

**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 two remote public hearings on Friday, August 23, 2024, at the respective times listed below, relative to the adoption of amendments to the following regulations.

1. 9:00 a.m.: 101 CMR 414.00: Rates for Family Stabilization Services

The proposed amended regulation contains rates effective for dates of service on or after January 1, 2024. There is no fiscal impact on cities and towns.

101 CMR 414.00 governs the payment rates for family stabilization services provided to publicly aided individuals by governmental units. These services are purchased by the Department of Developmental Services (DDS), the Massachusetts Commission for the Blind (MCB), the Department of Children and Families (DCF), and the Department of Mental Health (DMH).

Pursuant to M.G.L. Chapter 118E, Section 13D (f/k/a Chapter 257 of the Acts of 2008), EOHHS is required to establish by regulation and biennially review the rates to be paid by governmental units for social service programs. In accordance with this statutory requirement, the proposed amendment replaces an MCB service that was erroneously deleted in the previous promulgation and updates the rate for that one service.

The total estimated FY24 annualized cost to state government from the one increased rate in this proposed amendment is \$6,547, which represents an increase of 20% over FY23 spending of approximately \$32,723. The FY24 fiscal impact to state government will be approximately \$3,274 for the increase to the one existing rate. The increase in spending in FY24 will be covered through a combination of the Chapter 257 Reserve Account and the purchasing agency's FY24 budget.

2. 10:00 a.m.: 101 CMR 411.00: Rates for Certain Placement, Support, and Shared Living Services

The proposed amended regulation contains rates effective for dates of service on or after July 1, 2024. There is no fiscal impact on cities and towns.

101 CMR 411.00 governs the rates paid by governmental units for certain placement, support, and shared living services provided to publicly aided individuals. Services with rates established by this regulation are purchased by the Department of Children and Families (DCF), the Department of Youth Services (DYS), the

Department of Developmental Services (DDS), the Massachusetts Rehabilitation Commission (MRC), and the Massachusetts Commission for the Blind (MCB).

Pursuant to M.G.L. Chapter 118E, Section 13D (f/k/a Chapter 257 of the Acts of 2008), EOHHS is required to establish by regulation and biennially review the rates to be paid by governmental units for social service programs, which includes certain placement, support, and shared living services. In accordance with this requirement, the rates for these services are being updated to include an increase by a cost adjustment factor (CAF) of 2.58%. The CAF was determined by using baseline and prospective Massachusetts Economic Indicator data from IHS Economics – Fall 2023 Forecast, optimistic scenario data. The CAF reflects the period between the rates' base period (calendar year 2024 Q2) and the prospective period of fiscal years 2025 and 2026. Staff salaries have been benchmarked to the Massachusetts Bureau of Labor Statistics (BLS) median wages as dated May 2022 at the 53rd percentile. The tax and fringe rate has been benchmarked to 27.38%. This benchmark is derived from the MA Comptrollers FY24 approved rate less terminal leave and retirement. Administrative allocation has been benchmarked to 12%, which is the standard rate applied across all Chapter 257 regulations. A new service has also been added for an off-site direct service provider that monitors and responds to individuals' needs using live communications and non-invasive monitoring technologies. The language in the Severability section has also been updated for consistency across EOHHS rate regulations.

The total annualized cost to state government from the proposed amendments to this regulation is approximately \$42.44 million, which represents an increase of 20.95% over FY23 spending of approximately \$202.56 million on these services. Of this amount, the estimated annualized cost to DCF is \$12,457,874.94; the estimated annualized cost to DYS is \$254,186.53; the estimated annualized cost to DDS is \$29,226,853.47; the estimated annualized cost to MRC is \$147,618.61; and the estimated annualized cost to MCB is \$352,193.78. The increase in spending in FY25 will be covered through the Chapter 257 Reserve Account.

To register to testify at the hearings and to get instructions on how to join the hearings online, go to www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings. To join the hearings 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, August 23, 2024. EOHHS specifically invites

comments as to how the amendments may affect beneficiary access to care for MassHealth-covered services.

To review the current drafts of the proposed regulations, go to www.mass.gov/info-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. To view or download related supporting materials, go to www.mass.gov/info-details/proposed-regulations-supporting-materials.

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 regulations 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/info-details/executive-office-of-health-and-human-services-public-hearings.

August 2, 2024

Small Business Impact Statement

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

CMR No: 101 CMR 411.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 106

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 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 regulation is required by statute under M.G.L. Chapter 118E, Section 13D, and establishes the specific rates to be paid by governmental units for certain social service programs.
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? This regulation does require that providers periodically file cost data to enable EOHHS to develop uniform rates for the social service programs with rates governed by this regulation. 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 as this regulation establishes rates by which providers of certain social service programs are to be paid when purchased by governmental units.
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 establishes rates by which providers of certain social service programs are to be paid when purchased by governmental units.
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 that are reasonable and adequate to meet the costs that are incurred by efficiently and economically operated social service program providers. 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 that are reasonable and adequate to meet the costs that are incurred by efficiently and economically operated social service program providers. This time frame for cost reporting is applied uniformly to all providers to enable EOHHS to timely develop accurate rates 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. This regulation does not consolidate or simplify compliance or reporting requirements for small businesses. The proposed amendments only update the rates to be paid by governmental units for certain social service program services, as required by statute.
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 social service program services by this regulation is a statutory requirement under M.G.L. Chapter 118E, Section 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 uniform rates to be paid by governmental units to providers of certain social service programs, as required by statute.

Small Business Impact Statement

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

CMR No: 101 CMR 414.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 2

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 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 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 administration oversight as a result of the proposed 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 regulation is required by statute under M.G.L. Chapter 118E, Section 13D, and establishes the rates to be paid by governmental units to providers of certain social service programs.
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 type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates by which providers of certain social service programs are to be paid when services are purchased by governmental units.
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 establishes rates by which providers of certain social service programs are to be paid when services are purchased by governmental units.
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 social services. 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 social services. The time frame for cost reporting is applied uniformly to all providers to enable EOHHS to timely develop accurate rates 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 timely develop accurate rates 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 social service providers by regulation is a statutory requirement under M.G.L. Chapter 118E, Section 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 social service providers are to be paid when services are purchased by governmental units. The establishment of rates for these social services by regulation is a statutory requirement under M.G.L. Chapter 118E, Section 13D.