



Department of Health and Human Services  
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Paul R. LePage, Governor

Ricker Hamillon, Commissioner

**DATE:** November 14, 2017  
**TO:** Interested Parties  
**FROM:** Stefanie Nadeau, Director, MaineCare Services  
**SUBJECT: Emergency Adoption:** 10-144 C.M.R. ch. 101, MaineCare Benefits Manual, Chapter III, Section 12, Allowances for Consumer-Directed Attendant Services

This letter gives notice of an emergency rulemaking: 10-144 C.M.R. ch. 101, MaineCare Benefits Manual, Chapter III, Section 12, Consumer-Directed Attendant Services.

The Department of Health and Human Services (“the Department”) adopts this emergency rule to increase the rates of reimbursement for home-based and community-based personal care and related services pursuant to Public Law 2017, ch. 284, Part MMMMMMM-1, *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.*

P.L. 2017, ch. 284, Part MMMMMMM-1 requires the Department to amend its rules for reimbursement rates for the 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 12, Consumer-Directed Attendant Services 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. Further, Part MMMMMMM-1 directs the Department that the increase in rates of reimbursement must be applied in equal proportion to all home-based and community-based personal care and related services referenced in the Burns & Associates, Inc. report using the funding provided for that purpose in this Act. In addition to this Section 12 rule, the Department is adopting increased rate changes on an emergency basis for Section 19, Home and Community Based Services for the Elderly and Adults with Disabilities & Section 96, Private Duty Nursing and Personal Care Services rules. Chapter 284 provides funding to increase these rates. See Part ZZZZZZ, Sec. ZZZZZZ-2.

This emergency rule increases the following rates:

- S5125, Attendant Care Services
- S5125 U2 UN, Attendant Care Services - 2 person
- S5125 U2 UP, Attendant Care Services - 3 person

Pursuant to 5 M.R.S. § 8054, this emergency rule may be effective for up to ninety (90) days. The Department intends to proceed with routine technical rulemaking to permanently adopt this rule.

The 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 was 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.

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 rates) on July 1, 2018.

The Department is seeking, and anticipates receiving, approval from the Centers for Medicare and Medicaid Services (CMS) for these rate changes.

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. 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 Emergency Rule-making Adoption

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

**CHAPTER NUMBER AND TITLE:** 10-144 C.M.R. ch. 101, MaineCare Benefits Manual (MBM), Chapter III, Section 12, Allowances for Consumer-Directed Attendant Services

**ADOPTED RULE NUMBER:**

**CONCISE SUMMARY:** The Department of Health and Human Services (“the Department”) adopts this emergency rule to increase the rates of reimbursement for personal care services provided through Chapter III, Section 12, Allowances for Consumer-Directed Attendant Services pursuant to Public Law 2017, ch. 284, Part MMMMMMM-1, *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*. The Department is seeking and anticipates receiving approval from the federal Centers for Medicare and Medicaid Services (CMS) for this change. Pending approval, the increased rates of reimbursement will be effective retroactive to July 1, 2017 through June 30, 2018. The new rates will sunset on June 30, 2018, as the rate increases were funded by single year appropriations. Rates will revert to original values on July 1, 2018.

The adopted rule ensures vulnerable members have access to medically necessary covered services and providers of Attendant Care Services will receive increased rates of reimbursement. Otherwise, the Department anticipates no adverse impact on either MaineCare providers or members. Further, this change is not expected to have an adverse effect on the administrative burdens of small businesses.

<http://www.maine.gov/dhhs/oms/rules/index.shtml> for rules and related rulemaking documents.

**EFFECTIVE DATE:** November 14, 2017

**AGENCY CONTACT PERSON:** Heidi Bechard, Comprehensive Health Planner

**AGENCY NAME:** Division of Policy

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10-144 Chapter 101  
 MAINECARE BENEFITS MANUAL  
 CHAPTER III

SECTION 12

ALLOWANCES FOR CONSUMER DIRECTED ATTENDANT SERVICES  
 EMERGENCY RULE

Established: 5/16-/5  
 Last Updated: 11/14/17

**The Department is seeking and anticipates receiving CMS approval for this Section.**

**There are three separate proposed rate changes pending before CMS: one submitted in September 2015, one submitted in July 2016, and one submitted in August 2017; thus there are three retroactive effective dates applicable for these rates.**

**Pending CMS approval, the following rates will be effective.**

PROCEDURE CODE	DESCRIPTION	UNITS	AMOUNT Effective 10/1/15	AMOUNT Effective 7/29/16	AMOUNT Effective 2/22/17 to 6/30/17 and After 7/1/18	AMOUNT Effective 7/1/17-6/30/18
S5125 U2	Attendant Care Services	15 minutes	\$2.93	\$3.33	\$3.33	\$3.66
S5125 U2 UN	Attendant Care Services 2 person	15 minutes	N/A	N/A	\$1.83	\$2.01
S5125 U2 UP	Attendant Care Services 3 person	15 minutes	N/A	N/A	\$1.33	\$1.47
H2014	Skills Training Service	15 minutes	\$14.03	\$14.03	\$14.03	\$14.03
G9001	Care Coordination Service – Initial Visit	15 minutes	\$17.00	\$17.00	\$17.00	\$17.00
G9002	Care Coordination Service – Ongoing	15 minutes	\$17.00	\$17.00	\$17.00	\$17.00