



Maine Department of Health and Human Services
MaineCare Services
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DATE: September 12, 2018

TO: Interested Parties

FROM: Stefanie Nadeau, Director, MaineCare Services

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

The Department is adopting this emergency major substantive rule in accordance 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* (“Act”). This Act provides funding to increase reimbursement rates for eighteen (18) procedure codes in Chapter III, Section 29. 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. The Act gave notice that the Legislature determined that “these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety...” Pursuant to this Legislative determination, the requirements of 5 M.R.S. § 8054(1) are satisfied.

These increased rates will be effective retroactive to July 1, 2018. 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 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.

This emergency major substantive rule makes the following changes:

- 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
 - T2017 GT Home Support-Remote Support-Interactive Support
 - T2021 Community Support (Day Habilitation)
 - T2021 SC Community Support (Day Habilitation) with Medical Add-On
 - T2019 Employment Specialist Services (Habilitation, Supported Employment waiver)
 - T2019 SC Employment Specialist Services (Habilitation, Supported Employment waiver) with Medical Add-On
 - H2023 Work Support (Supported Employment)-Individual

- H2023 SC Work Support (Supported Employment)-Individual with Medical Add-On
 - H2023 UN Work Support (Supported Employment)-Group 2 members served
 - H2023 UP Work Support (Supported Employment)-Group 3 members served
 - H2023 UQ Work Support (Supported Employment)-Group 4 members served
 - H2023 UR Work Support (Supported Employment)-Group 5 members served
 - H2023 US Work Support (Supported Employment)-Group 6 members served
 - T2015 Career Planning (Habilitation, prevocational)
 - S5150 Respite Services-1/4 hour
 - S5151 Respite Services-Per Diem
- 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. §8073, this emergency major substantive rule may be effective for up to 12 months, or until the Legislature has completed its review. The Department intends to proceed with major substantive rulemaking, which will be provisionally adopted, and then submitted to the Legislature for its review.

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.

Notice of Emergency Major Substantive Agency Rule Adoption

AGENCY: Department of Health and Human Services, MaineCare Services

CHAPTER NUMBER AND TITLE: 10-144 C.M.R., Chapter 101, Chapter III, Section 29, Allowances for Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder

EMERGENCY MAJOR SUBSTANTIVE RULE

ADOPTED RULE NUMBER:

CONCISE SUMMARY: The Department is adopting this emergency major substantive rule in accordance 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* (“Act”). This Act provides funding to increase reimbursement rates for eighteen (18) procedure codes in Chapter III, Section 29. 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. The Act gave notice that the Legislature determined that “these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety...” Pursuant to this Legislative determination, the requirements of 5 M.R.S. § 8054(1) are satisfied.

These increased rates will be effective retroactive to July 1, 2018. 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 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 Centers for Medicare and Medicaid Services (“CMS”) to submit a waiver amendment making the rate changes retroactive to July 1, 2018.

In creating the increased rates, 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. Consistent with the rate increase, the emergency rule also increases the maximum amount that can be billed in a single day for Respite.

Pursuant to 5 M.R.S. § 8054 (3), this emergency rule may be effective for up to 12 months, or until the Legislature has completed its review. The Department intends to proceed with major substantive rulemaking, which will be provisionally adopted, and then submitted to the Legislature for its review.

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: September 12, 2018

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CHAPTER III

SECTION 29 EMERGENCY MAJOR SUBSTANTIVE RULE	ALLOWANCES FOR SUPPORT SERVICES FOR ADULTS WITH INTELLECTUAL DISABILITIES OR AUTISM SPECTRUM DISORDER	Established: 1/1/08 EFFECTIVE 9/12/18
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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, 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;

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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 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

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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:

Members in Group	Rate per Unit Effective 7/1/18*
2	\$4.24
3	\$2.82
4	\$2.12
5	\$1.69
6	\$1.41

*The Department is seeking 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.

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SUBSTANTIVE RULE	AUTISM SPECTRUM DISORDER	

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*.

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AUTISM SPECTRUM DISORDER

Established: 1/1/08
EFFECTIVE: 9/12/18

APPENDIX I

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

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

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PROCEDURE CODE	SERVICE	MAXIMUM ALLOWANCE Effective 7/1/18*
H2023 UQ	Work Support (supported employment)-Group 4 members served	up to \$2.12 per ¼ hour
H2023 UR	Work Support (supported employment)-Group 5 members served	up to \$1.69 per ¼ hour
H2023 US	Work Support (supported employment)-Group 6 members served	up to \$1.41 per ¼ hour
T2015	Career Planning (Habilitation, prevocational)	\$34.29 per hour
S5165	Home Accessibility Adaptations	Per invoice
S5165 CG	Home Accessibility Adaptations repairs	Per invoice
97755	Assistive Technology-Assessment	\$14.44 ¼ hour
T2035	Assistive Technology-Transmission (Utility Services)	Up to \$50.00 per Month
A9279	Assistive Technology-Devices (Monitoring feature/device, stand alone or integrated, any type, includes all accessories, components and electronics, not otherwise classified)	Per invoice up to \$6,000.00 per year
S5150	Respite Services- ¼ hour	\$3.31 per ¼ hour
S5151	Respite Services- Per Diem	\$110.21 per diem

<u>Modifiers</u>	<u>Modifier Description</u>
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.