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Commissioner



Maine Department of Health and Human Services
MaineCare Services
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TTY: Dial 711 (Maine Relay)

DATE: August 30, 2023
TO: Interested Parties
FROM: Michelle Probert, Director, MaineCare Services 
SUBJECT: Proposed Rule: 10-144 C.M.R. Chapter 101, MaineCare Benefits Manual, Chapter II, Section 71, National Diabetes Prevention Program Services

DATE, TIME, AND PLACE OF PUBLIC HEARING: 9:00am; Monday, September 18, 2023

The Department will hold a combined in-person and remote (via Zoom) public hearing.

Location: State Office Building, Conference Rooms A and B
109 Capitol Street, Augusta, ME

Zoom Meeting link: <https://mainestate.zoom.us/j/82820541752>
Meeting ID: 828 2054 1752

Some devices may require downloading a free app from Zoom prior to joining the public hearing event. The Department requests that any individual requiring special arrangements to attend the hearing in person contact the agency person listed below 5 days in advance of the hearing.

In addition to the public hearing, individuals may submit written comments to DHHS by the date listed in this notice.

COMMENT DEADLINE: Comments must be received by 11:59 PM on September 28, 2023.

This letter gives notice of proposed rule: 10-144 C.M.R., Chapter 101, MaineCare Benefits Manual, Chapter II, Section 71, National Diabetes Prevention Program.

This proposed rulemaking establishes MaineCare Benefits Manual Chapter II, Section 71, National Diabetes Prevention Program (NDPP) Services, which allows MaineCare to reimburse providers for delivering the National Diabetes Prevention Program Lifestyle Change Program (National DPP LCP).

The National DPP LCP is an evidence-based, intensive lifestyle behavior change program designed and overseen by the United States Centers for Disease Control and Prevention (CDC) to teach participants the skills to change and maintain physical activity levels and dietary habits to prevent or delay type 2 diabetes. Members are eligible for the National DPP LCP when they have a qualifying body mass index in addition to a positive screening for prediabetes or a qualifying blood test. To enroll as a MaineCare National DPP LCP Provider (Provider), providers must have recognition awarded by the CDC's Diabetes Prevention Recognition Program (DPRP) and adhere to the "Centers for Disease Control and Prevention Diabetes Prevention Recognition Program Standards and Operating Procedures," (DPRP Standards) published by the CDC on May 1, 2021 (OMB No. 0920-0909, Exp. Date: 04/30/2024), which outlines provider requirements for delivering the National DPP LCP. The DPRP Standards is incorporated by

reference in the rule and is available on the CDC's National DPP webpage at:
<https://www.cdc.gov/diabetes/prevention/requirements-recognition.htm>.

The National DPP LCP is comprised of twenty-two sessions delivered over the course of one year, and Providers must use the CDC's PreventT2 Curriculum or another CDC-approved curriculum. The first sixteen core sessions occur during the first six months and the final six maintenance sessions occur monthly during the last six months. Trained lifestyle coaches deliver sessions in-person and/or via telehealth for approximately sixty minutes per session. The allowed amount for each session is 100% of Medicare's current total reimbursement for all sessions without weight loss included in the Medicare Diabetes Prevention Program (MDPP) divided by the total number of sessions required by the DPRP Standards.

Providers are eligible for two performance payments if members achieve weight loss or HbA1C goals. The allowed amount for each performance payment is 100% of Medicare's current maximum reimbursement for payments related to weight loss included in the MDPP divided by two.

This rulemaking complies with P.L. 2021, Ch. 639, *An Act to Codify MaineCare Rate System Reform*, codified in 22 M.R.S. Sec. 3173-J. The Department issued a Rate Determination Initiation Notice on December 16, 2022. The Department held a public rate forum on February 6, 2023, to collect stakeholder input and comments to inform the Rate Determination process for the NDPP and accepted written comments through February 27, 2023. The Department published responses to comments on April 25, 2023.

Rules and related rulemaking documents may be reviewed at, or printed from, the MaineCare 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 Maine Relay number 711.

A concise summary of the proposed 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. Please address all comments to the agency contact person identified in the Notice of Agency Rulemaking Proposal.

Notice of Agency Rule-making Proposal

AGENCY: Department of Health and Human Services, MaineCare Services, Division of Policy

CHAPTER NUMBER AND TITLE: 10-144 C.M.R. Chapter 101, MaineCare Benefits Manual, Chapter II, Section 71, National Diabetes Prevention Program Services

PROPOSED RULE NUMBER:

CONCISE SUMMARY: This proposed rulemaking seeks to make the following changes:

This proposed rulemaking establishes MaineCare Benefits Manual Chapter II, Section 71, National Diabetes Prevention Program (NDPP) Services, which allows MaineCare to reimburse providers for delivering the National Diabetes Prevention Program Lifestyle Change Program (National DPP LCP).

The National DPP LCP is an evidence-based, intensive lifestyle behavior change program designed and overseen by the United States Centers for Disease Control and Prevention (CDC) to teach participants the skills to change and maintain physical activity levels and dietary habits to prevent or delay type 2 diabetes. Members are eligible for the National DPP LCP when they have a qualifying body mass index in addition to a positive screening for prediabetes or a qualifying blood test. To enroll as a MaineCare National DPP LCP Provider (Provider), providers must have recognition awarded by the CDC's Diabetes Prevention Recognition Program (DPRP) and adhere to the "Centers for Disease Control and Prevention Diabetes Prevention Recognition Program Standards and Operating Procedures," (DPRP Standards) published by the CDC on May 1, 2021 (OMB No. 0920-0909, Exp. Date: 04/30/2024), which outlines provider requirements for delivering the National DPP LCP. The DPRP Standards is incorporated by reference in the rule and is available on the CDC's National DPP webpage at: <https://www.cdc.gov/diabetes/prevention/requirements-recognition.htm>.

The National DPP LCP is comprised of twenty-two sessions delivered over the course of one year, and Providers must use the CDC's PreventT2 Curriculum or another CDC-approved curriculum. The first sixteen core sessions occur during the first six months and the final six maintenance sessions occur monthly during the last six months. Trained lifestyle coaches deliver sessions in-person and/or via telehealth for approximately sixty minutes per session. The allowed amount for each session is 100% of Medicare's current total reimbursement for all sessions without weight loss included in the Medicare Diabetes Prevention Program (MDPP) divided by the total number of sessions required by the DPRP Standards.

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the NDPP and accepted written comments through February 27, 2023. The Department published responses to comments on April 25, 2023.

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

STATUTORY AUTHORITY: 22 M.R.S. §§ 42, 3173; P.L. 2021, Ch. 398, Part A, Sec. A-17; 22 M.R.S. 3173-J

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DEADLINE FOR COMMENTS: Comments must be received by 11:59 PM on September 28, 2023.

AGENCY CONTACT PERSON: Henry Eckerson, Comprehensive Health Planner II

AGENCY NAME: MaineCare Services

ADDRESS: 109 Capitol Street, 11 State House Station
Augusta, Maine 04333-0011

EMAIL: henry.eckerson@maine.gov

TELEPHONE: 207-624-4085 FAX: (207) 287-6106

TTY: 711 (Deaf or Hard of Hearing)

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): N/A

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Section 71 NATIONAL DIABETES PREVENTION PROGRAM SERVICES Established:
Legally Effective:

The Department shall submit to CMS and anticipates approval for a State Plan Amendment related to these provisions.

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Section 71

NATIONAL DIABETES PREVENTION PROGRAM SERVICES

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71.01 INTRODUCTION AND INCORPORATION BY REFERENCE

This section establishes standards for covering services delivered to MaineCare members under the United States Centers for Disease Control and Prevention’s (CDC) National Diabetes Prevention Program Lifestyle Change Program (National DPP LCP).

All providers delivering services to MaineCare members under this section must adhere to the “Centers for Disease Control and Prevention Diabetes Prevention Recognition Program Standards and Operating Procedures,” published by the CDC on May 1, 2021 (OMB No. 0920-0909, Exp. Date: 04/30/2024), hereinafter “DPRP Standards,” and available on the CDC’s National DPP webpage at: <https://www.cdc.gov/diabetes/prevention/requirements-recognition.htm>. The DPRP Standards are hereby adopted and incorporated by reference.

71.02 DEFINITIONS

- 71.02-1 **CDC Diabetes Prevention Recognition Program Standards and Operating Procedures (DPRP Standards)** is the CDC publication, incorporated above, that describes the requirements for operating and delivering the National DPP LCP and explains how an organization may apply for, earn, and maintain CDC recognition to deliver National DPP LCP services.
- 71.02-2 **Diabetes Prevention Recognition Program (DPRP)** is the quality assurance arm of the National DPP, which identifies organizations that have demonstrated the ability to deliver the National DPP LCP to prevent type 2 diabetes.
- 71.02-3 **Lifestyle Coach** is an individual trained by a CDC-authorized entity to implement a CDC-approved curriculum designed to effect lifestyle change for preventing or delaying type 2 diabetes and provide support and guidance to participants in the National DPP LCP. The DPRP Standards contains a Lifestyle Coach position description.
- 71.02-4 **Medicare Diabetes Prevention Program (MDPP)** is the same underlying program as the National DPP LCP, but Medicare holds MDPP providers to additional requirements beyond those included in the DPRP Standards.
- 71.02-5 **National Diabetes Prevention Program (National DPP)** is a program within the CDC and established pursuant to 42 USCA § 240g-14 that works to prevent or delay type 2 diabetes.
- 71.02-6 **National Diabetes Prevention Program Lifestyle Change Program (National DPP LCP)** is an evidence-based, year-long, lifestyle behavior change program designed and overseen by the CDC that teaches participants the skills to change and maintain physical activity levels and dietary habits to prevent or delay type 2 diabetes.
- 71.02-7 **National DPP LCP Provider (Provider)** is an entity that the DPRP has awarded pending, preliminary, or full recognition to deliver the National DPP LCP and that has enrolled with MaineCare to deliver services under this section.

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71.02 DEFINITIONS (cont.)

71.02-8 **Program Coordinator** is an individual employed by a National DPP LCP Provider to serve as an organizational expert for implementing the National DPP LCP consistent with the DPRP Standards. They supervise daily operations related to the National DPP LCP and provide guidance and support to Lifestyle Coaches. The DPRP Standards contains a Program Coordinator position description.

71.03 MEMBER ELIGIBILITY

71.03-1 **General Eligibility**

Individuals must meet the eligibility and residency requirements set forth in the MaineCare Eligibility Manual, 10-144 CMR Ch. 332. Some members may have restrictions on the type and amount of services they are eligible to receive. MaineCare Providers must verify an individual's eligibility for MaineCare prior to providing services, pursuant to Chapter I, Section 1, of the *MaineCare Benefits Manual* (MBM), 10-144 CMR Ch. 101.

71.03-2 **Program Eligibility**

Providers may receive reimbursement for members participating in the National DPP LCP who meet the following criteria:

- A. The member meets the participant eligibility requirements in the current DPRP Standards (see the Appendix); and
- B. The member received a referral to enroll in the National DPP LCP from a physician or other qualified provider acting within his or her scope of practice.

Providers shall retain qualifying eligibility criteria and the referral in the member's record.

71.04 PROVIDER REQUIREMENTS

Providers shall meet all MaineCare-specific requirements and all requirements outlined in the DPRP Standards, including, but not limited to, the following criteria:

- A. Have and maintain pending, preliminary, or full recognition awarded by the DPRP;
- B. Have a Lifestyle Coach lead all National DPP LCP sessions. Lifestyle Coaches shall meet all DPRP qualifications and training standards and fulfill all responsibilities outlined in the DPRP Standards. For MaineCare auditing purposes, Providers shall retain proof of Lifestyle Coaches' approved and ongoing training for auditing purposes;
- C. Have a Program Coordinator who meets all DPRP qualifications, training, and eligibility standards. Program Coordinators shall serve both as the primary external champions of the program and as the organizational experts for program implementation consistent with the DPRP Standards;

The Department shall submit to CMS and anticipates approval for a State Plan Amendment related to these provisions.

71.04 PROVIDER REQUIREMENTS (cont.)

- D. Document each MaineCare participant's primary care provider (PCP) in the member's record and report each member's National DPP LCP participation and outcomes to their PCP no more than 60 days after the final session of the program;
- E. Deliver all National DPP LCP sessions in accordance with DPRP location and delivery standards. Providers may only deliver sessions through the delivery modes for which the CDC has authorized them;
- F. Comply with all DPRP safety and data privacy standards; and
- G. Submit evaluation data to the DPRP in accordance with DPRP Standards. To collect and track evaluation data, providers may use any type of spreadsheet or data tracking tool or any other system that meets DPRP data privacy standards.

71.05 COVERED SERVICES

The National DPP LCP is comprised of a minimum of twenty-two (22) sessions delivered over the course of one (1) rolling year. In accordance with the DPRP Standards, Providers shall use the CDC's PreventT2 Curriculum or another CDC-approved curriculum that meets DPRP curriculum requirements. The first sixteen (16) core sessions occur during the first six (6) months and the final six (6) core maintenance sessions occur monthly during the last six (6) months. Sessions include, but are not limited to, education on becoming physically active, tracking physical activity, healthy eating, tracking food, caloric balance, how to buy and cook healthy food, heart health, how to start losing weight, and how to cope with triggers of unhealthy behaviors.

Providers may deliver more than twenty-two (22) sessions in one (1) rolling year if consistent with the curriculum content in the DPRP Standards, but the Department will not reimburse for any additional sessions beyond the required twenty-two (22) sessions. Members shall not participate in more than one National DPP LCP at a time, but there is no limit to the number of times members may reenroll in a National DPP LCP. Providers shall deliver the minimum number of required sessions in accordance with any relevant updates the DPRP makes to the DPRP Standards.

71.06 POLICIES AND PROCEDURES

- A. **Enrollment.** Providers shall enroll as MaineCare providers at the organizational level. Organizations that do not have a National Provider Identification (NPI) number must obtain one through the National Plan & Provider Enumeration System to enroll.
- B. **Unenrolled Locations.** Providers that deliver sessions at one or more service locations that are not enrolled with MaineCare (unenrolled locations), such as a community center, shall retain a list of these locations that includes the dates of the first and last day, as applicable, that the Provider delivered a session at each location. Providers shall send the list to MaineCare's Section 71 provider relations specialist and shall update and resend the list prior to delivering sessions at a new unenrolled location and immediately after discontinuing delivering sessions at an unenrolled location. Providers billing for National DPP LCP sessions delivered at an unenrolled location shall use place of service code "99" on the claim.

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71.06 POLICIES AND PROCEDURES (cont.)

- C. **Family Member, Support Person, or Guardian Participation.** Providers shall allow a family member, guardian, or support person to join sessions if a member requires assistance in order to participate. Providers shall not bill for a family member, guardian, or support person who accompanies a member during sessions unless that person is also enrolled in the program and is also a MaineCare member.
- D. **Cohorts.** National DPP LCP cohorts, described in the DPRP Standards, may include non-MaineCare enrolled participants. Providers cannot bill MaineCare for delivering sessions to non-MaineCare enrolled participants.
- E. **Scales.** Providers shall provide and deliver a scale to measure weight to any participating member who reports they do not have access to and cannot obtain a scale.
- F. **Third Party Liability.** Providers enrolled with Medicare or any other primary payer to deliver the MDPP or the National DPP LCP shall bill the primary payer before billing MaineCare for National DPP LCP sessions, unless the participant has already reached their lifetime MDPP or National DPP LCP benefit maximum.
- G. **Make-up Sessions.** Providers may offer make-up sessions in accordance with DPRP Standards.

71.07 REIMBURSEMENT AND BILLING INSTRUCTIONS

71.07-1 Reimbursement Methodologies

The following reimbursement methodologies set the rates for each session and performance payment:

- A. **Session Rate.** The allowed amount for each National DPP LCP session is 100% of Medicare's current total reimbursement for all sessions without weight loss included in the MDPP divided by the total number of sessions required by the most current version of the DPRP Standards.
- B. **Performance Payment.** The allowed amount for each performance payment is 100% of Medicare's current maximum reimbursement for additional payments related to weight loss in the MDPP divided by two (2).

Specific reimbursement rates for each session and performance payment are listed on a fee schedule, which is posted on the MaineCare Health PAS Online Portal in accordance with 22 MRS § 3173-J(7).

71.07-2 Sessions

Providers shall bill 0403T for each in-person session and bill 0403T with the GT modifier for sessions delivered through telehealth, e.g. online and distance learning sessions, as

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71.07 REIMBURSEMENT AND BILLING INSTRUCTIONS (cont.)

defined in the DPRP Standards. In accordance with the number of required National DPP LCP sessions, Providers may bill 0403T for each participating member up to twenty-two (22) times within the rolling calendar year that starts from date of the first National DPP LCP session they attend. Providers that accept a transfer participant from another program may submit a prior authorization to exceed the annual limit by the number of additional sessions the member must attend to complete the program.

71.07-3 Performance Payments

Providers are eligible for two performance payments for each participating member. Providers shall record all weight measurements and HbA1C test results that justify performance payments in the member's record.

A. **First Performance Payment.** Providers may bill G9880 once for the first performance payment for each member who achieves one of the following:

1. At least 5% weight loss from the first recorded weight compared to the weight recorded at any session during months seven (7) to eleven (11); or
2. At least a 0.2% reduction in HbA1C achieved at any point during months seven (7) to eleven (11) as compared to the HbA1C level indicated by a test taken no more than twelve (12) months prior to the date of the first session.

B. **Second Performance Payment.** Providers may bill G9880 once for a second performance payment for each member who achieves one of the following:

1. At least 5% weight loss from the first recorded weight compared to the weight recorded at the twelfth month session; or
2. At least a 0.2% reduction in HbA1C achieved at any point during the twelfth month as compared to the HbA1C level indicated by a test taken no more than twelve (12) months prior to the date of the first session.

The twelfth month performance payment is billable regardless of whether the member met the minimum 5% weight loss or the minimum 0.2% reduction in HbA1C required for the first performance payment in months 7-11. Providers may bill both performance payments regardless of the number of sessions members attend, as long as the weight loss or HbA1C reduction is achieved during the applicable program month(s).

71.07-4 Billing Instructions

Providers must bill in accordance with the Department's billing instructions on the MaineCare Health PAS Online Portal.

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APPENDIX

As set forth in Section 71.03-2(A), member eligibility for services under this section is based, in part, on the member meeting the participant eligibility requirements in the DPRP Standards. As of the legal effective date of this rule, the following are the DPRP's participant eligibility requirements:

- A. All of a program's participants must be 18 years of age or older. The program is intended for adults at high risk of developing type 2 diabetes.
- B. All of a program's participants must have a body mass index (BMI) of ≥ 25 kg/m² (≥ 23 kg/m², if Asian American).
- C. All of a program's participants must be considered eligible based on either:
 - 1. A blood test result within one year of participant enrollment. Blood test results may be self-reported for CDC recognition purposes. Participants enrolled in the Medicare Diabetes Prevention Program (MDPP) cannot self-report blood test results; lab results must be provided. Blood test results must meet one of the following specifications:
 - a. Fasting glucose of 100 to 125 mg/dl (Centers for Medicare and Medicaid Services (CMS) eligibility requirement for MDPP participants is 110 to 125 mg/dl);
 - b. Plasma glucose of 140 to 199 mg/dl measured 2 hours after a 75 gm glucose load;
 - c. HbA1C of 5.7 to 6.4; or
 - d. Clinically diagnosed gestational diabetes mellitus (GDM) during a previous pregnancy (allowed for CDC recognition and may be self-reported; not allowed for MDPP participants); or
 - 2. A positive screening for prediabetes based on the Prediabetes Risk Test online at: <https://www.cdc.gov/prediabetes/takethetest/>. Note: The risk test is not an option for eligibility for MDPP participants.
- D. Participants cannot have a previous diagnosis of type 1 or type 2 diabetes prior to enrollment.
- E. Participants cannot be pregnant at time of enrollment.
- F. A health care professional may refer potential participants to the program, but a referral is not required for participation in a CDC-recognized program.*

Recognized organizations can retain participants if either of the following situations occur:

- A. Participants develop type 2 diabetes while in the program. These participants should be referred to their primary care providers for referrals to American Diabetes Association (ADA)-recognized or Association of Diabetes Care and Education Specialists (ADCES)- accredited diabetes self-management education and support (DSMES) services and other resources such as Medical Nutrition Therapy (MNT) as appropriate. See Submitting Evaluation Data to the DPRP section for details on how to code these participants to ensure they are not considered eligible in the evaluation.

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APPENDIX (cont.)

B. Participants become pregnant while in the program. The National DPP LCP emphasizes weight loss and is not appropriate for women who are currently pregnant. Participants who become pregnant may continue at the discretion of their health care providers and the CDC-recognized organization. See Submitting Evaluation Data to the DPRP section for details on how to code these participants to ensure they are not considered eligible in the evaluation.

*Pursuant to Section 71.03-2(B), MaineCare requires a referral from a physician or other qualified provider acting within his or her scope of practice for a member to participate in the National DPP LCP.