

**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 Wednesday, June 17, 2026, at 11:00 a.m. on the adoption of amendments to the following regulation.

101 CMR 358.00.00: Rates for Applied Behavior Analysis

The proposed regulation contains rates effective for dates of service on or after December 1, 2026. There is no fiscal impact on cities and towns.

Under M.G.L. Chapter 118E, Section 13D, EOHHS is required to establish and periodically review the rates to be paid by governmental units for non-institutional health care services, including applied behavior analysis (ABA) services provided under MassHealth. ABA services are an array of home- and community-based services for MassHealth members younger than 21 with a diagnosis of autism spectrum disorder or Down syndrome. EOHHS reviewed the rates in 101 CMR 358.00 and proposes to maintain the current rates.

EOHHS is proposing these amendments, subject to federal approval, 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 expenditures will not change as a result of the proposed amendments. The amendments are not expected 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 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 June 17, 2026. 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 mass.gov/service-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 mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings.

May 22, 2026

Small Business Impact Statement

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

CMR No and Title: 101 CMR 358.00, Rates for Applied Behavior Analysis

Estimate of the Number of Small Businesses Impacted by the Regulation: There are 197 providers governed by the proposed regulation.

- **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 358.00.
- **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 358.00.
- **Will small businesses have to provide additional administrative oversight?**
No. Small businesses are not required by 101 CMR 358.00 to provide additional administrative oversight. The proposed regulation establishes the rates to be paid by governmental units for applied behavior analysis (ABA) services.
- **Will small businesses have to hire additional employees in order to comply with the proposed regulation?**
No. 101 CMR 358.00 does not require small businesses to hire additional employees to comply.
- **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 358.00 to hire other employees to comply.
- **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 358.00 does not require small businesses to purchase any particular product or make any capital investments.
- **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 health care services for the Executive Office of Health and Human Services, as the proposed regulation is required by statute under M.G.L. Chapter 118E, Section 13C.
- **Do any other regulations duplicate or conflict with the proposed regulation?**
No. No other regulations duplicate or conflict with the proposed regulation.
- **Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?**
Yes. This regulation uniformly requires all providers to periodically file cost data.
- **Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?**
No. Regulation 101 CMR 358.00 does not require small businesses to provide educational services to keep up to date with regulatory requirements..
- **Is the regulation likely to *deter* the formation of small businesses in Massachusetts?**
No. The proposed regulation is not likely to deter or encourage the formation of small businesses, as it establishes uniform governmental rates of payment for ABA.
- **Is the regulation likely to *encourage* the formation of small businesses in Massachusetts?**
No. The proposed regulation is not likely to deter or encourage the formation of small businesses in

Massachusetts, as it establishes uniform governmental rates of payment for ABA.

- **Does the regulation provide for less stringent compliance or reporting requirements for small businesses?**

No. The proposed regulation does not distinguish between small and other businesses.

- **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 and other businesses.

- **Did the agency consolidate or simplify compliance or reporting requirements for small businesses?**

No. The proposed regulation does not distinguish between small and other businesses.

- **Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?**

No. Distinguishing between small and other businesses would not be practicable to implement the proposed regulation.

- **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.