

Commonwealth of Massachusetts
Division of Medical Assistance

NOTICE OF PUBLIC HEARING

Pursuant to the authority of M.G.L. c. 6A, section 16, and in accordance with M.G.L. c. 30A, the Division of Medical Assistance (the Division) will hold a remote public hearing will be held on February 10, 2023, at 11:00 a.m. relative to the adoption of amendments to:

130 CMR 422.000: Personal Care Attendant Services

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

- Enhance flexibility of utilization requirements by enabling Consumers to schedule PCA hours on a weekly basis; and
- Enable the flexibility for Personal Care Management (PCM) agencies to use licensed practical nurses for initial evaluations.

The proposed revisions will not change or affect the total amount of hours of personal care services a member is authorized to receive. The proposed amendments promote the effective operation of the MassHealth PCA program. There is no fiscal impact related to these proposed amendments.

The proposed regulation is planned to go into effect no sooner than August 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/masshealth-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 masshealthpublicnotice@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 10, 2023. The Division of Medical Assistance (the Division) 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/masshealth-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.

The Division 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.

January 11, 2023

Small Business Impact Statement

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

CMR No: 130 CMR 422.000: Personal Care Attendant Services

Estimate of the Number of Small Businesses Impacted by the Regulation: 40,000 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.