

**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 Friday, July 7, 2023, at 11 a.m. relative to the adoption of amendments to the following regulation.

101 CMR 323.00: Rates for Hearing Services

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

Under M.G.L. Chapter 118E, Section 13D, the Executive Office of Health and Human Services (EOHHS) is required to establish and periodically review the rates to be paid by governmental units for non-institutional health care services, including rates of payment for hearing services. EOHHS performed a review of the payment rates set forth in 101 CMR 323.00 and proposes to increase certain hearing services rates by a prospective cost adjustment factor (CAF) of 2.71%. For hearing services that currently have rates established as adjusted acquisition cost (AAC) plus mark-up, the mark-up will be increased by 2.71%. Dispensing fees covered under the regulation will be increased by an additional 5% administrative adjustment. Certain bone-anchored hearing aid (BAHA) services (procedure codes L8691, L8693, and L8694) will be set at 100% of the corresponding Medicare January 2023 rates. The rate for the remaining BAHA service (procedure code L8692) will be set at individual consideration (I.C.). All other rates are proposed to remain at their current levels.

The estimated aggregate annual fiscal impact of the proposed amendments is \$212,000. The amendments are not anticipated to impose new costs on small businesses, and any impact on small business providers will vary based on the volume of services provided.

EOHHS is making these changes, subject to federal approval, to ensure that payments are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities, and to ensure that payment rates are consistent with efficiency, economy, and quality of care.

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 July 7, 2023. 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 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 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.

June 9, 2023

Small Business Impact Statement

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

CMR No: 101 CMR 323.00: Rates for Hearing Services

Estimate of the Number of Small Businesses Impacted by the Regulation: 61 hearing instrument specialists, 144 audiologists, and 24 acute outpatient hospitals in Massachusetts providing hearing services.

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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. Small businesses will not have 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 will not have 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. Small businesses will not have to hire additional employees in order to comply with the proposed regulation.
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 to hire other professionals to comply with the regulation.
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. Small businesses are not required to purchase a product or make any other capital investments in order to comply with the regulation.
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 MGL Chapter 118E Section 13C and establishes the rates to be paid by governmental units to providers of non-institutional health care services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No. No other regulations duplicate or conflict with the proposed 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 continues to require providers to periodically comply with audits, inspections, and other regulatory activities.
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. The regulatory amendments do not require small businesses to provide educational services to keep up with 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 unlikely to deter or encourage the formation of small businesses in Massachusetts as this regulation governs payments for hearing services provided to publicly aided individuals and is applied uniformly among 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 unlikely to deter or encourage the formation of small businesses in Massachusetts as this regulation governs payments for hearing services provided to publicly aided individuals and is applied uniformly among 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 to submit documentation requested by the Commonwealth for purposes of utilization and provider review to ensure compliance with requirements, including the timelines for reporting, and the regulation is applied uniformly among 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. This regulation requires providers to submit documentation requested by the Commonwealth for purposes of utilization and provider review to ensure compliance with requirements, including the timelines for reporting, and the regulation is applied uniformly among 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. This regulation requires providers to submit documentation requested by the Commonwealth for purposes of utilization and provider review to ensure compliance with requirements, including the timelines for reporting, and the regulation is applied uniformly among 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 regulation establishes uniform conditions of payment for the provision of services to publicly aided individuals. These requirements are applied uniformly to maintain consistency in the care provided to publicly aided individuals.
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 and governs payments for hearing services provided to publicly aided individuals and is applied uniformly among providers.