

**Commonwealth of Massachusetts  
Executive Office of Health and Human Services**

**NOTICE OF PUBLIC HEARING**

Under to 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 August 18, 2023, at 10:00 a.m. relative to the emergency adoption of:

**101 CMR 352.00: Rates for Certain Children's Behavioral Health Services**

The regulation is in effect as an emergency on August 1, 2023. There is no fiscal impact on cities and towns.

EOHHS is adopting amendments to 101 CMR 352.00: *Rates for Certain Children's Behavioral Health Services*. 101 CMR 352.00 governs the rates of payment used by state governmental units, including MassHealth, for certain children's behavioral health (CBHI) services rendered by eligible providers.

Effective August 1, 2023, the emergency amendments increase the rates for Intensive Care Coordination (ICC), Family Support and Training (FS&T), In-Home Behavioral Services (IHBS), and Therapeutic Mentoring (TM) services. These services are provided by Bachelor's (BA) level and Master's (MA) level clinicians to eligible members under 21 years of age with significant behavioral, emotional, and mental health needs. Rate increases were determined using MA and BA level model budgets updated with 2021 Bureau of Labor Statistics (BLS) salary benchmarks and FY2021 Uniform Financial Report (UFR) data and the application of a two-year prospective cost adjustment factor. As a result, rates for these services will increase by an average of 32.7%.

Effective January 3, 2023, youth Mobile Crisis Intervention (YMCI) rates for settings other than emergency departments have been established in a new regulation 101 CMR 305.00: *Rates for Behavioral Health Services Provided in Community Behavioral Health Centers*. This emergency regulation retains the current rates for Mobile Crisis Intervention (MCI) services in emergency departments and refers to rates in 101 CMR 305.00 for YMCI services in other settings.

All other rates are proposed to remain at their current levels.

EOHHS is proposing these changes, subject to federal approval, to ensure that payments are consistent with efficiency, economy, and quality of care and satisfy the requirements of M.G.L. 118E, sections 13C and 13D. There is no anticipated impact on MassHealth expenditure, as there is no current fee-for-service (FFS) utilization of these services. The actual change in annualized expenditures may vary depending on actual utilization of services.

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](http://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](mailto: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, 6<sup>th</sup> Floor, Quincy, MA 02171. Written testimony will be accepted through 5:00 p.m. on August 18, 2023. 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/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.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, 6<sup>th</sup> Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at [ADAAccommodations@mass.gov](mailto: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 final, revised version of the emergency 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/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings).

July 28, 2023

<b>Small Business Impact Statement</b> <i>(As required by M.G.L. c. 30A §§ 2, 3 &amp; 5)</i>		
<b>CMR No: 101 CMR 352.00: Rates of Payment for Certain Children's Behavioral Health Services</b>		
<b>Estimate of the Number of Small Businesses Impacted by the Regulation:</b> There are 80 providers governed by the proposed regulation.		
<b>Select Yes or No and Briefly Explain</b>		
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 352.00.
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 352.00.
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 101 CMR 352.00 to provide additional administrative oversight. The proposed regulation establishes the rates to be paid by governmental units for certain children's behavioral health services.
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. 101 CMR 352.00 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 101 CMR 352.00 to hire other employees to remain in compliance.
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 352.00 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 EOHHS health care services as the proposed regulation is required by statute under 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. This 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. 101 CMR 352.00 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 as this proposed regulation establishes uniform governmental rates of payment certain children's behavioral health 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 in Massachusetts as this proposed regulation establishes uniform governmental rates of payment for certain children's behavioral health 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 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 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 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 and other businesses would not be practicable 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.