

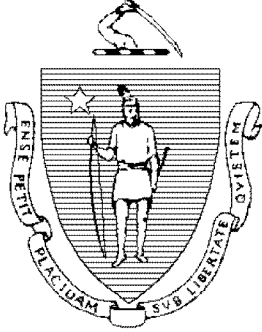
The

Massachusetts

Register

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THE COMMONWEALTH OF MASSACHUSETTS
Secretary of the Commonwealth - William Francis Galvin

The Massachusetts Register
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Notices of Emergency Expiration

There Are No Notices of Emergency Expiration

Emergency Regulations

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| | <i>Brings the Application Fee structure into alignment with the requirements of the 2024 Climate Act and establishes the applicable fees. The 2024 Climate Act, § 69 amends M.G.L. c. 164, § 69J½ (which contained \$75,000 fee language) effective 2/18/25, requiring the Department to set EFSB application fees by regulation. 220 CMR 32.00 proposes fees applicable to all EFSB jurisdictional proceedings, as defined by M.G.L. c. 164, §§ 69G through 69W.</i> | |

| | | |
|----------------|---|----|
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Acts 2026

| CHAPTER NUMBER | BILL NUMBER | TITLE | DATE |
|----------------|-------------|--|-----------|
| 73 | S 1859 | Providing for the Retirement of Walter L. Guertin, a Former Member of the Fire Department in the City of Attleboro. | 5/8/2026 |
| 74 | H 4399 | Amending the Charter of the Town of Middleton. | 5/8/2026 |
| 75 | S 2596 | Enabling the Maintenance of Private Roads in the City of Gloucester. | 5/8/2026 |
| 76 | H 2917 | Further Regulating Creditable Service for Employees of the Dedham-Westwood Water District. | 5/12/2026 |
| 77 | H 4212 | Authorizing the Town of Lancaster to Dissolve Its Animal Control Commission. | 5/12/2026 |
| 78 | H 4717 | Setting a Date for the Annual Town Meeting for the Town of Orange. | 5/12/2026 |
| 79 | S 2789 | Providing for Recall Elections in the Town of Rutland. | 5/13/2026 |
| 80 | S 2652 | Authorizing the City of Taunton to Establish a Separate Billing Rate for Water Supplied to Manufactured Housing Communities. | 5/14/2026 |
| 81 | H 4784 | Providing for a Town Administrator in the Town of Hopedale. | 5/14/2026 |
| 82 | H 5245 | Establishing a Sick Leave Bank for Courtney Cochran, an Employee of the Department of Children and Families. | 5/14/2026 |
| 83 | S 2544 | Regulating the Number of Registered Voters Who May Petition for a Special Town Meeting in the Town of Andover. | 5/19/2026 |
| 84 | H 4842 | To Clarify the Organization of the Lexington Housing Assistance Board. | 5/19/2026 |
| 85 | H 4817 | Authorizing the Town of Pembroke to Grant an Additional License for the Sale of All Alcoholic Beverages Not to Be Drunk on the Premises. | 5/21/2026 |
| 86 | H 4501 | Amending the Town Charter of the Town of Plymouth. | 5/21/2026 |
| 87 | H 4753 | Relative to the Charter of the Town of Westwood. | 5/26/2026 |
| 88 | H 4006 | Authorizing the Town of Dartmouth to Grant an Additional License for the Sale of All Alcoholic Beverages. | 5/26/2026 |
| 89 | H 5317 | Authorizing the City of Boston to Grant Easements in or Takings of Certain Parcels of Land to the City of Boston. | 5/28/2026 |
| 90 | H 4234 | Providing for the Appointment of Retired Police Officers as Special Police Officers in the Town of Fairhaven. | 5/29/2026 |
| 91 | S 1446 | Amending the Charter of the Town of Tewksbury to Modify the Residency Requirement for the Town Manager. | 6/5/2026 |

Acts 2026

| CHAPTER NUMBER | BILL NUMBER | TITLE | DATE |
|----------------|-------------|--|-----------|
| 92 | H 4718 | Relative to the Maximum Age Requirement for Police Officers in the City of Newton. | 6/5/2026 |
| 93 | H 4442 | Exempting Anthony Morales for the Position of Police Officer in the City of Haverhill. | 6/5/2026 |
| 94 | H 2800 | Authorizing the Town of Stoneham to Waive the Maximum Age Requirement for Original Appointment of Police Officers in the Town. | 6/5/2026 |
| 95 | H 4390 | Exempting Nick Santos from the Maximum Age Requirement for the Position of Police Officer in the City of Haverhill. | 6/5/2026 |
| 96 | H 5478 | Authorizing Municipalities to Opt-In to a Temporary Pilot to Extend the Hours of Liquor Licenses and to Allow for Public Consumption in Designated Districts in Summer 2026. | 6/8/2026 |
| 97 | S 3018 | Authorizing the Town of Berkley to Recall Elected Officials. | 6/10/2026 |
| 98 | S 2963 | Extending the Deadline for the Town of Milton to Appropriate Money for the Construction of a New School on Certain Land Acquired for Conservation Purposes. | 6/10/2026 |
| 99 | H 4843 | Providing for the Exchange of Certain Park Land in the Town of Lexington. | 6/10/2026 |
| 100 | H 5375 | Financing Long-Term Improvements to Municipal Roads and Bridges. | 6/11/2026 |
| 101 | H 5470 | Making Appropriations for the Fiscal Year 2026 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects. | 6/12/2026 |
| 102 | S 2563 | Relative to Individuals with Intellectual or Developmental Disabilities. | 6/12/2026 |

ADMINISTRATIVE BULLETIN 26-01

957 CMR 12.00: Pharmacy Benefit Manager Reporting

Effective May 29, 2026

The Center for Health Information and Analysis (CHIA) is issuing this Administrative Bulletin pursuant to 957 CMR 12.04(2) to notify Pharmacy Benefit Managers (PBMs) required to submit data and information to CHIA in accordance with 957 CMR 12.00 of clarifications to the scope of current reporting requirements and the scope of PBMs subject to those reporting requirements.

Pursuant to M.G.L. c. 12C, as amended by Chapter 342 of the Acts of 2024, CHIA promulgated 957 CMR 12.00: Pharmacy Benefit Manager Reporting as a new regulation to implement the new reporting requirement for PBMs. The FY26 PBM submissions, which are due on June 1, 2026, represent the first reporting cycle of PBM reporting of health care data and information to CHIA. As such, CHIA anticipates revisiting the scope of the current reporting requirements following this initial reporting cycle to explore opportunities to further refine and improve the PBM data collection process. The scope of the PBM reporting requirements for future reporting cycles may be revised on an as-needed basis in furtherance of the Commonwealth's legislative goals of increased pharmaceutical access, reduction in pharmaceutical costs, and increased pharmaceutical transparency.

Additionally, under the new PBM legislation, CHIA has broad authority to collect data and information from PBMs operating in Massachusetts. Unless and until CHIA issues further sub-regulatory guidance, CHIA is implementing 957 CMR 12.00 for the FY26 reporting cycle and subsequent reporting cycles by requiring submission from DOI-licensed PBMs operating in the Commonwealth.

This implementation approach should not be interpreted as a waiver or limitation of CHIA's authority to collect data and information from a broader group of PBMs. Further, CHIA reserves the right to expand the scope of PBMs subject to the reporting requirement to any PBM, whether licensed or unlicensed, that CHIA determines meets the statutory or regulatory criteria under M.G.L. c. 12C, § 10A or 957 CMR 12.00 for such data and information reporting.

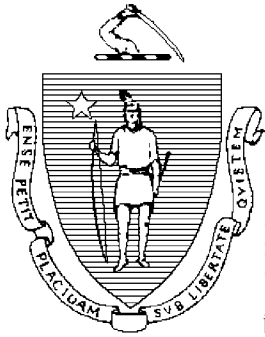
For the avoidance of doubt, a PBM's obligation to submit data and information to CHIA under 957 CMR 12.00 is separate from any PBM assessment obligation under M.G.L. c. 12C, § 7 and 957 CMR 3.00. This Administrative Bulletin does not determine whether a PBM is subject to assessment, does not establish the amount of any assessment, and does not alter the methodology for calculating Claims Subject to Assessment under 957 CMR 3.00.



NOTICE OF NIGHTTIME FIELD USE CHARGES AT L.G. HANSCOM FIELD

In accordance with Section 25.04 of the Massachusetts Port Authority Regulations (740 CMR 25.04), the Authority's Executive Director has calculated the annual Consumer Price Index adjustment to the nighttime field use charge for L.G. Hanscom Field, and establishes the following nighttime field use charges for L.G. Hanscom Field, effective July 1, 2026:

| <u>Aircraft Type</u> | <u>Charge</u> |
|--|------------------|
| <i>Aircraft 12,500 lbs. and under:</i> | <i>\$ 84.00</i> |
| <i>Aircraft over 12,500 lbs.:</i> | <i>\$ 596.00</i> |



THE COMMONWEALTH OF MASSACHUSETTS

Secretary of the Commonwealth - William Francis Galvin

NOTICES OF PUBLIC REVIEW OF PROSPECTIVE REGULATIONS PUBLISHED IN COMPLIANCE WITH M.G.L. c. 30A, §§ 2 AND 3

June 19, 2026

| | | |
|--|---------------------------------|--|
| Criminal Justice Information Services, Department of | 803 CMR 12.00 | 7/7/26 @ 10:00 A.M. - 1:00 P.M. Written comments accepted until 7/7/26 before 5:00 P.M. |
| Energy Resources, Department of | 225 CMR 21.00 | 7/6/26 @ 1:00 P.M. Written comments accepted until 7/6/26 by 5:00 P.M. |
| Health and Human Services, Executive Office of | 101 CMR 20.00 | 6/29/26 @ 10:00 A.M. Written comments accepted until 6/29/26 by 5:00 P.M. |
| | 101 CMR 346.00, 411.00 & 426.00 | 6/26/26 @ 10:00 A.M. (426.00), 11:00 A.M. (346.00) & 12:00 P.M. (411.00). Written comments accepted until 6/26/26 by 5:00 P.M. |
| Public Safety and Security, Executive Office of | 501 CMR 21.00 | 7/7/26 @ 10:00 A.M. - 1:00 P.M. Written comments accepted until 7/7/26 before 5:00 P.M. |
| State Police, Department of | 515 CMR 3.00 | 7/7/26 @ 10:00 A.M. - 1:00 P.M. Written comments accepted until 7/7/26 before 5:00 P.M. |

NOTICE OF PUBLIC HEARING

The Executive Office of Public Safety and Security (EOPSS), the Department of Criminal Justice Information Services (DCJIS) hereby provide notice of a public hearing to solicit input on a new regulation:

1. Firearms Data Dashboard, 803 CMR 12.00 (DCJIS)

Under the provisions of M.G.L. c. 30A, EOPSS, DCJIS, and MSP will conduct a public hearing for the purpose of gathering comments, ideas, and information concerning this new regulation.

Summary of Proposed Amendments:

An Act Modernizing Firearm Laws of Chapter 135 of the Acts of 2024 (the “Act”), requires EOPSS, in consultation with the Department of Criminal Justice Information Services, to promulgate regulations governing online dashboards containing relevant state-wide firearms data available for public viewing.

Availability of Proposed New Regulation:

The proposed regulation is available on EOPSS’s website, located here:

<https://www.mass.gov/orgs/executive-office-of-public-safety-and-security>.

A written copy of the proposed regulation may be obtained by e-mailing a request to EOPSS Deputy General Counsel John H. Melander, Jr., at John.Melander@mass.gov.

Hearing Details:

The hearing will be held virtually, using the Microsoft Teams platform, on July 7, 2026, from 10 a.m. to 1:00 p.m. To join, please use the following link:

<https://teams.microsoft.com/meet/295417642615538?p=9nI1TTbpN6OUmaz5ox>.

To join via telephone (audio only), please use the following credentials:

[+1 857-327-9245](tel:+18573279245).,98686077# United States, Boston

Phone conference ID: 986 860 77#

Submission of Comments:

Written comments or testimony in advance of the hearing are welcome and may be submitted by e-mail to John.Melander@mass.gov with a subject line stating, “Firearms Comment” or by mail to the Executive Office of Public Safety and Security, One Ashburton Place, Room 2133, Boston, MA 02108, attention John H. Melander, Jr. Comments received after July 7, 2026, at 5:00 p.m. may not be accepted. All persons desiring to be heard on this matter should join the virtual hearing, and participants shall conduct themselves as if attending the hearing in-person.

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

CMR No.: 803 CMR 12.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 0

Select Yes or No and Briefly Explain

| YES | NO | |
|-----|--------|---|
| | X | Will small businesses have to create, file, or issue additional reports? |
| | 1 X | Will small businesses have to implement additional recordkeeping procedures? |
| | 1 X | Will small businesses have to provide additional administrative oversight? |
| | 1 X | Will small businesses have to hire additional employees in order to comply with the proposed regulation? |
| | 1 X | Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? |
| | 1 X | Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? |
| | 1 X | 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.) |
| | 1 X | Do any other regulations duplicate or conflict with the proposed regulation? |
| | 1 X | Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? |
| | 1 X | Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? |
| | X 1 | Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? |
| | 1 X | Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? |
| | 1 | Does the regulation provide for less stringent compliance or reporting requirements for small |



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES
100 CAMBRIDGE ST., 9th FLOOR
BOSTON, MA 02114
Telephone: 617-626-7300

Maura T. Healey
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Secretary

Kimberley Driscoll
Lt. Governor

Elizabeth Mahony
Commissioner

NOTICE OF PUBLIC COMMENT AND HEARING

Notice is hereby given that the Massachusetts Department of Energy Resources (DOER), acting under Chapter 227 of the Acts of 2018, and in conformance with Chapter 30A of the General Laws, is holding a public hearing on amendments to portions of 225 CMR 21:00 Clean Peak Energy Portfolio Standard (CPS) enacted by emergency regulation on June 26, 2026. The CPS regulations require all retail electricity suppliers selling electricity to end-use customers in the Commonwealth to obtain a specific minimum percentage of their electricity supply from clean peak energy resources. DOER's emergency regulation modifies the CPS Minimum Standard for 2026-2030, creates a good cause exception for Near Term Resource Multiplier eligibility, and makes a few technical edits.

Location: Virtual Hearing via Zoom

https://zoom.us/webinar/register/WN_r79WS5UQQkewkIS_5_CYqA#/registration

Date: July 6, 2026, 1:00pm

Verbal testimony will be accepted at the hearing; however, parties may also provide written copies of their testimony. Written comments will be accepted beginning May 28, 2026 and ending at 5 pm on July 6, 2026. DOER requests that written comments be submitted as attached pdf files to DOER.CPS@mass.gov, with the words "CPS 2026 Emergency Rulemaking" in the subject line. Alternatively, comments can be submitted via mail to Thomas Ferguson at the Department of Energy Resources, 100 Cambridge Street, 9th Floor, Boston, MA 02114. Copies of the proposed regulations may be obtained from the DOER website at <https://www.mass.gov/info-details/clean-peak-energy-standard-notices-and-updates> or by emailing DOER.CPS@mass.gov.

Language interpretation services are available upon request. To request this service, please email DOER.CPS@mass.gov at least four (4) business days prior to the July 6, 2026. Please include your name, the event name and date, the language requested, and your phone number should we have any questions.

BY ORDER OF: Elizabeth Mahony, Commissioner, Department of Energy Resources

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

CMR No: 225 CMR 21.00

Estimate of the Number of Small Businesses Impacted by the Regulation: None, entities with compliance obligations pursuant to this statute and regulation are not typically “small businesses”. To the extent a retail competitive supplier meets the small business standard, such entities are already complying with the requirements of this regulation. For generators, participation in the program by small businesses is voluntary.

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, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Will small businesses have to implement additional recordkeeping procedures? No, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Will small businesses have to provide additional administrative oversight? No, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| 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, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| 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, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| 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, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? No, the proposed change modifies an existing regulatory provision and therefore must be done via regulation. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Do any other regulations duplicate or conflict with the proposed regulation? No. |
| 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? |

| | | |
|--|---|--|
| | | No, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| 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, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing 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, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? Yes, the regulation is likely to encourage the formation of small businesses to serve a growing market for energy storage systems. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| 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, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| 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, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |
| Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No, participation in this program for generators is voluntary and to the extent a regulated entity is a small business, there are no changes to existing requirements. |

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 Monday, June 29, 2026, at 10 a.m. relative to the adoption of amendments to the following regulation.

101 CMR 20.00: Health Information Exchange

The purpose of 101 CMR 20.00 is to govern the exchange of health information in the Commonwealth.

The proposed amendments to 101 CMR 20.00 update and modernize the Mass Hlway Health Information Exchange (HIE) regulations by expanding applicability to additional provider types, strengthening interoperability requirements, and aligning the regulatory framework with current exchange technologies and care coordination needs.

The amendments expand HIE participation requirements to additional provider types, including psychiatric hospitals, behavioral health entities, long-term care facilities, and home health agencies. The amendments also establish a phased, use-case-based approach for demonstrating compliance with statewide interoperability requirements.

There is no fiscal impact on cities and towns.

To [register to testify at the hearing and get instructions on how to join the hearing online](#), go to www.mass.gov/info-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 29. 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.

Date of Newspaper Ad: June 5, 2026

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

CMR No and Title: 101 CMR 20.00: *Health Information Exchange*

Estimate of the Number of Small Businesses Impacted by the Regulation: The amendments to the regulation affect approximately 1,000 small businesses in Massachusetts.

| Write Yes or No | Explain Briefly |
|-----------------|---|
| Yes | <p>Will small businesses have to create, file, or issue additional reports?</p> <p>All provider organizations will have to complete an attestation form as part of the HIway onboarding process.</p> |
| No | <p>Will small businesses have to implement additional recordkeeping procedures?</p> <p>Other than the initial onboarding attestation, there are no additional recordkeeping procedures required.</p> |
| Yes | <p>Will small businesses have to provide additional administrative oversight?</p> <p>Some provider organizations may have to provide additional administrative oversight to ensure that all the necessary changes have been implemented and that all workflow changes have been implemented.</p> |
| No | <p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>Small businesses will not need to hire additional employees in order to comply with the amended regulations.</p> |
| No | <p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>Compliance with the regulations does not require small businesses to hire other professionals.</p> |
| No | <p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>There are several ways providers can comply with the regulations. Some of these may require a fee, but many do not. It will be up to the provider to determine the most suitable use case.</p> |
| No | <p>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.)</p> <p>The regulations take a design/operational approach and specify exactly what actions provider organizations must take to connect to the HIway.</p> |
| No | <p>Do any other regulations duplicate or conflict with the proposed regulation?</p> <p>There are no regulations that duplicate or conflict with this amended regulation.</p> |

| Write Yes or No | Explain Briefly |
|-----------------|--|
| | |
| Yes | <p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>Yes, the regulation gives EOHHS the right to audit provider organizations to confirm compliance with the requirements set forth in the regulation.</p> |
| No | <p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>EOHHS and the Mass HIway will provide educational services and materials to providers to ensure that providers understand the regulatory requirements and how they apply to their organizations.</p> |
| No | <p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>The regulation neither deters nor encourages the formation of small businesses in Massachusetts.</p> |
| No | <p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>The regulation neither deters nor encourages the formation of small businesses in Massachusetts.</p> |
| No | <p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>The regulations apply equally to small and large providers and do allow for less stringent compliance for small provider practices.</p> |
| No | <p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>The regulations do not establish less stringent schedules or deadlines for small businesses.</p> |
| No | <p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p> <p>The agency does not consolidate or simplify compliance or reporting requirements for small businesses.</p> |
| No | <p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>No, performance standards for small business cannot replace design or operational standards without hindering delivery of the regulatory objective.</p> |
| No | <p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>This approach minimizes the impact of the regulations on all providers in the Commonwealth.</p> |

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 three remote public hearings on Friday, June 26, 2026, at the respective times listed below, relative to the adoption of amendments to the following regulations.

Pursuant to M.G.L. Chapter 118E, Section 13D (f/k/a Chapter 257 of the Acts of 2008), EOHHS is required to establish by regulation and biennially review the rates to be paid by governmental units for social service programs, which include the services described below.

In accordance with this requirement, the rates for the services described below are being updated to include an increase by a cost adjustment factor (CAF) of 3.00%. The CAF was determined by using the Massachusetts Economic Indicator data from IHS Economics – Fall 2025 Forecast, baseline scenario data. The CAF reflects the period between the rates' base period (calendar year 2026 Q2) and the prospective period of fiscal years 2027 and 2028. Staff salaries have been benchmarked to the Massachusetts Bureau of Labor Statistics (BLS) median wages as dated May 2024 at the 53rd percentile. The tax and fringe rate has been benchmarked to 24.97%. This benchmark is derived from the MA Comptrollers FY25 approved rate less terminal leave and retirement. The administrative allocation has been benchmarked to 12%, which is the standard rate applied across all Chapter 257 regulations.

The proposed regulations contain rates effective for dates of service on or after July 1, 2026. There is no fiscal impact on cities and towns.

Hearing 1: 10:00 a.m.: 101 CMR 426.00: Rates for Certain Adult Community Mental Health Services

101 CMR 426.00 establishes the payment rates for certain adult community mental health services provided to publicly aided individuals by governmental units. Services with rates established by this regulation are purchased by the Department of Mental Health (DMH).

At this time, the rates for all adult community mental health services in this chapter are being updated.

The total annualized cost to state government is approximately \$25.3 million, which represents an increase of 5.38% over FY25 spending of approximately \$470.7 million. The increase in spending in FY27 will be covered through the Chapter 257 Reserve Account.

Hearing 2: 11:00 a.m.: 101 CMR 346.00: Rates for Certain Substance-Related and Addictive Disorders Programs

101 CMR 346.00 governs the payment rates for certain substance-related and addictive disorders programs provided to publicly aided individuals by governmental units.

At this time, the rates for residential rehabilitation co-occurring enhanced services are being updated. These services are purchased by the Department of Public Health and MassHealth and provide organized substance-related and addictive disorders treatment and education services in a 24-hour residential setting for individuals with a moderate-to-severe substance use and mental health disorder.

The total estimated FY27 cost from the increase in the residential rehabilitation co-occurring enhanced services rates established by this proposed regulation to DPH is \$476,453, which is a 7.53% increase over FY25 spending of approximately \$6.3 million. The increase in DPH spending will be covered through the Chapter 257 Reserve Account. Any cost incurred by this rate increase to MassHealth will be covered through MassHealth's operating budget.

Hearing 3: 12:00 p.m.: 101 CMR 411.00: Rates for Certain Placement, Support, and Shared Living Services

101 CMR 411.00 governs the rates paid by governmental units for certain placement, support, and shared living services provided to publicly aided individuals. Services with rates established by this regulation are purchased by the Department of Children and Families (DCF), the Department of Youth Services (DYS), the Department of Developmental Services (DDS), MassAbility (MBY), and the Massachusetts Commission for the Blind (MCB).

At this time, most placement, support, and shared living services rates are being updated. However, the rates for all adoption management support services (AMSS) product-based services and the rate for the Youth Permanency Connections service are not being changed at this time due to the upcoming DCF procurement effective January 1, 2027.

The total annualized cost to state government from the proposed amendments to this regulation is approximately \$19.92 million, which represents an increase of 8.77% over FY25 spending of approximately \$227.2 million on these services. Of this amount, the estimated annualized cost to DCF is \$4,154,143; the estimated annualized cost to DHS is \$117,615; the estimated annualized cost to DDS is \$15,510,337; the estimated annualized cost to MBY is \$35,692; and the estimated annualized cost to MCB is \$104,072. The increase in spending in FY27 will be covered through the Chapter 257 Reserve Account.

[To register to testify at the hearings and to get instructions on how to join the hearings online](http://www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings), go to www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings. To join the hearings 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, June 26, 2026. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care for MassHealth-covered services.

[To review the current drafts of the proposed regulations](http://www.mass.gov/info-details/executive-office-of-health-and-human-services-public-hearings), 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. [To view or download related supporting materials](http://www.mass.gov/info-details/proposed-regulations-supporting-materials), go to www.mass.gov/info-details/proposed-regulations-supporting-materials.

[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 regulations 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.

Date of Newspaper Ad: June 5, 2026

Small Business Impact Statement

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

CMR No and Title: 101 CMR 346.00: Rates for Certain Substance-Related and Addictive Disorders Programs

Estimate of the Number of Small Businesses Impacted by the Regulation: 22

| Write Yes or No | Explain Briefly |
|-----------------|--|
| No | 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 this regulation. |
| No | Will small businesses have to implement additional recordkeeping procedures? No. Small businesses will not have additional responsibilities to keep records as a result of the proposed amendments to this regulation. |
| No | Will small businesses have to provide additional administrative oversight? No. Small businesses are not required by this regulation to provide additional administrative oversight as a result of the proposed amendments to this regulation. |
| No | Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. This regulation does not require small businesses to hire additional employees to remain in compliance. |
| No | 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 this regulation to hire other professionals. |
| No | Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No. This regulation does not require small businesses to purchase any particular product or make any capital investments. |
| No | 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 13D, and establishes the rates to be paid by governmental units to providers of certain social service programs. |
| No | Do any other regulations duplicate or conflict with the proposed regulation? No regulations duplicate or conflict with this regulation. |
| Yes | Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? Yes. The regulation requires providers to periodically file cost data to enable EOHHS to develop rates for certain social service programs. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers. |
| No | Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. This regulation does not require small businesses to provide educational services to keep up to date with the regulatory requirements. |
| No | Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates by which providers of certain social service programs are to be paid when services are purchased by governmental units. |
| No | Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates by which providers of certain social service programs are to be paid when services are purchased by governmental units. |

| Write Yes or No | Explain Briefly |
|-----------------|---|
| No | <p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>No. The regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates for certain social services. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers.</p> |
| No | <p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>No. The regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates for certain social services. The time frame for cost reporting is applied uniformly to all providers to enable EOHHS to timely develop accurate rates that reflect cost data from all providers.</p> |
| No | <p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p> <p>No. The agency did not consolidate or simplify compliance or reporting requirements for small businesses. The requirement to report cost data to EOHHS is applied uniformly to enable EOHHS to timely develop accurate rates that reflect cost data from all providers.</p> |
| No | <p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>No. The establishment of rates for certain social service providers by regulation is a statutory requirement under M.G.L. Chapter 118E, Section 13D.</p> |
| No | <p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>No. The regulation does not have an adverse impact on small businesses. The regulation establishes rates by which certain social service providers are to be paid when services are purchased by governmental units. The establishment of rates for these social services by regulation is a statutory requirement under M.G.L. Chapter 118E, Section 13D.</p> |

Small Business Impact Statement

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

CMR No and Title: 101 CMR 411.00: *Rates for Certain Placement, Support, and Shared Living Services*

Estimate of the Number of Small Businesses Impacted by the Regulation: 106

| Write Yes or No | Explain Briefly |
|-----------------|---|
| No | 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 this regulation. |
| No | Will small businesses have to implement additional recordkeeping procedures? No. Small businesses will not have additional responsibilities to keep records as a result of the proposed amendments to this regulation. |
| No | Will small businesses have to provide additional administrative oversight? No. Small businesses are not required by this regulation to provide additional administration oversight as a result of the proposed amendments to this regulation. |
| No | Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. This regulation does not require small businesses to hire additional employees to remain in compliance. |
| No | 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 this regulation to hire other professionals. |
| No | Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No. This regulation does not require small businesses to purchase any particular product or make any capital investments. |
| No | 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 13D, and establishes the specific rates to be paid by governmental units for certain social service programs. |
| No | Do any other regulations duplicate or conflict with the proposed regulation? No regulations duplicate or conflict with this regulation. |
| Yes | Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? This regulation does require that providers periodically file cost data to enable EOHHS to develop uniform rates for the social service programs with rates governed by this regulation. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers. |
| No | Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. This regulation does not require small businesses to provide educational services to keep up to date with the regulatory requirements. |
| No | Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates by which providers of certain social service programs are to be paid when purchased by governmental units. |
| No | Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? |

| Write Yes or No | Explain Briefly |
|-----------------|---|
| | No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates by which providers of certain social service programs are to be paid when purchased by governmental units. |
| No | Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. The regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates that are reasonable and adequate to meet the costs that are incurred by efficiently and economically operated social service program providers. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers. |
| No | Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. The regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates that are reasonable and adequate to meet the costs that are incurred by efficiently and economically operated social service program providers. This time frame for cost reporting is applied uniformly to all providers to enable EOHHS to timely develop accurate rates that reflect cost data from all providers. |
| No | Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. This regulation does not consolidate or simplify compliance or reporting requirements for small businesses. The proposed amendments only update the rates to be paid by governmental units for certain social service program services, as required by statute. |
| No | Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. The establishment of rates for certain social service program services by this regulation is a statutory requirement under M.G.L. Chapter 118E, Section 13D. |
| No | 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. The regulation establishes uniform rates to be paid by governmental units to providers of certain social service programs, as required by statute. |

Small Business Impact Statement

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

CMR No and Title: 101 CMR 426.00: Rates for Certain Community Mental Health Services

Estimate of the Number of Small Businesses Impacted by the Regulation: 36

| Write Yes or No | Explain Briefly |
|-----------------|--|
| No | 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 regulation. |
| No | Will small businesses have to implement additional recordkeeping procedures? No. Small businesses will not have additional responsibilities to keep records as a result of the proposed regulation. |
| No | Will small businesses have to provide additional administrative oversight? No. Small businesses are not required by this regulation to provide additional administration oversight as a result of the proposed regulation. |
| No | Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. This regulation does not require small businesses to hire additional employees to remain in compliance. |
| No | 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 this regulation to hire other professionals. |
| No | Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No. This regulation does not require small businesses to purchase any particular product or make any capital investments. |
| No | 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 13D, and establishes the rates to be paid by governmental units to providers of certain social service programs. |
| No | Do any other regulations duplicate or conflict with the proposed regulation? No regulations duplicate or conflict with this regulation. |
| Yes | Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? Yes. The regulation requires providers to periodically file cost data to enable EOHHS to develop rates for certain social service programs. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers. |
| No | Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. This regulation does not require small businesses to provide educational services to keep up to date with the regulatory requirements. |
| No | Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates by which providers of certain social service programs are to be paid when services are purchased by governmental units. |
| No | Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this regulation establishes rates by which providers of certain social service programs are to be paid when services are purchased by governmental units. |

| Write Yes or No | Explain Briefly |
|-----------------|---|
| No | <p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>No. The regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates for certain social services. This cost reporting requirement is applied uniformly to all providers to enable EOHHS to develop accurate rates that reflect cost data from all providers.</p> |
| No | <p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>No. The regulation contains requirements to report cost data to EOHHS to enable EOHHS to develop rates for certain social services. The time frame for cost reporting is applied uniformly to all providers to enable EOHHS to timely develop accurate rates that reflect cost data from all providers.</p> |
| No | <p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p> <p>No. The agency did not consolidate or simplify compliance or reporting requirements for small businesses. The requirement to report cost data to EOHHS is applied uniformly to enable EOHHS to timely develop accurate rates that reflect cost data from all providers.</p> |
| No | <p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>No. The establishment of rates for certain social service providers by regulation is a statutory requirement under M.G.L. Chapter 118E, Section 13D.</p> |
| No | <p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>No. The regulation does not have an adverse impact on small businesses. The regulation establishes rates by which certain social service providers are to be paid when services are purchased by governmental units. The establishment of rates for these social services by regulation is a statutory requirement under M.G.L. Chapter 118E, Section 13D.</p> |

NOTICE OF PUBLIC HEARING

The Executive Office of Public Safety and Security (EOPSS) hereby provides notice of a public hearing to solicit input on a new regulation:

1. Licensing Authority Training Seminars and Firearms Dealer Online Training Program, 501 CMR 21.00

Under the provisions of M.G.L. c. 30A, EOPSS, DCJIS, and MSP will conduct a public hearing for the purpose of gathering comments, ideas, and information concerning this new regulation.

Summary of Proposed Amendments:

An Act Modernizing Firearm Laws of Chapter 135 of the Acts of 2024 (the “Act”), requires EOPSS to promulgate regulations governing training for licensed firearms dealers and licensing authorities.

Availability of Proposed New Regulation:

The proposed regulation is available on EOPSS’s website, located here:

<https://www.mass.gov/orgs/executive-office-of-public-safety-and-security>.

A written copy of the proposed regulation may be obtained by e-mailing a request to EOPSS Deputy General Counsel John H. Melander, Jr., at John.Melander@mass.gov.

Hearing Details:

The hearing will be held virtually, using the Microsoft Teams platform, on July 7, 2026, from 10 a.m. to 1:00 p.m. To join, please use the following link:

<https://teams.microsoft.com/meet/295417642615538?p=9nI1TTbpN6OUmaz5ox>.

To join via telephone (audio only), please use the following credentials:

[+1 857-327-9245,,98686077#](tel:+1857327924598686077) United States, Boston

Phone conference ID: 986 860 77#

Submission of Comments:

Written comments or testimony in advance of the hearing are welcome and may be submitted by e-mail to John.Melander@mass.gov with a subject line stating, “Firearms Comment” or by mail to the Executive Office of Public Safety and Security, One Ashburton Place, Room 2133, Boston, MA 02108, attention John H. Melander, Jr. Comments received after July 7, 2026, at 5:00 p.m. may not be accepted. All persons desiring to be heard on this matter should join the virtual hearing, and participants shall conduct themselves as if attending the hearing in-person.

Small Business Impact Statement

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

CMR No.: 501 CMR 21.00: Licensing Authority Training Seminars and Firearms Dealer Online Training Program

Estimate of the Number of Small Businesses Impacted by the Regulation: 0

Select Yes or No and Briefly Explain

| | | |
|-----|---|---|
| YES | NO <input checked="" type="checkbox"/> | Will small businesses have to create, file, or issue additional reports? |
| | 1 <input checked="" type="checkbox"/> | Will small businesses have to implement additional recordkeeping procedures? <i>Firearms instructors (often sole proprietors) will have to do some additional record keeping.</i> |
| X | 1 | Will small businesses have to provide additional administrative oversight? <i>They will have to ensure that they have completed the online training.</i> |
| | 1 <input checked="" type="checkbox"/> | Will small businesses have to hire additional employees in order to comply with the proposed regulation? |
| | 1 <input checked="" type="checkbox"/> | Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? |
| | 1 <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? |
| | 1 <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.) |
| | 1 <input checked="" type="checkbox"/> | Do any other regulations duplicate or conflict with the proposed regulation? |
| | 1 <input checked="" type="checkbox"/> | Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? |
| | 1 <input checked="" type="checkbox"/> | Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? |
| | <input checked="" type="checkbox"/> | Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? |
| | 1 <input checked="" type="checkbox"/> | Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? |
| | <input checked="" type="checkbox"/> | Does the regulation provide for less stringent compliance or reporting requirements for small businesses? |

NOTICE OF PUBLIC HEARING

The Executive Office of Public Safety and Security (EOPSS) and the Massachusetts State Police (MSP), hereby provide notice of a public hearing to solicit input concerning amended regulation:

1. Basic Firearms Safety Course Requirements and Firearm Instructor Certification, 515 CMR 3.00.

Under the provisions of M.G.L. c. 30A, EOPSS will conduct a public hearing for the purpose of gathering comments, ideas, and information concerning this new regulation.

Summary of Proposed Amendments:

An Act Modernizing Firearm Laws of Chapter 135 of the Acts of 2024 (the “Act”), made several changes to the requirements of Basic Firearms Safety courses, including a live-fire component, resulting in the need to amend 515 CMR 3.00.

Availability of Proposed New Regulation:

The proposed regulation is available on EOPSS’s website, located here:

<https://www.mass.gov/orgs/executive-office-of-public-safety-and-security>.

A written copy of the proposed regulation may be obtained by e-mailing a request to EOPSS Deputy General Counsel John H. Melander, Jr., at John.Melander@mass.gov.

Hearing Details:

The hearing will be held virtually, using the Microsoft Teams platform, on July 7, 2026, from 10 a.m. to 1:00 p.m. To join, please use the following link:

<https://teams.microsoft.com/meet/295417642615538?p=9nI1TTbpN6OUmaz5ox>.

To join via telephone (audio only), please use the following credentials:

[+1 857-327-9245,,98686077#](tel:+1857327924598686077) United States, Boston

Phone conference ID: 986 860 77#

Submission of Comments:

Written comments or testimony in advance of the hearing are welcome and may be submitted by e-mail to John.Melander@mass.gov with a subject line stating, “Firearms Comment” or by mail to the Executive Office of Public Safety and Security, One Ashburton Place, Room 2133, Boston, MA 02108, attention John H. Melander, Jr. Comments received after July 7, 2026, at 5:00 p.m. may not be accepted. All persons desiring to be heard on this matter should join the virtual hearing, and participants shall conduct themselves as if attending the hearing in-person.

Small Business Impact Statement

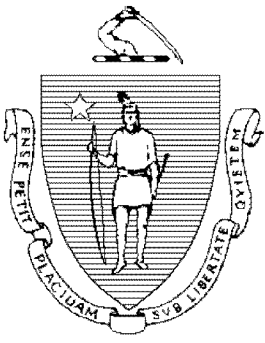
(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No.: 515 CMR 3.00: Basic Firearms Safety Course Requirements and Firearm Instructor Certification

Estimate of the Number of Small Businesses Impacted by the Regulation: 0

Select Yes or No and Briefly Explain

| | | |
|-----|-------------------|---|
| YES | NO X | Will small businesses have to create, file, or issue additional reports? |
| X | 1 | Will small businesses have to implement additional recordkeeping procedures? <i>Firearms instructors (often sole proprietors) will have to do some additional record keeping.</i> |
| | 1 X | Will small businesses have to provide additional administrative oversight? |
| | 1 X | Will small businesses have to hire additional employees in order to comply with the proposed regulation? |
| | 1 X | Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? |
| | 1 X | Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? |
| | 1 X | 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.) |
| | 1 X | Do any other regulations duplicate or conflict with the proposed regulation? |
| | 1 X | Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? |
| | 1 X | Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? |
| | 1 : | Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? |
| | 1 X | Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? |
| | 1 | Does the regulation provide for less stringent compliance or reporting requirements for small businesses? |



THE COMMONWEALTH OF MASSACHUSETTS
Secretary of the Commonwealth - William Francis Galvin

2026 CUMULATIVE TABLE TO THE MASSACHUSETTS REGISTER
1565 - 1576

The Cumulative Tables lists all regulations and amendments thereto published in the Massachusetts Register during the current year. The Table is published in each Register.

State agencies are listed in the Table as they appear in the Code of Massachusetts Regulations (CMR or Code) in CMR numerical order which is based on the cabinet structure. For example, all Human Service agencies are prefaced by the number "1" and are designated as 101 CMR through 130 CMR.

The Cumulative Tables published in the last issue of previous years will have a listing of all regulations published for that year. These Registers are:

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| April 6, 1976 - 1977 | Register: # 88 | Date: 2004 | Register: #1016 |
| 1978 | 138 | 2005 | 1042 |
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| 1988 | 598 | 2015 | 1302 |
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| 1997 | 833 | 2024 | 1537 |
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| 2002 | 963 | | |
| 2003 | 989 | | |

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| 101 CMR | Executive Office of Health and Human Services | | |
| 204.00 | Rates of Payment to Resident Care Facilities | | |
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| | - <i>Compliance</i> (MA Reg. # 1563) | 1572 | 12/5/25 |
| 206.00 | Standard Payments to Nursing Facilities | | |
| | - <i>Emergency Refile</i> (MA Reg. # 1559) | 1564 | 10/1/25 |
| | | 1567 | 2/13/26 |
| 307.00 | Rates for Psychiatric Day Treatment Center Services | 1569 | 3/13/26 |
| 317.00 | Rates for Medicine Services - <i>Emergency Refile</i> (MA Reg. # 1561) . . | 1567 | 11/7/25 |
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| 322.00 | Rates for Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment. | 1568 | 3/1/26 |
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| | - <i>Correction</i> (MA Reg. # 1557) | 1571 | 9/26/25 |
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| 417.00 | Rates for Certain Elder Care Services | 1570 | 3/27/26 |
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| | - <i>Correction</i> (MA Reg. # 1564) | 1568 | 1/2/26 |
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| 7.00 | Notices of Material Change and Cost and Market Impact Reviews. . . | 1573 | 5/8/26 |
| 9.00 | Assessment on Certain Health Care Providers and Pharmacy Benefit Managers | 1573 | 5/8/26 |
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| 6.00 | Massachusetts Defined Contribution CORE Plan | 1564 | 1/2/26 |
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| 17.00 | Constructive Approval | 1575 | 6/5/26 |



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **225 CMR 21.00**

CHAPTER TITLE: **Clean Peak Energy Portfolio Standard (CPS)**

AGENCY: **Department of Energy Resources**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Establishes a Clean Peak Energy Portfolio Standard to increase clean energy during the periods when Net Demand of electricity is the highest.

REGULATORY AUTHORITY: **M.G.L. c. 25A, § 17(c)**

AGENCY CONTACT: **Samantha Meserve** PHONE: **617-823-2214**

ADDRESS: **100 Cambridge Street, 9th Floor, Boston, MA 02114**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

See attached emergency justification.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

DOER will issue EO 145 Notices to MMA and EOHLC on May 28, 2026.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **July 6, 2026**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: **No fiscal effect**

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:
Environment and Energy

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 225 CMR 21.00.

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: **May 28 2026**

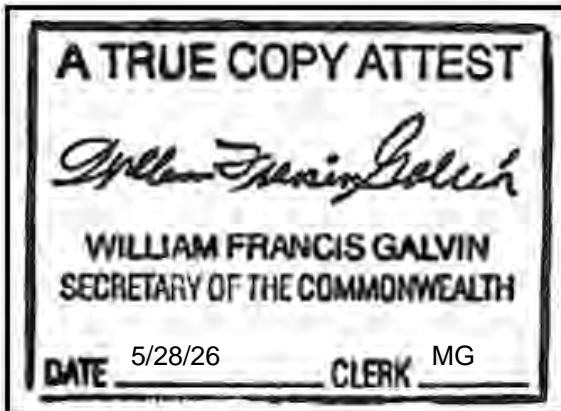
Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: **1576** DATE: **6/19/26**

EFFECTIVE DATE: **5/28/26**

CODE OF MASSACHUSETTS REGULATIONS

| | |
|---|--|
| <i>Remove these Pages:</i> | <i>Insert these Pages:</i> |
| This is an Emergency Regulation. | There are no Replacement Pages. |



Emergency Regulation Basis:

Emergency promulgation is consistent with the standard established in G.L. Ch. 30A Sec. 2. An emergency regulation is necessary for the preservation of the welfare of the public to prevent the assessment of unnecessary ratepayer costs and advance the construction of the renewable generation/storage facilities necessary to meet our greenhouse gas emission reduction requirements. In addition, the delays inherent to the non-emergency promulgation pathway are contrary to the public interest. The changes to Compliance Year 2026, which DOER estimates will save ratepayers between \$28,000,000 and \$95,000,000, must be implemented prior to the start of the trading period for Clean Peak Energy Certificates for Compliance Year 2026 on July 15, 2026. Additionally, the proposed changes to the Near-Term Resource Multiplier (NTRM) must be in place by December 31, 2026 to ensure the financing and deployment of qualified energy storage systems on the distribution system, which can provide energy cost savings to ratepayers by delivering peak load reduction and deferring distribution infrastructure upgrades. Promulgating the amended regulations as an emergency regulation allows the implementation of the program to occur as quickly as possible, which will provide market certainty and significant ratepayer cost reductions.

225 CMR 21.00: CLEAN PEAK ENERGY PORTFOLIO STANDARD (CPS)

Section

- 21.01: Purpose and Application
- 21.02: Definitions
- 21.03: Administration
- 21.04: Applicability
- 21.05: Eligibility Criteria for Clean Peak Resources
- 21.06: Qualification Process for Clean Peak Resources
- 21.07: Clean Peak Energy Standard
- 21.08: Compliance Procedures for Retail Electricity Suppliers
- 21.09: Annual Compliance Filings for Retail Electricity Suppliers
- 21.10: Reporting Requirements
- 21.11: Inspection
- 21.12: Noncompliance
- 21.13: Severability

21.01: Purpose and Application

The purpose of 225 CMR 21.00 is to establish a Clean Peak Energy Portfolio Standard to increase clean energy during the periods when Net Demand of electricity is the highest. Clean Peak Resources contribute to the Commonwealth's environmental protection goals concerning air emissions including, but not limited to, those required by the Global Warming Solutions Act, M.G.L. c. 21N, §§ 1-9, by displacing nonrenewable generating resources during Seasonal Peak Periods, while also having added benefits of reducing peak demand and system losses and increasing grid reliability. Clean Peak Resources that participate in the CPS program pursuant to 225 CMR 21.00 do so on a voluntary basis, but must comply with the terms and requirements of 225 CMR 21.00.

21.02: Definitions

Actual Monthly System Peak. The highest net demand for electricity in a calendar month in ISO-NE Control Area.

Aggregation. A group of one or more Clean Peak Resources that receives a single Statement of Qualification from the Department under the criteria and procedures set forth in 225 CMR 21.05.

Alternative Compliance Credit. A credit obtained by a Retail Electricity Supplier upon making an Alternative Compliance Payment. Such credit is used to document compliance with 225 CMR 21.07. One unit of credit shall be equivalent to one Clean Peak Energy Certificate.

Alternative Compliance Payment (ACP). A payment of a certain dollar amount per Clean Peak Certificate, resulting in the issuance of an Alternative Compliance Credit, which a Retail Electricity Supplier may submit to the Department in *lieu* of providing a Clean Peak Energy Certificate as required under 225 CMR 21.07.

Authorized Agent. A person or entity that serves under an agreement entered into by each of the Owners of a Clean Peak Resource for all dealings with the Department and with the NEPOOL GIS.

Business Day. Monday through Friday, exclusive of state and federal legal holidays.

Clean Peak Energy Certificate (CPEC). A credit received for each megawatt hour of energy or energy reserves at NEPOOL GIS that is adjusted by applicable Clean Peak Energy Certificate Multipliers and provided during a Seasonal Peak Period that represents a compliance mechanism.

Clean Peak Energy Certificate Multipliers. Values which, when applicable, are multiplied against Clean Peak Resource's performance, thereby increasing or decreasing the number of Clean Peak Energy Certificates produced in a given time period.

21.02: continued

Clean Peak Resource. A Qualified RPS Resource, a Qualified Energy Storage System or a Demand Response Resource that generates, dispatches or discharges electricity to the electric distribution system during Seasonal Peak Periods, or alternatively, reduces load on said system during said periods.

Clean Peak Seasons. The four seasons of the year as established in 225 CMR 21.05.

Commercial Operation Date. The date that a Clean Peak Resource first produces or provides electrical energy for sale. In the case of a Clean Peak Resource that is connected to the End-use Customer's side of the electric meter, the date on which the local Distribution Company grants approval for the Clean Peak Resource to interconnect with the grid. In the case of a Demand Response Resource, the date on which the resource first changes electric usage.

Compliance Filing. A document filed annually by a Retail Electricity Supplier with the Department documenting compliance with 225 CMR 21.07, consistent with the format set forth in the Guidelines and submitted no later than the first day of July, or the first Business Day thereafter, of the subsequent Compliance Year.

Compliance Year. A calendar year beginning January 1st and ending December 31st, for which a Retail Electricity Supplier must demonstrate that it has met the requirements of 225 CMR 21.07 and 21.08.

Contracted Resource. A Clean Peak Resource that:

- (a) Has received a Statement of Qualification as a Solar Tariff Generation Unit pursuant to 225 CMR 20.00 or 225 CMR 28.00; or,
- (b) Has a contract with a Distribution Company that has been approved by the Massachusetts Department of Public Utilities pursuant to St. 2008, c. 169, §§ 83, 83A or 83C.

Control Area. A geographic region in which a common generation control system is used to maintain scheduled interchange of electrical energy within and without the region.

Demand Response Resource. A resource that has received a Statement of Qualification from the Department, which changes electric usage by retail end-use customers in the Commonwealth from their normal consumption patterns in response to:

- (i) changes in the price of electricity over time including, but not limited to, time-of-use rates for residential and small commercial and industrial customers; or
- (ii) incentive payments designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized.

Department. The Massachusetts Department of Energy Resources, established by M.G.L. c. 25A.

Distribution Company. A company engaging in the distribution of electricity or owning, operating or controlling distribution facilities as defined in M.G.L. c. 164, § 1; provided, however, a Distribution Company shall not include a municipal lighting plant established pursuant to the provisions of M.G.L. c. 164.

Distribution System. The electric system, owned and operated by a Distribution Company and/or a municipal lighting plant typically operated at voltages below 69 kilovolts, which provides distribution service as defined in M.G.L. c. 164, § 1.

DPU. The Massachusetts Department of Public Utilities, established by M.G.L. c. 25, § 1.

End-use Customer. A person or entity in Massachusetts that purchases electrical energy from a Distribution Company.

Existing Resource. A Clean Peak Resource that has a Commercial Operation Date before January 1, 2019.

21.02: continued

SMART ES Resource. A Clean Peak Resource that is an energy storage system which is paired with a qualified Solar Tariff Generation Unit in the SMART Program or SMART 3.0 Program which receives the SMART Program energy storage adder.

Solar Massachusetts Renewable Target (SMART) Program. The solar incentive program established pursuant to 225 CMR 20.00.

Solar Massachusetts Renewable Target (SMART) 3.0 Program. The solar incentive program established pursuant to 225 CMR 28.00.

Standalone Qualified Energy Storage System (Standalone QESS). A Qualified Energy Storage System (QESS) that serves no associated on-site load other than parasitic load or station load utilized to operate the QESS.

Statement of Qualification. A document issued by the Department that qualifies a Clean Peak Resource under 225 CMR 21.00.

Transmission System. The electric system established for the delivery of power over lines that operate at a voltage level typically equal to or greater than 69,000 volts, which provides transmission service as defined M.G.L. c. 164, § 1.

21.03: Administration

225 CMR 21.00 shall be administered by the Department.

21.04: Applicability

225 CMR 21.00 applies to Retail Electricity Suppliers and to the Owners and Operators of Clean Peak Resources.

21.05: Eligibility Criteria for Clean Peak Resources

(1) Eligibility Criteria. A Clean Peak Resource may qualify for a Statement of Qualification subject to the limitations in 225 CMR 21.05. The Department shall publish a Guideline on Clean Peak Resource Eligibility that explains the parameters of eligibility requirements.

(a) Energy Resources and Technologies. The Clean Peak Resource shall use one or more of the energy resources or technologies listed in 225 CMR 21.05(1)(a)1. through 3. The Clean Peak Resource shall be interconnected with or offset load otherwise served by the Distribution System, or shall be interconnected with the Transmission System in the Commonwealth of Massachusetts. Clean Peak Resources must demonstrate that they generate, dispatch, or discharge electricity to the electric distribution system in Massachusetts. Resources interconnected within the service territory of a municipal lighting plant shall be ineligible to generate Clean Peak Energy Credits under 225 CMR 21.00 as municipal lighting plants are exempt from the requirements of the Clean Peak Standard pursuant to M.G.L, c. 25A, § 17(d).

1. Qualified RPS Resources.

a. RPS Class I Renewable Generation Units with a Commercial Operation Date on or after January 1, 2019 that have received a Statement of Qualification and meet all other applicable requirements.

b. RPS Class I Renewable Generation Units and RPS Class II Renewable Generation Units with a Commercial Operation Date prior to January 1, 2019, that are co-located with a Qualified Energy Storage System that has a Commercial Operation Date on or after January 1, 2019, subject to the following:

21.05: continued

i. Minimum Nominal Rated Power. The nominal rated power capacity of a Qualified Energy Storage System paired with a RPS Class I Renewable Generation Unit or RPS Class II Renewable Generation Unit must be at least 25% of the nameplate power rating of the RPS Class I Renewable Generation Unit or RPS Class II Renewable Generation Unit.

Special Provisions for De-rated Qualified Energy Storage Systems paired with RPS Class I Renewable Generation Units and RPS Class II Renewable Generation Units. A Qualified Energy Storage System's nominal rated power capacity may be de-rated to meet the four hour minimum nominal useful energy requirements in 225 CMR 21.05(1)(a)1.b.i. provided its de-rated power capacity is still at least 25% of the nameplate power rating of the RPS Class I Renewable Generation Unit or RPS Class II Renewable Generation Unit with which it is paired.

ii. Minimum Nominal Useful Energy. The nominal useful energy capacity of the Energy Storage System must be at least four hours at the nominal rated power.

iii. Co-location. The RPS Class I or Class II Renewable Generation Unit and the Qualified Energy Storage System must be located on the same or adjacent parcels within the same Distribution Company's service territory, and must be interconnected to the same common collector located on the same parcel(s) on which the RPS Class I or Class II Renewable Generation Unit and Qualified Energy Storage System facilities are located.

2. Qualified Energy Storage Systems: A Qualified Energy Storage System must operate primarily to store and discharge renewable energy as demonstrated by one or more of the following factors:

- a. Co-location with a Qualified RPS Resource as defined in 225 CMR 21.02 where the Qualified RPS Resource must have a nameplate capacity of at least 75% of the nameplate capacity of the energy storage;
- b. Contractual pairing with a Qualified RPS Resource that demonstrates to the Department's satisfaction that the Qualified Energy Storage System operates primarily to store and discharge renewable energy;
- c. Charging coincident with periods of typically high renewable energy production as a percent of the grid generation mix as defined below;
 - 1. Spring: 12:00 A.M. until 6:00 A.M. and 8:00 A.M. until 4:00 P.M.
 - 2. Summer: 12:00 A.M. until 6:00 A.M. and 7:00 A.M. until 2:00 P.M.
 - 3. Fall: 12:00 A.M. until 6:00 A.M. and 9:00 A.M. until 3:00 P.M.
 - 4. Winter: 12:00 A.M. until 6:00 A.M. and 10:00 A.M. until 3:00 P.M.

| | Energy Storage Charging Windows | |
|--------------------------|--|-----------------------------------|
| Clean Peak Season | Wind-based Charging Hours | Solar-based Charging Hours |
| Spring | 12:00 A.M. - 6:00 AM | 8:00 A.M. - 4:00 P.M. |
| Summer | 12:00 A.M. - 6:00 AM | 7:00 A.M. - 2:00 P.M. |
| Fall | 12:00 A.M. - 6:00 AM | 9:00 A.M. - 3:00 P.M. |
| Winter | 12:00 A.M. - 6:00 AM | 10:00 A.M. - 3:00 P.M. |

d. Inclusion of an operational schedule in the Qualified Energy Storage System's Interconnection Service Agreement demonstrating that the Qualified Energy Storage System serves to resolve load flow or power quality concerns otherwise associated with intermittent renewable energy resources.

3. Demand Response Resources: Demand Response Resources must demonstrate that changes to electric usage from their normal consumption patterns are measurable and verifiable. The Department shall publish a Guideline on Demand Response Resources to explain the parameters of Demand Response Resources in the Clean Peak Standard.

A facility that generates electricity, including a Qualified RPS Resource, shall not be considered a Demand Response Resource.

21.05: continued

(2) Metering. A Clean Peak Resource shall meter and report 15-minute interval performance in compliance with standards and protocols as established by a third-party Program Administrator designated by the Department. The Department may grant an exception to the 15-minute interval and designate a shorter or longer interval on a case-by-case basis. The Program Administrator shall be the designated independent third-party meter reader, as defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule. All standards and metering protocols shall be subject to review and approval by the Department. A Clean Peak Resource shall submit metered data to the Program Administrator for all hours of the previous month. Subject to review and approval by the Department, the Program Administrator may assess Clean Peak Resources a fee associated with the administration of the CPS.

The electrical energy output or performance of a Clean Peak Resource shall be verified by the Program Administrator for the purpose of calculating the number of Clean Peak Energy Certificates a qualified resource produced in the previous month. The Program Administrator shall report the number of Clean Peak Energy Certificates each qualified resource is due to receive to NEPOOL GIS for the purpose of minting Clean Peak Energy Certificates.

(3) Clean Peak Seasons.

(a) The four Clean Peak Seasons are established as:

1. Spring: March 1st through May 14th;
2. Summer: May 15th through September 14th;
3. Fall: September 15th through November 30th;
4. Winter: December 1st through February 28th; and as adjusted by leap years.

(4) Seasonal Peak Periods. The Seasonal Peak Periods establish the time of day in which a qualified resource produces Clean Peak Energy Certificates.

(a) The Seasonal Peak Periods are established as the periods of all Business Days in each Clean Peak Season that historically coincide with Massachusetts' peak electricity demand:

1. Spring: from 5:00 P.M. until 9:00 P.M.
2. Summer: from 4:00 P.M. until 8:00 P.M.
3. Fall: from 4:00 P.M. until 8:00 P.M.
4. Winter: from 4:00 P.M. until 8:00 P.M.

(5) Clean Peak Energy Certificate Generation. Clean Peak Energy Certificates generated by a Clean Peak Resource shall be equal to the sum of the metered average MW performance of a Clean Peak Resource for each hour during a Seasonal Peak Period, multiplied by the Seasonal Multiplier, and any other applicable multipliers as described in 225 CMR 21.05(6)(c) through (g), plus the metered average MW performance during the Hour of Actual Monthly System Peak Demand, multiplied by the Seasonal Multiplier, the Actual Monthly System Peak Multiplier, and any other applicable multipliers as described in 225 CMR 21.05(6)(c) through (g).

(6) Clean Peak Energy Certificate Multipliers. The Clean Peak Energy Certificate Multipliers shall modify the number of Clean Peak Energy Certificates that a Clean Peak Resource generates as follows:

(a) Seasonal Multiplier. Seasonal multipliers are established for each Clean Peak Season to reflect the level of emissions and magnitude of peak demands in a season. Seasonal Multipliers shall be:

- a. Spring: 1
- b. Summer: 4
- c. Fall: 1
- d. Winter: 4

(b) Actual Monthly System Peak Multiplier. The Actual Monthly System Peak Multiplier shall modify the number of Clean Peak Energy Certificates generated during the Hour of Actual Monthly System Peak. The multiplier shall be 25.

(c) Resilience Multiplier. The Resilience Multiplier modifies the number of Clean Peak Energy Certificates generated by a Clean Peak Resource that is also a Resilient Facility and can provide electric power to a load during external outage conditions. Clean Peak Resources that can demonstrate the added ability to provide electricity to load during an external outage will receive a Resilience Multiplier on all eligible output occurring during Seasonal Peak Periods. The multiplier shall be 1.5.

21.05: continued

- (d) Existing Resource Multiplier. The Existing Resource Multiplier modifies the number of Clean Peak Energy Certificates generated by an Existing Resource. The multiplier shall be 0.1.
- (e) Contracted Resource Multiplier. The Contracted Resource Multiplier modifies the number of Clean Peak Energy Certificates generated by a Contracted Resource. The multiplier shall be 0.01.
- (f) SMART ES Resource Multiplier. The SMART ES Resource Multiplier modifies the number of Clean Peak Energy Certificates generated by a SMART ES Resource. The multiplier shall be 0.3.
- (g) Distribution Circuit Multiplier. The Department may establish a Distribution Circuit Multiplier that modifies the number of Clean Peak Energy Certificates generated by a Clean Peak Resource based on the locational value of the unique load profile and particular needs of each distribution circuit, as defined by the Department, in consultation with the Distribution Companies. Clean Peak Resources which are owned by a Distribution Company are not eligible for a Distribution Circuit Multiplier. The Department may consider Distribution Circuit Multipliers greater than or less than one. The Department, in coordination with the Distribution Companies, shall determine whether sufficient data is available to enable effective implementation of a Distribution Circuit Multiplier no later than December 31, 2022. If the Department determines that a Distribution Circuit Multiplier shall be established, the Department shall publish a Guideline on the Distribution Circuit Multiplier that provides the multiplier amount(s) and explains the parameters of the applicability of the Distribution Circuit Multiplier.
- (h) Near-term Resource Multiplier. The Near-term Resource Multiplier modifies the number of Clean Peak Energy Certificates generated by a Standalone QESS that is not co-located with a Qualified RPS Resource or a Demand Response Resource and is interconnected to the Distribution System. The Qualified Energy Storage System must not have received a Statement of Qualification on or before January 1, 2025, and must have a Commercial Operation Date before January 1, 2027. No Qualified Energy Storage System shall receive both the Distribution Circuit Multiplier and the Near-term Resource Multiplier. The Department shall set an initial eligibility cap for the Near-term Resource Multiplier of 50 MW of cumulative Qualified Energy Storage System capacity. After notice and opportunity for public comment, the Department may increase this cap in the future. No individual or affiliated Owner, Operator, or Authorized Agent may qualify for greater than 50% of the capacity designated by the Department. The multiplier shall be two for years one through ten from the Qualified Energy Storage System's effective date on its Statement of Qualification, provided that no energy discharged from a Qualified Energy Storage System shall have its Clean Peak Energy Certificates modified by the multiplier after the deadline specified under 225 CMR 21.05(6)(h)2. The Department may publish a guideline that explains the parameters of the applicability of the Near-term Resource Multiplier.
1. Extension to Commercial Operation Date Requirement for Good Cause. A Qualified Energy Storage System subject to the requirement to have a Commercial Operation Date before January 1, 2027 under 225 CMR 21.05(6)(h) may request an extension for good cause. Any request for an extension for good cause under this provision shall include evidence of a good faith effort to achieve a Commercial Operation Date of January 1, 2027 and evidence of delays outside the Owner, Operator, or Authorized Agent's control, including, but not limited to, supply-chain constraints and interconnection delays.
 2. Expiration of Near-term Resource Multiplier. No energy discharged from a Qualified Energy Storage System shall have the associated number of Clean Peak Energy Certificates modified by the Near-term Resource Multiplier after December 31, 2036.
- (i) Review. Beginning in 2024 and not less frequently than every four years thereafter, the Department shall conduct a review of the Clean Peak Energy Certificate Multipliers and, following stakeholder review and input, may modify the multipliers.

21.05: continued

(7) Special Provision for Clean Peak Energy Certificate Generation for Energy Reserves.

(a) The Department may establish a mechanism by which Clean Peak Energy Certificates may be generated by provision of energy reserves, subject to applicable requirements including, but not limited to, such provision of energy reserves being directly measurable and verifiable in accordance with 225 CMR 21.05(2). The Department shall determine whether such a mechanism can be implemented no later than December 31, 2020. If the Department determines that such a mechanism shall be established, the Department shall publish a *Guideline on Energy Reserves* that explains the mechanism and its applicability.

(8) Clean Peak Certificate Procurement.

(a) Each Distribution Company shall competitively procure Clean Peak Energy Certificates pursuant to M.G.L. c. 25A, § 17(c). Clean Peak Certificate procurements shall be designed to achieve an initial target of at least 30% of the total market obligation of Retail Electricity Suppliers in a given Compliance Year. No later than November 12, 2024, the Department shall establish a staggered procurement schedule for the issuance for requests for proposals for Clean Peak Certificates.

(b) The Department may adjust the procurement target in response to the Market Supply in any Compliance Year. After notice and opportunity for public comment, the Department may increase the target for the Clean Peak Certificate Procurement or determine that additional procurements are not required based on Market Supply conditions.

(c) A request for proposals to conduct the competitive procurement shall be developed by the Distribution Companies, in consultation with and subject to review and approval by the Department. Such request for proposals may include the following components:

(d) Any contracts resulting from a competitive procurement under this section shall be subject to review and approval by the Department of Public Utilities.

(e) The Department may establish a Guideline on Clean Peak Certificate Procurements that explains the parameters and provides additional detail to the procurement process.

21.06: Qualification Process for Clean Peak Resources.

(1) Statement of Qualification Application. A Statement of Qualification Application shall be submitted to the Department by the Owner or Operator of the Clean Peak Resource or by the Authorized Agent for an Aggregation. The applicant must use the most current forms and associated instructions provided by the Department, and must include all information, documentation, and assurances required by such forms and instructions.

NON-TEXT PAGE

21.06: continued

(2) Review Procedures.

(a) The Department will notify the applicant when the Statement of Qualification Application is administratively complete or if additional information is required pursuant to 225 CMR 21.06(1).

(b) The Department may, in its sole discretion, provide an opportunity for public comment on any Statement of Qualification Application.

(3) Issuance or Non-issuance of a Statement of Qualification.

(a) If the Department finds that a resource meets the requirements for eligibility as a Clean Peak Resource pursuant to 225 CMR 21.00, the Department will provide the Owner, Operator, or the Authorized Agent for such Aggregation with a Statement of Qualification.

(b) The Statement of Qualification shall include any applicable restrictions and conditions that the Department deems necessary to ensure compliance by a Clean Peak Resource or Aggregation with the provisions of 225 CMR 21.00.

(c) If the Clean Peak Resource or Aggregation does not meet the requirements for eligibility, the Department shall provide written notice to the Owner, Operator, or Authorized Agent, including the Department's reasons for such finding.

(d) In calendar year 2020, a resource may receive a Statement of Qualification which back-dates qualification to January 1, 2020 or the Commercial Operation Date, whichever is later.

(4) CPS Effective Date. The CPS Effective Date shall be the earliest date on or after the Commercial Operation Date on which the operation of a Clean Peak Resource can result in the creation of Clean Peak Energy Certificates, as determined by the Department.

(5) Notification Requirements for Change in Eligibility Status. The Owner or Operator of a Clean Peak Resource shall notify the Department of any changes in the technology, operation, emissions, fuel sources, energy resources, enrollment in incentive program(s), or other characteristics of the Clean Peak Resource(s) that may affect the eligibility of the Clean Peak Resource. The Owner, Operator, or Authorized Agent shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented. The notice shall state the date the changes were made to the Clean Peak Resource and describe the changes in sufficient detail to enable the Department to determine if a change in eligibility is warranted.

(6) Notification Requirements for Change in Ownership, Generation Capacity, or Contact Information. The Owner or Operator of a Clean Peak Resource shall notify the Department of any changes in the ownership, operating entity, capacity, NEPOOL GIS account for the Clean Peak Resource or Aggregation, or contact information for the Clean Peak Resource or Aggregation. The Owner or Operator shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented.

(7) Suspension or Revocation of Statement of Qualification. The Department may suspend or revoke a Statement of Qualification if the Owner or Operator of a Clean Peak Resource or Authorized Agent of an Aggregation fails to comply with 225 CMR 21.00 or if a Clean Peak Resource does not operate during a consecutive 12-month period.

21.07: Clean Peak Standard

(1) CPS Minimum Standard. The total annual sales of each Retail Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier, under contracts executed or extended on or after January 1, 2020, shall include a minimum percentage of electrical energy sales with Clean Peak Certificates.

(a) The CPS Minimum Standard shall be set to the percentage identified in 225 CMR 21.07(1)(a).

21.07: continued

| Compliance Year | Cumulative Minimum Percentage |
|------------------------|--------------------------------------|
| 2019 | 0.0% |
| 2020 | 1.5% |
| 2021 | 3.0% |
| 2022 | 4.5% |
| 2023 | 6.0% |
| 2024 | 4.0% |
| 2025 | 5.5% |
| 2026 | 4.0% |
| 2027 | 8.0% |
| 2028 | 12.0% |
| 2029 | 18.0% |
| 2030 | 24.0% |
| 2031 | 29.0% |
| 2032 | 31.0% |
| 2033 | 32.5% |
| 2034 | 34.0% |

(b) The CPS Minimum Standard for each Compliance Year shall increase 1.5% annually after 2034.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **101 CMR 334.00**

CHAPTER TITLE: **Rates for Prostheses, Prosthetic Devices, and Orthotic Devices**

AGENCY: **Executive Office of Health and Human Services**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Governs the payment rates paid by MassHealth and other governmental purchasers for services related to prostheses, prosthetic devices, and orthotic devices provided by eligible providers to publicly aided individuals.

REGULATORY AUTHORITY: **M.G.L. c. 118E**

AGENCY CONTACT: **Deborah M. Briggs, MassHealth Publications** PHONE: **6178473302**

ADDRESS: **100 Hancock Street, 6th Floor, Quincy, MA 02171**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Order 145 notifications: 12/10/25

Regulatory Review approval: 5/20/26

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **1/23/26**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: No fiscal impact.

For the first five years: _____

No fiscal effect: _____

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 101 CMR 334.00.

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Jun 05 2026

Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 6/19/26

CODE OF MASSACHUSETTS REGULATIONS

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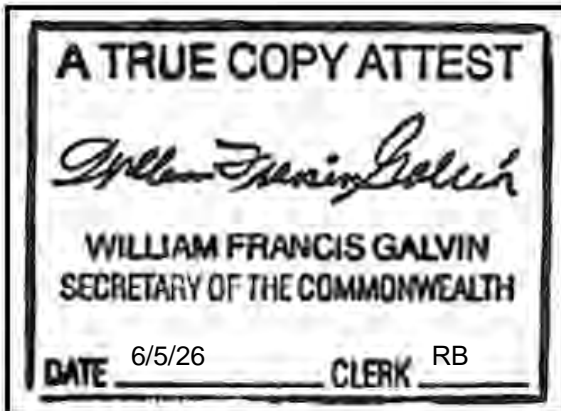


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101 CMR 334.00: RATES FOR PROSTHESES, PROSTHETIC DEVICES AND ORTHOTIC DEVICES

Section

- 334.01: General Provisions
- 334.02: General Definitions
- 334.03: General Rate Provisions
- 334.04: Reporting Requirements
- 334.05: Severability

334.01: General Provisions

(1) Scope and Purpose. 101 CMR 334.00 governs the payment rates to be used by all governmental units for prostheses, prosthetic devices, and orthotic devices provided to publicly aided individuals. The rates set forth in 101 CMR 334.00 do not apply to individuals covered by M.G.L. c. 152 (the Workers' Compensation Act). Rates for services provided to these individuals are set forth in 114.3 CMR 40.03(2): *Services and Rates Covered by Other Regulations*.

(2) Applicable Dates of Service. Rates contained in 101 CMR 334.00 apply for dates of service provided on or after July 1, 2026, unless otherwise specified.

(3) Coverage. 101 CMR 334.00 and the payment rates established under 101 CMR 334.00 apply to the direct purchase and repair of prescribed custom-made prostheses and prosthetic devices manufactured and supplied by providers, including the cost of customized fitting and client service. 101 CMR 334.00 also applies to the purchase and repair of orthotic devices. These rates are full payment for prostheses, prosthetic devices, and orthotic devices provided by sale, as well as full payment for any related supervisory or administrative duties, fittings and adjustments rendered in connection with the provision of prostheses, prosthetic devices, and orthotic devices.

(4) Disclaimer of Authorization of Services. 101 CMR 334.00 is not authorization for or approval of the procedures for which rates are determined pursuant to 101 CMR 334.00. Governmental units that purchase care are responsible for the definition, authorization, and approval of care to publicly aided individuals.

(5) Coding Updates and Corrections. The Executive Office of Health and Human Services (EOHHS) may publish procedure code updates and corrections in the form of an Administrative Bulletin. The publication of such updates and corrections will list:

- (a) codes for which the code numbers only changed, with the corresponding crosswalk;
- (b) codes for which the codes remain the same, but the descriptions have changed;
- (c) deleted codes for which there are no crosswalks; and
- (d) entirely new codes.

For new codes without Medicare fees as of the date of the Administrative Bulletin EOHHS will apply individual consideration in establishing payment for such codes. Rates established by administrative bulletin will remain in effect until such time EOHHS adopts a revised regulation or superseding administrative bulletin.

334.02: General Definitions

As used in 101 CMR 334.00, unless the context requires otherwise, terms have the meanings in 101 CMR 334.02.

Above Elbow (AE) Trans-humeral. Relating to prostheses or levels of amputation across the long axis of the humerus.

Above Knee (AK) Trans-femoral. Relating to prostheses or levels of amputation across the long axis of the femur.

334.02: continued

Additions to. If a code is listed as "Additions to", the code is added to the base procedure code if additional and more complicated services are provided. The value assigned to the "Additions to" codes does not represent the actual value of the component but only the difference in value between the base procedure code and the additional component.

Adjusted Acquisition Cost (AAC). The price paid to a supplier by a provider for prostheses, prosthetic devices and orthotic devices after adjusting for manufacturer, dealer, trade, and volume discounts and excluding all associated costs such as, but not limited to, shipping, handling, and insurance costs. The AAC may not exceed the price to the provider as listed or determined in the manufacturer's current catalogue and must be evidenced by a current invoice. The standard markup applied to the AAC corresponds to the complexity of the item and are set forth in 101 CMR 334.02.

Ankle Foot Orthosis (AFO). An orthosis beginning at the toes, crossing the ankle, and terminating on the calf. Devised to control, limit, or assist foot and ankle motion and provide leg support.

American Board for Certification in Orthotics, Prosthetics, and Pedorthics (ABC). An accrediting organization for orthotic, prosthetic, and pedorthic services.

Base Code. A code that describes the essential or fundamental design of a device.

Below Elbow (BE) Trans-radial. Relating to prostheses or levels of amputation across the long axis of the radius/ulna.

Below Knee (BK) Trans-tibial. Relating to prostheses or levels of amputation across the long axis of the tibia/fibula.

Bilateral. Of, or pertaining to, both sides of the body.

Board of Certification/Accreditation (BOC). An accrediting organization for prosthetic and orthotic services.

Center. The Center for Health Information and Analysis established under M.G.L. c. 12C.

Cervical Orthosis (CO). Orthosis that traverses the cervical vertebrae.

Cervical-thoracic Orthosis (CTO). Orthosis that traverses the listed areas.

Cervical-thoracic-lumbar-sacral Orthosis (CTLSO). Orthosis that traverses the listed areas.

Cross-walk. A cross-reference in which a code is deleted and replaced with another code or series of codes.

Custom Fabricated Device. A device or product made for a specific patient from his/her individual measurements and/or pattern.

Custom Fitted/Prefabricated. A prefabricated device or product that has been manufactured from standard molds or patterns and that requires modification for fitting by a certified orthotist or an individual who has equivalent specialized training.

Definitive Prosthesis. A prosthesis intended for long-term use containing components suitable for the full range of functional activities the amputee may be able to perform.

Direct Formed. Material is molded over the involved portion of the patient's body and ultimately used as an essential part of the device.

Dynamic Response. A prosthetic foot with a spring keel which deflects under load and returns to neutral.

334.02: continued

Early Fitting. A prosthetic device provided during the initial wound healing phase following amputation.

Elastic Keel Foot. *See* Flexible Keel Foot.

Elastic Type Material Being. Of, or with properties similar to, elastic.

Elbow Orthosis (EO). Orthosis that traverses the elbow.

Endoskeletal. A prosthesis composed of an internal pylon system which provides structural integrity to the device.

Energy Storing Foot. A prosthetic foot designed to collect a substantial amount of strain energy and return it to the gait cycle via deflection on the foot.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Exoskeletal. A prosthesis composed of a rigid external shell that provides structural integrity to the device.

Fabrication and Fitting. Time spent in examining the patient; making necessary patterns and measurements; and performing fittings, including static and dynamic alignments and fitting refinements.

Finger Orthosis or Foot Orthosis (FO). Orthosis that traverses the finger or the foot. While this abbreviation represents two types of orthoses, these two types of orthoses are so different that the context will clearly indicate which is meant.

Flexible. Referring to devices which are bendable in nature and occasionally reinforced with stays of metal or other semi-rigid materials.

Flexible Keel Foot. A prosthetic foot with a compliant, elastomeric keel which absorbs forces during rollover.

Governmental Unit. The Commonwealth, any department, agency, board or commission of the Commonwealth, and any political subdivision of the Commonwealth.

Hand-finger Orthosis (HFO). Orthosis that traverses the listed areas.

Hand Orthosis (HO). Orthosis that encompasses the whole or any part of the hand.

Heavy Duty. Being of stronger nature than standard.

Hemi Pelvectomy - Trans-pelvic. Relating to an amputation which is performed through a portion of the pelvis or a prosthesis for this type of amputation.

Hip Disarticulation (HD). An amputation through the hip joint or to describe a prosthesis for this level of amputation.

Hip-knee-ankle-foot Orthosis (HKAFO). Orthosis that traverses the listed areas.

Immediate Fitting. Beginning prosthetic management immediately following surgical closure of the wound.

334.02: continued

Individual Consideration (IC). Services or devices designated IC are items individually considered by the purchasing governmental unit based on the provider's report of services. The purchasing governmental unit analyzes the provider's report of services submitted before making a determination. Providers must keep adequate records to substantiate their IC claims and must provide these documents including a copy of current invoice to the purchasing agency upon demand. *See* 101 CMR 334.02 for the definition of Standard Markup and 101 CMR 334.03(8).

Initial. Direct formed prosthetic devices provided as early as patient management.

Interface Material. Flexible lining material integral to the device.

Knee-ankle-foot Orthosis (KAFO). Orthosis that traverses the listed areas.

Knee Disarticulation (KD). Relating to an amputation that is performed through the knee joint or a prosthesis for his type of amputation.

Knee Orthosis (KO). Orthosis that traverses the knee.

Lumbar-sacral Orthosis (LSO). Orthosis that traverses the listed areas.

Molded Socket. In orthotics, this term refers to an impression that was taken and modified, and that a socket of thermoplastic or other material was made over the model. In prosthetics, this term refers to a generally accepted fitting procedure, such as PTB or quadrilateral socket, was molded over a modified patient model.

Molded to Patient. *See* Direct Formed.

Molded to Patient Model. Custom manufactured item individually fabricated over a positive model of the patient, based on a three-dimensional negative impression or digital scanning.

Multiaxial. Having two or more axes of rotation.

Multi-density. Composed of two or more materials of varying shore hardness.

Multi-durometer. Composed of two or more materials, with sectional areas of differing shore hardness.

Non-removable. Attached to shoe when the device is permanently affixed and therefore a part of the shoe.

Off-the-shelf. A prefabricated device or product that requires minimal self-adjustment as defined at 42 CFR 414.402 for appropriate use, *i.e.*, does not require the services of a certified orthotist or an individual who has specialized training to adjust the device.

Orthosis. Externally applied device used to modify the structural and functional characteristics of the neuromuscular and skeletal systems.

Passive. A device that cannot be actively moved.

Polycentric. Having many centers of rotation in a single plane.

Prefabricated. A device that has been manufactured from standard molds or patterns.

Premolded. *See* Prefabricated.

Preparatory. A prosthetic device applied to prepare the limb for eventual fitting and to evaluate the appropriateness of selected technology and the patient's ability to use a definitive prosthesis.

334.02: continued

Production. See Prefabricated.

Prosthesis. Externally applied device used to replace wholly, or in part, an absent or deficient body segment.

Provider. Any person, partnership, corporation, or other entity that is authorized by the Commonwealth of Massachusetts to engage in the business of providing prosthetic, orthotic, or pedorthic services and related supplies. An eligible provider of prosthetic, orthotic, or pedorthic services and related supplies must be ABC-certified or BOC-certified and must meet the conditions of participation adopted by the purchasing governmental unit.

Publicly Aided Individual. A person for whose medical and other services a governmental unit is in whole or in part liable under a statutory program.

Recall. An action taken by the manufacturer to retrieve, replace, or repair dangerous or defective orthotic or prosthetic devices whether or not such action is taken at the direction of the Food and Drug Administration (FDA).

Retail Price. The total price charged for a product sold to a customer, which includes the manufacturer's cost plus a retail markup.

Rigid. Not bending; inflexible.

Sale Price. The price at which something sells or is sold after its retail price has been reduced.

Semi-rigid. Partially rigid; having some rigid elements.

Shelf Price. The sign or tag placed by an authorized person at each point of display that clearly sets forth the retail price of the item.

Shoulder-elbow-wrist-hand Orthosis (SEWHO). Orthosis that traverses the listed areas.

Shoulder Orthosis (SO). Orthosis that traverses the shoulder.

Single Axis. Having only one axis of rotation.

Standard Markup. Except where otherwise indicated in an applicable section of 101 CMR 334.03, the standard markup for the purchase of prostheses, prosthetic devices, and orthotic devices that is applied to the AAC, net of any discounts as specified in the definition of AAC at 101 CMR 334.02, to a supplier by an eligible provider cannot exceed:

- (a) 70% for any item described as being custom fabricated; or
- (b) 50% for any item described as being prefabricated; or
- (c) 40% for any item described as being off-the-shelf.

Thermoplastic. Able to be remolded with the application of heat.

Thoracic-lumbar-sacral Orthosis (TLSO). An orthosis that traverses the listed areas.

Thoracic Orthosis (TO). An orthosis that traverses the thoracic vertebrae.

Ultra-light Material. Materials such as titanium, carbon fiber, or equal.

Unilateral. Being of, or pertaining to, one side of the body.

Usual and Customary Charge. The lowest price that an eligible provider charges to any payer in Massachusetts other than for publicly aided individuals for the same equipment or item, including but not limited to the shelf price, sale price, or advertised price.

Wrist-hand Orthosis (WHO). Orthosis that traverses the wrist and hand. Sometimes referred to as wrist orthosis (WO).

334.03: General Rate Provisions

(1) General Rate Provisions for the Purchase of Prostheses, Prosthetic Devices, and Orthotic Devices. Payment to provider of prosthetic or orthotic devices or services are the lower of:

- (a) the provider's usual and customary charge; or
- (b) the rates set forth in 101 CMR 334.03(10) or any applicable administrative bulletin.

(2) Rates for New Codes. New codes that have established Medicare fees as of the date of the Administrative Bulletin will have rates established at:

- (a) 94.00% of the corresponding Medicare fee for any item described as being custom fabricated; or
- (b) 82.00% of the corresponding Medicare fee for any item described as being prefabricated; or
- (c) 70.76% of the corresponding Medicare fee for any item described as being off-the-shelf.

When Medicare fees are not available for new codes, and for certain orthotics and prosthetics, rates will be established at individual consideration at adjusted acquisition cost plus the standard markup as defined in 101 CMR 334.03(9).

(3) Effect of Rates. The rates of payment contained in 101 CMR 334.00 are maximum allowable rates that a governmental unit or purchaser under M.G.L. c. 152 may pay for prostheses, prosthetic devices, or orthotic devices. A governmental unit may pay less than the rates established for a provider under 101 CMR 334.00 provided that any such discount or reduction in charge by the provider is equally available to all governmental units purchasing prostheses, prosthetic devices and orthotic devices from the provider. No rate of payment under 101 CMR 334.00 may exceed the provider's usual and customary charge for the same or similar device.

(4) Terms and Warranties. All terms and warranties, expressed and implied, that are customarily extended by the provider or manufacturer must apply to purchases made under 130 CMR 334.00. A purchaser will not pay for replacement or repair of any item or service covered by such terms or warranties.

(5) Repairs. For repair services providers must maintain and submit adequate documentation on the repair performed as indicated by the purchasing governmental unit. Repair may be billed using codes for the labor component (L7520 for prosthetics or L4205 for orthotic devices) and the parts used in the repair (L7510 for prosthetics or L4210 for orthotic devices).

(6) Modifiers. The following list of letter modifiers must be added, where appropriate, to Healthcare Common Procedure Coding System (HCPCS) procedure codes to determine the percent fee to be paid on claims. Refer to purchasers' manuals for specific coding instructions.

(a) Informational modifiers:

- 1. LT – Left
- 2. RT – Right
- 3. CG – Policy Criteria Applied

(b) Additional modifiers used for MassHealth reimbursement when using the following miscellaneous codes, L0999, L1499, L2999, L3999, L5999, L7499, and L8499:

- 1. U1 – AAC 40% Off the Shelf (used for not otherwise classified (NOC) codes only – identified in 334.03(10))
- 2. U2 – AAC 50% Prefabricated (used for NOC codes only – identified in 101 CMR 334.03(10))
- 3. U3 – AAC 70% Custom (used for NOC codes only – identified in 101 CMR 334.03(10))

(7) Recall Provisions. Whenever an orthotic or prosthetic is subject to recall, the provider will fully address the recall as specified in the manufacturer's recall instructions. For recalls of potentially dangerous or defective orthotic or prosthetic that predictably could cause serious health problems, including death, the provider must provide the publicly aided individual with a copy of the recall notice and fully address the recall as specified in the recall instructions no later than five business days from the date the provider receives the recall notice. Any costs not covered by the manufacturer or other third party for activity associated with amelioration, repair or replacement of recalled equipment is included in the general rate provision.

334.03: continued

(8) AAC Methodology and Documentation.

- (a) Except where otherwise stipulated in 101 CMR 334.03, payment to an eligible provider is for the AAC as defined in 101 CMR 334.02, plus a standard markup.
- (b) The eligible provider must accurately indicate the amount of any discounts set forth in the definition of AAC at 101 CMR 334.02. The provider must maintain documentation evidencing the amount and application of discounts.
- (c) Current Catalogue Price. The AAC to the eligible provider will not exceed the manufacturer's current catalogue price.
- (d) Where the manufacturer is the provider, the AAC cannot exceed the actual cost of raw materials. Low-cost items (those with an AAC less than \$5.00) may be grouped together and billed at \$5.00 plus the mark up listed in 101 CMR 334.03(9): *Individual Consideration*.

(9) Individual Consideration. Except where otherwise stipulated in 101 CMR 334.03, payment to an eligible provider for individual consideration will be the lower of:

- (a) the eligible provider's usual and customary charge; or
- (b) the AAC to the provider, plus a markup not to exceed:
 - 1. 70% for any item described as being custom fabricated; or
 - 2. 50% for any item described as being prefabricated; or
 - 3. 40% for any item described as being off-the-shelf; or
- (c) Such schedule of allowable fees as may be issued as an amendment or revision to 101 CMR 334.00.

(10) Payment Rates. For code descriptions, see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|------------|--|
| A5500 | \$79.50 | |
| A5501 | \$238.41 | |
| A5503 | \$40.48 | |
| A5504 | \$40.48 | |
| A5505 | \$40.48 | |
| A5506 | \$40.48 | |
| A5507 | \$40.48 | |
| A5508 | AAC + 70% | |
| A5510 | AAC + 50% | |
| A5512 | \$32.42 | |
| A5513 | \$48.38 | |
| A5514 | \$48.38 | |
| A6515 | AAC + 70% | |
| A6516 | AAC + 70% | |
| A6517 | AAC + 70 % | |
| A6518 | AAC + 70% | |
| A6519 | AAC + 40% | |
| A6520 | \$84.59 | |
| A6521 | \$445.87 | |
| A6522 | \$205.54 | |
| A6523 | \$647.82 | |
| A6524 | \$256.43 | |
| A6525 | \$687.70 | |
| A6526 | \$463.61 | |
| A6527 | \$1,132.51 | |
| A6528 | \$445.79 | |
| A6529 | \$935.77 | |
| A6530 | \$49.64 | |
| A6531 | \$47.17 | |
| A6532 | \$66.48 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|-----------|--|
| A6533 | \$85.10 | |
| A6534 | \$85.10 | |
| A6535 | \$73.77 | |
| A6536 | \$94.57 | |
| A6537 | \$94.57 | |
| A6538 | \$94.57 | |
| A6539 | \$191.49 | |
| A6540 | \$80.39 | |
| A6541 | \$191.49 | |
| A6544 | \$28.36 | |
| A6545 | \$84.23 | |
| A6549 | AAC + 50% | |
| A6552 | \$38.78 | |
| A6553 | \$201.17 | |
| A6554 | \$53.32 | |
| A6555 | \$201.17 | |
| A6556 | \$275.69 | |
| A6557 | \$275.69 | |
| A6558 | \$284.51 | |
| A6559 | AAC + 70% | |
| A6560 | AAC + 70% | |
| A6561 | AAC + 70% | |
| A6562 | \$902.29 | |
| A6563 | \$902.29 | |
| A6564 | \$971.96 | |
| A6565 | \$155.91 | |
| A6566 | \$170.41 | |
| A6567 | \$711.28 | |
| A6568 | \$111.21 | |
| A6569 | \$841.30 | |
| A6570 | \$75.78 | |
| A6571 | \$605.01 | |
| A6572 | \$70.31 | |
| A6573 | \$221.65 | |
| A6574 | \$282.57 | |
| A6575 | \$68.93 | |
| A6576 | \$173.43 | |
| A6577 | \$143.54 | |
| A6578 | \$53.21 | |
| A6579 | \$278.37 | |
| A6580 | \$276.32 | |
| A6581 | \$48.82 | |
| A6582 | \$32.56 | |
| A6583 | \$107.12 | |
| A6584 | AAC + 40% | |
| A6585 | \$126.83 | |
| A6586 | \$373.66 | |
| A6587 | \$48.94 | |
| A6588 | \$163.13 | |
| A6589 | \$64.40 | |
| A6593 | AAC + 40% | |
| A6594 | \$23.45 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|---------|------------|--|
| A6595 | \$23.06 | |
| A6596 | \$0.12 | |
| A6597 | \$1.04 | |
| A6598 | \$0.50 | |
| A6599 | \$1.14 | |
| A6600 | \$2.05 | |
| A6601 | \$2.31 | |
| A6602 | \$3.37 | |
| A6603 | \$1.58 | |
| A6604 | \$0.92 | |
| A6605 | \$1.05 | |
| A6606 | \$3.13 | |
| A6607 | \$0.83 | |
| A6608 | \$3.48 | |
| A6609 | AAC + 40% | |
| A6610 | \$201.17 | |
| A6611 | AAC + 70% | |
| A8000 | \$167.25 | |
| A8001 | \$167.25 | |
| A8002 | AAC + 70% | |
| A8003 | AAC + 70% | |
| A8004 | AAC + 40% | |
| A9283 | AAC + 40% | |
| A9285 | AAC + 40% | |
| K0672 | \$77.82 | |
| K1007 | AAC + 70% | |
| L0112 | \$1,472.63 | |
| L0113 | \$261.74 | |
| L0120 | \$20.14 | |
| L0130 | \$171.62 | |
| L0140 | \$72.77 | |
| L0150 | \$124.26 | |
| L0160 | \$183.61 | |
| L0170 | \$828.94 | |
| L0172 | \$111.63 | |
| L0174 | \$322.06 | |
| L0180 | \$434.40 | |
| L0190 | \$526.44 | |
| L0200 | \$493.70 | |
| L0220 | \$134.08 | |
| L0450CG | \$176.59 | |
| L0452 | AAC + 70% | |
| L0454CG | \$366.51 | |
| L0455 | \$203.81 | |
| L0456 | \$1,046.46 | |
| L0457 | \$584.47 | |
| L0458 | \$818.56 | |
| L0460 | \$1,056.17 | |
| L0462 | \$1,146.01 | |
| L0464 | \$1,364.30 | |
| L0466 | \$434.47 | |
| L0467 | \$233.32 | |
| L0468 | \$489.73 | |
| L0469 | \$346.23 | |
| L0470 | \$695.52 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|---------|------------|--|
| L0472 | \$423.77 | |
| L0480 | \$1,678.68 | |
| L0482 | \$1,751.64 | |
| L0484 | \$2,388.39 | |
| L0486 | \$2,533.96 | |
| L0488 | \$921.34 | |
| L0490 | \$259.65 | |
| L0491 | \$704.90 | |
| L0492 | \$463.87 | |
| L0621CG | \$95.41 | |
| L0622 | \$347.20 | |
| L0623 | AAC + 50% | |
| L0624 | AAC + 70% | |
| L0625CG | \$50.77 | |
| L0626 | \$71.53 | |
| L0627 | \$377.30 | |
| L0628CG | \$77.35 | |
| L0629 | AAC + 70% | |
| L0630 | \$148.65 | |
| L0631 | \$942.24 | |
| L0632 | AAC + 70% | |
| L0633 | \$263.20 | |
| L0634 | AAC + 70% | |
| L0635 | \$860.03 | |
| L0636 | \$1,588.01 | |
| L0637 | \$1,074.72 | |
| L0638 | \$1,387.69 | |
| L0639 | \$1,074.72 | |
| L0640 | \$1,101.01 | |
| L0641 | \$53.09 | |
| L0642 | \$279.98 | |
| L0643 | \$95.19 | |
| L0648 | \$699.21 | |
| L0649 | \$168.54 | |
| L0650 | \$694.79 | |
| L0651 | \$805.16 | |
| L0700 | \$2,264.04 | |
| L0710 | \$2,442.73 | |
| L0720 | \$1,889.76 | |
| L0810 | \$3,408.91 | |
| L0820 | \$2,903.06 | |
| L0830 | \$3,775.52 | |
| L0859 | \$1,304.52 | |
| L0861 | \$197.83 | |
| L0970 | \$100.50 | |
| L0972 | \$90.50 | |
| L0974 | \$198.36 | |
| L0976 | \$150.29 | |
| L0978 | \$182.02 | |
| L0980 | \$20.48 | |
| L0982 | \$19.09 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|----------|------------|--|
| L0984 | \$60.14 | |
| L0999 U1 | AAC + 40% | |
| L0999 U2 | AAC + 50% | |
| L0999 U3 | AAC + 70% | |
| L1000 | \$2,593.50 | |
| L1001 | AAC + 50% | |
| L1005 | \$2,937.69 | |
| L1006 | \$1,027.74 | |
| L1007 | AAC + 70% | |
| L1010 | \$74.66 | |
| L1020 | \$87.13 | |
| L1025 | \$134.98 | |
| L1030 | \$64.12 | |
| L1040 | \$78.63 | |
| L1050 | \$83.92 | |
| L1060 | \$100.23 | |
| L1070 | \$90.70 | |
| L1080 | \$59.39 | |
| L1085 | \$155.16 | |
| L1090 | \$92.39 | |
| L1100 | \$194.97 | |
| L1110 | \$303.81 | |
| L1120 | \$40.03 | |
| L1200 | \$1,874.70 | |
| L1210 | \$263.75 | |
| L1220 | \$223.31 | |
| L1230 | \$644.28 | |
| L1240 | \$85.08 | |
| L1250 | \$85.03 | |
| L1260 | \$85.08 | |
| L1270 | \$85.08 | |
| L1280 | \$115.94 | |
| L1290 | \$85.08 | |
| L1300 | \$1,791.08 | |
| L1310 | \$1,927.64 | |
| L1320 | AAC + 70% | |
| L1499 U1 | AAC + 40% | |
| L1499 U2 | AAC + 50% | |
| L1499 U3 | AAC + 70% | |
| L1600 | \$156.08 | |
| L1610 | \$41.72 | |
| L1620 | \$158.89 | |
| L1630 | \$227.73 | |
| L1640 | \$620.14 | |
| L1650 | \$269.27 | |
| L1653 | \$289.66 | |
| L1660 | \$185.00 | |
| L1680 | \$1,228.13 | |
| L1681 | \$1,768.59 | |
| L1685 | \$1,598.62 | |
| L1686 | \$884.30 | |
| L1690 | \$1,774.87 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|-------------|--|
| L1700 | \$1,955.97 | |
| L1710 | \$2,402.52 | |
| L1720 | \$1,358.65 | |
| L1730 | \$1,428.41 | |
| L1755 | \$2,127.81 | |
| L1810 | \$104.20 | |
| L1812 | \$61.25 | |
| L1821 | \$118.50 | |
| L1830 | \$54.12 | |
| L1831 | \$270.14 | |
| L1832 | \$697.99 | |
| L1833 | \$420.86 | |
| L1834 | \$1,043.26 | |
| L1836 | \$92.10 | |
| L1840 | \$983.21 | |
| L1843 | \$823.54 | |
| L1844 | \$1,721.52 | |
| L1845 | \$765.77 | |
| L1846 | \$1,306.54 | |
| L1847 | \$527.92 | |
| L1848 | \$455.55 | |
| L1850 | \$189.35 | |
| L1851 | \$534.42 | |
| L1852 | \$505.54 | |
| L1860 | \$1,143.56 | |
| L1900 | \$320.15 | |
| L1902 | \$80.85 | |
| L1904 | \$631.98 | |
| L1906 | \$118.42 | |
| L1907 | \$592.04 | |
| L1910 | \$278.78 | |
| L1920 | \$468.35 | |
| L1930 | \$240.06 | |
| L1932 | \$819.04 | |
| L1933 | \$742.56 | |
| L1940 | \$664.66 | |
| L1945 | \$1,244.09 | |
| L1950 | \$961.29 | |
| L1951 | \$770.82 | |
| L1952 | \$698.84 | |
| L1960 | \$744.94 | |
| L1970 | \$956.32 | |
| L1971 | \$430.21 | |
| L1980 | \$478.53 | |
| L1990 | \$569.28 | |
| L2000 | \$1,160.64 | |
| L2005 | \$4,311.44 | |
| L2006 | \$35,630.23 | |
| L2010 | \$1,054.93 | |
| L2020 | \$1,503.49 | |
| L2030 | \$1,214.08 | |
| L2034 | \$2,114.58 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|------------|--|
| L2035 | \$161.71 | |
| L2036 | \$2,493.47 | |
| L2037 | \$2,238.49 | |
| L2038 | \$1,921.50 | |
| L2040 | \$228.81 | |
| L2050 | \$640.21 | |
| L2060 | \$651.69 | |
| L2070 | \$157.31 | |
| L2080 | \$483.40 | |
| L2090 | \$464.57 | |
| L2106 | \$913.78 | |
| L2108 | \$1,388.14 | |
| L2112 | \$497.06 | |
| L2114 | \$600.35 | |
| L2116 | \$771.01 | |
| L2126 | \$1,447.41 | |
| L2128 | \$2,304.52 | |
| L2132 | \$742.76 | |
| L2134 | \$1,045.57 | |
| L2136 | \$1,168.68 | |
| L2180 | \$121.47 | |
| L2182 | \$123.13 | |
| L2184 | \$129.26 | |
| L2186 | \$156.01 | |
| L2188 | \$330.39 | |
| L2190 | \$102.39 | |
| L2192 | \$378.71 | |
| L2200 | \$47.92 | |
| L2210 | \$67.76 | |
| L2220 | \$82.54 | |
| L2230 | \$77.34 | |
| L2232 | \$104.72 | |
| L2240 | \$103.72 | |
| L2250 | \$358.16 | |
| L2260 | \$202.05 | |
| L2265 | \$158.28 | |
| L2270 | \$63.30 | |
| L2275 | \$132.71 | |
| L2280 | \$503.60 | |
| L2300 | \$271.39 | |
| L2310 | \$124.00 | |
| L2320 | \$254.22 | |
| L2330 | \$442.90 | |
| L2335 | \$302.57 | |
| L2340 | \$450.50 | |
| L2350 | \$898.15 | |
| L2360 | \$52.15 | |
| L2370 | \$258.75 | |
| L2375 | \$122.01 | |
| L2380 | \$124.09 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|----------|------------|--|
| L2385 | \$172.10 | |
| L2387 | \$222.41 | |
| L2390 | \$147.12 | |
| L2395 | \$210.28 | |
| L2397 | \$108.41 | |
| L2405 | \$91.73 | |
| L2415 | \$127.79 | |
| L2425 | \$150.81 | |
| L2430 | \$150.81 | |
| L2492 | \$119.58 | |
| L2500 | \$423.99 | |
| L2510 | \$815.37 | |
| L2520 | \$600.62 | |
| L2525 | \$1,638.27 | |
| L2526 | \$890.29 | |
| L2530 | \$268.61 | |
| L2540 | \$568.20 | |
| L2550 | \$289.49 | |
| L2570 | \$480.11 | |
| L2580 | \$521.97 | |
| L2600 | \$207.02 | |
| L2610 | \$244.79 | |
| L2620 | \$359.34 | |
| L2622 | \$411.94 | |
| L2624 | \$333.78 | |
| L2627 | \$2,303.94 | |
| L2628 | \$1,969.34 | |
| L2630 | \$309.48 | |
| L2640 | \$443.58 | |
| L2650 | \$121.29 | |
| L2660 | \$250.16 | |
| L2670 | \$171.94 | |
| L2680 | \$157.73 | |
| L2750 | \$112.33 | |
| L2755 | \$137.44 | |
| L2760 | \$61.24 | |
| L2768 | \$137.07 | |
| L2780 | \$90.95 | |
| L2785 | \$34.55 | |
| L2795 | \$114.20 | |
| L2800 | \$143.36 | |
| L2810 | \$104.97 | |
| L2820 | \$116.24 | |
| L2830 | \$126.26 | |
| L2840 | \$38.54 | |
| L2850 | \$69.70 | |
| L2999 U1 | AAC + 40% | |
| L2999 U2 | AAC + 50% | |
| L2999 U3 | AAC + 70% | |
| L3000 | \$330.51 | |
| L3001 | \$139.17 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|-----------|--|
| L3002 | \$169.93 | |
| L3003 | \$183.37 | |
| L3010 | \$183.37 | |
| L3020 | \$208.74 | |
| L3030 | \$80.30 | |
| L3031 | \$128.87 | |
| L3040 | \$43.19 | |
| L3050 | \$43.19 | |
| L3060 | \$67.68 | |
| L3070 | \$29.16 | |
| L3080 | \$29.16 | |
| L3090 | \$37.37 | |
| L3100 | \$34.24 | |
| L3140 | \$81.73 | |
| L3150 | \$74.71 | |
| L3160 | AAC + 50% | |
| L3161 | AAC + 50% | |
| L3170 | \$40.30 | |
| L3201 | \$73.33 | |
| L3202 | \$64.17 | |
| L3203 | \$77.38 | |
| L3204 | AAC + 50% | |
| L3206 | AAC + 50% | |
| L3207 | AAC + 50% | |
| L3208 | AAC + 50% | |
| L3209 | AAC + 50% | |
| L3211 | AAC + 50% | |
| L3212 | AAC + 50% | |
| L3213 | AAC + 50% | |
| L3214 | AAC + 50% | |
| L3215 | AAC + 50% | |
| L3216 | AAC + 50% | |
| L3217 | AAC + 50% | |
| L3219 | AAC + 50% | |
| L3221 | AAC + 50% | |
| L3222 | \$146.67 | |
| L3224 | \$75.13 | |
| L3225 | \$90.92 | |
| L3230 | AAC + 70% | |
| L3250 | \$460.51 | |
| L3251 | AAC + 70% | |
| L3252 | \$467.17 | |
| L3253 | AAC + 50% | |
| L3254 | AAC + 70% | |
| L3255 | AAC + 70% | |
| L3257 | AAC + 70% | |
| L3260 | AAC + 70% | |
| L3265 | AAC + 50% | |
| L3300 | \$54.86 | |
| L3310 | \$85.64 | |
| L3320 | \$70.92 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|------------|--|
| L3330 | \$595.47 | |
| L3332 | \$77.59 | |
| L3334 | \$40.16 | |
| L3340 | \$89.69 | |
| L3350 | \$24.10 | |
| L3360 | \$37.47 | |
| L3370 | \$52.15 | |
| L3380 | \$52.15 | |
| L3390 | \$52.15 | |
| L3400 | \$42.84 | |
| L3410 | \$97.68 | |
| L3420 | \$57.56 | |
| L3430 | \$168.61 | |
| L3440 | \$80.30 | |
| L3450 | \$111.09 | |
| L3455 | \$42.84 | |
| L3460 | \$36.10 | |
| L3465 | \$61.54 | |
| L3470 | \$65.56 | |
| L3480 | \$65.56 | |
| L3485 | \$21.27 | |
| L3500 | \$30.78 | |
| L3510 | \$30.78 | |
| L3520 | \$33.43 | |
| L3530 | \$33.43 | |
| L3540 | \$53.54 | |
| L3550 | \$9.34 | |
| L3560 | \$24.10 | |
| L3570 | \$89.69 | |
| L3580 | \$68.24 | |
| L3590 | \$56.20 | |
| L3595 | \$44.14 | |
| L3600 | \$80.30 | |
| L3610 | \$105.71 | |
| L3620 | \$80.30 | |
| L3630 | \$105.71 | |
| L3640 | \$45.49 | |
| L3649 | AAC + 70% | |
| L3650 | \$63.24 | |
| L3660 | \$117.92 | |
| L3670 | \$97.29 | |
| L3671 | \$862.84 | |
| L3674 | \$1,131.86 | |
| L3675 | \$168.04 | |
| L3677 | AAC + 50% | |
| L3678 | AAC + 40% | |
| L3702 | \$276.49 | |
| L3710 | \$133.57 | |
| L3720 | \$645.15 | |
| L3730 | \$1,185.52 | |
| L3740 | \$1,405.54 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|------------|--|
| L3760 | \$417.72 | |
| L3761 | \$417.72 | |
| L3762 | \$90.22 | |
| L3763 | \$696.74 | |
| L3764 | \$910.47 | |
| L3765 | \$1,227.82 | |
| L3766 | \$1,300.17 | |
| L3806 | \$434.99 | |
| L3807 | \$208.88 | |
| L3808 | \$404.52 | |
| L3809 | \$208.88 | |
| L3900 | \$1,283.23 | |
| L3901 | \$1,585.08 | |
| L3904 | \$3,039.43 | |
| L3905 | \$949.63 | |
| L3906 | \$462.71 | |
| L3908 | \$68.73 | |
| L3912 | \$81.60 | |
| L3913 | \$259.35 | |
| L3915 | \$444.02 | |
| L3916 | \$444.02 | |
| L3917 | \$88.28 | |
| L3918 | \$88.28 | |
| L3919 | \$259.35 | |
| L3921 | \$307.58 | |
| L3923 | \$99.79 | |
| L3924 | \$99.79 | |
| L3925 | \$44.90 | |
| L3927 | \$29.18 | |
| L3929 | \$67.26 | |
| L3930 | \$67.26 | |
| L3931 | \$177.58 | |
| L3933 | \$204.28 | |
| L3935 | \$211.53 | |
| L3956 | AAC + 50% | |
| L3960 | \$751.31 | |
| L3961 | \$1,403.42 | |
| L3962 | \$823.14 | |
| L3967 | \$1,899.46 | |
| L3971 | \$1,803.04 | |
| L3973 | \$1,899.46 | |
| L3975 | \$1,608.80 | |
| L3976 | \$1,608.80 | |
| L3977 | \$1,803.04 | |
| L3978 | \$1,899.46 | |
| L3980 | \$354.67 | |
| L3981 | \$840.80 | |
| L3982 | \$373.81 | |
| L3984 | \$371.86 | |
| L3995 | \$37.52 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|----------|------------|--|
| L3999 U1 | AAC + 40% | |
| L3999 U2 | AAC + 50% | |
| L3999 U3 | AAC + 70% | |
| L4000 | \$1,540.53 | |
| L4002 | AAC + 70% | |
| L4010 | \$676.46 | |
| L4020 | \$876.97 | |
| L4030 | \$508.91 | |
| L4040 | \$450.48 | |
| L4045 | \$440.86 | |
| L4050 | \$506.83 | |
| L4055 | \$359.29 | |
| L4060 | \$335.50 | |
| L4070 | \$317.57 | |
| L4080 | \$135.94 | |
| L4090 | \$105.90 | |
| L4100 | \$118.99 | |
| L4110 | \$102.27 | |
| L4130 | \$500.08 | |
| L4205 | \$22.86 | |
| L4210 | AAC + 70% | |
| L4350 | \$91.31 | |
| L4360 | \$324.62 | |
| L4361 | \$324.62 | |
| L4370 | \$221.33 | |
| L4386 | \$145.51 | |
| L4387 | \$125.56 | |
| L4392 | \$22.55 | |
| L4394 | \$16.47 | |
| L4396 | \$160.91 | |
| L4397 | \$138.85 | |
| L4398 | \$74.08 | |
| L4631 | \$1,725.88 | |
| L5000 | \$542.58 | |
| L5010 | \$1,315.14 | |
| L5020 | \$2,237.48 | |
| L5050 | \$2,925.61 | |
| L5060 | \$2,966.02 | |
| L5100 | \$2,999.95 | |
| L5105 | \$4,569.22 | |
| L5150 | \$3,857.52 | |
| L5160 | \$4,523.68 | |
| L5200 | \$4,498.53 | |
| L5210 | \$2,832.68 | |
| L5220 | \$3,040.23 | |
| L5230 | \$4,286.17 | |
| L5250 | \$5,983.14 | |
| L5270 | \$6,423.67 | |
| L5280 | \$6,434.58 | |
| L5301 | \$2,634.23 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|------------|--|
| L5312 | \$3,542.14 | |
| L5321 | \$3,716.15 | |
| L5331 | \$5,537.58 | |
| L5341 | \$5,427.27 | |
| L5400 | \$1,292.43 | |
| L5410 | \$493.53 | |
| L5420 | \$1,632.29 | |
| L5430 | \$565.38 | |
| L5450 | \$437.49 | |
| L5460 | \$643.25 | |
| L5500 | \$1,570.76 | |
| L5505 | \$2,198.75 | |
| L5510 | \$1,958.30 | |
| L5520 | \$2,051.00 | |
| L5530 | \$2,235.01 | |
| L5535 | \$2,033.91 | |
| L5540 | \$2,216.92 | |
| L5560 | \$2,111.42 | |
| L5570 | \$2,546.41 | |
| L5580 | \$2,640.91 | |
| L5585 | \$2,578.76 | |
| L5590 | \$2,978.07 | |
| L5595 | \$5,310.67 | |
| L5600 | \$6,279.68 | |
| L5610 | \$2,656.61 | |
| L5611 | \$2,306.91 | |
| L5613 | \$3,508.95 | |
| L5614 | \$1,778.94 | |
| L5615 | \$8,137.81 | |
| L5616 | \$1,646.51 | |
| L5617 | \$619.62 | |
| L5618 | \$402.69 | |
| L5620 | \$398.07 | |
| L5622 | \$485.27 | |
| L5624 | \$520.54 | |
| L5626 | \$619.91 | |
| L5628 | \$587.35 | |
| L5629 | \$455.03 | |
| L5630 | \$548.80 | |
| L5631 | \$629.11 | |
| L5632 | \$271.76 | |
| L5634 | \$424.99 | |
| L5636 | \$364.82 | |
| L5637 | \$357.17 | |
| L5638 | \$522.60 | |
| L5639 | \$1,605.32 | |
| L5640 | \$686.66 | |
| L5642 | \$665.33 | |
| L5643 | \$2,228.54 | |
| L5644 | \$832.28 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|------------|--|
| L5645 | \$954.27 | |
| L5646 | \$784.51 | |
| L5647 | \$1,138.96 | |
| L5648 | \$707.00 | |
| L5649 | \$2,044.57 | |
| L5650 | \$524.25 | |
| L5651 | \$1,719.50 | |
| L5652 | \$578.50 | |
| L5653 | \$654.48 | |
| L5654 | \$474.86 | |
| L5655 | \$338.99 | |
| L5656 | \$402.21 | |
| L5657 | AAC + 40% | |
| L5658 | \$454.03 | |
| L5661 | \$871.33 | |
| L5665 | \$733.12 | |
| L5666 | \$91.75 | |
| L5668 | \$133.04 | |
| L5670 | \$309.50 | |
| L5671 | \$534.16 | |
| L5672 | \$376.50 | |
| L5673 | \$847.18 | |
| L5676 | \$509.74 | |
| L5677 | \$705.96 | |
| L5678 | \$42.64 | |
| L5679 | \$705.96 | |
| L5680 | \$371.06 | |
| L5681 | \$1,386.70 | |
| L5682 | \$895.44 | |
| L5683 | \$1,386.70 | |
| L5684 | \$64.74 | |
| L5685 | \$135.03 | |
| L5686 | \$64.67 | |
| L5688 | \$76.25 | |
| L5690 | \$140.11 | |
| L5692 | \$168.76 | |
| L5694 | \$259.76 | |
| L5695 | \$197.17 | |
| L5696 | \$254.62 | |
| L5697 | \$114.94 | |
| L5698 | \$129.02 | |
| L5699 | \$259.02 | |
| L5700 | \$3,129.15 | |
| L5701 | \$3,881.97 | |
| L5702 | \$4,892.64 | |
| L5703 | \$2,538.85 | |
| L5704 | \$638.04 | |
| L5705 | \$1,169.72 | |
| L5706 | \$1,140.92 | |
| L5707 | \$1,532.83 | |
| L5710 | \$436.08 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|-------------|--|
| L5711 | \$731.56 | |
| L5712 | \$581.28 | |
| L5714 | \$523.34 | |
| L5716 | \$940.24 | |
| L5718 | \$1,129.38 | |
| L5722 | \$1,059.62 | |
| L5724 | \$1,949.13 | |
| L5726 | \$2,421.29 | |
| L5728 | \$3,407.01 | |
| L5780 | \$1,310.33 | |
| L5781 | \$4,218.07 | |
| L5782 | \$4,446.79 | |
| L5783 | \$2,834.96 | |
| L5785 | \$743.91 | |
| L5790 | \$1,029.51 | |
| L5795 | \$1,537.32 | |
| L5810 | \$697.09 | |
| L5811 | \$1,044.25 | |
| L5812 | \$789.97 | |
| L5814 | \$3,915.16 | |
| L5816 | \$984.77 | |
| L5818 | \$1,375.00 | |
| L5822 | \$2,438.25 | |
| L5824 | \$1,913.41 | |
| L5826 | \$3,348.20 | |
| L5827 | \$7,424.27 | |
| L5828 | \$4,043.36 | |
| L5830 | \$2,716.93 | |
| L5840 | \$3,978.32 | |
| L5841 | \$3,178.01 | |
| L5845 | \$1,889.54 | |
| L5848 | \$1,133.62 | |
| L5850 | \$137.37 | |
| L5855 | \$331.64 | |
| L5856 | \$25,595.62 | |
| L5857 | \$9,268.37 | |
| L5858 | \$19,592.72 | |
| L5859 | \$11,514.22 | |
| L5910 | \$518.57 | |
| L5920 | \$759.72 | |
| L5925 | \$360.83 | |
| L5926 | \$762.69 | |
| L5930 | \$3,727.46 | |
| L5940 | \$538.66 | |
| L5950 | \$1,049.03 | |
| L5960 | \$1,153.87 | |
| L5961 | \$4,901.22 | |
| L5962 | \$631.21 | |
| L5964 | \$1,143.58 | |
| L5966 | \$1,473.11 | |
| L5968 | \$3,830.93 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|----------|-------------|--|
| L5969 | \$14,203.36 | |
| L5970 | \$290.79 | |
| L5971 | \$290.79 | |
| L5972 | \$441.17 | |
| L5973 | \$18,495.80 | |
| L5974 | \$326.25 | |
| L5975 | \$488.72 | |
| L5976 | \$737.86 | |
| L5978 | \$398.85 | |
| L5979 | \$2,543.48 | |
| L5980 | \$4,674.05 | |
| L5981 | \$3,480.96 | |
| L5982 | \$824.28 | |
| L5984 | \$743.36 | |
| L5985 | \$312.71 | |
| L5986 | \$696.57 | |
| L5987 | \$7,583.69 | |
| L5988 | \$2,106.01 | |
| L5990 | \$1,912.58 | |
| L5991 | \$7,761.83 | |
| L5999 U1 | AAC + 40% | |
| L5999 U2 | AAC + 50% | |
| L5999 U3 | AAC + 70% | |
| L6000 | \$1,426.84 | |
| L6010 | \$1,587.83 | |
| L6020 | \$1,480.40 | |
| L6026 | \$4,543.03 | |
| L6028 | AAC + 70% | |
| L6029 | AAC + 70% | |
| L6030 | AAC + 70% | |
| L6031 | AAC + 70% | |
| L6032 | AAC + 70% | |
| L6033 | AAC + 70% | |
| L6034 | AAC + 70% | |
| L6035 | AAC + 70% | |
| L6036 | AAC + 70% | |
| L6037 | AAC + 70% | |
| L6038 | AAC + 70% | |
| L6039 | AAC + 70% | |
| L6050 | \$2,259.92 | |
| L6055 | \$3,567.70 | |
| L6100 | \$2,274.11 | |
| L6110 | \$2,270.25 | |
| L6120 | \$2,868.95 | |
| L6130 | \$3,117.94 | |
| L6200 | \$3,569.39 | |
| L6205 | \$4,947.99 | |
| L6250 | \$2,958.43 | |
| L6300 | \$5,331.17 | |
| L6310 | \$3,258.75 | |
| L6320 | \$1,843.60 | |
| L6350 | \$4,206.25 | |
| L6360 | \$3,420.45 | |
| L6370 | \$2,249.89 | |
| L6380 | \$1,259.88 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|------------|--|
| L6382 | \$1,641.98 | |
| L6384 | \$2,047.44 | |
| L6386 | \$485.69 | |
| L6388 | \$629.46 | |
| L6400 | \$2,491.79 | |
| L6450 | \$4,335.92 | |
| L6500 | \$3,737.44 | |
| L6550 | \$4,395.15 | |
| L6570 | \$5,969.55 | |
| L6580 | \$1,741.88 | |
| L6582 | \$1,541.44 | |
| L6584 | \$2,549.35 | |
| L6586 | \$2,228.51 | |
| L6588 | \$3,748.15 | |
| L6590 | \$3,309.05 | |
| L6600 | \$201.43 | |
| L6605 | \$198.89 | |
| L6610 | \$178.79 | |
| L6611 | \$434.06 | |
| L6615 | \$186.55 | |
| L6616 | \$67.25 | |
| L6620 | \$345.95 | |
| L6621 | \$2,411.30 | |
| L6623 | \$757.48 | |
| L6624 | \$3,970.28 | |
| L6625 | \$761.51 | |
| L6628 | \$610.86 | |
| L6629 | \$162.24 | |
| L6630 | \$308.58 | |
| L6632 | \$74.98 | |
| L6635 | \$193.52 | |
| L6637 | \$525.75 | |
| L6638 | \$2,636.31 | |
| L6640 | \$300.80 | |
| L6641 | \$204.17 | |
| L6642 | \$285.60 | |
| L6645 | \$342.81 | |
| L6646 | \$3,324.98 | |
| L6647 | \$547.38 | |
| L6648 | \$3,429.23 | |
| L6650 | \$396.37 | |
| L6655 | \$88.28 | |
| L6660 | \$125.04 | |
| L6665 | \$60.14 | |
| L6670 | \$54.99 | |
| L6672 | \$181.07 | |
| L6675 | \$171.95 | |
| L6676 | \$136.22 | |
| L6677 | \$312.73 | |
| L6680 | \$253.53 | |
| L6682 | \$308.50 | |
| L6684 | \$461.37 | |
| L6686 | \$845.30 | |
| L6687 | \$619.41 | |
| L6688 | \$601.20 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|-------|-------------|--|
| L6689 | \$739.37 | |
| L6690 | \$775.42 | |
| L6691 | \$494.24 | |
| L6692 | \$668.72 | |
| L6693 | \$2,992.91 | |
| L6694 | \$847.18 | |
| L6695 | \$705.96 | |
| L6696 | \$1,386.70 | |
| L6697 | \$1,386.70 | |
| L6698 | \$534.16 | |
| L6700 | \$27,195.67 | |
| L6703 | \$415.51 | |
| L6704 | \$628.90 | |
| L6706 | \$429.50 | |
| L6707 | \$1,546.96 | |
| L6708 | \$930.54 | |
| L6709 | \$1,301.03 | |
| L6711 | \$618.27 | |
| L6712 | \$1,138.37 | |
| L6713 | \$1,436.76 | |
| L6714 | \$1,216.91 | |
| L6715 | \$3,328.28 | |
| L6721 | \$2,162.92 | |
| L6722 | \$1,864.61 | |
| L6805 | \$388.31 | |
| L6810 | \$200.51 | |
| L6880 | \$25,187.74 | |
| L6881 | \$4,309.88 | |
| L6882 | \$3,269.24 | |
| L6883 | \$1,704.09 | |
| L6884 | \$2,418.11 | |
| L6885 | \$3,420.45 | |
| L6890 | \$176.19 | |
| L6895 | \$799.51 | |
| L6900 | \$1,622.04 | |
| L6905 | \$1,576.66 | |
| L6910 | \$1,535.99 | |
| L6915 | \$721.72 | |
| L6920 | \$8,190.34 | |
| L6925 | \$9,522.22 | |
| L6930 | \$7,985.51 | |
| L6935 | \$9,296.88 | |
| L6940 | \$10,192.40 | |
| L6945 | \$11,601.32 | |
| L6950 | \$10,716.32 | |
| L6955 | \$12,974.04 | |
| L6960 | \$14,300.88 | |
| L6965 | \$16,853.00 | |
| L6970 | \$17,960.63 | |
| L6975 | \$20,243.74 | |
| L7007 | \$3,893.14 | |
| L7008 | \$6,578.20 | |
| L7009 | \$4,081.25 | |
| L7040 | \$3,120.07 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|----------|-------------|--|
| L7045 | \$1,735.72 | |
| L7170 | \$6,357.81 | |
| L7180 | \$40,421.00 | |
| L7181 | \$42,240.23 | |
| L7185 | \$6,622.39 | |
| L7186 | \$10,450.86 | |
| L7190 | \$8,875.04 | |
| L7191 | \$11,002.10 | |
| L7259 | \$4,528.70 | |
| L7360 | \$289.11 | |
| L7362 | \$298.81 | |
| L7364 | \$540.69 | |
| L7366 | \$736.07 | |
| L7367 | \$410.43 | |
| L7368 | \$532.05 | |
| L7400 | \$323.11 | |
| L7401 | \$361.72 | |
| L7402 | \$390.64 | |
| L7403 | \$388.21 | |
| L7404 | \$585.96 | |
| L7405 | \$766.34 | |
| L7406 | \$2,903.00 | |
| L7499 U1 | AAC + 40% | |
| L7499 U2 | AAC + 50% | |
| L7499 U3 | AAC + 70% | |
| L7510 | AAC + 70% | |
| L7520 | \$31.88 | |
| L7600 | AAC + 40% | |
| L7700 | \$117.41 | |
| L7900 | \$557.55 | |
| L7902 | AAC + 70% | |
| L8000 | \$34.83 | |
| L8001 | \$115.37 | |
| L8002 | \$151.71 | |
| L8010 | \$57.99 | |
| L8015 | \$55.13 | |
| L8020 | \$187.93 | |
| L8030 | \$340.04 | |
| L8031 | \$340.04 | |
| L8032 | \$31.09 | |
| L8033 | AAC + 70% | |
| L8035 | \$3,862.24 | |
| L8039 | AAC + 50% | |
| L8300 | \$79.02 | |
| L8310 | \$124.76 | |
| L8320 | \$66.32 | |
| L8330 | \$61.66 | |
| L8400 | \$16.79 | |
| L8410 | \$25.87 | |
| L8415 | \$26.77 | |
| L8417 | \$69.06 | |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

334.03: continued

| Code | Rate | Description (see the O&P service code spreadsheet at www.mass.gov/regulations/101-CMR-33400-prostheses-prosthetic-devices-and-orthotic-devices) |
|----------|-------------|--|
| L8420 | \$19.48 | |
| L8430 | \$22.81 | |
| L8435 | \$25.42 | |
| L8440 | \$44.06 | |
| L8460 | \$71.83 | |
| L8465 | \$55.04 | |
| L8470 | \$6.25 | |
| L8480 | \$10.92 | |
| L8485 | \$10.95 | |
| L8499 U1 | AAC + 40% | |
| L8499 U2 | AAC + 50% | |
| L8499 U3 | AAC + 70% | |
| L8600 | \$590.06 | |
| L8603 | \$353.98 | |
| L8604 | AAC + 40% | |
| L8605 | \$568.39 | |
| L8606 | \$173.97 | |
| L8609 | \$5,991.81 | |
| L8610 | \$548.31 | |
| L8612 | \$672.13 | |
| L8613 | \$292.68 | |
| L8614 | \$17,935.61 | |
| L8701 | AAC + 70% | |
| L8702 | AAC + 70% | |
| L8720 | AAC + 50% | |
| L8721 | AAC + 50% | |
| S1040 | \$1,848.89 | |

334.04: Reporting Requirements

- (1) Required Reports. All providers must comply with the requirements of 957 CMR 6.00: Cost Reporting Requirements.
- (2) Penalty for Noncompliance. The purchasing governmental unit may impose a penalty in the amount of up to 15% of its payments to any provider that fails to submit required information. The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 334.04(2).

334.05: Severability

The provisions of 101 CMR 334.00 are severable. If any provision of 101 CMR 334.00 or the application of any provision to an applicable individual, entity, or circumstance is held invalid or unconstitutional, that holding will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 334.00 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

101 CMR 334.00: M.G.L. c. 118E.

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

(101 CMR 335.00 AND 336.00: RESERVED)

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

(Pages 820.29 AND 820.30 ARE RESERVED FOR FUTURE USE.)



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **101 CMR 343.00**

CHAPTER TITLE: **Rates for Hospice Services**

AGENCY: **Executive Office of Health and Human Services**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

This governs payment rates for hospice services provided to publicly aided individuals by governmental units.

REGULATORY AUTHORITY: **M.G.L. c. 118E**

AGENCY CONTACT: **Deborah M. Briggs, MassHealth Publications** PHONE: **617-847-3302**

ADDRESS: **100 Hancock Street, 6th Floor, Quincy, MA 02171**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

A&F approval: February 13, 2026
Executive Order 145 notifications: February 18, 2026

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **04/03/2026**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: No fiscal effect

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: NA

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Adopts 101 CMR 343.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Jun 05 2026

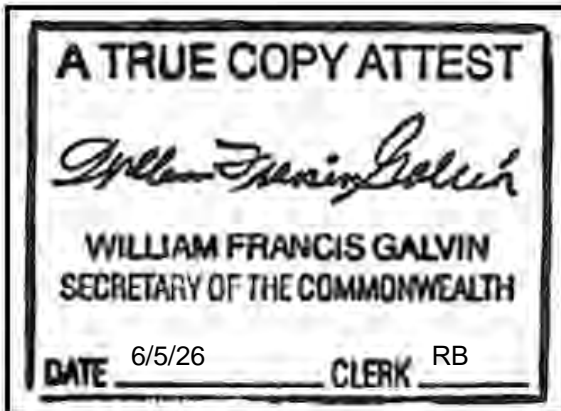
Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 6/19/26

CODE OF MASSACHUSETTS REGULATIONS

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|---------------------|---------------------|
| <u>821 - 826</u> | <u>821 - 826</u> |



101 CMR 343.00: RATES FOR HOSPICE SERVICES

Section

- 343.01: General Provisions
- 343.02: Definitions
- 343.03: Filing and Reporting Requirements
- 343.04: General Rate Provisions
- 343.05: Severability

343.01: General Provisions

- (1) Scope and Purpose. 101 CMR 343.00 governs the rates of payment used by all governmental units to eligible providers for hospice services provided to publicly aided individuals. The rates set forth in 101 CMR 343.00 also apply to individuals covered by M.G.L. c. 152 (the Workers' Compensation Act).
- (2) Applicable Dates of Service. Rates in 101 CMR 343.00 apply for dates of service provided on or after October 1, 2025, unless otherwise indicated.
- (3) Disclaimer of Authorization of Services. 101 CMR 343.00 is not authorization for or approval of the services for which rates are determined pursuant to 101 CMR 343.00. Governmental units that purchase care are responsible for the definition, authorization, and approval of care and services extended to publicly aided clients.
- (4) Coding Updates and Corrections. EOHHS may publish service code updates and corrections in the form of an administrative bulletin. The publication of such updates and corrections will list:
 - (a) codes for which the code numbers only changed, with a corresponding crosswalk;
 - (b) codes for which the code remains the same, but the description has changed;
 - (c) deleted codes for which there is no crosswalk; and
 - (d) new codes that require new pricing. For such new codes, EOHHS applies individual consideration in reimbursement until appropriate rates can be developed.
- (5) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify the substantive provisions of 101 CMR 343.00 and to notify interested parties of payment updates pursuant to 101 CMR 343.04(3)(b).

343.02: Definitions

A number of common words and expressions are specifically defined in 101 CMR 343.02. Whenever one of them is used in 101 CMR 343.00, it will have the meaning given in the definition, unless the context clearly requires a different meaning. When appropriate, definitions may include a reference to federal and state laws and regulations.

Center. The Center for Health Information and Analysis established under M.G.L. c. 12C.

Compliant Rate. Hospice service rates for eligible providers that comply with federal quality reporting requirements established in accordance with the Social Security Act, §§ 1814(i)(5)(A)(i).

Continuous Home Care. Care provided only during a period of crisis in which a patient requires continuous care, predominantly nursing care, at home to achieve palliation or management of acute medical symptoms. Homemaker and/or home health aide services may also be covered on a continuous basis. The continuous home care rate is paid on an hourly rate basis for each day, or portion thereof, that an individual qualifies for and receives such care. A minimum of eight hours must be provided in a 24-hour period to qualify for the continuous home care rate.

Eligible Provider. Any Medicare-certified organization licensed under state law as a provider of hospice services.

343.02: continued

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

General Inpatient Care. Care provided in a participating hospice inpatient unit, hospital, or skilled nursing facility that additionally meets the Centers for Medicare & Medicaid Services (CMS) special hospice standards for staffing and patient areas. Services provided in an inpatient setting must conform to the written plan of care. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management that cannot be managed in other settings.

Governmental Unit. The Commonwealth; any department, agency, board, or commission of the Commonwealth; and any political subdivision of the Commonwealth.

Hospice. A public agency or private organization or a subdivision of either that is providing care to terminally ill individuals and meets the Medicare conditions of participation specified in 42 CFR 418.52 through 418.116 for hospices. If it is a freestanding hospice that provides inpatient care directly, it must meet the conditions of 42 CFR 418.110.

(a) Core services (provided directly by hospice employees) include

1. nursing services;
2. physician services;
3. medical social services; and
4. counseling services.

(b) Supplemental services (may be on a contract basis) include

1. short-term inpatient care;
2. medical appliances and supplies, including drugs and biologicals;
3. home health aide and homemaker services;
4. physical therapy, occupational therapy, and speech-language; and
5. pathology services.

Inpatient Care Limitation. For Medicaid, the total payment to the hospice for inpatient care (general or respite) is subject to a limitation that total inpatient care days for all Medicaid patients for a 12-month period may not exceed 20% of total days for which all Medicaid patients have elected hospice care; however, days to be used by individuals with Acquired Immune Deficiency Syndrome (AIDS) are exempt from the number of inpatient care days counted toward the 20% limitation.

Inpatient Respite Care. Short-term inpatient care provided to the individual in an approved inpatient facility only when necessary to relieve the family members or other persons caring for that individual. Respite care may be provided only on an occasional basis and will be limited to no more than five consecutive days. Reimbursement for the sixth and any subsequent days is made at the routine home care rate.

Noncompliant Rate. Hospice service rates for eligible providers that are not in compliance with the federal quality reporting requirements established in accordance with the Social Security Act, §§ 1814(i)(5)(A)(i).

Publicly Aided Individual. A person who receives medical services for which a governmental unit is liable, in whole or in part, under a statutory program.

Room and Board. An additional *per diem* amount that equals at least 95% of the amount the Commonwealth would pay the facility for a non-hospice Medicaid beneficiary, for routine or continuous-care days in an intermediate care or skilled nursing facility. Room and board includes performance of personal care services, including assistance in activities of daily living, socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervision and assistance in the use of durable medical equipment and prescribed therapies.

Routine Home Care (RHC). Payment for each day the patient is at home, under the care of the hospice, and not receiving continuous home care. There are two rates for RHC: one rate for days one through 60 and a lower rate for days greater than 60. Rates for RHC are paid without regard to the volume or intensity of RHC services provided on any day.

343.02: continued

Routine Home Care (Days from One to 60). Payment for each day (one through 60 days) when the member has elected to receive hospice in their home and is not receiving continuous home care. This rate is paid without regard to the volume or intensity of RHC services provided on any day. A 60-day gap in hospice services is required to reset the counter that determines if a patient is qualified for the one through 60 payment category.

Routine Home Care (Days More than 60). Payment for each day (61+ days) when the member has elected to receive hospice in their home and is not receiving continuous home care. This rate is paid without regard to the volume or intensity of RHC services provided on any day.

Service Intensity Add-on (SIA). The SIA rate is an addition to the RHC rate, for a minimum of 15 minutes and up to four hours per day (excluding a social worker's phone calls), when all the following criteria are met

- (a) The day is a RHC level of care day;
- (b) The RHC day occurs during the last seven days of the member's life, and the member is discharged deceased; and
- (c) Direct patient care is furnished by a registered nurse (RN) or social worker that RHC day.

Terminally Ill. The individual has a medical prognosis that their life expectancy is six months or fewer.

343.03: Filing and Reporting Requirements

(1) Cost Reporting. Providers must satisfy the applicable filing and reporting requirements of 957 CMR 6.00: *Cost Reporting Requirements*.

(2) Penalty for Noncompliance. The purchasing governmental unit may reduce the payment rates by 15% for any provider that fails to submit required information to the Center. The purchasing governmental unit will notify the provider in advance of its intention to impose a rate reduction.

343.04: General Rate Provisions

(1) Effect of 101 CMR 343.00. The rates of payment under 101 CMR 343.00 constitute full compensation for hospice services provided to publicly aided individuals, including necessary administration and professional supervision. These established rates of payment for authorized services, with the exception of payment for room and board, will be set in accordance with Centers for Medicare & Medicaid Services (CMS) regulation at 42 CFR 418.302.

(2) Rate Determination. Each payment rate is determined by CMS to reflect the cost incurred by a hospice in efficiently providing the core and supplemental services associated with that type of hospice care to Medicaid beneficiaries. The allowable Medicaid hospice rates are determined in accordance with 42 CFR 418.302. The Medicaid rates are determined by adding the unweighted amount to the wage component, as adjusted to reflect local differences in wages, in accordance with 42 CFR 418.306.

(3) Rates. Allowable rates for hospice services are outlined in 101 CMR 343.04(3)(a) and (b).

- (a) Providers will be paid at the compliant or noncompliant rates established by CMS based on compliance with federal quality reporting requirements.
- (b) If CMS amends the amounts listed in 42 CFR 418.306, the Medicaid rates will change accordingly. Said changes will be listed in an EOHHS administrative bulletin.
- (c) For those hospice clients residing in nursing facilities, the *per diem* rate will equal 95% of the rate that would have been paid by the Commonwealth to a particular nursing facility for a non-hospice Medicaid beneficiary.
- (d) Use modifier transmittal number TN for codes T2042 and T2043 when billing for members outside the county in which the provider is located.

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

343.04: continued

(e) MassHealth-enrolled hospice providers located out of state must bill MassHealth using the TN modifier for all codes using the TN modifier. The rates of payment will be based on the rate applicable to the county in which the member resides. Absent use of the TN modifier, the rate of payment for hospice services provided by an out-of-state hospice provider is the lowest applicable rate listed in 101 CMR 343.04(3)(f).

(f) The rates of payment for authorized hospice services effective October 1, 2025, are the rates listed in 101 CMR 343.04(3)(f).

Barnstable

| Code | Description | Frequency | Compliant Rate | Non-Compliant Rate |
|---|-------------------------------|-------------------------|----------------|--------------------|
| T2042 | Routine Home Care (1-60 days) | <i>Per Diem</i> | \$270.09 | \$259.56 |
| T2042 UD | Routine Home Care (61+ days) | <i>Per Diem</i> | \$212.89 | \$204.58 |
| G0299 (RN services) G0155 (Social Worker services) | Service Intensity Add-on | Per Hour/Max four hours | \$83.19 | \$79.95 |
| T2043 | Continuous Home Care | Per Hour | \$83.19 | \$79.95 |
| T2044 | Inpatient Respite | <i>Per Diem</i> | \$647.83 | \$622.57 |
| T2045 | General Inpatient | <i>Per Diem</i> | \$1,394.45 | \$1,340.09 |

Berkshire

| Code | Description | Frequency | Compliant Rate | Non-Compliant Rate |
|---|-------------------------------|-------------------------|----------------|--------------------|
| T2042 | Routine Home Care (1-60 days) | <i>Per Diem</i> | \$231.13 | \$222.12 |
| T2042 UD | Routine Home Care (61+ days) | <i>Per Diem</i> | \$182.18 | \$175.07 |
| G0299 (RN services) G0155 (Social Worker services) | Service Intensity Add-on | Per Hour/Max four hours | \$69.79 | \$67.07 |
| T2043 | Continuous Home Care | Per Hour | \$69.79 | \$67.07 |
| T2044 | Inpatient Respite | <i>Per Diem</i> | \$560.51 | \$538.65 |
| T2045 | General Inpatient | <i>Per Diem</i> | \$1,199.86 | \$1,153.08 |

Bristol

| Code | Description | Frequency | Compliant Rate | Non-Compliant Rate |
|---|-------------------------------|-------------------------|----------------|--------------------|
| T2042 | Routine Home Care (1-60 days) | <i>Per Diem</i> | \$231.74 | \$222.71 |
| T2042 UD | Routine Home Care (61+ days) | <i>Per Diem</i> | \$182.66 | \$175.53 |
| G0299 (RN services) G0155 (Social Worker services) | Service Intensity Add-on | Per Hour/Max four hours | \$70.00 | \$67.27 |
| T2043 | Continuous Home Care | Per Hour | \$70.00 | \$67.27 |
| T2044 | Inpatient Respite | <i>Per Diem</i> | \$561.88 | \$539.96 |
| T2045 | General Inpatient | <i>Per Diem</i> | \$1,202.91 | \$1,156.01 |

343.04: continued

Essex/Middlesex

| Code | Description | Frequency | Compliant Rate | Non-Compliant Rate |
|---|-------------------------------|-------------------------|-----------------------|---------------------------|
| T2042 | Routine Home Care (1-60 days) | <i>Per Diem</i> | \$241.40 | \$231.99 |
| T2042 UD | Routine Home Care (61+ days) | <i>Per Diem</i> | \$190.27 | \$182.85 |
| G0299 (RN services) G0155 (Social Worker services) | Service Intensity Add-on | Per Hour/Max four hours | \$73.32 | \$70.46 |
| T2043 | Continuous Home Care | Per Hour | \$73.32 | \$70.46 |
| T2044 | Inpatient Respite | <i>Per Diem</i> | \$583.52 | \$560.76 |
| T2045 | General Inpatient | <i>Per Diem</i> | \$1,251.14 | \$1,202.36 |

Franklin/Hampden/Hampshire

| Code | Description | Frequency | Compliant Rate | Non-Compliant Rate |
|---|-------------------------------|-------------------------|-----------------------|---------------------------|
| T2042 | Routine Home Care (1-60 days) | <i>Per Diem</i> | \$231.13 | \$222.12 |
| T2042 UD | Routine Home Care (61+ days) | <i>Per Diem</i> | \$182.18 | \$175.07 |
| G0299 (RN services) G0155 (Social Worker services) | Service Intensity Add-on | Per Hour/Max four hours | \$69.79 | \$67.07 |
| T2043 | Continuous Home Care | Per Hour | \$69.79 | \$67.07 |
| T2044 | Inpatient Respite | <i>Per Diem</i> | \$560.51 | \$538.65 |
| T2045 | General Inpatient | <i>Per Diem</i> | \$1,199.86 | \$1,153.08 |

Norfolk/Plymouth/Suffolk

| Code | Description | Frequency | Compliant Rate | Non-Compliant Rate |
|---|-------------------------------|-------------------------|-----------------------|---------------------------|
| T2042 | Routine Home Care (1-60 days) | <i>Per Diem</i> | \$254.30 | \$244.39 |
| T2042 UD | Routine Home Care (61+ days) | <i>Per Diem</i> | \$200.44 | \$192.62 |
| G0299 (RN services) G0155 (Social Worker services) | Service Intensity Add-on | Per Hour/Max four hours | \$77.76 | \$74.73 |
| T2043 | Continuous Home Care | Per Hour | \$77.76 | \$74.73 |
| T2044 | Inpatient Respite | <i>Per Diem</i> | \$612.45 | \$588.56 |
| T2045 | General Inpatient | <i>Per Diem</i> | \$1,315.59 | \$1,264.30 |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

343.04: continued

Worcester

| Code | Description | Frequency | Compliant Rate | Non-Compliant Rate |
|---|-------------------------------|-------------------------|-----------------------|---------------------------|
| T2042 | Routine Home Care (1-60 days) | <i>Per Diem</i> | \$237.46 | \$228.20 |
| T2042 UD | Routine Home Care (61+ days) | <i>Per Diem</i> | \$187.17 | \$179.86 |
| G0299 (RN services) G0155 (Social Worker services) | Service Intensity Addition | Per Hour/Max four hours | \$71.97 | \$69.16 |
| T2043 | Continuous Home Care | Per Hour | \$71.97 | \$69.16 |
| T2044 | Inpatient Respite | <i>Per Diem</i> | \$574.70 | \$552.29 |
| T2045 | General Inpatient | <i>Per Diem</i> | \$1,231.48 | \$1,183.47 |

Rural: Dukes and Nantucket

| Code | Description | Frequency | Compliant Rate | Non-Compliant Rate |
|---|-------------------------------|-------------------------|-----------------------|---------------------------|
| T2042 | Routine Home Care (1-60 days) | <i>Per Diem</i> | \$252.06 | \$242.23 |
| T2042 UD | Routine Home Care (61+ days) | <i>Per Diem</i> | \$198.68 | \$190.92 |
| G0299 (RN services) G0155 (Social Worker services) | Service Intensity Addition | Per Hour/Max four hours | \$76.99 | \$73.99 |
| T2043 | Continuous Home Care | Per Hour | \$76.99 | \$73.99 |
| T2044 | Inpatient Respite | <i>Per Diem</i> | \$607.42 | \$583.73 |
| T2045 | General Inpatient | <i>Per Diem</i> | \$1,304.39 | \$1,253.54 |

343.05: Severability

The provisions of 101 CMR 343.00 are severable. If any provisions or application of any provision to an applicable individual, entity, or circumstance is held invalid or unconstitutional, that holding will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 343.00 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

101 CMR 343.00: M.G.L. c. 118E.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **101 CMR 349.00**

CHAPTER TITLE: **Rates for Early Intervention Program Services**

AGENCY: **Executive Office of Health and Human Services**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Governs rates of payment to be used by all governmental units making payments to eligible providers for Early Intervention program services provided to publicly assisted clients. Originally filed as a Future Effective Date Regulation.

REGULATORY AUTHORITY: **M.G.L. c. 118E**

AGENCY CONTACT: **Deborah Briggs, MassHealth Publications** PHONE: **617-847-3302**

ADDRESS: **100 Hancock Street, 6th Floor, Quincy, MA 02171**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Order 145 notifications: 10/8/25

Regulatory Review approval: 12/29/25

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **11/14/25**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: estimated total annualized increase of \$6.14 million

For the first five years: _____

No fiscal effect: _____

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: N/A

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 101 CMR 349.00.

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Jan 02 2026

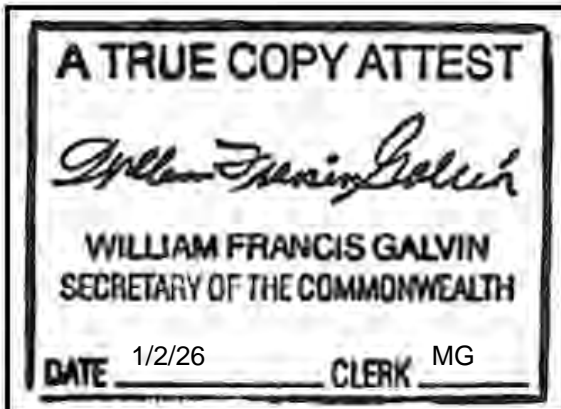
Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 7/1/26

CODE OF MASSACHUSETTS REGULATIONS

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| <u>910.9 - 910.14</u> | <u>910.9 - 910.14</u> |



101 CMR 349.00: RATES FOR EARLY INTERVENTION PROGRAM SERVICES

Section

- 349.01: General Provisions
- 349.02: Definitions
- 349.03: Filing and Reporting Requirements
- 349.04: Rate Provisions
- 349.05: Severability

349.01: General Provisions

- (1) Scope. 101 CMR 349.00 governs rates of payment to be used by all governmental units making payment to eligible providers for Early Intervention program services to publicly assisted clients. 101 CMR 349.00 does not govern the rates for specialty services, which are governed by 101 CMR 358.00: *Rates for Applied Behavior Analysis*.
- (2) Applicable Dates of Service. Rates contained in 101 CMR 349.00 apply for dates of service provided on or after the dates as listed in 101 CMR 349.04(3).
- (3) Disclaimer of Authorization of Services. 101 CMR 349.00 is not authorization for or approval of the substantive services for which rates are determined pursuant to 101 CMR 349.00. The Department of Public Health, which is designated as the lead agency, is responsible for the definition, authorization, and approval of services extended to publicly assisted clients by eligible providers.
- (4) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 349.00.

349.02: Definitions

As used in 101 CMR 349.00, unless the context requires otherwise, terms have the meanings in 101 CMR 349.02.

Approved Program Rates. The rates per service unit approved by EOHHS. The rates of payment that have been certified by the Commonwealth and filed with the Secretary of the Commonwealth are to be used for services governed by 101 CMR 349.00.

Assessment. A comprehensive evaluation of the child's developmental status and family situation, involving the use of a normed developmental assessment tool and measuring fine and gross motor skills, cognitive ability, communication skills, affect and temperament, self-care and feeding skills, socialization, family interactions, and social and economic support systems available to the family. An assessment is limited to ten working hours per 12-month period.

Biological Risk. The presence of a documented history of prenatal, perinatal, neonatal, or early developmental events or conditions suggestive of damage to the central nervous system or of later atypical development.

Center-based Individual Visit. A face-to-face meeting at an Early Intervention program's site, of one client or one client's caregiver, or both, with professional staff member(s) for the purpose of furthering the client's developmental progress. Center-based individual visits must be provided for a scheduled period of time ranging from one to two hours. Center-based individual visits provided in conjunction with group services, however, may be provided for a period of time that is less than one hour.

Child Visit. A face-to-face meeting at the client's home or at an approved setting outside of the center-based site, with the client, the client's caregiver, or both, and professional staff member(s) for the purpose of furthering the client's developmental progress. A child visit must be provided for a scheduled period of time not to exceed two hours.

Client Resources. Revenue received in cash or in-kind from publicly assisted clients to defray all or a portion of the cost of program services.

349.02: continued

Clients. Recipients of services provided by an Early Intervention program.

Co-treatment. A child visitor center-based individual visit that involves two professional staff members and the client, the client's caregiver, or both. Co-treatment sessions are billed on the basis of working hours and are limited to four working hours per session.

Community Child Group. A face-to-face meeting at a community site, as defined in 101 CMR 349.02, facilitated or co-facilitated by professional staff members and designed to further the client's developmental progress. The meeting must include both children enrolled and not enrolled in Early Intervention. Community child groups will be provided for a scheduled period of time ranging from one to 2½ hours, not more than two times weekly.

Community Site. Any location where all young children are welcome and typically spend time, and where services are provided in natural environments, as defined in federal law and regulation, in which children without disabilities participate. This may include, but is not limited to, child-care settings, playgrounds, libraries, and community centers.

Complete Filing. A filing of the cost report, containing no major deficiencies.

Cost Report. The document used to report cost and other financial and statistical data, the Uniform Financial Statements and Independent Auditor's Report, when required.

Early Intervention (EI) Program. A program that shows evidence of having met the Early Intervention Operational Standards of the Department of Public Health and that provides services such as medical, therapeutic, educational, developmental, and social services for children and their families. Services are provided to children from birth through three years old, who are at biological, environmental, or established risk.

EI-only Child Group. A face-to-face meeting of a group of children enrolled in Early Intervention, facilitated or co-facilitated by professional staff members and designed to further the client's developmental progress. EI-only child groups will be provided for a scheduled period of time ranging from one to 2½ hours, not more than two times weekly.

Eligible Provider. Any partnership, corporation, trust, or other legal entity that meets the conditions established for Early Intervention programs by the Department of Public Health.

Environmental Risk. The presence of an environmental factor that may pose a serious threat to a child's development such as, but not restricted to, limited maternal and family care, inadequate health care, poor nutrition, limited opportunities for expression of adaptive behaviors, and a lack of physical and social stimulation.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Established Risk. The presence of a developmental delay or deviation of unknown etiology, or the likelihood of a developmental delay or deviation due to a diagnosed medical disorder of known etiology.

Governmental Unit. The Commonwealth, any department, agency, board, or division of the Commonwealth, and any political subdivision of the Commonwealth.

Parent-focused Group. A face-to-face meeting of a group of clients' parents and persons filling the role of parents (for example, a grandparent, foster parent, or guardian, but not a day-care worker) with professional staff members, for the purpose of support and guidance. A parent-focused group must be provided for a scheduled period of time not to exceed two hours per session and one session per week.

Professional Staff Member. Any certified Early Intervention specialist defined in M.G.L. c. 175, § 47C, and in the *Early Intervention Operational Standards* published by the Department of Public Health.

349.02: continued

Publicly Assisted Client. A person who receives program services for which a governmental unit is responsible in whole or in part, under a statutory program of financial assistance.

Screening. An initial face-to-face meeting of a client and client's caregiver with a professional staff member to determine whether the client would be appropriately placed in two working hours.

Specialty Services. Specialty services are a subgroup of Early Intervention services for children with a confirmed diagnosis of an autism spectrum disorder. These services are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development around the core characteristics of autism spectrum disorder, and are selected in collaboration with the family in conformity with an individualized family service plan. The services are provided by qualified personnel working in a specialty service provider program.

Specialty Services Provider. A specialty service provider serves children with conditions like autism spectrum disorder, and their families, and may be either a supervisor-level clinician with an appropriate graduate degree or a bachelor's-level clinician with at least two years of supervised experience, or a bachelor's-level associate clinician with a preferred one year of supervised experience. These providers must satisfy the certification requirements of the Department of Public Health.

Unit. Fifteen minutes of service provided to a client. In the case of a community child group, EI-only child group, and/or a parent-focused group, one unit is 15 minutes of service provided to an individual client. In the case of a child visit and/or a center-based individual visit, one unit is 15 minutes of service provided to an individual client, except for situations defined under co-treatment. In the case of a screening and/or assessment, one unit is 15 minutes of service provided by one professional staff member.

Working Hours. One hour worked on a screening, assessment, or co-treatment session by one professional staff member. For example, if three professionals work together for one hour to complete the assessment, the assessment lasts three working hours.

349.03: Filing and Reporting Requirements

(1) Reporting for Annual Review. Unless exempted, each operating agency must, on or before the 15th day of the fifth month after the end of its fiscal year, file a

- (a) Uniform Financial Statements and Independent Auditor's Report completed in accordance with the filing requirements of the Operational Services Division, Executive Office for Administration and Finance; and
- (b) supplemental program questionnaire or any other data collection form if requested by EOHHS.

(2) General Provisions.

- (a) Accurate Data. All reports, schedules, additional information, books, and records made available to EOHHS must be certified under pains and penalties of perjury as true, correct, and accurate by the executive director or chief financial officer of the operating agency.
- (b) Examination of Records. Each operating agency must make available all records relating to its operation and all records relating to a realty service or holding company or any entity in which there may be a common ownership or interrelated directorate upon request of EOHHS for examination.
- (c) Field Audits. EOHHS may conduct field audits. EOHHS will attempt to schedule an audit at a convenient time for both parties.

(3) Penalty for Noncompliance. The purchasing governmental unit may impose a penalty in the amount of up to 15% of its payments to any provider that fails to submit required information. The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 349.03(3).

349.04: Rate Provisions

(1) Services Included in the Rate. The approved rates include payment for all care and services that are or have been customarily part of the Early Intervention program of the eligible provider, including necessary administration, supervision, travel, transportation, and support services, subject only to the terms of the purchase agreement between the eligible provider and the purchasing governmental units.

(2) Payment Terms.

(a) Reimbursement as Full Payment. Each eligible provider must, as a condition of acceptance of payment made by one or more purchasing governmental units for services rendered, accept the approved program rates as full payment and discharge of all obligations for the services rendered, subject only to appellate rights as set forth in M.G.L. c. 118E. There must be no duplication of or supplemental payment in excess of the approved program rates from sources other than those expressly recognized or anticipated in the computation of the rates. Any client resources not expressly recognized or anticipated in the computation of the rate will reduce, by that amount, the purchasing governmental unit's obligation for services rendered to the publicly assisted client.

(b) Payment Limitations. Except as provided in 101 CMR 349.03(3), 349.04(2)(a), and 349.04(3), no purchasing governmental unit may pay less than, or more than, the approved program rate.

(3) Approved Program Rates. The rates of payment for authorized services are the lowest of the eligible provider's usual charge to the general public for Early Intervention services, the amount accepted as payment from another payer, or the rate listed in 101 CMR 349.04(3).

(a) Early Intervention Program Service Rates Effective July 1, 2024.

| Service Code | Service Description | Per Unit |
|---------------------|------------------------------------|-----------------|
| H2015 | Child visit – day care | \$35.95 |
| H2015 | Child visit – hospital | \$35.95 |
| H2015 | Child visit | \$35.95 |
| T1015 | Center-based individual | \$30.07 |
| 96165-U1 | EI-only child group (15 minutes) | \$10.48 |
| 96164-U1 | EI-only child group (30 minutes) | \$20.96 |
| 96165-U2 | Community child group (15 minutes) | \$13.77 |
| 96164-U2 | Community child group (30 minutes) | \$27.53 |
| T1027 | Parent-focused group | \$13.44 |
| T1023 | Screening | \$41.92 |
| T1024 | Assessment | \$48.12 |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

349.04: continued

(b) Early Intervention Program Service Rates Effective July 1, 2024.

| Service Code | Service Description | Per Unit |
|---------------------|------------------------------------|-----------------|
| H2015 | Child visit – day care | \$39.35 |
| H2015 | Child visit – hospital | \$39.35 |
| H2015 | Child visit | \$39.35 |
| T1015 | Center-based individual | \$32.91 |
| 96165-U1 | EI-only child group (15 minutes) | \$11.47 |
| 96164-U1 | EI-only child group (30 minutes) | \$22.94 |
| 96165-U2 | Community child group (15 minutes) | \$15.07 |
| 96164-U2 | Community child group (30 minutes) | \$30.14 |
| T1027 | Parent-focused group | \$14.71 |
| T1023 | Screening | \$45.88 |
| T1024 | Assessment | \$52.67 |

(c) Specialty Services. For therapeutic behavioral services, refer to 101 CMR 358.00: *Rates for Applied Behavior Analysis* for the appropriate rate schedule.

349.05: Severability

The provisions of 101 CMR 349.00 are severable. If any provision of 101 CMR 349.00 or application of any provision to an applicable individual, entity, or circumstance is held invalid or unconstitutional, that holding will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 349.00, or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

101 CMR 349.00: M.G.L. c. 118E.

NON-TEXT PAGE

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

Regulation Filing*To be completed by filing agency*CHAPTER NUMBER: **101 CMR 413.00**CHAPTER TITLE: **Payments for Youth Intermediate-term Stabilization Services**AGENCY: **Executive Office of Health and Human Services**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.***Establishes the payment rates for youth intermediate-term stabilization services provided to publicly aided individuals by governmental units. These services are purchased by the Department of Youth Services (DYS).**REGULATORY AUTHORITY: **M.G.L. c. 118E**AGENCY CONTACT: **Deborah Briggs, MassHealth Publications** PHONE: **617-847-3302**ADDRESS: **100 Hancock Street, 6th Floor, Quincy, MA 02171****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***Executive Order 145 notifications: 12/12/25****Regulatory Review approval: 5/26/26**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **1/23/26**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: estimated total annualized increase of \$3.3 million

For the first five years: _____

No fiscal effect: _____

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: N/A

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 101 CMR 413.00.

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Jun 05 2026

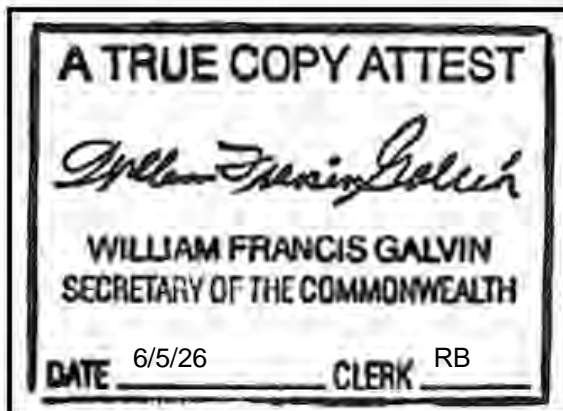
Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 6/19/26

CODE OF MASSACHUSETTS REGULATIONS

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| <u>950.3 - 950.10</u> | <u>950.3 - 950.10</u> |



413.03: Rate Provisions

(1) Services Included in the Rate. The approved rate includes payment for all care and services that are part of the program of services of an eligible provider, as explicitly set forth by the purchasing governmental unit(s).

(2) Reimbursement as Full Payment. Each eligible provider must, as a condition of payment by any purchasing governmental unit, accept the approved rate as full payment and discharge of all obligations for the services rendered. Payment by the purchasing governmental unit for services rendered to the client are reduced by the amount of any payment from any other source.

(3) Payment Limitations. No purchasing governmental unit may pay less than, or more than, the approved rate, except as cited in 101 CMR 413.03(2), (4), and (5).

(4) Administrative Adjustment for Extraordinary Circumstances. A method whereby, subject to availability of funds, a purchasing governmental unit may provide additional resource allocations to a qualified provider in response to unusual and unforeseen circumstances that substantially increase the cost of service delivery in ways not contemplated in the development of current rates. It must be demonstrated that such cost increases gravely threaten the stability of service provision such that client or consumer access to necessary services is at risk. The purchasing governmental unit will evaluate the need for the administrative adjustment, determine whether funding is available, and convey that information to EOHHS for review to determine the amount of any adjustment.

(5) Approved Rates. Except for the rates established for substance use disorder treatment, the rates set forth in 101 CMR 413.03 govern the payment rates for services purchased by the Department of Children and Families, the Department of Mental Health, and the Department of Youth Services provided pursuant to contracts executed under the departments' FY 2013 or subsequent procurements. The approved rate is the lower of the provider's charge or amount accepted as payment from another payer or the rate listed in 101 CMR 413.03.

(a) Youth Residential Substance Use Disorder Treatment Rates Effective for Dates of Service Provided on or after July 1, 2025.

| Program Name | Rate | HCPCS Code/Description |
|---|----------|---|
| Youth Residential Substance Use Disorder Treatment | \$432.00 | H0019-HF - Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, per diem (residential treatment service for transitional age youth and young adults: youth residential substance use disorder treatment). |
| Clinically Intensive Youth Residential Substance Use Disorder Treatment | \$591.86 | H0019-HA - Behavioral health; long-term residential (nonmedical, nonacute care in a residential treatment program where stay is typically longer than 30 days), without room and board, per diem (residential treatment services for youth: clinically intensive youth residential substance use disorder treatment). |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

413.03: continued

(b) Adjudicated Youth Residential Treatment Base Rates Effective for Dates of Service Provided on or after January 1, 2026.

| PROVIDER LEASED | Utilization % | # of Clients: | | | | |
|-----------------|---------------|---------------|------------|------------|----------|----------|
| | | 1-11 | 12-14 | 15-17 | 18-22 | 23-26 |
| | 90% | \$741.85 | \$666.23 | \$557.04 | \$450.23 | \$407.80 |
| | 85% | \$785.49 | \$705.42 | \$589.81 | \$476.71 | \$431.79 |
| | 80% | \$834.58 | \$749.51 | \$626.67 | \$506.51 | \$458.78 |
| | 75% | \$890.22 | \$799.48 | \$668.45 | \$540.28 | \$489.36 |
| | 70% | \$953.81 | \$856.59 | \$716.19 | \$578.87 | \$524.32 |
| | 65% | \$1,027.18 | \$922.48 | \$771.28 | \$623.40 | \$564.65 |
| | 60% | \$1,112.77 | \$999.35 | \$835.56 | \$675.35 | \$611.70 |
| | 55% | \$1,213.93 | \$1,090.20 | \$911.52 | \$736.74 | \$667.31 |
| | 50% | \$1,335.33 | \$1,199.22 | \$1,002.67 | \$810.41 | \$734.04 |

| PROVIDER OWNED | Utilization % | # of Clients: | | | | |
|----------------|---------------|---------------|------------|----------|----------|----------|
| | | 5-11 | 12-14 | 15-17 | 18-22 | 23-26 |
| | 90% | \$701.56 | \$625.95 | \$516.75 | \$409.94 | \$367.52 |
| | 85% | \$742.83 | \$662.77 | \$547.15 | \$434.06 | \$389.13 |
| | 80% | \$789.26 | \$704.19 | \$581.35 | \$461.19 | \$413.46 |
| | 75% | \$841.88 | \$751.14 | \$620.10 | \$491.93 | \$441.02 |
| | 70% | \$902.01 | \$804.79 | \$664.40 | \$527.07 | \$472.52 |
| | 65% | \$971.40 | \$866.70 | \$715.50 | \$567.62 | \$508.87 |
| | 60% | \$1,052.34 | \$938.92 | \$775.13 | \$614.92 | \$551.27 |
| | 55% | \$1,148.01 | \$1,024.28 | \$845.60 | \$670.82 | \$601.39 |
| | 50% | \$1,262.81 | \$1,126.71 | \$930.16 | \$737.90 | \$661.53 |

| STATE OWNED - SEPARATE | Utilization % | # of Clients: | | | | |
|------------------------|---------------|---------------|------------|----------|----------|----------|
| | | 5-11 | 12-14 | 15-17 | 18-22 | 23-26 |
| | 90% | \$693.89 | \$618.27 | \$509.08 | \$402.27 | \$381.49 |
| | 85% | \$734.71 | \$654.64 | \$539.03 | \$425.93 | \$403.93 |
| | 80% | \$780.63 | \$695.56 | \$572.71 | \$452.56 | \$429.18 |
| | 75% | \$832.67 | \$741.93 | \$610.90 | \$482.73 | \$457.79 |
| | 70% | \$892.14 | \$794.92 | \$654.53 | \$517.21 | \$490.49 |
| | 65% | \$960.77 | \$856.07 | \$704.88 | \$556.99 | \$528.22 |
| | 60% | \$1,040.83 | \$927.41 | \$763.62 | \$603.41 | \$572.24 |
| | 55% | \$1,135.46 | \$1,011.72 | \$833.04 | \$658.26 | \$624.26 |
| | 50% | \$1,249.00 | \$1,112.89 | \$916.34 | \$724.09 | \$686.69 |

| STATE OWNED – CO-LOCATED | Utilization % | # of Clients: | | | | |
|--------------------------|---------------|---------------|------------|----------|----------|----------|
| | | 5-11 | 12-14 | 15-17 | 18-22 | 23-26 |
| | 90% | \$615.18 | \$578.94 | \$480.65 | \$380.28 | \$360.51 |
| | 85% | \$651.37 | \$612.99 | \$508.93 | \$402.65 | \$381.72 |
| | 80% | \$692.08 | \$651.30 | \$540.74 | \$427.82 | \$405.58 |
| | 75% | \$738.22 | \$694.72 | \$576.79 | \$456.34 | \$432.62 |
| | 70% | \$790.95 | \$744.35 | \$617.98 | \$488.94 | \$463.52 |
| | 65% | \$851.79 | \$801.60 | \$665.52 | \$526.55 | \$499.17 |
| | 60% | \$922.78 | \$868.40 | \$720.98 | \$570.43 | \$540.77 |
| | 55% | \$1,006.67 | \$947.35 | \$786.53 | \$622.28 | \$589.93 |
| | 50% | \$1,107.33 | \$1,042.09 | \$865.18 | \$684.51 | \$648.92 |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

413.03: continued

| | Utilization % | # of Clients | | | |
|---------------------------------------|---------------|--------------|----------|----------|----------|
| | | 5-11 | 12-14 | 15-17 | 18-22 |
| Intensive Trans. Indep. Living (A) | 90% | \$493.50 | \$449.55 | \$444.30 | \$423.35 |
| | 85% | \$522.53 | \$475.99 | \$470.44 | \$448.25 |
| | 80% | \$555.19 | \$505.74 | \$499.84 | \$476.27 |
| | 75% | \$592.20 | \$539.46 | \$533.16 | \$508.02 |
| | 70% | \$634.50 | \$577.99 | \$571.24 | \$544.31 |
| | 65% | \$683.31 | \$622.45 | \$615.18 | \$586.18 |
| | 60% | \$740.25 | \$674.32 | \$666.45 | \$635.03 |
| | 55% | \$807.55 | \$735.63 | \$727.04 | \$692.75 |
| | 50% | \$888.30 | \$809.19 | \$799.74 | \$762.03 |

| | Utilization % | # of Clients | | | |
|--------------------------|---------------|--------------|----------|----------|----------|
| | | 5-11 | 12-14 | 15-17 | 18-22 |
| Trans. Indep. Living (B) | 90% | \$192.76 | \$136.34 | \$151.80 | \$136.31 |
| | 85% | \$204.10 | \$144.36 | \$160.73 | \$144.33 |
| | 80% | \$216.86 | \$153.38 | \$170.77 | \$153.35 |
| | 75% | \$231.32 | \$163.60 | \$182.16 | \$163.57 |
| | 70% | \$247.84 | \$175.29 | \$195.17 | \$175.26 |
| | 65% | \$266.91 | \$188.77 | \$210.18 | \$188.74 |
| | 60% | \$289.15 | \$204.50 | \$227.70 | \$204.46 |
| | 55% | \$315.43 | \$223.10 | \$248.39 | \$223.05 |
| | 50% | \$346.98 | \$245.41 | \$273.23 | \$245.36 |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

413.03: continued

(c) Congregate Care Program Rates Effective for Dates of Service Provided on or after July 1, 2025.

| Congregate Care Program | Rate | Unit |
|--|-------------|----------------------|
| Clinically Intensive Residential Treatment | \$425,896 | monthly program rate |
| Community Treatment Residence (Non-ERTP) | \$575.53 | per bed day |
| Community Treatment Residence (ERTP) | \$600.97 | per bed day |
| Intensive Home Based Therapeutic Care | \$207.50 | per day per person |
| Emergency Residence | \$695.41 | per bed day |
| Intensive Emergency Residence | \$828.61 | per bed day |
| Intensive Residential Treatment Program | \$544,141 | monthly program rate |
| Intensive Treatment Residence (Non-ERTP) | \$854.46 | per bed day |
| Intensive Treatment Residence (ERTP) | \$874.77 | per bed day |
| Intensive Treatment Residence Emergency Intake-Add-on | \$138.35 | per bed day |
| Medically Complex & Behavioral Residence (Non-ERTP) | \$1,042.61 | per bed day |
| Medically Complex & Behavioral Residence (ERTP) | \$1,062.85 | per bed day |
| Medically Complex Residence (Non-ERTP) | \$906.98 | per bed day |
| Medically Complex Residence (ERTP) | \$922.16 | per bed day |
| Specialty Treatment Residence (Commercially Sexually Exploited Children) | \$859.82 | per bed day |
| Specialty Treatment Residence (Non-ERTP) | \$725.70 | per bed day |
| Specialty Treatment Residence (ERTP) | \$742.60 | per bed day |
| Therapeutic Group Care – 6 beds | \$111,136 | monthly program rate |
| Therapeutic Group Care – 9 beds | \$152,984 | monthly program rate |
| Therapeutic Group Care – 12 beds | \$191,482 | monthly program rate |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

413.03: continued

| Congregate Care Program | Rate | Unit |
|--|-------------|----------------------|
| Young Adult Supported Living | \$218.15 | per bed day |
| Young Adult Therapeutic Care – Outreach | \$74.44 | daily slot rate |
| Young Adult Therapeutic Care – Staffed Apartments | \$96,671 | monthly program rate |
| Young Adult Therapeutic Care – Staffed Apartments | \$16,112 | monthly single apt. |
| Young Adult Therapeutic Care – Supported Apartments | \$6,971 | monthly single apt. |
| Young Adult Therapeutic Care – Supported Apartments Hold | \$68.88 | daily rate |
| Young Parent Assessment | \$478.21 | per assessment |
| Young Parent Living Program | \$10,355.01 | monthly bed rate |
| Youth & Young Adult Group Residence | \$449.51 | per bed day |
| Youth & Young Adult Supported Living Community | \$417.54 | per bed day |

(d) Add-on Rates Effective for Dates of Service Provided on or after July 1, 2025.

| Add-on Rates (Monthly) | | | | |
|--|----------------|-----------------|-----------------|-----------------|
| Position | 1.0 FTE | 0.75 FTE | 0.50 FTE | 0.25 FTE |
| Direct Care | \$4,650 | \$3,488 | \$2,325 | \$1,163 |
| Certified Nursing Assistant | \$4,790 | \$3,593 | \$2,395 | \$1,198 |
| Direct Care III | \$6,045 | \$4,534 | \$3,023 | \$1,511 |
| Occupational Therapist | \$8,891 | \$6,668 | \$4,445 | \$2,223 |
| Occupational Therapist Assistant | \$8,132 | \$6,099 | \$4,066 | \$2,033 |
| Case Manager, Social Worker, Clinician (MA level-not Independent Licensed) | \$7,550 | \$5,662 | \$3,775 | \$1,887 |
| LPN | \$7,942 | \$5,956 | \$3,971 | \$1,985 |
| Registered Nurse | \$11,143 | \$8,357 | \$5,571 | \$2,786 |
| Clinician w/Independent License | \$8,994 | \$6,745 | \$4,497 | \$2,248 |
| Social/Caseworker (BA Level) | \$6,929 | \$5,197 | \$3,465 | \$1,732 |

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

413.03: continued

| Add-on Rates (Hourly) | |
|--|-------------|
| Position | Rate |
| Direct Care | \$28.60 |
| Certified Nursing Assistant | \$29.45 |
| Direct Care III | \$37.16 |
| Occupational Therapist | \$60.61 |
| Occupational Therapist Assistant | \$55.47 |
| Case Manager, Social Worker, Clinician (MA level-not Independent Licensed) | \$51.49 |
| LPN | \$54.15 |
| Registered Nurse | \$75.99 |
| Clinician w/Independent License | \$61.34 |
| Social/Caseworker (BA Level) | \$47.26 |
| Nurse Practitioner/APRN | \$103.27 |
| Psychologist/Psychiatrist (PhD) | \$154.76 |
| Forensic Psychiatrist | \$181.46 |

| Other Add-on Rates | |
|--|-------------------------------|
| Service | Rate |
| Canine Therapy | \$10,000 per dog |
| Extraordinary Circumstances/Flex Funding | Individual Consideration (IC) |

| Adjudicated Youth Residential Treatment Add-on Rates | | |
|---|--------------------|-------------|
| Position - Add-on | Unit | Rate |
| Clinical Director | Per Youth, Per Day | \$37.69 |
| Clinician (LICSW) | Per Youth, Per Day | \$30.64 |
| Direct Care | Per Youth, Per Day | \$17.05 |

(e) Community Service Network (CSN)/READY Rates Effective for Dates of Service Provided on or after January 1, 2024.

| Community Service Network (CSN)/READY | |
|---|---|
| Rates are based on region, and reflect per client per enrollment day. | |
| Model | Rate per Client per Enrollment Day |
| Central Region | \$46.91 |
| Metro Boston Region | \$64.32 |
| Northeast Region | \$34.71 |
| Southeast Region | \$39.99 |
| West Region | \$42.15 |

| Community Service Network (CSN) Add-on Rates | | |
|---|--------------|-------------|
| Add-on | Unit | Rate |
| Occupancy Add-on: | Monthly | \$10,000.00 |
| Youth Service Coordinator Add-on: 0.50 FTE | Monthly | \$3,010 |
| Youth Service Coordinator Add-on: 1.0 FTE | Monthly | \$6,021 |
| Administrative Assistant/Transporter Add-on: 0.50 FTE | Monthly | \$2,501 |
| Administrative Assistant/Transporter Add-on: 1.0 FTE | Monthly | \$5,002 |
| READY Program: 1.0 FTE | Enrolled Day | \$21.54 |

413.03: continued

(6) Geographic Regions for Community Service Network.

(a) Central: Ashburnham, Ashby, Ashland, Athol, Auburn, Ayer, Barre, Bellingham, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dover, Dudley, East Brookfield, Fitchburg, Framingham, Franklin, Gardner, Grafton, Groton, Hardwick, Harvard, Holden, Holliston, Hopedale, Hopkinton, Hubbardston, Hudson, Lancaster, Leicester, Leominster, Lunenburg, Marlborough, Medway, Mendon, Milford, Millbury, Millville, Natick, Needham, New Braintree, North Brookfield, Northborough, Northbridge, Oakham, Oxford, Paxton, Pepperell, Petersham, Phillipston, Princeton, Royalston, Rutland, Sherborn, Shirley, Shrewsbury, Southborough, Southbridge, Spencer, Sterling, Sturbridge, Sudbury, Sutton, Templeton, Townsend, Upton, Uxbridge, Warren, Wayland, Webster, Wellesley, West Boylston, West Brookfield, Westborough, Westminster, Weston, Winchendon, Worcester.

(b) Metropolitan Boston: Belmont, Boston, Brookline, Cambridge, Chelsea, Newton, Revere, Somerville, Waltham, Watertown, Winthrop.

(c) Northeast: Acton, Amesbury, Andover, Arlington, Bedford, Beverly, Billerica, Boxborough, Boxford, Burlington, Carlisle, Chelmsford, Concord, Danvers, Dracut, Dunstable, Essex, Everett, Georgetown, Gloucester, Groveland, Hamilton, Haverhill, Ipswich, Lawrence, Lexington, Lincoln, Littleton, Lowell, Lynn, Lynnfield, Malden, Manchester-by-the-Sea, Marblehead, Maynard, Medford, Melrose, Merrimac, Methuen, Middleton, Nahant, Newbury, Newburyport, North Andover, North Reading, Peabody, Reading, Rockport, Rowley, Salem, Salisbury, Saugus, Stoneham, Stow, Swampscott, Tewksbury, Topsfield, Tyngsborough, Wakefield, Wenham, Westford, West Newbury, Wilmington, Winchester, Woburn.

(d) Southeast: Abington, Acushnet, Aquinnah, Attleboro, Avon, Barnstable, Berkeley, Bourne, Braintree, Brewster, Bridgewater, Brockton, Canton, Carver, Chatham, Chilmark, Cohasset, Dartmouth, Dedham, Dennis, Dighton, Duxbury, East Bridgewater, Eastham, Easton, Edgartown, Fairhaven, Fall River, Falmouth, Foxborough, Freetown, Gosnold, Halifax, Hanover, Hanson, Harwich, Hingham, Holbrook, Hull, Kingston, Lakeville, Mansfield, Marion, Marshfield, Mashpee, Mattapoisett, Medfield, Middleborough, Millis, Milton, Nantucket, New Bedford, Norfolk, North Attleboro, Norton, Norwell, Norwood, Oak Bluffs, Orleans, Pembroke, Plainville, Plymouth, Plympton, Provincetown, Quincy, Randolph, Raynham, Rehoboth, Rochester, Rockland, Sandwich, Scituate, Seekonk, Sharon, Somerset, Stoughton, Swansea, Taunton, Tisbury, Truro, Walpole, Wareham, Wellfleet, West Bridgewater, Westport, West Tisbury, Westwood, Weymouth, Whitman, Wrentham, Yarmouth.

(e) West: Adams, Agawam, Alford, Amherst, Ashfield, Becket, Belchertown, Bernardston, Blandford, Brimfield, Buckland, Charlemont, Cheshire, Chester, Chesterfield, Chicopee, Clarksburg, Colrain, Conway, Cummington, Dalton, Deerfield, Easthampton, East Longmeadow, Egremont, Erving, Florida, Gill, Goshen, Granby, Granville, Great Barrington, Greenfield, Hadley, Hampden, Hancock, Hatfield, Hawley, Heath, Hinsdale, Holland, Holyoke, Huntington, Lanesborough, Lee, Lenox, Leverett, Leyden, Longmeadow, Ludlow, Middlefield, Monroe, Monson, Montague, Monterey, Montgomery, Mount Washington, New Ashford, New Marlborough, New Salem, North Adams, Northampton, Northfield, Orange, Otis, Palmer, Pelham, Peru, Pittsfield, Plainfield, Richmond, Rowe, Russell, Sandisfield, Savoy, Sheffield, Shelburne Falls, Shutesbury, Southampton, South Hadley, Southwick, Springfield, Stockbridge, Sunderland, Tolland, Tyringham, Wales, Ware, Warwick, Washington, Wendell, Westhampton, Westfield, West Springfield, West Stockbridge, Whately, Wilbraham, Williamsburg, Williamstown, Windsor, Worthington.

413.04: Filing and Reporting Requirements(1) General Provisions.

(a) Accurate Data. All reports, schedules, additional information, books, and records that are filed or made available to EOHHS must be certified under pains and penalties of perjury as true, correct, and accurate by the executive director or chief financial officer of the provider.

(b) Examination of Records. Each provider must make available to EOHHS or purchasing governmental unit upon request all records relating to its reported costs, including costs of any entity related by common ownership or control.

413.04: continued

- (2) Required Reports. Each provider must file
 - (a) an annual Uniform Financial Statements and Independent Auditor's Report completed in accordance with the filing requirements of 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*;
 - (b) any cost report supplemental schedule as issued by EOHHS; and
 - (c) any additional information requested by EOHHS within 21 days of a written request.

- (3) Penalty for Noncompliance. The purchasing governmental unit may impose a penalty in the amount of up to 15% of its payments to any provider that fails to submit required information. The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 413.04(3).

413.05: Severability

The provisions of 101 CMR 413.00 are severable. If any provision of 101 CMR 413.00 or application of any provision to an applicable individual, entity, or circumstance is held invalid or unconstitutional, that holding will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 413.00 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

101 CMR 413.00: M.G.L. c. 118E.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **101 CMR 614.00**

CHAPTER TITLE: **Health Safety Net Payments and Funding**

AGENCY: **Executive Office of Health and Human Services**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Establishes the payments and funding for Health Safety Net (HSN) providers, which include acute hospitals and community health centers in the Commonwealth participating in the HSN.

REGULATORY AUTHORITY: **M.G.L. c. 118E**

AGENCY CONTACT: **Deborah M. Briggs, MassHealth Publications** PHONE: **617-847-3302**

ADDRESS: **100 Hancock Street, 6th floor, Quincy, MA 02171**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Order 145 notifications: 2/27/26

Regulatory Review approval: 5/28/26

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **4/6/26**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: **No fiscal effect**

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 101 CMR 614.00.

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Jun 05 2026

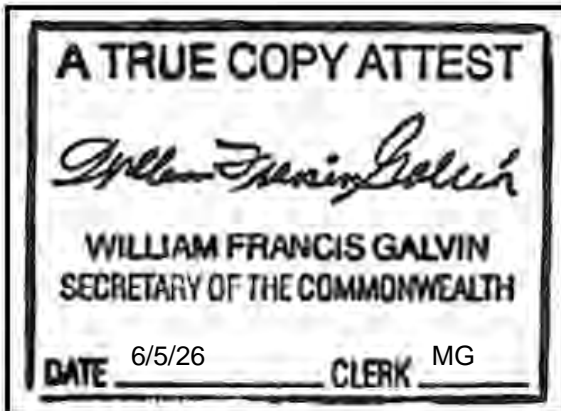
Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 6/19/26

CODE OF MASSACHUSETTS REGULATIONS

| Remove these Pages: | Insert these Pages: |
|---------------------|---------------------|
| 1129 - 1142 | 1129 - 1142.2 |



101 CMR 614.00: HEALTH SAFETY NET PAYMENTS AND FUNDING

Section

- 614.01: General Provisions
- 614.02: Definitions
- 614.03: Sources and Uses of Funds
- 614.06: Payments to Acute Hospitals
- 614.07: Payments to Community Health Centers
- 614.08: Reporting Requirements
- 614.09: Severability

614.01: General Provisions

(1) Scope, Purpose, and Effective Date. 101 CMR 614.00 governs Health Safety Net payments and funding effective for dates of service beginning October 1, 2025, including payments to acute hospitals and community health centers and payments from acute hospitals and surcharge payers. The criteria for determining services for which acute hospitals and community health centers may be paid by the Health Safety Net are set forth in 101 CMR 613.00: *Health Safety Net Eligible Services*.

(2) Administrative Bulletins. The Health Safety Net office may issue administrative bulletins to clarify policies and understanding of substantive provisions of 101 CMR 614.00 and specify information and documentation necessary to implement 101 CMR 614.00.

614.02: Definitions

As used in 101 CMR 614.00, unless the context otherwise requires, terms have the meanings in 101 CMR 614.02.

340B Provider. An acute hospital or community health center eligible to purchase discounted drugs through a program established by § 340B of United States Public Law 102-585, the Veterans Health Care Act of 1992, permitting certain grantees of federal agencies access to reduced cost drugs for their patients, and registered and listed as a 340B provider within the United States Department of Health and Human Services, Office of Pharmacy Affairs (OPA) database. Services of a 340B pharmacy may be provided at on-site or off-site locations.

Acute Hospital. A hospital licensed under M.G.L. c. 111, § 51 that contains a majority of medical-surgical, pediatric, obstetric, and maternity beds, as defined by the Department of Public Health.

Administrative Day. A day of inpatient hospitalization on which a patient's care needs can be provided in a setting other than an inpatient acute hospital in accordance with the standards in 130 CMR 415.000: *Acute Inpatient Hospital Services* and on which the patient is clinically ready for discharge.

Allowable Health Safety Net Payment. Total maximum, for all eligible services that would be payable if there were no shortfall.

Bad Debt. An account receivable based on services provided to a patient that is

- (a) regarded as uncollectible, following reasonable collection efforts consistent with the requirements in 101 CMR 613.06: *Allowable Bad Debt*;
- (b) charged as a credit loss;
- (c) not the obligation of a governmental unit or the federal government or any agency thereof; and
- (d) not a reimbursable health service.

Center for Health Information and Analysis (CHIA). The Center for Health Information and Analysis established under M.G.L. c. 12C.

Centers for Medicare & Medicaid Services (CMS). The federal agency that administers Medicare, Medicaid, and the State Children's Health Insurance Program.

614.02: continued

Charge. The uniform price for a specific service charged by a provider.

Community Health Center. A health center operating in conformance with the requirements of § 330 of the Public Health Service Act (42 U.S.C. § 254b), including all community health centers that file cost reports with CHIA. Such a health center must

- (a) be licensed as a freestanding clinic by the Massachusetts Department of Public Health pursuant to M.G.L. c. 111, § 51;
- (b) meet the qualifications for certification (or provisional certification) by the MassHealth agency and enter into a Provider agreement pursuant to 130 CMR 405.000: *Community Health Center Services*; and
- (c) operate in conformance with the requirements of 42 U.S.C. § 254b.

Disproportionate Share Hospital (DSH). An acute hospital with a minimum public payer mix of 63%.

Eligible Services. Services eligible for Health Safety Net payment pursuant to 101 CMR 613.03: *Eligible Services Requirements*, which include

- (a) reimbursable health services to low income patients;
- (b) medical hardship; and
- (c) bad debt.

Emergency Bad Debt. The amount of uncollectible debt for emergency services that meets the criteria set forth in 101 CMR 613.06: *Allowable Bad Debt*.

Emergency Services. Medically necessary services provided to an individual with an emergency medical condition as defined in 101 CMR 613.02: *Emergency Services* and eligible for payment pursuant to 101 CMR 613.03: *Eligible Services Requirements*.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Federal Poverty Level (FPL). Income standards issued annually in the Federal Register to account for the last calendar year's increase in prices as measured by the Consumer Price Index.

Financial Requirements. An acute hospital's requirement for revenue that includes, but is not limited to, reasonable operating, capital, and working capital costs, and the reasonable costs associated with changes in medical practice and technology.

Fiscal Year (FY). The time period of 12 months beginning on October 1st of any calendar year and ending on September 30th of the following calendar year.

Governmental Unit. The Commonwealth, any department, agency, board, or commission of the Commonwealth, and any political subdivision of the Commonwealth.

Gross Patient Service Revenue. The total dollar amount of a hospital's charges for services rendered in a fiscal year.

Guarantor. A person or group of persons who assumes the responsibility of payment for all or part of an acute hospital's or community health center's charge for services.

Health Connector. Commonwealth Health Insurance Connector Authority or Health Connector established pursuant to M.G.L. c. 176Q, § 2.

Health Insurance Plan. Medicare, MassHealth, the Premium Assistance Payment Program operated by the Health Connector, a qualified health plan, or an individual or group contract or other plan providing coverage of health care services issued by a health insurance company, as defined in M.G.L. c. 175, 176A, 176B, 176G, or 176I.

Health Safety Net. The payment program established and administered in accordance with M.G.L. c. 118E, §§ 8A, and 64 through 69 and regulations promulgated thereunder, and other applicable legislation.

614.02: continued

Health Safety Net Office. The office within the Office of Medicaid established under M.G.L. c. 118E, § 65.

Health Safety Net Trust Fund. The fund established under M.G.L. c. 118E, § 66.

Health Services. Medically necessary inpatient and outpatient services as authorized under Title XIX of the Social Security Act. Health services do not include

- (a) nonmedical services, such as social, educational, and vocational services;
- (b) cosmetic surgery;
- (c) canceled or missed appointments;
- (d) telephone conversations and consultations;
- (e) court testimony;
- (f) research or the provision of experimental or unproven procedures; and
- (g) the provision of whole blood, but the administrative and processing costs associated with the provision of blood and its derivatives are payable.

Hospital Cost Report. The Massachusetts Hospital Statement of Costs, Revenues, and Statistics reported to CHIA pursuant to 957 CMR 9.00: *Hospital Financial Data Reporting Requirements*.

Hospital Licensed Health Center. A satellite clinic, as defined in 101 CMR 613.02: *Satellite Clinic*, that

- (a) meets MassHealth requirements for reimbursement as a Hospital Licensed Health Center as provided at 130 CMR 410.413: *Medical Services Required On Site at a Hospital-Licensed Health Center*; and
- (b) is approved by and enrolled with MassHealth's Provider Enrollment Unit as a hospital licensed health center.

Hospital Services. Services listed on an acute hospital's license by the Department of Public Health. This does not include services provided in transitional care units; services provided in skilled nursing facilities; home health services; or separately licensed services, including residential treatment programs and ambulance services.

Individual Medical Visit. A face-to-face meeting at a community health center between a patient and a physician, physician assistant, nurse practitioner, nurse midwife, or registered nurse for medical examination, diagnosis, or treatment.

Low Income Patient. A patient who meets the criteria in 101 CMR 613.04(2): *Low Income Patient Determination*.

MassHealth. The medical assistance and benefit programs administered by the MassHealth agency pursuant to Title XIX of the Social Security Act (42 U.S.C. 1396), Title XXI of the Social Security Act (42 U.S.C. 1397), M.G.L. c. 118E, and other applicable laws and waivers to provide and pay for medical services to eligible members.

MassHealth Agency. The Executive Office of Health and Human Services in accordance with the provisions of M.G.L. c. 118E.

MassHealth Drug List. The list of commonly prescribed drugs and therapeutic class tables published by EOHHS. The MassHealth Drug List specifies the drugs that are payable under MassHealth, and to the extent different, the Health Safety Net. The list also specifies which drugs require prior authorization.

Medical Hardship. Health Safety Net status available to Massachusetts residents as defined in 101 CMR 613.02: Resident and for which eligible services are eligible for payment pursuant to 101 CMR 613.03: *Eligible Services Requirements*.

Medically Necessary Service. A service that is reasonably expected to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a disability, or result in illness or infirmity. Medically necessary services include inpatient and outpatient services as authorized under Title XIX of the Social Security Act.

614.02: continued

Medicare Advantage. A type of Medicare health plan established by Title II of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Medicare Program (Medicare). The medical insurance program established by Title XVIII of the Social Security Act.

Office of Pharmacy Affairs (OPA). The Office of Pharmacy Affairs, and any successor agencies, is a division within the United States Department of Health and Human Services that monitors the registration of 340B pharmacies.

Patient. An individual who receives or has received medically necessary services at an acute hospital or community health center.

Pediatric Hospital. An acute hospital that limits services primarily to children and that qualifies as exempt from the Medicare Prospective Payment System (PPS).

Pharmacy Online Processing System (POPS). The MassHealth online, real-time computer network that adjudicates pharmacy claims, incorporating prospective drug utilization review, prior authorization, and patient eligibility verification.

Premium Assistance Payment Program Operated by the Health Connector. An insurance subsidy program that provides state subsidies for low income individuals and families administered by the Health Connector.

Prospective Payment System (PPS) Rate. The Medicare Prospective Payment System rate for community health centers set annually by CMS as described in 42 CFR 405.2467.

Provider. An acute hospital or community health center that provides eligible services.

Public Payer Mix. The percentage of an acute hospital's gross patient service revenue attributable to Title XVII and Title XIX of the Social Security Act, the Health Safety Net or other government payers, as reported in the 2022 Hospital Cost Report published by CHIA; provided, however, that for each fiscal year beginning prior to October 1, 2025, public payer mix is determined as of the source year for each such fiscal year and, only for such fiscal years, other government payers include the Premium Assistance Payment Program operated by the Health Connector.

Reimbursable Health Services. Eligible services provided by acute hospitals or community health centers to uninsured and underinsured patients who are determined to be financially unable to pay for their care, in whole or in part, and who meet the criteria for low-income patient; provided that such services are not eligible for reimbursement by any other public or third-party payer.

Relative Public Payer Mix Adjustment Factor. The factor that represents each hospital's position, relative to other hospitals, with respect to public payer mix in the DSH and non-DSH groups, from a maximum of 1 to a minimum of 0.7 for DSH and a minimum of 0.1 for non-DSH, which is calculated using the following formula:

$$\text{Applicable relative public payer mix adjustment factor minimum} + (1 - \text{applicable relative public payer mix adjustment factor minimum}) \times [(\text{hospital's public payer mix \%} - \text{lowest public payer mix \% across all hospitals in the same group}) / (\text{highest public payer mix \%} - \text{lowest public payer mix \% across all hospitals in the same group})]$$

Shortfall Amount. In a fiscal year, the positive difference between the sum of allowable Health Safety Net payments for all acute hospitals and the revenue available for distribution to acute hospitals.

Sole Community Hospital. Any acute hospital classified as a sole community hospital by the U.S. Centers for Medicare & Medicaid Services' Medicare regulations, or any acute hospital that demonstrates to the Health Safety Net Office's satisfaction that it is located more than 25 miles from other acute hospitals in the Commonwealth and that it provides services for at least 60% of its primary service area.

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Source Year. The fiscal year two years prior to the current fiscal year, from which data is collected to calculate current fiscal year payment rates, unless otherwise specified by the Health Safety Net Office through administrative bulletin.

Underinsured Patient. A patient whose health insurance plan or self-insurance plan does not pay, in whole or in part, for health services that are eligible for payment from the Health Safety Net Trust Fund, provided that the patient meets income eligibility standards set forth in 101 CMR 613.04: *Eligible Services to Low Income Patients*.

Uninsured Patient. A patient who is a resident of the Commonwealth, who is not covered by a health insurance plan or a self-insurance plan, and who is not eligible for a medical assistance program. A patient who has a policy of health insurance or is a member of a health insurance or benefit program that requires such patient to make payment of deductibles or copayments, or fails to cover certain medical services or procedures is not uninsured.

Urgent Care Services. Medically necessary services provided in an acute hospital or community health center, as defined in 101 CMR 613.02: Community Health Center, and eligible for payment pursuant to 101 CMR 613.03: *Eligible Services Requirements*.

614.03: Sources and Uses of Funds(1) Payments from the Health Safety Net Trust Fund through Fiscal Year 2024.

(a) Payment Adjustments. Acute hospital payments established under 101 CMR 614.06 may be adjusted to reflect additional funding made available during the fiscal year or to reflect the shortfall allocation in accordance with 101 CMR 614.03(1)(b). The Health Safety Net may reserve up to 10% of available funding to ensure that funding is available for the entire fiscal year.

(b) Shortfall Allocation. Through fiscal year 2024, the Health Safety Net office, using the best data available, estimates the projected total reimbursable health services provided by acute hospitals and community health centers; total medical hardship services; total bad debt for emergency and urgent care services; and total Health Safety Net administrative expenses. If the Health Safety Net office determines that, after adjusting for projected community health center payments and administrative expenses, Health Safety Net payments to acute hospitals will exceed available funding, the Health Safety Net office allocates the funding in a manner that reflects each acute hospital's proportional financial requirements for Health Safety Net payments through a graduated payment system. The Health Safety Net office allocates the shortfall to disproportionate share hospitals and other acute hospitals as follows.

1. Disproportionate Share Hospital. The Health Safety Net office determines disproportionate share hospital status using data reported on the hospital cost report for the source year.
2. Allocation Method. The Health Safety Net office allocates the shortfall as follows.
 - a. Determine the ratio of each acute hospital's total patient care costs to the sum of all acute hospitals' total patient care costs.
 - b. Multiply this ratio by the total shortfall amount.
 - c. If calculated amount is greater than an acute hospital's allowable health safety net payments, then the shortfall allocation is limited to the acute hospital's allowable health safety net payments. If an acute hospital's allowable health safety net payment is \$0 or less, then the shortfall allocation is limited to \$0.
 - d. The Health Safety Net's gross liability to each acute hospital is limited by the acute hospital's allowable health safety net payments less the shortfall allocation calculated in 101 CMR 614.03(1)(b)2.a. through c.
 - e. Each disproportionate share hospital is paid the greater of
 - i. 85% of its allowable Health Safety Net payments; or
 - ii. the revised payment calculated according to the shortfall methodology in 101 CMR 614.03(1)(b)2.a. through e.

614.03: continued

(2) Payments from the Health Safety Net Trust Fund Beginning Fiscal Year 2025.

(a) Payment Adjustments. Acute hospital payments established under 101 CMR 614.06 may be adjusted to reflect additional funding made available during the fiscal year or to reflect the shortfall allocation in accordance with 101 CMR 614.03(2)(b). The Health Safety Net may reserve up to 10% of available funding to ensure that funding is available for the entire fiscal year.

(b) Shortfall Allocation. For fiscal years beginning on or after October 1, 2024, the Health Safety Net office, using the best data available, estimates the projected total reimbursable health services provided by acute hospitals and community health centers; total medical hardship services; total bad debt for emergency and urgent care services; and total Health Safety Net administrative expenses. If the Health Safety Net office determines that, after adjusting for projected community health center payments and administrative expenses, Health Safety Net payments to acute hospitals will exceed available funding, the Health Safety Net office allocates the funding in a manner that reflects each acute hospital's proportional financial requirements for Health Safety Net payments through a graduated payment system. The Health Safety Net office allocates the shortfall to disproportionate share hospitals and other acute hospitals as follows.

1. Disproportionate Share Hospital. The Health Safety Net office determines disproportionate share hospital status using data reported on the hospital cost report for the source year.
2. Allocation Method. The Health Safety Net office allocates the shortfall as follows.
 - a. Determine the ratio of each acute hospital's total patient care costs to the sum of all acute hospitals' total patient care costs.
 - b. Multiply this ratio by the total shortfall amount.
 - c. If calculated amount is greater than an acute hospital's allowable Health Safety Net payments, then the shortfall allocation is limited to the acute hospital's allowable Health Safety Net payments. If an acute hospital's allowable Health Safety Net payment is \$0 or less, then the shortfall allocation is limited to \$0.
 - d. The Health Safety Net's gross liability to each acute hospital is limited by the acute hospital's allowable Health Safety Net payments less the shortfall allocation calculated in 101 CMR 614.03(2)(b)2.a. through c.
 - e. Subject to available funds, all disproportionate share hospitals are paid at an equal percentage of their total allowable Health Safety Net payments, up to an amount equal to 85% of such allowable Health Safety Net payments, after which each disproportionate share hospital is paid the greater of
 - i. 85% of its allowable Health Safety Net payments; or
 - ii. the revised payment calculated according to the shortfall methodology in 101 CMR 614.03(2)(b)2.a. through e.

(3) Payments from the Health Safety Net Trust Fund Beginning Fiscal Year 2026.

(a) Payment Adjustments. Acute hospital payments established under 101 CMR 614.06 may be adjusted to reflect additional funding made available during the fiscal year or to reflect the funding allocation in accordance with 101 CMR 614.03(3)(b). The Health Safety Net may reserve up to 10% of available funding to ensure that funding is available for the entire fiscal year.

(b) Funding Allocation. For fiscal years beginning on or after October 1, 2025, the Health Safety Net office, using the best data available, estimates the projected total reimbursable health services provided by acute hospitals and community health centers; total medical hardship services; total bad debt for emergency and urgent care services; and total Health Safety Net administrative expenses. If the Health Safety Net office determines that, after adjusting for projected community health center payments and administrative expenses, Health Safety Net payments to acute hospitals will exceed available funding, then the Health Safety Net office allocates the funding in a manner that reflects each acute hospital's proportional financial requirements for Health Safety Net payments through a graduated payment system. The Health Safety Net office allocates funding to disproportionate share hospitals (DSH) and other acute hospitals (non-DSH) as follows.

1. Allocation Method. The Health Safety Net office allocates the funding as follows.
 - a. Distribute funding to DSH such that each DSH receives up to an initial reimbursement cap of 85% of its allowable Health Safety Net payments before funding is distributed to non-DSH, calculated as follows.

614.03: continued

- i. If total available funding is equal to or greater than the sum of 85% of all DSHs' total allowable Health Safety Net payments, each DSH receives 85% of its allowable Health Safety Net payments, and any remaining funding is made available for non-DSH in accordance with 101 CMR 614.03(3)(b)1.b.
 - ii. If total available funding is less than the sum of 85% of all DSHs' total allowable Health Safety Net payments, calculate each DSH's relative public payer mix adjustment factor.
 - iii. Multiply each DSH's relative public payer mix adjustment factor by its allowable Health Safety Net payments to determine its adjusted allowable Health Safety Net payments.
 - iv. Divide each DSH's adjusted allowable Health Safety Net payments by the total adjusted allowable Health Safety Net payments for all DSH and then multiply by the total funding available for all hospitals.
 - v. If the resulting value for any DSH is greater than 85% of its allowable Health Safety Net payments, the amounts exceeding 85% of such allowable Health Safety Net payments are redistributed to DSH that have not yet reached their 85% initial reimbursement cap, until all funding has been distributed or all DSH have received 85% of their allowable Health Safety Net payments, whichever occurs first.
- b. If funding is available after each DSH receives 85% of its allowable Health Safety Net payments, distribute funding to non-DSH such that each non-DSH receives up to an initial reimbursement cap of 75% of its allowable Health Safety Net payments before funding is distributed above the DSH and non-DSH initial reimbursement caps, calculated as follows.
- i. If total remaining available funding is equal to or greater than the sum of 75% of all non-DSHs' total allowable Health Safety Net payments, each non-DSH receives 75% of its allowable Health Safety Net payments, and any remaining funding is made available for all hospitals in accordance with 101 CMR 614.03(3)(b)1.c.
 - ii. If total available funding is less than the sum of 75% of all non-DSHs' total allowable Health Safety Net payments, calculate each non-DSH's relative public payer mix adjustment factor.
 - iii. Multiply each non-DSH's relative public payer mix adjustment factor by its allowable Health Safety Net payments to determine its adjusted allowable Health Safety Net payments.
 - iv. Divide each non-DSH's adjusted allowable Health Safety Net payments by the total adjusted allowable Health Safety Net payments for all non-DSH and then multiply by the total funding available for all hospitals.
 - v. If the resulting value for any non-DSH is greater than 75% of its allowable Health Safety Net payments, the amounts exceeding 75% of such allowable Health Safety Net payments is redistributed to non-DSH that have not yet reached their 75% initial reimbursement cap, until all funding has been distributed or all non-DSH have received 75% of their allowable Health Safety Net payments, whichever comes first.
- c. If funding is available after each DSH receives 85% of its allowable Health Safety Net payments and each non-DSH receives 75% of its allowable Health Safety Net payments, distribute remaining funding across all hospitals in proportion to their remaining allowable Health Safety Net payments.

614.03: continued

(4) Final Reconciliation. The Health Safety Net office may implement a final reconciliation between the Health Safety Net and an acute hospital or a community health center for the fiscal year. The final reconciliation is calculated based on the Health Safety Net's payments to the acute hospital or community health center calculated pursuant to 101 CMR 614.06 and 101 CMR 614.07, and the payments made to the acute hospital or community health center during the fiscal year. The final reconciliation may occur when the Health Safety Net office determines that it has sufficiently completed relevant claims adjudication and audit activity, including for claims that were remediated by a payment or void during the fiscal year. For the purposes of the final reconciliation, the Health Safety Net office will not consider, for the purposes of payments, claims that exceed the billing deadlines or fail to meet other billing rules or grievance procedures established at 101 CMR 613.00: *Health Safety Net Eligible Services*. The final reconciliation will be completed not later than two fiscal years after the end of the fiscal year being reconciled. The Health Safety Net office will notify acute hospitals and community health centers upon completion of the final reconciliation for each fiscal year. A fiscal year will be closed and no further adjustments to payments in that fiscal year will occur after the final reconciliation.

(5) Post-reconciliation Adjustments. The Health Safety Net office will recoup amounts identified as overpayments to acute hospitals or community health centers for any fiscal year in which the overpayments are identified, regardless of whether the final reconciliation described in 101 CMR 614.03(4) has been completed. In such instances, the Health Safety Net office will recoup through payments to the acute hospital or community health center otherwise owed for fiscal years that have not had final reconciliation until the full amount of overpayment has been recouped. The Health Safety Net office may also adjust for underpayments, as it determines necessary in its sole discretion. In such instances, the Health Safety Net office will make payments to providers who were underpaid, as determined by the Health Safety Net office, through fiscal years that have not had final reconciliation.

614.06: Payments to Acute Hospitals(1) General Provisions.

(a) The Health Safety Net pays acute hospitals based on claims in accordance with the requirements of 101 CMR 613.00: *Health Safety Net Eligible Services*. The Health Safety Net office monitors the volume of claims submitted and may adjust or withhold payments if it appears that there has been a substantial change in the provider's service delivery patterns and/or billing activity, including, but not limited to, unbundling of services, upcoding, or other billing maximization activities.

(b) Payment Types.

1. The Health Safety Net office calculates Health Safety Net payments for each acute hospital service for which the Health Safety Net is the primary or secondary payer in accordance with 101 CMR 614.06(2) through (7).

2. The Health Safety Net office establishes payments for claims which the Health Safety Net is the secondary payer in accordance with 101 CMR 614.06(8).

3. The Health Safety Net office reduces payments by the amount of emergency bad debt recoveries and investment income on free care endowment funds. The Health Safety Net office determines the offset of free care endowment funds by allocating free care endowment income between Massachusetts residents and nonresidents using the best data available and offsetting the Massachusetts portion against Health Safety Net claims.

(c) Method of Payment. The Health Safety Net may make payments to acute hospitals for eligible services through a safety net care payment under the Massachusetts Section 1115 Demonstration Waiver, a MassHealth supplemental acute hospital rate payment, or a combination thereof. The Health Safety Net office may limit an acute hospital's payment for eligible services to comply with requirements under the Massachusetts Section 1115 Demonstration Waiver governing safety net care, including cost limits or any other federally required limit on payments under 42 U.S.C. § 1396a(a)(13) or 42 CFR 447.

(d) Provider Preventable Conditions. The Health Safety Net does not pay for services related to provider preventable conditions defined in 42 CFR 447.26. The Health Safety Net office may issue administrative bulletins clarifying billing requirements and payment specifications for provider preventable conditions.

614.06: continued

(e) Serious Reportable Events. The Health Safety Net does not pay for services related to serious reportable events as defined in 105 CMR 130.332(A): *Definitions Applicable to 105 CMR 130.332: Serious Reportable Events (SREs) and Serious Adverse Drug Events (SADE)* based on standards by the National Quality Forum. The Health Safety Net office may issue administrative bulletins clarifying billing requirements and payment specifications for such services.

(2) Pricing for Inpatient Services. The Health Safety Net office prices acute hospital claims in accordance with the Medicare Inpatient Prospective Payment System (IPPS) for non-psychiatric claims and the Inpatient Psychiatric Facility Prospective Payment System (IPF-PPS) for psychiatric claims for the current fiscal year. Medicare pricing data is published in the Federal Register and pricing methodologies are described in 42 CFR 412. Claims from acute hospitals classified by Medicare as Critical Access Hospitals (CAHs), PPS-exempt hospitals, Medicare dependent rural hospitals, and sole community hospitals are priced in accordance with 101 CMR 614.06(2)(b).

(a) Inpatient Medical Pricing - Standard. The Health Safety Net office uses Medicare pricing data and the most current version of the Medicare severity diagnostic related group (MS-DRG) weights to calculate the inpatient medical pricing according to the IPPS for all acute hospitals, except as described under 101 CMR 614.06(2)(b). The Health Safety Net office may update pricing or weight values as needed to conform to changes implemented by the Medicare program during the fiscal year. The pricing calculation includes Medicare adjustments for items such as high-cost outliers, transfer cases, special pay post-acute DRGs, partially Medicare-eligible stays, and participation in the acute hospital inpatient quality reporting program.

(b) Inpatient Medical Pricing - Other Acute Hospitals.

1. Critical Access Hospitals and PPS-exempt Hospitals. The Health Safety Net office calculates a per discharge payment for discharges occurring at Medicare Critical Access Hospitals, PPS-exempt cancer and pediatric hospitals, and acute hospitals with fewer than 20 discharges in the source year as follows.

a. The Health Safety Net office determines the average charge per discharge using adjudicated and eligible Health Safety Net claims data from the source year that is available at the time of rate calculation.

b. The Health Safety Net office determines an average cost per discharge by multiplying the average charge per discharge by an inpatient cost to charge ratio using data as reported on the hospital cost report for the source year.

c. The average cost per discharge is increased by a cost adjustment factor determined by the percent change from the IPPS index level for the source year and the IPPS index level forecast for the fiscal year, as calculated by the Health Safety Net office as of October 1st of the fiscal year, and an additional factor of 1%. The product of this calculation is the per discharge payment applicable to all discharges occurring during the current fiscal year, except that partially eligible stays are paid pursuant to 101 CMR 614.06(2)(b)3.

d. If the acute hospital has fewer than 20 discharges in the source year, the Health Safety Net office sets a payment on account factor for the acute hospital as described in 101 CMR 614.06(3)(b).

e. If a case qualifies as a transfer case under Medicare rules, the Health Safety Net office calculates a *per diem* rate, capped at the full discharge payment. The *per diem* rate is the hospital-specific payment calculated under 101 CMR 614.06(2)(b)1., divided by the acute hospital's average length of stay.

2. Sole Community Hospitals. The Health Safety Net office pays acute hospitals classified as sole community hospitals that do not otherwise qualify for payment according to 101 CMR 614.06(2)(b)1. as follows. The Health Safety Net office calculates a hospital-specific per discharge amount for such sole community hospitals, rather than the adjusted standardized amount. This amount is based on the hospital-specific rate provided by the Medicare fiscal intermediary, adjusted for inflation. The payments may include transfer, outlier, and special pay amounts, using the hospital-specific rate in these calculations, for qualifying cases.

614.06: continued

3. Medicare Dependent Rural Hospitals. The Health Safety Net office pays acute hospitals classified by Medicare as Medicare Dependent Rural Hospitals that do not otherwise qualify for payment according to 101 CMR 614.06(2)(b)1. as follows. The Health Safety Net office calculates a blended payment consisting of 75% of a hospital-specific payment and 25% of the Operating DRG Payment for such Medicare Dependent Rural Hospitals. The payments may include transfer, outlier, and special pay amounts, using the hospital-specific blended rate in these calculations, for qualifying cases.
- (c) Inpatient Psychiatric Pricing.
1. Psychiatric Case. A case is classified as psychiatric if
 - a. the acute hospital has a Medicare psychiatric unit;
 - b. the primary diagnosis is related to a psychiatric disorder; and
 - c. the claim includes psychiatric accommodation charges.
 2. Psychiatric Pricing. The Health Safety Net office uses Medicare pricing data to calculate a per diem price according to the IPF-PPS. The Health Safety Net office may update values as needed to conform to changes implemented by the Medicare program during the fiscal year. The pricing calculation includes Medicare adjustments such as a teaching hospital adjustment, electroconvulsive therapy (ECT) adjustment, high-cost outliers, adjustments for participation in the Inpatient Psychiatric Facilities Quality Reporting program, and any other adjustments in accordance with Medicare pricing provisions pursuant to 42 CFR 412.424, including adjustments for specific DRGs, the presence of comorbidities, patient age, and length of stay.
- (d) Inpatient Rehabilitation Pricing.
1. Rehabilitation Case. A case is classified as rehabilitation if
 - a. the acute hospital has a Medicare rehabilitation unit; and
 - b. the claim includes rehabilitation accommodation charges.
 2. Payment. Rehabilitation cases are paid on a *per diem* basis. The payment is determined using the acute hospital's most recently filed CMS-2552 Cost Report. The rate is the sum of total rehabilitation PPS payments and reimbursable bad debts, divided by total rehabilitation days, and multiplied by a cost adjustment factor, as calculated under 101 CMR 614.06(2)(b)1.c.
- (e) Hospital-acquired Conditions.
1. All acute hospitals, including but not limited to PPS-exempt acute hospitals, are required to report the present on admission indicator for all diagnosis codes on inpatient claims.
 2. The Health Safety Net office does not assign an inpatient case to a higher paying MS-DRG if a hospital-acquired condition that was not present on admission occurs during the stay. For hospital services paid pursuant to 101 CMR 614.06(2)(a) and (b), the DRG payment is reduced in accordance with Medicare principles.
- (f) Administrative Days. The Health Safety Net pays administrative days at the *per diem* rate established by MassHealth pursuant to the Acute Hospital Request for Applications for the current fiscal year when the Health Safety Net is the primary payer.
- (g) Partially Eligible Days. The Health Safety Net pays only for the uninsured portion of an inpatient stay covered partially by Medicare, Medicaid, or any other payer.
- (3) Pricing for Outpatient Services. The Health Safety Net pays a per visit amount for each outpatient visit. An outpatient visit includes all outpatient services provided in a single day, excluding hospital-based physician services, dental services, pharmacy services, and vaccine administration services, as described in 101 CMR 614.06(4) through (7). The outpatient per visit amount is determined as follows.
- (a) For each acute hospital, the Health Safety Net office calculates an average outpatient charge per visit, using such adjudicated and eligible Health Safety Net claims data from the source year. Charges for outpatient visit claims that are \$20.00 or below, and charges for outpatient claims within 72 hours of an inpatient admission, or 24 hours of an inpatient admission in the case of a critical access hospital, are excluded.

614.06: continued

(b) The Health Safety Net office determines a hospital-specific Medicare payment on account factor (PAF), defined as the percent of Medicare outpatient charges that are paid on average. The PAF is calculated using the best available data and subject to review and adjustment by the Health Safety Net Office, including any necessary adjustment in payment for services rendered by hospital licensed health centers that are designated by the federal Health Resources and Services Administration as federally qualified health centers at parity with hospital outpatient services rendered at the acute hospital's main outpatient campus.

(c) Except as described in 101 CMR 614.06(3)(d) through (f), the Health Safety Net Office determines an outpatient payment per visit by multiplying the average outpatient charge per visit by the PAF. This product is further adjusted by a cost adjustment factor as calculated in 101 CMR 614.06(2)(b)1.c.

(d) For fiscal years beginning before October 1, 2025, only disproportionate share hospitals and non-teaching acute hospitals receive a transitional add-on of 25% of the outpatient per visit payment rate.

(e) The per visit payment for PPS-exempt cancer and pediatric hospitals and Medicare Critical Access Hospitals is determined using the ratio of costs to charges as reported on the hospital cost report for the source year and an additional factor of 1%, rather than the Medicare payment on account factor data.

(f) Claims for outpatient visits that are less than or equal to \$20.00 are paid by multiplying the Medicare payment on account factor by the billed charges.

(g) Claims for outpatient visits within 72 hours of an inpatient admission, or 24 hours of an inpatient admission in the case of a critical access hospital, are not payable.

(4) Pricing for Physician Services. The Health Safety Net office prices hospital-based physician service claims based on the Medicare Physician Fee Schedule.

(5) Dental Services. The Health Safety Net Office prices claims for outpatient dental services provided at acute hospitals and hospital licensed health centers using the lesser of the allowable charges billed to the HSN, or the fees established in 101 CMR 314.00: *Rates for Dental Services*. No additional outpatient per visit payment is paid for dental services.

(6) Acute Hospital Outpatient Pharmacies.

(a) Prescribed Drugs. For acute hospitals with outpatient pharmacies, the Health Safety Net office prices prescribed drugs using rates set forth in 101 CMR 331.00: *Prescribed Drugs*, less any applicable cost sharing amount. The MassHealth Drug List specifies the drugs payable by the Health Safety Net. Claims are adjudicated by the MassHealth Pharmacy Online Payment System.

(b) Part B Covered Services. Medical supplies normally covered by the Medicare Part B program that are dispensed by acute hospital outpatient pharmacies that are not Part B providers are priced at 20% of the rates set forth in 101 CMR 322.00: *Rates for Durable Medical Equipment, Oxygen, and Respiratory Therapy Equipment* and 101 CMR 331.00: *Prescribed Drugs*.

(7) Vaccine Administration. The Health Safety Net office allows for separate payment for a vaccine administration and an individual medical visit only if the vaccine administration is not occurring on the same day as the office visit. A separate fee for the administration of vaccines is payable only when the sole purpose for a visit is vaccine administration. The fee is priced in accordance with the provisions of 101 CMR 317.00: *Rates for Medicine Services*.

(8) Secondary Payer. The Health Safety Net pays inpatient and outpatient acute hospital claims and community health center claims for which it is not the primary payer as follows.

(a) 95% Rule. If a claim billed to the Health Safety Net has a ratio of total billed net charges to total claim charges that is greater than 95%, the Health Safety Net pays the claim in accordance with the applicable primary payment rules.

(b) Other Payer as Primary Payer. For any allowable claim for which Health Safety Net is not the primary payer, and for which 101 CMR 614.06(8)(a) does not apply, the Health Safety Net pays in accordance with 101 CMR 613.03(1).

614.06: continued

(c) Payment Not to Exceed Primary. Notwithstanding any other provision to the contrary, the Health Safety Net payment for a claim for which it is not the primary payer will not exceed the amount the Health Safety Net Office would have paid if it were the primary payer less the amounts other payers paid for the claim.

(d) Administrative Bulletins. The Health Safety Net office may issue administrative bulletins to clarify billing policies and payment specifications for claims for which it is not the primary payer.

(9) Bad Debt Pricing. Except as provided at 101 CMR 614.06(9)(a), the Health Safety Net office calculates emergency bad debt payments for inpatient, psychiatric, and outpatient emergency and urgent care services, using the methodology in 101 CMR 614.06(2) and (3), except that:

(a) If an acute hospital has fewer than 20 emergency bad debt claims during the source year, the Health Safety Net office sets the emergency bad debt rate as the outpatient primary per visit rate established in 101 CMR 614.06(3), excluding the transitional add-on under 101 CMR 614.06(3)(d).

(b) The Health Safety Net office pays hospital licensed health centers 75% of the PPS Rate as published by Medicare for Bad Debt claims for urgent care services.

(c) The emergency bad debt outpatient rate does not include the 25% add-on cited in 101 CMR 614.06(3)(d).

(d) The Health Safety Net pays acute hospitals only for bad debt claims that are emergency bad debt or bad debt claims for urgent care services.

(10) Medical Hardship. The Health Safety Net pays for claims for patients deemed eligible for medical hardship pursuant to 101 CMR 613.00: *Health Safety Net Eligible Services*. The Health Safety Net office reduces the amount of the billed charges by any applicable third-party payments, third-party contractual discounts, patient payments, and the amount of the medical hardship contribution. If any such adjustments are applicable, the claim is paid as a secondary claim in accordance with the provisions of 101 CMR 614.06(8). If there are no applicable adjustments and the billed charges are not reduced, the Health Safety Net pays the claim as if it were a primary Health Safety Net claim.

(11) Other. The Health Safety Net makes an additional payment of \$3.85 million to freestanding pediatric hospitals with more than 1,000 Medicaid discharges during the source year for which a standard payment amount per discharge was paid by MassHealth pursuant to the acute hospital request for applications, as determined by paid claims in the Medicaid Management Information System as of June 15, 2016, and for which MassHealth was the primary payer.

614.07: Payments to Community Health Centers

(1) General Provisions.

- (a) The Health Safety Net pays community health centers based on claims submitted to the Health Safety Net office, less applicable cost sharing amount, in accordance with the requirements of 101 CMR 613.00: *Health Safety Net Eligible Services* and claims specifications determined by the Health Safety Net office. The Health Safety Net office monitors the volume of claims submitted and may adjust or withhold payments if it appears that there has been a substantial change in the provider's service delivery patterns, including, but not limited to, unbundling of services, upcoding, or other billing maximization activities.
- (b) The Health Safety Net will pay a community health center for prescribed drugs only if the community health center is providing prescribed drugs in accordance with 101 CMR 613.03(2): *Reimbursable Health Services*.

(2) Payments for Services.

- (a) The Health Safety Net will pay community health centers a Medicare-based rate per patient per day for reimbursable health services unless otherwise specified by the table below. Payment will be either the PPS rate, or the total charges applicable under the PPS rate for services furnished, whichever is less. The PPS rate will be adjusted for geographic differences in the cost of services based on the Medicare FQHC PPS Geographic Adjustment Factors. In addition, the PPS rate will be increased according to 42 CFR 405.2467 when a community health center provides care to a patient that is new to the community health center or to a patient receiving a comprehensive initial visit or an annual wellness visit.
- (b) The PPS rate applies to individual medical visits, surgical procedures, behavioral health visits including individual diagnostic or treatment services, diagnostic vision care, medical nutrition therapy, diabetes self-management treatment, and tobacco cessation services. Only one visit per patient per day can be billed with the following exceptions:
 - 1. when a behavioral health visit occurs on the same day as a medical visit; or
 - 2. when an illness or injury necessitating a visit occurs on the same day as another visit.
- (c) For reimbursable health services not included in the PPS rate, the Health Safety Net pays community health centers according to the following table, except for claims for bad debt for urgent care services. Payments for such services are based on the corresponding regulations named in the table. Some reimbursable health services listed in the table may be payable as individual consideration in the regulations named. For individual consideration codes billable to the Health Safety Net, the payment rate is calculated as (total payments made to community health centers by MassHealth for the code) / (total number of claims paid to community health centers by MassHealth for the code) during the source year.

If MassHealth payment and claims information for a code is not available for source year, the rate for the code will be based on Medicare fee schedules or other relevant sources. The Health Safety Net pays only for services listed in the HSN CHC Billable Procedure Codes list, in accordance with 101 CMR 613.03: *Eligible Services Requirements*.

| Type of Service | Payment Rules | Payment Source |
|--|--|--|
| Medical Visit – Urgent Care | Payable separately from an individual medical visit. | 101 CMR 304.00: <i>Rates for Community Health Centers</i> |
| Pulmonary diagnostic (technical component only) | Payable separately only if not occurring on the same day as an individual medical visit. | 101 CMR 317.00: <i>Rates for Medicine Services</i> |
| Cardiology diagnostic (technical component only) | Payable separately from an individual medical visit. | 101 CMR 317.00: <i>Rates for Medicine Services</i> |
| Obstetrical labor and delivery services | Payable separately from an individual medical visit | 101 CMR 316.00: <i>Rates for Surgery and Anesthesia Services</i> |

614.07: continued

| Type of Service | Payment Rules | Payment Source |
|--|--|--|
| Behavioral health (group treatment, medication management, psychological testing, and methadone services) | Payable separately from an individual medical visit. | For group treatment and medication visits, rates in 101 CMR 306.00: <i>Rates for Mental Health Services Provided in Community Health Centers and Mental Health Centers</i> ; for psychological testing, rates in 101 CMR 329.00: <i>Psychological and Licensed Independent Behavioral Health Clinician Services</i> ; for methadone services, rates in 101 CMR 346.00: <i>Rates for Certain Substance-Related and Addictive Disorders Programs</i> |
| Radiology | Payable separately from an individual medical visit. | 101 CMR 318.00: <i>Rates for Radiology Services</i> |
| Clinical Laboratory | Payable separately from an individual medical visit. | 101 CMR 320.00: <i>Rates for Clinical Laboratory Services</i> |
| Dental | Payable separately from an individual medical visit. | Lesser of allowable charges billed to the HSN, or fees established in 101 CMR 314.00: <i>Rates for Dental Services</i> |
| 340B Pharmacy Services | Payment will be reduced by the amount of patient cost-sharing, as applicable under 101 CMR 613.00: <i>Health Safety Net Eligible Services</i> . | 101 CMR 331.00: <i>Prescribed Drugs</i> |
| Vision Care (dispensing and repair) | Payable separately from an individual medical visit. | 101 CMR 315.00: <i>Rates for Vision Care Services and Ophthalmic Materials</i> |
| Family Planning Services | Family planning counseling, prescribed drugs, family planning supplies, and related laboratory tests are payable in addition to an individual medical visit. An individual medical visit is not payable for the sole purpose of replenishing a patient's supply of contraceptives. | 101 CMR 312.00: <i>Rates for Family Planning Services</i> |
| Preventive Services/Risk Factor Reduction (code 99402) | Payable separately from an individual medical visit. | 101 CMR 312.00: <i>Rates for Family Planning Services</i> |
| Immunization Visits | Payable separately only if not occurring on the same day as an individual medical visit. | 101 CMR 317.00: <i>Rates for Medicine Services</i> |
| Vaccines Not Included in the Individual Medical Visit or Supplied by the Department of Public Health | Payable separately from an individual medical visit. | 101 CMR 317.00: <i>Rates for Medicine Services</i> |

614.07: continued

(3) Bad Debt Payments for Urgent Care Services. The Health Safety Net pays community health centers at 75% of the payment rates in 101 CMR 614.07(2) for bad debt claims for urgent care services that meet the requirements in 101 CMR 613.00: *Health Safety Net Eligible Services*. The Health Safety Net pays community health centers only for bad debt claims that are emergency bad debt or bad debt claims for urgent care services.

614.08: Reporting Requirements

(1) General. Each provider must file with or make available to the Health Safety Net office or to an entity designated by the Health Safety Net office to collect data, as applicable, information that is required or that the Health Safety Net office deems reasonably necessary for implementation of 101 CMR 614.00.

(a) The Health Safety Net office may revise the data specifications, the data collection scheduled, or other administrative requirements by administrative bulletin.

(b) The Health Safety Net office or its designee may audit data submitted under 101 CMR 614.00 to ensure accuracy. The Health Safety Net office may adjust payments to reflect audit findings. Providers must maintain records sufficient to document compliance with all documentation requirements of 101 CMR 613.00: *Health Safety Net Eligible Services* and 101 CMR 614.08.

(2) Acute Hospitals.

(a) The Health Safety Net office may require acute hospitals to submit interim data on revenues and costs to the Health Safety Net or to an entity designated by the Health Safety Net office to collect data to monitor compliance with federal upper limit, cost limit, and disproportionate share payment limits. Such data may include, but not be limited to, gross and net patient service revenue for Medicaid non-managed care, Medicaid managed care, the Premium Assistance Payment Program operated by the Health Connector, and all payers combined; and total patient service expenses for all payers combined.

(c) Penalties. The Health Safety Net office may deny payment for eligible services to any acute hospital that fails to comply with the reporting requirements of 101 CMR 613.00: *Health Safety Net Eligible Services* or 101 CMR 614.08 until such acute hospital complies with the requirements. The Health Safety Net office will notify such acute hospital in advance of its intention to withhold payment.

(3) Community Health Centers. The Health Safety Net office may deny payment for eligible services to any community health center that fails to comply with the reporting requirements of 101 CMR 613.00: *Health Safety Net Eligible Services* or 101 CMR 614.08 until such community health center complies with the requirements. The Health Safety Net office will notify such community health center in advance of its intention to withhold payment.

614.09: Severability

The provisions of 101 CMR 614.00 are severable. If any provision or the application of any provision to any acute hospital, community health center, or circumstance is held to be invalid or unconstitutional, that holding will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 614.00 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

101 CMR 614.00: M.G.L. c. 118E.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **220 CMR 32.00**

CHAPTER TITLE: **Fees for Applications to the Energy Facilities Siting Board**

AGENCY: **Department of Public Utilities**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The purpose of 220 CMR 32.00 is to bring the Application Fee structure into alignment with the requirements of the 2024 Climate Act and establish the applicable fees. Section 69 of 2024 Climate Act amends M.G.L. c. 164, § 69J½ (which contained \$75,000 fee language) effective February 18, 2025, requiring the Department to set EFSB application fees by regulation. 220 CMR 32.00 proposes fees applicable to all EFSB jurisdictional proceedings, as defined by M.G.L. c. 164, §§ 69G to 69W.

REGULATORY AUTHORITY: **St. 2024, c. 239 §§ 11, 52, 69, M.G.L. c. 164, § 69J1/2, M.G.L. c. 25, § 12N, M.G.L. c. 25, § 12S, M.G.L. c. 25, § 18.**

AGENCY CONTACT: **Timothy Federico** PHONE: **(617)305-3657**

ADDRESS: **One South Station, Boston, MA 02110**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Office of Energy and Environmental Affairs Approval: 5/15/2026
Governor/Executive Office of Administration and Finance Approval: 6/2/2026

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **Public Hearing 4/1/26, Comment Period 2/27-3/25/26**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: **The costs are difficult to quantify. See attached small business impact statement.**

For the first five years: **The costs are difficult to quantify. See attached small business impact statement.**

No fiscal effect: **The costs are difficult to quantify. See attached small business impact statement.**

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: 6/3/26

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:
Energy Facilities Siting Board

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:
220 CMR 32.00 is a new regulation.

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Jun 04 2026

Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 6/19/26

CODE OF MASSACHUSETTS REGULATIONS

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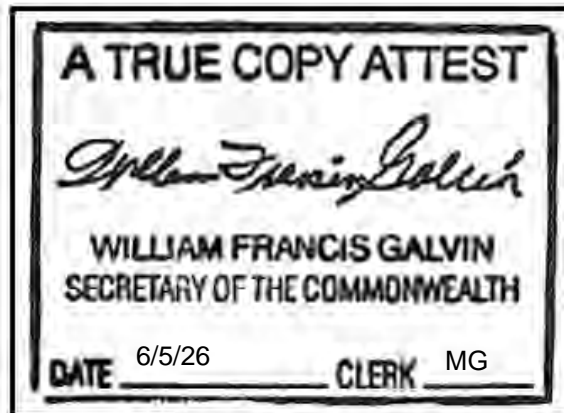


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220 CMR 32.00: FEES FOR APPLICATIONS TO THE ENERGY FACILITIES SITING BOARD

Section

- 32.01: Purpose and Scope
- 32.02: Application Fees
- 32.03: Payment of Fees and Deposit of Fees
- 32.04: Annual Report

32.01: Purpose and Scope

(1) Purpose. The purpose of 220 CMR 32.00 is to establish the fees applicable to all Energy Facilities Siting Board (EFSB) jurisdictional proceedings, as defined by M.G.L. c. 164, §§ 69G through 69W.

(2) Scope. 220 CMR 32.00 sets fees for all EFSB jurisdictional proceedings. Fees for each type of proceeding are set forth in 220 CMR 32.00 (Appendices): *Energy Facilities Siting Board Fee Schedules*.

(3) Definitions. 220 CMR 32.00 shall be subject to the definitions of 980 CMR 1.01(4): *Definitions*, and 980 CMR 13.01(4): *Definitions*. Where 220 CMR 32.00 references a facility type, the facility type is identified in 980 CMR 1.01(4). The following additional definition shall apply to 220 CMR 32.00:

Application Fee means a fee to be paid by a Person or entity filing a petition or Application to the EFSB for action by the EFSB on matters within its jurisdiction. An Application Fee shall include a base fee, which may include a zoning exemption request fee adder, if applicable, an Intervenor Support Fund Application fee, and a Permit Enforcement Agency (PEA) fee, if applicable.

32.02: Application Fee

(1) Components of Application Fee. The Department shall charge Application Fees for the purpose of funding the EFSB's operations, funding the Intervenor Support Fund, and compensating PEAs for costs incurred to participate in the EFSB's Consolidated Permit process. The fee structure comprises a maximum of three components:

- (a) a base fee determined by the type of petition or Application, including a zoning exemption adder, where applicable;
- (b) a fee based on the type of petition or Application and facility size, that is allocated to the Intervenor Support Fund; and
- (c) a fee to compensate the PEAs for costs incurred to participate in the Consolidated Permit process, which is applicable in certain proceedings as defined in the 220 CMR 32.02(5).

(2) Application Fees are set forth in 220 CMR 32.00: *Energy Facilities Siting Board Fee Schedules*, Attachments 1, 2, and 3.

(3) Application Base Fee.

- (a) The Department shall charge an Application base fee. Application base fees are set forth in 220 CMR 32.00: *Energy Facilities Siting Board Fee Schedules*, Attachment 1.
- (b) The Department shall charge an Application base fee for a Small Clean Energy Infrastructure Facility that is tiered based on the size of the proposed Project. *See* 220 CMR 32.00: *Energy Facilities Siting Board Fee Schedules*, Attachment 1.
- (c) The Department shall charge an additional fee for Applications or petitions to construct that include a request for zoning exemption. The Application fee adder for zoning exemptions is set forth in 220 CMR 32.00: *Energy Facilities Siting Board Fee Schedules*, Attachment 2.

32.02: continued

(d) None of the Application base fees described in 220 CMR 32.03 shall be required of Applicants that are electric companies subject to the jurisdiction of the Department that are assessed annually for the expenses of the Department pursuant to M.G.L. c. 25, § 18, the fourth paragraph or electric companies that file an Application for a Large Clean Transmission and Distribution Infrastructure Facility or Small Clean Transmission and Distribution Infrastructure Facility as defined in 980 CMR 1.01: *Scope and Construction of Rules*. The Department may, however, charge PEA fees in proceedings involving a Consolidated Permit even if those utility companies are assessed annually since such PEA fees shall be provided to other agencies of the Commonwealth participating in the EFSB's Consolidated Permit process and are not expenses of the Department.

(e) Base fees collected pursuant to 220 CMR 32.00 shall be used to ensure that an appropriate number of staff members and other resources are dedicated to the EFSB's review of all jurisdictional matters.

(4) Intervenor Support Fund Application Fee.

(a) The Department Shall Charge an Intervenor Support Fund Application Fee. The Intervenor Support Fund Application fee shall fund the Intervenor Support Fund authorized and further defined by M.G.L. c. 25, § 18 and 220 CMR 34.00: *Intervenor Support Grant Program*. The Intervenor Support Fund Application fee shall be based on Facility size and is identified in 220 CMR 32.00: *Energy Facilities Siting Board Fee Schedules*, Attachment 3.

(b) The Department shall charge an Intervenor Support Fund Application fee for a Small Clean Energy Infrastructure Facility that is tiered based on the size of the proposed Project. See 220 CMR 32.00: *Energy Facilities Siting Board Fee Schedules*, Attachment 3.

(c) The Department shall not charge an Intervenor Support Fund Application fee to Applicants that are electric companies or gas companies subject to the jurisdiction of the Department that are assessed annually for the Intervenor Support Fund pursuant to M.G.L. c. 25, § 18, the fifth paragraph.

(5) PEA Fee. Applicants shall pay a PEA fee to compensate PEAs for costs incurred to participate in the Consolidated Permit process.

(a) Amount of PEA Fee. The PEA fee shall be identified by an Applicant for a Consolidated Permit and confirmed by the PEA. The EFSB Consolidated Permit Application requires the Applicant to identify the state, regional, and local permit review agencies that otherwise would have issued approvals and permits for a Clean Energy Infrastructure Facility and the amounts of such fees that would have been applicable. See 980 CMR 13.05(1)(a)(8). The PEAs shall have an opportunity to verify this cost information during the 30-day period that the EFSB is required to make a Completeness Determination for that Application. The Completeness Determination issued by the Presiding Officer shall confirm the amount of the PEA fee that must be submitted by the Applicant.

(b) Timing of Fee. The PEA fee shall be filed with the Application for a Consolidated Permit. The Department shall transfer 100% of the PEA fee to the relevant PEAs upon issuance of the notice of adjudication and public comment hearing, or as soon as practicable thereafter.

32.03: Payment and Deposit of Fees

(1) Application Fees for petitions to construct pursuant to M.G.L. c. 164, §§ 69J, 69J¼ and Applications for a Consolidated Permit pursuant to M.G.L. c. 164, §§ 69T, 69U, 69V, including the base fee, zoning exemption fee adder, and Intervenor Support Fund Application fee, shall be payable upon issuance of the notice of adjudication and public comment hearing. Application Fees for all other proceedings shall be payable upon submission of an initial filing.

(2) All Application base fees shall be deposited into the EFSB Trust Fund established by M.G.L. c. 25, § 12Q.

(3) All Intervenor Support Fund Application fees shall be deposited into the Intervenor Support Fund established by M.G.L. c. 25, § 12S.

32.03: continued

- (4) The failure to remit all Application Fees due to the Department within 30 days of the due date shall automatically toll EFSB deadlines to issue permits pursuant to 980 CMR 13.02(4)(a).
- (5) The Department may retain Application Fees for the purpose of reviewing petitions to construct or Applications for a Consolidated Permit for Large Clean Energy Infrastructure Facilities, Small Clean Energy Infrastructure Facilities, or other proceedings subject to 220 CMR 32.03, and for the purpose of creating a Clean Energy Infrastructure Facility dashboard established pursuant to M.G.L. c. 25, § 12N.
- (6) The Director of the Department's Siting Division may waive an Application Fee for good cause, including financial hardship. Requests for a waiver from 220 CMR 32.00 shall include supporting documentation as to why the Department shall grant the waiver. The Director of the Department's Siting Division shall review a requested waiver and provide a response in writing. The decision of the Director of the Siting Division as to whether to grant a waiver from the Application Fee is final and not subject to appeal.
- (7) Any remaining balance of Application Fees at the end of a fiscal year shall not revert to the General Fund but shall remain available to the Department during the following fiscal year for the purposes of 220 CMR 32.03, M.G.L. c. 25, § 12Q, or M.G.L. c. 25, § 12S.

32.04: Annual Report

The Department shall issue an annual report summarizing the data and information required by 220 CMR 32.04, including, but not limited to:

- (a) the number of Applications filed for Facilities, Large Clean Energy Infrastructure Facilities and Small Clean Energy Infrastructure Facilities, decided and pending;
- (b) the average duration of review; and
- (c) the average staffing levels; provided, however, that the annual report shall make use of bar charts, line charts, and other visual representations to facilitate public understanding of events of the immediate preceding year and of long-term and cumulative trends and outcomes. The EFSB shall file the report with the clerks of the house of representatives and the senate, the house and senate committees on ways and means and the joint committee on telecommunications, utilities and energy, not later than January 31st of each calendar year.

32.00 Fee Schedules
ATTACHMENT 1: ENERGY FACILITIES SITING BOARD (EFSB)
BASE FEE SCHEDULE

| Facility Type | Base Fee |
|--|-----------|
| Clean Energy Infrastructure Facilities (CEIF) – Application for a Consolidated Permit (pursuant to M.G.L. c. 164, §§ 69T, 69U, 69V, 69W) | |
| Clean Transmission and Distribution Infrastructure Facilities (CTDIF) | |
| LCTDIF (large) | \$125,000 |
| SCTDIF (small) | \$50,000 |
| Clean Energy Generation Facilities (CEGF) | |
| LCEGF (large: 25 MW Direct Current and greater) | \$75,000 |
| SCEGF (Tier I small: under 15 MW Direct Current) | \$10,000 |
| SCEGF (Tier II small: 15 MW - under 25 MW Direct Current) | \$25,000 |
| Clean Energy Storage Facilities (CESF) | |
| LCESF (large) | \$75,000 |
| SCESF (Tier I small: under 60 MWh) | \$10,000 |
| SCESF (Tier II small: 60 MWh – under 100 MWh) | \$25,000 |
| De Novo Adjudication Requests¹ | |
| Tier I SCEGF or SCESF <i>De Novo</i> Request | |
| • Request Made by Proponent | \$10,000 |
| • Request Made by Other Substantially and Specifically Affected Person | \$0 |
| • Request Made by Local Government for Transfer to EFSB for Review | \$10,000 |
| Tier II SCEGF or SCESF <i>De Novo</i> Request | |
| • Request Made by Proponent | \$25,000 |
| • Request Made by Other Substantially and Specifically Affected Person | \$0 |
| • Request Made by Local Government for Transfer to EFSB for Review | \$25,000 |
| Docketed Project Change Request | |
| Docketed Project Change Request for Non-CEIF | \$25,000 |
| Docketed Project Change Request for Tier I SCEIF | \$5,000 |
| Docketed Project Change Request for Tier II SCEIF | \$10,000 |
| Docketed Project Change Request for LCEIF | \$15,000 |
| Petition to Construct a Facility (pursuant to M.G.L. c. 164, §§ 69J, 69J¼) | |
| Transmission Line (Non-clean) – Petition to Construct | \$200,000 |
| Gas Pipeline Facilities – Petition to Construct | \$200,000 |
| LNG/CNG Storage Facilities – Petition to Construct | \$200,000 |
| ¹ All fee amounts reflect the permit fees owed by an Applicant in each circumstance listed. If an Applicant paid a permit fee to a Local Government pursuant to 225 CMR 29.09: <i>Consolidated Local Permit Application</i> and the Local Government requests an EFSB de novo adjudication review pursuant to 980 CMR 14.00: <i>De Novo Adjudications of Consolidated Local Permit Applications</i> , then the Applicant shall receive a fee refund from the Local Government. The Applicant is the entity required to pay the <i>de novo</i> adjudication request Application Fee to the EFSB. | |
| Fossil Fuel Generating Facilities – Petition to Construct | \$200,000 |
| Docketed Project Change Request for Non-clean Facilities | \$25,000 |
| Oil Facilities – Petition to Construct | \$400,000 |
| Other Proceedings | |
| Certificate of Environmental Impact and Public Interest (M.G.L. c. 164, §§ 69K through 69O) | \$100,000 |
| Standalone zoning exemption (M.G.L. c. 40A, § 3; St. 1956, c. 665, § 6) | \$25,000 |
| Eminent Domain Request (M.G.L. c. 164, §§ 69R, 69S, 72, 75C) | \$25,000 |
| Preliminary Survey to Eminent Domain Proceeding (M.G.L. c. 164, §§ 72A, 75D) | \$25,000 |
| Request for a Grant of Location (M.G.L. c. 166, § 28) | \$25,000 |
| Request for Determination of Jurisdiction (980 CMR 2.09: <i>Determination of Board Jurisdiction</i>) | \$25,000 |
| Request for Advisory Ruling (980 CMR 2.08: <i>Advisory Rulings</i>) | \$20,000 |

ATTACHMENT 1: continued

Note:

None of the application base fees described in 220 CMR 32.02 shall be required of Applicants that are electric companies subject to the jurisdiction of the Department that are assessed annually for the expenses of the Department pursuant to M.G.L. c. 25, § 18, the fourth paragraph or electric companies that file an Application for a Large Clean Transmission and Distribution Infrastructure Facility or Small Clean Transmission and Distribution Infrastructure Facility as defined in 980 CMR 1.01: *Scope and Construction of Rules*. The Department may, however, charge PEA fees even if those utility companies are assessed annually since such PEA fees shall be provided to other state and local agencies of the Commonwealth, designated as PEAs, participating in the EFSB’s Consolidated Permit process, and are not expenses of the Department.

220 CMR 32.00 Fee Schedules

**ATTACHMENT 2: ENERGY FACILITIES SITING BOARD (EFSB)
ZONING EXEMPTION REQUEST FEE ADDER SCHEDULE**

| Facility Type | Zoning Exemption Request Fee Adder |
|--|---|
| Additional Fee for Zoning Exemption Request filed with Petition to Construct (M.G.L. c. 40A, § 3; St. 1956, c. 665, § 6). | \$25,000 |
| Additional Fee for Zoning Exemption Request filed with EFSB Consolidated Permit Application for LCEIF (M.G.L. c. 40A, § 3; St. 1956, c. 665, § 6). | \$15,000 |
| Additional Fee for Zoning Exemption Request filed with EFSB Consolidated Permit Application for SCEIF (M.G.L. c. 40A, § 3; St. 1956, c. 665, § 6). | \$7,500 |

Note:

None of the application base fees described in 220 CMR 32.02 shall be required of Applicants that are electric companies subject to the jurisdiction of the Department that are assessed annually for the expenses of the Department pursuant to M.G.L. c. 25, § 18, the fourth paragraph or that file an Application for a Large Clean Transmission and Distribution Infrastructure Facility or Small Clean Transmission and Distribution Infrastructure Facility as defined in 980 CMR 1.01: *Scope and Construction of Rules*. The Department may, however, charge PEA fees even if those utility companies are assessed annually since such PEA fees shall be provided to other state and local agencies of the Commonwealth, designated as PEAs, participating in the EFSB’s Consolidated Permit process, and are not expenses of the Department.

220 CMR 32.00 Fee Schedules

**ATTACHMENT 3: ENERGY FACILITIES SITING BOARD (EFSB)
INTERVENOR SUPPORT FUND APPLICATION FEE SCHEDULE**

| Facility Type | Intervenor Support Fee |
|--|-------------------------------|
| Tier I Small Clean Energy Infrastructure Facilities (SCEIF) | \$15,000 |
| Tier II Small Clean Energy Infrastructure Facilities (SCEIF) | \$35,000 |
| Large Clean Energy Infrastructure Facilities (LCEIF) | \$75,000 |
| Legacy (Non-clean) Facilities | \$100,000 |

Note:

None of the Intervenor Support Fund fees described in 220 CMR 32.02(4) shall be required of Applicants that are electric companies or gas companies subject to the jurisdiction of the Department that are assessed annually for the Intervenor Support Fund pursuant to M.G.L. c. 25, § 18, the fifth paragraph. The Department may, however, charge PEA fees even if those utility companies are assessed annually since such PEA fees shall be provided to other state and local agencies of the Commonwealth, designated as PEAs, participating in the EFSB’s Consolidated Permit process, and are not expenses of the Department.

REGULATORY AUTHORITY:

220 CMR 32.00: 801 CMR 4.00; M.G.L. c. 164, § 69J½, M.G.L. c. 25, § 12N, M.G.L. c. 25, § 12S, M.G.L. c. 25, § 18.

NON-TEXT PAGE

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(220 CMR 33.00: RESERVED)

(PAGES 147 AND 148 ARE RESERVED FOR FUTURE USE)

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

Regulation Filing*To be completed by filing agency*CHAPTER NUMBER: **804 CMR 1.00**CHAPTER TITLE: **Rules of Procedure**AGENCY: **Massachusetts Commission Against Discrimination**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The MCAD is charged with enforcing the Commonwealth's anti-discrimination laws under M.G.L. c. 151B; c. 272, §§92A, 98, and 98A; and c. 151C, and its procedural rules dictate how complaints of illegal discrimination (primarily in the areas of employment, housing, and public accommodation) are investigated, prosecuted, and adjudicated at the MCAD. The MCAD has revised sections of 804 CMR 1.00 to improve readability and reflect current MCAD practice and procedure. The revisions include new rules surrounding the implementation and use of the MCAD's online filing and case management system, updates to the MCAD investigation and preliminary appeals processes, as well as substantive changes to the rules with respect to motion practice, communications with the MCAD, and more.

REGULATORY AUTHORITY: **M.G.L. c. 151B, s.3; M.G.L. c. 151C, s.5**AGENCY CONTACT: **Deirdre Ann Hosler** PHONE: **617-994-6000**ADDRESS: **One Ashburton Place, Room 601, Boston, MA 02108****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***Notice sent to Local Government Advisory Committee-12/19/2025; Public Hearing & Comment Period Notice and SBIS filed with Sec. of State-1/2/2026; Public Hearing & Comment Period Notice published in Boston Globe (+4 others)-1/2/2026; Notice Extending Public Comment filed with Sec. of State-2/27/2026**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **1/23,26, and 28/26 (public hearings) and 3/31/26**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: N/A

For the first five years: N/A

No fiscal effect: No fiscal effect

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: 6/3/2026

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:
procedural rules

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 804 CMR 1.00 (all sections, numbered 1.01 through 1.25).

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Jun 05 2026

Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 6/19/26

CODE OF MASSACHUSETTS REGULATIONS

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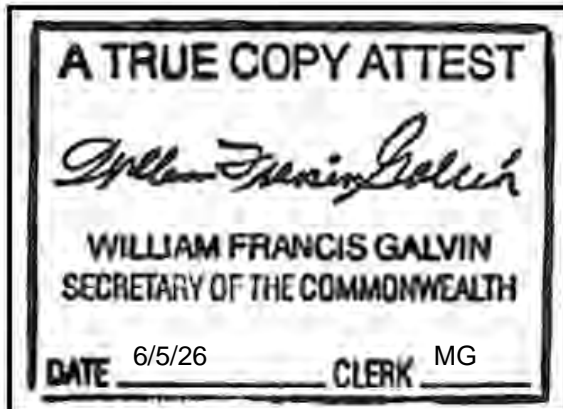


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804 CMR 1.00: RULES OF PROCEDURE

Section

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- 1.02: Definitions
- 1.03: Authority for the Administration of Complaints
- 1.04: Complaint Filing, Amendment, and Withdrawal
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1.01: Scope and Purpose

804 CMR 1.00 establishes rules for procedure and practice before the Massachusetts Commission Against Discrimination. The purpose of 804 CMR 1.00 is to achieve a just, speedy and fair determination of matters before the Commission in the service of its mission to eradicate discrimination in the Commonwealth. In the interests of justice, the Commission may exercise its discretion and relax the application of 804 CMR 1.00. The Commission shall issue such orders and fashion such relief as shall vindicate the rights of victims of discrimination and effectuate the purposes of the statutes it enforces.

1.02: Definitions

As used in 804 CMR 1.00:

Commission means the Massachusetts Commission Against Discrimination (MCAD) as constituted under M.G.L. c. 6, § 56, including Commissioners and Commission employees.

Complainant means any person who files a complaint with the Commission.

Complaint means a document containing allegations of unlawful discrimination filed with the Commission.

Counsel means an attorney in good standing who has entered a notice of appearance in a matter pending before the Commission, including counsel for the Commission.

Counsel for the Commission means an attorney employed by the Commission who prosecutes a complaint on behalf of the public interest and represents the Commission in judicial and administrative proceedings.

1.02: continued

Document means any paper document or electronically stored information including, but not limited to, writings, drawings, books, records, graphs, charts, photographs, sound recordings, video recordings, images and other data or data compilations, stored in any medium from which information can be retrieved and made into a reasonably usable form.

Duly Authorized Representative means any person who is not an attorney and is authorized by a party to act and communicate on their behalf with the Commission pre-probable cause.

Ex Parte means without notice to or argument from the other party or parties.

Filing means the submission of a document or information through the MCAD Case Portal unless alternative means of filing are specified in 804 CMR 1.00.

Full Commission means at least three Commissioners acting together.

Investigative Disposition means the official document issued by the Commission upon conclusion of the investigation containing the determination of the Commission.

MCAD Case Portal means the online access point to the Commission's case management system available through its website, which provides parties and representatives with the ability to file complaints, motions, and other documents, access case information, make requests, and communicate with the Commission.

Moving Party means the party who files a written motion at any time or moves for relief verbally during a Commission proceeding.

Order means an instruction, ruling, direction, or decision of the Commission.

Party means the complainant, respondent, and any person permitted to intervene in a Commission proceeding; after certification to public hearing, the Commission is the primary party to the proceeding and the complainant becomes the intervening party in accordance with M.G.L. c. 151B, § 5.

Person means any natural person, corporation, trust, partnership, incorporated or unincorporated association, limited liability company, or any legal entity, and shall not mean artificial intelligence.

Personal Service means the delivery of the notice or process to the person to whom it is directed, which in the case of a natural person means, either by delivery in hand or by leaving copies at the last and usual place of abode of such person, and in the case of a legal entity, means delivering notice or process in hand to an officer, managing or general agent or person in charge of the business at the principal place of business, or by delivering such copies to any other agent authorized by appointment or by law to receive service of process.

Post-probable Cause means the period of time after the issuance of a probable cause disposition.

Preliminary Appeal means a complainant's appeal of an investigative disposition where probable cause is not found, except for dismissals pursuant to 804 CMR 1.08(1)(a), (b), (d), and (e), as provided for in M.G.L. c. 151B, § 5 and otherwise known as a preliminary hearing.

Pre-probable Cause means the period of time between the filing of a complaint and the issuance of an investigative disposition during which the Commission is investigating the complaint, including the preliminary appeal process.

Probable Cause means there is sufficient evidence upon which a fact finder could form a reasonable belief that it is more probable than not that a respondent committed an unlawful practice or violated a statute under the Commission's jurisdiction.

Pro Hac Vice means admission of an attorney who is not a member of the Massachusetts bar to appear and practice at the Commission for a particular case only.

1.02: continued

Pro Se means a person appearing on their own behalf and without a representative.

Pseudonym means a fictitious name used to conceal the identity of a complainant.

Public Hearing means the adjudicatory hearing held at the Commission pursuant to M.G.L. c. 151B, § 5 in which the respondent answers those claims certified to hearing by the Commission.

Representative means counsel or a duly authorized representative.

Respondent means the person, business, employer, labor organization, employment agency, housing provider, real estate broker or agent, lender, appraiser or any other person or entity alleged to have committed unlawful discrimination in a complaint filed with the Commission.

Sua Sponte means an action taken by the Commission of its own accord which does not require a motion or request from a party.

Subpoena Duces Tecum means an order commanding the production of documents or tangible things; such order may be included in a subpoena commanding testimony or it may be issued independent of or in *lieu* of testimony.

1.03: Authority for the Administration of Complaints

In all matters involving the administration of complaints filed with the Commission, the authority to take any action shall be in accordance with M.G.L. c. 151B and M.G.L. c. 6, § 56, and Commissioners may designate Commission staff to execute their statutory duties regarding the administration of complaints.

1.04: Complaint Filing, Amendment, and Withdrawal

(1) Who May File. A complaint alleging violations of the statutes enforced by the Commission may be filed at the Commission by any of the following:

- (a) A person claiming to be aggrieved by the alleged violation(s) or a parent or guardian filing on behalf of an aggrieved minor child;
- (b) Counsel representing a person claiming to be aggrieved by the alleged violation(s);
- (c) An organization whose purpose includes the elimination of the unlawful practice(s) which is the subject of the complaint and whose members include one or more persons claiming to be aggrieved by the alleged violations, provided that the injured person(s) shall be named if the complaint seeks victim specific relief;
- (d) The Attorney General or their authorized representative provided that the injured person shall be named if the complaint seeks victim specific relief; or
- (e) The Commission, pursuant to 804 CMR 1.18.

(2) Manner of Filing.

- (a) A complaint filed by a *pro se* person or by the Commission, pursuant to 804 CMR 1.18, shall be filed in one of the following manners:
 1. A complaint may be filed directly through the MCAD Case Portal.
 2. A complaint may be filed by visiting any of the Commission's offices during regular business hours and receiving assistance in filing the complaint in the MCAD Case Portal.
 3. A complaint may be filed with the Clerk's Office by U.S. Mail.
- (b) A complaint filed by counsel or an organization shall be filed directly through the MCAD Case Portal.
- (c) Pseudonym complaints filed by any person shall conform with the procedures outlined in 804 CMR 1.04(7) and shall only be filed with the Clerk's Office by U.S. Mail or by visiting any of the Commission's offices during regular business hours. Pseudonym complaints filed through the MCAD Case Portal shall be administratively dismissed without prejudice.

1.04: continued

(3) Time of Filing. A complaint shall be filed within 300 days after the alleged unlawful conduct; provided, however, that a complaint alleging violations of M.G.L. c. 151C shall be filed within the time limits required by M.G.L. c. 151C. The period in which to file a complaint under any statute within the Commission's jurisdiction commences on the date that the Complainant knew or should have known of the claim of discrimination.

(4) Exceptions to Time of Filing. A complaint may be filed beyond the time limits within 804 CMR 1.04(3) under the following circumstances:

(a) Collective Bargaining Agreement Grievance. When a grievance on behalf of an individual is filed pursuant to a collective bargaining agreement, the individual may file a complaint based on the same facts within 300 days of when they knew or should have known that the matters raised in the grievance would support a claim of discrimination. The Commission may stay its investigation until any such grievance proceedings have concluded.

(b) Continuing Violation. When facts are alleged which indicate unlawful conduct is of a continuing nature and part of an ongoing pattern of discrimination, the complaint may include actions outside of the statutory filing period so long as the last discriminatory act in the pattern occurred within the statutory filing period.

(c) Mediation Prior to Filing of Complaint. When an aggrieved person enters into an agreement to voluntarily mediate the alleged discriminatory acts prior to filing a complaint at the Commission but within the statutory filing period, the time for filing may be tolled subject to the following conditions:

1. Every party is represented by an attorney;

2. The parties execute an agreement, signed by the parties, their attorneys, and the mediator, which states the nature of the dispute, the intent to mediate the dispute, a request to toll the statutory filing deadline to pursue mediation, a commitment by the attorneys and mediator to conduct the mediation within 90 days, and an agreement to promptly report the outcome of the mediation to the Clerk's Office;

3. The parties submit the agreement executed pursuant to 804 CMR 1.04(4)(c)2. to the Clerk's Office *via* email or U.S. Mail within the statutory filing deadlines provided for in 804 CMR 1.04(3). The agreement shall only be available to the parties and not the public consistent with all mediation documents on file with the Commission per the confidentiality outlined in 804 CMR 1.06; and

4. If the parties are unable to resolve the matter through mediation, the complainant shall file a complaint pursuant to 804 CMR 1.04(2) within 120 days of filing the agreement to mediate with the Clerk's Office, and the complaint will be deemed filed on the date the agreement to mediate was filed with the Commission. The complainant shall notify the Commission of the previous filing of the agreement to mediate in order for the Commission to adjust the filing date of the complaint.

(d) Equitable Tolling. The deadline for filing a complaint with the Commission may be equitably extended in those cases where the complainant is excusably ignorant of the statutory filing period, or where respondent, the Commission, or a third-party has affirmatively misled the complainant, or otherwise prevented the complainant from filing, as determined by the Commission.

(5) Form. All complaints shall be in writing. Complaints filed under 804 CMR 1.04(1)(a) shall be signed and verified by the complainant. Verification consists of a signed statement, under the pains and penalties of perjury, by the complainant that they have read the complaint and that the allegations contained therein are true to the best of their knowledge. Complaints filed pursuant to 804 CMR 1.04(1)(b), (c), and (d) may be signed by counsel without verification by the complainant.

(6) Content. The complaint shall contain:

(a) The date(s) on which the unlawful discriminatory acts occurred; or, when the acts are of a continuing nature, the period of time during which acts occurred and the specific date of the last discriminatory act;

(b) A concise statement of the alleged discriminatory acts committed by specific persons, if known to the complainant, sufficient to enable the Commission to investigate the claims, and provide notice to the respondent(s) of potential liability;

1.04: continued

- (c) If appropriate, a statement indicating that the complaint is on behalf of a proposed class based on the criteria provided in 804 CMR 1.15(5);
- (d) Appropriate identification of the complainant(s) and the person(s) alleged to have committed unlawful discriminatory acts, unless proceeding by use of pseudonym pursuant to 804 CMR 1.04(7); and
- (e) Factual allegations sufficient to support each claim.

(7) Pseudonym Complaints. In exceptional circumstances, the Commission may determine that the public interest supports allowing a complainant to proceed under a pseudonym. The use of a pseudonym shall not impact the ability to issue protective orders. Any complainant may request to proceed under a pseudonym, including a parent or legal guardian filing on behalf of a minor child, or an individual who was a minor child at the time of the alleged discrimination. The use of a pseudonym may be permitted where the complainant demonstrates a specific overriding need for confidentiality based on substantial safety or privacy interests.

(a) Filing Requirements. A complainant who wishes to proceed by pseudonym shall:

1. File with the Commission a pseudonym complaint along with an ex parte motion to allow the use of a pseudonym, and
2. Submit both documents by U.S. Mail to the Clerk's Office or by visiting a Commission office only;

(b) Form of the Complaint. The pseudonym complaint shall comply with 804 CMR 1.04(1) through (6), except that it shall not include the identity of the complainant;

(c) Ex parte Motion for Use of a Pseudonym.

1. The motion shall be automatically placed under protective order and shall not be disclosed to the public or the respondent pursuant to 804 CMR 1.21(3);
2. The motion shall contain the complainant's full name, and set forth, with specificity, the reasons for supporting the request;
3. If the Commission grants the motion:
 - a. The complaint shall be processed in accordance with 804 CMR 1.05(2), and, if authorized for formal investigation under 804 CMR 1.05(3), the Commission shall serve the respondent with the pseudonym complaint and the order allowing pseudonym use;
 - b. If the respondent cannot reasonably identify the complainant, the respondent shall notify the Commission in writing within ten days of receipt of the order. The Commission shall then provide such information it deems necessary to permit the respondent to respond;
 - c. The parties shall not include the complainant's identity in filings with the Commission. If excluding the complainant's identity from a filing is not possible, the parties shall move for a protective order to prevent public disclosure of the filing.
4. If the Commission denies the motion, the complainant shall have 30 days from the receipt of the denial to consent to the filing of the complaint using their real name. The Commission shall deem the filing date of the complaint to be the date the pseudonym motion was filed.

(8) Amendments to the Complaint in General

(a) Method. A complaint may be amended at any time, either by motion from the complainant, sua sponte by the Commission, or in response to an order for a more definite statement in accordance with 804 CMR 1.05(11).

(b) Amended Content. A complaint or any part thereof may be amended to cure technical defects or omissions, including failure to swear to the complaint, to clarify and amplify allegations made therein, to add or remove respondents, to allege additional acts constituting unlawful discriminatory practices or claims related to or arising out of the subject matter of the original complaint. Previously dismissed claims or respondents may be reinstated by amendment sua sponte or when supported by a motion for reconsideration of probable cause under 804 CMR 1.08(4)(a). Regardless of how the amendment was made, amendments shall relate back to the original filing date of the complaint.

1.04: continued

(9) Procedure for Amending Complaint.

(a) Sua Sponte Amendments by the Commission. Amendments shall be made in writing by the Commission and may be made at any time after the filing of the complaint and before the issuance of a public hearing decision issued pursuant to 804 CMR 1.12. The Commission shall serve each party with an amended complaint or certification order whenever *sua sponte* amendments are made.

(b) Amendments by Motion from Complainant. Motions to amend the complaint are governed by 804 CMR 1.13.

(c) Amendments to Housing Complaints. Amendments to housing complaints shall be filed within 45 days of the initial filing of the complaint or no later than five days after service of the position statement, whichever is later, unless good cause is shown to enlarge the time. Housing complaints may be amended at the discretion of the Commission. Events occurring after amending a housing complaint may be the subject of a new complaint.

(d) Response to Order for a More Definite Statement. A complainant shall respond to an order issued pursuant to 804 CMR 1.05(11) with the information required by the order. The response must be filed within ten days of receipt of the order. An amended complaint incorporating the response shall be served by the Commission upon each party.

(e) Response to Amendments.

1. Pre-probable Cause Amendments. If a position statement has already been filed, the respondent may amend the position statement within 14 days of receipt of amendments to the complaint. Where no position statement has yet been filed, respondent shall file a position statement in response to amendments in accordance with 804 CMR 1.05(8).

2. Post-probable Cause Amendments. The respondent may not amend the position statement post-probable cause, although they may oppose a post-probable cause motion to amend the complaint in accordance with 804 CMR 1.13 or in response to an order by the Commission.

(10) Standard for Allowance of Amendments after Certification to Public Hearing. Motions to amend a complaint after certification to public hearing may be granted if the amendment arises out of the subject matter of the initial complaint and there is no undue prejudice to a party. Nothing in 804 CMR 1.04(1) limits the discretion of the Commission to amend the complaint to conform to the evidence adduced at hearing.

(11) Notice to the Parties. The Commission shall serve a copy of the original complaint and any amended complaints upon complainant and respondent except where the Commission dismisses the complaint pursuant to 804 CMR 1.05(2).

(12) Withdrawal of Complaint. Withdrawal of a complaint for any reason is subject to the following provisions:

(a) Within the first 90 days of filing a complaint, the complainant may request withdrawal of the complaint for the purpose of removing it to court pursuant to M.G.L. c. 151B, § 9 or for other reason, including settlement, and such request shall be in writing and shall set forth the reasons therefor.

(b) The Commission may grant or deny a request to withdraw within the first 90 days of filing a complaint as the public interest requires.

(c) After 90 days of filing the complaint, the complainant may withdraw the complaint as of right for any reason, including removal to court pursuant to M.G.L. c. 151B, § 9 or settlement, upon written notice to the Commission.

(d) If a complainant files a complaint in court pursuant to M.G.L. c. 151B, § 9 without first withdrawing the complaint pursuant to 804 CMR 1.04(12)(a) or (c), the Commission may consider the complaint withdrawn as of the court filing date.

(e) Withdrawal of a complaint at any time shall not affect the Commission's right to initiate a complaint based upon the same allegations, and such Commission initiated complaint shall relate back to the date of filing of the individual complaint.

(13) Additional Requirement for Withdrawal of Complaint by Removal to Court. Any person who has withdrawn a complaint before the Commission to file an action in any court of the Commonwealth or in any federal court, which includes a claim under M.G.L. c. 151B, M.G.L. c. 151C, M.G.L. c. 272, §§ 92A, 98, or 98A, or any other statutes under the jurisdiction of the Commission, shall promptly provide the Commission with a copy of the complaint filed in court.

1.05: Investigation and Answer of Complaint

(1) **Preservation of Evidence.** Upon notice of the complaint, parties shall preserve all manner and forms of information and documents that are or may lead to evidence relevant to the complaint of discrimination. Failure to so preserve may result in a rebuttable presumption concerning the evidence against the party failing to make such preservation. The Commission may issue sanctions pursuant to 804 CMR 1.22 related to the failure to preserve evidence. For purposes of the duty to preserve evidence, notice of the complaint may occur during preliminary investigation pursuant to 804 CMR 1.05(2)(a) or after formal service of the complaint pursuant to 804 CMR 1.05(3).

(2) **Preliminary Investigation.** The Commission shall undertake a preliminary investigation of a complaint to determine if further investigation utilizing the process within 804 CMR 1.05(4) through (10) would serve the public interest and may dismiss a complaint after preliminary investigation subject to the following provisions:

(a) **Manner of Investigation.** A preliminary investigation shall be undertaken to decide whether to authorize a complaint for formal investigation or to dismiss the complaint pursuant to 804 CMR 1.05(2)(b). The Commission shall have discretion to investigate complaint details in any manner necessary to achieve these purposes, which may include outreach to the parties, witnesses, and other persons, reviewing documents and gathering additional information.

(b) **Grounds for Dismissal.** The Commission may dismiss a complaint after preliminary investigation for any of the following reasons:

1. lack of standing;
2. lack of jurisdiction;
3. untimeliness;
4. failure to state a claim of discrimination;
5. frivolous claims;
6. allegations are implausible or incapable of verification;
7. the alleged discriminatory conduct has been sufficiently remediated or resolved;
8. insufficient nexus between protected class and allegedly discriminatory conduct; or
9. the public interest requires focusing Commission resources on complaints with greater impact on the mission to eradicate discrimination.

(c) **Notice of Dismissal.** If the Commission determines that authorization of a formal investigation would not serve the public interest pursuant to 804 CMR 1.05(2), the Commission shall state the reasons for the determination in a dismissal notice served upon complainant and any respondent notified of the complaint. Such dismissal notice, whether issued within the first 90 days of the filing of the complaint or later, shall constitute authorization for the complainant to pursue a civil action pursuant to M.G.L. c. 151B, § 9.

(d) **Appeal of Dismissal.** The complainant may appeal a dismissal issued pursuant to 804 CMR 1.05(2)(b) by filing a notice of appeal pursuant to 804 CMR 1.08(4)(b).

(3) **Notice of Authorization of Formal Investigation.** Upon the authorization of a formal investigation, the Commission shall serve respondent with the complaint. Service to respondent shall include notice of their procedural rights and obligation to respond.

(4) **Manner of Formal Investigation.** Upon authorization pursuant to 804 CMR 1.05(3), the Commission may undertake investigation of the complaint by field visit, written or oral inquiry, review of evidence submitted, conference, or any other method deemed suitable within the discretion of the Commission, none of which shall be subject to 804 CMR 1.10. Such investigation may include, but is not limited to:

- (a) Interviews of parties, witnesses, or other persons;
- (b) Requests for production or inspection of documents and other tangible things;
- (c) Issuance of subpoenas requiring the attendance of persons or the production for examination of documents and other tangible things in accordance with 804 CMR 1.14;
- (d) Requests for information from any party;
- (e) Conducting depositions; and
- (f) Seeking input from parties in preparing formal information requests or conducting investigative conferences.

1.05: continued

(5) Prompt Investigation.

(a) Housing Complaints. The investigation of a complaint alleging discrimination in housing cases shall be completed in no more than 100 days after receipt of the complaint, unless it is impracticable to do so.

(b) Complaints Other than Housing Complaints. The investigation of a complaint alleging discrimination in all areas within the jurisdiction of the Commission other than housing complaints shall be completed in no more than 18 months following receipt of the complaint, unless it is impracticable to do so.

(c) Notification of Delay. The Commission shall notify the parties if it is unable to complete the investigation within the time periods in 804 CMR 1.05(5)(a) and (b).

(6) Commission's Right to Investigate. No waiver or other agreement signed by any individual shall affect the Commission's right to investigate any complaint filed before it or to initiate a complaint to enforce the Commonwealth's anti discrimination statutes. The Commission may investigate information related to allegations of unlawful discrimination prior to initiating proceedings under 804 CMR 1.18.

(7) Deferral of Investigation. Whenever the Commission has reason to believe that another forum, having jurisdiction over the parties and subject matter contained in a complaint filed with the Commission, is conducting a prompt and thorough investigation of such complaint in a manner consistent with the requirements and standards of the Commission, the Commission may defer the investigation of the complaint until such other forum has completed its investigation or resolved the complaint, subject to the following provisions:

(a) The Commission shall notify the parties in writing of any decision to defer investigation of a complaint until after investigation or resolution of such complaint by another forum.

(b) Upon the conclusion of the investigation or resolution of the complaint by another forum, the Commission shall make a determination in accordance with 804 CMR 1.08(1)(a).

(8) Answer to the Complaint: Position Statement.

(a) Form and Timing. Each respondent shall file an answer to the complaint in the form of a position statement as follows: The position statement shall be filed either within 21 days of receipt of the notice of authorized formal investigation or within 21 days of receipt of an amended complaint filed pursuant to 804 CMR 1.04(9)(d) if the amended complaint is received before the filing of the position statement. Upon written request by the respondent, and for good cause shown, the Commission may grant an extension in which to file the position statement not to exceed 21 days absent exceptional circumstances.

(b) Failure to File. Upon failure to provide a position statement, the Commission may issue a notice of consequences in accordance with 804 CMR 1.07(1).

(c) Service. Each respondent shall serve the position statement upon the Commission, the complainant, and counsel.

(d) Content. The position statement shall assert all jurisdictional and other defenses which the respondent wishes to raise and shall also contain a full and complete description of the respondent's positions in response to all allegations of the complaint. The position statement shall be signed and affirmed by the respondent. Signature and affirmation shall include:

1. A signature under the pains and penalties of perjury by each respondent, which in the case of a corporate respondent shall be a principal of respondent, or a person, other than counsel, authorized to act for the respondent; and

2. If a respondent is represented by an attorney, the position statement shall also be signed by counsel.

(e) Amendments. A position statement may only be amended in accordance with 804 CMR 1.04(9)(e).

(9) Rebuttal to the Position Statement.

(a) Rebuttal Encouraged. Rebuttals to the position statement are not required, but are strongly encouraged and may be requested by the Commission to assist in the investigation of the complaint.

(b) Form and Timing. Within 21 days of service of a position statement or a request for rebuttal from the Commission, a complainant may file a rebuttal to the respondent's position statement. Rebuttals shall be in writing, except that *pro se* complainants may be permitted

1.05: continued

by the Commission to provide a verbal rebuttal. Upon written request of the complainant, and for good cause shown, the Commission may grant an extension of not more than 21 days to file the rebuttal absent exceptional circumstances.

(c) Service. A complainant shall serve a copy of the written rebuttal on a *pro se* respondent or on respondent's representative, unless the rebuttal is subject to a protective order pursuant to 804 CMR 1.05(12).

(10) Investigative Conference.

(a) Notice. The Commission may convene one or more investigative conferences for the purpose of obtaining evidence, identifying issues in dispute, ascertaining the positions of the parties, and exploring the possibility of settlement. Notice of the investigative conference shall be provided to all parties at least 14 days prior thereto and may identify the individuals requested to attend on behalf of a party.

(b) Rescheduling. Parties may request to reschedule the investigative conference for good cause by submitting a written request to the Commission, which shall be granted at the discretion of the Commission.

(c) Participants. A party may be accompanied at an investigative conference by their representative. An attorney for a party not previously having entered an appearance shall do so at the beginning of the investigative conference. Participation by any other person other than a representative shall be at the discretion of the Commission.

(d) Conduct. The Commission shall conduct the investigative conference and control the proceedings. Parties and their representatives may be questioned by the Commission about the issues under investigation, and may be permitted to make a brief statement. No audio, visual, digital, or other verbatim recording of the conference may be made. The Commission shall decide who shall be heard and the order in which they are heard. The Commission may exclude witnesses and other persons from the investigative conference.

(e) Failure to Attend. The failure of a complainant to attend the investigative conference after due notice may result in an adverse disposition in accordance with 804 CMR 1.08. The failure of a respondent to attend the investigative conference after due notice may result in investigative default in accordance with 804 CMR 1.07. The Commission may sanction any party failing to attend or requesting more than one continuance without good cause as provided for in 804 CMR 1.22.

(11) Motion for More Definite Statement. If a complaint is so vague or ambiguous that the respondent cannot reasonably be expected to take an informed legal position concerning the relevance of evidence sought, the Commission may *sua sponte*, or upon motion, order a more definite statement. A motion for a more definite statement is subject to 804 CMR 1.13 and shall be filed within ten days of receipt of the complaint. Such motion shall describe the defects complained about and details desired. The complainant's response to an order for a more definite statement is governed by 804 CMR 1.04(9)(d).

(12) Protective Orders. A party may request a protective order to prevent the disclosure of information provided during the investigation for good cause shown. The Commission may seek a response from the non-requesting party. Information that is subject to a protective order as requested by a party or issued *sua sponte* by the Commission shall not be disclosed during the investigation of the matter, but, unless otherwise provided, may be subject to discovery by the parties after an investigative disposition.

1.06: Mediation

(1) Mediation. The Commission may offer the parties mediation aimed at resolution of the complaint prior to the issuance of an investigative disposition or a final decision. Mediation offered to the parties by the Commission is subject to M.G.L. c. 233, § 23C, and the following conditions:

(a) The Commission does not abrogate its obligation to vindicate the public interest by offering mediation to the parties.

(b) Pursuant to 804 CMR 1.06(1)(a), the confidentiality required by M.G.L. c. 233, § 23C applies to the Commission as a whole. Details of a mediation remain confidential within the Commission and confidential mediation materials not otherwise discoverable shall not be disclosed in any judicial or administrative proceeding, including public hearings held pursuant to 804 CMR 1.12, 1.18, or 1.19.

1.06: continued

- (c) The Commission may cancel or terminate its efforts to mediate a complaint if: any party fails or refuses to confer with the Commission; any party fails to make a good faith effort to resolve any dispute; the complainant fails to accept a reasonable settlement offer as provided in 804 CMR 1.09(11); the mediation does not serve to vindicate the public interest; or the Commission finds, for any reason, that voluntary agreement is not likely to result.
- (d) All parties shall attend mediation with authority to settle the matter.
- (e) Representation for the parties at a mediation shall be consistent with 804 CMR 1.15.

1.07: Investigative Default Procedure

- (1) Notice of Consequences for Failure to Answer or Participate. If a respondent fails to answer a complaint or otherwise fails to participate in the investigation, the Commission may serve upon respondent a notice of consequences. The notice of consequences shall list available sanctions for failing to answer or participate, which include, but are not limited to:
 - (a) The issuance of a probable cause determination in accordance with the allegations of the complaint; and
 - (b) A waiver of respondent's right to pursue reconsideration of the probable cause determination pursuant to 804 CMR 1.08(4)(a).
- (2) Response to Notice of Consequences. The respondent shall file a position statement with the Commission within ten days of receipt of the notice of consequences or take any other action required by the notice of consequences to avoid an order and entry of default imposing sanctions pursuant to 804 CMR 1.07(3).
- (3) Order and Entry of Investigative Default.
 - (a) If respondent fails to respond to the notice of consequences as required by 804 CMR 1.07(2), the Commission may issue an order and entry of investigative default, imposing one or more of the sanctions available under 804 CMR 1.07(1) and 804 CMR 1.22.
 - (b) After the imposition of sanctions, the Commission may take the following additional actions:
 - 1. Order that a matter be processed pursuant to 804 CMR 1.19;
 - 2. Seek relief in the Superior Court for a violation of M.G.L. c. 151B, § 8, pursuant to M.G.L. c. 214, § 3(12) or (13); and
 - 3. Any other relief against the defaulting party or its representative as is necessary and appropriate to enforce the provisions of M.G.L. c. 151B, § 5.
- (4) Removal of Default. Within 14 days of the order and entry of investigative default, the respondent may petition the Commission for the removal of investigative default, for good cause shown. The respondent's assertion of good cause shall be in affidavit form and shall include all information sought by the Commission, including a position statement if required by the notice of consequences.

1.08: Investigative Dispositions, Complaint Dismissals and Appeal

- (1) Types of Investigative Dispositions. In addition to an investigative disposition issued under 804 CMR 1.05(2), the Commission may conclude the investigation of a complaint as follows:
 - (a) Substantial Weight Granted to Investigation by Another Forum. After deferral of an investigation pursuant to 804 CMR 1.05(7), if it appears that the Commission's requirements and standards have been met, the Commission may accord substantial weight to the findings or resolution of the other forum and close the investigation or prosecute the complaint pursuant to 804 CMR 1.08(1)(f)1.
 - (b) Withdrawal of Complaint. The Commission shall dismiss a complaint properly withdrawn pursuant to 804 CMR 1.04(12), although it may decide to file a Commission initiated complaint based on the same allegations pursuant to 804 CMR 1.18.
 - (c) Lack of Jurisdiction. Whenever the Commission determines that the Commission lacks jurisdiction over the parties or subject matter of the complaint, the Commission shall dismiss the complaint and shall notify the parties in writing, stating the reasons therefor.

1.08: continued

(d) Administrative Dismissal. The Commission may administratively dismiss a complaint for reasons including, but not limited to, bankruptcy, death of a party, inability to locate a party, adjudication by another forum, unreasonable refusal by complainant to cooperate with processing the case, failure to participate, or refusal to accept a reasonable settlement offer pursuant to the criteria of 804 CMR 1.09(11). In addition, conduct providing grounds for sanctions in 804 CMR 1.22 is an independent basis for administrative dismissal of the complaint. Administrative dismissal shall be subject to the following provisions:

1. Before dismissing a matter because of inability to locate a party, the Commission shall provide notice to the party stating that the matter shall be dismissed if a response is not received within 30 days. Such notice shall be provided to the last address reported to the Commission by the party. The Commission shall allow 30 days for response before administratively dismissing the matter.
2. Unreasonable refusal by complainant to cooperate with processing of the case may include, but is not limited to, failure to provide information, materials or responses which are necessary for investigation of the complaint, failure to cooperate with counsel for the Commission in the prosecution of the complaint, or failure to comply with an order issued by the Commission.
3. When practicable, in any matter administratively dismissed, written notice shall be provided to the complainant, including the reasons for the dismissal.
4. An administrative dismissal shall not constitute a final order for purposes of exercising rights provided under M.G.L. c. 151B, § 6 or M.G.L. c. 30A.
5. The Commission may reopen an administratively dismissed case for good cause shown.

(e) Settlement. The Commission may dismiss a complaint due to settlement of the complaint under the following conditions:

1. Notification to Commission. Parties shall promptly notify the Commission in writing upon reaching a settlement.
2. Review and Availability of Settlement Terms.
 - a. The Commission may require the parties to submit the terms of such settlement in writing to the Commission for review.
 - b. The Commission may keep settlement terms confidential at the request of the parties unless confidentiality is precluded by law, Commission contractual agreements, or compelling public policy considerations.
 - c. If it appears from the facts of the complaint and the terms of settlement that the public interest has been served, the Commission may dismiss the complaint without a determination as to whether probable cause existed to credit the allegations of the complaint, and shall so notify the parties in writing.

(f) Determinations after Formal Investigation.

1. Probable Cause. After formal investigation, when a probable cause determination is recommended by the Commission, a Commissioner shall be assigned. A determination of probable cause shall be made when the assigned Commissioner concludes that there is sufficient evidence upon which a fact finder could form a reasonable belief that it is more probable than not that respondent committed an unlawful practice or violated a statute under the Commission's jurisdiction. The assigned Commissioner shall preside over the matter post-probable cause through certification to public hearing.

Right to Elect Judicial Determination. If the Commission finds probable cause to credit the allegations of any housing complaint, the Commission shall immediately serve notice upon complainant and respondent of the right to elect judicial determination of the complaint pursuant to M.G.L. c. 151B, § 5.

2. Lack of Probable Cause. If the Commission determines after formal investigation of the complaint that there is insufficient evidence to support a determination of probable cause to credit the allegations of the complaint, a lack of probable cause determination shall be issued and the complaint shall be dismissed. Notice of a lack of probable cause determination shall be issued within ten days from such determination.

(2) Complaint Dismissals after a Probable Cause Determination. The Commission may dismiss a complaint utilizing the procedures within 804 CMR 1.08(1)(b), (c), (d), or (e) at any time after the issuance of a probable cause determination pursuant to 804 CMR 1.08(1)(f)1., including that the Commission shall dismiss the complaint upon referral to the Attorney General after a party's election of judicial determination of a housing practice pursuant to M.G.L. c. 151B, § 5.

1.08: continued

(3) Notice of Investigative Disposition. The Commission shall provide written notice of the investigative disposition to the parties, including whether the complaint has been dismissed or remains open and subject to further process.

(4) Reconsideration or Appeal of Investigative Disposition.

(a) Motion for Reconsideration of Probable Cause Determination. Any party may move for reconsideration of a probable cause determination for good cause at any time prior to the issuance of a certification order pursuant to 804 CMR 1.11(4), subject to the following requirements:

1. Grounds for a motion for reconsideration of a probable cause determination filed by a complainant shall be limited to argument that the pre-probable cause removal of claims or respondents from the complaint was in error or based on evidence obtained in discovery that supports reinstatement of a previously dismissed claim or respondent.
2. A motion for reconsideration from a respondent which is based on the absence of a genuine issue of material fact shall be filed after the close of discovery and before the issuance of a certification order.
3. Motions for reconsideration shall be served in accordance with 804 CMR 1.13.
4. The Commission shall render a decision on the motion for reconsideration, as soon as reasonably practicable.
5. The Commission may issue an order reversing the probable cause determination, reopening the matter for further investigation, modifying the probable cause determination, amending the complaint, or taking such other action as is deemed necessary in the interests of justice.
6. Upon reversal or modification of a probable cause determination, complainant does not have a right to a preliminary appeal pursuant to 804 CMR 1.08(4)(b) or a right to review under M.G.L. c. 151B, § 6 or M.G.L. c. 30A.

(b) Preliminary Appeal. The complainant may appeal an investigative disposition entered under 804 CMR 1.08(1)(c) and (f)2. as well as a dismissal pursuant to 804 CMR 1.05(2) by filing a notice of appeal within ten days after receipt of the notice of investigative disposition or dismissal. Notices of appeal filed beyond ten days after the receipt of the notice of investigative disposition shall not be allowed. The Commission shall notify all parties of the appeal, provided they received notice of the dismissal of the investigation under 804 CMR 1.05(2)(c). The following provisions apply to all preliminary appeals:

1. All appeals shall be made in writing.
2. The Commission may hold a live hearing at its discretion. No audio, visual, digital, or other verbatim recording of the live hearing may be made. The hearing may be held in person, telephonically, virtually, or in writing at the discretion of the Commission.
3. Written appeals are due within 14 days of the filing of the notice of appeal. Extensions of time to file written appeals will not be granted without a showing of good cause. The Commission shall allow no more than one extension.
4. The Commission shall not consider written appeals filed after the original or extended deadline.
5. Appeals shall include reasons why the determination was made in error and supporting evidence.
6. The preliminary appeal shall not be subject to the requirements of M.G.L. c. 30A and the determination shall not be subject to Full Commission or judicial review under M.G.L. c. 151B, § 6 or M.G.L. c. 30A.
7. If notified of the appeal pursuant to 804 CMR 1.08(4)(b), the respondent may also be permitted to present reasons why the determination should be sustained along with supporting evidence as appropriate.
8. In assessing the appeal, the Commission may request additional information and evidence.
9. The Commission may, upon review of evidence presented:
 - a. affirm the disposition;
 - b. reverse the disposition and issue a probable cause determination;
 - c. reverse the disposition and authorize or continue a formal investigation;
 - d. modify the disposition; or
 - e. take such other action as deemed necessary in the interest of justice.

1.09: Conciliation

- (1) Conciliation Required after Determining Probable Cause. Upon a determination of probable cause pursuant to 804 CMR 1.08(1)(f)1., the Commission shall endeavor to eliminate the unlawful practice complained of through conference, conciliation, and persuasion in accordance with M.G.L. c. 151B, § 5. In conciliating a complaint, the Commission shall attempt to achieve a just resolution of the complaint and to obtain assurances that the respondent shall satisfactorily remedy any violations of the rights of the aggrieved person, and take such action as shall assure the elimination of discriminatory practices, or the prevention of their occurrence in the future.
- (2) Party Obligations.
- (a) Attendance at a scheduled conciliation is mandatory, and all parties shall attend conciliation with authority to settle the matter.
 - (b) The case in support of the complaint at conciliation shall be presented either by counsel for the complainant or by counsel for the Commission. A complainant may not proceed at conciliation without private counsel or without counsel for the Commission in attendance. A complainant's failure to retain counsel or cooperate with counsel for the Commission shall be grounds for dismissing the matter.
 - (c) At least ten days prior to the conciliation, counsel for complainant or counsel for the Commission shall send a written settlement proposal to respondent.
 - (d) At least five days prior to the conciliation, the parties shall hold preliminary settlement discussions for the purpose of making a good faith effort to resolve the complaint.
- (3) Continuances. Continuances shall not be granted except upon written motion filed in accordance with 804 CMR 1.13 demonstrating good cause, including emergency motions. Non-emergency motions to continue shall be assented to by all parties or filed jointly.
- (4) Consequences for Failing to Attend Conciliation. Failure to attend conciliation may result in the imposition of sanctions in accordance with 804 CMR 1.22. A respondent's failure to attend may result in the immediate certification to public hearing pursuant to 804 CMR 1.11, and complainant's failure to attend may result in the administrative dismissal of the complaint pursuant to 804 CMR 1.08(1)(d).
- (5) Provisions Sought for the Public Interest. The provisions which may be sought for the vindication of the public interest, include but are not limited to:
- (a) Elimination of the discriminatory practice;
 - (b) Prevention of future discriminatory practices;
 - (c) Remedial affirmative activities to overcome discriminatory practices;
 - (d) Apologies;
 - (e) Reporting requirements;
 - (f) Monitoring and enforcement activities;
 - (g) Consent orders or decrees; and
 - (h) Educational and training efforts.
- (6) Relief Sought for Aggrieved Persons. The relief sought for aggrieved persons in conciliation may include, but is not limited to:
- (a) Monetary relief in the form of compensatory damages for back pay, front pay, emotional distress, out-of-pocket expenses, interest, and attorney fees and costs;
 - (b) Equitable relief including, but not limited to, reinstatement to employment, promotion, letters of recommendation or reference, access to the dwelling at issue (or to a comparable dwelling), the provision of services or facilities, an apology and a promise to refrain from engaging in the same or similar discriminatory conduct, reasonable accommodation, or other specific relief; and
 - (c) Injunctive relief appropriate to the elimination of discriminatory practices affecting the aggrieved person or persons.
- (7) Termination of Conciliation Efforts. The Commission may terminate efforts to conciliate a complaint if the respondent fails or refuses to confer with the Commission; the complainant or the respondent fail to make a good faith effort to resolve any dispute; or the Commission finds, for any reason, that voluntary agreement is not likely to result.

1.09: continued

(8) Information Obtained during Conciliation. Nothing that is said or done in the course of conciliation can be used as evidence in a subsequent public hearing held pursuant to 804 CMR 1.12 or in civil actions under M.G.L. c. 151B, § 9.

(9) Review of Compliance with Conciliation Agreements. The Commission may review compliance with the terms of any conciliation agreement. Whenever there is reasonable cause to believe that a respondent has breached a conciliation agreement, the Commission may take appropriate action, including reopening of the matter before the Commission, and the filing of a civil action for enforcement of the terms of the conciliation agreement and seeking appropriate sanctions under M.G.L. c. 151B, § 8.

(10) Conciliation Agreement. A conciliation agreement shall be an agreement between the respondent and the complainant and shall be subject to the approval of the Commission. Such agreement shall be in writing, shall set forth the terms of the agreement, and shall be signed by the parties. In accordance with M.G.L. c. 151B, § 5, the Commission may make public the terms of conciliation when the complaint has been so disposed of.

(11) Failure to Accept Reasonable Settlement Offer. When a formal offer of settlement by a respondent is acceptable to the Commission, but not to the complainant, the Commission may dismiss the complaint and, if timely, the complainant may proceed in the appropriate court of competent jurisdiction under M.G.L. c. 151B, § 9. In making this determination, offers of settlement by a respondent shall be reviewed by the Commission to determine whether the public interest would be served by the continuation of the proceedings. The Commission may consider the following non exhaustive criteria in making this determination:

- (a) Probability of success after public hearing;
- (b) Reasonableness of offer;
- (c) Reasonableness of complainant's refusal, if any;
- (d) The amount of the complainant's economic loss, and respondent's degree of responsibility thereof;
- (e) Evidence of any emotional distress suffered by the complainant, and respondent's degree of responsibility;
- (f) The egregiousness of the discrimination charged; and
- (g) Whether the time for filing a civil action, under M.G.L. c. 151B, § 9, has expired.

1.10: Discovery

(1) When Allowed. Discovery may only be conducted pursuant to a discovery order from the Commission. Discovery orders may issue if a matter does not resolve at conciliation conducted pursuant to 804 CMR 1.09.

(2) Contents of Discovery Order. A discovery order shall set forth the time period in which all discovery shall be completed. Permitted discovery may include, but is not limited to, interrogatories to parties, requests for the production of documents and other tangible things, depositions, subpoenas issued subject to 804 CMR 1.14, requests for site examination, and requests for admissions.

(3) Scope of Discovery. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter in the complaint, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any documents or tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not grounds for objection that the information sought shall be inadmissible at a public hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(4) Interrogatories.

- (a) No party shall serve upon any other party as of right more than 30 interrogatories, including interrogatories subsidiary or incidental to, or dependent upon, other interrogatories, however grouped or combined; but the interrogatories may be served in two or more sets, as long as the total number of interrogatories served does not exceed 30. All interrogatories shall be numbered consecutively.

1.10: continued

(b) Each interrogatory shall be answered separately and fully in writing under the pains and penalties of perjury, unless it is specifically objected to, in which event the reasons for objection shall be stated in *lieu* of the answer; each answer or objection shall be preceded by the interrogatory to which it responds. General objections to interrogatories are prohibited. Each objection to an interrogatory shall be specific to that interrogatory and shall have a good faith basis. If a party refuses to answer an interrogatory, the party shall so state and identify each objection asserted to justify the refusal to answer. If a party, after having asserted an objection, answers the interrogatory, the answer shall state either:

1. Notwithstanding the objection no information has been withheld from the answer, or
2. Information has been withheld from the answer because of the objection. Where information has been withheld from the answer, the objecting party shall describe the nature of the information withheld and identify each objection asserted to justify the withholding.

(c) The answers are to be signed by the person making them under the pains and penalties of perjury, the objections by the person or attorney making them.

(d) The party upon whom the interrogatories have been served shall serve answers and objections, if any, within 45 days after the service of the interrogatories.

(5) Requests for Production or Inspection of Documents and Other Tangible Things.

(a) The party upon whom the request is served shall serve a written response and copies of the responsive documents within 30 days after the service of the request. The response shall state, with respect to each item or category, that inspection and related activities shall be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified.

(b) Unless otherwise stipulated or ordered by the Commission:

1. A party shall produce documents as they are kept in the usual course of business or shall organize and label them to correspond to the categories in the request;
2. The producing party may produce copies of the documents, including by electronic means, provided that, if requested, the producing party affords all parties a fair opportunity to verify the copies by comparison with the originals;
3. If a request does not specify a form for producing electronically stored information, a party shall produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and
4. A party need not produce the same electronically stored information in more than one form.

(c) The written response accompanying production shall state either:

1. All responsive documents or things in the possession, custody, or control of the responding party have been produced;
2. After diligent search no responsive documents or things are in the possession, custody, or control of the responding party; or
3. A specific objection made to the request. When specific objection is made, the response shall describe the nature of all responsive documents or things in the possession, custody, or control of the responding party that have not been produced because of the objection.

(6) Depositions.

(a) A party desiring to take the deposition of any person upon oral examination shall include in the notice the time and place for taking the deposition, the name and address of each person to be examined and the manner in which the deposition shall be recorded.

(b) The notice of deposition shall be served at least 14 days prior to the date of the deposition, and the parties shall receive the same notice for third-party depositions.

(c) The parties shall be given 14 days' notice, and an opportunity to quash, prior to the service of a third-party subpoena.

(d) A party may name as a deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. The named organization shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which they shall testify. The

1.10: continued

persons so designated shall testify as to matters known or reasonably available to the organization. If the corporation, partnership or association does business in Massachusetts, it must produce its designee(s) for deposition in Massachusetts.

(e) If a *subpoena duces tecum* is to be served on a person to be examined, the designation of the material to be produced as set forth in the subpoena, shall be attached to the notice.

(f) The party requesting a deposition shall make all necessary arrangements for the taking and recording of depositions, including the cost thereof.

(g) The testimony at a deposition may be recorded by other than stenographic means. The party conducting the deposition shall ensure that the recorded testimony is accurate and trustworthy.

(h) All objections made at the time of the deposition shall be noted by the person taking the deposition. Evidence objected to shall be taken subject to the objection. Counsel for a witness or a party may not instruct a deponent not to answer except where necessary to assert or preserve a privilege or protection against disclosure, to enforce a limitation on evidence directed by the Commission or stipulated in writing by the parties, or to suspend the deposition for the purpose of bringing a motion to terminate or limit the examination where it is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party.

(i) Subject to valid objections to admissibility, depositions or any part thereof may be used for any purpose with respect to witnesses who are unavailable at the hearing or to contradict or impeach the credibility of witnesses who testify at public hearing.

(j) The Commission may order the filing of any deposition transcript with the Commission.

(7) Admissions.

(a) A party may serve upon another party a written request for admission of the truth of matters within the scope of discovery that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents attached to the request.

(b) Each matter of which an admission is requested shall be separately set forth and is deemed admitted unless within 30 days after its service, the party to whom the request is directed serves upon the party requesting the admission:

1. A written statement signed by the party under the pains and penalties of perjury denying the matter or setting forth in detail why it cannot truthfully admit or deny it; or
2. A written objection addressed to the matter, signed by the party or representative. If an objection is made, the reasons shall be stated.

(c) When good faith requires that a party qualify the answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. A party may not give lack of information or knowledge as a reason for failure to admit or deny the request unless the party states that it has made reasonable inquiry and the information known or readily obtainable by such party is insufficient to enable the party to admit or deny. Each response shall be preceded by the request to which it responds. Any admission made is for the purpose of the pending case only and is not an admission for any other purpose nor may it be used in any other proceeding. The maximum number of admissions as of right shall be 50.

(8) Protective Orders. Upon motion by a party or by a person from whom discovery is sought, and for good cause shown, the Commission may issue a protective order limiting discovery as justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. If the motion for a protective order is denied, the Commission may order that any party shall comply with the discovery requests.

(9) Failure to Comply with Discovery. Failure to comply with discovery may result in any of the following orders from the Commission *sua sponte* or upon motion from a party:

- (a) An order to comply with discovery containing consequences for further noncompliance;
- (b) An order that matters upon which discovery is sought or any other designated facts shall be taken to be established for the purpose of supporting a claim or defense of the party seeking discovery;
- (c) An order refusing to allow the noncomplying party to support or oppose designated claims or defenses, or prohibiting them from introducing designated matters in evidence;
- (d) An order prohibiting a party from calling witnesses or introducing documents at the public hearing;

1.10: continued

- (e) An order dismissing the action or immediate certification to public hearing pursuant to 804 CMR 1.11; and
- (f) an order requiring the noncomplying party or the attorney advising the noncomplying party or both to pay monetary sanctions and reasonable expenses, including attorney fees and Commission expenses caused by the noncompliance, in accordance with 804 CMR 1.22.

(10) Stipulations Regarding Discovery Procedure. Unless the Commission orders otherwise, after the issuance of a discovery order pursuant to 804 CMR 1.10(1), the parties may by written stipulation and agreement modify the procedures provided by 804 CMR 1.10(4) through (7).

1.11: Certification of Claims to Public Hearing

(1) Certification. When the Commission determines that the public interest requires a certification of claims to public hearing, it shall issue a certification order in the name of the Commission pursuant to M.G.L. c. 151B, § 5.

(2) Certification Process. The Commission may issue a certification order identifying the claims that shall be certified to public hearing. The Commission may schedule a conference pursuant to 804 CMR 1.11(3) prior to issuance of such order to determine which claims, if any, shall be certified to public hearing.

(3) Certification Conference. The Commission shall serve notice of the certification conference upon all parties and counsel. The Commission may issue an order requiring written submissions by the parties in advance of the certification conference, and failure to provide all written submissions as ordered shall be cause for sanctions in accordance with 804 CMR 1.22. The written submissions shall contain the following:

- (a) List of proposed claims to be certified to public hearing;
- (b) Affirmative defenses;
- (c) Parties, including definition of proposed classes;
- (d) Pending motions (*e.g.*, discovery issues, motions for certification, motions for reconsideration of probable cause);
- (e) All relief sought, including any monetary and equitable relief and description of the bases on which damages are calculated;
- (f) Settlement efforts; and
- (g) Any other matter which in the judgment of the Commission is likely to expedite the preparation and presentation of the case.

(4) Certification Order. The certification order shall be in writing, served upon all parties and counsel of record and may provide the following:

- (a) Certification of claims to be considered at a public hearing;
- (b) Certification of one or more questions of law to the Full Commission; and
- (c) Address any other matters the Commission deems appropriate in the public interest, including a denial of certification and reversal of the probable cause determination.

1.12: Public Hearings

(1) In General. The public hearing shall be governed by M.G.L. c. 151B, § 5, M.G.L. c. 30A, § 11, and 804 CMR 1.12, and shall be conducted by an adjudicator appointed by the Commission.

(2) Substitution of Adjudicator. In the event of the unavailability of the original adjudicator to issue a written decision pursuant to 804 CMR 1.12(18), the Commission shall assign another adjudicator to hear any remaining evidence and to review the record, including the hearing transcript, resulting in one of the following outcomes:

- (a) In the event the resolution of disputed issues of material fact rests on findings of witness credibility, and a decision cannot be rendered without such findings, the case shall be reassigned for a new hearing. Prior to scheduling a new hearing, the Commission shall hold a status conference with the parties and make good faith efforts at resolving the matter.

1.12: continued

(b) In cases where the decision does not rest on credibility findings, a substitute adjudicator may render the decision. Prior to the issuance of a final decision, the parties may make written requests for proposed findings of fact and conclusions of law and an order and shall be afforded a reasonable opportunity to file objections thereto. Any proposed findings of fact and conclusions of law or proposed orders shall be filed as ordered by the Commission.

(3) Waiver Required. M.G.L. c. 151B, § 9 makes available to the complainant a trial in court as an alternative to public hearing before the Commission. Accordingly, the complainant shall waive the right to remove all claims certified to public hearing prior to the commencement of the public hearing.

(4) Conduct. All parties, witnesses, counsel, and others present at a public hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in the courts of the Commonwealth. Where such standards are not observed, the Commission may take such action as it deems appropriate, including assessing sanctions against a non-complying person pursuant to 804 CMR 1.22, and adjourning the proceedings.

(5) Request for Clarification. Upon written request of a party or by the Commission *sua sponte*, the complaint and certification order may be clarified. In the event there remains a dispute about which claims are certified to public hearing, the Commission may proceed to hear evidence on any and all claims presented and may amend the certification order to conform to the evidence established at the hearing.

(6) Continuance. Any party requesting a continuance shall make such request in writing by motion pursuant to 804 CMR 1.13. Continuances shall be granted only upon a showing of good cause. In any instance in which a continuance results in fees or costs to the Commission or another party, the party requesting the continuance may be required to incur such costs.

(7) Settlement after Commencement of Public Hearing. If after the commencement of a public hearing the matter in dispute before the Commission is settled between the parties and the settlement is acceptable to the Commission, it shall dismiss the matter.

(8) Ex Parte Communications. In any proceeding held pursuant to 804 CMR 1.12 or in any appeal therefrom, no party or counsel shall communicate ex parte with the adjudicator for any reason on any matter related to the proceeding prior to the issuance of a final decision of the Commission pursuant to 804 CMR 1.24 or 1.25.

(9) Protective Orders. Upon motion or *sua sponte*, the Commission may issue a protective order to prevent the public disclosure of information at public hearing or within the record of public hearing for good cause shown and may allow such motion if it is in the public interest. A protective order may provide for the exclusion, limitation, redaction, or impoundment of documentary or testimonial evidence at public hearing or within the public hearing record.

(10) Failure to Appear at Public Hearing. Whenever a party duly notified of the time and place of a public hearing fails to appear at the hearing either in person or by counsel, the party's default shall be entered on the record and notice of the default shall be served within ten days of the entry of default. If the defaulting party is the complainant, the complaint may be dismissed. If the defaulting party is the respondent, the hearing shall be conducted on its scheduled date, and the complainant shall continue to have the burden of establishing liability and remedy notwithstanding the entry of default. Within ten days of receipt of notice of entry of default, the defaulting party may petition the Commission to vacate the default and reopen the case upon a showing of good cause established through affidavit signed under the pains and penalties of perjury. The other parties may file a response to the request for removal of default within ten days of receiving a copy of it. If the case is reopened, the party in default may be ordered to bear the reasonable costs incurred as a result of the default.

1.12: continued

(11) Transcript and Record of Public Hearing.

(a) The record of the public hearing shall consist of the exhibits and either an electronic recording or a transcript of the hearing. If a party arranges to have a stenographer at the public hearing, the stenographic record shall be the official record of the public hearing, the Commission shall not create an electronic recording, and the party arranging for the stenographer shall furnish the Commission at no charge with a certified copy of the transcript within ten days of receipt of the transcript from the stenographer. If there is no stenographer at the public hearing, the Commission shall make an audio recording of the public hearing. A party desiring a copy of the recording shall make a request in writing to the Commission and may be required to pay the cost thereof. A transcription of the electronic record made by a party may be cited if the Commission and all parties agree to accept the transcription as the official record of the public hearing, with a party waiving any objection to the accuracy of such transcript if not made within 20 days of its filing.

(b) The administrative record for the purpose of judicial review under M.G.L. c. 30A, § 14 shall be the record of public hearing in accordance with 804 CMR 1.12(11)(a), together with the certification to public hearing, the complaint as amended, and any post-probable cause motions and orders disposing of such motions at issue in the complaint for judicial review.

(12) Stipulations. Written stipulations of facts may be introduced in evidence, if signed by the persons sought to be bound thereby, or by their authorized representatives. Oral stipulations may be made on the record during the course of a public hearing.

(13) Evidence. The Commission shall not be bound by the rules of evidence observed by courts except for the rules of privilege. The Commission may permit the admission of records, reports, statements or data compilations of public agencies setting forth factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information indicate lack of trustworthiness. Evidence unrelated to the claims certified to public hearing may be deemed irrelevant or not probative of the claims to be decided and, therefore, inadmissible.

(14) Administrative Notice. The Commission may take administrative notice of matters as might be judicially noticed by the courts of the United States or of the Commonwealth, and of technical or general facts within its specialized areas of knowledge.

(15) Oral Argument. The Commission may allow a reasonable time to the parties for oral argument.

(16) Post-hearing Briefs. The parties and any interested person recognized by the Commission shall file a post hearing brief containing proposed findings of fact and conclusions of law and other information as required by the Commission. The brief shall be filed on 8 ½" by 11" paper, when not filed electronically, be typed in no less than 12-point type, and be double spaced, provided that the case caption, footnotes, and quotations may be single spaced. The margins shall be at least one inch. The timing of the filing of the brief and its page limit shall be determined by the Commission.

(17) Other Post-hearing Submissions. The Commission may allow the parties, after a showing of good cause, to file additional evidentiary documents or exhibits within a reasonable time after the completion of the hearing. The Commission may allow reasonable inspection of original documents or tangible things by all parties. The Commission may also require that the parties file additional evidentiary documents or exhibits, including stipulations concerning damages, subsequent to the completion of the hearing.

(18) Public Hearing Decision. The Commission shall issue a decision in writing either dismissing the complaint or granting relief to the aggrieved party for the purposes of effectuating the laws under its jurisdiction, pursuant to M.G.L. c. 151B, § 5. The decision shall contain all findings of fact and conclusions of law necessary to address every claim certified to public hearing. The parties shall be notified in writing of their rights to appeal such decision to the Full Commission. A copy of the decision shall be served upon each party and counsel.

1.12: continued

(19) Request for Award of Attorney's Fees and Costs. Where the complainant prevails at public hearing, the complainant may, within 15 days of receipt of the public hearing decision, petition the Commission for an award of reasonable attorney's fees and costs. Such petition shall include detailed, contemporaneous time records, a breakdown of costs and a supporting affidavit from every attorney for whom fees are sought. The petition shall also include information about fair market hourly rates of attorneys with similar skill and experience performing similar work, which may be in the form of affidavits from attorneys with knowledge of such hourly rates or model fee charts, or other documentation. A respondent may file a written opposition within 15 days of receipt of said petition. To the extent that the respondent appeals an order on a petition for attorney's fees and costs pursuant to 804 CMR 1.23(1)(a), such appeal shall be consolidated with any pending appeal to the Full Commission of the underlying public hearing decision issued pursuant to 804 CMR 1.12(18). A decision on a request for award of attorney's fees and costs incurred at public hearing is a final decision appealable to the Full Commission pursuant to 804 CMR 1.23(1)(a), regardless of whether a party has appealed the underlying public hearing decision to the Full Commission.

1.13: Requests and Motions

(1) Requests. The Commission shall allow parties to make specific requests in *lieu* of motions through the MCAD Case Portal, and all parties and representatives shall use the MCAD Case Portal to make such requests. Such requests include, but are not limited to, requests for reasonable accommodation, requests for language assistance services, requests to withdraw the complaint, requests for mediation, pre-probable cause requests for extensions of time, and pre-probable cause requests for protective orders. If a specific request is available through the MCAD Case Portal, a motion shall not be filed addressing such request.

(2) Motions in General.

(a) Content. Motions shall be made in writing, state with particularity the grounds therefor, set forth the relief sought, and may include a proposed order. Motions shall contain a statement of the reasons, including supporting authorities, why the motion should be granted and may include a request for a hearing. Motions may contain affidavits and other documents setting forth or evidencing facts on which a motion is based.

(b) Filing. All motions filed at the Commission shall be managed and processed by the Clerk's Office.

(c) Format and Length for Motions, Oppositions, Replies, Sur-replies, and Memoranda. All motions, oppositions, replies, sur-replies, memoranda and other documents, except for exhibits, shall be filed on 8 ½" by 11" paper, when not filed electronically, be typed in no less than 12-point type, and be double spaced, provided that the case caption, footnotes and quotations may be single spaced. The margins shall be at least one inch. The title of each document shall appear on the first page thereof. Unless leave of the Commission is provided in advance, all motions, oppositions, and memoranda shall not exceed 20 pages, and any reply or sur reply shall not exceed ten pages.

(d) Sanctions for Noncompliance. The Commission need not act on any motion that fails to comply with the requirements of 804 CMR 1.13.

(3) Pre-probable Cause Motions.

(a) Recognized Motions. As required by 804 CMR 1.13(1), parties and representatives shall make specific requests recognized by 804 CMR 1.00 using the MCAD Case Portal in *lieu* of motion practice. Pre-probable cause motions recognized by the Commission are limited to those enumerated herein, and are required where recognized. The following motions may be filed pre-probable cause:

1. Motion for a More Definite Statement;
2. Motion for Substitution, Joinder, or Amendment of Parties;
3. Motion to Amend Complaint; or
4. Motion to Dismiss. Pre-probable cause motions to dismiss may be filed in *lieu* of the position statement or after a position statement has been filed. Grounds for a pre-probable cause motion to dismiss are limited to showing that:
 - a. Claims are filed in court or are being investigated by another forum;

1.13: continued

- b. Claims or respondents are outside of the jurisdiction of the Commission;
- c. Claims are precluded, or moot for any reason including settlement; or
- d. Claims are untimely filed.

(b) Procedure for Filing Pre-probable Cause Motions, Oppositions, Replies, and Sur-replies. All pre-probable cause motions, oppositions, replies, and sur-replies shall be filed independently in the MCAD Case Portal and are subject to the service rules within 804 CMR 1.16(3). A party opposing a motion may file an opposition to the motion within 14 days of service of the motion. The memorandum in opposition shall include a statement, with any supporting authorities, why the motion should not be allowed. Affidavits and other documents setting forth or evidencing facts on which the opposition is based shall be served with the opposition. The moving party may serve a reply within seven days of service of the opposition, following which any opposing party may serve a sur-reply within seven days of service of the reply. Reply and sur-reply memoranda shall be limited to addressing matters raised in the opposition or the reply that were not, and could not have been, addressed previously.

(c) Motion Conferences. In the event the Commission determines that a conference is necessary or shall aid in the disposition of a pre-probable cause motion, the Commission may order the parties to appear to answer questions and present oral argument in support of their respective positions.

(4) Post-probable Cause Motions.

(a) Parties Required to Confer Prior to Filing. Prior to any post-probable cause motion being filed, the parties are required to confer in good faith to attempt to reach resolution of the issues raised and relief being sought. The moving party shall be responsible for arranging said conference. Conferences may be conducted by telephone or other electronic means. All motions filed shall contain a certificate affirming compliance with the requirement to confer. Motions unaccompanied by such a certificate may be denied without prejudice to renew when accompanied by the required certificate.

(b) Procedure for Serving and Filing Post-probable Cause Motions, Oppositions, Replies, and Sur-replies.

1. Original Motion. The moving party shall first serve a copy of the motion and the other supporting documents on every other party or counsel.
2. Opposition to Motions. A party opposing a motion may serve the moving party with a memorandum in opposition within 14 days of service of the motion. The memorandum in opposition shall include a statement, with any supporting authorities, why the motion should not be allowed. Affidavits and other documents setting forth or evidencing facts on which the opposition is based shall be served with the opposition. Opposing parties shall serve on the moving party an original and a copy of the opposition, and serve a copy on every other party.
3. Reply and Sur-reply. Following receipt of the memorandum in opposition, the moving party may serve a reply within seven days of service, following which any opposing party may serve a sur-reply within seven days of service. Reply and sur-reply memoranda shall be limited to addressing matters raised in the opposition or the reply that were not, and could not have been, addressed previously.
4. Filing of Motion Packet through the MCAD Case Portal.
 - a. Upon receipt of the opposition or a sur-reply, if one is made, the moving party shall attach the original opposition and any reply and sur reply to the original motion and shall file with the Commission through the MCAD Case Portal the combined documents and a document listing the title of each paper in the motion packet within ten days of service of the opposition or, if a reply was served, within ten days of service deadline for sur-reply, unless the moving party has notified all parties that the motion has been withdrawn within ten days of service of the opposition or sur-reply.
 - b. If the moving party does not receive an opposition within three business days after expiration of the time permitted for service of an opposition, the moving party shall file the motion with the Commission and include an affidavit reciting compliance with 804 CMR 1.13(4)(a) and no receipt of a timely opposition.
 - c. The moving party shall give prompt notice of the filing of the motion to all other parties by serving a notice of filing which should include a listing of the title of each paper filed and the date the motion packet is filed with the Commission. Motions, oppositions, replies, and sur-replies shall include attorney signatures in compliance with 804 CMR 1.15(9).

1.13: continued

5. Service. Motions, oppositions, replies, and sur-replies may be served electronically, by U.S. mail or *via* personal service. If a motion, opposition, reply, or sur-reply is served by U.S. Mail, any time period identified in 804 CMR 1.13(4) shall be increased by three days.
- (c) Certificates of Service. The final page of every document served in accordance with 804 CMR 1.13(4) shall contain a certificate of service noting the date of service and the manner in which service was made on every party.
- (d) Motion Conferences. In the event the Commission determines that a conference is necessary or shall aid in the disposition of a motion, the Commission may order the parties to appear to answer questions and present oral argument in support of their respective positions.
- (e) Motions at Public Hearing. Motions made during the public hearing may be stated orally on the record.
- (5) Appeal of Order Granting or Denying a Motion.
- (a) Appeal to Full Commission. The Full Commission may entertain an interlocutory appeal of a Commission ruling occurring after certification and prior to public hearing if such appeal is related to the jurisdiction of the Commission or its authority to proceed on a matter. Prior to the issuance of a public hearing decision, an appeal to the Full Commission is not available for any other Commission rulings, except as provided in 804 CMR 1.15(5)(g). An order of the Full Commission issued in accordance with 804 CMR 1.13(5) is not a final order of the Commission and is not subject to judicial review pursuant to M.G.L. c. 151B, § 6 or M.G.L. c. 30A.
- (b) Motion for Reconsideration of an Order Issued after Certification to Public Hearing. In the absence of new evidence proffered, motions for reconsideration of such orders shall be denied.
- (6) Emergency Motions.
- (a) Motions for emergency relief shall contain a cover page bearing the heading "Emergency Motion" in large, bold type.
- (b) Motions for emergency relief shall set forth the facts showing the existence and nature of immediate and irreparable harm.
- (c) The moving party shall serve a copy of the motion seeking emergency relief on all other parties and counsel, simultaneous with the filing at the Commission. Such motions are exempt from 804 CMR 1.13(4)(b).
- (d) Emergency motions are exempt from 804 CMR 1.13(4)(a), although the Commission encourages all parties to confer in good faith prior to filing any such motion in order to narrow or obtain agreement upon the relief sought.

1.14: Subpoenas

- (1) General Provisions. Subpoenas shall be issued in the name of the Commission and in accordance with M.G.L. c. 151B, § 3 and M.G.L. c. 30A, § 12, subject to the following provisions:
- (a) Subpoenas may require the attendance and testimony of witnesses and the production, copying, and photographing of any evidence including, but not limited to, documents, other tangible things, or electronically stored information.
- (b) A subpoena may be served by any person who is not a party and who is 18 years of age or older.
- (c) Service of a subpoena upon a person named therein shall be made by personal service.
- (d) When a subpoena is issued at the request of a party other than the Commission, the cost of the service as well as witness and mileage fees shall be those as in civil cases before the courts and shall be borne by the moving party. The Commission may waive such fees upon a showing of economic hardship.
- (e) Upon a showing of economic hardship a party may move that a subpoena be issued by the Commission, which may be issued at the discretion of the Commission. Any such motion is exempt from 804 CMR 1.13(4)(a) and (b), although it shall be served on all counsel.
- (f) Any party issuing a subpoena to a non-party shall give 14 days' notice to the Commission and all parties prior to service, and the subpoena may not be served pending any motion filed pursuant to 804 CMR 1.10(8) or 804 CMR 1.14(2).

1.14: continued

- (g) A party may not serve subpoenas pre-probable cause unless authorized by the Commission.
- (h) A party may serve subpoenas post-probable cause once a discovery order has been issued.
- (i) Following certification to public hearing, a party may issue subpoenas compelling the attendance and testimony of witnesses and the production of documents and tangible things at public hearing.
- (j) All subpoenas shall identify the name and address of the party at whose request the subpoena was issued.

(2) Vacation or Modification of Subpoenas. Any non party subject to subpoena, counsel for any party to the proceeding, *pro se* party, or counsel for the Commission may move to vacate or modify a subpoena in accordance with 804 CMR 1.13, except that non-parties are exempt from 804 CMR 1.13(4)(a) through (c). The Commission shall review the subpoena to determine whether it should be vacated or otherwise modified and issue an order.

(3) Enforcement of Subpoenas. Upon the failure of any person to comply with a subpoena issued pursuant to 804 CMR 1.14 and not subsequently vacated or modified by the Commission, the Commission may, either through one of its attorneys or through a private attorney so designated, apply to the Superior Court for an order requiring compliance with the subpoena pursuant to M.G.L. c. 30A, § 12(5) and M.G.L. c. 151B, § 6. The Commission may seek an order for costs and attorney's fees from the Superior Court when enforcing subpoenas pursuant to 804 CMR 1.14(3), as well as appropriate sanctions under M.G.L. c. 151B, § 8.

1.15: Parties and Representatives

(1) Duty to Provide Contact Information. Parties and representatives are required to provide the Commission with contact information in the form of a current mailing address, email address, and telephone number, and shall update such information when there is a change to any such information. Parties and representatives are required to provide and update contact information in the MCAD Case Portal. A party that is allowed alternative means of case access pursuant to 804 CMR 1.15(15) shall provide and update contact information with the Commission in writing.

(2) Intervention. Any person or organization not originally a party to a complaint may move to intervene in a complaint, and shall be permitted to intervene, if, in the judgment of the Commission, after certification to public hearing, that person or organization has a material interest in the outcome of the complaint, and asserts a claim or defense which has common questions of law or fact with the complaint.

(3) Substitution, Joinder, or Amendment of Parties. The Commission may *sua sponte*, or upon motion of any party, make such substitution, joinder, or amendment of parties as justice or convenience may require. All parties shall be notified of any substitution, joinder or amendment.

(4) Consolidation. The Commission may *sua sponte*, or upon motion of a party, order complaints involving a common question of law or fact to be consolidated.

(5) Class Action.

(a) The Commission may grant permission or *sua sponte* determine that a case shall proceed as an authorized class action at any time after a probable cause determination pursuant to 804 CMR 1.08(1)(f)1. and prior to certification to public hearing pursuant to 804 CMR 1.11 if the following prerequisites are met:

1. The class is so numerous that joinder of all members is impracticable;
2. There are questions of law or fact common to the class;
3. The claims or defenses of the representative parties are typical of the claims or defenses of the class;
4. The representative parties shall fairly and adequately protect the interests of the class;
5. The public interest is served by a class proceeding; and
6. The parties are allowed an opportunity to submit briefs on the issue prior to a *sua sponte* determination.

1.15: continued

(b) A class action shall be maintained if the prerequisites of 804 CMR 1.15(5) are met, and the Commission finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to the other available methods for the fair and efficient adjudication of the controversy.

(c) The Commission may require such review and impose such terms as shall fairly and adequately protect the interests of the class on whose behalf the complaint is brought or defended. Whenever the representative party appears to the Commission inadequate to fairly protect the interests of absent individuals who may be bound by any Commission order, the Commission may, at any time prior to entry of the order certifying the class, amend the complaint to eliminate any reference to representation of absent persons. The Commission shall enter an order in such form as to affect only the parties to the action and those adequately represented.

(d) Respondent(s) or any person whose rights may be affected by the resolution of an authorized class action may challenge the class nature of the complaint before or within ten days' notice of certification to public hearing pursuant to 804 CMR 1.11 through a motion submitted to the Commission for a hearing concerning the validity of the class. The respondent or person challenging the authorized class action shall have the burden of showing by a preponderance of the evidence that the proposed class fails to satisfy the requirements of 804 CMR 1.15(5).

(e) An authorized class action shall not be withdrawn or modified without the approval of the Commission.

(f) In any case brought as a class action, the Commission may, when appropriate, order that all remedies shall apply to member(s) of the class.

(g) A party may appeal an order by the Commission certifying a class action to the Full Commission.

(6) Counsel Required following Probable Cause. Following a probable cause determination pursuant to 804 CMR 1.08(1)(f)1. the case in support of the complaint shall be presented before the Commission by an attorney. Such attorney may either be a Commission attorney, or, at the discretion of the Commission, an attorney retained by the complainant. The determination whether to assign one of the Commission's attorneys to a pending matter shall be made at the discretion of the Commission in consideration of the public interest.

(7) Private Representation. A complainant may have a private attorney notwithstanding the assignment of one of the Commission's attorneys to a case, although in such case counsel for the Commission has exclusive authority to present the case in support of the complaint and represent the public interest.

(8) Attorney Withdrawal.

(a) Prior to a conciliation conference held pursuant to 804 CMR 1.09, an attorney may, without leave of the Commission, withdraw from a matter by filing a written notice of withdrawal together with proof of service on their client and all other parties.

(b) Following the conciliation conference held pursuant to 804 CMR 1.09, an attorney may, without leave of the Commission, withdraw from a matter by filing a written notice of withdrawal which includes an appearance of successor counsel. Absent an appearance of successor counsel, an attorney shall obtain leave of the Commission to withdraw from a case. In deciding whether to allow the withdrawal of an attorney, the Commission's considerations may include, but are not limited to, the public interest necessary to assign one of the Commission's attorneys and the impact of a withdrawal on the timely, fair and efficient adjudication of the case.

(c) Unless there is appearance by successor counsel, every notice of withdrawal or request to withdraw filed under 804 CMR 1.15(8)(a) or (b) shall include current contact information for the party for whom representation is being withdrawn, including home and business address, email address and telephone number(s).

(d) Leave to withdraw without successor counsel shall be conditioned upon counsel's cooperation in the transfer of the matter to the Commission including, but not limited to, providing the Commission with all discovery conducted prior to withdrawal.

1.15: continued

(9) Attorney Signature.

(a) Every pleading, motion or document filed by a party represented by counsel shall be signed by counsel. The address of each attorney, telephone number, business email address, and bar registration number shall be stated.

(b) The signature of an attorney constitutes certification that the signer has read the pleading, motion, or document; that based on the signer's knowledge, information, and belief, it is grounded in fact and warranted by existing law or constitutes a good faith argument for the extension, modification, or revision of existing law; and is not interposed for any improper purpose, such as to harass or cause unnecessary delay or increase in the cost of the proceedings.

(c) Any pleading, motion, or document filed by counsel that is unsigned shall be stricken, unless it is signed promptly after the omission is brought to the attention of the attorney who filed the document.

(d) If a pleading, motion, or other document submitted to the Commission fails to comply with the requirements within 804 CMR 1.15(9), the Commission may impose sanctions in accordance with 804 CMR 1.22 upon the attorney, the represented party, or both, including an order to pay reasonable expenses and attorney's fees incurred by the opposing party or the Commission as a result of the noncompliant document.

(10) Enforcement by Private Counsel. The Commission may grant a request by complainant's counsel to be the designated agent of the Commission for purposes of enforcement of a settlement agreement, consent order, subpoena or final order of the Commission provided that the interest of the complainant and the interest of the Commission are not in conflict. Designation of private counsel as agent of the Commission for purposes of enforcement shall be made in writing.

(11) Attorney Notice of Appearance and Pro Hac Vice Notice. Any attorney representing a client in a complaint filed with the Commission shall be a member in good standing of the bar of the Commonwealth of Massachusetts and shall file a notice of appearance. The filing of a complaint on behalf of a client pursuant to 804 CMR 1.04(1) shall constitute a notice of appearance. If an attorney is not a member of the Massachusetts bar, in order to be admitted to represent a client *pro hac vice*, a motion for admission shall be filed in conformance with the following:

(a) The motion shall be signed and filed by a member in good standing of the Massachusetts bar on behalf of the attorney seeking admission *pro hac vice*.

(b) The motion shall be accompanied by an affidavit from the attorney signing the motion stating that the out of state attorney is a member of the bar in good standing in every jurisdiction where admitted to practice; there are no disciplinary proceedings pending; and the attorney is familiar with the Commission's regulations and the Massachusetts anti-discrimination laws.

(12) Limited Exception to Attorney Pro Hac Vice Admission. Pre-probable cause and during any appeal filed pursuant to 804 CMR 1.08(4)(b), an attorney who is a member in good standing of a state bar outside of Massachusetts may represent a party before the Commission without being admitted *pro hac vice*. After the issuance of a probable cause determination under 804 CMR 1.08(1)(f)1., an attorney who is not a member of the Massachusetts bar in good standing or admitted *pro hac vice* may not represent a party before the Commission.

(13) Appearance by a Duly Authorized Representative. Except for when a sanction issues pursuant to 804 CMR 1.22(2)(d), a party shall have exclusive control over whether a duly authorized representative appears on their behalf and a party may authorize or revoke such representation at any time. Any authorization or revocation shall be filed in writing by the party with the Commission. A duly authorized representative is not allowed to file a complaint through the MCAD Case Portal on behalf of a complainant but may assist a complainant in the drafting and preparation of a complaint through the MCAD Case Portal. After such complaint is filed, the complainant may formally authorize the duly authorized representative to act on their behalf.

(14) Scope of Duly Authorized Representation. In accordance with the prohibition against the practice of law by non-attorneys, duly authorized representatives are not allowed for any party after the issuance of a probable cause disposition.

1.15: continued

(15) Use of the MCAD Case Portal after the Filing of the Complaint. *Pro se* parties and representatives are required to use the MCAD Case Portal for all filings, case access, and communication with the Commission after the filing of the complaint. *Pro se* parties may be excused from using the MCAD Case Portal if they demonstrate a compelling inability to access or use the MCAD Case Portal or have received reasonable accommodation due to a disability. Representatives may be excused from using the MCAD Case Portal if they have received reasonable accommodation due to a disability.

1.16: Service and Notice(1) Service by the Commission.

(a) Manner of Service. The Commission may serve any document, including the complaint, in a manner reasonably calculated to ensure receipt including, but not limited to, service through the MCAD Case Portal, by U.S. Mail, personal service, or service *via* email.

(b) Service of the Complaint upon Respondent. Notice of the complaint shall be deemed sufficient and a respondent shall be deemed properly served with the complaint when:

1. A complaint is served on a respondent who is a registered user of the MCAD Case Portal through the MCAD Case Portal;
2. A respondent registers as a user in the MCAD Case Portal in response to the complaint after service by any means;
3. An attorney for a respondent enters an appearance through the MCAD Case Portal in response to the complaint after service by any means;
4. A certified mail receipt is returned from a legal entity or their agent authorized to accept service; or
5. Service is *via* personal service.

(2) Sufficient Notice after Service of the Complaint. After service of the complaint, all registered users of the MCAD Case Portal shall be notified of case documents and proceedings through system notifications sent to their registered email addresses, in accordance with the parties' obligation to keep contact information up to date and accurate pursuant to 804 CMR 1.15(1). System notifications shall constitute sufficient notice of the content communicated within the notifications or attached thereto. If a party does not register or participate as a user in the MCAD Case Portal after proper service of the complaint, either because they are authorized to use alternative means of filing and case access pursuant to 804 CMR 1.15(15) or because of a failure to participate in the investigation or adjudication of a complaint after service, the party shall be deemed on notice of every document served by the Commission or the parties to the party's last known address.

(3) Service by the Parties.

(a) Service through the MCAD Case Portal. Filing a document through the MCAD Case Portal is deemed served on all parties and representatives who are registered users of the MCAD Case Portal. No certificate of service is required for such filings.

(b) Service Other than through the MCAD Case Portal. Where service is made by any means other than through the MCAD Case Portal, the serving party shall include a certificate of service with the document. The certificate shall state the date and manner of service and the parties served. Service outside the MCAD Case Portal includes but is not limited to the following:

1. Post-probable Cause Motion Practice. Where motions, oppositions, replies, or sur-replies must be served on opposing parties prior to filing the motion package under 804 CMR 1.13(4), service shall be made in accordance with that section.
2. Discovery. Discovery documents shall not be served through the MCAD Case Portal, except for notices of non-party subpoenas filed pursuant to 804 CMR 1.14(1)(f). All discovery documents served shall include a certificate of service.

(c) Alternative Means of Filing, Case Access, and Communication with the Commission. Where the Commission authorizes a party to use alternative means for filing, case access, or communication with the Commission pursuant to 804 CMR 1.15(15), service on that party shall comply with the Commission's order and all such service shall include a certificate of service on every document.

1.17: Computing and Extending Time(1) Computation.

(a) In computing any period of time prescribed or allowed by 804 CMR 1.00 or by order of the Commission, the day of the act or event, including default, after which the designated period of time begins to run shall not be included.

(b) The last day of the period being computed shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs to the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

(c) When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

(d) A legal holiday for the purposes of 804 CMR 1.17(1)(b) includes those days specified by M.G.L. c. 4, § 7 and any other day appointed as a holiday by the President or the Congress of the United States, or designated by the Laws of Massachusetts.

(2) Extensions.

(a) Pre-probable Cause. During any stage of the investigation, upon written request and for good cause shown, any party may request an extension of time. The request shall be addressed to the Commission and state the extension of time being requested and the reason(s) for the extension.

(b) Post-probable Cause. After an investigative disposition has issued, any request for an extension shall be made to the Clerk's Office and shall be subject to motion practice and other requirements within 804 CMR 1.13.

1.18: Proceedings on Commission Initiated Complaints(1) General Provisions.

(a) All complaints initiated by the Commission pursuant to M.G.L. c. 151B, § 5 and 804 CMR 1.04(1)(e) shall be processed under 804 CMR 1.18, unless otherwise ordered by the Commission.

(b) Such matters shall be investigated, heard and determined by the Commission as expeditiously as possible.

(c) Upon a Commission initiated complaint, the procedures of 804 CMR 1.00 shall be suspended, with the exception of proceedings pursuant to 804 CMR 1.23, 1.24 and 1.25.

(d) The Commission may make the complaint and the terms of any settlement agreement publicly available at any time.

(2) Service and Investigation.

(a) The Commission shall serve a Commission initiated complaint on each of the respondents *via* personal service. Such service shall include a notice requiring each respondent to file a position statement as described in 804 CMR 1.05(8) within 21 days of service.

(b) The Commission may serve subpoenas *via* personal service as it deems necessary to investigate the matter.

(c) The Commission shall, within 45 calendar days of service of the Commission initiated complaint, convene an investigative conference, as described in 804 CMR 1.05(10), except that the Commission may provide less than 14 days' notice of the conference. Notice of the date, time, and place of the conference shall be served upon the respondents. The investigative conference shall result in one of the following outcomes:

1. The Commission may determine that a lack of probable cause exists for crediting the allegations of the complaint, and shall notify the parties of such determination. Such determination shall be the final order of the Commission, and is not subject to preliminary appeal pursuant to 804 CMR 1.08(4)(b) or Full Commission or judicial review pursuant to M.G.L. c. 151B, § 6 or M.G.L. c. 30A.

2. The Commission may determine that probable cause exists for crediting the allegations of the complaint, in which case the Commission shall immediately endeavor to eliminate the unlawful practice complained of by conference, conciliation and persuasion.

If the Commission finds probable cause to credit the allegations of any housing complaint, the Commission shall immediately serve notice upon the respondent of the right to elect judicial determination of the complaint pursuant to M.G.L. c. 151B, § 5.

1.18: continued

(3) Certification to Public Hearing.

(a) The Commission may certify the claims for public hearing if the matter is not settled through conciliation. In any matter certified for public hearing the Commission may seek all remedies available pursuant to M.G.L. c. 151B.

(b) The Commission shall serve a written notice requiring respondent to answer the certified claims at a public hearing before the Commission, at a time and place to be specified in the notice. Requests to continue shall be granted only upon a showing of good cause.

(4) Public Hearing.

(a) The public hearing should, if at all practicable, occur within 60 days of the investigative conference described in 804 CMR 1.18(2)(c).

(b) The case in support of the certified claims shall be presented before the Commission by counsel for the Commission.

(c) The respondent shall appear at the public hearing in person, with or without an attorney, and may submit evidence to rebut the certified claims.

(5) Public Hearing Decision. The Commission should, if at all practicable, issue a final order and decision within 60 days from the conclusion of a public hearing pursuant to 804 CMR 1.18(4).

1.19: Emergency ProceedingsGeneral Provisions.

(1) The Commission may upon motion demonstrating necessity, or sua sponte, order that any matter under its jurisdiction be processed as an emergency proceeding. The Commission may seek all remedies available pursuant to M.G.L. c. 151B.

(2) Such matters shall be investigated, heard and determined by the Commission as expeditiously as possible.

(3) Upon an order that a matter be set for emergency proceedings, the procedures of 804 CMR 1.00 shall be suspended, with the exception of 804 CMR 1.23, 1.24 and 1.25.

1.20: Language Assistance Services

(1) Basis for Services. Parties who require language assistance services to ensure meaningful access to, participation in and understanding of Commission proceedings, programs or services, shall be provided such services.

(2) Request Required. Language and interpreter assistance services may be provided if the individual in need or his or her representative makes a written or verbal request for such services in advance of the proceeding, or if the Commission determines there is a need for said services. The Commission retains discretion to determine when such services are needed.

(3) Type of Services. The services to be provided, whether telephonic interpretation, professional interpretation services, or interpretation by a competent bilingual staff member or other bilingual individual, or other language assistance service, shall be determined by the Commission.

(4) Adequate Notice Required. Parties requiring language assistance services shall make every effort to give adequate notice to the Commission of the need for such services. If the Commission determines that such services are required and inadequate notice has been provided to secure such services, a proceeding may be continued until such time as the services may be secured.

(5) Request for a Specific Interpreter. Whether to allow a party's request for interpretation services from a particular individual is entirely within the discretion of the Commission.

1.21: Access to Commission Materials and Restrictions to Personal Data

(1) Case Information Available to the Public. The following requirements apply to a request for case information by the public, all subject to 804 CMR 1.21(3):

1.21: continued

- (a) Pre-probable Cause. The investigative file in every charge under investigation, including the complaint, shall be confidential and exempt from public disclosure.
- (b) After Investigative Disposition. The investigative file in every charge after an investigative disposition issues shall be confidential and exempt from public disclosure except for the complaint and the investigative disposition. The post-probable cause record of all docketed proceedings, filings, orders, and notices begins at the issuance of a probable cause determination and does not include the investigative file except for the complaint, shall be available upon case dismissal or the issuance of a public hearing decision, whichever is first. In the event of an appeal pursuant to 804 CMR 1.23, the record of the appeal shall be available upon case dismissal or the issuance of a final decision by the Full Commission, whichever is first.
- (2) Additional Case Information Available to the Parties. After the issuance of an investigative disposition, the investigative file shall be available to the parties except that all records described in 804 CMR 1.21(3) shall be unavailable.
- (3) Unavailable Information. Privileged information, attorney work product, information exempt from disclosure pursuant to the public records law or other laws, information withheld or redacted pursuant to 804 CMR 1.21(4), and information placed under a pseudonym or protective order by the Commission pursuant to 804 CMR 1.04(7), 1.05(12) or 1.12(9) is not available to the public or to the parties.
- (4) Restrictions on Personal Data Identifiers in Filings. To protect personal privacy, parties and representatives shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all filings and exhibits submitted to the Commission, whether filed electronically or on paper, unless otherwise ordered by the Commission:
- (a) Social Security, Taxpayer Identification, Driver's License, State-issued Identification Card, or Passport Numbers. If any such individual numbers shall be included in a filing, only the last four digits of that number should be used.
- (b) Names of Minor Children. If the involvement of a minor child shall be included in a filing, they shall be referred to only as "minor child," although multiple minor children shall be distinguished from one another numerically, *i.e.*, "minor child 2."
- (c) Dates of Birth. If an individual's date of birth shall be included in a filing, only the year should be used.
- (d) Financial Account, Credit or Debit Card Numbers. If any such financial account numbers shall be included in a filing, only the last four digits of these numbers should be used.
- (e) Medical Record Numbers or Patient Identification Numbers. If any such medical record numbers shall be included in a filing, only the last four digits of these numbers should be used.
- (f) Mother's Maiden Name. If a person's mother's maiden name is identified as such, only the first initial of the maiden name shall be used.
- (5) Responsibility for Redaction and Availability of Original. The responsibility for redacting personal data identifiers rests solely with parties and representatives. The Commission shall not review each filing for compliance with 804 CMR 1.21(4). Parties and representatives shall keep a complete copy of any document redacted containing the complete personal data identifier and shall furnish it to the Commission promptly upon request by the Commission to produce an unredacted version of the document.

1.22: Sanctions

- (1) Grounds for Sanctions. Parties, representatives and others accessing Commission services and offices may be subject to sanctions as provided throughout 804 CMR 1.00 and on the following grounds:
- (a) Failure to comply with any provisions in 804 CMR 1.00 as applicable, or any directive or order by the Commission;
- (b) Abusive, disruptive, or harassing behavior towards other parties, representatives, Commissioners, or Commission staff;

1.22: continued

(c) The filing of three or more complaints subject to dismissal pursuant to 804 CMR 1.05(2)(b)(1) through (8) or administrative dismissal *via* sanctioning authority in 804 CMR 1.22 in a one-year period; or

(d) The intentional filing of documents containing false information, including false information generated by artificial intelligence.

(2) Sanction Types. Sanctions may include but are not limited to:

(a) The award of attorney's fees and costs to other parties or the Commission;

(b) Administrative dismissal of the complaint;

(c) Limitations to or denial of access to Commission offices;

(d) Removal of duly authorized representation authorization;

(e) Denial of access to the MCAD Case Portal;

(f) Written reprimands;

(g) Limitations on communications with Commission staff; or

(h) Investigative default against a respondent pursuant to 804 CMR 1.07.

(3) Sanction Orders Required. An order is required to impose any sanction in 804 CMR 1.22 which shall address the grounds and the timeframe for the sanction imposed.

1.23: Full Commission Review

(1) Review of Public Hearing Decision.

(a) Time Period for Request. Any party aggrieved by a final public hearing decision may, within ten days of receipt of the decision, file a notice of appeal with the Clerk's Office.

(b) Petition for Review. Within 30 days of receipt of the decision, the appellant shall file with the Commission a petition for review with the Clerk's Office setting forth:

1. A statement of the claims presented for review;

2. A succinct statement of facts relevant to the issue(s) presented for review with appropriate citation references to the record upon which the appellant relies to support the appeal;

3. Any findings of fact which the appellant claims are not supported by substantial evidence and unwarranted by the facts in the record;

4. Any alleged error of law, including citations to the authorities, statutes and parts of the record relied on;

5. All other matters on which the appellant relies to support the appeal; and

6. The relief to which the appellant claims they are entitled, which relief may be requested in the alternative.

(c) Service. The party filing a notice of appeal or petition for review of a public hearing decision shall serve a copy of the notice and petition upon all parties to the proceeding.

(2) Intervention in the Review.

(a) Any party to the public hearing shall have the right to intervene in the review proceeding by filing a notice of intervention stating the party's interest and the position taken with respect to the decision under appeal.

(b) The Full Commission may in its discretion permit other interested persons to intervene in the review proceeding, if such persons are substantially and specifically affected by the proceedings.

(c) The notice of intervention shall be filed within ten days of receipt of the petition for review and shall be served on all parties by the intervener.

(d) An intervener may file a brief in reply to the petition for review addressing the appellant's arguments within 30 days of receipt of the petition for review, which shall be served on all parties by the intervener.

(3) Form of Petition for Review and Intervener's Brief. Except by permission of the Full Commission, a petition for review and any intervener's brief shall not exceed 30 pages, shall be filed on 8 ½" by 11" paper, when not filed electronically, be typed in no less than 12-point type, and be double spaced, provided that the case caption, footnotes, and quotations may be single spaced. The margins shall be at least one inch.

1.23: continued

- (4) Citation of Supplemental Authorities. When pertinent and significant authorities come to the attention of a party after the petition for review or intervener's brief has been filed, a party shall promptly advise the Full Commission, by letter, with a copy to all parties, setting forth the citations.
- (5) Stay of Order. The filing of a petition for review of a public hearing decision shall operate as a stay of execution of the public hearing decision, unless ordered otherwise by the Full Commission.
- (6) Full Commission Members. The Commissioners who have been assigned to a matter post-probable cause up to certification shall not participate in the deliberations of the Full Commission except when necessary to create a quorum of the Full Commission or to resolve a split decision.
- (7) Oral Argument. The Commission may, in its discretion, order oral argument on a petition for review.
- (8) Record of Review. The petition for review shall be confined to the record presented at the public hearing.
- (9) Additional Evidence. If application is made to the Full Commission for leave to present additional evidence, and it is shown to the satisfaction of the Full Commission that the additional evidence is material to the claims in the case, and that there was good reason for failure to present it at public hearing, the Full Commission may order that the additional evidence be taken after remand upon such conditions as the Full Commission deems proper.
- (10) Full Commission Decision. After review of the decision of the Hearing Commissioner, the Full Commission may affirm the decision, or remand the matter for further proceedings before the Hearing Commissioner; or set aside or modify the decision, if it determines that the substantial rights of any party may have been prejudiced because the decision is:
- (a) In violation of constitutional provisions;
 - (b) In excess of the statutory authority or jurisdiction of the Commission;
 - (c) Based on an error of law;
 - (d) Made on unlawful procedure;
 - (e) Unsupported by substantial evidence; or
 - (f) Arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law or the order certifying the claims to public hearing.
- (11) Commission Initiated Review of Public Hearing Decisions. The Full Commission may review the final public hearing decision *sua sponte*. In addition, a Commissioner who presided over the matter post-probable cause, may request the Full Commission to review a public hearing decision. In such event, the Full Commission may order oral argument, or order the parties to submit memoranda of law or fact.
- (12) Request for Award of Attorney's Fees and Costs after Issuance of Full Commission Decision. Where the complainant prevails in an appeal to the Full Commission, the complainant may, within 15 days of receipt of the Full Commission decision issued pursuant to 804 CMR 1.23(10) or (11), petition for an award of reasonable attorney's fees and costs subject to the following provisions:
- (a) The petition shall include detailed, contemporaneous time records, a breakdown of costs, and a supporting affidavit from every attorney for whom the fees are sought. The petition shall also include information about fair market hourly rates of attorneys with similar skill and experience performing similar work, which may be in the form of affidavits from attorneys with knowledge of such hourly rates or model fee charts, or other documentation;
 - (b) If complainant is the appellant, the petition may contain a request for fees and costs incurred prior to the appeal as well as those incurred as a result of litigating the appeal;
 - (c) If complainant is the appellee, the petition may contain only a request for supplemental fees and costs incurred as a result of litigating the appeal, as the costs incurred in prior proceedings before the Full Commission shall have been requested in accordance with 804 CMR 1.12(19);

1.23: continued

- (d) A respondent may file an opposition within 15 days of receipt of said petition; and
- (e) The decision by the Full Commission on the petition for the award of attorney's fees and costs, together with the Full Commission decision issued pursuant to 804 CMR 1.23(10) or (11) shall constitute the final order of the Commission for the purpose of judicial review pursuant to M.G.L. c. 151B, § 6 and M.G.L. c. 30A.

1.24: Judicial Review

- (1) Final Commission Order. For the purpose of judicial review pursuant to M.G.L. c. 151B, § 6 and M.G.L. c. 30A, only the decision of the Full Commission pursuant to 804 CMR 1.23(10), (11) or (12) shall constitute the final order of the Commission.
- (2) Who May Obtain Judicial Review of a Final Commission Order. Judicial review of a final Commission order may be obtained by the complainant, respondent or other person aggrieved by such order pursuant to M.G.L. c. 151B, § 6.

1.25: Judicial Enforcement

- (1) Final Commission Order. Where no party files a timely appeal to the Full Commission, the public hearing decision shall constitute the final order of the Commission for the purposes of judicial enforcement. If an appeal to the Full Commission is timely filed, or the public hearing decision is reviewed *sua sponte*, the Full Commission decision shall constitute the final order of the Commission for purposes of judicial enforcement. Consent orders entered into by the Commission may constitute final orders of the Commission for the purposes of judicial enforcement.
- (2) Who May Obtain Judicial Enforcement of a Final Commission Order. A party to a consent order or a person affected by a final order of the Commission may request that the Commission initiate an action for enforcement. The Commission may obtain enforcement by filing a petition in the appropriate state court pursuant to M.G.L. c. 151B, § 6. The Commission may appear in court at enforcement proceedings through one of its attorneys, or it may designate an attorney for the party aggrieved by the alleged violation of the consent order or final order of the Commission as agent of the Commission for the purpose of obtaining enforcement, in writing. An attorney so designated is not authorized to negotiate settlement terms addressing relief in the public interest ordered in a final Commission order, including civil penalties issued pursuant to M.G.L. c. 151B, § 5 or affirmative relief.
- (3) Method of Enforcement. The Commission may seek to enforce the provisions of M.G.L. c. 151B, M.G.L. c. 151C, or M.G.L. c. 272, §§ 92A, 98, or 98A, or any other statutes under the jurisdiction of the Commission, or 804 CMR 1.00 by utilization of the procedures set forth in M.G.L. c. 151B, §§ 5, 8, M.G.L. c. 214, § 3(12) or (13) or any other lawful means as the interests of justice demand.

REGULATORY AUTHORITY

804 CMR 1.00: M.G.L. c. 151B, § 3; M.G.L. c. 151C, § 5.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth

Notice of Correction

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 940 CMR 11.00

CHAPTER TITLE: Fair Information Practices Act

AGENCY: Office of the Attorney General

ORIGINAL PUBLICATION REFERENCE: 1562 Date: 12/5/25

SUMMARY OF CORRECTION:

Section 11.02 - address an indentation issue and remove spacing errors. Also remove the word "nor" in section (a) of the "Personal Data" definition. Section 11.03 - address a spacing issue. Section 11.04 - Remove an unnecessary "and" and add an "and" in subsection (h).

AGENCY CONTACT: Lisa Sears PHONE: 617-963-2056

ADDRESS: One Ashburton Place, 20th Floor, Boston, MA 02108

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 03 2026

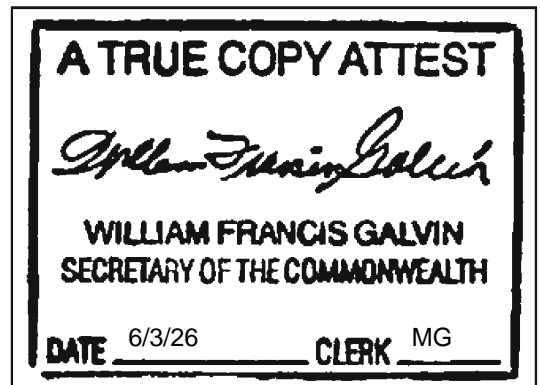
Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 12/5/25

CODE OF MASSACHUSETTS REGULATIONS

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940 CMR 11.00: FAIR INFORMATION PRACTICES ACT

Section

11.01: General Provisions

11.02: Meaning of Terms

11.03: Receipt, Collection, and Maintenance of Personal Data

11.04: Access to Personal Data by Persons Other than the Data Subject

11.05: Access to Personal Data by Data Subjects

11.01: General Provisions

(1) Application. 940 CMR 11.00 shall apply to the Attorney General and the Department of the Attorney General, the governmental entity created by M.G.L. c. 12, § 1 (collectively the “AGO”).

(2) Scope. 940 CMR 11.00 shall govern the collection, maintenance, and dissemination of personal data contained in the personal data systems of the AGO.

(3) Severability. If any section of 940 CMR 11.00 is finally determined to be unlawful or invalid, the other sections shall continue in effect and shall be enforceable.

11.02: Meaning of Terms

Consistent with the purposes of M.G.L. c. 66A and the definitions as set forth in M.G.L. c. 66A, § 1, the following terms shall have the following additional meanings:

Compulsory Legal Process shall mean a demand for personal data that is issued by or through a federal or state court or administrative agency or party to any such litigation, including through summons; subpoena; discovery request; or other demand.

Criminal Offender Record Information (CORI) shall have the same meaning as set forth in M.G.L. c. 6, § 167. Pursuant to the definition contained within M.G.L. c. 66A, § 1, CORI is not “personal data”.

Data Subject shall have the same meaning as set forth in M.G.L. c. 66A, § 1. In addition, “similar entities” excluded from 940 CMR 11.02: Data Subject shall include sole proprietorships or other businesses, and not-for-profit or charitable entities.

Evaluative Information shall have the same meaning as set forth in M.G.L. c. 6, § 167. Pursuant to the definition contained within M.G.L. c. 66A, § 1, evaluative information is not “personal data”.

Intelligence Information shall have the same meaning as set forth in M.G.L. c. 6, § 167. Pursuant to the definition contained within M.G.L. c. 66A, § 1, intelligence information is not “personal data”.

Personal Data shall mean any information concerning an individual which, because of name, identifying number, mark, description, or other such personal identifiers, can be readily associated with a particular individual; provided that such information is not contained in a public record, as defined in M.G.L. c. 4, § 7, clause Twenty-sixth. Personal data shall not include the following:

- (a) intelligence information, evaluative information, or criminal offender record information;
- (b) the government employees' or contractors' analysis of personal data (including mental impressions or opinions of, or conclusions, recommendations, or advice based on, or attorney-client privileged communications regarding, such personal data), where such analysis is not, or is not contained in, a public record;
- (c) information that is protected by statute and/or protective order; or
- (d) proprietary or financial records or data collected by the AGO from corporations, partnerships, sole proprietorships, trusts, or other business entities.

11.03: Receipt, Collection, and Maintenance of Personal Data(1) General Rules regarding Personal Data.

- (a) The AGO shall not collect or maintain more personal data than is reasonably necessary for the performance of its functions;
- (b) The AGO shall take reasonable precautions to protect personal data from dangers of fire, identity theft, theft, flood, natural disaster, or other physical threat;
- (c) The AGO may receive, collect, and maintain personal data from other persons or entities, including but not limited to agencies, public officials, and employees the AGO represents in civil litigation; and
- (d) The AGO may receive, collect, and maintain personal data from other persons or entities, including but not limited to federal, state, or local governmental entities, including the courts, for law enforcement purposes or other AGO functions, purposes, services, or initiatives not specified above.

(2) Personnel Requirements.

- (a) Training. The AGO shall inform all of its employees who have responsibilities or functions involving the design, development, operation, or maintenance of a personal data system, or the use of personal data therein, of the provisions of 940 CMR 11.00, the AGO obligations regarding such data, and of the civil remedies available to individuals whose rights under M.G.L. c. 66A are allegedly violated.
- (b) Information Officer Designation. For each personal data system it maintains, the AGO shall designate an Information Officer to serve as the responsible individual under M.G.L. c. 66A, § 2(a). Such individual should be one with familiarity in the operation of the system and have unlimited access to the data within. A single employee or designee may serve as the Information Officer for more than one such system.
- (c) Record of Access. The AGO shall maintain complete and accurate records which show any access to or use of personal data the AGO holds; provided, however, that access or use by employees within the AGO or its contractors need not be recorded. These records shall include every disclosure of personal data, including the identity of all persons and organizations to which such access or use has been granted. To the extent feasible, these records shall be made part of the data to which they relate for all purposes under 940 CMR 11.00.
- (d) Notice and Report to the Secretary of the Commonwealth. The AGO shall, upon the establishment, termination, or substantial change in character of a personal data system, file a report with the Secretary of the Commonwealth regarding each such personal data system, as required by M.G.L. c. 30, § 63.
- (e) Sanctions Against Employees. Any employee of the AGO found in violation of 940 CMR 11.00 shall be subject to reprimand, suspension, dismissal, or other disciplinary actions consistent with the AGO Employee Manual and any applicable Collective Bargaining Agreement that is in place, and may be denied future contact with personal data and removed from holding responsibility relative to such data.

11.04: Access to Personal Data by Persons Other than the Data Subject(1) General Rules regarding Access to Personal Data.

- (a) Access to Personal Data. Except as provided in 940 CMR 11.04, the AGO shall not allow any other agency or individual not employed or contracted by the AGO to have access to personal data unless such access is authorized by law, or is approved by the data subject if the data subject is entitled to access under M.G.L. c. 66A, § 2(i) and 940 CMR 11.00.
- (b) Response to Public Records Requests. Any information concerning an individual which, because of name, identifying number, mark, description, or other such personal identifiers, can be readily associated with a particular individual, that is contained in a public record as defined by M.G.L. c. 4, § 7, clause Twenty-sixth, is not “personal data” and therefore, public records containing such information may be disseminated to any person making such request, provided that any personal information as defined by M.G.L. c. 93H is redacted prior to dissemination. As illustration, and without limitation, the following records received and maintained by the AGO may be considered “public records”.
 - 1. open meeting law complaints, excluding the complainant’s personal contact information such as their residential address, personal telephone and/or email address;

11.04: continued

2. public records requests;
3. responses to AGO solicitation for public comment; and
4. records that have already been filed with, and are available to the public through, any state or federal court.

(2) Allowable Dissemination of Personal Data. Consistent with the purposes of M.G.L. c. 66A and 940 CMR 11.00, the AGO may disseminate personal data to persons other than the data subject as follows:

- (a) The AGO may disseminate personal data if such dissemination is authorized in writing by the data subject;
- (b) The AGO may disseminate personal data in response to compulsory legal process, provided that the procedures required by M.G.L. c. 66A, § 2(k) are followed;
- (c) The AGO may disseminate personal data to another federal, state, or local governmental entity for criminal or civil law enforcement purposes, including multi-state investigations, provided the AGO and any such entity have an agreement or protective order in place to keep the personal data confidential;
- (d) The AGO may disseminate personal data where such dissemination is necessary to make a good faith effort to settle a case in which the AGO is or represents a party in the course of litigation, or to resolve, settle, or mediate a matter which would otherwise be necessary to litigate, or which otherwise could not be resolved;
- (e) The AGO may disseminate personal data to a national or multi-state public or private entity that collects such data for statistical purposes, provided that the entity and the AGO have an agreement in place that preserves the anonymity of the individuals to whom the personal data relates;
- (f) The AGO may disseminate personal data to the entity or individual that originally provided the AGO with such data;
- (g) The AGO may disseminate personal data for any other purpose not explicitly set forth in M.G.L. c. 66A, § 2(c), provided that such dissemination is not inconsistent with the purposes of M.G.L. c. 66A, *i.e.*, the purpose(s) for which the information was originally collected, and with other applicable laws;
- (h) The AGO may disseminate personal data as required by an order of a court of competent jurisdiction; and
- (i) The AGO may disseminate personal data as required by Mass. R. Crim. P. 14.

11.05: Access to Personal Data by Data Subjects

(1) General Rules Regarding Access to Personal Data.

- (a) Data Subject Inquiry. The data subject may request, in writing, that the AGO perform a search to locate the subject's own personal data held within the personal data systems maintained by the AGO. Such search shall be considered compliant with M.G.L. c. 66A, § 2 if the name of the data subject is used to search for any such personal data within all personal data systems.
- (b) Request of Data Subject for Notification of Holding. Where required by law, the AGO shall, within 20 days of receipt of a request, inform any data subject in writing whether the AGO maintains any personal data concerning such individual within its personal data systems.
- (c) Notification of Denial of Access to Data. If access is denied, the AGO shall, within 20 days of receipt of a request, notify in writing a data subject of its denial of the request for access.
- (d) Right of Data Subject to Access. Where access is required by law, the AGO shall, in a timely manner, grant a data subject access to the subject's own personal data within the personal data systems maintained by the AGO to which the data subject is entitled in accordance with 940 CMR 11.05.
- (e) Modes of Access. The AGO may, at its discretion, provide a data subject with the subject's own personal data by either creating a compilation of the data that is contained within the personal data systems maintained by the AGO, or reproducing the records that contain personal data.

11.05: continued

(f) Payment of Fees. The AGO may charge fees in accordance with 940 CMR 11.05 when a data subject requests that a search for personal data be made, and for the inspection, creation, or copying of any record containing the personal data to which access is granted, according to the fee schedule set forth in 940 CMR 11.05(1)(g). The AGO may require prepayment of fees or may waive such requirement.

(g) Fee Schedule. The AGO may charge the following fees for responding to a request under M.G.L. c. 66A:

1. The labor cost to search a system of records for personal data, and, if found, to remove third-party identifiers (redaction), if applicable, and to prepare the personal data, or the records containing the personal data, for inspection or photocopying will be \$15.00 per hour;
2. The cost to provide a copy of the personal data, or the records containing personal data, will be \$.25 per page, which may be adjusted from time to time according to the Consumer Price Index. Notice of any such adjustment will be provided to the requesting party before any copies are made;
3. Where the records containing personal data cannot be simply photocopied or printed from a computer, the actual cost to reproduce the personal data may be assessed; and
4. For requests entailing less than one hour of search and redaction time, and resulting in no more than 50 pages of records, a flat fee of \$15.00 may be assessed; a flat fee of \$15.00 may also be assessed for requests requiring the creation of a compilation in order to more efficiently provide the personal data to the data subject.

(h) Known Personal Data. A request by a data subject for a copy of the records containing all of the subject's own personal data submitted to the AGO by the data subject, or a copy of all records containing personal data already provided to the data subject by the AGO, shall not be considered a request for personal data under M.G.L. c. 66A. The AGO, in its discretion and in compliance with records retention policies, may copy or return such records after receipt from the requester of a flat fee of \$20.00.

(2) Objections by Data Subjects.

(a) A data subject who objects to the accuracy, completeness, pertinence, timeliness, relevance, dissemination, or denial of access to the subject's own personal data that is maintained in the personal data system(s) of the AGO, may, individually or through a duly authorized representative, file an objection with the Information Officer Designee responsible for the personal data system in question.

(b) The Information Officer Designee responsible for such personal data system shall, within 30 days of the receipt of an objection:

1. Investigate the validity of the objection; and
2. If the objection is found to be meritorious after investigation, alter the contents of, or the methods for holding, or the dissemination or use of such personal data, or grant access to it; or
3. If the objection is found to lack merit after investigation, provide the data subject the opportunity to have a statement reflecting the individual's views maintained and disseminated with the data in question; and
4. Notify the data subject in writing of any AGO decision regarding the individual's objection.

REGULATORY AUTHORITY

940 CMR 11.00: M.G.L. c. 66A, § 3.

(PAGES 89 THROUGH 92 ARE RESERVED FOR FUTURE USE.)



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **961 CMR 2.00**

CHAPTER TITLE: **Rules and Regulations**

AGENCY: **State Lottery Commission**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
The amendments will permit the Lottery to offer products for sale online via its iLottery platform.

REGULATORY AUTHORITY: **M.G.L. c. 10, § 24 and M.G.L. c. 30A**

AGENCY CONTACT: **Gregory M. Polin, General Counsel** PHONE: **781-849-5515**

ADDRESS: **150 Mount Vernon Street, Suite 300, Dorchester, MA 02125**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Notice to the Local Government Advisory Commission - March 31, 2026
Notice of Public Hearing published in the Boston Globe - April 27, 2026
Notice of Public Hearing published in the Boston Herald - April 27, 2026

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **May 21, 2026**

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: Not Available

For the first five years: Not Available

No fiscal effect: Not Available

SMALL BUSINESS IMPACT - M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed: May 29, 2026

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:
iLottery, online Lottery

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amendments to 961 CMR 2.00.

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ SIGNATURE ON FILE _____ DATE: Jun 02 2026

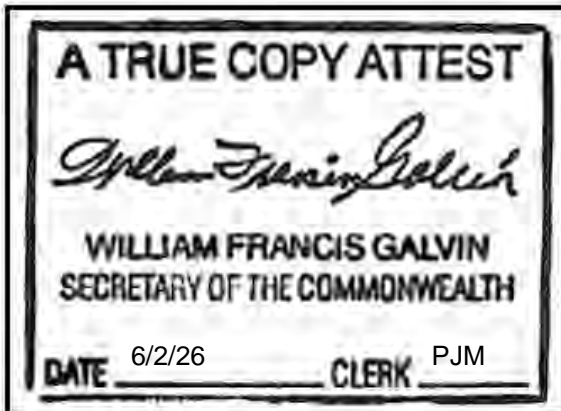
Publication - To be completed by the regulations Division

MASSACHUSETTS REGISTER NUMBER: 1576 DATE: 6/19/26

EFFECTIVE DATE: 6/19/26

CODE OF MASSACHUSETTS REGULATIONS

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| 5 & 6 | 5 & 6 |
| 36.51 & 36.52 | 36.51 & 36.52 |



961 CMR: STATE LOTTERY COMMISSION

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961 CMR 2.00: RULES AND REGULATIONS

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- 2.68: MILLIONAIRE FOR LIFE
- 2.69: Lotteries Conducted Online (iLottery)

2.01: Introduction

The Massachusetts State Lottery ("Lottery") was established by the enactment of St. 1971, c. 813. This law created a State Lottery Commission ("Commission") in the office of the State Treasurer who is Chairman of the Commission. Other members of the Commission are: the Secretary of Public Safety, the State Comptroller, and two persons appointed by the Governor for terms coterminous with that of the Governor. The Lottery directs the State Treasurer to appoint a Director of the Lottery, subject to the approval of the Governor. Revenues from the Lottery must be distributed as follows:

- (a) no less than 45% must be paid to holders of winning tickets;
- (b) not more than 15% may be used for operating costs; and
- (c) the balance must be distributed to the Local Aid Fund for the benefit of all the cities and towns in Massachusetts.

961 CMR 2.00 has been enacted pursuant to and under the authority of M.G.L. c. 30A and M.G.L. c. 10, § 24.

2.02: General Regulations

961 CMR 2.00 is established by the Massachusetts State Lottery Commission to define and regulate the operation and administration of the Massachusetts State Lottery. In addition to 961 CMR 2.00, rules for specific games, drawings or other matters may be found in Administrative Bulletins periodically issued by the Director.

2.03: Definitions

Act or Law means M.G.L. c. 10, §§ 22 through 35 and § 36.

Administrative Bulletin means a set of rules or guidelines issued by the Director for the purpose of detailing the rules, procedures or specific details of games and/or drawings and other matters that may arise from time to time in the course of business.

Bank means and includes all banks, banking associations, cooperative banks, credit unions, trust companies and any other type or form of banking institution organized under the authority of the Commonwealth of Massachusetts or the United States of America whose principal place of business is within the Commonwealth of Massachusetts and is designated to perform such functions, activities, or service in connection with the operations of the Lottery for the deposit and handling of Lottery funds.

Claims Center, Claim Center or Office means any place designated by the Lottery where the holder or his or her representative may file a claim upon a paper form supplied by the Lottery for payment or acknowledgment of a Lottery prize and the submission of the winning ticket.

2.68: continued

- (f) In no event shall installment payments be made in the Deferred Annuity Portion of the Annuity Option after the Annuitant's death.
- (g) It shall be the Prizewinner's responsibility to provide the Lottery paying the Annuity any updated address information to which Prize installments will be mailed even if a full annual payment or multiple payments have been assigned to a third-party.
- (h) Where a Claimant of a Grand Prize or Second Level Prize is a minor who has not yet attained a majority age in the applicable jurisdiction in which the lottery that sold the Play is located, such Prize will be subject to the laws and regulations governing the Selling Lottery.

2.69: Lotteries conducted online (iLottery)

(1) Definitions.

iLottery Platform shall mean a Lottery system that provides for the sale of lottery products and ancillary services *via* the internet through channels that may include, but are not limited to, online and mobile applications.

(2) Commencing on a date to be determined by the Director in their discretion, the Lottery shall offer for sale via its iLottery Platform lottery tickets, games, or shares as authorized by the Law and 961 CMR 2.00.

(3) All activity and use of the iLottery Platform, including the use of iLottery Player Accounts, are also subject to any terms, conditions, and requirements established by the Director in their discretion.

(4) iLottery Player Accounts. Players who wish to utilize the iLottery Platform to purchase lottery tickets, games, or shares, claim prizes, receive winnings, and engage/participate in such other activities as authorized by the Director, must duly register an account (referred to herein as "an iLottery Player Account") with the iLottery Platform.

(5) Age Verification. To purchase lottery tickets, games, or shares via the iLottery Platform, the player must be 21 years of age or older at the time of purchase. The Director shall use any reasonably designed identity and age verification measures, which may include but is not limited to, software, public databases, Lottery databases, financial information, or other Know Your Customer (KYC) functionality, to block access to and prevent sales of lottery tickets, games and shares via the iLottery Platform to persons younger than 21 years old.

(6) Location. To purchase lottery tickets, games, or shares *via* the iLottery Platform, the player must be physically present in the Commonwealth of Massachusetts at the time of purchase. The Director shall use measures such as geolocation software, geo-filtering software, geofencing software, or other software to limit the sale of lottery tickets, games, or shares *via* the iLottery Platform to transactions initiated and received, or otherwise made, within the Commonwealth at the time of purchase.

(7) Voluntary Self-exclusion. Any player may voluntarily prohibit or otherwise exclude themselves from purchasing via the iLottery Platform a lottery ticket, game, or share. The manner and process by which a player may voluntarily prohibit or otherwise exclude themselves is governed by the terms, conditions, and requirements set by the Director in their discretion. Any list or record that identifies a player as having voluntarily prohibited or otherwise excluded themselves from purchasing lottery tickets, games, or shares via the iLottery Platform is exempt from disclosure under M.G.L. c. 66, § 10 and M.G.L. c. 4, §7(26).

(8) Account Limits. Maximum limits for iLottery Player Account deposits and transactions of lottery tickets, games, or shares via the iLottery Platform shall be established by the Director by Administrative Bulletin; players may reduce their deposit or transaction limit to a lesser amount at any time subject to the terms, conditions, and requirements set by the Director in their discretion.

2.69: continued

(9) Account Withdrawal. Cash deposited and unspent in an iLottery Player Account belongs to the owner of the account. Said cash or any portion thereof may be withdrawn by the owner at any time subject to the terms, conditions, and requirements set by the Director in their discretion as authorized to maintain the security of customer funds and to prevent fraud and unauthorized or unlawful withdrawals. Such terms, conditions, and requirements may include, but not be limited to, restrictions on withdrawals of specified funds originating from a player's acceptance of a promotional offer.

(10) Promotional Activities. Pursuant to M.G.L. c. 10, § 24(b)(vi), as a cost incurred in the operation and administration of the sale of lottery tickets, games, and shares via the iLottery Platform, each fiscal year, an amount determined by the Director in their discretion shall be used in accordance with M.G.L. c. 10, § 25(b)(a)(ii) to fund promotional activities, which shall be determined by the Director in their discretion, to encourage the purchase of lottery tickets, games, or shares *via* licensed Sales Agents.

(11) Search Function. The user-facing website and mobile application of the iLottery Platform shall offer a search function enabling players to find nearby licensed Sales Agents offering lottery sales at brick-and-mortar retail stores located in the Commonwealth.

(12) As determined by the Director in their discretion but not less than annually, the Lottery shall supply the Department of Public Health with customer tracking data collected or generated by the sale of lottery tickets, games, or shares *via* the iLottery Platform ("Data"). The Data shall be anonymized to remove

(a) personally identifying information, including a player's name, street address, bank or credit information and the last four digits of a player's zip code, in compliance with M.G.L. c. 93H, § 2; and

(b) game identifying information, including game name and device manufacturing company, in protection of corporate intellectual property.

The Data shall include information on player characteristics including, but not limited to, gender, age and region of residence and player behavior including, but not limited to, frequency of play, length of play, speed of play, denomination of play, amounts wagered and, if applicable, characteristics of games.

REGULATORY AUTHORITY

961 CMR 2.00: M.G.L. c. 10, § 24 and c. 30A, § 3.

