

**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, February 9, 2024, at 10:00 a.m. relative to the adoption of amendments to the following regulation.

101 CMR 314.00: Rates for Dental Services

EOHHS is proposing amendments to 101 CMR 314.00, which governs payment rates paid by MassHealth and other governmental purchasers for dental services rendered to publicly aided individuals by eligible providers. The proposed amendments update rates for certain dental services, effective for dates of service on or after June 1, 2024. The proposed amendments:

- 1) Apply a prospective cost adjustment factor (CAF) of 2.65% to increase rates for certain highly utilized adult dental services. The applicable codes are adult dental services primarily related to preventive, diagnostic, extraction, and palliative services (codes D0140, D0150, D0210, D0272, D0274, D0330, D7140, and D9110).
- 2) Apply a retrospective CAF of 13.36% to increase rates for certain other highly utilized adult and Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services. The retrospective CAF is applied to the adult rate for periodic oral examination (code D0120), prophylactic service (code D1110), and to the adult and EPSDT rates for three endodontic services (codes D3310, D3320 and D3330). This maintains parity for adult and EPSDT endodontic service rates.
- 3) Establish rates for certain codes currently set at individual consideration (IC). Adult rates for codes D0145, D5225, D5226, D8010, D8020, D8030, and D8040 remain at IC.
- 4) Establish rate parity for comparable composite and amalgam adult dental services. Adult rates for composite oral restorative service codes D2391, D2392, D2393 and D2394 are set at the same adult rates for comparable amalgam restorative services.

All other adult and EPSDT rates remain at their current levels. The CAFs were calculated using the optimistic forecast of the Massachusetts-specific Consumer Price Index Spring 2023 developed by S&P Global Market Intelligence.

EOHHS is proposing these changes, subject to federal approval, to ensure that payment rates 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 fiscal impact on the fee-for-service (FFS) MassHealth expenditure will increase by approximately \$9.9 million as a result of these proposed rates.

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/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 Friday, February 9, 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 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 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.

January 19, 2024

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

CMR No: 101 CMR 314.00: Rates for Dental Services

Estimate of the Number of Small Businesses Impacted by the Regulation: Approximately 2,100 eligible dental providers.

Select Yes or No and Briefly Explain

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| 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 in order 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 M.G.L. Chapter 118E Section 13C, and establishes the rates to be paid by governmental units to providers of non-institutional health care services, including dental 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 with regulatory requirements. |

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| 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 dental 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 dental 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 dental 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 dental services to publicly aided individuals, and is applied uniformly regardless of whether or not the provider is a small business. |