

Commonwealth of Massachusetts
Executive Office of Health and Human Services

NOTICE OF PUBLIC HEARING

Pursuant to the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, a remote public hearing will be held on Friday, February 24, 2023, at 9:30 a.m. relative to the adoption of:

101 CMR 350.00: Rates for Home Health Services

Summary of Proposed Regulation

The proposed amendments to 101 CMR 350.00 update payment rates used by state governmental units for home health services delivered by eligible home health agency providers to publicly aided individuals in accordance with M.G.L. c. 118E, Section 13D, which requires the Executive Office of Health and Human Services (EOHHS) to establish rates by regulation for health care services to be paid by governmental units. Specifically, the proposed amendments to 101 CMR 350.00 adopt rates for home health services established in 101 CMR 453.00: *Enhanced Rates for Certain Home- and Community-Based Services Related to Section 9817 of the American Rescue Plan Act* into 101 CMR 350.00. Additional proposed amendments to 101 CMR 350.00 include the following increases from fiscal year 2022 base spending: 2.27% for all skilled nursing services, including nursing services provided in the first 30 calendar days of service, those provided on or after the 31st calendar day of service, and medication administration visits; 22.8% for home health aide services; and 18.5% for all home health therapy services, including physical therapy, occupational therapy, and speech and language pathology.

The proposed amended regulation contains rates effective for dates of service on or after July 1, 2023. The estimated annual fiscal impact of the proposed amendments is an \$8.9 million increase over fiscal year 2022 base spending. There is no fiscal impact on cities and towns.

To register to testify at the hearing and to get instructions on how to join the hearing online, go to www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings. To join the hearing by phone, call (646) 558-8656 and enter meeting ID 935 397 8200# when prompted.

You may also submit written testimony instead of, or in addition to, live testimony. To submit written testimony, please email your testimony to ehs-regulations@mass.gov as an attached Word or PDF document or as text within the body of the email with the name of the regulation in the subject line. All written testimony 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 will be accepted through 5:00 p.m. on February 24, 2023. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care.

To review the current draft of the proposed actions, go to www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings or request a copy in writing 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@mass.gov 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.

January 6, 2023

| Small Business Impact Statement <i>(As required by M.G.L. c. 30A §§ 2, 3 & 5)</i> | | |
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| CMR No: 101 CMR 350.00 | | |
| Estimate of the Number of Small Businesses Impacted by the Regulation: 30 home health agency 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. Small businesses will not have to create, file, or issue additional reports as a result of the proposed amendments to 101 CMR 350.00. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Will small businesses have to implement additional recordkeeping procedures? No. Small businesses will not have additional responsibilities to keep records as a result of the proposed amendments to 101 CMR 350.00. |
| 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 101 CMR 350.00 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? No. 101 CMR 350.00 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 101 CMR 350.00 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. 101 CMR 350.00 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 proposed amendments is to establish the rates to be paid by governmental units for health care services in accordance with M.G.L. c. 118E, §13D. The proposed amendments to the regulation are in accordance with the statutory requirement. |
| 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. The regulation requires providers to periodically file cost data and is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers. |

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| 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. 101 CMR 350.00 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, since it establishes a time-limited rate add-on for certain home- and community-based services (HCBS). |
| 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 encourage the formation of small businesses in Massachusetts, since it establishes a time-limited rate add-on for certain HCBS. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. The regulation does not provide for a less stringent compliance or reporting requirement for small businesses, since it is in accordance with the statutory requirement. |
| 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. The regulation does not provide for a less stringent schedule or deadlines for compliance or reporting requirements for small businesses, since it is in accordance with the statutory requirement. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. These requirements are applied uniformly to maintain consistency in the care provided to MassHealth members. |
| 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. These requirements are applied uniformly 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. These requirements are applied uniformly to maintain consistency in the care provided to MassHealth members. |