

**Summary of Public Comments and Department Responses and
List of Changes to the Final Major Substantive Rule:
10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, Ch. III,
Section 21, Allowances for Support Services for Adults with
Intellectual Disabilities or Autism Spectrum Disorder**

As part of the rulemaking process, the Maine Department of Health and Human Services (the “Department”) must solicit public comment. On August 23, 2023, the Department posted the proposed rule on the Office of MaineCare Services website, sent a provider notice, and published notice in the five (5) newspapers with the highest circulation. The Department hosted a hybrid in-person and remote via Zoom Public Hearing on September 11, 2023. Comments on the proposed changes were accepted until 11:59 pm on September 21, 2022. This document summarizes the comments that were received during this time, and the Department’s responses.

Commenters:

1. **Catherine Thibedeau**, Executive Director, Independence Advocates of Maine, Orono, ME
2. **Laura Cordes**, Executive Director, Maine Association of Community Service Providers (MACSP), Hallowell, ME

1. Commenter #1 stated that the Provider Fee Schedule for Section 29, Ch III is “not an easy thing to find on the website,” and requested that the Department “ensure that the Provider Fee Schedule is available in a simple way”. They commented: “...So when you go to the website right now you sort of go down this rabbit hold of trying to find it and everything looks like it hasn’t been updated since 2016. So I guess I would just add a request that that be specified in the rule that it’s easily accessible to the public.”

Response: The Department thanks the Commenter for this comment. All provider fee schedules can be found on the MaineCare Health PAS Online Portal website. The Health PAS Online Portal can be accessed through a simple google search, connected hyperlinks on various DHHS MaineCare provider landing pages, and the MaineCare Benefits Manual (MBM) chapter IIIs. The Department will work with its staff to ensure the provider fee schedules are easier to find and that they are updated.

2. Commenter #1 stated that the table in Ch III with the service descriptions and units of service lists some of the Shared Living Units of Service as reimbursable by the quarter-hour rather than a daily rate. The Commenter requests clarification regarding this change or a correction to the table if this change was made in error.

Response: The Department thanks the Commenter for identifying this error. As a result of this comment, the Department has amended the rate table within Appendix I of the Section 29, Ch III rule as follows:

S5140	Shared Living - One member served*	Per Diem
S5149 TG	Shared Living - One Member, Increased Level of Support*	Per Diem
S5140 UN	Shared Living - Two members served*	Per Diem
S5140 UN TG	Shared Living - Two members, Increased Level of Support*	Per Diem

3. Commenter #1 stated that the service descriptors for Community Support Services are not in the Ch III rule.

Response: The Department thanks the Commenter for this comment and for identifying this error. As a result of this comment, the Department has amended the list of *Modifiers* and *Modifier Descriptions* within Appendix I page 7 of the Section 29, Ch III rule by adding:

UA Community Only-Individual
UB Community Only-Group

4. Commenter #2 stated: “Although the concise summary for this proposed rule referenced annual COLAs and the obligation to adjust the labor costs of rates to support 125% of the state minimum wage, the language...only references the COLA. MACSP recommends referencing both state requirements 22 MRS 7402, *Essential support worker reimbursement* and 22 MRS 3173-J, *Rate Setting system for development and maintenance of sustainable efficient and value-oriented MaineCare payment models and rates* in this section.”

Response: The Department thanks and agrees with the Commenter. As a result of this comment the Department has updated 1400 (4) of the Ch III rule by including the statutory requirements for requirements for both 22 M.R.S. 7402 and 22 M.R.S. 3173-J as follows:

- “4. Annual Adjustments to Services that have a Standard Unit rate.**
- a.** Effective January 1, 2024, and every January 1st thereafter, pursuant to 22 M.R.S. 3173-J, Section 29 services that have standard unit rates, as identified in 1400(1), and that did not receive a rate adjustment within the prior twelve months, will receive an annual adjustment equal to the annual increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency.
- b.** Effective January 1, 2024, pursuant to 22 M.R.S. 7402, the Department must ensure that annual COLA increases to Section 29 rates, cited in (a) above, are sufficient to allow reimbursement for services provided by essential support workers to equal to at least 125% of the minimum wage established in 26 M.R.S. Section 664.”

5. Commenter #2 states that the Shared Living Services are incorrectly listed as ¼ hour in the table in Ch III.

Response: The Department thanks the Commenter for this comment. Please see the Department’s response to comment #2.

6. Commenter #2 stated that the UA and UB modifiers for Community Support are not included in the of *Modifiers* and *Modifier Description* key at the end of Appendix I within Chapter III.

Response: The Department thanks the Commenter for this comment. Please see the Department’s response to comment #3.

7. Commenter #2 recommends that the Department update the landing page for the *MaineCare Provider Fee Schedule* by removing or updating the dates listed (the column currently reads September 20, 2016) to “ensure direct access to the current rates”. If the 2016 column cannot be corrected, please include a note on the page directing visitors to ignore the column and to click, on the service folder to find current rates.

Response: The Department thanks the Commenter for this comment. Please see the Department’s response to comment #1.

List of Changes to the Final Rule-

1. As a result of comments, the Department corrected the *Unit of Service* for Shared Living Services from a ¼ hour unit to Per Diem consistent with the reimbursement method for Shared Living Services providers.
2. As a result of comments, the Department added the UA and UB modifiers for Community Only - Individual and Community Only - Group to the *Modifiers* and *Modifier Descriptions* listed on the page (8) of the rule.
3. As a result of comments, the Department the Department updated 1400 (4) of the Ch III rule by including the statutory requirements for 22 M.R.S. 7402 and 22 M.R.S. 3173-J.