

**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 hearing on Friday, October 18, 2024, at the times listed below relative to the adoption of amendments to the following regulations.

Pursuant to M.G.L. Chapter 118E, Section 13D, EOHHS is required to establish, by regulation, and biennially review rates to be paid by governmental units to providers of social service programs. There is no fiscal impact on cities and towns.

1. 10:00 a.m.: 101 CMR 346.00: Rates for Certain Substance-Related and Addictive Disorders Programs

101 CMR 346.00 governs the payment rates for certain substance-related and addictive disorders programs provided to publicly aided individuals by governmental units.

The proposed amendments to 101 CMR 346.00 establish the rates for residential rehabilitation co-occurring enhanced services. These services are purchased by the Department of Public Health and MassHealth and provide organized substance-related and addictive disorders treatment and education services in a 24-hour residential setting for individuals with a moderate-to-severe substance use and mental health disorder.

The rates for residential rehabilitation co-occurring enhanced services include 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. The rates for this service have been updated with the weighted average expenses from the FY22 Uniform Financial Reports (UFRs) for services' programmatic costs. 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.

The total estimated FY25 cost to state government from the increase in the residential rehabilitation co-occurring enhanced services rates established by this proposed regulation is \$9,569,376. The estimated fiscal impact to the MassHealth program is \$8,463,082 and the estimated fiscal impact to DPH is \$1,106,294. This

amendment represents an increase of approximately 24.46% over FY23 spending. The increase to DPH spending will be covered through a combination of the Chapter 257 reserve account and DPH's FY25 budget.

The proposed regulation contains rates effective for dates of service on or after July 1, 2024.

2. 10:30 a.m.: 101 CMR 418.00: Payments for Youth Short-Term Stabilization and Emergency Placement Services

101 CMR 418.00 establishes the payment rates for youth short-term stabilization and emergency placement services provided to publicly aided individuals by governmental units and under EOHHS's regulatory authority. These services are purchased by the Department of Youth Services (DYS) and the Department of Public Health (DPH).

The rates for youth short-term stabilization and emergency placement services, specific to staffing support and youth detoxification and stabilization program rates, are being updated to include an increase by a cost adjustment factor (CAF) of 1.97%. The CAF was determined by using baseline and prospective Massachusetts Economic Indicator data from IHS Economics – Spring 2024 Forecast, optimistic scenario data. The CAF reflects the period between the rates' base period (Calendar Year 2024 Q3) and the prospective period (Calendar Year 2024 Q4 through Calendar Year 2026 Q3). The staff salaries have been benchmarked to the Massachusetts Bureau of Labor Statistics (BLS) median wages as dated May 2023 at the 53rd percentile. The tax and fringe rate has been benchmarked to 24.97%. This benchmark is derived from the MA Comptrollers FY24 approved rate less terminal leave and retirement. The administrative allocation has been benchmarked to 12% to remain consistent across all Chapter 257 regulations. 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 increase in rates amended by this regulation is \$620,156, which represents an increase of 11.51% over FY24 projected spending of approximately \$5.3 million. This cost will not be realized until October 1, 2024, at which point the FY25 cost to state government will be \$465,117. This will be covered through a combination of the Chapter 257 Reserve Account and the purchasing agencies' FY25 budgets.

The proposed regulation contains rates effective for dates of service on or after October 1, 2024.

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, October 18, 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.

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.

September 27, 2024

Small Business Impact Statement

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

CMR No: 101 CMR 346.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 6

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 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.

Small Business Impact Statement

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

CMR No: 101 CMR 418.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 5

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.
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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? Yes. The regulation requires providers to periodically file cost data. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers.
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