Table of Contents

State/Territory Name: Maine

State Plan Amendment (SPA) #:17-0017B

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
JFK Federal Building, Government Center
Room 2275
Boston, Massachusetts 02203

Regional Operations Group / Center for Medicaid & CHIP Services

May 7, 2019

Jeanne Lambrew, Commissioner
Department of Health and Human Services
221 State Street
Augusta, Maine 04333-0011

Dear Commissioner Lambrew:

We are now ready to approve State Plan Amendment (SPA) No. ME 17-0017B. The purpose of this SPA is to amend the State's approved Title XIX State Plan to modify outpatient hospital reimbursement for outpatient hospital services in the state plan. Attached you will find an approved copy of the SPA.

This SPA is estimated to have a Federal budget savings of $1,457,602 in Federal Fiscal Year 2018 and $1,594,560 in Federal Fiscal Year 2019. This SPA is effective November 14, 2017.

If you have any questions regarding this SPA, please contact Aimee Campbell-O'Connor, Maine State Lead, at 617-565-1642, or at Aimee.Campbell-O'Connor@cms.hhs.gov.

Sincerely,

Francis T. Mccullough -S

Digitally signed by Francis T. Mccullough -S
Date: 2019.05.07 11:57:10 -04'00'

Francis T. McCullough
Director
Division of Medicaid Field Operations East (Boston)

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: 17-0017B	2. STATE Maine
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR Centers for Medicare and Medicaid Services Department of Health and Human Services	4. PROPOSED EFFECTIVE DATE November 14, 2017	

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 447	7. FEDERAL BUDGET IMPACT: a. FFY 2018: $(1,457,602) b. FFY 2019: $(1,594,560)
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: Attachment 4.19-B

10. SUBJECT OF AMENDMENT:
Hospital outpatient reimbursement

11. GOVERNOR'S REVIEW *(Check One)*:

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☒ OTHER, AS SPECIFIED: Stefanie Nadeau, Director, MaineCare Services

12. SIGNATURE OF STATE AGENCY OFFICIAL: /s/	16. RETURN TO: Stefanie Nadeau Director, MaineCare Services #11 State House Station 242 State Street Augusta, Maine 04333-0011
13. TYPED NAME: Stefanie Nadeau	
14. TITLE: Director, MaineCare Services	
15. DATE SUBMITTED: December 29, 2017	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: **12/29/2017**	18. DATE APPROVED: **5/2/2019**

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: **11/14/2017**	20. SIGNATURE OF REGIONAL OFFICIAL: /s/
21. TYPED NAME: **Francis T. McCullough**	22. TITLE: **Director, Division of Medicaid Field Operations, East**

23. REMARKS:

Outpatient Hospital Services Detailed Description of Reimbursement

Interim and Final Settlement

At interim and final settlement, the hospital will reimburse the Department for any excess payments; or the Department will reimburse the amount of any underpayment to the hospital. In either case, the lump sum payment must be made within 30 days of the date of the letter notifying the provider of the results of the interim or final settlement. If more than one year's interim or final settlement is completed in the same proceeding, the net amount must be paid. Any caps imposed on PIP payments are not applicable to the determination of settlement amounts.

Hospitals are required to file with the DHHS, Division of Audit a year-end cost report within five months from their fiscal year end. The cost report filing consists of: CMS Form 2552 or its equivalent, audited financial statements, and any other related documentation as requested by the DHHS-Division of Audit. The cost report must include applicable MaineCare utilization and a calculated balance due to/from MaineCare.

ACUTE CARE NON-CRITICAL ACCESS HOSPITALS (including rehabilitation hospitals)

1. Private Hospitals (including rehabilitation hospitals)

   a. APC Payment

   Effective July 1, 2013, the Department will reimburse hospitals 83.7% of the most recent adjusted Medicare APC rates where the APC is available, unless otherwise specified.

   The APC payment does not include hospital-based physician services. The APC payment may include, consistent with CMS standards, ancillary services such as imaging and laboratory test costs. If multiple procedures are performed, the Department pays the hospital 83.7% of Medicare's single bundled APC rate.

   APC payments are made when the member receives services in an emergency room, clinic or other outpatient setting, or if the outpatient is transferred to another hospital or facility that is not affiliated with the initial hospital where the patient received the outpatient services. If the outpatient is admitted from a hospital's clinic or emergency department, to the same hospital as an inpatient, the hospital shall be paid only a DRG-based discharge rate and will not receive an APC payment.

   An outlier payment adjustment is made to the rate when an unusually high level of resources has been used for a case. Calculations for outlier payments will follow Medicare rules and be paid at 83.7% of the Medicare payment.

   b. Fee Schedule Payments

   Effective July 1, 2012, a limited number of Current Procedural Terminology (CPT) codes do not have associated Medicare APC rates, as listed in Addendum B (see: https://www.cms.gov/medicare/medicare-fee-for-service-payment/hospitaloutpatientpps/addendum-a-and-addendum-b-updates.html). MaineCare covers certain services listed in Addendum B and pays for these services based on a fee schedule (see: https://mainecare.maine.gov/Provider%20Fee%20Schedules/Forms/Publication.aspx)

c. Payment for Non-emergent use of the Emergency Department

Hospital payment for an emergency department visit (CPT codes 99281-99285 billed with revenue codes 0450-0459), with the following primary ICD-10 codes will be paid the outpatient physician's professional evaluation and management service fee schedule rate. This will be determined by using the current physician's payment rate listed in the MaineCare Fee Schedule associated with the Emergency Department CPT code reported on the UB04 claim.

The relevant ICD 10 codes are:
J02.0; J03.00; J03.01; B97.10; B97.89; F41.9; F41.1; H10.30; H10.31; H10.32; H10.33; H10.9; H60.00; H60.01; H60.02; H60.03; H60.10; H60.11; H60.12; H60.13; H60.311; H60.312; H60.313; H60.319; H60.321; H60.322; H60.323; H60.329; H60.391; H60.392; H60.393; H60.399; H65.00; H65.01; H65.02; H65.03; H65.04; H65.05; H65.06; H65.07; H65.90; H65.91; H65.92; H65.93; H66.001; H66.002; H66.003; H66.004; H66.005; H66.006; H66.007; H66.009; H66.90; H66.91; H66.92; H66.93 ; J01.90; J01.91; J02.8; J02.9; J06.9; J20.0; J20.1; J20.2; J20.3; J20.4; J20.5; J20.6; J20.7; J20.8; J20.9; J32.9; J40; J45.20; J45.30; J45.40; J45.50; J45.21; J45.31; J45.41; J45.51; J45.20.; J45.30; J45.40; J45.50; J45.21;J45.31; J45.41; J45.51; J44.9; J44.1; J45.990; J45.991; J45.909; J45.998; J45.901; L22; L20.0; L20.81; L20.82; L20.84; L20.89; L20.9; L23.7; L24.7; L25.5; L23.9; L24.9; L25.9; L30.0; L30.2; L30.8; L30.9; M25.50; M25.511; M25.512; M25.519; M25.521; M25.522; M25.529; M25.531; M25.532; M25.539; M79.643; M79.646; M25.551; M25.552; M25.559; M25.561; M25.562; M25.569; M25.571; M25.572; M25.579; M25.50;; M54.5; M54.89; M54.9; M60.80; M60.81; M60.811; M60.812; M60.819; M60.82; M60.821; M60.822; M60.829; M60.83; M60.831; M60.832; M60.839; M60.84; M60.841; M60.842; M60.849; M60.85; M60.851; M60.852; M60.859; M60.86; M60.861; M60.862; M60.869; M60.87; M60.871; M60.872; M60.879; M60.88; M60.89; M60.9; M79.1; M79.7; M79.601; M79.602; M79.603; M79.604; M79.605; M79.606; M79.609; M79.62; M79.621; M79.622; M79.629; M79.63; M79.631; M79.632; M79.639; M79.641; M79.642; M79.643; M79.644; M79.645; M79.646; M79.65; M79.651; M79.652; M79.659; M79.66; M79.661; M79.662; M79.669; M79.671; M79.672; M79.673; M79.674; M79.675; M79.676; G93.3; R53.0; R53.1; R53.81; R58.83; R21; G44.1; R51; R05

d. Payment Window Rule

Hospitals (or an entity that is wholly owned or wholly operated by the hospital) reporting outpatient diagnostic services and admission-related outpatient non-diagnostic services that are furnished to the member during the 3 days immediately preceding the inpatient hospital admission will be reimbursed through the impatient stay. Distinct rehabilitation, psychiatric and substance abuse units of a hospital are subject to only a 1-day payment window (the 1 calendar day immediately preceding the date of inpatient hospital admission.)

The technical component of all outpatient diagnostic and clinically related non-diagnostic services that are provided by the hospital, or by an entity wholly owned or wholly operated by the hospital, are to be reported as inpatient services when the outpatient services are provided in the three (3) calendar days (or 1 calendar day if applicable) preceding an inpatient admission.

All non-clinically related, non-diagnostic services provided before admission are to be reported as outpatient services and will be reimbursed as such. All non-diagnostic services, clinically related or not, provided on the date of inpatient admission are always deemed to be related to the admission and are to be included on the inpatient claim.

Outpatient Hospital Services Detailed Description of Reimbursement

2. Public Hospitals

a. APC Payment

Third party liability payments and revenue for outpatient physician services billed and paid on CMS 1500 are subtracted from the obligation. The computed amounts are calculated as described below:

Effective July 1, 2009, the Department's total annual obligation to a hospital for outpatient services equals the lower of 83.8% of MaineCare outpatient costs or charges, plus 93.4% of emergency room hospital based physician costs plus 83.8% of non-emergency room outpatient hospital based physician costs. Costs are determined using standard cost to charge ratios, using data from the Medicare fiscal intermediary's Medicare cost reports for each fiscal year that is being settled. Charges are taken from claims data. MaineCare's share of clinical laboratory and radiology costs are added to this amount.

Ancillary costs are calculated using the cost-to-charge ratios on Worksheet D Part V Column 1, Lines 37 through 65 of the Medicare Cost Report. The physician costs are calculated using the professional remuneration from worksheet A-8-2 and worksheet A-8, the total of remuneration from a82 and a8 is then divided by total charges from worksheet C., and multiplied by the MaineCare charges for each cost center. The result is then inflated to the current year.

State-developed fee schedule rates are the same for both governmental and private providers of Clinical Laboratory and Radiology Services. The agency's fee schedule was set as of March 29, 2009 and is effective for services provided on or after that date. All rates are published at http://www.maine.gov/dhhs/audit/rate-setting/index.shtml

b. Payment for Non-emergent use of the Emergency Department

Hospital payment for an emergency department visit (CPT codes 99281-99285 billed with revenue codes 0450-0459), with the following primary ICD-10 codes will be paid the outpatient physician's professional evaluation and management service fee schedule rate. This will be determined by using the current physician's payment rate listed in the MaineCare Fee Schedule associated with the emergency department CPT code reported on the UB04 claim.

The relevant ICD 10 codes are:
J02.0; J03.00; J03.01; B97.10; B97.89; F41.9; F41.1; H10.30; H10.31; H10.32; H10.33; H10.9; H60.00; H60.01; H60.02; H60.03; H60.10; H60.11; H60.12; H60.13; H60.311; H60.312; H60.313; H60.319; H60.321; H60.322; H60.323; H60.329; H60.391; H60.392; H60.393; H60.399; H65.00; H65.01; H65.02; H65.03; H65.04; H65.05; H65.06; H65.07; H65.90; H65.91; H65.92; H65.93; H66.001; H66.002; H66.003; H66.004; H66.005; H66.006; H66.007; H66.009; H66.90; H66.91; H66.92; H66.93 ; J01.90; J01.91; J02.8; J02.9; J06.9; J20.0; J20.1; J20.2; J20.3; J20.4; J20.5; J20.6; J20.7; J20.8; J20.9; J32.9; J40; J45.20; J45.30; J45.40; J45.50; J45.21; J45.31; J45.41; J45.51; J45.20.; J45.30; J45.40; J45.50; J45.21;J45.31; J45.41; J45.51; J44.9; J44.1; J45.990; J45.991; J45.909; J45.998; J45.901; L22; L20.0; L20.81; L20.82; L20.84; L20.89; L20.9; L23.7; L24.7; L25.5; L23.9; L24.9; L25.9; L30.0; L30.2; L30.8; L30.9; M25.50; M25.511; M25.512; M25.519; M25.521; M25.522; M25.529; M25.531; M25.532; M25.539; M79.643; M79.646; M25.551; M25.552; M25.559; M25.561; M25.562; M25.569; M25.571; M25.572; M25.579; M25.50;; M54.5; M54.89; M54.9; M60.80; M60.81; M60.811; M60.812; M60.819; M60.82; M60.821; M60.822; M60.829; M60.83; M60.831; M60.832; M60.839; M60.84; M60.841; M60.842; M60.849; M60.85; M60.851; M60.852; M60.859; M60.86; M60.861; M60.862; M60.869; M60.87; M60.871; M60.872; M60.879;

M60.88; M60.89; M60.9; M79.1; M79.7; M79.601; M79.602; M79.603; M79.604; M79.605; M79.606; M79.609; M79.62; M79.621; M79.622; M79.629; M79.63; M79.631; M79.632; M79.639; M79.641; M79.642; M79.643; M79.644; M79.645; M79.646; M79.65; M79.651; M79.652; M79.659; M79.66; M79.661; M79.662; M79.669; M79.671; M79.672; M79.673; M79.674; M79.675; M79.676; G93.3; R53.0; R53.1; R53.81; R58.83; R21; G44.1; R51; R05.

Prospective Interim Payment (PIP) – Public Hospitals Only

The estimated Departmental total obligation will be calculated to determine the PIP payment using data from the fiscal year for which the most recent as-filed cost report available, inflated to the current state fiscal year. This payment is at 100% of the calculated amount.

MaineCare calculates its share of outpatient hospital based physician costs, and its obligation related to outpatient claims where there is a third party payor use data from the most recent hospital fiscal year end MaineCare as filed cost report issued by DHHS Division of Audit, which is inflated to the current state fiscal year. For those claims where there is a third party payor involved, MaineCare pays the difference between what it would have paid in the absence of a third party payment and the actual third party payment. The State does not pay more than 100% of total outpatient costs for acute care non-critical hospitals.

3. Cost Settlement -

APC payments will not be cost settled.

a. Interim Settlement

The Department of Health and Human Services' interim settlement with a hospital is calculated using the same methodology as is used when calculating the PIP, except that the data source used will be in MaineCare paid claims history as measured by the Department. Other calculations will be based on the hospital's as-filed cost report and MaineCare paid claims history for the year for which reconciliation is being performed. Interim settlements will be issued within one year from when the hospital's as-filed Medicare cost report is received.

b. Final Settlement

The Department of Health and Human Services' final settlement with a hospital is calculated using the same methodology as is used when calculating the PIP, except that the data source used will be in MaineCare paid claims history as measured by the Department. Other calculations will be based on the hospital's final cost report from the Medicare fiscal intermediary and MaineCare paid claims history for the year for which reconciliation is being performed. Final settlements will be issued within one year from when the hospital's final Medicare cost report is received.

4. Hospital Outpatient Provider-Based Departments (PBDs)

Effective November 14, 2017, items and/or services that are furnished by an off-campus hospital outpatient provider based department (PBDs) will be reimbursed at a reduced rate, proportionate to the reimbursement described in the annual CMS OPPS/ASC final rule, for non-excepted items and services.

Non-excepted does not apply to the following items and services furnished by:

a. A dedicated emergency department;
b. Remote locations of a hospital (where inpatient services are furnished) and locations that are within 250 yards of a remote location of a hospital; and
c. A location that was billing as an outpatient department of a hospital prior to November 2, 2015 (known as "excepted" locations).

ACUTE CARE CRITICAL ACCESS HOSPITALS, PRIVATE PSYCHIATRIC HOSPITALS, STATE OWNED PSYCHIATRIC HOSPITALS, HOSPITALS RECLASSIFIED TO A WAGE AREA OUTSIDE MAINE BY THE MEDICARE GEOGRAPHIC CLASSIFICATION REVIEW BOARD (MGCRB)

All calculations made in relation to acute care critical access hospitals, and effective October 1, 2006, private psychiatric hospitals, and effective August 1, 2006 Hospitals Reclassified to a Wage Area Outside Maine by the MGCRB, must be made in accordance with the requirements for completion of the Medicare Cost Report and Generally Accepted Accounting Principles, unless stated otherwise below, plus a payment for eligible hospitals.

Outpatient Hospital Services Detailed Description of Reimbursement

Department's Outpatient Obligation to the Hospital

The Department of Health and Human Services' annual outpatient obligation to the hospitals will be the sum of MaineCare's obligation of the following: outpatient services + outpatient hospital based physician costs – beneficiary payments. Third party liability payments and revenue for outpatient physician services billed and paid on CMS 1500 claims are subtracted from the obligation.

Effective July 1, 2009 this payment is capped at 109% of MaineCare outpatient costs. MaineCare's share of emergency room hospital based physician costs is reimbursed at 93.4% of cost. Other outpatient hospital based physician costs will be reimbursed at 83.8% of costs.

Prospective Interim Payment

The estimated Departmental total obligation will be calculated to determine the PIP payment using data from the fiscal year from the most recent as filed cost report available, inflated to the current state fiscal year.

Interim Volume Adjustment

The Department initiates an interim PIP adjustment under very limited circumstance, including but not limited to, restructuring payment methodology as reflected in a state plan amendment; when a hospital "changes" categories (e.g. becomes designated critical access); if and when a new population group is made eligible for MaineCare (e.g. the state is contemplating an eligibility expansion to include higher income parents); or a hospital opens or closes resulting in a redistribution of patients among facilities.

Preliminary Settlement

The Department of Health and Human Services' interim settlement with a hospital is calculated using the same methodology as is used when calculating the PIP, except that the data sources used will be the hospital's as-filed cost report and MaineCare paid claims history for the year for which reconciliation is being performed.

Final Settlement

The Department of Health and Human Services' final settlement with a hospital is calculated using the same methodology as is used when calculating the PIP, except that the data sources used will be the hospital's final cost report from the Medicare fiscal intermediary and MaineCare paid claims history for the year for which settlement is being performed.

STATE OWNED PSYCHIATRIC HOSPITALS

The Department of Health and Human Services' final obligation with a hospital is 100% of MaineCare outpatient costs. Costs are determined from standard cost-to-charge ratios using data from the final cost report issued by the Medicare fiscal intermediary and MaineCare paid claims history as measured by the Department.

Outpatient Hospital Services Detailed Description of Reimbursement

OUT-OF-STATE HOSPITALS

Reimbursement Methodology:

The department will reimburse out-of-state hospitals for outpatient services, with the exception of laboratory and imaging services, based on the lowest of the following:

1. The MaineCare rate if applicable;
2. The lowest negotiated rate with a payor whose rate the hospital provider currently accepts;
3. The hospital provider's in-State Medicaid rate;
4. A percentage of charges; or
5. A rate specified in MaineCare's contract with the hospital provider.

Reimbursement for out-of-state hospital outpatient laboratory and imaging services shall not exceed the one-hundred percent (100%) of the Medicare reimbursement rate for the Maine area ("99 locality"). Out-of-state hospitals are required to report and are subject to all applicable pricing modifiers.