

**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, October 6, 2023, at 10 a.m. relative to the adoption of amendments to the following regulations.

**101 CMR 316.00: Rates for Surgery and Anesthesia Services**

**101 CMR 317.00: Rates for Medicine Services**

**101 CMR 318.00: Rates for Radiology Services**

EOHHS is proposing amendments to 101 CMR 316.00, 317.00, and 318.00 (collectively referred to as “physician pricing regulations”) that govern the rates of payment used by governmental units for surgery and anesthesia care; office visits and other general medicine; and radiology services rendered to publicly aided individuals by eligible providers, including physicians and eligible midlevel practitioners. These proposed amendments contain updates to rates, coverage, and codes, and a technical correction for physician services as described in detail below. The proposed amendments are effective for services provided on dates of services on or after May 1, 2024.

**A. Rate Updates**

**1.General Physician Services.** Using the historical rate methodology for physician services, the proposed amendments create a fee schedule for the majority of the codes in the physician pricing regulations based on the Medicare resource based relative value system (RBRVS). Based on this methodology, rates are calculated by applying a standard dollar value, defined as a conversion factor (CF), to Medicare-assigned Relative Value Units (RVUs) to derive a rate for each procedure code. For the proposed rates, January 2023 Medicare RVUs were used to calculate the MassHealth-specific CFs.

For the proposed regulations, budget-neutral conversion factors were calculated for the following service groups: General (for the majority of physician services), Policy Group 1 (for certain maternal, newborn, family planning, screening mammography, colonoscopy screening, and tobacco cessation services), Policy Group 2 (for global obstetrical services), and magnetic resonance imaging (MRI) and magnetic resonance angiography (MRA) service CFs, which are then used to calculate individual rates. For anesthesia services, the per base unit fee and per one-minute time unit fee will remain at their current levels.

**2.Rates for Policy Groups, EPSDT, and Office Visit Services.** EOHHS proposes to hold current rates harmless for certain policy group, Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services, and office visit services with rates that would decrease relative to the current rates.

**3.Technical Component Rates for MRI and MRA Services.** EOHHS is proposing to revise the methodology for setting rates for MRI and MRA services. In the proposed methodology, a new budget neutral conversion factor was calculated for MRI/MRA services using the total technical component (TC) allowed charges and total RVUs. Professional component rates were calculated using the general budget neutral conversion factor following the standard RVU

methodology as described above. If the final proposed TC rate for the MRI/MRA service code is less than the current TC rate for the code under the existing Radiology pricing regulation, the current TC rate is held harmless.

**4.Fluoride Treatment Service.** The rate for application of topical fluoride varnish service (code 99188) is proposed to be changed from \$26.00 to \$28.00, which is the current rate for the same service (code D1206) established in 101 CMR 314.00: *Rates for Dental Services*.

**5.Rates for Facial Feminization Services.** The rates for certain surgery codes when billed as part of facial feminization surgery for the indication to treat gender dysphoria are proposed to be established by using the 2023 Medicare conversion factor of \$33.8872, instead of the MassHealth-specific general CF.

**6.Vaccine Counseling Services.** EOHHS added certain new procedure codes for vaccine counseling, effective for dates of service on and after February 1, 2023, via administrative bulletin AB 23-06. The proposed amendments update the rates for these vaccine counseling codes by setting their rates at the corresponding proposed rates for codes 99401 and 99402, depending on the amount of time needed for the procedure.

## **B. Coverage Updates**

The proposed amendments add to 101 CMR 317.00 a new service known as “Coordinating Aligned, Relationship-centered, Enhanced Support (CARES) for Kids”, a targeted case management (TCM) service, for the highest risk children and youth with medical and behavioral complexities. The CARES service will provide comprehensive, high-touch care coordination for children and their families provided in certain primary care or pediatric specialized settings. The code used for CARES TCM is T2023 and its proposed rate is \$241.88 per member per month. The rate for this service was developed by using a model budget that included anticipated enrollment, anticipated staffing needs for CARES providers, an assumed caseload of 250 members per CARES provider team and estimates of other costs for CARES providers.

## **C. Coding Updates**

The proposed amendments will incorporate coding updates related to the physician pricing regulations that were previously issued via Administrative Bulletins 22-09, 22-18, 23-06, 23-07, and an emergency adoption of rate increases for certain surgery codes related to family planning and abortion services. In addition, relevant physician regulations will be amended to reflect updated terminology and current policy.

## **D. Technical Correction**

Lastly, the proposed amendments update the description for modifier SL (state-supplied vaccine) under the Medicine regulation in 101 CMR 317.04(3)(r). This modifier is to be applied to appropriate codes to identify administration of vaccines provided at no cost by the Department of Public Health. MassHealth will pay \$0 for vaccines billed with the modifier “SL” and will pay the rate established in 101 CMR 317.00 for the administration of the vaccine.

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. It is estimated that annual aggregate MassHealth expenditures will increase by \$13.1 million as a result of the proposed amendments to the physician pricing regulations. There is no fiscal impact on cities and towns. The proposed amendments are not anticipated 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 [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 Friday, October 6, 2023. 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/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 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/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings).

September 15, 2023

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

**CMR No: 101 CMR 316.00: Rates for Surgery and Anesthesia Services**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** There are currently approximately 20,000 providers of surgery and anesthesia services.

**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? The regulation updates rates for providers and does not require small businesses 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 additional recordkeeping procedures.
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 type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require cooperation with additional audits, inspections or other regulatory enforcement 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? 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 rates for providers and is unlikely to deter or encourage 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 rates for providers and is unlikely to deter or encourage 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? The regulation is required by statutes and its goals could not be achieved through alternative methods.

## Small Business Impact Statement

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

### CMR No: 101 CMR 317.00: Rates for Medicine Services

**Estimate of the Number of Small Businesses Impacted by the Regulation:** There are currently approximately 20,000 providers of medicine services.

#### Select Yes or No and Briefly Explain

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## Small Business Impact Statement

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

### CMR No: 101 CMR 318.00: Rates for Radiology Services

**Estimate of the Number of Small Businesses Impacted by the Regulation:** There are currently approximately 20,000 providers of radiology services.

#### 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? The regulation updates rates for providers and does not require small businesses to create, file, or issue additional reports.
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