

**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, December 13, at 9:00 a.m., relative to the adoption of amendments to the following regulation.

101 CMR 329.00: *Rates for Psychological and Independent Clinical Social Work Services* (to be renamed *Rates for Psychological and Licensed Independent Behavioral Health Clinician Services*)

EOHHS is proposing these amendments with an effective date of April 1, 2025, to align with amendments to program requirements for psychological services (130 CMR 411.000) and licensed independent behavioral health clinician services (130 CMR 462.000). The proposed amendments to 101 CMR 329.00 update the payment rates used by all governmental units, including MassHealth, for psychological and licensed independent behavioral health clinician services.

The proposed amendments for psychological and licensed behavioral health clinician services would align certain MassHealth fee-for-service (FFS) rates for applicable psychological services with existing managed care rates to support rate alignment for providers enrolled in both FFS and managed care plans. They would also establish two codes and four code/modifier combinations that have already been established for managed care enrolled providers to promote alignment for FFS delivery and access. They would expand the clinician licensure levels eligible to bill certain therapy, diagnostic, and case consultation codes by updating the billing modifiers to include licensed marriage and family therapists (LMFTs) and licensed mental health counselors (LMHCs). They would change the name of 101 CMR 329.00 to *Rates for Psychological and Licensed Independent Behavioral Health Clinician Services* to be consistent with EOHHS's naming convention for rate regulations. Finally, they would make certain other changes to update terminology and current policy.

EOHHS is proposing these amendments to ensure that payment rates are consistent with efficiency, economy, and quality of care and to satisfy the requirements of M.G.L. 118E, Sections 13C and 13D. It is estimated that annual aggregate MassHealth expenditure will increase by approximately \$33,000 for psychological and licensed independent behavioral health clinician services over CY2023 base spending.

Upon final promulgation of the regulation, the proposed amendment is planned to go into effect no sooner than the day after the notice of public hearing is published in the Massachusetts Register. There is no fiscal impact on cities and towns.

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 December 13. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care.

To review the current draft of the proposed actions, 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 actions 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.

November 22, 2024

Small Business Impact Statement

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

CMR No.: 101 CMR 329.00

Estimate of the Number of Small Businesses Impacted by the Regulation: There are 1,380 eligible providers governed by the proposed regulation.

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 101 CMR 329.00.
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 as a result of the proposed amendments to 101 CMR 329.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. 101 CMR 329.00 does not require small businesses to provide additional administrative oversight. The proposed regulation establishes the rates to be paid by governmental units for certain psychologists, licensed marriage and family therapists (LMFTs), licensed mental health counselors (LMHCs), and licensed independent clinical social workers (LICSWs).
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. The proposed amendments to 101 CMR 329.00 do not require small businesses to hire 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.)? No. Small businesses are not required by 101 CMR 329.00 to hire other employees.
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. 101 CMR 329.00 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. Performance standards are not more appropriate than design or operational standards to accomplish the regulatory objective of establishing rates for healthcare services through the Executive Office of Health and Human Services (EOHHS), since the proposed regulation is required by M.G.L. Chapter 118E, Section 13C.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No. There are no other regulations that 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 uniformly requires all providers to periodically file cost data.
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 proposed 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 proposed regulation is not likely to deter or encourage the formation of small businesses; it establishes uniform governmental rates of payment for certain psychological and licensed independent behavioral health clinician services.
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 proposed regulation is not likely to deter or encourage the formation of small businesses; it establishes uniform governmental rates of payment for certain psychological and licensed independent behavioral health clinician services.
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 proposed regulation does not distinguish between small businesses 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. The proposed regulation does not distinguish between small businesses and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small businesses and other businesses.
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. Distinguishing between small businesses and other businesses would not be a practicable way to implement the proposed regulation.
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 proposed regulation does not have an adverse impact on small businesses.