

**Commonwealth of Massachusetts  
Executive Office of Health and Human Services**

**NOTICE OF PUBLIC HEARING**

Under the authority 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 remote public hearing on Monday, May 20, 2024 at 11:00 a.m. relative to the adoption of amendments to the following regulation.

**101 CMR 343.00: Rates for Hospice Services**

The proposed regulation contains rates effective for dates of service on or after October 1, 2023. There is no fiscal impact on cities and towns.

Pursuant to M.G.L. c. 118E, s. 13D, the Executive Office of Health and Human Services (EOHHS) is required to biennially establish rates for non-institutional health care services, which includes hospice services provided under the MassHealth program. Additionally, the Centers for Medicare & Medicaid Services (CMS) annually sets the minimum Medicaid hospice rates, which are to be effective on October 1 of each year, and which EOHHS uses as the base rates.

EOHHS has reviewed CMS' Hospice Wage Index and Payment Rate Update for Federal FY 2024 and has applied CMS methodology to the previous rate period for MassHealth Hospice rates. The percentage change in individual rates between the previous rate period ending September 30, 2023, and this year range from 1.84% to 5.03% for both compliant and noncompliant rates.

Pursuant to 101 CMR 343.04(3)(b), the rates for hospice services were previously updated via Administrative Bulletin 24-05, and in accordance with CMS-required changes to these rates. The estimated aggregate annual fiscal impact for MassHealth is an increase of \$183,597 (2.84%), assuming all providers are compliant, and \$182,853 (2.88%), assuming all providers are noncompliant.

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](http://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](mailto: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, 6<sup>th</sup> Floor, Quincy, MA 02171. Written testimony will be accepted through 5:00 p.m. on May 20, 2024. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care for MassHealth-covered services.

To review the current draft of the proposed regulation, 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 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@mass.gov](mailto: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 regulation 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).

April 26, 2024

## Small Business Impact Statement

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

**CMR No: 101 CMR 343.00**

**Estimate of the Number of Small Businesses Impacted by the Regulation: 40**

**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 this regulation.
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 this regulation.
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 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. 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. M.G.L. c. 118E, s. 13D, requires EOHHS to biennially establish rates for noninstitutional health care services via regulation. Additionally, CMS annually sets the minimum rates for Medicaid hospice services, to be effective October 1 of each year. The proposed amendments to this regulation are in accordance with these requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No. While CMS sets the minimum rates for hospice services, there are no federal regulations that establish the rates of payment to be paid to providers of hospice services under the MassHealth program.

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>Yes. Per the Center for Health Information and Analysis (CHIA) regulation 957 CMR 6.00, hospice providers are Type III and hospice providers are required to file cost-related data only upon request. Additionally, Medicare requires hospice providers to file quality related data.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>No. This regulation does not require small businesses to provide educational services to keep up to date with the regulatory requirements.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates to be paid for hospice services under the MassHealth program.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates to be paid for hospice services under the MassHealth program.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>No. The regulation contains requirements to report cost data to CHIA. This cost-reporting requirement is applied uniformly to all hospice service providers.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>No. The regulation contains requirements to report cost data to CHIA. This time frame for cost reporting is applied uniformly to all hospice providers.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p> <p>No. The agency did not consolidate or simplify compliance or reporting requirements for small businesses. The requirement to report cost date to CHIA is applied uniformly to all hospice providers.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>No. M.G.L. c. 118E, s. 13D, requires EOHHS to biennially establish rates for noninstitutional health care services via regulation. Additionally, CMS annually sets the minimum rates for Medicaid hospice services, to be effective October 1 of each year. The proposed amendments to this regulation are in accordance with these requirements.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>No. M.G.L. c. 118E, s. 13D, requires EOHHS to biennially establish rates for noninstitutional health care services via regulation. Additionally, CMS annually sets the minimum rates for Medicaid hospice services, to be effective October 1 of each year. The proposed amendments to this regulation are in accordance with these requirements.</p>