

Janet T. Mills  
Governor

Jeanne M. Lambrew, Ph.D.  
Commissioner



Maine Department of Health and Human Services  
Commissioner's Office  
11 State House Station  
109 Capitol Street  
Augusta, Maine 04333-0011  
Tel: (207) 287-3707; Fax: (207) 287-3005  
TTY: Dial 711 (Maine Relay)

## MEMORANDUM

**TO:** Joint Standing Committee on Health and Human Services  
**FROM:** Maine Department of Health and Human Services  
**DATE:** March 14, 2022  
**RE:** Additional Information on Supplemental Budget & Section 21 Rates

At the work session on March 10, the initiative for Part AAAA was tabled with additional information sought on the methodology for Section 21 agency rates.

**Outline of the Methodology:** The table below compares, in the order of the columns, the methodologies for the Section 21 agency home supports rates in effect on (1) June 30, 2020, (2) July 1, 2021 with the implementation of the updated methodology and inputs, (3) January 1, 2022 with the implementation of the biennial budget and passage of the supplemental budget. As can be seen in the table, the updated rate reflects information that is not 15 years old.

Rate Model Components	6/30/20 rate	7/1/21 rate	1/1/22 rate (assuming passage of supplemental)
Hours per member per week	2007 data	Median 2020 hours of service provided	Median 2020 hours of service provided
Direct Staff Hourly Wage & Benefits	2007 base data, adjusted by legislated % increases	118% 2021 minimum wage	125% 2022 minimum wage
Program Support Costs	2007 provider data, adjusted by legislated % increases	2015 provider data, adjusted for inflation	2015 provider data, adjusted for inflation
- Administration Percent		From other 2019, 2020 HCBS rate studies	From other 2019, 2020 HCBS rate studies

**Changes with the Biennial Budget and Supplemental Budget as Proposed:** In a [blog posted this morning](#), the Department announced it is spending an additional \$4 million on home- and community-based bonus payments that providers will receive this week. The blog also highlighted the significant increase in payments for Section 21 services. Highlights include:

- The Governor's biennial budget proposed **\$53.2 million** in federal and state funds to implement current, data-supported rate studies on July 1, 2021 for Section 21 services. The addition of LD 1573 to the biennial budget, which raises rates with the intent of supporting 125 percent of minimum wage, added **\$15.6 million**.

- To fully implement the minimum wage policy (Part AAAA) and to accelerate the cost-of-living adjustment, the Governor’s supplemental budget would add **\$46.4 million** for Section 21 payment rates.
  - This is triple the amount included in the biennial budget for the rate increase to support 125 percent of minimum wage.
  - Section 21 services would receive nearly half of the \$100 million in the supplemental budget initiatives for Part AAAA and COLA changes.
  - If enacted, Section 21 would receive an increase of **\$115.2 million** in this biennium.
- Spending on Section 21 would increase by an estimated **18.4 percent** between fiscal years 2020 and 2023 should the supplemental budget be enacted – not counting the HCBS bonus payments.
- No payment rates per unit of discrete services covered under Section 21 have been cut, and the rates for commonly utilized services would increase by as much as 48.8 percent from June 30, 2020 to July 1, 2022 if the supplemental budget were enacted.

**Support for Settings Rule Implementation:** The Department recognizes that Section 21 providers are experiencing administrative and remediation costs as they work to comply with the HCBS settings rule. CMS has already approved \$2.4 million in our Section 9817 HCBS system improvement plan for this purpose, and we recently requested CMS approval to increase the amount to **\$4 million**. At a recent listening session with providers, there was broad support for distributing these funds to all providers subject to the rule on a formula basis. Now that the bonus payments have been implemented, this is the Department’s highest priority in the Section 9817 plan.

**Opposition to an Amendment:** The Department of Health and Human Services opposes legislating dollar amounts without data-based justification into MaineCare rates, including for Section 21 home agency supports rates. Given that no actuary would support reverting to a 2007 base when newer information is available, this also puts MaineCare at risk of not receiving Federal approval for Section 21 rate changes, which would mean the loss of Federal matching payments which would cut payments by nearly two-thirds.

The Department also opposes applying the COLA and Part AAAA rate increases to the specific rates described above. Rates would have gone down per the rate study for these services, but the Department is instead maintaining them at their current levels. Even when the COLA and the 125 per minimum wage provisions were applied to the recommended rates from the updated rate study, the results were less than current rates that the Department pays. Applying a COLA on top of the current rates would effectively give these rates more than a double COLA advantage relative to their demonstrated costs of service provision, unlike all other rates in MaineCare developed through recent rate studies.