

Department of Health and Human Services
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April 3, 2012

Senator Earle McCormick
Representative Meredith Strang Burgess
Members of the Joint Standing Committee on Health and Human Services
#100 State House Station
Augusta, ME 04333-0100

RE: LD 1586 and Resolve 100: Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a Major Substantive Rule of the Department of Health and Human Services

Dear Senator McCormick, Representative Strang Burgess, and Members of the Joint Standing Committee on Health and Human Services:

This letter provides a synopsis of ongoing work requested by the Committee of the Department of Health and Human Services (DHHS) in a letter to the Commissioner on January 10, 2012.

Background

The DHHS adopted amendments to the Section 40: Home Health Services rule that provided for the permanent adoption of emergency rules that were effective September 1, 2010 and October 18, 2010. Due to the fact that these are major substantive rules, the rules were reviewed and approved by the Legislature in June, 2011 (see LD 1586 and Resolve 100), incorporating several changes to the rule.

At that time, the Committee submitted a letter to DHHS Commissioner Mary Mayhew requesting that a workgroup be convened for the purposes of continuing discussions initiated during the legislative hearing. The workgroup convened during the fall of 2011 and responded to the Resolve with a report that addressed the following issues:

- Timeframe and process for MaineCare to inform providers of plan of care authorizations, references in the rules to Form CMS-485, reduction of burdens on providers;
- Language consistency;
- Review of rates; and
- Consideration of reimbursement of home care delivered through telehomecare.

A subsequent letter was issued at the beginning of 2012 (see Letter to Commissioner). Below is an excerpt from the Committee's letter to Commissioner Mayhew:

“We understand and appreciate that DHHS, the Home Care and Hospice Alliance of Maine and interested providers of home care services will continue to work this winter on the remaining identified issues: language consistency and consideration of reimbursement of homecare delivered through telehomecare.”

Meetings

There have been three Section 40 Workgroup meetings, that were held on January 23, 2012, February 7, 2012, March 19, 2012.

Participants

DHHS: Dr. Kevin Flanigan (Medical Director), Margaret Brown (Policy Writer), Derrick Grant (Policy Writer), Mike Dostie (Policy Writer), Beth Ketch (Manager Provider Relations, Claims Adjustment and Provider Enrollment), Robin Allen (Assistant Director Provider Relations), Sherry Baldwin (Provider Relations Specialist), Sue Pinette (Manager Case Mix /Classification), Colin Lindley (Finance), Laurie Bailey (Rate Setting), Matt Galletta (Project Manager)

Home Care & Hospice Alliance of Maine: Vicki Purgavie, Julie Shackley, Lisa Harvey-McPherson, Donna DeBlois, Brenda Czado, Leigh Ann Howard

During the first meeting, Alliance members continued to discuss an Issues and Recommendations document they had developed and shared their recommendations with the Department.

At the second meeting, Alliance members presented information describing how Colorado delivers telehomecare. Eastern Maine Home Care and Androscoggin Home Care & Hospice presented telehealth cost savings data and explained how this service is currently used with Medicare patients.

The third meeting was a wrap up session where the Department and the Alliance made final recommendations regarding language consistency in the Section 40 rule. Possible next steps for consideration of reimbursement of telehomecare and changes to service eligibility were discussed.

Current Status

Issue: Language Consistency

Resolution: The DHHS and Home Care & Hospice Alliance of Maine came to agreement on the majority of the language consistency questions. There are plans to include corrections in the next rulemaking which will address the language questions in Section 40.

The Home Care & Hospice Alliance of Maine also raised eligibility criteria questions and suggestions. DHHS viewed eligibility standards as extending beyond the scope of this Resolve; however, the Department has made plans to work with the group to review medical eligibility for Home Health Services. Such changes may require a State Plan Amendment. The Department will initiate proposed rule changes this calendar year to correct language inconsistencies.

Issue: Consideration of reimbursement of home care delivered through telehomecare

Resolution: The Home Care & Hospice Alliance of Maine agreed to develop and suggest specific criteria including draft policy standards by which telehomecare could be delivered. The Home Care & Hospice Alliance of Maine also agreed to present case scenarios at a future session using literature from the State of Colorado as a basis. Discussion of a pilot project began and will be continued.

The workgroup will continue to meet as requested by the Committee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary C. Mayhew", with a long, sweeping flourish extending to the right.

Mary C. Mayhew
Commissioner

MCM/klv

PLEASE NOTE: Legislative Information *cannot* perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a Major Substantive Rule of the Department of Health and Human Services

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Adoption. Resolved: That final adoption of portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made:

1. That portion of the rule concerning psychotropic medications is amended to correct references to persons who receive in-home psychotropic medications; and
2. That portion of the rule concerning face-to-face encounters between a member and the member's physician is amended to require documentation of the face-to-face encounter only at the start of care.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SENATE

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MARGARET M. CRAVEN, District 16

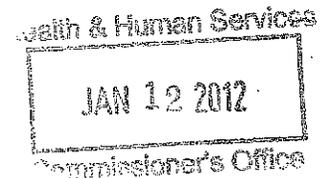
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State of Maine
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES



January 10, 2012

Mary Mayhew, Commissioner
Department of Health and Human Services
221 State Street
Augusta, ME 04330

Re: LD 1586, Resolve to review MaineCare reimbursement home health services major substantive rules

Dear Commissioner Mayhew:

The Health and Human Services Committee has just completed review of the report of the Department of Health and Human Services related to progress on the issues related to home care identified by the committee during consideration of LD 1586. We thank DHHS for the report and Patti Dushuttle and Vicki Purgavie for presenting it to the HHS Committee.

We understand and appreciate that DHHS, the Home Care and Hospice Alliance of Maine and interested providers of home care services will continue to work this winter on the remaining identified issues: language consistency and consideration of reimbursement of home care delivered through telehomecare.

The Health and Human Services Committee requests a report back to the committee by March 31, 2012. Thank you.

Sincerely,

Handwritten signature of Earle L. McCormick in cursive.

Sen. Earle L. McCormick
Senate Chair

Handwritten signature of Meredith N. Strang Burgess in cursive.

Rep. Meredith N. Strang Burgess
House Chair

cc: Members, Health and Human Services Committee
Vicki Purgavie, Home Care and Hospice Alliance of Maine