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State/Territory Name: Maine

State Plan Amendment (SPA) #: 22-0039

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S3-14-28
Baltimore, Maryland 21244-1850



Financial Management Group

December 20, 2022

Michelle Probert
Director, MaineCare Services
11 State House Station
109 Capitol Street
Augusta, Maine 04333-0011

RE: State Plan Amendment (SPA) ME-22-0039

Dear Director Probert:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State Plan submitted under transmittal number (TN) 22-0039. Effective July 1, 2022, this amendment implements an add-on component to enable nursing facilities to cover labor costs for essential support workers to equal at least 125% of the state minimum wage, plus related taxes and benefits. The amendment also eliminates the requirement for base-year direct and routine aggregate costs per day to be less than the median aggregate direct and routine allowable costs for a facility's peer group, so that all facilities with MaineCare days constituting more than 80% of total days across all payers will receive a High MaineCare Utilization Payment of \$0.60 per diem for each one percentage (1%) of MaineCare days above 80%.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C.

This is to inform you that Medicaid State Plan Amendment ME-22-0039 is approved effective July 1, 2022. The CMS-179 and the plan pages are attached.

If you have any additional questions or need further assistance, please contact James Francis at 857-357-6378 or james.francis@cms.hhs.gov.

Sincerely,

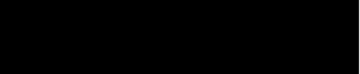


Rory Howe
Director

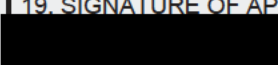
<p>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</p> <p>FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES</p>	<p>1. TRANSMITTAL NUMBER 22 0039</p>	<p>2. STATE Maine (ME)</p>
<p>TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES</p>	<p>3. PROGRAM IDENTIFICATION: TITLE <u>XIX</u> OF THE SOCIAL SECURITY ACT</p>	
<p>5. FEDERAL STATUTE/REGULATION CITATION 1905(a)(4)(A)</p>	<p>4. PROPOSED EFFECTIVE DATE 07/01/2022</p>	
<p>7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 4.19-D Pages 46 and 52(A)</p>	<p>6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)</p> <p>a. FFY <u>2022</u> \$ <u>552,019</u></p> <p>b. FFY <u>2023</u> \$ <u>2,052,530</u></p>	
<p>9. SUBJECT OF AMENDMENT Amends NF reimbursement to enable payment of at least 125% of minimum wage to essential Workers and also adjusts High MaineCare Utilization Payments in accordance with LD 684.</p>		

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT
 OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

<p>11. SIGNATURE OF STATE AGENCY OFFICIAL </p>	<p>15. RETURN TO Michelle Probert Director, MaineCare Services #11 State House Station 109 Capitol Street Augusta, Maine 04333-0011</p>
<p>12. TYPED NAME Michelle Probert</p>	
<p>13. TITLE Director, MaineCare Services</p>	
<p>14. DATE SUBMITTED 9/30/2022</p>	

FOR CMS USE ONLY	
<p>16. DATE RECEIVED 09/30/2022</p>	<p>17. DATE APPROVED December 20, 2022</p>
PLAN APPROVED - ONE COPY ATTACHED	

<p>18. EFFECTIVE DATE OF APPROVED MATERIAL 07/01/2022</p>	<p>19. SIGNATURE OF APPROVING OFFICIAL </p>
<p>20. TYPED NAME OF APPROVING OFFICIAL Rory Howe</p>	<p>21. TITLE OF APPROVING OFFICIAL Director, Financial Management Group</p>

22. REMARKS

Nursing Facility Services Detailed Description of Reimbursement

18.11 Payment for High MaineCare Utilization

Nursing Facilities that have MaineCare utilization greater than 70% of their annual total days of care will receive a payment of \$.40 per reimbursed MaineCare day for each one (1) percent over seventy (70) percent, subject to the limitations set forth below. Prospective Per

Diem Rate

The payment for High MaineCare Utilization shall be calculated as total annual MaineCare days divided by total days of care in the facility's prior year fiscal year cost report (MaineCare days/total days of care * \$.40 * per each percent over seventy percent (70%) and will be cost settled at audit. Days waiting placement (DWP) are excluded from this calculation. The payment for High MaineCare Utilization is included as part of the per diem rate.

Beginning July 1, 2019, the high MaineCare utilization payment increases to .60 cents per resident day, is not subject to cost settlement and must be retained by the facility in its entirety for any nursing facility whose MaineCare residents constitute more than eighty percent (80%) of the nursing facility's total number of residents. The high MaineCare utilization payment is calculated as described above.

Audit Cost Settlement

At the time of audit, the allowable Payment for High MaineCare Utilization shall be calculated. Days waiting placement (DWP) are excluded from this calculation.

Nursing Facilities that have MaineCare utilization greater than 70% of their annual total days of care, and that have MaineCare allowable costs for the routine and direct care components, in excess of MaineCare reimbursement for the routine and direct care components (excess MaineCare allowable costs) will receive a Payment for High MaineCare Utilization, for no more than the excess MaineCare allowable costs. Any over or under payments will be included as part of the audit settlement.

For the first cost settlement after July 1, 2014, if a Nursing Facility has a fiscal year that begins prior to July 1, 2014, the calculation of the Payment for High MaineCare Utilization will use only days of care after July 1, 2014, and rather than using the facility's total annual MaineCare days and total annual days of care, the Department will calculate the total number of days of care beginning on July 1, 2014. Intensive Rehabilitation NF Services for individuals with Acquired Brain Injury are not eligible for the High MaineCare Utilization payment.

- 18.12 **Special Wage Allowance.** Special Wage Allowance for the fiscal year 2018-2019. For the state fiscal year ending June 30, 2019, a special supplemental allowance shall be made to provide for increases in wages and wage-related benefits in both the direct care cost component and routine care cost component as follows. The allocated amount, equal to ten percent (10%), of all allowable wages and associated benefits and taxes, this does not include contract labor, as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2016 shall be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement. This supplemental allowance shall be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in that fiscal year.

Nursing Facility Services Detailed Description of Reimbursement

22.3.4. Calculation of the Direct Care Component.

The Office of MaineCare Services shall compute the direct resident care cost component for each facility as follows:

22.3.4.1. Direct care rate per day

The direct care rate per day, as determined by 22.3.3 shall be calculated by multiplying the total inflated direct care rate by the applicable case mix index for the RUG (RUG III Version 5.12.) group on the resident's active assessment (OBRA assessment).

22.3.4.2. Direct Care Add-On

The direct care rate shall be increased by 25% of the excess of the base year direct care cost inflated to six months before the start of a rebasing year over the direct care rate, as determined in 22.3.4.1 using the case mix index for the base year as the applicable case mix index for this calculation and limited to a maximum of \$15 per day. Effective 8/1/10 This direct care add-on is calculated only at the time of rebasing and is included as a direct care add-on to the direct care rate.

22.3.4.3. **Add-on to Support Essential Support Worker Wages at 125% of State Minimum Wage**

Beginning July 1, 2022, there shall be an add-on to the direct care rate as necessary to enable providers to cover labor costs for essential support workers, defined as an individual who by virtue of employment generally provides to individuals direct contact assistance with activities of daily living or instrumental activities of daily living or has direct access to provide care and services to clients, patients or residents regardless of the setting, sufficient to equal at least 125% of the minimum wage established in Title 26, section 664, subsection 1, including related taxes and benefits.

The Department will calculate the amount of the add-on based on cost reports and wage data obtained from providers every two years during the rebasing process on a template provided by the Department. There shall be no add-ons for new providers, whose rates are established using pro formas pursuant to principles 16.3, 22.3.3.1, and 22.5.

The amount of the add-on shall be adjusted annually each January 1, when the minimum wage is adjusted. The amount of the add-on will not be adjusted by the Division of Audit. However, the add-on will be reconciled at the time of the audit settlement. The reconciliation will compare the authorized amount for the add-on to the amount paid through billing. Any over or under payments identified will be settled with the audit.

22.3.4.4. The add-on will not be case mix adjusted.

Staffing Ratios

All facilities are responsible for meeting the minimum staffing ratios as outlined in 10-144, Chapter 110, Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities, Chapter

22.3.5. Direct Care Cost Settlement,

For dates of service beginning on or after July 1, facilities that incur allowable direct care costs during their fiscal year that are less than their prospective rate for direct care will receive their actual cost.

Facilities which incur allowable direct care costs during their fiscal year in excess of their prospective rate for direct care, will receive no more than the amount allowed by the prospective rate, except to the extent that the facility qualifies for High MaineCare Utilization.