

DIVISION OF MEDICAL ASSISTANCE

Commonwealth of Massachusetts
Office of Medicaid

NOTICE OF PUBLIC HEARING

Pursuant to the authority of M.G.L. c. 6A, s. 16 and in accordance with M.G.L. c. 30A, a public hearing will be held on September 13, 2019, at 12:00 p.m. in the First Floor Conference Room, 100 Hancock Street, Quincy, MA relative to the adoption of:

130 CMR 422.000: Personal Care Services

130 CMR 422.000 governs MassHealth providers of personal care attendant (PCA) services and provides program requirements and conditions of payment for the provision of personal care attendant services to MassHealth members, and also governs certain administrative functions performed by personal care management agencies and fiscal intermediaries in the PCA program.

The proposed amendments to 130 CMR 422.000 update and clarify certain requirements of the MassHealth personal care attendant (PCA) program. Specifically, the proposed amendments would:

- Permit evaluations and re-evaluations for PCA services to be reviewed, approved, and signed by the Member's physician, nurse practitioner, or physician's assistant instead of requiring that PCA services first be ordered or prescribed by the member's physician.
- Permit re-evaluations of a member's eligibility to receive PCA services to be conducted by licensed practical nurses.
- Permit members to designate an administrative proxy when they require assistance with performing administrative functions related to management of PCA services.
- Require assessments of surrogates' and administrative proxies' abilities to manage PCA services on behalf of members receiving PCA services.
- Update the description of activities of daily living (ADLs).
- Incorporate technical corrections to accurately reflect the role of personal care management agencies and fiscal intermediaries in the MassHealth PCA program in performing certain administrative functions.
- Reference requirements for types of functional skills trainings to be performed by personal care management agencies.
- Clarify when review of a member's service agreement is required.
- Make technical corrections and updates to the definitions to align with program updates.

The proposed regulation is planned to go into effect no sooner than January 1, 2020. There is no fiscal impact on cities and towns.

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/masshealth-public-hearings-0. Individuals may also submit written testimony by emailing masshealthpublicnotice@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, 6th Floor, Quincy, MA 02171. Written testimony must be submitted by 5:00 p.m. on September 13, 2019.

All persons desiring to review the current draft of the proposed actions may go to www.mass.gov/service-details/masshealth-public-hearings-0 or request a copy in writing or in person from MassHealth Publications, 100 Hancock Street, 6th Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at 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.

MassHealth 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/masshealth-public-hearings-0.

August 23, 2019

Small Business Impact Statement <i>(As required by M.G.L. c. 30A §§ 2, 3 & 5)</i>		
CMR No: 130 CMR 422.000 – Personal care attendant services		
Estimate of the Number of Small Businesses Impacted by the Regulation: 32,000 personal care attendant service providers		
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? No. This regulation does 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? No. This regulation does not require small businesses to implement additional recordkeeping procedures.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. Small businesses are not required by this regulation to provide additional administration oversight as a result of the proposed amendments to this regulation.
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? No. This regulation does not require small businesses to hire additional employees to remain in compliance.
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.)? No. Small businesses are not required by this regulation to hire other professionals.
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? No. This regulation does not require small businesses to purchase any particular product or make any capital investments.
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.) No. The purpose of the regulation is to provide program requirements and conditions of payment for the provision of personal care attendant services to MassHealth members.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No regulations duplicate or conflict with this regulation.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? Yes. This regulation requires personal care management agencies to submit documentation requested by MassHealth for purposes of utilization and review to ensure compliance with MassHealth requirements for the provision of personal care management functions. This requirement is applied uniformly among all such organizations to maintain consistency in the functions performed by these organizations for MassHealth members.

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? No. This regulation does not require small businesses to provide educational services to keep up to date with the 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? No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation governs MassHealth providers of personal care attendant services and provides program requirements and conditions of payment for the provision of personal care attendant services to MassHealth members, and is applied uniformly among all such MassHealth providers.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation governs MassHealth providers of personal care attendant services and provides program requirements and conditions of payment for the provision of personal care attendant services to MassHealth members, and is applied uniformly among all such MassHealth providers.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. This regulation requires providers of personal care attendant services to submit documentation requested by MassHealth for purposes of utilization and provider review to ensure compliance with MassHealth requirements, and is applied uniformly among all such MassHealth providers.
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? No. This regulation requires providers of personal care attendant services to submit documentation requested by MassHealth for purposes of utilization and provider review to ensure compliance with MassHealth requirements, including the timelines for reporting, and is applied uniformly among all such MassHealth providers.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. This regulation requires providers of personal care attendant services to submit documentation requested by MassHealth for purposes of utilization and provider review to ensure compliance with MassHealth requirements, including the timelines for reporting, and the regulation is applied uniformly among all such MassHealth providers.
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? No. This regulation establishes uniform program requirements and conditions of payment for the provision of personal care attendant services to MassHealth members. These requirements are applied uniformly to all MassHealth providers of personal care attendant services to maintain consistency in the care provided to MassHealth members.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. This regulation governs MassHealth providers of personal care attendant services and provides program requirements and conditions of payment for the provision of personal care attendant services to MassHealth members, and is applied uniformly among all such MassHealth providers.