

**Division of Medical Assistance**  
**Commonwealth of Massachusetts**  
**Office of Medicaid**

**NOTICE OF PUBLIC HEARING**

Under the authority of M.G.L. c. 6A, section 16 and in accordance with M.G.L. c. 30A, the Division of Medical Assistance (the Division) will hold a remote public hearing on Monday, October 21, 2024, at 9 a.m. relative to the emergency adoption of amendments to the following regulation.

**130 CMR 409.000: Durable Medical Equipment Services**

The regulation will take effect as an emergency on October 1, 2024. There is no fiscal impact on cities and towns.

Effective for dates of service provided on or after October 1, 2024, the Executive Office of Health and Human Services (EOHHS) has implemented, via emergency adoption, add-on payments to MassHealth-enrolled DME mobility providers for certain mobility system repairs and to align coverage for maintenance repairs with Medicare policy. The amendments to 130 CMR 409.000 support amendments made to 101 CMR 322.00: Rates for Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment. There is a concurrent public comment and hearing process for 101 CMR 322.00.

To alleviate member challenges and promote shorter turnaround for mobility system repairs, EOHHS has implemented an add-on payment for certain mobility system repairs. The amendments to 130 CMR 409.000 clarify the types of covered and non-covered maintenance repairs, align MassHealth maintenance repair coverage with Medicare, and clarify the types of repairs that will be eligible for the add-on payment.

The \$1,000 add-on payment with reinvestment and reporting requirements is available to providers who perform certain types of mobility system repairs within a defined time period. The proposed payment methodologies and applicable payments are described in 101 CMR 322.00 and have a concurrent public comment period.

EOHHS has also made necessary revisions and updates to correct or clarify provisions within 130 CMR 409.000.

The estimated annual aggregate fiscal impact of the proposed amendments to 130 CMR 409.000 to align MassHealth maintenance repair coverage with Medicare is \$725,000. The additional estimated impact of the related amendments to 101 CMR 322.00 for a repair rate add-on is \$3.3 million. The estimated annual fiscal impact for unrelated amendments to 101 CMR 322.00 for the supplemental payment for ceiling lift services is between \$100,000 and \$300,000.

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/masshealth-public-hearings](http://www.mass.gov/info-details/masshealth-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 [masshealthpublicnotice@mass.gov](mailto:masshealthpublicnotice@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 October 28, 2024. The Division specifically invites comments as to how the amendments may affect beneficiary access to care.

To review the emergency regulation, go to [www.mass.gov/info-details/masshealth-public-hearings](http://www.mass.gov/info-details/masshealth-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.

The Division may adopt a final, revised version of the emergency 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/masshealth-public-hearings](http://www.mass.gov/info-details/masshealth-public-hearings).

September 26, 2024

## Small Business Impact Statement

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

### CMR No: 130 CMR 409.000: Durable Medical Equipment Services

**Estimate of the Number of Small Businesses Impacted by the Regulation:** There are 102 Durable Medical Equipment (DME) providers and 738 pharmacy providers that offer DME as a subspecialty service.

#### Select Yes or No and Briefly Explain

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? Yes. Small businesses will have to create, file, and 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 checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to provide additional administrative oversight? Yes. Small businesses will have to provide additional administrative oversight to ensure compliance.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? Providers are required to reinvest 80% of the add-on payments received back into the mobility system repair components of their business. In order to comply, this could include hiring additional employees to support program development and implementation.
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 checked="" type="checkbox"/>	No <input 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.) Yes, performance standards are more appropriate than design/operational standards to accomplish the regulatory objective.
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 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 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. 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. It governs MassHealth providers of DME, provides program requirements and conditions of payment for the provision of DME to MassHealth members, and is applied uniformly among all such MassHealth 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 not likely to deter or encourage the formation of small businesses in Massachusetts. It governs MassHealth providers of DME, provides program requirements and conditions of payment for the provision of DME to MassHealth members, and is applied uniformly among all such MassHealth 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. The regulation requires DME providers to submit documentation requested by MassHealth for purposes of utilization and provider review to ensure compliance with MassHealth requirements. The regulations are applied uniformly among all MassHealth 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 requires DME providers to submit documentation requested by MassHealth for purposes of utilization and provider review to ensure compliance with MassHealth requirements, including the timelines for reporting. The regulations are applied uniformly among all MassHealth providers of DME.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The regulation requires DME providers to submit documentation requested by MassHealth for purposes of utilization and provider review to ensure compliance with MassHealth requirements, including the timelines for reporting. The regulations are applied uniformly among all MassHealth providers.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? Yes. Performance standards for repair turnaround times are more appropriate than design/operational standards to accomplish the regulatory objective.
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 provider participation requirements and conditions of payment regardless of whether the provider is a small business.