

10-144 C.M.R. Chapter 101, MaineCare Benefits Manual
Chapter II, Section 94, Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT)

Summary of Public Comments and the Department’s Responses
And List of Changes Made to the Final Rule

The Department of Health and Human Services (Department) held a public hearing on December 8, 2023. Written and verbal comments were accepted through December 18, 2023. The Department did not receive any comments during this period.

List of Changes Made to Final Rule
Based on Comments Received and OAG Legal Review

1. The Department has decided to not adopt the proposed provision which would have added a certain group of pregnant individuals as being eligible for EPSDT services after conferring with the Office of the Attorney General. That group of pregnant individuals, also known as the “Unborn Child Option”, is eligible for services under the Maine CHIP program, but is not eligible for MaineCare services. See 67 Fed. Reg. 61974 (Oct. 2, 2002)(42 CFT Sec. 457.10, amending the definition of “child”). The Department offers medical services to the Unborn Child Option individuals under its CHIP program, see MaineCare Eligibility Manual, 10-144 CMR Ch. 332, Part 3, Section 2.3(III)(Coverage for Pregnant Individuals for the Health of Unborn Children). This modification resulted in the following changes to the adopted rule:
 - In Section 94.01, the Department replaced “who qualify for Early Periodic Screening, Diagnosis and Treatment (EPSDT) services” with the original language “under the age of twenty-one (21)” in the adopted rule.
 - In Section 94.01, the Department changed “EPSDT” back to “Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT).”
 - The Department removed Sections 94.02-1 and 94.02-2 from the Table of Contents.
 - The Department removed Section 94.02-2: “In accordance with the MaineCare Eligibility Manual, 10-144 Ch. 332 Part 3, Section 2.3, III, Coverage for Pregnant Individuals for the Health of Unborn Children, a pregnant individual of any age who is eligible for Medicaid but for noncitizen status and is covered under MaineCare’s Children’s Health Insurance Program (CHIP) is eligible for the services described in this Section.” from the adopted rule.
2. The adopted rule deletes Appendix I – Recommendations for Preventive Pediatric Health Care Committee on Practice and Ambulatory Medicine. After conferring with the Office of the Attorney General, the adopted rule provides that MaineCare has adopted the 2022 4th edition of the American Academy of Pediatrics Bright Futures Recommendations for Preventive Pediatric Health Care (Bright Futures Periodicity Schedule) and incorporates it by reference in the rule. The Bright Futures Periodicity Schedule is available online at the American Academy of Pediatrics website and upon request to the Office of MaineCare Services at <https://www.maine.gov/dhhs/oms> and a copy of such was filed with the Secretary of State’s office with this rulemaking, in accord with 5 M.R.S. 8056(B).
3. The OAG advised against using “notes” in Section 94.06-4 because it creates ambiguity as to whether the provision is enforceable or not, and therefore the Department removed the word.

4. The Department made other minor non-substantive grammatical and formatting changes as recommended in the OAG review.