

DIVISION OF HEALTH CARE FINANCE AND POLICY

Commonwealth of Massachusetts  
Executive Office of Health and Human Services

NOTICE OF PUBLIC HEARING

Pursuant to the provisions of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the Executive Office of Health and Human Services (EOHHS) will hold a public hearing on Friday, September 13, 2019, at 10:00 a.m., in the First Floor Conference Room, 100 Hancock Street, Quincy, MA relative to the adoption of:

**101 CMR 355.00: Rates for Freestanding Birth Center Services**

and the repeal of:

**114.3 CMR 55.00: Freestanding Birth Center Services**

These actions are being taken in order to comply with c. 224 of the Acts of 2012, which transferred authority for this regulation from the Division of Health Care Finance and Policy in M.G.L. c. 118G to the Executive Office of Health and Human Services (EOHHS) in M.G.L. c. 118E. New 101 CMR 355.00 replaces, with amendments, 114.3 CMR 55.00 as the regulation governing the rates of payment used by state governmental units for freestanding birth center services provided by eligible freestanding birth centers.

The proposed regulation contains changes and updates from the current rates established for freestanding birth center services under 114.3 CMR 55.00. The proposed rates are established at 50% of the inpatient hospital RY2019 case-mix weighted rates, with a malpractice add-on applied. The proposed regulation also removes or updates outdated citations, updates terminology, enhances consistency with other EOHHS regulations, and otherwise increases clarity.

EOHHS is proposing this regulation and amendments to ensure that payment rates are consistent with efficiency, economy, and quality of care and to satisfy the requirements of M.G.L. 118E, sections 13C and 13D. EOHHS anticipates no increase in the annual aggregate state expenditures as a result of these amendments. There is no fiscal impact on cities and towns. The amendments do not impose new costs on small businesses; the impact on small business providers will vary based on the volume of services provided.

The proposed regulation is planned to go into effect no sooner than February 1, 2020.

Individuals who notify EOHHS of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers may notify EOHHS of their intention to testify at the hearing by registering online at [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings). Individuals may also submit written testimony by emailing [ehs-regulations@state.ma.us](mailto:ehs-regulations@state.ma.us). Please submit electronic testimony



as an attached Word document or as text within the body of the email with the name of the regulation in the subject line. All submissions must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. Written testimony must be submitted by 5:00 p.m. on Friday, September 13, 2019. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care.

All persons desiring to review the current draft of the proposed actions may go to [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings) or request a copy in writing or in person from MassHealth Publications, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at [ADAaccommodations@state.ma.us](mailto:ADAaccommodations@state.ma.us) or by phone at 617-847-3468 (TTY: 617-847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a revised version of the proposed actions taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings).

August 23, 2019

### Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

**CMR No: 114.3 CMR 55.00: Freestanding Birth Center Services (rescission)**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Currently, there are no freestanding birth centers in Massachusetts.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The amendments to the regulation update rates for providers and do not require small businesses to create, file, or issue additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? Small businesses will not have to implement additional recordkeeping procedures.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? Small businesses will not have to provide additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? Small businesses will not have to hire additional employees in order to comply with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Small businesses are not required to hire other professionals to comply with the regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? Small businesses are not required to purchase a product or make any other capital investments in order to comply with the regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) The objective of the amendments to the regulation is to update payment rates for the regulated party. Performance standards are not more appropriate than design or operational standards.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulatory amendments do not require cooperation with additional audits, inspections, or other regulatory enforcement activities.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulatory amendments do not require small businesses to provide educational services to keep up

		with regulatory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The regulatory amendments update rates for providers and are unlikely to deter or encourage the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulatory amendments update rates for providers and are unlikely to deter or encourage the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not distinguish between small and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not distinguish between small and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulation does not distinguish between small and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? Distinguishing small businesses from other businesses would not be practicable for this regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? Alternative regulatory methods are not needed since there are no adverse impacts on small businesses.