

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 Friday, December 15, 2023, at 11:00 a.m. relative to the adoption of amendments to the following regulation.

130 CMR 408.000: Adult Foster Care

The proposed changes to the program regulations at 130 CMR 408.000 include:

- The addition of a caregiver stipend floor requirement as part of adult foster care (AFC) provider eligibility;
- The revision of the requirement for AFC and group AFC staff to obtain a pre-employment and ongoing physical examination and tuberculosis screenings to be restricted only to the AFC caregiver and GAFC direct care aide plus the registered nurse, licensed practical nurse, care manager, and AFC community support specialist.
- Technical and clarification edits.

These amendments are intended to be effective on and after April 12, 2024. 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/service-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 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, December 15, 2023. The Division specifically invites comments as to how the amendments may affect beneficiary access to care.

To review the current draft of the proposed regulation, go to www.mass.gov/service-details/masshealth-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.

The Division 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/service-details/masshealth-public-hearings.

November 24, 2023

Small Business Impact Statement

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

CMR No: 130 CMR 408.000: Adult Foster Care

Estimate of the Number of Small Businesses Impacted by the Regulation: 134 Adult Foster Care Providers and 135 Group Adult Foster Care Providers

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 administrative 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? <i>(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.)</i> No. The purpose of the regulation is to establish MassHealth provider eligibility, member eligibility, clinical authorization process and criteria for MassHealth payment, and conditions of payment for adult foster care/group adult foster care services.
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, this regulation does require small businesses to cooperate with audits, inspections or other regulatory enforcement activities. This requirement is applied uniformly to all providers to enable EOHHS and MassHealth to ensure program integrity and efficient and appropriate provision of services.

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 the formation of small businesses in Massachusetts as this regulation establishes MassHealth provider eligibility, member eligibility, clinical authorization process and criteria for MassHealth payment, and conditions of payment for adult foster care/group adult foster care 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 regulation is not likely to encourage the formation of small businesses in Massachusetts as this regulation establishes MassHealth provider eligibility, member eligibility, clinical authorization process and criteria for MassHealth payment, and conditions of payment for adult foster care/group adult foster care services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A. This regulation establishes MassHealth provider eligibility, member eligibility, clinical authorization process and criteria for MassHealth payment, and conditions of payment for adult foster care/group adult foster care services. Any compliance and reporting requirements are applied uniformly to all providers to enable EOHHS and MassHealth to ensure program integrity and efficient and appropriate provision of services.
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? N/A. This regulation establishes MassHealth provider eligibility, member eligibility, clinical authorization process and criteria for MassHealth payment, and conditions of payment for adult foster care service/group adult foster care services. Any schedules or deadlines for compliance or reporting requirements are applied uniformly to all providers to enable EOHHS and MassHealth to ensure program integrity and efficient and appropriate provision of services.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A. This regulation establishes MassHealth provider eligibility, member eligibility, clinical authorization process and criteria for MassHealth payment, and conditions of payment for adult foster care service/group adult foster care services. Compliance and reporting requirements are applied uniformly to all providers to enable EOHHS and MassHealth to ensure program integrity and efficient and appropriate provision of services.
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? N/A. This regulation establishes MassHealth provider eligibility, member eligibility, clinical authorization process and criteria for MassHealth payment, and conditions of payment for adult foster care/group adult foster care services.
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 MassHealth provider eligibility, member eligibility, clinical authorization process and criteria for MassHealth payment, and conditions of payment for adult foster care/group adult foster care services. This regulation is applied uniformly to all providers to enable EOHHS and MassHealth to ensure program integrity and efficient and appropriate provision of services.