

MAINE STATE LEGISLATURE

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and Human Services*

*Maine People Living
Safe, Healthy and Productive Lives*

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**Report to the Joint Standing Committee on
Educational and Cultural Services
Pursuant to LD 1804**

**Submitted by the
Department of Health and Human Services
and the
Department of Education**

July 1, 2010

Rule Status

The Departments of Health and Human Services and Education were asked to submit a report regarding the status of the changes in various sections of MaineCare policy, specifically, sections 28 (Rehabilitation and Community Support Services for Children with Cognitive Impairments and Functional Limitations), 41 (Day Treatment) 65 (Behavioral Health Services), 68 (Occupational Therapy Services), 85 (Physical Therapy Services), 96 (Private Duty Nursing and Personal Care Services) and 109 (Speech and Hearing Services) which are services which are provided and billed by schools. Also of concern to the Committee was the repeal of sections 27 (early intervention) and 104 (School Based Rehabilitation). Attached to this report is the most recent rule status report which addresses changes in each of these rules, as well as any other changes made to other MaineCare rules. We will continue to send this report of the Committee monthly.

Little has changed since our "Interim Report" in May regarding the rules below. Implementation of the new MHIMS program will now occur on September 1, 2010 and the changes in the rules will not go into effect until that date.

Section 28 addresses services for children with developmental disabilities and allows services to be provided in the child's home, community and in the schools. This rule has been adopted and is effective now. Changes were adopted by emergency rule for July 1, 2010 to add a new eligibility category of children between the ages of birth and five years with specific congenital or acquired conditions, to assure that children who formerly received services under Section 27, Early Intervention Services, continue to receive medically necessary services for which they are eligible under this Section. Schools have also been added as a new provider under this Section. The services under this Section also received a 2% rate reduction as directed in the supplemental budget detailed in PL 2009, ch. 571.

Section 41, day treatment services has been repealed and the services formerly provided under that section have been moved to Section 65. The revisions to section 65 have been adopted. The rule will be effective when the new claims system becomes operational, and schools have been added as a provider for those services appropriately delivered in a school setting.

Sections 68 (Occupational Therapy Services), 85 (Physical Therapy Services), and 109 (Speech and Hearing Services) are being revised to include schools as an allowable place of service and to make some other changes to accommodate school billing. These changes will be proposed shortly and will then proceed through the APA process in time to be effective when the new claims system becomes operational. Providers under Occupational Therapy received a 10% rate reduction as of July 1, 2010 as part of the Supplemental Budget.

Section 96 (Private Duty Nursing and Personal Care Services) is not being changed, but schools may be able to bill if personal care services are provided to a student during school and both the student and the provider meet the qualifications in the section. This is principally a medical service that would apply only to a medically fragile student.

Section 104 has been repealed effective when the new claims system becomes operational. All of the services that were included in that section can be billed to the section covering the specific service, i.e. occupational therapy, speech therapy, etc.

Provider Training and Resource Material

Training is occurring statewide this summer for school personnel of all levels. For Superintendents and Special Education Directors, the training will cover the changes in the rules themselves, the services covered, what services need prior authorization and how that is obtained and what the changes mean generally for schools. The training for financial staff will focus much more on the details of how to bill. The training schedule is attached. The training has been well received and schools should be prepared to make the change when the MHIMS system “goes live.”

APS Healthcare Provider Relations will conduct trainings for Education Professionals in the use of the APS CareConnection® web portal. The trainings will be in the form of a conference call and online WebEx presentation.

Trainings will be held on the following Thursdays, from 10-11am.

- July 22, 2010
- July 29, 2010
- August 12, 2010
- August 26, 2010
- September 9, 2010
- September 23, 2010
- October 14, 2010
- October 28, 2010

Conference Line: 1-888-242-1836 Access Code: 8377033

WebEx: www.webmeeting.att.com

Meeting Number: 1-888-242-1836 Access Code: 8377033

OMS will be conducting the following trainings, in which APS will participate. These trainings are from 9 – noon. OMS may be scheduling an additional training for South Portland due to the demand in that part of the State.

- July 13 – Presque Isle
- July 14 – Hampden, Reeds Brook Middle School
- July 20 – South Portland
- July 21 – South Portland
- July 28 – Hallowell

The resource manual is progressing well and will be available to schools statewide prior to the opening of the school year. Additionally, schools have names and phone numbers for the provider relations representatives

Rule Consultation and Review

Both Jill Adams, the Director of MADSEC, and Sandra MacArthur, Deputy Executive Director of Maine School Management Association, have been attending regular meetings of the MaineCare Advisory Council. All rule changes are discussed by this group and they receive an update on all of the rules that are in any sort of change process every month. Because no additional rules have been amended since our interim report, there has been no occasion to ask the review group for its input.

Both the Departments of Health and Human Services and Education look forward to our continued collaboration in providing appropriate, high quality medical and educational services to the children of Maine.

DHHS- Office of MaineCare Services
Rule, State Plan Amendment, and Waiver Status Report
July 1, 2010

In APA Process

Chapters II and III, Section 5, Ambulance Services- The Department proposed language in Chapter II to lift prior authorization requirements for all four air ambulance transportation services when performed within state borders. All out of state air ambulance services continue to require prior authorization, following the guidelines set forth in Section 1.14-2 of the Maine Care Benefits Manual.

Reflecting the 2010-2011 Supplemental Budget (P.L. 2009, c. 571, Part A, Section 26) allowance, Chapter III contains proposed rate changes to 70% of Medicare-allowed rates. These proposed set-rate fees are in response to the CMS requirements 42 CFR 414.601 et seq., as well as serve to replace the supplemental payments used in previous rulemakings under this Section. Other edits and clarifications.

Expected Fiscal Impact: Projected to cost \$876,186 for SFY11 and \$1,024,150 for SFY12, respectively.

Proposed: April 27, 2010

Public Hearing: May 24, 2010

Staff: Delta Cseak

Comment Deadline: June 6, 2010

Chapter III, Section 7, Free-Standing Dialysis Services- The Department of Health and Human Services, MaineCare Services, is proposing changes to Chapter VIII, Section 7, Free-Standing Dialysis Services. Specifically, the Department proposes to require that providers bill using HCPCS codes along with Revenue codes when billing for Free-Standing Dialysis Services. This will be effective upon implementation of the new claims system, MIHMS, with a 30 day notice to providers. This is necessary in order to be consistent with Medicare guidelines, satisfy correct coding, and to remain HIPPA compliant.

Expected Fiscal Impact: Cost Neutral

Proposed: April 13, 2010

Public Hearing: None Scheduled

Staff: Derrick Grant

Comment Deadline: May 28, 2010

Chapters II and III, Section 13, Targeted Case Management Services- The Department proposed changes to this section to remove the adult target group- Adults with Long Term Care Needs. These individuals will get care management services under other sections of the MaineCare Benefits Manual, including Sections 12, 19, 22, and 96. The Department will also clarify that members who get care coordination under the HIV waiver may not also get Targeted Case Management under this Section. The Department is also converting several services from monthly to weekly billing to reflect CMS requests. Language regarding documentation of allowable costs will be added for those government providers who qualify to be Certified Public Expenditure providers.

Expected Fiscal Impact: Cost Neutral

Proposed: June 1, 2010

Public Hearing: June 23, 2010

Staff: Margaret Brown

Comment Deadline: July 5, 2010

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

Disabilities- In Chapter III, the Department is proposing the elimination of local codes and replacing them with HIPAA-compliant service codes. The proposed amendment consolidates the billing codes for services to the two different populations served by the program, Adults with Disabilities and the Elderly. In some instances, new rates and billing increments for services are proposed. In addition, the proposed rule has changed the description of services. These changes correspond to the realignment of services in the proposed MBM, Chapter II, Section 19, which will be adopted upon MIHMS implementation. This rule will become effective with the implementation of the Maine Integrated Health Management System (MIHMS) anticipated in August. Some of the proposed changes to this chapter are subject to approval of the federal Medicaid authority, the Centers for Medicaid and Medicare Services.

Estimated Fiscal Impact: Cost Neutral
Proposed: June 22, 2010 Public Hearing: July 6, 2010
Staff: Nicole Rooney Comment Deadline: July 16, 2010

Chapters II and III, Section 25, Dental Services- In Chapter II of Section 25, Dental Services, the proposed rule change requires, for Temporomandibular Joint Treatment (TMJ), that providers access prior authorization criteria that are industry recognized criteria utilized by a national company under contract, in addition to prior authorization criteria set forth in the rule itself. Providers can access these prior authorization criteria by accessing the OMS website at: http://www.maine.gov/dhhs/oms/provider_index.html which will have a link to the PA portal. In cases where the portal requires that certain criteria be met, and the member fails to meet those criteria, such services will not be covered or allowed under the MaineCare program.

In Chapter III of Section 25, the Department is clarifying that PA is not required for D4341, if a member has a diagnosis code 101. To the extent that payment for D4341 has been denied is a member has a diagnosis of 101, the Department will approve reimbursement retroactively.

Estimated Fiscal Impact: Cost Neutral
Proposed: April 6, 2010 Public Hearing: May 3, 2010
Staff: Nicole Rooney Comment Deadline: June 3, 2010

Chapter III, Section 30, Allowances for Family Planning Services- Effective January 1, 2010, CMS no longer recognizes American Medical Association (AMA) Current Procedural Terminology (CPT) consultation codes 99241-99245 for inpatient facility and office/outpatient settings previously used in the Section. To align with Medicare standards, the proposed changes will remove these consultation codes and introduce preventative medicine counseling (separate procedure) billing codes appropriate to the services which are being performed.

Estimated Fiscal Impact: Cost Neutral
Proposed: June 15, 2010 Public Hearing: July 12, 2010
Staff: Delta Cseak Comment Deadline: July 22, 2010

Chapter II, Section 35, Hearing Aids and Services- The Department of MaineCare Services is proposing changes to MaineCare Benefits Manual, Chapter II, Section 35, Hearing Aids and Services. The proposed rule change requires, for some services, providers to access prior authorization criteria that are industry recognized criteria utilized by a national company under contract, in addition to prior authorization criteria set forth in the rule itself. Providers can access these prior authorization criteria by accessing the OMS website at: http://www.maine.gov/dhhs/oms/provider_index.html which will have a link to the PA portal. In cases where the portal requires that certain prior authorization criteria be met, and the member fails to meet those criteria, such services will not be covered or allowed under the MaineCare program. Also in this rulemaking, the Department will require documented evidence that a hearing test has occurred within preceding 6 months. Finally, in Section 35.07 B, the Department is now requiring a trial period of 30 days, after which the Audiologists or Hearing Aid Dealer

and Fitter must provide written confirmation that the device meets the member's need and should be purchased.

Expected Fiscal Impact: Cost Neutral

Proposed: April 6, 2010

Public Hearing: May 3, 2010

Staff: Nicole Rooney

Comment Deadline: June 3, 2010

Chapter III, Section 50, Principles of Reimbursement for ICF-MR- This proposed rule does away with costs for Community Support Services (formerly called Day Habilitation Services) as part of the cost basis of the per diem rate for Intermediate Care Facilities for persons with mental retardation. Instead, the rule refers providers to the reimbursement methods and rate for Community Support Services set forth in MBM, Chapters II and III, Section 21. The amendment is made necessary by the repeal of MBM, Section 24, Day Habilitation Services. The amendment will also allow the billing code for this service to conform to federally required codes and the implementation of the Department's new claims processing system. Since this rule is a Major Substantive rule, it will not be finally adopted until approved by the Legislature.

Expected Fiscal Impact: The Department anticipates the following savings: SFY11 - Total \$148,011.94 / Federal \$102,172.64 / State \$45,839.30. SFY12 - Total \$148,011.94 / Federal \$94,431.62 / State \$53,580.32.

Proposed: April 6, 2010

Public Hearing: May 4, 2010

Staff: Ginger Roberts-Scott

Comment Deadline: May 14, 2010

Chapter II, Section 60, Medical Supplies and Durable Medical Equipment- The Department proposed changes to require, for some services, providers to access prior authorization criteria that is industry recognized criteria utilized by a national company under contract. Providers can access prior authorization criteria by accessing the OMS website at:

http://www.maine.gov/dhhs/oms/provider_index.html which will include a link to the PA portal.

In cases where the portal requires that certain criteria be met, and the provider fails to meet those criteria, such services will not be covered or allowed under the MaineCare program. Also, in this rulemaking, the Department proposes the addition of coverage for Microprocessor Controlled Knee Protheses when certain criteria are met. Providers can access the criteria at the above web portal. Furthermore, the Department is now requiring all repairs to DME equipment with total cost that exceed 60% of replacement, require prior authorization. Finally, the Department is clarifying current incontinence limitations in this rule, in addition to making re-formatting changes in this rulemaking.

Expected Fiscal Impact: Cost Neutral

Proposed: April 6, 2010

Public Hearing: May 3, 2010

Staff: Nicole Rooney

Comment Deadline: June 3, 2010

Chapter II, Section 68, Occupational Therapy Services- The Department proposed changes allowing services to be authorized by a practitioner of the healing arts, removing a limitation on sensory integration, and other clarification language related to school based rehabilitative services.

Estimated Fiscal Impact: Cost Neutral

Proposed: May 25, 2010

Public Hearing: June 21, 2010

Staff: Derrick Grant

Comment Deadline: July 1, 2010

Chapter II, Section 85, Physical Therapy Services- The Department proposes allowing services to be authorized by a practitioner of the healing arts, removing a limitation on sensory integration, and other clarification language related to school based rehabilitative services..

Estimated Fiscal Impact: Cost Neutral

Proposed: May 25, 2010

Public Hearing: June 21, 2010

Staff: Derrick Grant

Comment Deadline: July 1, 2010

Chapter III, Section 85, Physical Therapy Services – The Department is proposing to correct a unit error in PT evaluation and re-evaluation from 15 minutes to one evaluation and one re-evaluation.

Expected Fiscal Impact: This rule is expected to be cost neutral

Proposed: June 1, 2010

Public Hearing: June 28, 2010

Staff: Derrick Grant

Comment Deadline: July 8, 2010

Chapters II and III, Section 90, Physician’s Services- In Chapter II of this rulemaking, the Department proposes, to require, for some services, providers to access prior authorization criteria that is industry recognized criteria utilized by a national company under contract.

Providers can access criteria by utilizing the following portal:

http://www.maine.gov/dhhs/oms/provider_index.html. In cases where the portal requires that certain criteria be met, and the provider fails to meet those criteria, such services will not be covered or allowed under the MaineCare program. The proposed rule also changes the reimbursement methodology by reimbursing providers at 70% of the Medicare fee schedule effective March 1, 2010 consistent with the March 1, 2010 Emergency rulemaking and another rulemaking proposed on March 17, 2010. Upon implementation of the MIHMS system, MaineCare will require providers to utilizing Medicare’s fee schedule based on place of service and modifiers. Finally, the Department has changed transplant criteria to require members to be free of alcohol and drug use for 6 months prior to transplant.

In Chapter III of this rulemaking, upon implementation of Maine’s Integrated Health Management System (MIHMS), the Department will repeal Chapter III, Section 90, since all necessary methodology and billing information can be found at either Chapter II or on the Department’s website.

Expected Fiscal Impact: Cost Neutral

Proposed: April 6, 2010

Public Hearing: May 3, 2010

Staff: Nicole Rooney

Comment Deadline: June 3, 2010

Chapter II, Section 95, Podiatric Services- In Chapter II of this rulemaking, the Department proposes, to require, for some services, providers to access prior authorization criteria that is industry recognized criteria utilized by a national company under contract. Providers can access criteria by utilizing the following portal: http://www.maine.gov/dhhs/oms/provider_index.html. In cases where the portal requires that certain criteria be met, and the member fails to meet those criteria, such services will not be covered or allowed under the MaineCare program.

Expected Fiscal Impact: Cost Neutral

Proposed: March 16, 2010

Public Hearing: May 3, 2010

Staff: Cindy Boucher

Comment Deadline: June 3, 2010

Chapter II, Section 101, Medical Imaging Services- The Department of MaineCare Services is proposing changes to MaineCare Benefits Manual, Chapter II, Section 101, Medical Imaging Services. Contingent upon Maine Integrated Health Management System (MIHMS) implementation, the proposed rule modifies reimbursement methodology to pay at seventy percent (70%) of the lowest level in the 2009 Medicare fee schedule for Maine area “99” for all services under this policy and will include adjustments for place of service and modifiers. This change in methodology will not result in a reduction in payment for medical imaging services. The Department also made other structural, administrative, grammatical and clarifying changes within this rulemaking.

Expected Fiscal Impact: Cost Neutral

Proposed: May 19, 2010

Public Hearing: None Scheduled

Staff: Nicole Rooney

Comment Deadline: June 18, 2010

Chapter II, Section 109, Speech and Hearing Services- The Department will propose allowing services to be authorized by a practitioner of the healing arts, and other clarification language related to school based rehabilitative services.

Estimated Fiscal Impact: Cost Neutral
Proposed: May 25, 2010 Public Hearing: June 21, 2010
Staff: Derrick Grant Comment Deadline: July 1, 2010

Chapter VIII, Section 2, Health Insurance Purchase Option- The Department of Health and Human Services, MaineCare Services, is proposing to delete sections of the MaineCare Benefits Manual, Chapter VIII, Section 2. Specifically, sections defining the eligibility portion of this policy; 2.03, 2.04, 2.05, 2.07, 2.08, 2.09 and 2.10 are being deleted. Concurrent to this rulemaking, the Office of Integrated Access and Support is proposing to administer the eligibility portion of this program and publish the information in their own MaineCare Eligibility Manual. MaineCare Services will continue to include language in the MaineCare Benefits Manual defining the benefits available through the Health Insurance Purchase Option program.

Estimated Fiscal Impact: Cost Neutral
Proposed: June 22, 2010 Public Hearing: None Scheduled
Staff: Derrick Grant Comment Deadline: July 30, 2010

Rules Adopted or Provisionally Adopted Since Last Status Update

Chapter III, Section 17, Community Support Services- The emergency rules specify new rates effective 7/1/10 pursuant to the supplemental budget, **PL2009, Ch.571, Part A §25 and Part OOO§ 000-1**. The rule specifies a reduction in rates of 3 % for Community Integration and 4% for all other services in Section 17, Community Support Services.

Estimated Fiscal Impact: This rulemaking is estimated to save \$ 575,344.00, per state fiscal year.
Staff: Ginger Roberts-Scott Effective Date: July 1, 2010

Chapter II and III, Section 19, Home and Community Benefits for the Elderly and Adults Disabilities- The Department changed the above named sections of the MaineCare Benefits Manual for the arrangement and billing of case management services. These changes include unbundling the three main services that formulate the current case management service. These services are skills training, financial management services, and care coordination. Historically, these services have been bundled together and paid with a per member, per month rate. In addition, all references to the term Home Care Coordination Agency (HCCA) are deleted because the functions of the HCCA are no longer necessary. Also, the language consistently refers to “personal support specialist (PSS)” throughout the rules. Several definitions are also added to rule, including: Care Coordination, Financial Management Services, Service Coordination Agency, Skills Training, Supports Brokerage, and Waiver Services Provider. Changes also include adding a limits section, which outlines the allowed maximum number of billable hours for care coordination and skills training. Additionally, these rules allow the Office of Elder Services maintain member wait lists and that the Division of Finance under DHHS collect any cost of care that has been determined by MaineCare eligibility from the member. Both functions are currently performed by the HCCA. Finally, chapter II changes include structural reorganization as well as elimination of any redundancy found throughout the rules. In Chapter III, the Department is eliminating local codes and replacing with HIPAA-compliant service codes. In some instances, new rates and billing increments for services are proposed. All changes proposed in these rules support implementation of the Maine Integrated Health Management System (MIHMS).

Some of the changes in this rule-making will require amendment of the waiver document filed with the Federal Centers for Medicare and Medicaid Services (CMS), and these amendments will require CMS approval before they are effective.

Estimated Fiscal Impact: These changes are expected to be cost neutral.

Staff: Alyssa Morrison Effective Date: MIHMS GO-LIVE

Chapter II, Section 21, Home and Community Benefits for Adults with Mental Retardation or Autistic Disorder- The Department replaced the term “mental retardation” with “intellectual disabilities” where appropriate, to conform to more modern terminology. This is consistent with the newest revision to the Diagnostic and Statistical Manual and the Department’s focus on respectful language. Also, the Department renamed the initial classification process to “Determination of Eligibility.” Provisions regarding owned-operated businesses in the employment setting are clarified. Furthermore, the Department reduced the maximum allowance for community support service hours and work support service hours. The Department also clarified language around work support services provided by a Direct Support Professional (DSP) to one member at a time. The Department established two additional grounds for involuntary termination of services to a member. Qualifications for DSPs and Employment Specialists are amended in this proposed rule-making. The rules specify the use of the appeals process for members outlined in Chapter I of the MaineCare Benefits Manual. Finally, the rule includes a new Appendix IV, which outlines the various combinations of community support and work support hours available. The changes conform the regulation to amendments contained in the waiver renewal application recently submitted to CMS.

Estimated Fiscal Impact: These changes are expected to be cost neutral

Staff: Alyssa Morrison Effective Date: July 1, 2010

Chapters II and III, Section 22, Home and Community Benefits for Adults with Physical Disabilities- The Department changed the above named Section of policy. Specifically, these changes impact Section 22.05, Covered Services, by separately identifying the services that make up the current case management service. These services are skills training, financial management services, and supports brokerage. In addition, all references to “provider” are replaced with “Service Coordination Agency”. Changes also include clarification under Section 22.06, Limits, which outlines the allowed maximum number of billable hours for each service. Additionally, these rules allow the Office of Adults with Cognitive and Physical Disabilities maintain member wait lists and that the Department collect the cost of care from the member. Both functions are currently performed by the provider agency. Finally, chapter II changes include structural reorganization as well as elimination of any redundancy found throughout the rules. In Chapter III, the Department is adding three HIPAA-compliant service codes needed to bill for skills training, financial management services and supports brokerage. The Department is also allowing providers to bill for installation of the Personal Emergency Response System (PERS), which is consistent with other Home and Community Based waiver programs. Additionally, the Department is increasing attendant care rate increase from \$2.61 to \$2.72 per fifteen minutes.

Estimated Fiscal Impact: These changes are expected to be cost neutral

Staff: Alyssa Morrison Effective Date: MIHMS Go-Live

Chapter III, Section 23, Developmental and Behavioral Clinics- The Department is adopting an emergency rule for MaineCare Benefits Manual, Chapter 101, Chapter III, Section 23, Developmental and Behavioral Clinic Services pursuant to PL 2009, CH 571, Part A and Part OOO, § 000-1 (June 2010 State of Maine Supplemental Budget). The reductions in reimbursement set forth in these rules were selected after consideration by the Legislature. The Department is required to reduce the fees set forth in this policy by 10%, effective 07/01/2010. Therefore a 10% reduction to services has been applied to rates in this policy.

Estimated Fiscal Impact: The estimated cost savings to the general fund is \$31,122.00, per state fiscal year.

Staff: Ginger Roberts-Scott Effective Date: July 1, 2010

Chapters II and III, Children’s Section 28, Habilitative Services- The Department filed emergency rules to reduce rates as a legislative directive. Rates were reduced by 2%. The Department is adding a new category of children who are eligible for Section 28 services; those children between the ages of birth and five years who have been diagnosed with a specific congenital or acquired condition, with a written assessment by a physician that they will meet the functional impairment criteria if services and supports are not provided to these children. Additionally, schools, as defined in the regulation, have been added as a new provider of Section 28 services.

Expected Fiscal Impact: This rule making is estimated to save \$185,611.00, per state fiscal year.

Staff: Ginger Roberts-Scott Effective Date: July 1, 2010

Chapter III, Section 45, Hospital Services – The Department will make changes to the definition of “discharge” in order to meet a legislative mandate that the Department not reimburse hospitals for readmissions made within 3 days of a discharge for members readmitted to the same facility for a like diagnosis.

Expected Fiscal Impact: \$200,000 GF savings

Staff: Derrick Grant Effective Date: July 1, 2010

Chapter III, Section 45, Hospital Services- These adopted rules establish Medicare DRG and APC billing methodology for hospitals. Inpatient discharges will be reimbursed on a Medicare DRG-based system, and include a direct care DRG rate, as well as estimated capital and medical education costs. This reimbursement will be subject to interim and final settlements. Billing for outpatient discharges will also be required to begin capturing the data required to transition to paying outpatient claims with APC methodology. This final rule also makes a technical correction in the supplemental pool amount the Department allocates. These proposed changes are subject to CMS approval. Hospitals will receive at least a 30 day notice of “go live” date for MIHMS.

Estimated Fiscal Impact: Estimate of any expected increase or decrease in annual aggregate expenditures: these changes will result in an estimated total reimbursement reduction to hospitals in the amount of \$1,605,082 in SFY 10 and \$14,055,559 in SFY 11.

Staff: Derrick Grant Effective Date: MIHMS Go-Live

Chapters II and III, Sections 41, Day Treatment, and 65, Behavioral Health Services-

Chapters II & III, Section 41, Day Treatment of the MaineCare Benefits Manual is being repealed and the service Day Treatment is being moved to Chapters II & III, Section 65, Behavioral Health Services. The service as described in Section 65 must be medically necessary and provided by qualified staff. HIPAA compliant coding will be utilized. Behavioral Health Professionals and Licensed Clinical Staff will be allowed to provide Children’s Behavioral Health Day Treatment Service in a school setting; reimbursement will be based on level of credential. The maximum number of hours reimbursed will be reduced from eight (8) to six (6) per day. In addition, Section 65 imposes additional eligibility requirements for Children’s Behavioral Health Day Treatment.

Behavioral Health Day Treatment may be provided by Schools and by mental health agencies who provide programs in private special purpose schools. Additionally, Schools will be allowed to provide the following services, as long as they have enrolled to provide them and the qualified staff: 65.06-3, Outpatient Services, 65.06-4 Family Psychoeducational Treatment, 65.06-7 Neurobehavioral Status Exam and Psychological Testing, 65.06-9 Children’s Home and

Community Based Treatment, 65.06-10 Collateral Contacts Children's Home and Community Based Treatment, and 65.06-13 Children's Behavioral Health Day Treatment.

There are routine technical changes in order to prepare for the implementation of MIMHS.

HIPAA compliant coding for Children's ACT services is being proposed. The requirement for a hospital to have a Mental Health License is being removed. The limit for members in a Differential Substance Abuse Treatment (DSAT) substance abuse group is being changed. Other routine technical changes to Section 65, Behavioral Health Services have also been proposed.

Estimated Fiscal Impact: Cost Neutral

Staff: Ginger Roberts-Scott

Effective Date: June 30, 2010

Chapters II and III, Section 65, Behavioral Health Services- The emergency rule adopts the rates as directed in the supplemental budget approved by the Maine State Legislature, P.L. 2009, ch. 571, Part OOO, §000-1, resulting in a 2% (two percent) reduction in Children's Home and Community Based Treatment and collateral contacts and a 10% (ten percent) reduction in Family Psychoeducation Treatment Program Services, Neurobehavioral Status exam, Psychological testing, and Opioid Treatment. Additionally, the emergency rule adopts specific eligibility requirements for services beyond seventy two (72) quarter hour units of service in a service year for Mental Health Outpatient Services.

Proposed rules will also be filed to permanently adopt these emergency rules.

Expected Fiscal Impact: Savings of \$712,000 per State Fiscal Year

Staff: Ginger Roberts-Scott

Effective Date: July 1, 2010

Chapter III, Section 68, Occupational Therapy Services- The Department will apply a 10% rate reduction to this Section via emergency rule, with a proposed rule to permanently adopt this reduction.

Expected Fiscal Impact: Savings of \$ 40,866.00 per state fiscal year 2010-2011.

Staff: Derrick Grant

Effective Date: July 1, 2010

Chapter II, Section 90, Physician Services- The Department made changes to MaineCare Benefits Manual, Chapter 101, Section 90, Physician's Services Ch II. The changes increase the MaineCare reimbursement rate for physician services from 56.94% to 70% effective March 1, 2010. This increase will not include reimbursement for procedures performed by radiologists, radiation oncologists, and pathologists, who currently receive a higher rate of reimbursement. No procedure codes are decreased as a result of this rulemaking. Furthermore, this increase does not apply to other sections of policy within the MaineCare Benefits Manual, Chapter 101. Providers can visit the Office of MaineCare's website for the current fee schedule. The fee schedule can be found at http://portalxw.bisoex.state.me.us/oms/proc/pub_proc.asp?cf=mm.

Staff: Nicole Rooney

Effective Date: June 1, 2010

Chapters II and III, Section 96, Private Duty Nursing and Personal Care Services- The Department is changing the above named sections of the MaineCare Benefits Manual. Specifically, changes to Chapter II include adding two services: care coordination and skills training. These services were formerly billed under Section 13, Targeted Case Management, as part of a per member per month fee. In addition, the rules remove the term "Personal Care Assistant (PCA)" from rule and replace with "Personal Support Specialist (PSS)". The Department also is removing the definition of and reference to the Home Care Coordination Agency (HCCA), as the functions of the HCCA are no longer needed. Instead, the Service Coordination Agency will be providing the care coordination and skills training services. Changes also include the addition of a "limits" section, which outlines the allowed maximum number of billable hours for each service. The Department also is extending suspension of services from 30 days to 60 days. Changes are also made to PSS training requirements, allowing for job shadowing and on-the-job training to count toward the required number of training hours.

In Chapter III, the Department eliminated all local codes and replace with HIPAA-compliant service codes needed to bill for all services covered under Chapter II.

Estimated Fiscal Impact: State expenditures are expected to increase \$5,500 for SFY10 and \$12,644 in SFY11.

Staff: Alyssa Morrison

Effective Date: MIHMS Go-Live

In Draft (Intended to be Effective upon MIHMS Implementation):

Chapter I, General Administrative Policies and Procedures- The Department will propose language intended for compliance with all MIHMS changes. The Department will also add an appendix detailing the percentage of adjustment as a result of the approved Supplemental budget.

Expected Fiscal Impact: Cost Neutral

Expected Proposal: July

Staff: Cindy Boucher

Chapter II, Section 21, Home and Community Benefits for Adults with Mental Retardation or Autistic Disorder- The Department will amend these rules to conform to the Supplemental budget initiative for Shared Living redesign.

Expected Fiscal Impact: TBA

Expected Proposal: July

Staff: Ginger Roberts-Scott

Chapters II and III, Chapter 32, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations- The Department will make changes to eligibility to allow some children who have chronic medical conditions as defined in Section 13, Targeted Case Management, to receive this service. The Department will also clarify that this service may be delivered in a school based setting.

Expected Fiscal Impact: TBA

Expected Proposal: Fall

Staff: Ginger Roberts-Scott

Chapters II and III, Section 40, Home Health Services- The Department will amend this rule to include plan of care reviews and billing for medical supplies. Chapter III will also reflect HIPAA-compliant codes needed for MIHMS go-live.

Expected Fiscal Impact: cost neutral

Expected Proposal: Major Substantive

Staff: Margaret Brown

Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities- The Department will amend these principles to begin permanent adoption of the budget initiatives adopted via emergency rule-making effective July 1, 2010. In addition, the Department also proposes changes to §41.2.3(D), by eliminating the language describing Sanction principles prior to MIHMS implementation. Similarly, the Department proposes eliminating language under §80.3.4 describing the calculation of the direct care component prior to MIHMS implementation. Finally, the Department proposes clarification under Principle 81 that describes the rate determination schedule.

Estimated Fiscal Impact: General fund savings of \$40,468

Expected Proposal: July

Staff: Margaret Brown

Chapters II and III, Section 97, PNMI Services- The Department will file emergency rules to address several legislative directives. Standards rates and eligibility criteria will be set for Adult Behavioral Health PNMI services and Substance Abuse PNMI services. Standard rates for children's PNMI services will be reduced. Emergency rules and proposed rules for Chapters II and III will be filed separately, since Chapter II is routine technical rulemaking, and Chapter III and appendices are major substantive rulemaking.

Expected Fiscal Impact: TBA

Expected Proposal:

June

Staff: Margaret Brown

Chapters II and III, Section 113, Transportation Services- The Department will be proposing a major rewrite of Chapter II that will clarify language to reflect current practices and waiver criteria, strengthen principles of the policy language, and address other non-substantive changes to correct format and grammar.. Chapter III will contain HIPAA compliant coding and new standardized fee-for-service rates. Proposed language will also clarify billing codes for providers transporting members receiving waiver services.

Estimated Fiscal Impact: TBA

Expected Proposal:

July

Staff: Delta Cseak

MaineCare Benefits Manual, Chapter X, Section 3, Katie Beckett Benefits- The Department will move eligibility from institutional services rules into this Section to clarify Katie Beckett eligibility. Medical eligibility criteria from Sections 45, Hospital Services; 46 Psychiatric Hospitals; 50, ICF-MR; and 67, Nursing Facility Services will be removed and added to this Section of policy.

Expected Fiscal Impact: Cost Neutral

Expected Proposal:

Fall

Staff: Ginger Roberts-Scott

State Plan Amendment Status:

09-011, Targeted Case Management- This SPA adds new target groups and associated eligibility and reimbursement.

Status: Submitted 9/30/09. Under Review by CMS. RAI issued, and official responses were submitted to CMS 3/18/10. CMS has asked that DHHS withdraw the responses to take the SPA “off clock” so that CMS can work with DHHS on this SPA.

09-015, Inpatient Hospital Reimbursement- The SPA addresses P.L. 2009, ch. 213, Part CC, effective July 1, 2009, which reduced hospital reimbursement. For acute care non-critical access hospitals, inpatient discharge rates (except for those from psychiatric units) were reduced 6.7% and reimbursement for outpatient services was decreased to 83.8% of costs. For critical access hospitals and hospitals reclassified to a wage area outside Maine, reimbursement for inpatient and outpatient services was reduced to 109% of costs. For all acute care hospitals, including critical access, hospital based physician reimbursement was decreased from 100% to 93.3% of allowable costs for inpatient non-emergency physicians, to 93.4% of costs for inpatient emergency physicians and to 83.8% of costs for outpatient non-emergency physicians. In addition, these state plan amendments eliminate the COLA adjustment for SFY’s 2010 and 2011 for non critical access acute care hospitals for inpatient discharge rate and for psychiatric unit discharge rates. They cap the PIP payment so that the total payment to all hospitals is not less than 80% of the calculated amount. These changes must be submitted in state plan amendments to receive approval from CMS.

Status: Submitted 9/30/09. Under Review by CMS. A formal RAI was issued and responses were sent to CMS on 2/26/10. Approved

09-016, Transportation, Bus Passes This SPA adds bus passes as a covered service when transportation providers find this the most cost effective method to provide transportation to medically necessary services.

Status: Submitted 9/30/09. “Off Clock”, as CMS is reviewing a related 1915B waiver.

10-002, DME Reimbursement- This SPA updates reimbursement methodology for DME to reflect recent rule changes.

Status: Submitted March 31, 2010 Under Review by CMS. Informal Request for Additional Information received with “same page” questions, conference call being set up to discuss responses. Formal RAI from CMS, Department responses due by 9/20/10.

10-003, Estate Recovery- The SPA will implement liens and resource recovery provisions included in the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 (MIPPA), P.L. 110-275. Section 115 of MIPPA requires States to exempt Medicare cost-sharing benefits paid under the Medicare saving programs from estate recovery under section 1917(b)(1) of the Act.

Submitted: March 31, 2010 Approved By CMS

10-004, Physician Reimbursement: The SPA details MaineCare’s reimbursement for non-hospital based physician services. MaineCare will reimburse all non-hospital based physician’s 70% of the Medicare Maine Area 99 fee schedule. CMS has requested this SPA even though the Department is not changing its reimbursement methodology.

Submitted: March 31, 2010 Under Review by CMS

Waivers

1915B- Transportation Waiver-This waiver seeks to continue non-emergency medical transportation operations and reimbursement unchanged and is being submitted to bring Maine into formal compliance with CMS requirements. As such, no change in providers, expenditures or utilization volume or patterns is anticipated.

Status: Submitted January, 2010 Under Review by CMS. Formal Request for Additional Information issued by CMS. Responses sent to CMS on April 27, 2010.

1915C- Children's Waiver- Home and Community Based Waiver- Draft in progress. Provider and MAC workgroup meetings ongoing. Meeting with CMS held April 14, 2010 to discuss draft. Implementation date: January 1, 2011.

1915C – Home and Community Benefits for Members with Mental Retardation or Autistic Disorder – Renewing waiver for an effective date of 7/1/10. CMS has submitted informal RAI and the Department submitted responses on May 27, 2010.

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