

**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 Thursday, December 12, 2024, at 1 p.m. relative to the adoption of amendments to the following regulation.

**101 CMR 339.00: Rates for Restorative Services**

The proposed regulation contains rates effective for dates of service on or after May 1, 2025.

EOHHS proposes to set all rates established in 101 CMR 339.00 with corresponding Medicare rates at 72% of 2024 Medicare rates, maintaining the existing rates that are above 72% of 2024 Medicare rates. EOHHS proposes to increase any service rates without corresponding Medicare rates by 23.1%, which is the median percent increase applied to service rates with corresponding Medicare rates.

EOHHS is further proposing to add and adopt three new procedure codes for caregiver training. Medicare adopted these procedure codes as of January 1, 2024. These services provide training to non-paid caregivers of eligible members to support the non-paid caregivers in facilitating the member's functional performance related to an individualized therapy plan of care. EOHHS proposes to establish rates for the three added codes at 72% of corresponding Medicare rates, matching the methodology proposed above for other service codes with corresponding Medicare rates.

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 \$4.1 million, or approximately by 40.6%, as a result of the proposed amendments. 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](https://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](mailto: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, 6<sup>th</sup> Floor, Quincy, MA 02171. Written testimony will be accepted through 5:00 p.m. on December 12, 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](http://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, 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.

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](http://www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings).

## Small Business Impact Statement

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

**CMR No.: 101 CMR 339.00:** Rates for Restorative Services

**Estimate of the Number of Small Businesses Impacted by the Regulation:** There are currently approximately 366 providers of restorative, speech and hearing center, and rehabilitation center 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 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, including restorative 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 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? No. The regulation is unlikely to deter or encourage the formation of small businesses in Massachusetts, as this regulation governs payments for restorative 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 restorative 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. The regulation does not distinguish between small and other businesses.
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 regardless of whether or not the provider is a small business.
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 regardless of whether or not the provider is a small business.
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 restorative services to publicly aided individuals. These requirements are applied uniformly, regardless of the size of the provider's business, 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 restorative services to publicly aided individuals and is applied uniformly regardless of whether or not the provider is a small business.