

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, June 16, 2023, at 1 p.m. relative to the adoption of amendments to the following regulation.

130 CMR 456.000: Long Term Care Services

The proposed regulation is expected to be effective October 1, 2023. There is no fiscal impact on cities and towns.

Proposed amendments to 130 CMR 456.000 would implement the migration from MMQ to a Case-mix classification system (such as MDS) for nursing facility data collection and rate setting purposes; update important requirements for nursing facilities; clarify and improve sections such as clinical authorization, and codify EOHHS's authority to enter facilities for any lawful purpose; remove sections that are no longer applicable; and make other changes to conform with other updated MassHealth rules and regulations.

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, June 16, 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.

May 26, 2023

Small Business Impact Statement

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

CMR No: 130 CMR 456.000: Long Term Care Services

Estimate of the Number of Small Businesses Impacted by the Regulation: SBA database searches conducted according to the instructions in the Overview and Guidelines section of this document returned 28 results for NAICS code 623110 (“Nursing Care Facilities”) and no results for 623311 (“Continuing Care Retirement Communities”).

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? The regulation does not require small businesses to implement additional recordkeeping procedures, as the nursing facilities are already required to keep records.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The regulation does not require 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? Compliance does not require hiring 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.)? Compliance does not require hiring 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? The regulation does not require purchases or capital investments.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design or 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.) Performance standards are not more appropriate than design or operational standards.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? 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? The regulation requires all nursing facilities to comply with audits, but this is not a new requirement.
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? 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? The regulation updates the existing program requirements for Medicaid nursing facilities in Massachusetts and is unlikely to encourage or deter the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation updates the existing program requirements for Medicaid nursing facilities in Massachusetts and is unlikely to encourage or deter the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? 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? The regulation does not distinguish between small 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? The regulation does not distinguish between small 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? Distinguishing small businesses from other businesses would not be practicable for this 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. EOHHS must amend the nursing facility regulations in order to update program requirements.