

**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, September 6, 2024, at 10 a.m. relative to the adoption of amendments to the following regulations.

101 CMR 316.00: Rates for Surgery and Anesthesia Services
101 CMR 317.00: Rates for Medicine Services
101 CMR 318.00: Rates for Radiology Services

101 CMR 316.00, 317.00, and 318.00 (collectively referred to as “physician pricing regulations”) govern the rates of payment used by governmental units for surgery and anesthesia care; office visits and other general medicine; and radiology services rendered to publicly aided individuals by eligible providers, including physicians and eligible midlevel practitioners. The proposed amendments contain rates effective for dates of service on or after January 1, 2025.

The proposed amendments update the language under 101 CMR 316.03(4), 101 CMR 317.03(5), and 101 CMR 318.03(4), removing certified nurse midwives from the list of eligible providers whose allowable fees are currently set at 85% of the fees contained in 101 CMR 316.04, 101 CMR 317.04, and 101 CMR 318.04. The proposed amendments set the certified nurse midwives’ allowable fees to 100% of the allowable listed fees in the physician pricing regulations. In addition, the proposed amendments add code 88342 (Immunohistochemistry or Immunocytochemistry code) to 101 CMR 316.00 at a rate of \$81.79, and add certain COVID-19 vaccine, vaccine administration, and treatment codes that are currently established in 101 CMR 446.00: *Public Health Emergency Payment Rates for Certain Community Health Care Providers* to 101 CMR 317.00.

EOHHS is proposing these changes, subject to federal approval, to ensure that payments are consistent with efficiency, economy, and quality of care and satisfy the requirements of M.G.L. 118E, sections 13C and 13D. It is estimated that annual aggregate MassHealth expenditures will increase by \$564,000 as a result of the proposed amendments to the physician pricing regulations. There is no fiscal impact on cities and towns. The proposed 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.

To register to testify at the hearing and to get instructions on how to join the hearing online, go to www.mass.gov/info-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 September 6, 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/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.

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

August 16, 2024

Small Business Impact Statement

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

CMR No: 101 CMR 316.00: Rates for Surgery and Anesthesia Services

Estimate of the Number of Small Businesses Impacted by the Regulation: There are currently approximately 20,000 providers of physician services, including medicine, surgery and anesthesia, and radiology 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? The regulation updates rates for providers and 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? The regulation does not require additional recordkeeping procedures.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The regulation does not require 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? Compliance does not require hiring additional employees.
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.)? Compliance does not require hiring 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? The regulation does not require purchases or capital investments.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design or 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.) Performance standards are not more appropriate than design or operational standards.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require cooperation with additional audits, inspections or other regulatory enforcement 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? The regulation does not require small businesses to provide educational services to keep up to date 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? The regulation updates rates for providers and is unlikely to deter or encourage the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation updates rates for providers and is unlikely to deter or encourage the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not distinguish between small and other businesses.

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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? Distinguishing small businesses from other businesses would not be practicable for this regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The regulation is required by statutes and its goals could not be achieved through alternative methods.

Small Business Impact Statement

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CMR No: 101 CMR 317.00: Rates for Medicine Services

Estimate of the Number of Small Businesses Impacted by the Regulation: There are currently approximately 20,000 providers of physician services, including medicine, surgery and anesthesia, and radiology services.

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CMR No: 101 CMR 318.00: Rates for Radiology Services

Estimate of the Number of Small Businesses Impacted by the Regulation: There are currently approximately 20,000 providers of physician services, including medicine, surgery and anesthesia, and radiology services.

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