

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 10, at 10:00 a.m. relative to the adoption of amendments to:

101 CMR 309.00: Rates for Certain Services for the Personal Care Attendant Program

Summary of Proposed Regulation

101 CMR 309.00 governs the rates of payment to be used by governmental units for certain services for the personal care attendant program. MGL c 118E, sections 13C and 13D, require EOHHS to establish by regulation rates for health care services and social service programs to reimburse for costs incurred by efficient and economically operated providers. The proposed amendments to 101 CMR 309.00 satisfy those requirements. Specifically, the proposed amendments increase certain rates for Personal Care Management (PCM) functions by 10% to maintain the existing enhanced rates pursuant to 101 CMR 453.00: Enhanced Rates for Certain Home- and Community-Based Services Related to Section 9817 of the American Rescue Plan Act, which would otherwise expire July 1, 2023, and as adequate to reimburse for costs incurred by efficient and economically operated providers. The proposed amendments also include clarifications to the provision containing reference to rates for Personal Care Attendant (PCA) services.

The estimated annualized fiscal impact of the proposed rate amendments to PCM rates is \$2,106,779, which represents an increase of 10% relative to the current rates described in 101 CMR 309.00. The estimated annualized fiscal impact based on the enhanced rates as described above is \$0 over FY2022 spending of \$21.1M. There is no fiscal impact from the clarifications to the PCA services rate provision.

The proposed amended regulation contains rates effective for dates of service on or after July 1, 2023. 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 Friday, February 10, 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 final, revised version of the proposed action 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 11, 2023

Small Business Impact Statement

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

CMR No: 101 CMR 309.00: Rates for Certain Services for the Personal Care Attendant Program

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. This regulation does not require small businesses to provide additional administration oversight as a result of the proposed amendments.
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 compliant.
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. This regulation does not require small businesses 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 regulation is required by statute under M.G.L. Chapter 118E, § 13D, and establishes the rates to be paid by governmental units to providers of personal care management (PCM) functions.
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 to enable EOHHS to develop rates for certain social service programs. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers.

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, since it establishes rates at which providers of PCM functions are to be paid when governmental units purchase services.
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, since it establishes rates at which providers of PCM functions are to be paid when governmental units purchase services.
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 contains requirements to report cost data to EOHHS to enable EOHHS to develop rates for certain PCM functions. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all 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. The regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates for certain PCM functions. The timeframe for cost reporting is applied uniformly to all providers to enable EOHHS to develop accurate rates in a timely manner that reflect cost data from all providers.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The agency did not consolidate or simplify compliance or reporting requirements for small businesses. The requirement to report cost data to EOHHS is applied uniformly to enable EOHHS to develop accurate rates in a timely manner that reflect cost data from all 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. The establishment of rates for certain providers of PCM functions by regulation is a statutory requirement under M.G.L. Chapter 118E, § 13D.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. The regulation does not have an adverse impact on small businesses. The regulation establishes rates by which certain providers of PCM functions are to be paid when governmental units purchase services. The establishment of rates for these PCM functions by regulation is a statutory requirement under M.G.L. Chapter 118E, § 13D.