule-making Adoption

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

**CHAPTER NUMBER AND TITLE:** Chapter 101, MaineCare Benefits Manual, EMERGENCY MAJOR SUBSTANTIVE RULE, Section 29, Chapter III, Allowances for Support Services for Adults with Intellectual Disabilities or Autistic Disorder.

**ADOPTED RULE NUMBER:**

**CONCISE SUMMARY:** Pursuant to 5 MRSA Sections 8073 and 8054, the Department has determined that immediate adoption of this rule is necessary to avoid an immediate threat to public health, safety or general welfare. The Department's findings with regard to the existence of an emergency are as follows:

Section 29 services are governed by a Centers for Medicare and Medicaid (CMS) Medicaid waiver. On April 18, 2014, CMS approved changes to the Section 29 waiver, effective July 1, 2014, adding new services as requested by the Department. In order to add these additional services to the waiver, the Department is amending Section 29, Chapter II to add the services, through routine rulemaking. However, Chapter III, Section 29 is a major substantive rule, requiring the approval of the Legislature, which may take up to one year for that process. In order to be able to reimburse for the new services effective September 1, 2014, which is a benefit to the Section 29 beneficiaries, and in order to comply with the CMS-approved waiver, the Department needs to adopt these rules immediately.

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**[HTTP://WWW.MAINE.GOV/DHHS/OMS/RULES/INDEX.SHTML](http://www.maine.gov/dhhs/oms/rules/index.shtml)** for rules and related rulemaking documents.

**EFFECTIVE DATE:** August 29, 2014

**AGENCY CONTACT PERSON:** Ginger Roberts-Scott, Comprehensive Health Planner

**AGENCY NAME:** Division of Policy

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TTY users call Maine relay 711

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CHAPTER III

ALLOWANCES FOR SUPPORT SERVICES FOR ADULTS WITH INTELLECTUAL DISABILITIES  
OR AUTISTIC DISORDER

SECTION 29

ESTABLISHED: 1/1/08

EMERGENCY MAJOR SUBSTANTIVE EFFECTIVE 8/29/ 2014

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**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, Community Support Benefits for members with Intellectual Disabilities and Autistic Disorders 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(1), 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:

**A1. 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:

**4A. Assistive Technology-Assessment;**

**B. Assistive Technology-Transmission (Utility Services);**

Application Date  
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is 9/1/14

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**1400 REIMBURSEMENT METHODS (Cont)**

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- C. Career Planning;
- D. Community Support Services;
- E. Employment Specialist Services;
- ~~Home Accessibility Adaptations;~~
- 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. Work Support-Individual;
- K. Work Support-Group.

**B. 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.

**C. Respite-** Reimbursement for Respite is a quarter (1/4) 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 (1/4) Respite amount billed any single day cannot exceed the Respite per diem rate of one hundred (\$100.00) 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,

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**1700 RECORD KEEPING AND RETENTION OF FINANCIAL RECORDS**

Maine Attorney General's Office or the Federal government. Providers shall maintain accurate financial records for these services separate from other 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 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.

When billing for ~~Employment Specialist Services and Work Support Services-Group the per person rate is based on the number of members served as follows: that are provided in groups of more than one MaineCare member by one direct support staff, the total hours the direct support staff is providing these services should be divided proportionately among the number of members the services is being provided to. Based on the total hours of service provided, the total units of service for the total hours should be divided proportionately between each member in the group. The total amount of units billed for all members should not exceed the total hours of service provided by the direct support staff. For example, if a direct support worker is providing Work Support services to three (3) members at the same time for total of two (2) hours of service provided per day. Based on the proportional time spent with each member, two (2) units would be billed for member A, three(3) units would be billed for member B, and three (3) units would be billed for member C for a total of eight (8) units for two (2) hours of direct services.~~

<u>Members in Group</u>	<u>Rate per Unit</u>
<u>2</u>	<u>\$3.46</u>
<u>3</u>	<u>\$2.30</u>
<u>4</u>	<u>\$1.73</u>
<u>5</u>	<u>\$1.38</u>
<u>6</u>	<u>\$1.15</u>

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**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.
- C. Member Records - Documentation that supports the service 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.

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**APPENDIX I**

PROCEDURE CODE	SERVICE	MAXIMUM ALLOWANCE
<u>T2017</u>	<u>Home Support-Quarter Hour</u>	<u>\$ 6.27 ¼ hour</u>
<u>T2017 QC</u>	<u>Home Support-Remote Support-Monitor Only</u>	<u>\$ 1.62 ¼ hour</u>
<u>T2017 GT</u>	<u>Home Support-Remote Support-Interactive Support</u>	<u>\$ 6.27 ¼ hour</u>
T2021	Community Support (Day Habilitation)	\$ 5.28 ¼ hour
T2021 SC	Community Support (Day Habilitation)- with Medical Add-On	\$ 6.51 ¼ hour
T2019	Employment Specialist Services (Habilitation, Supported Employment waiver)	\$ 7.42 ¼ hour
T2019 SC	Employment Specialist Services (Habilitation, Supported Employment waiver)-with Medical Add-On	\$ 8.58 ¼ hour
H2023	Work Support (Supported Employment)- <u>Individual</u>	\$ 6.91 ¼ hour
H2023 SC	Work Support (Supported Employment)- <u>Individual</u> with Medical Add-On	\$ 8.08 ¼ hour
<u>H2023 HQ</u>	<u>Work Support (Supported Employment)-Group</u>	<u>\$ 3.46 ¼ hour</u>
<u>T2015</u>	<u>Career Planning (Habilitation, prevocational)</u>	<u>\$ 28.00 Per hr</u>
S5165	Home Accessibility Adaptations	Per invoice
S5165 CG	Home Accessibility Adaptations repairs	Per invoice
<u>97755</u>	<u>Assistive Technology-Assessment</u>	<u>\$ 14.44 ¼ hour</u>
<u>T2035</u>	<u>Assistive Technology-Transmission (Utility Services)</u>	<u>Up to \$50.00 per Month</u>
<u>A9279</u>	<u>Assistive Technology-Devices(Monitoring feature/device, stand alone or integrated, any type, includes all accessories, components and electronics, not otherwise classified)</u>	<u>Per invoice up to \$6,000.00 per year</u>
S5150	Respite Services- ¼ hour	\$ 2.70 ¼ hour
S5151	Respite Services- Per Diem	\$90.00 per diem

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	<u>CG</u>	<u>Policy Criteria Applied</u>
	<u>SC</u>	<u>Medical Add-On</u>
	<u>HQ</u>	<u>Group Setting</u>
	<u>QC</u>	<u>Remote Support-Monitor Only</u>
	<u>GT</u>	<u>Remote Support-Interactive Support</u>