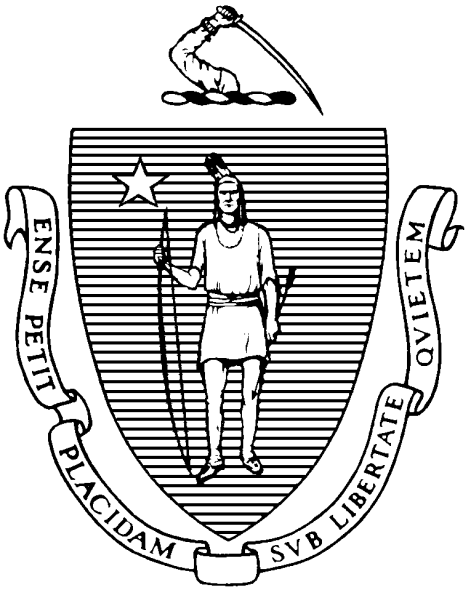
Issue: 1578, Date: July 17, 2026



The Massachusetts Register

Published by:
The Secretary of the Commonwealth,
William Francis Galvin, Secretary

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THE COMMONWEALTH OF MASSACHUSETTS

Secretary of the Commonwealth - William Francis Galvin

The Massachusetts Register

TABLE OF CONTENTS

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Acts 2026

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
110	H 5442	Relative to Certain Affordable Housing and Cultural Space in the Brighton Section of the City of Boston.	6/25/2026
111	H 5103	Authorizing the Town of Reading to Establish a Means Tested Senior Citizen Property Tax Exemption.	6/25/2026
112	S 2565	Facilitating Better Interactions Between Police Officers and Persons with Autism Spectrum Disorder.	6/25/2026
113	H 5511	Relative to Teacher Preparation and Student Literacy.	6/26/2026
114	S 1646	Relative to Violation of Regulation Regarding Hot Work Processes.	6/26/2026
115	H 5534	Making Certain Appropriations for Fiscal Year 2027 Before Final Action on the General Appropriations Bill.	6/30/2026
116	H 5053	Establishing a Charter for the Town of Orange.	6/30/2026
117	H 4141	Authorizing the City of North Adams to Appoint Retired North Adams Police Officers as Special Police Officers Within Said City for Paid Detail Assignments.	6/30/2026
118	H 3929	Regulating the Maximum Age Requirement for Original Appointment as a Police Officer for the City of Worcester.	6/30/2026
119	H 4137	Authorizing the Town of Wayland to Establish a Millennium Fund of the Wayland Free Public Library.	6/30/2026
120	H 5096	Extending the Timeframe Within Which the Town of Southbridge May Grant Additional Licenses for the Sale of Alcoholic Beverages to Be Drunk on the Premises.	6/30/2026
121	H 4203	Providing for the Election of Candidates in the City of Haverhill.	6/30/2026
122	H 4204	Providing for the Election of Candidates in the City of Haverhill.	6/30/2026
123	S 2908	Establishing a Sick Leave Bank for Shannon Manning, an Employee of the Trial Court of the Commonwealth.	7/7/2026
124	S 2897	Authorizing the Town of Berkley to Increase the Membership of the Board of Selectmen.	7/7/2026
125	H 3926	Directing the City of Boston Police Department to Waive the Maximum Age Requirement for Police Officers for Keny Gateau.	7/7/2026
126	H 3928	Directing the City of Boston Police Department to Waive the Maximum Age Requirement for Police Officers for Adam Watt.	7/7/2026
127	H 3927	Directing the City of Boston Police Department to Waive the Maximum Age Requirement for Police Officers for Jean E. Roseney.	7/7/2026

Acts 2026

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
128	S 3031	Establishing a Sick Leave Bank for Stephanie Rivera, an Employee of the Worcester County Sheriff's Office.	7/7/2026
129	H 4805	Amending the Town Charter of the Town of Plainville.	7/7/2026
130	H 4782	Amending the Charter of the Town of Hudson.	7/7/2026
131	H 4254	Directing the City of Boston Police to Waive the Maximum Age Requirement for Police Officers for Rodney Alcindor.	7/7/2026
132	H 4255	Directing the City of Boston Police Department to Waive the Maximum Age Requirement for Police Officers for Jonathan Telfort.	7/7/2026
133	H 4887	Authorizing the Town of Plymouth to Establish a Special Revenue Account for Land Acquisition.	7/7/2026
134	H 4891	Amending the Charter of the City Know as the Town of Randolph Regarding Compensation of Town Council and School Committee Members and Meetings of Multiple-Member Bodies.	7/7/2026
135	H 4781	Authorizing the City Known as the Town of Bridgewater to Amend its Charter to Include Gender Neutral Language.	7/7/2026

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF MEDICAID
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FOR MASSHEALTH

Administrative Bulletin 26-14

101 CMR 512.00: Nursing Facility User Fees

Effective July 1, 2026

Nursing Facility User Fee Update

The Executive Office of Health and Human Services (EOHHS) is issuing this administrative bulletin pursuant to 101 CMR 512.00: Nursing Facility User Fees to inform providers of the new user fee per diem rates effective July 1, 2026; to provide an update on facilities' eligibility for user fee groups; and to provide other updates related to user fees for the third calendar quarter of 2026.

User Fee Rates Effective July 1, 2026

Effective July 1, 2026, the user fee will be applied as follows.

Facility Group	Per Diem User Fee Effective July 1, 2026
Group I	$34.90
Group II	$10.47

Update on Facilities Eligible for Groups I and II

Administrative Bulletin 23-24: Classification of Nursing Facility User Fees Groups, effective September 1, 2023, announced that a facility's eligibility for its user fee group would be updated every two years based on data from April 1 to March 31 of the prior year. As a result, a facility may move between groups as often as every two years. For example, a Group II facility that no longer meets any of the criteria for Group II based on the updated data will be moved to Group I, and a Group I facility that newly meets at least one of the criteria for Group II based on the updated data will be moved to Group II.

Administrative Bulletin 24-12: Nursing Facility User Fee Update and Classification of Nursing Facility User Fees Groups provided an update on facilities' user fee group classifications for the period July 1, 2024, through June 30, 2026. These group classifications were determined based on user fee data from April 1, 2022, through March 31, 2023.

For the next two-year group assignment period, July 1, 2026, through June 30, 2028, EOHHS used data from April 1, 2024, through March 31, 2025, to determine facility eligibility. Accordingly, some facilities' user fee group classifications have changed. EOHHS has posted the updated group lists on the MassHealth 101 CMR 512.00 web page. EOHHS strongly encourages nursing facilities to visit the web page for notice of their user fee group classification for the July 1, 2026, through June 30, 2028, period.

Other Updates

Notwithstanding Administrative Bulletin 25-23: Offset Procedures for Non-Payment of User Fees, EOHHS will not assess interest for the third calendar quarter of 2026 (July 1, 2026–September 30, 2026) for a facility that doesn't pay its user fee on time if the facility submits the required user fee filing form for that calendar quarter by the deadline established in 101 CMR 512.05(3).

All other enforcement procedures described in 101 CMR 512.00 and Administrative Bulletin 25-23 remain in effect.

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
COMMONWEALTH OF MASSACHUSETTS
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Administrative Bulletin 26-15

101 CMR 304.00: *Rates for Community Health Centers*

Effective June 30, 2026

Code Updates for Certain Services Rendered by Community Health Centers

Summary

In accordance with 101 CMR 304.01(5), the Executive Office of Health and Human Services (EOHHS) is making code updates for certain services rendered by community health centers. Specifically, EOHHS is updating codes for individual medical visits rendered by community health centers to dually eligible Medicare and MassHealth members. Additionally, EOHHS is updating codes for chronic care management (CCM) services, behavioral health integration (BHI) services, and psychiatric collaborative care model (CoCM) services rendered by community health centers.

Coding Updates for Behavioral Health Integration and Care Management

Effective for dates of service on or after October 1, 2025, the Centers for Medicare & Medicaid Services (CMS) ended the use of HCPCS code G0511, which is the MassHealth code for community health centers billing for CCM services and BHI services in accordance with 101 CMR 304.04(2)(a).

Effective for dates of service on or after January 1, 2026, CMS ended the use of HCPCS code G0512, which is the MassHealth code for community health centers billing for psychiatric CoCM services in accordance with 101 CMR 304.04(2)(a).

Therefore, notwithstanding 101 CMR 304.04(2)(a), EOHHS is issuing the following code updates, based on these changes from CMS.

Table 1: Code Updates

Service	Obsolete Code	New HCPCS or CPT Code	New Add-on Codes	Effective Date of Service
CCM	G0511	99487, 99490, 99491	99437, 99439	October 1, 2025
BHI	G0511	99484	G0568, G0569, G0570	October 1, 2025
Psychiatric CoCM	G0512	99492, 99493	99494	January 1, 2026

These codes are payable according to the rates established for them under 101 CMR 317: *Rates for Medicine Services*. Payments for these codes will not be counted as part of the alternative payment methodology (APM) when calculating the quarterly prospective payment system (PPS) reconciliation wrap APM payment, in accordance with 101 CMR 304.02(c).

Coding Updates for Individual Medical Visits for Dually-Eligible Members

Effective for claims billed on or after July 1, 2026, EOHHS is adopting Medicare codes G0466, G0467, and G0468 for community health center individual medical visits rendered to dually eligible Medicare and MassHealth members. To be payable, the G0466, G0467, and G0468 codes must be accompanied by a corresponding HCPCS code, as follows.

Table 2: Medical Visit Codes and Corresponding HCPCS Codes

Dually eligible Member Individual Medical Visit Code	Corresponding HCPCS Code
G0466	99202, 99203, 99204, 99205, 99211, 99406, or 99407
G0467	99211, 99212, 99213, 99214, 99215, 99406, or 99407
G0468	G0402, G0438, G0439, or 99211

These G-codes, with accompanying HCPCS codes, will be paid at the rate for individual medical visits otherwise billable by community health centers using code T1015 under 101 CMR 304.02(a). The HCPCS codes are signifiers of the underlying service rendered and will not be separately payable when billed with a G-code. The corresponding HCPCS codes may be updated from time to time by EOHHS via transmittal letter or other written issuance, as determined necessary by EOHHS.

The services billed using a G-code, with accompanying HCPCS code, as described in this bulletin, are equivalent to the services billable using the T1015. Payments for these G-codes will be counted as part of the APM when calculating the quarterly PPS reconciliation wrap APM payment, in accordance with 101 CMR 304.02(c).

All services rendered and billable using a G-code, with accompanying HCPCS code, as described in this bulletin, must be billed to Medicare in the first instance. G-codes with accompanying HCPCS code are only payable by MassHealth when billed for a member who is a dually-eligible Medicare and MassHealth member. These codes are not payable by MassHealth if billed for a member enrolled in MassHealth only.

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

July 17, 2026

Energy Resources, Department of	225 CMR 28.00	8/5/26 @ 1:00 P.M. Written comments accepted until 8/5/26 by 5:00 P.M.
Gaming Commission, Massachusetts	205 CMR 256.00	7/28/26 @ 9:30 A.M. Written comments accepted until 7/27/26 by 5:00 P.M.
Health and Human Services, Executive Office of	101 CMR 514.00	7/31/26 @ 10:00 A.M. Written testimony accepted through 7/31/26 by 5:00 P.M.
Medical Assistance, Division of	130 CMR 401.000	7/24/26 @ 10:00 A.M. Written testimony accepted until 7/24/26 by 5:00 P.M.
	130 CMR 449.000	7/24/26 @ 11:00 A.M. Written testimony accepted through 7/24/26 by 5:00 P.M.
Public Health, Department of	105 CMR 304.000	7/28/26 @ 10:00 A.M. All comments must be submitted by 7/28/26 @ 5:00 P.M.
Revenue, Department of	830 CMR 63.00	7/29/26 @ 11:00 A.M. Written comments accepted until 7/29/26 by 5:00 P.M.

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
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Kimberley Driscoll
Lt. Governor

Rebecca L. Tepper
Secretary

Elizabeth Mahony
Commissioner

NOTICE OF PUBLIC COMMENT AND HEARING

Notice is hereby given that the Massachusetts Department of Energy Resources (DOER), acting under St. 2016, c. 75, § 11 and M.G.L. c. 25A, § 6, is holding a public hearing on 225 CMR 28.00: Solar Massachusetts Renewable Target (SMART) Program 3.0. The SMART 3.0 Program under 225 CMR 28.00 aims to increase the pace of solar deployment in the Commonwealth by adjusting incentive rates and other aspects of the program on an annual basis, making the program more responsive to rapidly changing market conditions and development costs. During the initial months of implementation of the SMART 3.0 Program, DOER has identified certain administrative issues that it proposes to address in this rulemaking to improve the implementation process in the future. Aside from various clerical edits, DOER proposes to update the methodology for allocation of program capacity between the three Electric Distribution Companies, clarify eligibility requirements for Canopy and repowered systems, and refine the procedures for receiving site visits. Additionally, DOER is modifying its eligibility criteria for certain projects aligned with existing plans for infrastructure investments in the Electric Distribution Companies' Capital Investment Projects and Electric Sector Modernization Plans. A virtual public hearing will be conducted to receive verbal and written comments on the regulation.

Location: **Virtual Hearing via Zoom**
https://zoom.us/webinar/register/WN_tozlXc89RWmdYh475HixtQ

Date: **August 5, 2026, at 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 June 26, 2026 and ending at 5pm on August 5, 2026. DOER requests that written comments be submitted as attached pdf files to DOER.SMART@mass.gov, with the words "SMART 3.0 Public Comment" in the subject line. Alternatively, comments can be submitted via mail to Grace Fletcher 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/smart-30-program-details or by emailing DOER.SMART@mass.gov.

Language interpretation services are available upon request. To request this service, please email DOER.SMART@mass.gov at least four (4) business days prior to the August 5, 2026 hearing. 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 28.00

Estimate of the Number of Small Businesses Impacted by the Regulation: None

Participation in 225 CMR 28.00 by any small business is voluntary.

Select Yes or No and Briefly Explain		
Yes ☐	No ☒	Will small businesses have to create, file, or issue additional reports? No, participation in the program by small businesses is voluntary.
Yes ☐	No ☒	Will small businesses have to implement additional recordkeeping procedures? No, Participation in the program by small businesses is voluntary.
Yes ☐	No ☒	Will small businesses have to provide additional administrative oversight? No, Participation in the program by small businesses is voluntary.
Yes ☐	No ☒	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No, Participation in the program by small businesses is voluntary.
Yes	No ☒	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? No, Participation in the program by small businesses is voluntary.
Yes ☐	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, Participation in the program by small businesses is voluntary.
Yes ☐	No ☒	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? No, regulated entities must comply via well-established criteria. The proposed regulatory changes have no impact on this compliance process.
Yes ☐	No ☒	Do any other regulations duplicate or conflict with the proposed regulation?
Yes ☐	No ☒	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? No, Participation in the program by small businesses is voluntary.
Yes ☐	No ☒	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No, Participation in the program by small businesses is voluntary.
Yes ☐	No ☒	Is the regulation likely to *deter* the formation of small businesses in Massachusetts? No, Participation in the program by small businesses is voluntary.
Yes ☒	No	Is the regulation likely to *encourage* the formation of small businesses in Massachusetts?

	☐	Yes, the regulation is likely to encourage the formation of small businesses involved in the solar market.
Yes ☐	No ☒	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No, there are no additional compliance obligations for small businesses.
Yes ☐	No ☒	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No, participation in the program by small businesses is voluntary.
Yes ☐	No ☒	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No, participation in the program by small businesses is voluntary.
Yes ☐	No ☒	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No, participation in the program by a small business is voluntary.
Yes ☐	No ☒	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No, the updates are to requirements that live regulation and therefore require a rulemaking to update.

Legal Division

Notice of Public Hearing

Notice is hereby provided that in accordance with G.L. c. 30A, § 2, the Massachusetts Gaming Commission ("Commission") will convene a public hearing for purposes of gathering comments, ideas, and information relative to the proposed adoption of a regulation. The regulation was promulgated pursuant to G.L. c. 23N, § 4 as part of the Commission's regulatory process, and concerns the following regulation:

205 CMR 256.06: ***Advertising to Other Vulnerable Persons***

The proposed amendment would remove the term "branding" from 205 CMR 256.06(3) to be consistent with the requirements set forth in 205 CMR 256.06(2).

Scheduled hearing date and time:

Tuesday, July 28, 2026, at 9:30 AM EST

Pursuant to chapter 2 of the session acts of 2025, Governor Healey extended a limited relief from certain provisions of the Open Meeting Law to protect the health and safety of the public and individuals interested in attending public meetings during the global Coronavirus pandemic. In keeping with the guidance provided, the Commission will conduct this hearing utilizing remote collaboration technology.

MICROSOFT TEAMS MEETING ID: 215 931 499 374 333 PASSCODE: Rb72Jc6N
DIAL IN BY PHONE: (213) 631-9908 PHONE CONFERENCE ID: 387 629 749#

A complete copy of the draft regulation referenced above may be downloaded by visiting www.massgaming.com, clicking on 'Regulations and Compliance' and selecting the 'Proposed Rulemaking' section. Anyone wishing to offer comments can email autumn.birarelli@massgaming.gov and request the virtual hearing link to appear and speak. Alternatively, written comments may also be submitted to the same email address with 'Regulation Comment' in the subject line. **Written comments must be received by 5:00 PM EST on July 27, 2026.**

Additionally, please find the Small Business Impact Statement in accordance with M.G.L. c. 30A, § 2 attached.

Massachusetts Gaming Commission
101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Legal Division

SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission ("Commission") hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendment to **205 CMR 256.00**: *Sports Wagering Advertising*, specifically **205 CMR 256.06:** *Advertising to Other Vulnerable Persons***.** The regulation amendment is authorized by M.G.L. c. 23N, § 4.

This regulation is being promulgated as part of the process of updating regulations governing sports wagering in the Commonwealth. It sets forth the requirements regarding sports wagering advertising.

The proposed amendment to 205 CMR 256.06 applies to entities licensed by the Commission under G.L. c. 23N. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c. 30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

   Small businesses are unlikely to be subject to this regulation.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

   There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

3. State the appropriateness of performance standards versus design standards:

   The standards set forth are design standards to encourage uniformity in compliance.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

   There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

Massachusetts Gaming Commission
101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission
By:

/s/ Autumn Birarelli
Autumn Birarelli
Staff Attorney

Dated: June 18, 2026

★★★★★
Massachusetts Gaming Commission
101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Commonwealth of Massachusetts

Executive Office of Health and Human Services

NOTICE OF PUBLIC HEARING

Under the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the Executive Office of Health and Human Services (EOHHS) will hold a remote public hearing on Friday, July 31, 2026, at 10 a.m., relative to the adoption of amendments to the following regulation.

101 CMR 514.00: *Hospital Assessment*

The amendments to 101 CMR 514.00: Hospital Assessment are proposed to implement the changes to the hospital assessment enacted and required through M.G.L. c. 118E, section 67, as amended by Chapter 73 of the Acts of 2025, and required under the new waiver of broadbasedness and uniformity approved by CMS pursuant to 42 CFR 433.68.

These changes 1) increase the total assessment amount by $50M; 2) update the assessment base from 2019 to 2023; and 3) update both the inpatient and outpatient assessment rates for 7 out of 9 hospital assessment groups.

The regulation went into effect as an emergency on July 7, 2026. There is no fiscal impact on cities and towns.

To register to testify at the hearing and to get instructions on how to join the hearing online, go to www.mass.gov/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 p.m. on July 31, 2026. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care for MassHealth-covered services.

To review the current draft of the proposed regulation, go to 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: July 10, 2026

Small Business Impact Statement

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

CMR No. and Title: 101 CMR 514.00: *Hospital Assessment*

Estimate of the Number of Small Businesses Impacted by the Regulation: The regulation applies to all non-state owned hospitals in the state, including acute and non-acute hospitals. In total, there are currently 85 hospitals subject to the assessment.

Select Yes or No	Briefly Explain
No	Will small businesses have to create, file, or issue additional reports? No. There are no additional reports for small business or other regulated parties required through this proposed amendment.
No	Will small businesses have to implement additional recordkeeping procedures? No. There are no additional recordkeeping procedures for small business or other regulated parties required through this proposed amendment.
No	Will small businesses have to provide additional administrative oversight? No. There are no additional administrative oversight requirements for small business or other regulated parties through this proposed amendment.
No	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. Neither small business nor other regulated parties will need to hire additional employees to comply with this proposed amendment.
No	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? No. Neither small business nor other regulated parties will need to hire other professionals to comply with this proposed amendment.
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. Neither small business nor other regulated parties will need to purchase products or make capital investments to comply with this proposed amendment.
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. Performance standards are not more appropriate than design or operational standards to accomplish the regulatory objective of the proposed amendments.
No	Do any other regulations duplicate or conflict with the proposed regulation? No. There are no other regulations that duplicate or conflict with the proposed amendments.
No	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? No. The proposed amendments do not require cooperation with any new audits, inspections, or other regulatory enforcement activities.
No	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. The proposed regulation does not require small businesses or other regulated parties to provide educational services to keep up to date with regulatory requirements.

No	Is the regulation likely to *deter* the formation of small businesses in Massachusetts? No. The proposed regulation is not likely to deter or encourage the formation of small businesses in Massachusetts.
No	Is the regulation likely to *encourage* the formation of small businesses in Massachusetts? No. The proposed regulation is not likely to deter or encourage the formation of small businesses in Massachusetts.
No	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small businesses and other businesses.
No	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small businesses and other businesses.
No	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small businesses and other businesses.
No	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Distinguishing between small and other businesses would not be practicable to implement the proposed regulation.
No	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. The proposed regulation does not have an adverse impact on small businesses. Regulatory amendments are required to implement the change to the hospital assessment structure required under state law.

Division of Medical Assistance

Commonwealth of Massachusetts
Office of Medicaid

NOTICE OF PUBLIC HEARING

Under the authority of M.G.L. c. 6A, section 16 and in accordance with M.G.L. c. 30A, the Division of Medical Assistance (the Division) will hold a remote public hearing on Friday, July 24, 2026, at 10 a.m. relative to the adoption of amendments to the following regulation.

130 CMR 401.000: Independent Clinical Laboratory Services

The proposed regulation is planned to go into effect no sooner than October 2, 2026. There is no fiscal impact on cities and towns.

The proposed amendments clarify the provider eligibility requirements for out-of-state providers and add an exception to the 180-day limitation on standing order requests for clinical laboratory services related to end stage renal dialysis (ESRD) treatment so that they may not exceed 365 days in length.

To register to testify at the hearing and to get instructions on how to join the hearing online, go to www.mass.gov/info-details/masshealth-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 masshealthpublicnotice@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 p.m. on July 24, 2026. The Division specifically invites comments as to how the amendments may affect beneficiary access to care.

To review the current draft of the proposed regulation, go to www.mass.gov/info-details/masshealth-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.

The Division 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/masshealth-public-hearings.

Date of Newspaper Ad: July 3, 2024

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

CMR No. and Title: 130 CMR 401.000: *Independent Clinical Laboratory Services*

Estimate of the Number of Small Businesses Impacted by the Regulation: There are currently 121 providers enrolled as independent clinical laboratories in the MassHealth network.

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.
No	Will small businesses have to implement additional recordkeeping procedures? No. Small businesses will not have to implement additional recordkeeping procedures.
No	Will small businesses have to provide additional administrative oversight? No. Small businesses will not have to provide additional administrative oversight.
No	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. Small businesses will not have to hire additional employees to comply with the proposed regulation.
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 to hire other professionals to comply with the regulation.
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. Small businesses are not required to purchase a product or make any other capital investments to comply with the regulation.
Yes	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	Do any other regulations duplicate or conflict with the proposed regulation? No. No other regulations duplicate or conflict with the proposed regulation.
No	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? No. The regulatory amendments do not require cooperation with additional audits, inspections, or other regulatory enforcement activities.
No	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?

Write Yes or No	Explain Briefly
	No. The regulatory amendments do not require small businesses to provide educational services to keep up with regulatory requirements.
No	Is the regulation likely to *deter* the formation of small businesses in Massachusetts? No. The regulation is unlikely to deter or encourage the formation of small businesses in Massachusetts.
Yes	Is the regulation likely to encourage the formation of small businesses in Massachusetts? Yes, increasing the maximum duration of standing orders requests to treat end stage renal dialysis (ESRD) to 365 days will reduce administrative burden on providers.
Yes	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? Yes, it will increase the maximum duration of standing order requests for ESRD from 180 days to 365 days in length.
No	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. This regulation does not establish any less stringent schedules or deadlines for compliance or reporting requirements for small businesses.
No	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The agency did not consolidate or simplify compliance or reporting requirements for small businesses.
No	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. It cannot replace design or operational standards without hindering delivery of the regulatory objective.
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.

Division of Medical Assistance

Commonwealth of Massachusetts

Office of Medicaid

NOTICE OF PUBLIC HEARING

Under the authority of M.G.L. c. 6A, section 16 and in accordance with M.G.L. c. 30A, the Division of Medical Assistance (the Division) will hold a remote public hearing on Friday, July 24, 2026, at 11 a.m. relative to the emergency adoption of amendments to the following regulation.

130 CMR 449.000: *Correctional Facility Services*

This regulation went into effect as an emergency on July 2, 2026. There is no fiscal impact on cities and towns.

130 CMR 449.000: *Correctional Facility Services* is a standalone provider regulation that governs MassHealth providers of covered services within correctional facilities and the provision of such services to MassHealth members.

EOHHS previously adopted this regulation on an emergency basis to establish the correctional facility provider type so that facilities could provide Medicaid services under Section 5121 of the Consolidated Appropriations Act (PUBL328.PS). EOHHS is now updating this regulation to expand the scope of covered services to align with its federally-approved 1115 Reentry Demonstration, as well as to outline additional requirements for correctional facilities participating in the Reentry Demonstration. The associated rates for covered services are found in existing rate regulations.

To register to testify at the hearing and to get instructions on how to join the hearing online, go mass.gov/info-details/masshealth-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 masshealthpublicnotice@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 July 24, 2026. The

Division specifically invites comments as to how the amendments may affect beneficiary access to care.

To review the current draft of the proposed regulation, go to mass.gov/info-details/masshealth-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.

The Division may adopt a revised version of the proposed regulation taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at mass.gov/info-details/masshealth-public-hearings.

Date of Newspaper Ad: July 2, 2026

Small Business Impact Statement

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

CMR No and Title: 130 CMR 449.000: *Correctional Facility Services*

Estimate of the Number of Small Businesses Impacted by the Regulation: EOHHS estimates that there are at least 28 correctional facilities in the Commonwealth who may be eligible to enroll in MassHealth as providers of certain MassHealth services.

Write Yes or No	Explain Briefly
No	Will small businesses have to create, file, or issue additional reports? No. The proposed regulation does not require small businesses to create, file, or issue additional reports.
Yes	Will small businesses have to implement additional recordkeeping procedures? Yes. Providers seeking to participate in the MassHealth Correctional Facility program created through this regulation must comply with the recordkeeping requirements set forth in this regulation, as well as those that apply to all MassHealth providers.
No	Will small businesses have to provide additional administrative oversight? No. The proposed regulation does not require small businesses to provide additional administrative oversight.
No	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. Compliance with the proposed regulation does not require hiring additional employees.
No	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? No. Compliance with the proposed regulation does not require hiring 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. The proposed regulation does not require purchases or 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. Performance standards are not more appropriate than design or operational standards.
No	Do any other regulations duplicate or conflict with the proposed regulation? No. No other regulations duplicate or conflict with the proposed regulation.
Yes	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? Yes. Providers seeking to participate in the MassHealth Correctional Facility program created through the proposed regulation must cooperate with the audit, inspection, and other regulatory enforcement activities set forth in this regulation, as well as those that apply to all MassHealth providers, but this is not a new requirement.
No	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. The proposed regulation does not require small businesses to provide educational services to keep up to date with regulatory requirements.
No	Is the regulation likely to *deter* the formation of small businesses in Massachusetts?

Write Yes or No	Explain Briefly
	No. The proposed regulation is unlikely to deter or encourage the formation of small businesses.
No	Is the regulation likely to *encourage* the formation of small businesses in Massachusetts? No. The proposed regulation is unlikely to deter or encourage the formation of small businesses.
No	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small and other businesses.
No	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small and other businesses.
No	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small and other businesses.
No	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Distinguishing small businesses from other businesses would not be practicable for this proposed regulation.
No	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. The goals of the proposed regulation could not be achieved through alternative methods.

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619
617-624-6000 | mass.gov/dph

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Kiame Mahaniah, MD, MBA
Secretary

Robert Goldstein, MD, PhD
Commissioner

NOTICE OF PUBLIC HEARING

Notice is hereby given pursuant to M.G.L. c. 30A, §2, that the Department of Public Health will hold a public hearing and comment period on proposed new regulations, 105 CMR 304.000: *Access to Social Security Number on a Death Record.*

This new regulation is being promulgated to specify persons who are authorized to obtain a social security number listed in a record of death.

The public hearing will be held on Tuesday **July 28, 2026, at 10:00 a.m**. The hearing will be conducted on a **moderated conference call**. The information for the conference call is:

Dial-in Telephone Number:	888-566-7685
Participant Passcode:	4114188
To Testify Press:	*1

A copy of the proposed new regulation may be viewed on the Department's website at http://mass.gov/dph/proposed-regulations or requested from the Office of General Counsel at 617-624-5220.

Speakers who testify at the public hearing are requested to provide a copy of their oral testimony. The Department encourages all interested parties to submit written testimony electronically to Reg.Testimony@mass.gov, or by mail to William Anderson, Office of the General Counsel, Department of Public Health, 250 Washington Street, Boston, MA 02108. Please submit electronic testimony as an attached Word document and type "Access to Social Security Number on a Death Record" in the subject line of the email. All submitted testimony must include the sender's full name and address.

The Department will post all electronic testimony that complies with these instructions on its website. **All comments must be submitted by 5:00 p.m. on July 28, 2026**. All comments received by the Department may be released in response to a request for public records.

If you are deaf or hard of hearing, or are a person with a disability who requires accommodation, please contact Stacy Hart at least 5 days before the hearing at Tel **#857-274-1120**, or email Stacy.Hart@mass.gov.

Small Business Impact Statement

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

Agency: Department of Public Health

CMR No.: 105 CMR 304.000: Access to Social Security Number on a Death Record

Estimate of the Number of Small Businesses Impacted by the Regulation: DPH does not anticipate that any small businesses will be impacted by this regulation.

Select Yes or No and Briefly Explain

Yes	No	
☐	☒	Will small businesses have to create, file, or issue additional reports? *This regulation will not result in any additional or new reporting requirements.*
☐	☒	Will small businesses have to implement additional recordkeeping procedures? *This regulation will not result in any additional or new recordkeeping procedures.*
☐	☒	Will small businesses have to provide additional administrative oversight? *This regulation will not necessitate additional administrative oversight.*
☐	☒	Will small businesses have to hire additional employees in order to comply with the proposed regulation? *This regulation will not necessitate additional employees.*
☐	☒	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? *This regulation will not necessitate the hiring of other professionals.*
☐	☒	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? *This regulation will not require any purchase or investment by small businesses.*
☐	☒	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) *No, performance standards would not be appropriate to accomplish the regulatory objective.*
☐	☒	Do any other regulations duplicate or conflict with the proposed regulation? *There are no other regulations in Massachusetts that duplicate or conflict with the proposed regulation.*

Yes ☐	No ☒	Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities? *This regulation will have no impact on small business in Massachusetts, and therefore will not require small businesses to cooperate with audits, inspections, or other enforcement activities.*
Yes ☐	No ☒	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? *There are no educational service requirements in this regulation pertaining to small businesses*.
Yes ☐	No ☒	Is the regulation likely to *deter* the formation of small businesses in Massachusetts? *This regulation will have no impact on small business in Massachusetts and is not likely to deter the formation of small businesses.*
Yes ☐	No ☒	Is the regulation likely to *encourage* the formation of small businesses in Massachusetts? *This regulation will have no impact on small business in Massachusetts and is not likely to encourage the formation of small businesses.*
Yes ☐	No ☒	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? *This regulation will have no impact on small business in Massachusetts, and these amendments therefore do not provide for less stringent compliance or reporting requirements for small businesses.*
Yes ☐	No ☒	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? *This regulation will have no impact on small business in Massachusetts, and these amendments therefore do not establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses.*
Yes ☐	No ☒	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? *This regulation will have no impact on small business in Massachusetts.*
Yes ☐	No ☒	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? *This regulation will have no impact on small business in Massachusetts, and therefore performance standards for small businesses would not be an appropriate replacement for these proposed amendments.*
Yes ☐	No ☒	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? *This regulation will have no impact on small business in Massachusetts.*

GEOFFREY E. SNYDER
COMMISSIONER
REBECCA H. FORTER
DEPUTY COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Rulings and Regulations Bureau
P.O. Box 9566
Boston, MA 02114-9566

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING

The Department of Revenue ("DOR") is holding this public hearing remotely. Details and instructions for participating and testifying remotely (such as through a phone line or online connection) at the remote public hearing will be published online at https://www.mass.gov/service-details/public-hearings-dor and are included in this notice below. If you plan to testify at the remote hearing, DOR strongly encourages you to register in advance; see below for instructions. DOR encourages you to submit written testimony in addition to, or instead of, providing testimony at the hearing; see below for instructions. Additionally, requests for copies of the proposed regulation will not be accepted in person. Details for obtaining copies of the proposed regulation are set forth below.

Join Zoom Meeting
https://us02web.zoom.us/j/89839252487?pwd=7ed8MKq84ISTbui8RCZMHIb0xII8HF.1

Meeting ID: 898 3925 2487
Passcode: 073562

One Tap Mobile
1+305-224-1968

Join instructions
https://us02web.zoom.us/meetings/89839252487/invitations?signature=rWiSBpXMC8krfu18PhHiLcPIADrq8OpcStt8oiQAyXc

Pursuant to the provisions of General Laws Chapter 14, Section 6(1), Chapter 30A, Section 2, and Chapter 62C, Section 3, the Commissioner will hold a public hearing on the following proposed regulations:

830 CMR 63.38QQ.1: Live Theater Tax Credit

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF REVENUE

Scheduled Hearing Date:

Wednesday, July 29, 2026, at 11:00 a.m.

Subject Matter:

830 CMR 63.38QQ.1 explains the rules for calculating and claiming the Live Theater Tax Credit ("Credit") available pursuant to G.L. c. 62, § 6(ff) and G.L. c. 63, § 38QQ to eligible theater production companies that produce an eligible theater production in Massachusetts. The regulation also discusses withholding and reporting requirements that serve as prerequisites for credit qualification, as well as rules for carrying over and transferring the Credit. The Credit is available for tax years beginning on or after January 1, 2025. To obtain the Credit, individuals and businesses that produce an eligible live theater production must apply to the Massachusetts Office of Business Development and complete the process described in their regulation, 400 CMR 10.00.

Information:

Individuals who notify DOR of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers are strongly encouraged to notify DOR of their intention to testify at the hearing by emailing their full name, mailing address and organization or affiliation, if any to RulesandRegs@dor.state.ma.us by July 28, 2026.

Individuals may also submit written testimony by emailing the Rulings and Regulations Bureau at RulesandRegs@dor.state.ma.us.

Please submit electronic testimony as an attached Word document or as text within the body of the email with the name of the regulation in the subject line. All submissions 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 the Rulings and Regulations Bureau, Post Office Box 9566, Boston, Massachusetts 02114-9566. Written testimony must be submitted by 5:00 p.m. on July 29, 2026.

Copies of the proposed regulation will be sent electronically via e-mail to practitioners who are on the Rulings and Regulations Bureau's e-mail list. In addition the proposed regulation is posted on the Department of Revenue's Web site at: https://www.mass.gov/info-details/proposed-regulations-dor.

Geoffrey E. Snyder
Geoffrey E. Snyder
Commissioner of Revenue

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF REVENUE

Small Business Impact Statement pursuant to G.L. c. 30A, §§ 2 and 3

830 CMR 63.38QQ.1 explains the rules for calculating and claiming the Live Theater Tax Credit ("Credit") available pursuant to G.L. c. 62, § 6(ff) and G.L. c. 63, § 38QQ to eligible theater production companies that produce an eligible theater production in Massachusetts. There are no small businesses impacted by this proposed regulation. No projected reporting, record keeping, or other administrative costs directed at small businesses have been identified as required for compliance with the proposed regulation amendment. Additionally, the proposed regulation amendment does not contain design or performance standards directed at small businesses and does not duplicate or conflict with other regulations of DOR. DOR has not identified any regulations of other agencies that conflict with this proposed regulation amendment. And finally, the proposed regulation amendment is likely to neither deter nor encourage the formation of new businesses, small or otherwise, in the Commonwealth.

THE COMMONWEALTH OF MASSACHUSETTS

Secretary of the Commonwealth - William Francis Galvin

2026 CUMULATIVE TABLE TO THE MASSACHUSETTS REGISTER
1565 - 1578

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:

April 6, 1976 - 1977	Register: # 88	Date: 2004	Register: #1016
1978	138	2005	1042
1979	193	2006	1068
1980	241	2007	1094
1981	292	2008	1120
1982	344	2009	1146
1983	396	2010	1172
1984	448	2011	1198
1985	500	2012	1224
1986	546	2013	1250
1987	572	2014	1276
1988	598	2015	1302
1989	624	2016	1329
1990	650	2017	1355
1991	676	2018	1381
1992	702	2019	1407
1993	729	2020	1433
1994	755	2021	1459
1995	871	2022	1485
1996	Supp. # 2 807	2023	1511
1997	833	2024	1537
1998	859	2025	1563
1999	885		
2000	911		
2001	937		
2002	963		
2003	989		

		Issue	Effective Date
266 CMR	**Board of Registration of Home Inspectors**		
2.00	Definitions	1567	2/13/26
3.00	Procedure for Registration	1567	2/13/26
4.00	Associate Home Inspector Training Program Requirements	1567	2/13/26
6.00	Standards of Practice	1567	2/13/26
11.00	Insurance Requirements for Limited Liability Corporations and Limited Liability Partnerships	1567	2/13/26
301 CMR	**Executive Office of Energy and Environmental Affairs**		
11.00	MEPA Regulations	1566	1/30/26
41.00	Toxic or Hazardous Substance List - *Correction* (MA Reg. # 1563)	1568	12/19/25
309 CMR	**Board of Registration of Hazardous Waste Site Cleanup Professionals**		
2.00	Introductory Provisions	1566	1/30/26
3.00	Licensing of Licensed Site Professionals	1566	1/30/26
4.00	Rules of Professional Conduct	1566	1/30/26
5.00	Advisory Rulings	1566	1/30/26
6.00	Design and Use of Licensed Site Professional's Seal	1566	1/30/26
7.00	Procedure Governing Disciplinary Proceedings and Other Dispositions	1566	1/30/26
8.00	Administrative Penalty Regulations	1566	1/30/26
9.00	Inactive Status	1566	1/30/26
321 CMR	**Division of Fisheries & Wildlife**		
3.00	Hunting - Emergency	1564	12/19/25
	- *Emergency Correction* (MA Reg. # 1564)	1565	12/19/25
		1564	1/2/26
	- *Compliance* (MA Reg. # 1564)	1571	12/19/25
		1577	7/3/26
322 CMR	**Division of Marine Fisheries**		
4.00	Fishing and Shellfishing Equipment	1566	1/30/26
		1573	5/8/26
6.00	Regulation of Catches - *Emergency*	1573	4/24/26
		1573	5/8/26
	- *Correction* (MA Reg. # 1573)	1578	5/8/26
7.00	Permits	1566	1/30/26
		1567	2/13/26
		1573	5/8/26
	- *Correction* (MA Reg. # 1573	1578	5/8/26
15.00	Management of Marine Aquaculture	1566	1/30/26

Docket # 624

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **101 CMR 514.00**

CHAPTER TITLE: **Hospital Assessment**

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

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

Regulation 101 CMR 514.00 governs the Hospital Assessment established pursuant to M.G.L. c. 118E, sec. 67. It sets forth the relevant definitions, assessment rates, assessment groups, reporting requirements, and enforcement mechanisms.

REGULATORY AUTHORITY: **M.G.L. c. 118E, sec. 67**

AGENCY CONTACT: **Deborah M. Briggs** PHONE: **(617) 921-1744**

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.*

This emergency adoption ensures compliance with state law and the new federal approval, while bringing in new revenue through the hospital assessment, and through the federal financial participation (FFP) the state will receive upon expending the revenues on approved MassHealth expenditures.

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.*

145 Letters: July 7, 2026
A&F approval: July 6, 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 31, 2026**

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

For the first and second year: **$50M annually**

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:*

101 CMR 514 is being amended.

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: **Jul 07 2026**

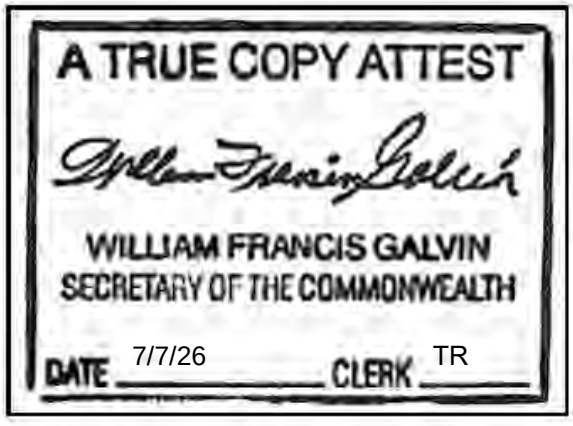
Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/7/26**

CODE OF MASSACHUSETTS REGULATIONS

Remove these Pages:	*Insert these Pages:*
This is an Emergency Regulation.	**There are no replacement pages.**



101 CMR 514.00: HOSPITAL ASSESSMENT

Section

514.01: General Provisions

(1) Scope and Purpose. 101 CMR 514.00 governs the collection of the hospital assessment established under M.G.L. c. 118E, § 67.

(2) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify policies, update administrative requirements, and specify information and documentation necessary to comply with 101 CMR 514.00.

514.02: Definitions

As used in 101 CMR 514.00, unless the context requires otherwise, terms have the following meanings.

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.

Assessed Charges. Gross patient service revenue attributable to all patients less gross patient service revenue attributable to programs administered pursuant to Titles XVIII, XIX, and XXI of the Social Security Act in each hospital's fiscal year 2023.

Assessment. The total payment due by each hospital each month or quarter, as set forth in 101 CMR 514.00.

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 under the U.S. Department of Health and Human Services that is responsible for administering the Medicare and Medicaid programs.

Department of Public Health (DPH). An agency of the Commonwealth of Massachusetts, established under M.G.L. c. 17, § 1.

Executive Office of Health and Human Services (EOHHS). The executive department of the Commonwealth of Massachusetts established under M.G.L. c. 6A, § 2 that, through the Department of Elder Affairs and other agencies within EOHHS, as appropriate, operates and administers the programs of medical assistance and medical benefits under M.G.L. c. 118E and that serves as the single state agency under section 1902(a)(5) of the Social Security Act.

Fiscal Year (FY). The 12-month period that hospitals use for financial reporting and budgeting.

Gross Patient Service Revenue. The total dollar amount of a hospital's charges for services rendered in a hospital's fiscal year, as reported to the Center for Health Information and Analysis (CHIA) through Hospital Cost Reports for 2023.

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.

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514.02: 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.

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

Licensee. Any natural person, corporation, partnership, trust, estate, or other legal entity holding a license to operate a nonpublic acute or non-acute hospital in Massachusetts; and, in the case of a licensee that is not a natural person, includes

(1) any shareholder owning not less than 5%, any officer, and any director of any corporate licensee;

(2) any limited partner owning not less than 5% and any general partner of a partnership licensee;

(3) any trustee of any trust licensee;

(4) any sole proprietor of any licensee that is a sole proprietorship; or

(5) any mortgagee in possession and any executor or administrator of any licensee that is an estate.

MassHealth Program (MassHealth). The medical assistance benefits plans operated and administered by EOHHS pursuant to M.G.L. c. 118E, § 1 *et seq*. and 42 U.S.C. § 1396 *et seq*., Title XXI of the Social Security Act (42 U.S.C. 1397), and other applicable laws and waivers to provide and pay for medical services to eligible members (Medicaid).

Medicare. The federal health insurance program for people who are 65 years of age or older, certain younger people with disabilities, and people with end-stage renal disease (permanent kidney failure requiring dialysis or a transplant, sometimes called ESRD) established by Title XVIII of the Social Security Act.

Non-public Gross Patient Service Revenue. Total gross patient service revenues (as defined in Gross Patient Service Revenue) minus gross patient service revenues attributable to Medicare, Medicaid, and Out-of-state Medicaid, as determined by EOHHS.

Non-acute Hospital. A nonpublic hospital that is

(1) licensed by the Department of Public Health under M.G.L. c. 111, § 51 but not defined as an acute-care hospital under M.G.L. c. 111, § 25B; or

(2) licensed as an inpatient facility by the Department of Mental Health (DMH) under M.G.L. c. 19, § 19 and regulations promulgated thereunder, but not categorized as Class VII licensees under the regulations.

Rate Year (RY). The 12 months from October 1st through September 30th.

Total Assessment Amount. A fixed amount equal to $1,534,050,000 plus 50% of the estimated cost, as determined by the Secretary of Administration and Finance, of administering the Health Safety Net and related assessments in accordance with M.G.L. c. 118E, §§ 65 to 69.

514.03: Hospital Groups

(1) Hospital Assessment Liability. Hospital assessment liability will vary by hospital group and by inpatient versus outpatient revenues. The nine groups of hospitals for purposes of 101 CMR 514.00 are defined as follows.

(a) Group I : Any acute hospital that had not less than 355 staffed beds in fiscal year 2022 as reported by CHIA and that is identified as a group 1 safety net hospital in the MassHealth demonstration waiver approved under Title XI of the federal Social Security Act § 1115, subsection (a) in effect as of October 1, 2022.

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514.03: continued

(b) Group II: Any acute hospital that had less than 355 staffed beds in fiscal year 2022 as reported by CHIA and that is identified as a group 1 safety net hospital in the MassHealth demonstration waiver approved under Title XI of the federal Social Security Act § 1115, subsection (a) in effect as of October 1, 2022.

(c) Group III: Any acute hospital that had not less than 355 staffed beds in fiscal year 2022 as reported by CHIA and that is identified as a group 2 safety net hospital in the MassHealth demonstration waiver approved under Title XI of the federal Social Security Act § 1115, section(a) in effect as of October 1, 2022.

(d) Group IV: Any acute hospital that had less than 355 staffed beds in fiscal year 2022 as reported by CHIA and that is identified as a group 2 safety net hospital in the MassHealth demonstration waiver approved under Title XI of the federal Social Security Act § 1115, subsection (a) in effect as of October 1, 2022.

(e) Group V: Any acute hospital that is a freestanding pediatric hospital.

(f) Group VI: Any acute hospital that is an academic medical center, teaching hospital, or specialty hospital, as determined by CHIA as of September 30, 2019, but excluding any high public payer hospital as defined by CHIA or any hospital included in Group V.

(g) Group VII: Any private acute hospital operating as of September 30, 2019, but excluding any hospital included in Groups I through VI.

(h) Group VIII: The Commonwealth's only non-state-owned public hospital, operating as of September 30, 2019.

(i) Group IX: Any nonpublic non-acute hospital operating as of September 30, 2019.

(2) Consistent Application of Assessment. Hospitals will remain in the group they are in as of October 1, 2024, and will be subject to the same assessment rate established for their group, except as follows.

(a) New Acute Hospitals. New acute hospitals that come into operation subsequent to October 1, 2022, or for whom there is no FY 2019 hospital-specific gross patient service revenue data (as reported by CHIA based on the annual collection of cost report data), or acute hospitals otherwise not included in the approved waiver application, will be considered Group VI hospitals, under 101 CMR 514.03(1), until EOHHS determines the hospital's group eligibility.

(b) New Non-acute Hospitals. New non-acute hospitals that come into operation subsequent to October 1, 2022, or for whom there is no FY 2019 hospital-specific gross patient service revenue data (as reported by CHIA based on the annual collection of cost report data), or non-acute hospitals otherwise not included in the approved waiver application, will be considered Group IX hospitals, under 101 CMR 514.03(1), until EOHHS determines the hospital's group eligibility.

(c) Hospital Closures. If a hospital subject to the assessment closes, with no successor in interest or assignee as determined by EOHHS consistent with the criteria described in 101 CMR 514.03(2)(d), the former hospital will no longer be subject to the assessment, provided that the hospital is subject to the assessment up to and included its date of closure. No changes will be made to the assessment rates for remaining assessed hospitals as a result of a hospital's closure when there is no successor in interest or assignee.

(d) Mergers and Acquisitions. The original assessment obligation of any hospital is applied to and becomes an obligation of any successor in interest or assignee of such hospital, as determined by EOHHS. A successor in interest may include, but is not limited to, any purchaser of the assets or stock, any new licensee of an existing acute or non-acute hospital, any surviving entity resulting from merger or liquidation, or any receiver or any trustee of the original hospital. The assessment obligation of the successor in interest or assignee with respect to the acquired or merged hospital(s) will be equal to the assessment obligation of the affected hospitals prior to the merger or acquisition. The assessment will be applied to hospitals that merge, or hospitals that acquire another or are acquired, as if no such merger or acquisition occurred.

(e) Multi-factorial Changes. The assessment obligation will follow the rules established in 101 CMR 514.03(2)(a) through (d), provided that:

1. In the event an existing hospital has merged with or acquired only a portion of another existing hospital and the two hospitals both continue to exist as hospitals after the merger or acquisition, the original assessment obligations of the two hospitals will be applied proportionally to each hospital based on the gross patient service revenue attributable to each portion of each hospital after the merger or acquisition.

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514.03: continued

2. In the event that a new hospital opens and also acquires a portion or all of an existing hospital, and the portion of the hospital that is new accounts for greater than 50% of the gross patient service revenue of the total hospital entity, the hospital's assessment obligation will be determined in accordance with 101 CMR 514.03(2)(a) or (b), as applicable depending on the hospital's status as an acute or non-acute hospital.
3. In the event that a new hospital opens and also acquires a portion or all of an existing hospital, and the portion of the hospital that is new accounts for 50% or less of the gross patient service revenue of the total hospital entity, the hospital's assessment obligation will be equal to the portion of the assessment attributable to the acquired portion of the hospital.

514.04: Calculation of Hospital Assessment

(1) To determine each hospital's annual assessment liability, the assessment rates established in 101 CMR 514.04(3) are applied to a static fiscal year 2019 dataset of non-public gross patient service revenues, except as described in 101 CMR 514.04(2).

(2) For new acute hospitals described in 101 CMR 514.03(2)(a) and new non-acute hospitals described in 101 CMR 514.03(2)(b), the assessment rates established in 101 CMR 514.04(3) are applied to an annual projection of non-public gross patient service revenues, provided by the hospital in accordance with 101 CMR 514.06(2), until such time as CHIA includes the new hospital in their release of fiscal year cost report data.

(a) For new acute hospitals, beginning with the first complete calendar month following the date of the new acute hospital's inclusion in CHIA's fiscal year cost report data, the assessment rates established in 101 CMR 514.04(3) are applied to the static data included in such fiscal year cost report data.

(b) For new non-acute hospitals, beginning with the first complete calendar quarter following the date of the new non-acute hospital's inclusion in CHIA's fiscal year cost report data, the assessment rates established in 101 CMR 514.04(3) are applied to the static data included in such fiscal year cost report data.

(3) Beginning hospital fiscal year 2026, the assessment will be applied as follows.

Assessment Group	Hospital Group Description	Inpatient Assessment Rate	Outpatient Assessment Rate
Group I	Large Group 1 Safety Net	16.5100%	8.0000%
Group II	Small Group 1 Safety Net	14.5000%	5.5000%
Group III	Large Group 2 Safety Net	8.1000%	16.2000%
Group IV	Small Group 2 Safety Net	16.4500%	9.1000%
Group V	Freestanding Pediatric	3.3000%	2.6000%
Group VI	Academic Medical Center, Teaching, Specialty	4.6750%	1.2900%
Group VII	Other Private Acute	8.2990%	0.7200%
Group VIII	Non-state Owned Public	1.2500%	1.2500%
Group IX	Non-acute	3.3000%	3.3000%

(4) EOHHS will provide each hospital its total annual assessment liability, and its required monthly or quarterly assessment amounts, as applicable, prior to the due date of the first payment.

514.05: Payment of Hospital Assessment

(1) Acute Hospital Monthly Assessment. Beginning October 1, 2025, each acute hospital must pay a monthly assessment to EOHHS in a form and manner specified by the Health Safety Net Office, equal to one twelfth of its total annual assessment.

(2) Non-acute Hospital Quarterly Assessment. Beginning October 1, 2025, each non-acute hospital must pay a quarterly assessment to EOHHS in a form and manner specified by the Health Safety Net Office, equal to one fourth of its total annual assessment.

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Docket # 1183

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **130 CMR 449.000**

CHAPTER TITLE: **Correctional Facility Services**

AGENCY: **Division of Medical Assistance**

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

This is a standalone provider regulation that governs MassHealth providers of covered services within correctional facilities and the provision of such services to MassHealth members.

REGULATORY AUTHORITY: **M.G.L. c. 118E, §§ 7 and 12**

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.*

The regulation, which must be adopted by 7/10/26, is updating a previous emergency regulation in order to incorporate additional updates related to the 1115 waiver reentry demonstration that MassHealth is aiming to implement before the next 1115 waiver negotiations begin with CMS.

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.*

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: _____

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

For the first and second year: **No fiscal effect**

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 130 CMR 449.000: Correctional Facility Services.

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: **Jul 02 2026**

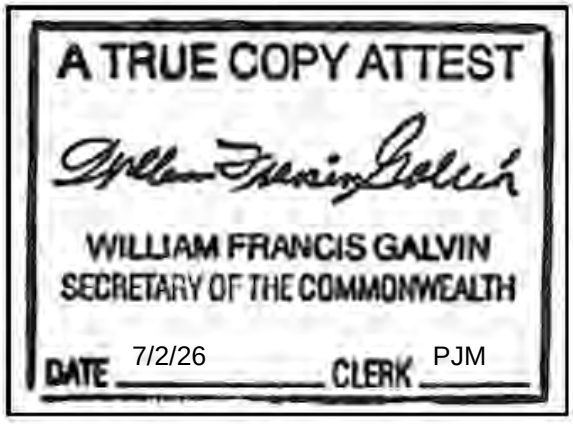
Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/2/26**

CODE OF MASSACHUSETTS REGULATIONS

Remove these Pages:	*Insert these Pages:*
This is an Emergency regulation.	**There are no replacement pages.**



130 CMR 449.000: CORRECTIONAL FACILITY SERVICES

Section

449.401: Introduction

130 CMR 449.000 establishes the requirements for correctional facilities participating in MassHealth that provide services pursuant to the Consolidated Appropriations Act, 2023 (CAA 2023) or the Reentry Demonstration. All participating correctional facilities must also comply with MassHealth regulations including, but not limited to, 130 CMR 450.000: *Administrative and Billing Regulations*.

449.402: Definitions

The following terms used in 130 CMR 449.000 have the meanings given in 130 CMR 449.402 unless the context clearly requires a different meaning. Eligibility for reimbursement of services defined in 130 CMR 449.000 is not determined by these definitions, but by application of 130CMR 449.000 and 130 CMR 450.000: *Administrative and Billing Regulations*.

Adjudication. The court process that determines if an individual committed the act for which they are charged.

Adverse Incident. An occurrence that represents actual or potential serious harm to the wellbeing of a member or to others under the care of a participating provider. Adverse incidents may be the result of the actions of a member served, actions of a staff member providing services, or incidents that compromise the health and safety of the member, or operations of the provider.

Clinical Laboratory. As defined in 130 CMR 401.402: *Clinical Laboratory*.

Consolidated Appropriations Act (CAA, 2023). The Consolidated Appropriations Act of 2023 that was signed into law by Congress on December 29, 2022, thereby amending 42 U.S.C. 1396(a)(84), 42 U.S.C. 1396a(nn)(3), 42 U.S.C. 1396d(a), 42 U.S.C. 1397bb, 42 U.S.C. 1397jj(b).

Correctional Facility. Any building, enclosure, space or structure used for the custody, control and rehabilitation of committed offenders and of such other persons as may be placed in custody therein in accordance with law.

Former Foster Care Youth. Youth who meet the eligibility criteria for former foster care children, including individuals younger than 26 years old who meet the criteria for the group upon attaining either age 18 or a higher age (up to 21).

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449.402: continued

Inmate. A committed offender or such other person as is placed in custody in a correctional facility in accordance with law.

Inmate of a Participating Correctional Facility. A committed offender or such other person as is placed in custody in a participating correctional facility in accordance with law.

ORP Provider. A provider who orders, refers, or prescribes a covered service to a MassHealth member.

Participating Correctional Facility (Facility). Any correctional facility that is enrolled as a MassHealth provider, that is not an institution of mental diseases as defined in 42 CFR 435.1010: *Definitions* relating to institutional status, and that is either

(1) a Department of Corrections state prison;
(2) a county jail or house of correction; or
(3) a Department of Youth Services hardware-secure or staff-secure track 1 facility or unit.

Post-adjudication. The time period following adjudication.

Reentry Demonstration. The initiative authorized through MassHealth's Section 1115 Demonstration which allows for the provision of certain MassHealth services to inmates of participating correctional facilities in the 90 days prior to their release from such institutions.

Rendering Provider. A Massachusetts licensed practitioner providing covered services to MassHealth members.

Warm Hand-off. A continuity of care tool to transition case management activities from a pre-release case management to a post-release case manager. Warm hand-offs should include a meeting between the individual, and both the pre-release and post-release case manager. It should also include a review of the person-centered care plan and the next steps to ensure continuity of case management and follow-up as the individual transitions into the community.

449.403: Qualifying Individuals

(A) Qualification for CAA, 2023 Services.

(1) In order to qualify to receive the covered services listed in 130 CMR 449.412(C), the individual must meet each of the following criteria:

(a) meet the definition of an inmate of a participating correctional facility;
(b) be eligible for MassHealth;
(c) be held post-adjudication or serving a sentence; and
(d) be an individual younger than 21 years old or a former foster care youth from 18 up to, but not including, 26 years old.

(B) Qualification for Reentry Demonstration Services. In order to qualify to receive the covered services listed in 130 CMR 449.412(D), the individual must meet each of the following criteria:

(1) meet the definition of an inmate of a participating correctional facility;
(2) be enrolled in MassHealth in an eligible benefit plan. Individuals are only eligible for MassHealth coverage under the reentry demonstration if they have MassHealth Standard, CommonHealth, CarePlus, or Family Assistance;
(3) be held post-adjudication or serving a sentence;
(4) be under age 65 years old; and
(5) not be eligible for Medicare enrollment.

(C) For information on MassHealth member eligibility and coverage types, *see* 130 CMR 450.107: *Eligible Members and the MassHealth Card*.

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449.404: Participating Correctional Facility Eligibility

(A) A correctional facility is eligible to enroll as a participating correctional facility only if the correctional facility meets all provider participation requirements in 130 CMR 449.000 and 450.000: *Administrative and Billing Regulations*.

(B) Clinical Laboratory Services by Participating Correctional Facility. A facility or partnering contractor that provides services listed in 130 CMR 449.412(C) that operates a clinical laboratory, must be certified as a clinical laboratory by the Centers for Medicare & Medicaid Services, based on the criteria set forth in 130 CMR 401.404(A)(2). 42 CFR Part 493: Laboratory Requirements sets forth the conditions of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). A facility that conducts CLIA-waived testing only must obtain a CLIA Certificate of Waiver by meeting the exemption conditions under 42 CFR Part 493 Subpart B: Certificate of Waiver and submitting an application for a Certificate of Waiver. A facility that conducts laboratory testing that is not CLIA waived must be in compliance with the Certificate of Waiver, Certificate of Compliance, Certificate for PPM procedures, or Certificate of Accreditation applicable to the category of examinations or procedures performed by the laboratory.

(C) Radiology Services by Participating Correctional Facility. A facility or partnering contractor that provides services listed in 130 CMR 449.412(C), that provides radiologic services, must meet the conditions under 42 CFR 482.26: Condition of participation: Radiologic services and under 42 CFR 483.50: Laboratory, radiology, and other diagnostic services.

(D) Substance Use Disorder Treatment Program Operated by Participating Correctional Facility. A facility that operates a substance use disorder treatment program that provides reentry demonstration services must receive approval from the Department of Public Health, pursuant to 105 CMR 164.600 through 164.626.

(E) Pharmacy Services by Participating Correctional Facility. A facility that provides reentry demonstration pharmacy services must ensure that all pharmacists providing services are

(1) licensed in good standing with the Massachusetts Board of Registration in Pharmacy, consistent with 247 CMR 2.00: *Definitions* and 247 CMR 3.00: *Pharmacist Licensure Requirements*; and

(2) licensed by the federal Drug Enforcement Administration (DEA) and possess a DEA registration number (if applicable), to the extent the pharmacist provides pharmacy services relating to controlled substances.

449.405: Participating Correctional Facility Enrollment Process

(A) The applicant must submit the appropriate provider enrollment application to the MassHealth agency. The MassHealth agency may request additional information or perform a site inspection to evaluate the applicant's compliance with the regulations in 130 CMR 449.000.

(1) Based on the information in the enrollment application, information known to the MassHealth agency about the applicant, and the findings from any site inspection deemed necessary, the MassHealth agency will determine whether the applicant is eligible for enrollment.

(2) The MassHealth agency will notify the applicant of the determination in writing within 60 days of the MassHealth agency receiving a completed application. An application will not be considered complete until the applicant has responded to all MassHealth requests for additional information, and MassHealth has completed any required site inspection.

(B) If the MassHealth agency determines that the applicant is not eligible for enrollment, the notice will contain a statement of the reasons for that determination, including but not limited to incomplete application materials and recommendations for corrective action, if appropriate, so that the applicant may reapply for enrollment once corrective action has been completed.

(C) Enrollment is valid only for the facility or facilities described in the application and is not transferable. Any additional facility established by the applicant at another location must apply for enrollment and be enrolled with the MassHealth agency to receive payment.

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449.406: Location of Participating Correctional Facility Services

(A) A facility may provide covered pre-release services at its facility.

(B) A facility cannot provide covered services in a facility that is an institution of mental diseases (IMD) as defined in 42 C.F.R. 435.1010.

449.407: Services Provided Under a Contract

(A) Introduction. A facility may provide covered services directly or through contractual arrangements made by the facility. If a facility provides services via contractual arrangements, the contractor must also meet the requirements outlined in 130 CMR 449.000. Whether the services are provided directly or through contracts, the facility is responsible for submitting claims for services and for meeting the requirements in 130 CMR 449.000 and all other applicable state and federal requirements. A facility may provide services through contracts in the following situations.

(1) when a facility, in order to be approved to participate in MassHealth, makes arrangements with another agency or organization to provide some or all of the covered services that it does not provide directly; or

(2) when a facility that is already approved for participation in MassHealth makes arrangements with others to provide services it does not provide.

(B) Contract Requirements.

(1) If the facility contracts with another provider participating in MassHealth (*e.g.*, hospital, independent clinical laboratory, independent diagnostic testing facility, or pharmacy), a written contract must document the services to be provided and the corresponding financial arrangements.

(2) If the facility contracts with a provider that does not participate in MassHealth, the written contract must include

(a) a description of the services to be provided;

(b) the duration of the agreement and how frequently it is to be reviewed;

(c) a description of how personnel are supervised;

(d) a statement that the contracting organization will provide its services in accordance with any plan of care established for the member with the facility's staff;

(e) a description of the contracting organization's standards for personnel, including qualifications, functions, supervision, and in-service training;

(f) a description of the method of determining reasonable costs and payments by the facility for the specific services to be provided by the contracting organization; and

(g) an assurance that the contracting organization will comply with Title VI of the Civil Rights Act and all relevant MassHealth provider requirements.

449.408: Reporting Requirements

Each facility must comply with the reporting requirements that pertain to the practice, facility, policies or staffing of the facility as directed by the MassHealth agency, and in compliance with 130 CMR 450.000: *Administrative and Billing Regulations* and 130 CMR 449.000.

449.409: Revocation of Enrollment and Sanctions

(A) The MassHealth agency has the right to review a facility's continued compliance with the conditions for enrollment referred to in 130 CMR 449.404 and the reporting requirements in 130 CMR 449.408 upon reasonable notice and at any reasonable time during the facility's hours of operation. The MassHealth agency has the right to revoke the enrollment, subject to any applicable provisions of 130 CMR 450.000: *Administrative and Billing Regulations*, if such review reveals that the participating facility has failed to or ceased to meet such conditions.

(B) If the MassHealth agency determines that there exists good cause for the imposition of a lesser sanction than revocation of enrollment, it may withhold payment, temporarily suspend the facility from participation in MassHealth, or impose some other lesser sanction as the MassHealth agency sees fit, pursuant to the processes set forth in 130 CMR 450.000: *Administrative and Billing Regulations*, as applicable.

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449.410: In-state Providers: Maximum Allowable Fees

(A) The Executive Office of Health and Human Services (EOHHS) determines the payment rate for covered services in accordance with 101 CMR 317.00: *Rates for Medicine Services*, 101 CMR 314.00: *Rates for Dental Services*; 101 CMR 316.00: *Rates for Surgery* and *Anesthesia Services;* 101 CMR 318.00: *Rates for Radiology Services*; 101 CMR 320.00: *Rates for Clinical Laboratory Services*; and 101 CMR 444.00: *Rates for Certain Substance Use Disorder Services*. Payment is subject to the conditions, exclusions, and limitations set forth in 130 CMR 449.000 and 130 CMR 450.000: *Administrative and Billing Regulations.*

(B) Administrative Operations. Payment by the MassHealth agency for covered services includes payment for administrative operations and for all aspects of service delivery not explicitly included in 130 CMR 449.000, such as, but not limited to

(1) staff supervision or consultation with another staff member;
(2) providing information for the coordination of referrals; and
(3) recordkeeping.

449.411: Site Inspections

(A) The MassHealth agency, and their agents and designated contractors may, at any time, conduct announced or unannounced site inspections of any and all facility locations to determine compliance with applicable regulations, which can include auditing activities in accordance with 130 CMR 450.000: *Administrative and Billing Regulations*. Such site inspections need not pertain to any actual or suspected deficiency in compliance with the regulations.

(B) After any site inspection where deficiencies are observed, the MassHealth agency will prepare a written site inspection report. The site inspection report will include the deficiencies found, and the period within which the deficiency must be corrected. The facility must submit a corrective action plan, within the timeframe set forth by the MassHealth agency, for each of the deficiencies cited in the report, including the specific corrective steps to be taken a timetable for these steps, and the date by which full compliance will be achieved. The MassHealth agency will review the corrective action plan and will accept the corrective action plan only if it conforms to these requirements.

449.412: Covered Services

(A) Facilities that provide covered services must meet the staff requirements outlined in 130 CMR 449.413 and as more fully described in provider bulletins and other guidance that may be issued by the MassHealth agency.

(B) Covered CAA, 2023 services include:

(1) Targeted Case Management (TCM) provided during the 30 days prior to the individual's release.

The TCM service must include the following elements:

(a) Comprehensive assessment and periodic reassessment of individual needs, to determine the need for any medical, educational, social, or other services, including:

1. taking client history;
2. identifying the individual's needs and completing related documentation; and
3. gathering information from other sources such as family members, medical providers, social workers, and educators (if necessary), to form a complete assessment of the eligible individual.

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449.412: continued

(b) Development (and periodic revision) of a specific person-centered care plan based on the information collected through the assessment that

1. specifies the goals and actions to address the medical, social, educational, and other services needed by the individual;

2. includes activities such as ensuring the active participation of the eligible individual, and working with the individual (or the individual's authorized health care decision maker) and others to develop those goals; and

3. identifies a course of action to respond to the assessed needs of the eligible individual.

(c) Referral and related activities, including but not limited to referrals to appropriate care and services available in the geographic region of the home or residence of the eligible individual, (such as scheduling appointments for the individual) to help the eligible individual obtain needed services, including activities that help link the individual with medical, social, and educational providers or other programs and services that can provide needed services to address identified needs and achieve goals specified in the care plan.

(d) A warm hand-off to a post-release case manager to transition case management and support continuity of care of needed services that are documented in the person-centered care plan.

(2) Screening and Diagnostics provided during the 30 days before the individual's release.

(a) Screenings for individuals younger than 21 years old must include

1. services indicated as medically necessary in accordance with the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) requirements in 130 CMR 450.140; and

2. any additional screenings required by EOHHS as announced in sub-regulatory guidance, including but not limited to a behavioral health screening.

(b) Screenings for former foster care youth ages 21 through 25 must include the screenings required by EOHHS as announced in sub-regulatory guidance, including but not limited to a behavioral health screening.

(c) Diagnostics must include any diagnostics indicated as medically necessary based upon the required screenings that are feasible for the facility to provide.

(C) Subject to the Commonwealth's approval of a facility's readiness, covered reentry demonstration services include:

Pre-Release Case Management provided during the 90 days prior to the individual's release from the facility.

(1) The Pre-Release Case Management service must include the following elements:

(a) conducting a health risk assessment, as appropriate;

(b) assessing the needs of the individual in order to inform development, with the client, of a discharge/reentry person-centered care plan, with input from the clinician providing consultation services and the facility's reentry planning team. While the person-centered care plan is created in the pre-release period and is part of the case management pre-release service to assess and address physical and behavioral health needs and health related social needs (HRSN) identified, the scope of the plan extends beyond release;

(c) obtaining informed consent, when needed, to furnish services and/or to share information with other entities to improve coordination of care;

(d) providing warm linkages to a post-release care manager, which includes sharing discharge/reentry care plans with the post-release care manager upon reentry;

(e) ensuring that necessary appointments with physical and behavioral health care providers, including, as relevant to care needs, with behavioral health coordinators and post-release care managers are arranged;

(f) making warm linkages to community-based services and supports, including but not limited to educational, social, prevocational, vocational, housing, nutritional, transportation, childcare, child development, and mutual aid support groups;

(g) providing a warm hand-off, as appropriate, to post-release case managers; and

(h) ensuring that, as allowed under federal and state laws and through consent with the member, data is shared with post-release care managers, and, as relevant, to physical and behavioral health/serious mental illness (SMI)/substance use disorder (SUD) providers to enable timely and seamless hand-offs.

The text of the regulations published in the electronic version of the Massachusetts Register is unofficial and for informational purposes only.
The official version is the printed copy which is available from the State Bookstore at http://www.sec.state.ma.us/spr/sprcat/catidx.htm.

449.412: continued

(2) EOHHS may issue, via administrative bulletin or other written issuance, additional guidance regarding the requirements of pre-release case management.

(D) Case management services delivered after an individual's release from the facility are not included in the scope of 130 CMR 449.412.

449.413: Staffing Requirements

(A) Rendering providers working within facilities may provide covered services.

(B) Rendering providers must
(1) be licensed, registered, certified, or otherwise appropriately credentialed or recognized practitioners under Massachusetts state scope of practice statutes; and
(2) have the necessary experience and receive appropriate training, as applicable to a given carceral facility.

(C) ORP providers must be enrolled in MassHealth, pursuant to 130 CMR 450.000: *Administrative and Billing Regulations* and regulations governing the ORP provider's provider type. ORP providers may enroll in MassHealth as a non-billing provider as described in 130 CMR 450.212(E) or as a billing provider.
(1) The following types of providers are ORP providers: certified nurse midwife, certified nurse practitioner, certified registered nurse anesthetist, clinical nurse specialist, dentist, licensed independent clinical social worker, optometrist, pharmacist (if authorized to prescribe), physician, physician assistant, podiatrist, psychiatric clinical nurse specialist, or psychologist.
(2) Claims for services listed in 130 CMR 449.413(C)(2) require an order, referral, or prescription from a MassHealth-enrolled ORP provider. Claims for the following services listed in 130 CMR 449.415(C)(2)(a) through (q) that do not have an order, referral, or prescription from a MassHealth-enrolled ORP provider will be denied.
(a) any service that requires a Primary Care Clinician referral (*see* 130 CMR 450.118(J): *Referral for Services*);
(b) any service that requires a Primary Care ACO Participating Primary Care Provider referral (see 130 CMR 450.119(I): *Referral for Services*);
(c) Adult Day Health;
(d) Adult Foster Care;
(e) Continuous Skilled Nursing;
(f) Durable Medical Equipment;
(g) Eyeglasses;
(h) Group Adult Foster Care;
(i) Home Health;
(j) Independent Nurse;
(k) Labs and Diagnostic Tests;
(l) Medications;
(m) Orthotics;
(n) Oxygen/Respiratory Equipment;
(o) Prosthetics;
(p) Psychological Testing; and
(q) Therapy (Physical, Occupational, or Speech and Language).

(D) Case Manager Qualifications. The case manager must have, or work under the supervision of an individual with, at minimum, a bachelor's degree in a related field or two years of professional or paraprofessional experience in human services, criminal justice, social work, social casework, guidance, vocational counseling, employment counseling, educational counseling or correctional facility work.

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449.414: Supervision, Training, and Other Staff Requirements

(A) Staff Supervision Requirements. Each staff member must receive supervision appropriate to the staff member's skills and level of professional development. Supervision must occur in accordance with the program's policies and procedures and must include review of specific member issues, as well as a review of general principles and practices related to mental health, substance use disorder, and medical conditions.

(B) Staff Training. The facility must ensure that staff receive training to enhance and broaden their skills. Recommended training topics include but are not limited to:

(1) common diagnoses across medical and behavioral healthcare;
(2) engagement and outreach skills and strategies;
(3) service coordination skills and strategies;
(4) behavioral health and medical services, community resources, and natural supports;
(5) principles of recovery and wellness;
(6) cultural competence;
(7) managing professional relationships with members including but not limited to boundaries, confidentiality, and peers as CSP workers;
(8) service termination;
(9) motivational interviewing;
(10) accessibility and accommodations;
(11) trauma-informed care;
(12) traumatic brain injuries; and
(13) safety protocols.

(C) Staff Professional Standards. Any staff, of any discipline, operating in the facility must comport with the standards and scope of practice delineated in their professional licensure and be in good standing with their board of professional licensure, as applicable. Each facility must notify the MassHealth agency of any staff who are sanctioned by the Department of Public Health or sanctioned by their board of licensure, as applicable.

(D) Staffing Plan. The facility must maintain a staffing plan that includes policies and procedures to ensure all staffing and supervision requirements pursuant to 130 CMR 449.000 are met. The staffing plan must include a safety protocol outlining how adverse incidents are documented and addressed.

(E) Conflict of Interest. The facility must ensure appropriate protections against conflicts of interest in the service planning and delivery of covered services.

449.415: Recordkeeping Requirements

(A) Release of Information. Each facility must obtain written authorization from each member or the member's legal guardian to release information obtained by the facility, to other community-based providers, federal and state regulatory agencies, and, when applicable, referral providers or other relevant parties to the extent necessary to carry out the purposes of the program and to meet regulatory requirements. All such information must be released on a confidential basis and in accordance with all applicable requirements.

(B) Member Records.

(1) Facilities must maintain member records in accordance with 130 CMR 450.000: *Administrative and Billing Regulations*. When a member is referred to any other provider, the program must maintain the original member record and forward a copy of the information in 130 CMR 449.415(C) and (D) to the other provider.
(2) Member records must be complete, accurate, and properly organized.

(C) Facilities must maintain case records that document for all individuals receiving case management services the following:

(1) the name of the individual;
(2) the dates of the case management services;
(3) the name of the provider agency (if relevant) and the person providing the case management service;

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449.419: continued

(4) the nature, content, units of the case management services received and whether goals specified in the care plan have been achieved;
(5) whether the individual has declined services in the care plan;
(6) the need for, and occurrences of, coordination with other case managers;
(7) a timeline for obtaining needed services; and
(8) a timeline for reevaluation of the plan.

(D) The member's record must include at least the following information:
(1) the member's name and case number, MassHealth identification number, gender identity, date of birth, marital status, next of kin, and date of initial contact;
(2) the place of service;
(3) the member's description of the problem, and any additional information from other sources, including the referral source, if any;
(4) written documentation that the member receiving services meets the clinical standards published by the MassHealth agency;
(5) the relevant medical, psychosocial, educational, and vocational history;
(6) a needs assessment of the member;
(7) short- and long-range goals that are realistic and obtainable and a time frame for their achievement;
(8) the member's service plan, updates, and related facility service planning meetings, including a schedule of activities and services necessary to achieve the member's goals, signed by both the facility staff person and the member;
(9) written record of all services provided, including face-to-face, virtual, and collateral contacts, with progress notes;
(10) a written record of the reassessments that includes recommendations for revision of the service plan, when indicated, and the names of the reviewers;
(11) the name(s) of the facility staff person(s) responsible for providing services to the member;
(12) reports on all collateral consultations and collaborations with family, friends, and outside professionals, including probation, parole or correctional institution staff, who are involved in the member's treatment;
(13) all information and correspondence to and from other involved agencies, including appropriately signed and dated consent forms;
(14) when discharged, a discharge summary, including a summary of the member's services, a brief summary of the member's condition and response to services on discharge, achievement of goals, and recommendations for appropriate services that should be provided in subsequent programs by the same or other agencies to accomplish the member's long-range goals, and the program's future responsibility for the member's care; and
(15) if the member fails to keep appointments or to adequately participate in the service plan, facility staff must make every effort to encourage the member to do so, and these follow-up efforts must be documented in the member's record.
(16) if the member is receiving case management services, all of the documentation listed in 130 CMR 449.417(C).

(E) Program Records. The facility must retain documentation reflecting compliance with the requirements of 130 CMR 449.000, including 130 CMR 449.403.

(F) Other Records and Reports as Directed by EOHHS. The facility must maintain other records and reports as directed by EOHHS.

(G) Availability of Records. Any and all health records must be made available to the MassHealth agency upon request.

449.416: Administration

(A) Organization. The facility must maintain an organizational chart showing major operating programs of the organization, the personnel in charge of each program, and the lines of authority.

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449.416: continued

(B) Staff Development and Supervision. Each staff member must receive supervision appropriate to the person's skills and level of professional development. Supervision must be documented and must occur within the context of a formalized relationship that provides frequent and regularly scheduled individual or group personal contact with the supervisor.

449.417: Service Limitations

Funding Availability. Reimbursement for MassHealth services is subject to limitations based on the availability of full federal financial participation, and any other applicable federal statute, regulation, or payment limit.

449.417: Severability

The provisions of 130 CMR 449.000 are severable. If any provision of 130 CMR 449.000 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 130 CMR 449.000 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

130 CMR 449.000: M.G.L. c. 118E, §§ 7 and 12.

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Docket # 445

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **205 CMR 3.00**

CHAPTER TITLE: **Harness Horse Racing**

AGENCY: **Massachusetts Gaming Commission**

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

205 CMR 3.00 is intended to clarify the procedures, rules, and policies surrounding Harness Horse Racing in the Commonwealth. The proposed amendment is specifically to 205 CMR 3.02: Definitions.

REGULATORY AUTHORITY: **M.G.L c. 128A , §§ 9 and 9B**

AGENCY CONTACT: **Melanie Foxx** PHONE: **8572020429**

ADDRESS: **101 Federal St., 12th floor, Boston Massachusetts 02110**

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

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

Regulation was filed by emergency on March 27, 2026, prior to the start of the horse racing season to ensure the health or safety of the public, participants and animals involved. The regulation is being re-filed by emergency prior to the expiration of the initial emergency filing, so that the regulation can complete the required promulgation process as contemplated in c. 128A § 9B.

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.*

N/A

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: **N/A**

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: **N/A**

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:*
Harness Horse Racing, ARCI, USTA, Definitions.

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:*
This regulation is replacing and amending the existing version of 205 CMR 3.00, specifically 205 CMR 3.02.

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 24 2026**

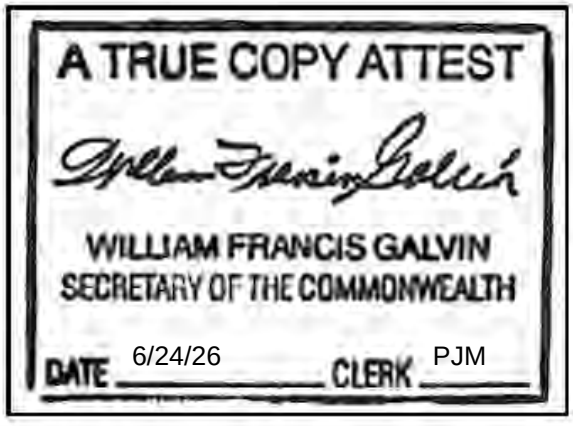
Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **3/27/26**

CODE OF MASSACHUSETTS REGULATIONS

Remove these Pages:	*Insert these Pages:*
This is an Emergency regulation.	**There are no replacement pages.**



205 CMR 3.00: HARNESS HORSE RACING

Section

3.01: Foreword

The Massachusetts Gaming Commission, hereinafter referred to as the Commission, was created by an act of the Legislature of the Commonwealth of Massachusetts in the year 2011. M.G.L. c. 23K as inserted by St. 2011, c. 194, § 16 and amendments, states that the Commission shall have full power to prescribe rules, regulations and conditions under which all harness horse races or harness horse racing meetings shall be conducted in the Commonwealth.

205 CMR 3.00 applies to all persons or individuals, associations or corporations, which shall hold or conduct any harness horse racing meeting within the Commonwealth of Massachusetts licensed by the Commission where harness horse racing shall be permitted for any stake, purse or reward and the definitions here given are to be considered in connection with the rules of harness horse racing and as a part of them.

All licensees and participants are charged with knowledge of 205 CMR 3.00. No licensee or other person shall engage in his or her occupation or trade at any Massachusetts harness horse race track without first reading the 205 CMR 3.00.

Should any question arise as to the meaning of any rule or regulation, the Commission or its representatives will be available to provide an explanation.

205 CMR 3.00 shall also apply to any participant in or patron of any such licensed meeting. In reading 205 CMR 3.00, unless the text otherwise requires, it shall be understood, without constant reference thereto, that they apply only in the Commonwealth of Massachusetts.

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The official version is the printed copy which is available from the State Bookstore at http://www.sec.state.ma.us/spr/sprcat/catidx.htm.

3.01: continued

Every license to hold a meeting is granted upon the condition that the licensee shall accept, observe and enforce 205 CMR 3.00. Furthermore, it shall be the duty of each and every officer, director and every official and employee of said licensee to observe and enforce 205 CMR 3.00. Any and all of 205 CMR 3.00 may be amended, altered, repealed or supplemented by new and additional rules.

The Commission may make exceptions to any rule or rules in individual instances as in their judgement they may deem proper.

The Commission may rescind or modify any penalty or decision or infraction of the rules imposed or made by the racing officials.

M.G.L. c. 128A, and 205 CMR 3.00 supersede the conditions of a race, or the regulations of a race meeting.

205 CMR 3.00 as promulgated by the Commission are supplemented by the State Administrative Procedure Law found in M.G.L. c. 30A. M.G.L. c. 30A provides the procedures that must be followed by all state agencies on such matters as the amending process and the adjudicatory procedure. Under M.G.L. c. 30A, any interested party has the right to attend all hearings conducted by the Commission for the purpose of the adoption or amendment of any rule or regulation. The Commission shall afford any interested person an opportunity to present data, views or arguments in regard to any proposed rule change. Upon written notice to the Commission, a person may request the adoption, amendment or repeal of any regulation with an opportunity to present data, views or arguments in support of such request.

If a dispute should arise concerning a ruling by a steward or other racing official, any party affected by such ruling has a right to an appeal to the Commission in accordance with the provisions of 205 CMR 101.02: *Review of Orders or Civil Administrative Penalties/Forfeitures Issued by the Bureau, Commission Staff, or the Racing Division*.

The rules on pari-mutuel wagering are located in an entirely separate rulebook entitled 205 CMR 6.00: *Pari-mutuel Rules for Horse Racing, Harness Horse Racing and Greyhound Racing*.

The Massachusetts Gaming Commission adopts the United States Trotting Association (USTA) Rules and Regulations as amended; and supplements those rules and regulations with 205 CMR 3.00.

In any situation where a conflict exists between the United States Trotting Association Rules and 205 CMR 3.00, 205 CMR 3.00 will govern. In any instance where a situation is not covered by the USTA Rules, 205 CMR 3.00 will govern and *vice versa*. The assessment of fines and suspensions shall be in the discretion of the Judges and the Gaming Commission.

3.02: Definitions

The following definitions and interpretations shall apply in 205 CMR 3.00, unless the text otherwise require:

Administer or Administration is the introduction of a substance into the body of a horse.

ARCI shall mean the Uniform Classification Guidelines for Foreign Substances And Recommended Penalties Model Rule, December 8, 2025, Version 19.1 as promulgated by the Association of Racing Commissioners International.

Arrears includes all monies due for entrance, forfeits, fees, forfeitures, subscriptions, stake, and also any default in money incident to the Rules.

Associated Person is the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that such other person or entity would care for or train a racing animal or perform veterinarian service on a racing animal for the benefit, credit, reputation, or satisfaction of the inactive person.

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3.02: continued

Tote or Tote Board shall mean the totalisator.

USTA shall mean the Rules and Regulations of the United States Trotting Association, Published May 1, 2025.

Year shall mean a calendar year.

3.03: Appeal to the Commission

(1) A final appeal in the case of any person penalized or disciplined by the racing officials of a meeting licensed by the Commission may be taken to the Commission. consistent with the provisions of 205 CMR 101.02: *Review of Orders or Civil Administrative Penalties/Forfeitures Issued by the Bureau, Commission Staff, or the Racing Division*.

3.04: Stable Names, Registration Fees, Restrictions, *etc*.

(1) Each stable name must be duly registered with the Commission.

(2) In applying to race under a stable name, the applicant must disclose the identity or identities behind a stable name.

(3) If a corporation is involved in the identity behind a stable name, 205 CMR 3.06 must be complied with.

(4) Changes in identities must be reported immediately to and approval obtained from the Commission.

(5) A person cannot register more than one stable name at the same time nor can he or she use his or her real name for racing purposes so long as he or she has a registered one.

(6) Any person who has registered under a stable name may at any time cancel it after he or she has given written notice to the Commission.

(7) A stable name may be changed at any time by registering a new stable name and by paying the required fee.

(8) A person cannot register as his or her stable name one that has been registered by any other person with any Association conducting a recognized meeting.

(9) A person may not register as his or her stable name one which is the real name of any owner of race horses nor one which is the real or assumed name of any prominent person not owning race horses.

(10) A stable name shall be plainly distinguishable from that of another duly registered stable name.

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3.04: continued

(11) A corporate name shall be considered a stable name for the purpose of 205 CMR 3.00, but the Commission reserves the right to refuse any corporation the privilege of registering a stable name.

(12) A trainer, who is a licensed owner or part owner, may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his or her legal name.

3.05: Authorized Agent: Licenses, Filing Instrument, *etc*.

(1) Each authorized agent must obtain a license from the Commission.

(2) Application for a license must be filed for each owner represented.

(3) If a written instrument signed by the owner accompanies the application it shall clearly set forth among the delegated powers whether or not said agent is empowered to collect money from the Association.

(4) If the written instrument is a power of attorney, it shall be filed permanently with the Racing Secretary. If, however, the powers are properly delegated by the owner on the application form for a license then said application shall be in duplicate with both copies signed and sworn to before a Notary Public and one copy filed permanently with the Racing Secretary.

(5) An Authorized Agent may appoint a sub-agent only when specifically authorized so to do by the above said written instrument and, to be effective, notice of such appointment must be given immediately in writing to the Commission.

(6) Any changes must be in writing and filed as provided in 205 CMR 3.05(4).

(7) If an agent represents more than one owner a separate written instrument shall be filed for each owner and a separate fee paid in each case.

(8) The term of the license shall be the calendar year unless the owner revokes the agent's appointment or the Commission revokes the license.

(9) An owner's revocation of an authorized agent's authority must be filed in writing with the Commission and with the Racing Secretary.

3.06: Corporations

(1) Corporations racing horses in Massachusetts shall furnish the following information:
(a) The corporation shall furnish to the Commission and the Judges a statement giving the names of all persons connected with the corporation including officers, directors and stockholders.
(b) The corporation shall furnish to the Commission and the Judges a certificate stating that no person or persons connected with the corporation (officer, director or stockholder) have any beneficial interest in any horse or horses running in their name or the name of any other person or persons racing at the same track where the corporation-owned horses are running.
(c) The corporation shall designate to the Commission and the Judges the name of one individual, preferably an officer (not the trainer), who shall act as agent for the corporation.

(2) All licensed persons listed in the corporation shall be liable for entry fees and penalties against horses raced by the corporation.

(3) In the event that one of the persons listed in the corporation is suspended all horses owned by the corporation may be suspended.

(4) Each of the persons holding a beneficial interest in the corporation shall be in good standing in racing.

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Docket # 124

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **225 CMR 28.00**

CHAPTER TITLE: **SOLAR MASSACHUSETTS RENEWABLE TARGET (SMART) PROGRAM 3.0**

AGENCY: **Department of Energy Resources**

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

The purpose of 225 CMR 28.00 is to encourage the continued use and development of generating units that use solar photovoltaic technology by residential, commercial, governmental, and industrial electricity customers throughout the Commonwealth.

REGULATORY AUTHORITY: **St. 2016, c. 75, § 11 and M.G.L. c. 25A, § 6**

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 plans to issue EO 145 Notices to EOHLC and MMA on June 26, 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: _____

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 28.00

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 26 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **6/26/26**

CODE OF MASSACHUSETTS REGULATIONS

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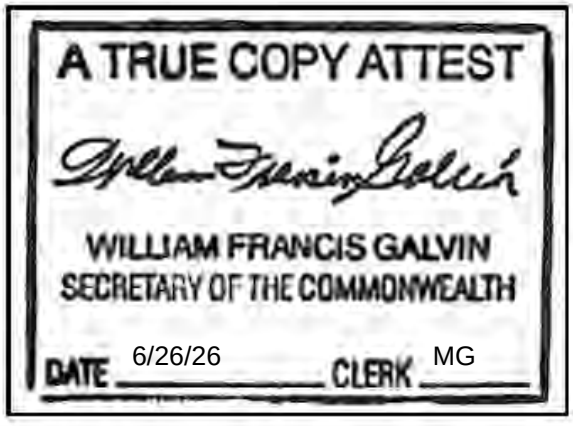
This is an Emergency Regulation.	**There are no Replacement Pages.**



EMERGENCY ADOPTION

The proposed amendments to the SMART 3.0 Program under 225 CMR 28.00 are necessary to continue the Commonwealth's support of solar power generation and maintain a stable solar market in the wake of the uncertainty created by the passage of P.L. 119-21, One Big Beautiful Bill Act (Act), and the subsequent Treasury Notice 2025-42 (Treasury Notice), which, among other things, eliminated the solar investment tax credit (ITC).[1] In order to qualify for the ITC, projects need to begin construction by July 4, 2026, and be operational by 2028, or otherwise meet safe harboring provisions detailed in the Treasury Notice. To secure financing to begin construction and meet ITC milestones, projects need to be qualified under the SMART program as soon as possible. The SMART program requires certain changes to ensure that solar markets and associated financing entities are certain about the eligibility of their projects prior to July 4, 2026.

Without the ITC, certain projects may not be able to move forward without significantly larger incentives funded by Massachusetts ratepayers. The proposed rulemaking creates a separate threshold under SMART 3.0's land use framework for projects that are located in areas of ratepayer funded distribution system upgrades (CIP areas) that applied for interconnection service agreements prior to the release of DOER's Land Use Guideline, which established eligibility parameters that may otherwise preclude many such projects from being able to move forward. This regulatory update must be in effect this spring in order for these projects to qualify for incentives under SMART 3.0 and claim the ITC.

Timely and immediate adoption of the proposed rulemaking will ensure that this subset of projects will maximize their financing diversity, through utilization of both the ITC and SMART 3.0, which in turn increases viability to commercial operation. Absent both these pieces of the puzzle, the risk of fewer projects in CIP areas achieving operation in the short term will increase. Specifically, it will increase the risk of either (1) CIP area enabled capacity not being filled and offsetting costs borne by ratepayers or (2) the timeline for projects claiming the enabled capacity is much longer. Both outcomes result in greater costs to ratepayers. In short, the sooner projects achieve operation in CIP areas, the overall impact to ratepayers is less.

Maximizing the installation of ITC eligible projects to meet clean energy goals, taken as a whole, also requires less ratepayer funded incentives.

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[1] One Big Beautiful Bill Act, Pub. L. No. 119-21, H.R. 1, 119th Cong. (2025); Treasury Department & IRS, Notice 2025-42: Beginning of Construction Requirements for Purposes of the Termination of Clean Electricity Production Credits and Clean Electricity Investment Credits for Applicable Wind and Solar Facilities (Aug. 15 2025).

Moreover, this regulatory update must be in effect before this summer for DOER to facilitate an accurate Annual Assessment process and determine the program details for Program Year 2027. When determining the incentive rates and available capacity for each Program Year, DOER conducts an annual survey, considering current development costs, historic program enrollment, and the industry's projected project pipeline, among other factors. For developers to provide accurate cost and pipeline data during DOER's survey process this summer, they will need the certainty of knowing which projects can qualify under the updated land use threshold. This regulatory change will likely impact many developers' investment decisions about their current and future project portfolios. Having the change in place before DOER starts its survey data collection this July will ensure more informed decisions for Program Year 2027.

225 CMR 28.00: SOLAR MASSACHUSETTS RENEWABLE TARGET (SMART) PROGRAM 3.0

Section

28.01: Purpose and Application

The purpose of 225 CMR 28.00 is to establish a successor statewide solar incentive program to 225 CMR 20.00 to encourage the continued use and development of generating units that use solar photovoltaic technology by residential, commercial, governmental, and industrial electricity customers throughout the Commonwealth. The continued use and development of these generating units has the potential to reduce peak demand, system losses, the need for investment in new infrastructure, distribution congestion, increase grid reliability, improve public health and safety, and diversify the Commonwealth's energy supply. The program establishes mechanisms that allow for responsiveness to rapidly changing market conditions to sustain the development of solar photovoltaic technology to decarbonize the grid. Further, it contributes to the Commonwealth's environmental protection goals concerning air emissions and land use policy including, but not limited to, those required by the Global Warming Solutions Act, M.G.L. c. 21N, §§ 1 through 9, and the Clean Energy and Climate Plan for 2050, by displacing non-renewable generating resources. Owners of generating units that choose to participate in the statewide solar incentive program pursuant to 225 CMR 28.00 do so on a voluntary basis but shall comply with all the terms and requirements of 225 CMR 28.00.

28.02: Definitions

Alternative On-bill Credit. A credit generated by an Alternative On-bill Credit Generation Unit.

Alternative On-bill Credit Generation Unit. An STGU that is enrolled under a tariff establishing a bill credit for generation from STGUs that is approved by the DPU, but is not a tariff approved pursuant to 220 CMR 8.00: *Sales of Electricity by Qualifying Facilities and On-site Generating Facilities to Distribution Companies, and Sales of Electricity by Distribution Companies to Qualifying Facilities and On-site Generating Facilities* or 220 CMR 18.00: *Net Metering*.

Annual Capacity Block. A quantity of STGU capacity, determined pursuant to 225 CMR 28.05(1), that is entitled to be qualified under 225 CMR 28.00 in a given Program Year.

Annual SMART Program Assessment, The annual assessment of the SMART program conducted pursuant to 225 CMR 28.05(1).

Applicant. The Owner or Authorized Agent of a solar photovoltaic Generation Unit who has submitted a Statement of Qualification Application.

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28.02: continued

Approved Distribution System Upgrade. A capital investment project under the provisional program established by D.P.U. 20-75-B or an electric sector modernization plan submitted under M.G.L. c. 164, § 92B that has been proposed by a Distribution Company and approved by the DPU.

Authorized Agent. A person or entity that acts on behalf of the Owner of an STGU through a formal agreement for all dealings with the Department.

Base Compensation Rate. The portion of an STGU's compensation rate related to the Generation Unit's rated alternating current capacity, prescribed in 225 CMR 28.13(2).

Behind-the-meter STGU. An STGU that serves On-site Load other than parasitic or station load utilized to operate the Generation Unit and that receives compensation under 220 CMR 8.00: *Sales of Electricity by Qualifying Facilities and On-site Generating Facilities to Distribution Companies, and Sales of Electricity by Distribution Companies to Qualifying Facilities and On-site Generating Facilities* or 220 CMR 18.00: *Net Metering*, or under the SMART Tariff.

Bill Credits. Net Metering Credits or Alternative On-Bill Credits.

Brownfield. A disposal site that has received a release tracking number from MassDEP pursuant to 310 CMR 40.0000: *Massachusetts Contingency Plan*, the redevelopment or reuse of which is hindered by the presence of oil or hazardous materials, as determined by the Department, in consultation with MassDEP. For the purposes of 225 CMR 28.02: Brownfield, the terms "disposal site," "release tracking number," "oil," and "hazardous materials" shall have the meanings given to such terms in 310 CMR 40.0006: *Terminology, Definitions and Acronyms*. No disposal site that otherwise meets the requirements of 225 CMR 28.02 shall be excluded from consideration as a Brownfield because its cleanup is also regulated by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 through 9675, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6921 through 6939g, or any other federal program.

Building Mounted STGU. An STGU with 100% of the nameplate capacity of the solar photovoltaic modules used for generating power installed on a building.

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

Canopy STGU. An STGU with not less than 100% of the nameplate capacity of the solar photovoltaic modules used for generating power installed on a raised structure in a manner that complies with the requirements of 225 CMR 28.07(5)(b)2.

Commercial Operation Date. The date on which a Distribution Company grants approval for an STGU to interconnect with the electric grid.

Community Shared STGU. An STGU that provides electricity or Bill Credits to three or more Customers of Record and meets the eligibility requirements of 225 CMR 28.07(5)(c)1.

Comparable Crops. Crops which by their production, harvesting, on-farm usage, processing, marketing, and other factors are comparable in agricultural practice, equipment requirements, economic value, environmental impact, and other factors to the crops previously grown on the site or previously grown by the proposed operator.

Compensation Rate Adder. An adder to an STGU's Base Compensation Rate established pursuant to 225 CMR 28.13(3).

Core Habitat. Key areas that are critical for the long-term persistence of rare species and other species of conservation concern, as well as a wide diversity of natural communities and intact ecosystems across the Commonwealth, as identified by the Massachusetts Division of Fisheries and Wildlife BioMap framework within the Natural Heritage and Endangered Species Program.

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28.02: continued

Critical Natural Landscape. Areas including large natural landscape blocks and buffering uplands around coastal, wetland and aquatic Core Habitats to help ensure their long-term integrity, as identified by the Massachusetts Division of Fisheries and Wildlife BioMap framework within the Natural Heritage and Endangered Species Program.

Customer of Record. An eligible customer with the Distribution Company whose name appears on a Distribution Company billing account of a meter connected to or receiving Bill Credits from an STGU.

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 utility established pursuant to the provisions of M.G.L c. 164.

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

Dual-use Agricultural STGU. An STGU located on Land in Agricultural Use, Important Agricultural Farmland, Fallow Farmland, or Newly Created Farmland that allows the continued use of the land for agriculture and meets the eligibility requirements of 225 CMR 28.07(5)(b)3.

Eligible Landfill. A landfill that has received an approval from MassDEP for the use of a solar photovoltaic Generation Unit at the landfill as a post-closure use pursuant to 310 CMR 19.143: *Post-closure Use of Landfills*.

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

Energy Storage System. A commercially available technology that is capable of absorbing energy, storing it for a period of time, and thereafter dispatching the energy.

Environmental Attribute. All GIS Certificates and any other environmental benefits associated with the energy generation of an STGU.

Environmental Monitor. An entity retained by the Department, under 225 CMR 28.08(6), to ensure compliance with Performance Standards under 225 CMR 28.08(7).

Fallow Farmland. Open arable land that has not been cultivated or used in agriculture for a period of one to five years preceding the Pre-Determination Application for a Dual-use Agricultural STGU.

Federal Low Income Requirements. For metropolitan areas, individuals and households with incomes at or below the greater of:

(a) 80% area median income; and

(b) 200% of the federal poverty level.

(c) For non-metropolitan areas, individuals and households with incomes at or below the greater of:

1. 80% area median income;
2. 80% Statewide non-metropolitan area median income; and
3. 200% of the federal poverty level.

Such designations may be identified using the U.S. Department of the Treasury's Community Development Financial Institutions Fund's Investment Area Eligibility dataset.

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28.02: continued

Federally Designated Environmental Justice Area. ommunities defined as disadvantaged by the U.S. Environmental Protection Agency's Greenhouse Gas Reduction Fund and Solar for All program, including:

(a) census tracts identified as "disadvantaged" by the White House's Climate and Economic Justice Screening Tool;

(b) census block groups that are at or above the 90th percentile for any of the U.S. Environmental Protection Agency's EJScreen tool's supplemental indexes when compared to the nation or state; or

(c) geographic areas identified in the U.S. Environmental Protection Agency's EJScreen tool as within Tribal land.

Final Statement of Qualification. A document issued by the Department that qualifies an STGU under 225 CMR 28.00 and authorizes the start of the STGU's tariff term and issuance of incentive payments.

Flat Incentive Rate. The compensation rate assigned to STGUs less than or equal to 25 kW, set pursuant to 225 CMR 28.05(7).

Floating STGU. An STGU located on a body of water that is currently, or was formerly, used for water treatment, agricultural or industrial activities, that allows for the continued use of the water body for its intended purpose and meets the eligibility requirements of 225 CMR 28.07(5)(b)4.

Generation Attribute. Means a Generation Attribute, as defined in 225 CMR 14.02: *Definitions*.

Generation Unit. Means a Generation Unit, as defined in 225 CMR 14.02: *Definitions*.

GIS Certificate. An electronic record produced by the NEPOOL GIS that identifies Generation Attributes of each MWh accounted for in the NEPOOL GIS.

Growing Season Hours. For April through September, 9:00 A.M. through 6:00 P.M. For March and October, 10:00 A.M. through 5:00 P.M.

Guideline. A set of clarifications, interpretations, and procedures, including forms, developed by the Department to assist in compliance with the requirements of 225 CMR 28.00, The Department may issue new or revised Guidelines after providing notice and a minimum of 21-day public comment period on a draft version. Each Guideline shall be effective on its date of issuance or on such date as is specified therein, except as otherwise provided in 225 CMR 28.00.

Important Agricultural Farmlands. Means those soils found to be Important Farmlands pursuant to 7 C.F.R. § 657.5, that includes prime farmlands, unique farmlands, and additional land of statewide importance.

Incentive Payment Effective Date. As defined in the SMART Tariff, means the earliest date on or after the Commercial Operation Date on which electrical energy output of an STGU can result in the creation of RPS Class I Renewable Generation Attributes and is also eligible to begin receiving incentive payments.

Independent Verifier. An entity approved by the Department to perform the function of a third-party meter reader as defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule.

Interconnection Service Agreement. The agreement for interconnection service entered into between the interconnecting customer and a Distribution Company, as defined and provided in each Distribution Company's standards for interconnection of distributed generation.

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28.05: Annual Adjustable Block and Rate Structure

(1) Annual SMART Program Assessment. The Department shall conduct an annual assessment of the SMART Program. The Department may contract with a third-party vendor to assist in this assessment, Based on this assessment, the Department shall set the following Program Year's Capacity Block, Capacity Allocation, Annual Capacity Set Asides, Base Compensation Rates, Compensation Rate Adders, and Flat Incentive Rate for 25 kW or less STGUs as detailed in 225 CMR 28.05(3) through (7).

(a) Factors Considered in Setting Program Year's Block and Rate Structure. The Department shall consider the following factors as part of its Annual SMART Program Assessment:

1. the Commonwealth's progress toward achieving the statewide greenhouse gas emissions limits and sublimits established pursuant to M.G.L. c. 21N;
2. historic program participation rates, including participation by Low Income Customers;
3. current and forecasted ratepayer cost impacts;
4. regional and national solar costs;
5. material and development costs for solar; and
6. the Commonwealth's land use and environmental protection goals.

(b) Annual Survey of Solar Development Costs. As part of the Annual SMART Program Assessment, the Department shall issue a survey to stakeholders pertaining to solar development costs. The survey will cover solar development costs in the Commonwealth including, but not limited to, financing models, permitting and interconnection costs, development timelines, capital costs, operating expenses, or other factors as determined by the Department. The Department will consider the results of the survey in determining the levelized revenue requirement for different STGU configurations and other considerations relevant to the Annual SMART Program Assessment.

(2) Annual Program Year Report. Starting for Program Year 2026, and annually thereafter, no later than December 1st or the following Business Day, the Department shall publish a report on the Department's website that contains the results of the Annual SMART Program Assessment. The report shall contain the annual determinations detailed in 225 CMR 28.05(3) through (7).

(a) Release of Draft Report for Public Comment. Annually, no later than October 1st, or the following Business Day, the Department shall publish a draft Annual Program Year Report to the Department's website and provide notice and a 30-day public comment period.

(b) First Program Year. For Program Year 2025, the Department shall publish the first Program Year Report by September 1, 2025, for the period of October 15, 2025, to December 31, 2025. Program Year 2025's Annual Program Year Report shall be based upon the Evaluation of Solar Costs and Needed Incentive Levels across Sectors from 2025-2030 published to the Department's website on July 10, 2024. The report shall contain the annual determinations detailed in 225 CMR 28.05(3) through (7).

(3) Annual Capacity Block Determination. Annually, the Department shall determine the available Annual Capacity Block for the Program Year.

(a) First Program Year. For Program Year 2025, the Annual Capacity Block shall be 900 MW.

(b) Unused Program Year Capacity. Any unused capacity for a given Program Year shall not roll into the following year's Annual Capacity Block.

(c) Determination of Capped Capacity for Certain Project Types. STGUs less than or equal to 25 kW and Behind-the-Meter STGUs greater than 25 kW and less than or equal to 250 kW shall not count toward the Annual Capacity Block, unless based on the Annual SMART Program Assessment, the Department opts to impose a capacity set aside for such STGUs for the next Program Year. The Department shall include any proposed set aside in its draft Annual Program Year Report.

(4) Annual Capacity Allocation. Annually, the Department shall determine the allocation of a Program Year's Annual Capacity for each Distribution Company. Each Distribution Company shall be allocated a minimum of 1% of the Annual Capacity Block. The remaining capacity available shall be allocated proportional to the total electric load served to Massachusetts End-use Customers by the Distribution Company, provided that a Program Year's Annual Capacity for Fitchburg Gas and Electric Light Company doing business as Unitil shall not exceed 10 MW.

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28.05: continued

(5) Annual Capacity Set Asides. For each Annual Capacity Block, the Department shall set aside capacity for the below listed STGU types. The annual capacity set aside for each STGU type shall not be less than the percentages listed in the below table.

Set-aside Category	Minimum % of Program Year Capacity
• Standalone STGUs greater than 25 kW and less than or equal to 250 kW; and • STGUs greater than 250 kW and less than or equal to 500 kW	10%
Low Income Property Generation Units	10%
Community Shared Solar Generation Units	15%

(a) Additional Set Aside Categories. The Department may set aside capacity for additional STGU types, including for STGUs less than or equal to 25 kW and Behind-the-meter STGUs greater than 25 kW and less than or equal to 250 kW, as it deems necessary.

(b) Capacity Reallocations. Set-aside capacity shall not be reallocated.

(c) Set Aside Capacity Assignments, If an STGU qualifies for more than one set aside category, the Department shall count the STGU's capacity toward the applicable Compensation Rate Adder set-aside category. If that Program Year's set-aside category is full, then, if applicable, the capacity shall count towards the set aside for STGUs greater than 250 kW and less than or equal to 500 kW. If that Program Year's set-aside category is full, the capacity shall count towards any applicable set aside categories established pursuant to 225 CMR 28.05(5)(a). If all applicable set-aside categories have already been filled for the Program Year, the capacity shall not count towards any set aside categories.

(6) Annual Calculation of Base Compensation Rates and Compensation Rate Adders. The Department shall determine a Program Year's Base Compensation Rates and Compensation Rate Adders based on the Annual SMART Program Assessment and the methodology identified in the Department's *Guideline on Base Compensation Rates, Compensation Rate Adders, and Annual Assessment*. Any increase or decrease to the value of any Base Compensation Rate or Compensation Rate Adder shall not exceed 20% of the value for the same category of Base Compensation Rate or Compensation Rate Adder from the prior Program Year or one cent per kWh, whichever is greater.

(7) Annual Calculation of Flat Incentive Rate for Less than or Equal to 25 kW STGUs. Annually, the Department shall determine the Flat Incentive Rate for STGUs with a capacity less than or equal to 25 kW. The Flat Incentive Rate shall be based on the Annual SMART Program Assessment and the methodology identified in the Department's *Guideline on Base Compensation Rates, Compensation Rate Adders, and Annual Assessment*.

(a) Minimum Incentive Payment. The incentive payment for an STGU with a capacity less than or equal to 25 kW shall not be less than $0.01/kWh.

(b) Adder for Low Income STGUs. Annually, the Department shall determine an additional adder amount to be added to the Flat Incentive Rate determined pursuant to 225 CMR 28.05(7) for STGUs less than or equal to 25 kW that qualify as Low Income STGUs pursuant to 225 CMR 28.07(5)(c)2.

(c) Flat Incentive Rate and Adder Change Cap. Any increase or decrease to the value of the Flat Incentive Rate or adder for Low Income STGUs shall not exceed 20% of the value from the prior Program Year or one cent per kWh, whichever is greater.

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28.06: Qualification Process for STGUs

(1) Statement of Qualification Application. A Statement of Qualification Application shall be submitted to the Solar Program Administrator by the Applicant. The Applicant shall use the most current forms and associated instructions provided by the Department, and shall include all information, documentation, and assurances required by such forms and instructions. The application shall contain all applicable documentation detailed below.

(a) Documentation for Applicable Eligibility Provisions. All solar photovoltaic Generation Units shall provide documentation sufficient to demonstrate that they meet all applicable eligibility provisions under 225 CMR 28.07 and documentation requirements under 225 CMR 28.00.

(b) Additional Required Documentation for STGUs 25 kW or Less. A solar photovoltaic Generation Unit 25 kW or less shall submit the following documentation as part of its Statement of Qualification Application:

1. Customer Disclosure Form, A customer disclosure form developed pursuant to 225 CMR 28.12(5) signed with a wet signature or signature using an electronic signature software by the Owner. If the solar photovoltaic Generation Unit Owner is a Third-party Owner, the form shall be signed with a wet signature or an electronic signature software by the Customer of Record.

2. Solar Contract. The Solar Contract for the solar photovoltaic Generation Unit.

3. Customer Utility Bill. A utility bill for the Customer of Record provided by the Distribution Company within 12 months prior to the Solar Contract execution date.

a. A solar photovoltaic Generation Unit shall be exempt from 225 CMR 28.06(1)(b)3. if the Applicant can demonstrate to the Department's satisfaction that the solar photovoltaic Generation Unit is sited on new construction.

b. The Applicant shall instead provide alternative documentation of the annual load estimate for the Customer of Record. If the solar photovoltaic Generation Unit is a Third-party Owned Generation Unit, the Applicant shall also provide alternative documentation to demonstrate to the Department's satisfaction compliance with the savings requirement under 225 CMR 28.07(5)(a).

(c) Additional Required Documentation for STGUs Greater than 25 kW. A solar photovoltaic Generation Unit greater than 25 kW shall provide evidence of the following in order to obtain a Preliminary Statement of Qualification:

1. an executed Interconnection Service Agreement, as tendered by the Distribution Company;

2. a sufficient interest in real estate or other contractual right to construct the solar photovoltaic Generation Unit at the location specified in the Interconnection Service Agreement; and

3. all necessary governmental permits and approvals to construct the solar photovoltaic Generation Unit with the exception of ministerial permits, such as a building permit, and notwithstanding any pending legal challenge(s) to one or more permits or approvals initiated by a party other than the Applicant, Owner, or Customer of Record.

(d) Additional Required Documentation for STGUs 1,000 kW or Less. The Owner or Applicant of a solar photovoltaic Generation Unit exempt under 18 CFR § 292.203(d) from the filing requirements under 18 CFR § 292.203(a)(3) for certification as a qualifying facility shall attest to such exemption in its Statement of Qualification Application.

(e) Application Review Procedures. The Solar Program Administrator will notify the Applicant when the Statement of Qualification Application is administratively complete or if additional information is required. All Statement of Qualification Applications may be subject to review by the Department and the Solar Program Administrator and shall be processed in no more than 45 Business Days by each party

1. Public Comment. The Department may, at its sole discretion, provide an opportunity for public comment on any Statement of Qualification Application. The Department may extend the application review timeline to account for the public comment period.

2. Mitigation Fee Review. If a solar photovoltaic Generation Unit has a pending request with the Department pursuant to 225 CMR 28.09(2)(b), the Statement of Qualification Application shall not be deemed administratively complete under 225 CMR 28.06(1)(e) until the Department has issued a determination.

3. Applications Subject to Site Visits. If a solar photovoltaic Generation Unit is subject to a site visit from the Environmental Monitor pursuant to 225 CMR 28.08(6)(b), the Department may extend the Statement of Qualification Application review time under 225 CMR 28.06(1)(e), subject to the availability of the Environmental Monitor.

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28.06: continued

(2) Issuance or Non-issuance of a Preliminary Statement of Qualification. If the Department finds that a solar photovoltaic Generation Unit meets the applicable eligibility requirements of 225 CMR 28.00, the Solar Program Administrator will issue a Preliminary Statement of Qualification for the STGU.

(a) Preliminary Statement of Qualification. The Preliminary Statement of Qualification shall contain the Base Compensation Rate and the preliminary Compensation Rate Adders applicable to the STGU. It shall also include the Reservation Period during which the STGU is required to achieve Mechanical Completion. If the STGU does not achieve Mechanical Completion before the expiration of the Reservation Period, the Department shall revoke its Preliminary Statement of Qualification. An STGU may add or remove Compensation Rate Adders during its Reservation Period.

1. Reservation Period. The length of an STGU's Reservation Period shall be not less than 24 months. An STGU may apply for an extension of the Reservation Period pursuant to the applicable procedures of the Department's *Statement of Qualification Reservation Period Guideline*.

2. Restrictions or Conditions. The Preliminary Statement of Qualification may include reasonable restrictions or conditions the Department deems necessary to ensure compliance with 225 CMR 28.00.

(b) Non-Issuance of a Preliminary Statement of Qualification. If a solar photovoltaic Generation Unit does not meet the requirements of 225 CMR 28.00, the Solar Program Administrator shall provide written notice to the Applicant, including the reasons for such finding.

(c) Withdrawal of a Statement of Qualification Application. If an Applicant submits a Statement of Qualification Application for a solar photovoltaic Generation Unit and chooses to withdraw the application, the Applicant shall not be eligible to submit a Statement of Qualification Application for the Generation Unit for the following Program Year. A solar photovoltaic Generation Unit shall be exempt from this requirement if it can demonstrate to the Department's satisfaction that it should be granted an exception for good cause.

(3) Issuance or Non-issuance of a Final Statement of Qualification. An STGU that has received a Preliminary Statement of Qualification and is still within its Reservation Period may submit a claim for a Final Statement of Qualification once it has received authorization to interconnect.

(a) Required Documentation. The Final Statement of Qualification claim shall include a copy of the authorization to interconnect issued by the applicable Distribution Company, financial payment documentation, and any remaining documentation to satisfy all applicable eligibility criteria pursuant to 225 CMR 28.07.

(b) Final Statement of Qualification. The Final Statement of Qualification shall contain the final Base Compensation Rate and Compensation Rate Adders applicable to the STGU, the length of the STGU's tariff term, and the STGU's Incentive Payment Effective Date.

(c) Non-issuance of a Final Statement of Qualification, If an STGU does not meet the requirements of 225 CMR 28.00, the Solar Program Administrator shall provide written notice to the Applicant including the reasons for such finding.

(4) Statement of Qualification Applications for Program Year Capacity. Statement of Qualification Applications for solar photovoltaic Generation Units applying for a portion of a Program Year's Annual Capacity Block shall be reviewed using the following process.

(a) The Department shall begin accepting Statement of Qualification Applications for a Program Year on January 1st, or the following Business Day, of the Program Year. For Program Year 2025, the Department shall begin accepting Statement of Qualification Applications on October 15, 2025.

(b) The Department shall accept applications for a period of ten Business Days during which it shall sequence all applications for Generation Units by Interconnection Service Agreement Application Date. The Department shall allocate capacity according to this sequence.

(c) Following the initial ten Business Day application period, all capacity will be reserved on a first-come first-served basis by date of Statement of Qualification Application.

(d) If all available capacity in the Program Year is reserved, the Department shall establish a Waitlist, on a first-come first-served basis, which will be posted to the Department's website and updated weekly.

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28.07: continued

2. Canopy STGUs. In order to qualify as a Canopy STGU, 100% of the nameplate capacity of the STGU shall be located on a raised structure with not less than 75% of the nameplate capacity of the solar photovoltaic modules allowing for the regular and continued use of the area beneath for a secondary function that aligns with the routine operational activities of the site, including, but not limited to, parking, pedestrian walkway, transportation infrastructure, storage of equipment, or canal, provided that such secondary function may not be agricultural production.

3. Dual-use Agricultural STGUs. In order to qualify as a Dual-use Agricultural STGU, an STGU shall meet the following criteria:

a. Project Design Requirements.

i. The STGU will not impede the continued use of the land beneath the solar photovoltaic modules for agricultural purposes;

ii. the STGU is designed to optimize a balance between the generation of electricity and the agricultural productive capacity of the soils beneath; and

iii. the STGU allows for continuous agricultural activities underneath the solar photovoltaic modules, with height enough for labor or machinery as it relates to tilling, cultivating, soil amendments, harvesting, and grazing animals.

b. Project Specification Requirements.

i. Panel Height Requirements. The panels of Dual-use Agricultural STGUs shall meet the following height requirements.

(i) Fixed Tilt STGUs. For fixed tilt STGUs, the minimum height of the lowest panel point shall be eight feet above ground.

(ii) Tracking STGUs. For tracking STGUs, the minimum height of the panel at its horizontal position shall be ten feet above ground. This minimum height may be reduced to eight feet if the maximum sunlight reduction requirement under 225 CMR 28.07(5)(b)3.b.ii. is still met in all tilt positions and the farm operator has functional control of the tracker control system to accommodate agricultural activities.

ii. Sunlight Requirements. A Dual-use Agricultural STGU shall propose a sunlight reduction plan for the STGU based upon the compatibility of the STGU with the proposed agricultural crops and productivity. The plan shall utilize the best available information as indicators, including, but not limited to, photosynthetic active radiation and light saturation data and qualitative information. The maximum sunlight reduction from a Dual-use Agricultural STGU's panels on every square foot of land directly beneath, behind, and in areas adjacent to and within the STGU's design shall not be more than 50% of baseline field conditions during the Growing Season Hours, unless the Applicant can demonstrate that an exception should be granted pursuant to 225 CMR 28.07(5)(b)3.b.iv.

iii. Maximum Direct Current (DC) Rating. The maximum DC capacity rating of a Dual-use Agricultural STGU shall be no more than twice the AC capacity rating of the STGU and shall not exceed 7,500 kW DC.

iv. Exception from Project Specification Requirements. An Applicant may request that the Department, in consultation with MDAR, issue an exception from one or more of the Project Specification Requirements in 225 CMR 28.07(5)(b)3.b.i. through iii. Required documentation for an exception request is detailed further in the Department's *Guideline Regarding the Definition of Dual-use Agricultural Solar Tariff Generation Units*.

c. Eligible Farmland. A Dual-use Agricultural STGU shall be sited on Land in Agricultural Use, land classified as Important Agricultural Farmland, Fallow Farmland, or on Newly Created Farmland.

i. Newly Created Farmland. To be deemed Newly Created Farmland, the Applicant shall demonstrate the viability of agricultural production at the time a Pre-determination Application is submitted to the Department and MDAR and meet the below criteria.

(i) Clearcutting Prohibition. No Newly Created Farmland Project Footprint shall be a result of the clearing or conversion of forest land that does not qualify as permissible tree clearing. Permissible tree clearing may include routine maintenance of existing field boundaries or roads, removing isolated trees in an existing cleared space, or other instances of routine agricultural activity as determined by the Department, in consultation with MDAR.

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28.07: continued

(ii) Soil Test Requirement. For Newly Created Farmland, Applicants shall provide soil tests from the UMass Amherst Soils Testing Laboratory or equivalent, demonstrating pH and macronutrients are within optimum ranges for the crops proposed to be grown.

d. Agricultural Plan. Applicants shall provide an agricultural plan detailing the agricultural activities to take place on the project site. A template for the agricultural plan shall be provided in the Pre-determination Application.

i. Transitioning Greater than ten Acres of Farmland. If, as part of its Agricultural Plan, a Dual-use Agricultural STGU on Important Agricultural Farmland is proposing to transition greater than ten acres of farmland to grazing or hay production that has not been used for those agricultural purposes during any of the five crop years prior to the Pre-determination Application, the agricultural plan shall demonstrate that there will be concurrent growing of Comparable Crops to the existing operation for at least the first five years of the STGU operation, as determined by the Department, in consultation with MDAR, and detailed further in the Department's *Guideline Regarding the Definition of Dual-use Agricultural Solar Tariff Generation Units*.

ii. New Commodities. The agricultural plan may include new commodities in the place of Comparable Crops provided that the plan includes the farmer's previous experience with or a working knowledge of the new commodity, an estimate or other information detailing the market viability of the new commodity, or a comparison of the economic value of the new commodity relative to current production.

e. Eligibility Determinations. Dual-use Agricultural STGUs shall obtain a Pre-determination Letter from the Department, pursuant to the process outlined in the Department's *Guideline Regarding the Definition of Dual-use Agricultural Solar Tariff Generation Units*. All final determinations regarding the eligibility of such facilities will be made by the Department, in consultation with MDAR.

4. Floating STGUs. In order to qualify as a Floating STGU, an STGU shall meet the following criteria:

a. Project Design Requirements.

i. the STGU will not interfere with the continued use of the water body for its designated purpose;

ii. the racking system shall be made of materials that have been tested for water quality impact and have been shown to have no or minimal impact;

iii. the STGU shall use equipment that has been certified by the manufacturer to not contain PFAS;

iv. the STGU will not be permitted in wetland resource areas and natural waterbodies such as salt ponds, or freshwater lakes and great ponds, as defined in M.G.L. c. 91;

v. the ratio of the total surface area covered by the Floating STGU divided by the total surface area of the water body under standard conditions shall not exceed 50%;

vi. the STGU shall be designed to minimize potential interaction with native species;

vii. the STGU is a floating structure allowing for continued use and maintenance of the water body while generating electricity; and

viii. the Applicant shall demonstrate to the Department's satisfaction that the water body was not constructed for the purpose of obtaining eligibility as a Floating STGU.

b. Eligibility Determinations. Floating STGUs shall obtain a Pre-determination Letter from the Department, pursuant to the process outlined in the Department's *Guideline Regarding the Definition of Floating Solar Tariff Generation Units*. All final determinations regarding the eligibility of such facilities will be made by the Department, in consultation with MassDEP, MassDFG, or MDAR, as necessary.

c. Capacity Limitation. The Department shall not qualify more than 40 MW of Floating STGU capacity under 225 CMR 28.00.

d. Interconnection Application Date Requirement. Floating STGUs shall demonstrate that an application for an Interconnection Service Agreement was submitted to the Distribution Company prior to June 20, 2025.

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28.07: continued

(c) Eligibility Criteria for Off-taker Based Compensation Rate Adders.

1. Community Shared STGUs. In order to qualify as a Community Shared STGU, an STGU shall meet the following criteria.

a. Low Income Customers Requirement. Community Shared STGUs shall allocate no less than 40% of all Bill Credits generated by the STGU to Low Income Customers or allocate no less than 15% of all Bill Credits generated to Low Income Customers at no cost to the Low Income Customers.

i. Low Income Customers Requirement for Alternative Community Shared Solar Programs, Municipal Load Aggregations. STGUs qualifying through a municipal load aggregation program established pursuant to M.G.L. c. 164, § 134 shall allocate 100% of the generation output of the STGU, in the form of electricity, energy cost savings, or Bill Credits to Low Income Customers.

ii. Low Income Customers Requirement for Alternative Community Shared Solar Programs, Distribution Companies. STGUs qualifying through a community shared solar program established and administered by a Distribution Company shall allocate 100% of the generation output of the STGU, in the form of electricity, energy cost savings, or Bill Credits generated to Low Income Customers.

b. Guaranteed Discount Requirement. Low Income Customers shall receive not less than a 40% discount on the value of allocated Bill Credits from the Community Shared STGU to the Low Income Customer. All other customers shall receive not less than a 20% discount on the value of allocated Bill Credits from the Community Shared STGU to the End-use Customer. This requirement shall not apply to End-use Customers on a non-residential rate class.

i. Guaranteed Discount Requirement for Alternative Community Shared Solar Programs, Municipal Load Aggregation Programs. STGUs qualifying through a municipal load aggregation program established pursuant to M.G.L. c. 164, § 134 may satisfy 225 CMR 28.07(5)(c)1.b. by allocating to participating Low Income Customers in the form of electricity, energy cost savings, or Bill Credits an aggregate annual value equal to the product of:

(i) 30% of the average annual value of an Alternative On-bill Credit for the rate class and Distribution Company of the STGU and

(ii) the total annual kWh generated by the STGU.

ii. Guaranteed Discount Requirement for Alternative Community Shared Solar Programs, Distribution Companies. STGUs qualifying through a community shared solar program established and administered by a Distribution Company may satisfy 225 CMR 28.07(5)(c)1.b. by allocating to participating Low Income Customers in the form of electricity, energy cost savings, or Bill Credits an aggregate annual value equal to the product of:

(i) 30% of the average annual value of an Alternative On-bill Credit for the rate class and Distribution Company of the STGU and

(ii) the total annual kWh generated by the STGU.

c. Customer Disclosure Form Requirement. The Owner or Authorized Agent of a Community Shared STGU shall submit a copy of the customer disclosure form developed pursuant to 225 CMR 28.12(4) completed by each Customer of Record receiving electricity or Bill Credits generated by the Community Shared STGU as part of its Statement of Qualification Application. The customer disclosure forms shall be signed with a wet signature or an electronic signature software by the Customer of Record.

i. New Customers of Record. The Community Shared STGU Owner or Authorized Agent shall provide updated customer disclosure forms for any new Customers of Record that receive electricity or Bill Credits generated by the Community Shared STGU after it is granted its Statement of Qualification. Any updated customer disclosure forms shall be submitted to the Department by no later than December 31st of the calendar year that they were signed.

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28.07: continued

ii. Customer Disclosure Form Exceptions.

(i) Exception for Alternative Community Shared Solar Programs. A Community Shared STGU may be exempt from the customer disclosure form requirements in 225 CMR 28.07(5)(c)1.c. if the Applicant can demonstrate to the Department's satisfaction that the Customers of Record are enrolled without a customer contract. In these instances, the Applicant may be required to demonstrate that the Customer(s) of Record have received an explanation of benefits, pursuant to the documentation outlined in the *Guideline Regarding Community Shared Solar Tariff Generation Units*, or further Department guidance.

(ii) Exception for Anchor Off-takers. Participants receiving Bill Credits in excess of those produced annually by 25 kW of nameplate capacity shall not be subject to 225 CMR 28.07(5)(c)1.c.

d. Bill Credits.

i. Allocation Requirement. Community Shared STGUs shall demonstrate to the Department's satisfaction that at least 90% of Bill Credits or electricity, or in the case of an Alternative Community Shared Solar Program, energy cost savings, have been assigned to valid and active utility accounts by the Incentive Payment Effective Date.

ii. Bill Credit Requirements for Alternative Community Shared Solar Programs. Electricity. energy cost savings, or Bill Credits may be allocated through a municipal load aggregation program established pursuant to M.G.L. c. 164, § 134, or through a community shared solar program established and administered by a Distribution Company. Community Shared STGUs that qualify through such eligible programs shall submit satisfactory documentation to the Department as detailed in the Department's *Guideline Regarding Community Shared Solar Tariff Generation Units*. Community Shared STGUs that qualify through such eligible programs shall use an enrollment process consistent with M.G.L. c. 164, § 134 and any requirements established by the DPU.

iii. Bill Credit Restriction for Anchor Off-takers. For Community Shared STGUs 100 kW or greater, no more than two participants may receive Bill Credits in excess of those produced annually by 25 kW of nameplate capacity, and the combined share of said participants' capacity shall not exceed 50% of the total capacity of the STGU. STGUs subject to this requirement must demonstrate that no individual or distinct legal entity will receive bill credits or electricity in an amount that exceeds the applicable limitations noted in 225 CMR 28.07(5)(c)1.d.iii., even if the credits are allocated across multiple utility accounts.

2. Low Income STGUs. In order to qualify as a Low Income STGU, an STGU shall meet the following criteria.

a. Size Requirement. Low Income STGUs shall be 25 kW or less.

b. Low Income Off-takers Requirement. Low Income STGUs shall satisfy at least one of the following criteria:

i. provide 100% of the annual generation output as electricity or Bill Credits to a single Low Income Customer and be located on that Low Income Customer's residence;

ii. provide at least 15% of the annual generation output as electricity or Bill Credits to one Low Income Customer at no cost to the Low Income Customer;

iii. provide at least 15% of the annual generation output as electricity or Bill Credits to two or three Low Income Customers at no cost to the Low Income Customers, provided that a single Low Income Customer's annual usage is less than 15% of the Generation Unit's output; or

iv. provide 100% of the annual generation output as electricity or Bill Credits to one or more qualified Low Income Properties. The Applicant shall provide satisfactory documentation to the Department that there is a minimum agreement term of 20 years for the Low Income Property to receive the generation output, as detailed in the Department's *Guideline Regarding Low Income Generation Units*.

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28.07: continued

v. Requirement for Behind-the-meter STGUs. For Behind-the-meter STGUs satisfying the Low Income Off-takers Requirement under 225 CMR 28.07(5)(c)2.b.ii. or iii., the Applicant shall demonstrate to the Department that the STGU will have at least 15% excess generation to allocate.

vi. Requirement to Update Off-takers. If one or more Low Income Customer used to satisfy 225 CMR 28.07(5)(c)2.b.ii. or iii. no longer qualify as Low Income Customer, the Applicant shall replace that customer with an eligible Low Income Customer and update the Department of that update within 30 days of the previous Low Income Customer's change in eligibility status.

3. Low Income Property STGUs. In order to qualify as a Low Income Property STGU, an STGU shall meet the following criteria:

a. Eligible Properties. Applicants shall provide satisfactory documentation to the Department that the recipient or recipients of the generation output meets the definition of Low Income Property.

i. Private Entities. A private entity wishing to qualify as a Low Income Property shall demonstrate to the Department's satisfaction that:

(i) at least 25% of the housing available at the properties to be served by the Generation Unit is required to be rented to households that are at or below 80% of the area median income; or

(ii) at least 20% of the housing available at the properties to be served by the Generation Unit is required to be rented to households that are at or below 50% of the area median income.

b. Generation Output Delivery. Applicants shall provide satisfactory documentation to the Department that the STGU is sited on a Low Income Property or 100% of the generation output will be delivered to one or more Low Income Properties in the form of electricity or Bill Credits.

c. Third-party Owned Generation Units. If the STGU has a Third-party Owner, the Applicant shall provide satisfactory documentation to the Department that there is a minimum agreement term of 20 years or a demonstration of intent to renew the agreement for the Low Income Property to receive the generation output.

d. Optional Pre-determination. Applicants may request a Pre-determination Letter from the Department, pursuant to the process outlined in the Department's *Guideline Regarding Low Income Generation Units.*

4. Public Entity STGUs. In order to qualify as a Public Entity STGU, an STGU shall meet the following criteria:

a. Municipal or Government Property. For STGUs sited on property owned by a Municipality or Other Governmental Entity, the Applicant shall provide satisfactory documentation to the Department that either:

i. The STGU is owned by the Municipality or Other Governmental Entity; or

ii. The Owner has assigned 100% of the generation output in the form of electricity or Bill Credits to Municipalities or Other Governmental Entities.

b. Private Property. For STGUs sited on privately owned property, the Applicant shall provide satisfactory documentation to the Department that either:

i. The STGU is owned by the Municipality in which the STGU is sited;

ii. The Owner has assigned 100% of the generation output in the form of electricity or Bill Credits to the Municipality or Other Governmental Entities in the Municipality in which the STGU is sited; or

iii. The Owner has

(i) assigned 100% of the generation output in the form of electricity or Bill Credits to Municipalities or Other Government Entities and

(ii) not less than 15% of that output is assigned to the Municipality, or an Other Governmental Entity located in the Municipality, in which the STGU is sited.

c. Contract Requirement. Applicants may apply for a Preliminary Statement of Qualification by providing satisfactory documentation to the Department that a Municipality or Other Governmental Entity has awarded a contract to develop an STGU. STGUs applying as a Public Entity STGU shall not be subject to the requirements in 225 CMR 28.06(1)(c)2.

d. Exception to Executed ISA Requirement. STGUs applying as a Public Entity STGU shall not be subject to the requirements in 225 CMR 28.06(1)(c)1.

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28.07: continued

e. Exception to Permit Requirement. STGUs applying as a Public Entity STGU shall not be subject to the requirements in 225 CMR 28.06(1)(c)3.

(d) Other Compensation Rate Adders.

1. Solar Tracking Adder. In order to qualify for the Solar Tracking Adder, an STGU shall follow the path of the sun to maximize the solar radiation incident on the photovoltaic surface with a one or two-axis array that points the system directly at the sun at all times and is designed to maximize possible daily energy generation.

2. Pollinator Adder. In order to qualify for the Pollinator Adder, an STGU shall obtain and maintain at least a silver certification from the University of Massachusetts Clean Energy Extension Pollinator-friendly Certification Program, or other equivalent certification as determined by the Department.

(e) Other Special Eligibility Criteria.

1. Energy Storage Systems. In order to qualify for the Energy Storage System Compensation Rate Adder, an STGU shall be co-located with an Energy Storage System that meets the following eligibility criteria:

a. System Size. The STGU shall be greater than 25 kW.

b. System Requirements.

i. Minimum and Maximum Nominal Rated Power. The nominal rated power capacity of the Energy Storage System shall be at least 25%. The nominal rated power capacity of the Energy Storage System may be more than 100% of the rated capacity, as measured in direct current, of the STGU, but the STGU will receive credit for no nominal rated power capacity greater than 100% in the calculation of its Energy Storage Adder, pursuant to 225 CMR 28.13(3)(e)2.

ii. Minimum and Maximum Nominal Useful Energy. The nominal useful energy capacity of the Energy Storage System co-located with the STGU shall be at least two hours. The nominal useful energy capacity of the Energy Storage System co-located with the STGU may be more than six hours, but the STGU will receive credit for no nominal useful energy capacity greater than six hours in the calculation of its Energy Storage Adder, pursuant to 225 CMR 28.13(3)(e)2.

iii. Minimum Efficiency Requirement. The Energy Storage System co-located with the STGU shall have at least a 65% round trip efficiency in normal operation.

c. Operational and Performance Requirements.

i. Operational Requirements. The Energy Storage System shall be online and able to discharge at least 85% of the time during the Summer Peak Period and Winter Peak Period. The Energy Storage System may satisfy this requirement for either or both of the Peak Periods by participating in a demand response or grid services program. For any period that the Energy Storage System is not participating in a demand response or grid services program, the Energy Storage System shall demonstrate to the Department's satisfaction that it meets the operational requirements. If the Energy Storage System is decommissioned or non-functional for more than 15% of the Summer Peak Period or Winter Peak Period, the Department may disqualify the STGU from continuing to receive the Energy Storage System Compensation Rate Adder.

ii. Performance Requirements. The Energy Storage System shall dispatch 100 complete cycle equivalents per year or shall participate in a demand response or grid services program.

d. Standalone DC-coupled Solar with Energy Storage. DC-coupled STGUs with Energy Storage Systems will be eligible for annual true up payments to account for round-trip efficiency losses and compensate the Owner for the AC equivalent of the Renewable Generation of the STGU. The Department will use the following formula to calculate the true up payment and shall publish a Guideline on Energy Storage that explains the parameters and the process for annual compensation.

$$\text{Annual True Up Payment} = R_P \cdot \eta_{inv} \cdot \eta_{tran} \cdot \sum_{i=1}^{n} E_i$$

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28.07: continued

2. Special Provisions for Phased Interconnection. STGUs shall be subject to the following provisions if the Applicant can demonstrate to the Department's satisfaction that the STGU has an agreement with the relevant Distribution Company for phased interconnection. Phased interconnection shall mean a single STGU for which the Distribution Company has structured the STGU's authorization to interconnect with the total nameplate capacity occurring in two or more phases, where the initial phase is less than the total nameplate capacity.

a. The Applicant shall submit a Statement of Qualification Application for the total nameplate capacity of the STGU and receive a capacity allocation pursuant to 225 CMR 28.06(4). The Interconnection Service Agreement shall demonstrate the timing of the phased interconnections.

b. The Applicant shall submit the first authorization to interconnect to receive a Final Statement of Qualification including the Incentive Payment Effective Date for the STGU.

c. After receiving an amended authorization to interconnect from the Distribution Company that includes the total nameplate capacity for the STGU, the Applicant shall submit it and receive a revised Final Statement of Qualification. The revised Final Statement of Qualification shall provide that the STGU is permitted to enroll and receive compensation under the SMART Tariff commencing on the Incentive Payment Effective Date of the original Final Statement of Qualification until the 20th anniversary of the Incentive Payment Effective Date included in the revised Final Statement of Qualification.

28.08: Land Use

(1) Ineligible Land. An STGU shall be ineligible for 225 CMR 28.00 if its Project Footprint overlaps with the following land use types:

(a) Wetland Resource Areas, as defined under 310 CMR 10.04: *Definitions*, not including Buffer Zones, as defined under 310 CMR 10.04, except as authorized by all necessary regulatory bodies in accordance with all applicable regulations, guidance, and policies;

(b) properties included in the *State Register* pursuant to 950 CMR 71.00: *Protection of Properties Included in the State Register of Historic Places*, except as authorized by regulatory bodies; or

(c) protected open space as established under Article XCVII of the Amendments to the Constitution. An STGU shall not be subject to 225 CMR 28.08(1)(c) if it receives one of the Locational Compensation Rate Adders listed under 225 CMR 28.13(3)(b).

(2) Ineligible Land for Ground-mounted STGUs above 250 kW. A ground-mounted STGU above 250 kW that is not located on Previously Developed land and does not qualify for a Locational Compensation Rate Adder listed under 225 CMR 28.13(3)(b) shall be ineligible for 225 CMR 28.00 if:

(a) the Project Footprint overlaps with land designated as Core Habitat; or

(b) more than 10% of the Project Footprint overlaps with the highest levels of forest carbon in Massachusetts, as detailed in the Department's *Guideline Regarding Land Use, Siting, and Project Segmentation*; except in the instance where an STGU has an interconnection application that was deemed complete by the Distribution Company prior to September 24, 2025, and will interconnect to a substation or feeder that is constructed or upgraded as part of an Approved Distribution System Upgrade, that was filed with the Department of Public Utilities before January 1, 2026, then the overlap of the Project Footprint shall be more than 25%. There shall be no further exceptions to the 10% overlap threshold.

(3) Determination of Previously Developed Land. An Applicant may request a determination from the Department whether a prospective Project Footprint meets the definition of Previously Developed. The Department may consult with relevant agencies in issuing a determination. Further guidance on acceptable documentation to demonstrate that a Project Footprint meets the definition is detailed in the Department's *Guideline Regarding Land Use, Siting, and Project Segmentation*.

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28.08: continued

(4) Single Parcel Requirement. For any parcel of land for which an STGU has submitted a Statement of Qualification Application, if its current boundaries are the result of a subdivision recorded after January 1, 2020, the Owner shall demonstrate to the Department that the subdivision was not for the purpose of obtaining eligibility as an STGU.

(5) Project Segmentation. No more than one STGU on a single building, or one ground-mounted STGU on a single parcel shall be eligible to receive a Statement of Qualification as an STGU under 225 CMR 28.00.

(a) Exceptions to Project Segmentation. Notwithstanding 225 CMR 28.08(5), the following types of STGUs may be eligible to receive a Statement of Qualification, subject to demonstration to the Department's satisfaction that one of the following exceptions should apply:

1. two or more separately metered behind-the-meter STGUs located on the same parcel. If the combined capacity of the STGUs is over 250 kW, the STGUs shall have separate End-use Customers;
2. an STGU 25 kW or less, a Canopy STGU, a Floating STGU, or a Building Mounted STGU, which is located on the same parcel as another STGU, provided that the STGU is separately metered from the original STGU and, in the case of an STGU 25 kW or less or a Building Mounted STGU, is located on a separate building from the original STGU;
3. a Dual-use Agricultural STGU located on the same parcel as another STGU, provided that the STGU is separately metered from the original STGU and the original STGU is not a ground-mounted STGU;
4. a Canopy STGU located on the same parcel as another Canopy STGU, provided that the STGU is separately metered from the original STGU;
5. an STGU on a Brownfield located on the same parcel as another STGU on a Brownfield, provided that the STGU is separately metered from the original STGU and that the total capacity qualified for the parcel is less than or equal to 10,000 kW;
6. an STGU on an Eligible Landfill located on the same parcel as another STGU on an Eligible Landfill, provided that the STGU is separately metered from the original STGU and that the total capacity qualified for the parcel is less than or equal to 10,000 kW;
7. an STGU 25 kW or less or a Building Mounted STGU, which is located on the same building as another STGU, provided that the STGU is separately metered from the original STGU and is connected to a meter of a separate End-use Customer as the original STGU;
8. an STGU located on the same parcel that submits a Statement of Qualification Application at least 12 months after the Commercial Operation Date of the original STGU and is separately metered or that can demonstrate to the Department's satisfaction that the Owners of the STGUs are unaffiliated parties;
9. an STGU that is physically located on a parcel or parcels of land owned or controlled by the Massachusetts Department of Transportation as established by M.G.L. c. 6C and can demonstrate to the Department's satisfaction that it should be granted an exception to the provisions of 225 CMR 28.08(5); and
10. an STGU that can demonstrate to the Department's satisfaction that it should be granted an exception to the provisions of 225 CMR 28.08(5) for good cause.

(6) Environmental Monitor. All STGUs qualifying as Dual-use Agricultural STGUs or subject to the requirements of 225 CMR 28.09 shall work with the Environmental Monitor pursuant to the following requirements.

(a) Payment of Fees. Applicants shall be responsible for the payment of fees for the cost of the Environmental Monitor's site visits, compliance certification, and other related activities.

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28.08: continued

(b) Site Visits. The Environmental Monitor shall conduct site visits to the location of the STGU to ensure compliance with the Performance Standards detailed in 225 CMR 28.08(7) and provide recommendations on minimizing site impacts.

1. A minimum of two site visits shall occur, one prior to the Department issuing a Preliminary Statement of Qualification and one prior to the Department issuing a Final Statement of Qualification. STGUs that submit a Statement of Qualification Application in the initial ten-day application window under 225 CMR 28.06(4)(b) may be issued a Preliminary Statement of Qualification prior to an initial visit from the Environmental Monitor. Such STGUs shall have a site visit from the Environmental Monitor within 90 days of receiving their Preliminary Statement of Qualification. Subject to the availability of the Environmental Monitor, the Department may extend the 90-day window on a case-by-case basis.

2. The Department may require additional site visits by the Environmental Monitor as necessary.

3. Site visits may occur during all stages of project development and up to two years following Mechanical Completion.

4. Applicants shall ensure that the Environmental Monitor has adequate access to project facilities and information required to ensure compliance with the Performance Standards.

(7) Performance Standards. All STGUs qualifying as Dual-use Agricultural STGUs or subject to the requirements of 225 CMR 28.09 shall work with the Environmental Monitor to obtain a certification that the construction of the STGU complies with the below standards. In the event that compliance with one or more listed Performance Standards conflicts with a permit requirement imposed by an authority having jurisdiction, compliance with the permit requirement shall take precedence and the Environmental Monitor shall deem the STGU in compliance with the applicable Performance Standard.

(a) no removal of field soils;

(b) existing leveled field areas shall be left as is without disturbance;

(c) where soils need to be leveled and smoothed, such as filling potholes or leveling, this shall be done with minimal overall impact with all displaced soils returned to the areas affected;

(d) ballasts, screw-type, or post driven pilings and other acceptable minimal soil impact methods that do not require footings or other permanent penetration of soils for mounting are required, unless the need for such can be demonstrated;

(e) any soil penetrations that may be required for providing system foundations necessary for additional structural loading or for providing system trenching necessary for electrical routing shall be done with minimal soils disturbance, with any displaced soils to be temporary and recovered and returned after penetration and trenching work is completed;

(f) no concrete or asphalt shall be used in the solar array mounting area other than surface mounted ballasts or other code required surfaces, such as for transformer or electric gear pads;

(g) address soil and water resource concerns that may be impacted to ensure the installation does not disturb an existing soil and water conservation plan or to avoid creating a negative impact to soil and water conservation best management practices, such as stimulating erosion or water run-off conditions;

(h) there shall be limited use of geotextile fabrics;

(i) vegetative cover shall be maintained to prevent soil erosion and plantings shall be native species appropriate to the geographical area, to the maximum extent feasible, consistent with The Vascular Plants of Massachusetts: A County Checklist provided by the Massachusetts Natural Heritage and Endangered Species Program;

(j) principles of Environmentally Sensitive Site Design and Low Impact Development Techniques, as defined under 310 CMR 10.04: *Definitions*, shall be employed;

(k) Stormwater Management Standards, as outlined under 310 CMR 10.05(6)(k), shall be employed.

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28.09: Mitigation Fee

(1) Applicability. A ground-mounted STGU with a capacity greater than 250 kW with a Project Footprint that overlaps with land that is not Previously Developed and does not qualify for a Locational Compensation Rate Adder listed under 225 CMR 28.13(3)(b) shall be subject to the requirements of 225 CMR 28.09.

(2) Mitigation Fee Formula.

(a) The Department shall determine a formula for calculating the appropriate Mitigation Fee for 225 CMR 28.00. The formula shall be published in the Department's *Guideline Regarding Land Use, Siting, and Project Segmentation*. The formula shall include a maximum fee per acre to be applied to the total acreage of the Project Footprint. The Department shall use the following weighted factors in such formula:

1. Carbon Storage. The average forest carbon stock, plus the amount of carbon projected to be sequestered through a year determined by the Department, expressed in metric tons of carbon dioxide equivalent per acre, within the Project Footprint. The Department may partner with third-party entities to develop its approach for measuring the carbon storage score of an STGU.

2. Ecological Integrity. The ability of land located within the Project Footprint to support biodiversity and ecosystem processes over the long term. The Department may partner with third-party entities to develop its approach for measuring the Ecological Integrity score of an STGU.

3. Critical Natural Landscape. The assessment of the Project Footprint's overlap with Critical Natural Landscape.

4. Agricultural Potential. The agricultural potential of land located within the Project Footprint based on a classification of the farmland soil through the USDA Natural Resources Conservation Service and the land's status as Land in Agricultural Use.

5. Geographical Distribution. The assessment of the historical development of ground mounted solar in the SMART program by geographic distribution trends.

(b) Review Process for Mitigation Fee. For fees calculated under 225 CMR 28.09(2), an Applicant may request a review from the Department of whether the Mitigation Fee criteria scoring for a prospective Project Footprint presents a clear and obvious discrepancy from on-site conditions. The Department may consult with relevant agencies or third-party entities, including the Environmental Monitor, in assessing the on-site conditions and determining any corresponding adjustment to the Mitigation Fee. The Applicant may be subject to site visits and/or fees for the cost of the assessment.

(c) Project Footprints That Include Previously Developed Land. Any portion of a Project Footprint that includes Previously Developed land shall not be included in the acreage calculation for the Mitigation Fee under 225 CMR 28.09(2).

(3) Payment of Mitigation Fees. Applicants shall be required to pay 25 % of the Mitigation Fee within 30 days of the completion of the Environmental Monitor's first site visit under 225 CMR 28.08(6)(b) and the remainder of the Mitigation Fee at the time of submission for a Final Statement of Qualification. The Department shall not issue the Final Statement of Qualification until the Mitigation Fee is received. If an Applicant fails to pay the entirety of the Mitigation Fee, the Department may pause processing of all Statement of Qualification Applications submitted by the Applicant until the funds are received.

(4) Refunding of Mitigation Fees. Applicants shall receive a refund of the portion of the Mitigation Fee paid in the event that an STGU does not achieve commercial operation, and the Applicant can demonstrate to the Department's satisfaction that the land has not been materially impacted. Applicants shall withdraw the Statement of Qualification Application for the STGU in order to receive a refund.

(5) Trust Fund. Applicants shall deposit Mitigation Fee payments into an account maintained by the Executive Office of Energy and Environmental Affairs. Such account shall be held separate from the other accounts of the Executive Office of Energy and Environmental Affairs. The proceeds from this account shall be used without further appropriation to support conservation, ecosystem, and biodiversity programs in a proportion determined by the Executive Office of Energy and Environmental Affairs in consultation with the Department.

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28.09: continued

(6) Alternative Compliance Pathway. The Department may determine that an STGU subject to 225 CMR 28.09 satisfies the requirements of 225 CMR 28.09 by complying with all applicable mitigation fee provisions developed by the Executive Office of Energy and Environmental Affairs under the Site Suitability Methodology for Clean Energy Infrastructure pursuant to M.G.L. c. 21A, § 30, or any associated regulatory provisions established by the Department requiring the payment of fees for compensatory environmental mitigation for the restoration, establishment, enhancement or preservation of comparable environmental resources, pursuant to M.G.L. c. 25A, § 21.

28.10: Program Requirements and Other Provisions

(1) Reporting Requirements.

(a) Generator Account Registration. An asset shall be established for individual STGUs within a generator account at NEPOOL GIS. For Non-NEPOOL Generators, as that term is defined under Rule 2.1(a)(vi) of the NEPOOL GIS *Operating Rules*, multiple STGUs may be registered under a single asset.

(b) Settlement Market System Assets. The electrical energy output from an STGU registered as a NEPOOL Generator, as that term is defined under Rule 2.1(a)(i) of the NEPOOL GIS *Operating Rules*, shall be verified by the ISO-NE.

(c) Non-NEPOOL Market Assets. The electrical energy output from an STGU registered as a Non-NEPOOL Generator, as that term is defined under Rule 2.1(a)(ii) of the NEPOOL GIS *Operating Rules*, shall be reported to the Independent Verifier, as approved by the Department, for all such assets.

(d) Duration of Distribution Company Asset Ownership. A Distribution Company shall retain the asset ownership and rights to all RPS Class I Renewable Generation Attributes associated with an STGU registered in a Distribution Company's NEPOOL GIS generator account for as long as the STGU is eligible to receive payment for such RPS Class I Renewable Generation Attributes and any Environmental Attributes as prescribed in 225 CMR 28.07(1). Following this period, ownership rights to assets and the RPS Class I Renewable Generation Attributes and any other Environmental Attributes that an STGU generates will be owned by the STGU Owner.

(2) Capacity Expansions. Both direct current (DC) and alternating current (AC) capacity expansions to the capacity listed in an STGU's Statement of Qualification are not permitted except under the following circumstances:

(a) a direct current capacity expansion to an STGU's rated capacity is permitted if the expansion occurs within an STGU's Reservation Period; and

(b) direct current and alternating current capacity expansions following an STGU's Commercial Operation Date may be allowed if the STGU can demonstrate to the Department's satisfaction that the expansion is *de minimis* and is required for equipment replacement or reconfiguration necessary to ensure the continued operation of the STGU.

(3) Special Provisions for Relocated and Replacement Generation Units. The Department may provide a Statement of Qualification to a solar photovoltaic Generation Unit that meets one of the following categories and criteria, as well as all other relevant provisions of 225 CMR 28.00:

(a) Relocated STGU. A solar photovoltaic Generation Unit whose equipment was used before June 20, 2025 to generate electrical energy outside of the Commonwealth of Massachusetts and that is interconnected with the electric grid in the service territory of a Distribution Company on or after June 20, 2025 may qualify as an STGU, provided that no components of the Power Conversion Technology were used in a Generation Unit located in the Commonwealth prior to June 20, 2025. No components from a Generation Unit previously qualified as an RPS Class I Renewable Generation Unit, Solar Carve-out Renewable Generation Unit, Solar Carve-out II Renewable Generation Unit, Solar Tariff Generation Unit under 225 CMR 20.00, or STGU under 225 CMR 28.00 shall be eligible to qualify as part of an STGU.

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28.10: continued

(b) Replacement STGU. A solar photovoltaic Generation Unit that replaces an inactive or decommissioned solar photovoltaic Generation Unit that had operated on the same site for at least 15 years prior to the Statement of Qualification Application submission date, may submit a Statement of Qualification Application under 225 CMR 28.00 and qualify for a Base Compensation Rate and Compensation Rate Adders equal to half of the applicable incentive rates for the Program Year in which the Statement of Qualification Application is submitted.

i. A solar photovoltaic Generation Unit that replaces an inactive or decommissioned solar photovoltaic Generation Unit that had operated on the same site for fewer than 15 years shall not be eligible to qualify under 225 CMR 28.00 unless the Applicant or Owner can demonstrate to the Department's satisfaction that it should be granted an exception for good cause.

(4) Maintenance of Contact Information. The Owner or Authorized Agent of an STGU shall maintain up to date contact information for the STGU and shall respond in a timely manner, not to exceed ten Business Days, to communications from the Department necessary for the administration and enforcement of 225 CMR 28.00.

(5) Notification Requirements for Change in Eligibility Status. The Owner or Authorized Agent of an STGU shall notify the Solar Program Administrator of any changes that may affect the continued eligibility of the Generation Unit as an STGU. The Owner or Authorized Agent shall submit the notification to the Solar Program Administrator 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 STGU and describe the changes in sufficient detail to enable the Solar Program Administrator and 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 Authorized Agent of an STGU shall notify the Solar Program Administrator of any changes in the ownership, capacity, or contact information for the STGU. The Owner or Authorized Agent shall submit the notification to the Solar Program Administrator no later than five days following the end of the month during which such changes were implemented.

(7) Compliance with the SMART Tariffs. STGUs shall remain in compliance with the provisions set forth in the SMART Tariffs as approved by the DPU. STGUs determined to be non-compliant with the SMART Tariff may be notified by the Department that they are found to be non-compliant pursuant to 225 CMR 28.17, which may result in the suspension or revocation of a Statement of Qualification.

28.11: Annual Compliance Reporting Requirements

(1) Dual-use Agricultural STGUs. Annually by February 1st, Dual-use Agricultural STGUs shall submit a report to the Department and MDAR on agricultural yields, grazing activities, and operational changes. A template for the annual report shall be posted on the Department's website, and submission instructions and deadlines will be detailed in the Department's *Guideline Regarding the Definition of Dual-use Agricultural Solar Tariff Generation Units*. Applicants or Owners may request waivers from certain reporting requirements by December 1st as detailed in the Department's *Guideline Regarding the Definition of Dual-use Agricultural Solar Tariff Generation Units*.

(2) Community Shared STGUs. Annually by December 31st, Community Shared STGUs shall provide updated customer disclosure forms for any new Customers of Record and an updated Schedule Z, credit allocation form, or off-taker list, demonstrating the STGU continues to allocate at least 90% of its credits or electricity to eligible off-takers.

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28.11: continued

(3) Energy Storage Systems.

(a) Historical Performance Data. Annually by May 1st, the Applicant or Owner of an Energy Storage System shall provide historical 15-minute interval performance data in a manner established by the Department to demonstrate compliance with the Operational and Performance Requirements pursuant to 225 CMR 28.07(5)(e)1.c.

(b) Exception Process. Applicants may request exceptions to the Operational and Performance Requirements based on unexpected circumstances such as fire, safety concerns, public health concerns, warranty failures, unintended outages, or others as determined by the Department. Applicants requesting an exception shall provide a written request with supporting documentation as part of the annual compliance reporting.

(4) Pollinator Adder. Annually by March 31st, STGUs receiving the Pollinator Adder shall annually submit a letter of certification to the Department.

(5) Floating STGUs. Annually by December 31st, Floating STGUs shall submit a report to the Department as detailed in the Department's *Guideline Regarding the Definition of Floating Solar Tariff Generation Units*. A template for the annual report shall be posted on the Department's website.

(6) Failure to Report. Failure to comply with annual reporting requirements may result in the STGU being placed in non-compliance pursuant to 225 CMR 28.17.

28.12: Consumer Protection

(1) Unfair Methods of Competition and Unfair or Deceptive Acts or Practices. Unfair methods of competition and unfair or deceptive acts or practices regarding an STGU or the SMART 3.0 Program, as addressed under M.G.L. c. 93A, § 2, 940 CMR 3.00: *General Regulations*, and 940 CMR 19.00: *Retail Marketing and Sale of Electricity*, are prohibited under 225 CMR 28.00. Additionally, Applicants, Owners, and Authorized Agents under 225 CMR 28.00 are required to follow all applicable provisions of 225 CMR 28.00 and state and federal laws, including M.G.L. c. 93A, § 2.

(2) Department Monitoring. Applicants, Owners, and Authorized Agents shall comply with all requirements of 225 CMR 28.00, including 225 CMR 28.12(1). The Department may consult with other state entities, Municipalities, governmental bodies, or other parties to ensure such requirements are met. The Department may conduct audits by requesting information from the Applicants of STGUs pursuant to 225 CMR 28.16 to ensure compliance with 225 CMR 28.12(1) and all other provisions of 225 CMR 28.00. The Department may contract with third parties to assist with such audits.

(3) Enforcement. If the Department determines that an Applicant, Owner, or Authorized Agent has violated 225 CMR 28.12(1) or not complied with the requirements of an audit under 225 CMR 28.12(2), the Department may take non-compliance actions pursuant to 225 CMR 28.17. The Department may temporarily suspend all STGU Statements of Qualification or Compensation Rate Adders submitted by an Applicant, Owners, or Authorized Agent during the pendency of an audit if the Department determines there is a reasonable likelihood that 225 CMR 28.00 has been violated and that the violation poses a risk of ongoing harm to the ratepayers of the Commonwealth, Owners, or Customers of Record.

(4) Customer Disclosure Forms for Community Shared STGUs. Community Shared STGUs shall provide consumer information in a form and manner as prescribed by the Department, including, but not limited to, proper sizing to achieve customer benefits, contract pricing for the length of the agreement, complete system cost information, operation and maintenance responsibilities, disposition of associated RECs and tariff terms, and anticipated production. Such disclosure shall contain a statement that bill impacts may fluctuate from month to month and that customers are at risk of possible bill increases. Such disclosure shall be provided to the consumer prior to entering into any contract for Community Shared STGU services.

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28.12: continued

(5) Customer Disclosure Forms for STGUs 25 kW or Less. A provider of STGUs 25 kW or less shall provide consumer information in a form and manner as prescribed by the Department, including, but not limited to, contract pricing for the length of the agreement, complete system cost information, operation and maintenance responsibilities, disposition of associated RECs and tariff terms, and anticipated production. Such disclosure shall be provided to the consumer prior to entering into any contract for any such STGU.

(6) Contract Requirements for STGUs 25 kW or Less. Contracts executed for STGUs 25 kW or less shall meet the following requirements.

(a) Parties. The contract shall be between the Primary Installer and the Customer of Record. For an STGU for which the Owner is a Third-party Owner and the Primary Installer is a subcontractor to the Owner, an executed contract between the Owner and the Primary Installer and an executed contract between the Owner and Customer of Record shall be provided.

(b) Application Preparation Responsibilities. The contract shall identify a project manager, and shall include Statement of Qualification Application preparation, equipment procurement and installation, site preparation, permitting and interconnection support, Statement of Qualification Application completion paperwork, training, operations and maintenance, and compliance with all applicable state and local laws.

(c) Budget. The contract shall include a budget that identifies key project components and a timeline and corresponding payment schedule for installation of the project.

(d) Contract Service. Contract Service shall include responsibility for the Statement of Qualification Application process including submittal of authorization to interconnect, securing required permits and engineering approvals, installation of the project, scheduling and participation in all required inspections, and providing warranty services, as required.

(7) Special Contract Requirements. Contracts for the below specified STGU types shall contain the following requirements in addition to the applicable provisions of 225 CMR 28.12(6).

(a) Residential Direct Ownership Contract Requirements.

1. A wet signature or signature using an electronic signature software from the Owner;
2. A right of recission within three or more Business Days;
3. The annual degradation and estimated first year production for the STGU;
4. The allocation of maintenance obligations between the Owner and the Applicant or Primary Installer;
5. The Owner's remedy for maintenance/service in case of Applicant or Primary Installer bankruptcy.

(b) Residential Third-party Ownership Contract Requirements.

1. A wet signature or signature using an electronic signature software from the Customer of Record;
2. Pricing Terms and length of Power Purchase Agreement;
3. Explanation of Power Purchase Agreement term renewal;
4. Explanation of any early termination fees;
5. Terms for system removal upon Solar Contract termination;
6. Explanation of purchase option and economic terms for purchase;
7. The Owner's rights and obligations upon selling the property where the STGU is sited; and
8. Allocation of risk of loss in case of damage to system.

(c) Community Shared Solar Contract Requirements.

1. A wet signature or signature using an electronic signature software from the Customer of Record;
2. Terms under which pricing will be calculated over life of the Solar Contract;
3. Explanation of billing procedures, subscription sizing, historic household usage evaluation, and impacts to utility bill;
4. All possible fees or charges under the Solar Contract;
5. Terms and conditions for early termination on the part of the customer, Applicant, and Primary Installer;
6. In the case of early termination on the part of the customer, the termination shall be processed and effective within 60 days;
7. Explanation of contract renewal terms and procedures;

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28.12: continued

8. Transferability of community solar subscription; and
9. Early termination fees shall not be included in the Solar Contract.

28.13: Compensation Rates

(1) Length of Compensation Rate Terms. All STGUs will be eligible to receive compensation under 225 CMR 28.00 for 20 years from the STGU's Incentive Payment Effective Date. STGUs under 225 CMR 28.07(5)(e)2. will be eligible to receive compensation from the Incentive Payment Effective Date for the first phase of the STGU until 20 years from the Incentive Payment Effective Date set for the STGU's total nameplate capacity. The Base Compensation Rate and Compensation Rate Adders contained in an STGU's Final Statement of Qualification shall be fixed for those 20 years, subject to any suspension or revocation issued pursuant to 225 CMR 28.17(3).

(2) Base Compensation Rates. Base Compensation Rates for each Program Year will be established and published pursuant to 225 CMR 28.05(6) and shall be the same across all Electric Distribution Company service territories. STGUs less than or equal to 25 kW shall receive a Flat Incentive Rate pursuant to 225 CMR 28.14(3). Base Compensation Rates shall be established for the following capacity ranges:

(a) 25 kW - 250 kW;
(b) 250 kW - 500 kW;
(c) 500 kW - 1,000 kW; and
(d) 1,000 kW - 5,000 kW.

(3) Compensation Rate Adders. Compensation Rate Adders for each Program Year will be established and published pursuant to 225 CMR 28.05(6) and shall be the same across all Electric Distribution Company service territories.

(a) Adding and Removing Compensation Rate Adders. An STGU may add and/or remove a Compensation Rate Adder one time during its tariff term. An STGU that qualifies for a Compensation Rate Adder after its Commercial Operation Date may only receive the Compensation Rate Adder for the remainder of its tariff term, provided it can demonstrate continued compliance with the eligibility criteria. The value of each Compensation Rate Adder for which an STGU is eligible will be the applicable Compensation Rate Adder at the time the STGU qualifies for the Compensation Rate Adder.

(b) Locational Compensation Rate Adders. Locational Compensation Rate Adders shall include:

1. Brownfield STGU;
2. Building Mounted STGU;
3. Canopy STGU;
4. Dual-use Agricultural STGU;
5. Floating Solar STGU;
6. Landfill STGU;
7. Large Building Mounted STGU; and
8. Raised Racking STGU.

(c) Off-taker Based Compensation Rate Adders. Off-taker Based Compensation Rate Adders shall include:

1. Community Shared STGU;
2. Low Income Property STGU; and
3. Public Entity STGU.

(d) Other Adders.

1. Pollinator Adder; and
2. Solar Tracking Adder.

(e) Energy Storage Adder. An STGU that meets the eligibility requirements of 225 CMR 28.07(5)(e)1. shall be eligible to receive a variable adder to its Base Compensation Rate.

1. Energy Storage Adder Multiplier. The energy storage adder multiplier will be published in the Department's *Guideline on Base Compensation Rates, Compensation Rate Adders, and Annual Assessment* and shall be the same across all Electric Distribution Company service territories.

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28.13: continued

2. Energy Storage Adder Formula. The variable energy storage adder for STGUs paired with Energy Storage Systems that meet the requirements of 225 CMR 28.07(5)(e)1. will be calculated using the below formula. The Department shall publish a *Guideline on Energy Storage* that provides an Energy Storage Adder calculator and explains the parameters of 225 CMR 28.13(3)(e)2.

(f) Combining Base Compensation Rates and Compensation Rate Adders.

1. Combining Adders. An STGU greater than 25 kW can combine its Base Compensation Rate with no more than one Compensation Rate Adder from each of the two categories listed in 225 CMR 28.13(3)(b) through (c), provided it meets the eligibility criteria to qualify for each of the Compensation Rate Adders.

2. Exception for Brownfield STGUs. Qualification for the Brownfield STGU Locational Adder shall not count towards an STGU's count of Compensation Rate Adders under 225 CMR 28.13(3)(f)1.

28.14: Calculation of Incentive Payments for STGUs

(1) Calculation of Incentive Payments for Standalone STGUs Greater than 25 kW. Any payments provided to the Owner of a Standalone STGU, which meets the criteria of 225 CMR 28.14(1)(a) or (b), will be equal to total of the STGU's Base Compensation Rate plus any Compensation Rate Adders multiplied by the total kWh generated by the STGU in the Distribution Company billing period, minus the value of the energy generated by the STGU in a Distribution Company billing period.

Standalone Solar Incentive Payment
= *(Base Compensation Rate + Compensation Rate Adders)*
✷*total kWh generated*
- *value of energy generated*

(a) Value of Energy Generated for Standalone STGUs Receiving Bill Credits. The methodology for calculating the value of the energy generated by a Standalone STGU that receives a Bill Credit is dependent on whether it is qualified as a Net Metered Generation Unit or as an Alternative On-bill Credit Generation Unit and will be determined as follows:

1. Net Metered Generation Unit. The value of energy for a Net Metered Generation Unit shall be equal to the total kWh generated during a utility billing period multiplied by the STGU's applicable net metering credit, as established in M.G.L. c. 164, § 138.

$$\text{Energy Storage Adder} = \left[\frac{\left(\frac{\text{Nominal Rated Power Capacity of Energy Storage System}}{\text{DC Rated Capacity of the Solar Photovoltaic System}}\right)}{\left(\left(\frac{\text{Nominal Rated Power Capacity of Energy Storage System}}{\text{DC Rated Capacity of the Solar Photovoltaic System}}\right) + \exp\left(0.7 - \left(8 * \left(\frac{\text{Nominal Rated Power Capacity of Energy Storage System}}{\text{DC Rated Capacity of the Solar Photovoltaic System}}\right)\right)\right)\right)}\right] * \left[0.88 + \left(0.5 * \ln\left(\frac{\text{Nominal Rated Useful Energy of the Energy Storage System}}{\text{Nominal Rated Power Capacity of Energy Storage System}}\right)\right)\right] * \text{Energy Storage Adder Multiplier}$$

Net Metered Generation Unit Energy Value
= *total kWh Generated ✷net metering credit rate*

2. Alternative On-bill Credit Generation Unit. The value of energy for an Alternative On-bill Credit Generation Unit shall be equal to the total kWh generated during a utility billing period multiplied by the STGU's applicable credit value under its applicable tariff structure.

Alternative On Bill Credit Generation Unit energy value
= *total kWh generated ✷energy compensation rate*

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28.14: continued

(b) Value of Energy Generated for Non-net Metered Generation Units. The value of energy for a Non-net Metered Generation Unit shall be equal to its total compensation received from a Distribution Company as a State Qualifying Facility under 220 CMR 8.00: *Sales of Electricity by Qualifying Facilities and On-site Generating Facilities to Distribution Companies, and Sales of Electricity by Distribution Companies to Qualifying Facilities and On-site Generating Facilities*.

Non Net Metered Generation Unit energy value
= *total kWh generation ✷ State Qualifying Facility value*

(2) Calculation of Incentive Payments for Behind-the-meter STGUs greater than 25 kW. Payments provided to the Owner of a Behind-the-meter STGU by a Distribution Company for RPS Class I Renewable Generation Attributes and Environmental Attributes will be fixed at the point in time that an STGU receives its Final Statement of Qualification for the duration that the STGU is eligible under 225 CMR 28.00 and will be equal to the total of the STGU's Base Compensation Rate plus any Compensation Rate Adders , minus the value of energy, multiplied by the total kWh generated by the STGU in the Distribution Company billing period.

Behind-the-meter Solar Incentive Paymnet
= *[(Base Compensation Rate + Compensation Rate Adders*
- *value of energy] ✷ total kWh generated*

The methodology for calculating the value of the energy for a Behind-the-meter STGU is dependent on whether the Generation Unit is qualified as a Net-metered Generation Unit, an Alternative On-bill Credit Generation Unit, or a Non-net Metering Generation Unit, and will be determined as follows:

(b) Value of Energy for Net-metered Generation Units. The value of energy shall be equal to the sum of the Owner's current distribution kWh charge, current transmission kWh charge, current transition kWh charge, and the average of the basic service kWh charge in the prior three calendar years.

Net Metered value of energy
= *(distribution kWh charge + transmission kWh charge*
+ *transition kWh charge*
+ *three-year average of basic service kWh charge)*

(c) Value of Energy for Alternative On-Bill Credit Generation Units and Non-net Metered Generation Units. The value of energy shall be equal to 0.65% of the sum total of the average of the basic service kWh charge in the prior three calendar years, current distribution kWh charge, current transmission kWh charge, and current transition kWh charge, plus 0.35% of the average of the basic service kWh charge in the prior three calendar years, as of the date of the STGU's preliminary Statement of Qualification.

Alternative On Bill Credit and Non Metered value of energy
= *[0.65 (three-year average of basic service kWh charge*
+ *distribution kWh charge + transmission kWh charge*
+ *transition kWh charge)*
+ *0.35 (three-year average of basic service kWh charge)]*

(3) Calculation of Incentive Payments for STGUs Less than or Equal to 25 kW. The value of incentive payments provided to the Owner of an STGU less than or equal to 25 kW by a Distribution Company for RPS Class I Renewable Generation Attributes and Environmental Attributes will be set on annual basis pursuant to 225 CMR 28.05(7) and fixed at the point in time that an STGU receives its Statement of Qualification for the duration that the STGU is eligible under 225 CMR 28.00.

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28.14: continued

(4) Calculation of Blended Rates. In instances when multiple STGUs qualifying for different compensation rates are being interconnected behind the same retail meter, the Department may establish a blended rate for the STGUs, in consultation with the Distribution Company and the Solar Program Administrator. The blended rate will be based on the total compensation rate for each STGU but will be weighted based on the AC capacity of each STGU that will be connected behind the same retail meter. The single, unique blended rate will be the same on each Statement of Qualification for the STGUs.

(5) Calculation of Combined Rates. In instances when two or more STGUs are being installed on one parcel with a combined capacity that does not exceed 5,000 kW and the STGUs have been granted an exception to the project segmentation requirements for good cause, pursuant to 225 CMR 28.08(5)(a)10., the Department may establish the Base Compensation Rate based on the combined capacity of the STGUs. The Department may require that the Applicant submit a single Statement of Qualification Application for the combined capacity installed on the parcel and may issue a single Statement of Qualification with a single Base Compensation Rate based on the combined AC capacity of the STGUs.

28.15: Solar Program Administrator

(1) The Department shall determine whether it is necessary for the Distribution Companies to contract with an independent Solar Program Administrator. The Solar Program Administrator will be responsible for providing some or all of the following services:

(a) receiving Statement of Qualification Applications;

(b) coordinating with the Department and the Distribution Companies to issue Statements of Qualification to STGUs;

(c) acting as the Independent Verifier for all Non-NEPOOL Market Assets, pursuant to 225 CMR 28.10(1)(c); and

(d) any other duties prescribed in a request for proposals.

(2) The Department may determine whether the Distribution Companies may use the Solar Program Administrator for 225 CMR 20.00: *Solar Massachusetts Renewable Target (Smart) Program* to fulfill 225 CMR 28.15(1).

(3) The Department may require the Distribution Companies to procure a new Solar Program Administrator in the event that the Solar Program Administrator is not satisfactorily fulfilling the requirements of 225 CMR 28.15(1).

28.16: Inspection

(1) Document Inspection. The Department may audit the accuracy of all information submitted pursuant to 225 CMR 28.00. The Department may request and obtain from any Owner or Authorized Agent of an STGU, and from any Distribution Company information that the Department determines necessary for the administration or enforcement of 225 CMR 28.00.

(2) Audit and Site Inspection. Upon reasonable notice to an STGU Owner, or Authorized Agent, the Department may conduct audits, which may include inspection and copying of records and/or site visits to an STGU's facilities, including, but not limited to, all files and documents that the Department determines are related to compliance with 225 CMR 28.00.

28.17: Non-compliance

Any Distribution Company, Owner, or Authorized Agent of an STGU that fails to comply with the requirements of 225 CMR 28.00 and accompanying Guidelines shall be subject to the provisions in 225 CMR 28.17(1) through (3).

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28.17: continued

(1) Notice of Non-compliance. A failure to substantially comply with the requirements of 225 CMR 28.00 and accompanying Guidelines shall be determined by the Department on a case by case basis. A written Notice of Non-compliance shall be prepared and delivered by the Department to any Distribution Company, Owner, or Authorized Agent of an STGU that fails to comply with the requirements of 225 CMR 28.00, and to the DPU, as applicable. The Notice of Non-compliance shall describe the requirement(s) with which the Distribution Company, Owner, or Authorized Agent failed to comply, the time period of such non-compliance, and any remedial actions necessary to come back into compliance.

(2) Publication of Notice of Non-compliance. A Notice of Non-compliance may be published on the Department's website and in any other media deemed appropriate by the Department. Such publication may remain posted until the Distribution Company, Owner, or Authorized Agent returns to compliance as determined by the Department. The Department may also maintain a historical record of Notices of Non-compliance on the Department's website.

(3) Suspension or Revocation of Statement of Qualification. The Department may suspend or revoke a Statement of Qualification or compensation rate adder if the Owner of an STGU or Authorized Agent of the Owner fails to comply with any provisions in 225 CMR 28.00 or fails to complete any remedial actions detailed in a notice of noncompliance.

28.18: Severability

If any provision of 225 CMR 28.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

REGULATORY AUTHORITY

225 CMR 28.00: St. 2016, c. 75, § 11 and M.G.L. c. 25A, § 6.

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NON-TEXT PAGE

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Docket # 621

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **101 CMR 337.00**

CHAPTER TITLE: **Rates for Dialysis Treatments and Home Dialysis Supplies**

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

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

Regulation 101 CMR 337.00 governs the rates paid by MassHealth and other governmental purchasers for chronic maintenance dialysis treatments, home chronic maintenance dialysis supplies, routine laboratory tests, and certain prescribed drugs associated with dialysis treatment in independent dialysis clinics provided to publicly aided individuals and industrial accident patients.

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: 12-09-25
Regulatory Review approval: 12-09-25

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: **02-20-26**

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: **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 337.00.

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: **Jul 02 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/17/26**

CODE OF MASSACHUSETTS REGULATIONS

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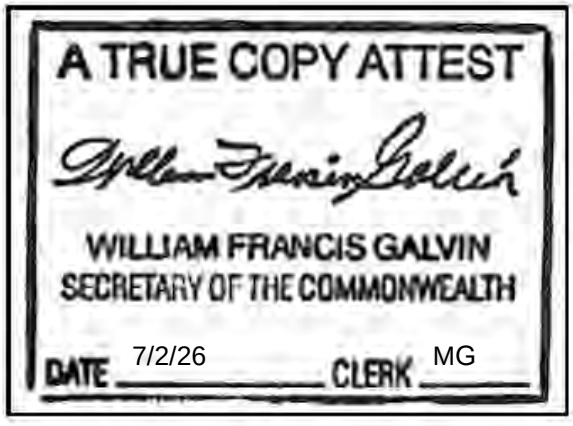

Table of Contents

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Table of Contents

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101 CMR 337.00: RATES FOR DIALYSIS TREATMENTS AND HOME DIALYSIS SUPPLIES

Section

337.01: General Provisions

(1) Scope and Purpose. 101 CMR 337.00 governs the payment rates to be used by all governmental units and purchasers under M.G.L. c. 152, § 1 (the Workers' Compensation Act) for dialysis treatments, treatment for acute kidney injuries (AKIs), and home dialysis supplies provided to publicly aided and industrial accident patients.

(2) Applicable Dates of Service. Rates contained in 101 CMR 337.00 apply for dates of service provided on or after July 17, 2026.

(3) Disclaimer of Authorization of Services. 101 CMR 337.00 is not authorization for or approval of the services for which rates are determined pursuant to 101 CMR 337.00. The governmental purchasers and purchasers under M.G.L. c. 152 of these services are responsible for

(a) the definitions and authorization of services for their beneficiaries; and
(b) providing information as to program policies and benefit limitations.

(4) Rate as Full Payment. The rates of payment under 101 CMR 337.00 are full compensation for all services rendered by the provider in connection with the provision of dialysis treatments and home dialysis supplies. Any patient resources or third-party payments on behalf of a publicly aided patient, *e.g.*, Medicare payments, will reduce the amount of the obligation for these services to the governmental purchaser or purchaser under M.G.L. c. 152.

(5) Coding Updates and Corrections. EOHHS may publish service code updates and corrections in the form of an Administrative Bulletin. Updates may reference coding systems including, but not limited to, the American Medical Association's Current Procedural Terminology® (CPT). The publication of such updates and corrections will list

(a) codes for which the code numbers change, with the corresponding cross references between new codes and the codes being replaced. Rates for such new codes are set at the rate of the code that is being replaced;
(b) codes for which the code number remains the same but the description has changed;
(c) deleted codes for which there are no corresponding new codes; and
(d) codes for entirely new services that require pricing. EOHHS will list these codes and apply individual consideration (IC) payment for these codes until appropriate rates can be developed.

(6) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on, and interpretation of, substantive provisions of 101 CMR 337.00.

337.02: Definitions

As used in 101 CMR 337.00, unless the context requires otherwise, terms have the meanings in 101 CMR 337.02.

Acute Kidney Injury (AKI). A sudden and often reversible reduction in the kidney function, as measured by increased creatinine or decreased urine volume.

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337.02: continued

Calcimimetics. A class of drugs used to treat hyperparathyroidism, a condition in which the parathyroid glands produce a high amount of parathyroid hormone in patients with chronic kidney disease.

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

Centers for Medicare & Medicaid Services (CMS). The federal agency in the Department of Health and Human Services that is responsible for the determination of reimbursement for the provision of services to Medicare-covered patients.

Chronic Maintenance Dialysis Treatment. Dialysis treatment provided on an outpatient basis for a stabilized patient. The treatment may take the form of hemodialysis, hemofiltration, intermittent peritoneal dialysis, continuous ambulatory peritoneal dialysis, or continuous cycling peritoneal dialysis and may occur in a facility or at home.

Dialysis Program Rate(s). A provider's rate(s) established by CMS for the end stage renal disease (ESRD) program of Medicare.

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

Established Charge. The lowest rate paid by any payer for treatment.

Governmental Purchaser. The Commonwealth of Massachusetts and any of its departments, agencies, boards, commissions, and political subdivisions, which purchase dialysis services.

Home Dialysis Supplies. Supplies used in conjunction with home dialysis treatment identified in 101 CMR 322.00: *Rates for Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment*.

Individual Consideration (IC). For service codes under 101 CMR 337.00 for which no rate is listed and that EOHHS has designated "IC," the purchaser determines the payment amount on an IC basis upon receipt of a bill and supporting documentation describing the services/items rendered. In determining the appropriate payment, the purchaser considers

(a) the time required;
(b) the degree of skill required;
(c) the severity and complexity of the patient's condition;
(d) the cost of goods supplied, including catalog prices and, where applicable, invoices; and
(e) the policies, procedures, and practices of other third-party purchasers of care (governmental and private).

Industrial Accident Patient. A person who receives medical services for which persons, corporations, or other entities are in whole or part liable under M.G.L. c. 152.

Provider. Any independent outpatient dialysis facility licensed by the Department of Public Health and certified by the MassHealth agency.

Publicly Aided Individual. A person who receives health care and other services for which a governmental unit is in whole or in part liable under a statutory program of public assistance.

Purchaser under M.G.L. c. 152. An insurance company, self-insurer, or worker's compensation agent of a department of the Commonwealth, county, city, or district that purchases medical services subject to M.G.L. c. 152, § 1.

337.03: Rate(s) Determination

(1) Rates paid to providers will be subject to the following adjustments and limitations.
(a) In a case where the established charge(s) is lower than the dialysis rate(s) and is not based upon an established income-related sliding fee scale for self-payers, the established charge(s) is the rate(s) paid to the provider.

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337.03: continued

(b) If home training is included as part of a provider's dialysis program, governmental purchasers and purchasers under M.G.L. c. 152 who choose to purchase the service must pay the dialysis rate(s) plus an add-on listed in 101 CMR 337.03(3) under the appropriate service code.

(2) Rates for Dialysis Treatment and Treatment for Acute Kidney Injuries

Procedure Code	Description	Rate
90999	Unlisted dialysis procedure, inpatient or outpatient (all-inclusive service per dialysis treatment per patient)	$204.94
G0491	Dialysis procedure at a Medicare certified end stage renal disease (ESRD) facility for acute kidney injury without ESRD	$204.94
J0601	Sevelamer carbonate (Renvela or therapeutically equivalent), oral, 20 mg (for ESRD on dialysis)	$0.01
J0602	Sevelamer carbonate (Renvela or therapeutically equivalent), oral, powder, 20 mg (for ESRD on dialysis)	$0.07
J0603	Sevelamer hydrochloride (Renagel or therapeutically equivalent), oral, 20 mg (for ESRD on dialysis)	$0.06
J0605	Sucroferric oxyhydroxide, oral, 5 mg (for ESRD on dialysis)	$17.86
J0607	Lanthanum carbonate, oral, 5 mg (for ESRD on dialysis)	$0.03
J0608	Lanthanum carbonate, oral, powder, 5 mg, not therapeutically equivalent to J0607 (for ESRD on dialysis)	$0.06
J0609	Ferric citrate, oral, 3 mg ferric iron (for ESRD on dialysis)	$0.10
J0615	Calcium acetate, oral, 23 mg (for ESRD on dialysis)	$0.01

The all-inclusive rate identified in 101 CMR 337.03(2) covers all services and supplies as defined in 42 CFR § 410.50, with the exception of physician services and applicable procedure codes in 101 CMR 337.03(3).

(3) The following codes and add-ons must be used when the treatment includes these services:

Procedure Code	Description	Rate
90989	Dialysis training, patient, including helper where applicable, any mode, completed course	$20.00
90993	Dialysis training, patient, including helper where applicable, any mode, course not completed, per training session	$20.00
J0604	Cinacalcet, oral, 1 mg (for ESRD on dialysis)	$0.01

337.04: Rates for Home Dialysis Supplies

Rates for home dialysis supplies that a governmental purchaser chooses to purchase separately from other services are contained in 101 CMR 322.00: *Rates for Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment*.

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337.05: Rates for Laboratory Services

Rates for laboratory services associated with dialysis that a governmental purchaser or purchaser under M.G.L. c. 152 chooses to purchase separately from other services are contained in 101 CMR 320.00: *Rates for Clinical Laboratory Services.*

337.06: Rates for Prescribed Drugs

Payment for allowed drugs is included in the all-inclusive bundled payment, except that calcimimetics are paid separately from the bundled payment, as described in 101 CMR 337.03(3).

337.07: Reporting Requirements

(1) Required Reports. Reporting requirements are governed by 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 337.07(2).

337.08: Bad Debt Settlement

Governmental purchasers and purchasers under M.G.L. c. 152 cannot participate in the Medicare bad debt settlement negotiated between CMS and the provider at the end of the provider's fiscal year.

337.09: Severability

The provisions of 101 CMR 337.00 are severable. If any provision of 101 CMR 337.00 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 337.00 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

101 CMR 337.00: M.G.L. c. 118E.

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Docket # 622

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **101 CMR 346.00**

CHAPTER TITLE: **Rates for Certain Substance-related and Addictive Disorders Programs**

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

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

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

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

AGENCY CONTACT: **Deborah Briggs, MassHealth Publications** PHONE: **617-921-1744**

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: 5/22/26
Regulatory Review approval: 7/2/26

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: **6/26/26**

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

For the first and second year: **estimated total annualized increase of $4.93 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 346.00.

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: **Jul 02 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/17/26**

CODE OF MASSACHUSETTS REGULATIONS

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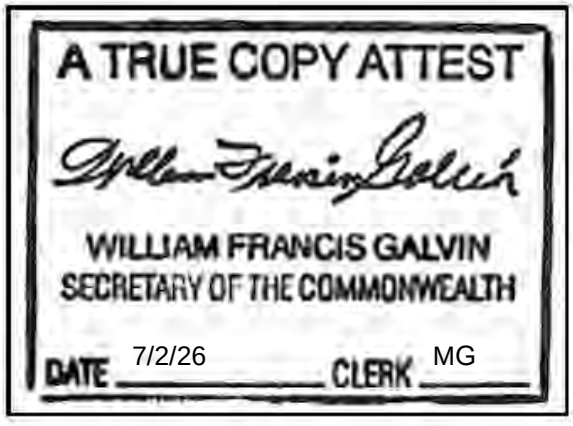
908.1 - 908.4	**908.1 - 908.4**



101 CMR 346.00: RATES FOR CERTAIN SUBSTANCE-RELATED AND ADDICTIVE DISORDERS PROGRAMS

Section

346.01: General Provisions

(1) Scope. 101 CMR 346.00 governs the payment rates for certain substance-related and addictive disorders services purchased by a governmental unit. The rates for health care services set forth in 101 CMR 346.00 also apply to individuals covered by the Workers' Compensation Act, M.G.L. c. 152.

(2) Applicable Dates of Service. Rates contained in 101 CMR 346.00 apply for dates of service provided on or after July 1, 2026.

(3) Disclaimer of Authorization of Services. 101 CMR 346.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 346.00. Governmental units that purchase the services described in 101 CMR 346.00 are responsible for the definition, authorization, and approval of services extended to clients.

(4) Coding Updates and Corrections. 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 only the code numbers change, with the corresponding cross references between existing and new codes;

(b) deleted codes for which there are no corresponding new codes; and

(c) codes for entirely new services that require pricing. EOHHS will list these codes and apply individual consideration (IC) reimbursement for these codes until appropriate rates can be developed.

(5) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 346.00.

346.02: Definitions

As used in 101 CMR 346.00, unless the context requires otherwise, terms have the meanings in 101 CMR 346.02.

Acute Treatment Provider (ATP). An eligible provider of acute treatment services.

Acute Treatment Services (Inpatient). Those medically managed and/or monitored acute intervention and stabilization services that provide supervised detoxification to individuals in acute withdrawal from alcohol or other drugs and address the biopsychosocial problems associated with alcoholism and other drug addictions requiring a 24-hour supervised inpatient stay.

Approved Program Rate. The rate per service unit approved by EOHHS and filed with the Secretary of the Commonwealth.

Case Consultation. A meeting with a professional of another agency to resolve treatment issues or to exchange other relevant client information. Case consultation may be billed only for face-to-face meetings that are necessary as a result of the inability or inappropriateness of other forms of communication, such as telephone and letter. Such circumstances and services must be documented in the client's record and be available as part of any record audit that the purchasing agency may perform.

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346.02: continued

Case Management. Services, as specified by the MassHealth program, that coordinate the substance-related and addictive disorders treatment of pregnant individuals with other medical and community services that are critical to the needs of the individual and their pregnancy. Case management is billable only for individuals enrolled in the Day Treatment Program. Service is limited to one hour per week per enrollee, provided in no less than 15-minute increments.

Child Enhancement for Residential Rehabilitation Services. A supplemental rate to reflect the costs of young children who may be accompanying their parents in the program.

Client. An individual that receives substance-related and addictive disorders services purchased by a governmental unit.

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. Client resources may include payments made by publicly assisted clients to defray the room and board expense of residential services, clients' food stamps, or payments made by clients according to their ability to pay or a sliding fee scale.

Clinical Case Management Master's Level. Individualized case management provided as part of a clinical outpatient service that facilitates ongoing engagement in community-based treatment and recovery services; links to community resources such as housing, employment, education, and health care; and facilitates access to mainstream benefits and includes evidence-based models that integrate clinical treatment and case management services.

Clinical Case Management Non-master's Level. Individualized case management provided as part of a clinical outpatient service that facilitates ongoing engagement in community-based treatment and recovery services; links to community resources such as housing, employment, education, and health care; and facilitates access to mainstream benefits.

Clinically Managed Detoxification Services. Medical assessment, intensive counseling, and case management services to clients who are not intoxicated or have been safely withdrawn from alcohol or other drugs or are addicted to a drug that does not require medical withdrawal. These clients require a 24-hour supervised inpatient stay to address the acute emotional, behavioral, or biomedical distress resulting from an individual's use of alcohol or other drugs. This level of service includes four hours of nursing services seven days a week. These services are governed by the Massachusetts Department of Public Health at 105 CMR 164.100: *24-hour Diversionary Services*.

Cost Report. The document used to report costs and other financial and statistical data. The Uniform Financial Statements and Independent Auditor's Report (UFR) is used when required.

Couple Counseling. Therapeutic counseling provided to a couple whose primary complaint or concern is disruption of their relationship or family due to substance-related and addictive disorders.

Day Treatment. A highly structured day treatment program for substance-related and addictive disorders that meets the service criteria set forth by the Massachusetts Department of Public Health pursuant to 105 CMR 164.231 through 164.234 and by MassHealth. A day treatment program operates at least 3½ hours per day, five days per week.

Driver Alcohol Education. The program of services, provided through licensed outpatient substance-related and addictive disorders counseling programs, legislated by M.G.L. c. 90, § 24D to first offender drunk drivers adjudicated in Massachusetts courts.

Educational/Motivational Session. A meeting between staff of a driver alcohol education program and not more than 15 clients. Clients are required to participate in 32 hours of this interactive group programming through 16 two-hour groups.

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346.04: continued

Code	Rate	Description
Residential Services		
H0019-HR	$274.13	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* (family/couple with client present) (Family Supportive Housing)
H0019-HR	$457.96	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* (substance abuse program) (Family Residential Treatment)
H0047-HR	$78.41	Alcohol and/or drug abuse services, not otherwise specified (family/couple with client present) (Family Residential 2nd Partner Enhancement, *per diem*)
H0019-HH	$390.47	Alcohol and/or drug abuse halfway house services, *per diem* (Residential Rehabilitation Co-occurring Enhanced for 16 beds)
Opioid Treatment Services		
Medical Services Visit		
G2067	$186.75	Medication assisted treatment, methadone; weekly bundle including dispensing and/or administration, substance use counseling, individual and group therapy, and toxicology testing, if performed (provision of the services by a Medicare-enrolled Opioid Treatment Program)
G2068	$217.86	Medication assisted treatment, buprenorphine (oral); weekly bundle including dispensing and/or administration, substance use counseling, individual and group therapy, and toxicology testing if performed (provision of the services by a Medicare-enrolled Opioid Treatment Program)
G2073	$1,838.90	Medication assisted treatment, naltrexone; weekly bundle including dispensing and/or administration, substance use counseling, individual and group therapy, and toxicology testing if performed (provision of the services by a Medicare-enrolled Opioid Treatment Program)
G2074	$138.34	Medication assisted treatment, weekly bundle not including the drug, including substance use counseling, individual and group therapy, and toxicology testing if performed (provision of the services by a Medicare-enrolled Opioid Treatment Program)
G2076	$232.10	Intake activities, including initial medical examination that is a complete, fully documented physical evaluation and initial assessment by a program physician or a primary care physician, or an authorized healthcare professional under the supervision of a program physician or qualified personnel that includes preparation of a treatment plan that includes the patient's short-term goals and the tasks the patient must perform to complete the short-term goals; the patient's requirements for education, vocational rehabilitation, and employment; and the medical, psycho-social, economic, legal, or other supportive services that a patient needs, conducted by qualified personnel (provision of the services by a Medicare-enrolled Opioid Treatment Program); list separately in addition to code for primary procedure
G2078	$48.69	Take-home supply of methadone; up to seven additional day supply (provision of the services by a Medicare-enrolled Opioid Treatment Program); list separately in addition to code for primary procedure.

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346.04: continued

Opioid Treatment Services		
Medical Services Visit		
G2079	$71.50	Take-home supply of buprenorphine (oral); up to seven additional day supply (provision of the services by a Medicare-enrolled Opioid Treatment Program); list separately in addition to code for primary procedure.
H0020	$11.26	Alcohol and/or drug services; methadone administration and/or service (provision of the drug by a licensed program) (dose only visit)
S1001	$47.71	Support improved access to MOUD, including methadone, for nursing facility residents with SUDs; allows OTPs to work more closely with nursing facilities to deliver medications directly to residents and reduce the need for daily resident transportation to OTPs
Counseling		
H0004-TF	$20.11	Behavioral health counseling and therapy, per 15 minutes (opioid individual counseling, intermediate level of care, four units maximum per day)
H0005-HQ	$17.64	Alcohol and/or drug services; group counseling by a clinician (group setting) (per 45 minutes, opioid group counseling, one unit maximum per day)
H0005-HF	$35.28	Alcohol and/or drug services; group counseling by a clinician (per 90-minute unit) (one unit maximum per day)
T1006-HR	$40.52	Alcohol and/or substance abuse services, family/couple counseling (family/couple with client present) (opioid family/couples counseling, per 30 minutes, one unit maximum per day)
T1006-HG	$81.04	Alcohol and/or substance abuse services, family/couple counseling (family/couple with client present) (opioid family/couples counseling, per 60 minutes, one unit maximum per day)
Ambulatory Services		
Outpatient Counseling		
90882-HF	$66.19	Environmental intervention for medical management purposes on a psychiatric patient's behalf with agencies, employers, or institutions (substance abuse program) (Consultation with another professional or involved party to clarify and coordinate the treatment of an individual receiving substance-related and addictive disorders treatment services, case consultation, per 30 minutes)
H0001	$33.10	Alcohol and/or drug assessment (per 15 minutes)
H0004	$33.10	Behavioral health counseling and therapy, per 15 minutes (individual counseling)
H0005	$29.79	Alcohol and/or drug services; group counseling by a clinician (per 45 minutes, group counseling, one unit maximum per day)
H0005-HG	$59.57	Alcohol and/or drug services group counseling by a clinician (methadone/opioid counseling) (per 90-minute unit) (one unit maximum per day)

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The official version is the printed copy which is available from the State Bookstore at http://www.sec.state.ma.us/spr/sprcat/catidx.htm.

346.04: continued

Code	Rate	Description
Ambulatory Services		
Outpatient Counseling		
T1006	*See* 101 CMR 306.00: *Rates for Mental Health Services Provided in Community Health Centers and Mental Health Centers* (code 90847)	Alcohol and/or substance abuse services; family/couple counseling (per 30 minutes, one unit maximum per day)
T1006-HF	*See* 101 CMR 306.00: *Rates for Mental Health Services Provided in Community Health Centers and Mental Health Centers* (code 90847)	Alcohol and/or substance abuse services; family/couple counseling (per 60 minutes, one unit maximum per day)
H2019-HF	$29.54	Therapeutic behavioral services, per 15 minutes (substance abuse program) (in-home counseling by a clinician)
H2027	$5.50	Psychoeducational service, per 15 minutes (Educational and motivational nonclinical group, per client)
H2016-HM	$23.15	Comprehensive community support program, *per diem* (Enrolled Client Day) (recovery support service by a recovery advocate trained in Peer Recovery Coaching)
Clinical Case Management		
H0006-HO	$33.10	Alcohol and/or drug services; case management (Substance-related and addictive disorders service by master's level clinician that uses an evidence-based model that integrates clinical and case management services, per 15 minutes)
H0006-HN	$23.18	Alcohol and/or drug services; case management (Substance-related and addictive disorders service by non-master's level counselor to engage and link client to treatment and community resources, per 15 minutes)
H0001-H9	$33.10	Alcohol and/or drug assessment (court ordered) (per 15 minutes)
H0004-H9	$33.10	Behavioral health counseling and therapy, per 15 minutes (court ordered) (individual counseling)
H0005-H9	$9.93	Alcohol and/or drug services; group counseling by a clinician (court ordered) (per 15 minutes)
Day Treatment		
H2012-HF	$130.21	Behavioral health day treatment (substance abuse program) (3.5 hours)
Outpatient Services		
H0004-HD	$33.10	Behavioral health counseling and therapy, per 15 minutes (pregnant/parenting women's program) (individual counseling)
H0005-HD	$29.79	Alcohol and/or drug services; group counseling by a clinician (pregnant/parenting women's program) (per 45 minutes, group counseling, one unit maximum per day)
H0005-TH	$59.57	Alcohol and/or drug services group counseling by a clinician (pregnant/parenting women's program) (per 90-minute unit) (one unit maximum per day)
H0006-HD	$23.18	Alcohol and/or drug services; case management (pregnant/parenting women's program) (per 15 minutes)

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346.04: continued

Code	Rate	Description
Outpatient Services		
T1006-HD	*See* 101 CMR 306.00: *Rates for Mental Health Services Provided in Community Health Centers and Mental Health Centers* (code 90847)	Alcohol and/or substance abuse services; family/couple counseling (pregnant/parenting women's program) (per 30 minutes, one unit maximum per day
T1006-TH	*See* 101 CMR 306.00: *Rates for Mental Health Services Provided in Community Health Centers and Mental Health Centers* (code 90847)	Alcohol and/or substance abuse services; family/couple counseling (pregnant/parenting women's program) (per 60 minutes, one unit maximum per day)
Day Treatment		
H1005	$130.21	Prenatal care, at-risk enhanced service package (includes H1001-H1004) (prenatal care, at-risk enhanced service, antepartum management, care coordination, education, follow-up home visit, individual counseling, per hour)
H1005-HQ	$130.21	Prenatal care, at-risk enhanced service package (includes H1001-H1004) (group setting) (prenatal care, at-risk enhanced service, antepartum management, care coordination, education, follow-up home visit, day treatment, per 3.5 hours)

Supportive Case Management Services		
Unit	**Rate**	**Service**
Enrolled Client Day	$19.58	Adult Housing Stability Support
Enrolled Client Day	$39.36	Family Housing Stability Support
Enrolled Client Day	$50.34	Youth Housing Stability Support
Month	$3,670	House Manager Add-on
Month	$5,021	Outreach and Staffing Supports
Enrolled Client Day	$70.77	Low Threshold
N/A	IC	Extraordinary Circumstances/Flex Funding
Month	$23,637	School-based Targeted Prevention Program

Program	Model	Unit	Base Rate	Engagement Staffing Rate	Engagement Staffing Rate, Day Program only
Triage, Engagement, and Assessment Services	A	Monthly per slot	$1,209	$690	$355
	B	Monthly per slot	$1,445	$933	$583

Triage, Engagement, and Assessment Services Add-on Rates	**Unit**	**Rate**
Peer Service Coordinator Add-on Rate	Hourly	$28.59
Social Worker LCSW Add-on Rate	Hourly	$51.50
Care Coordinator Add-on Rate	Hourly	$28.59
Direct Care Staff Add-on Rate	Hourly	$28.59
Support Staff Add-on Rate	Hourly	$28.59

Service	Unit	Monthly Rate
Federally Qualified Health Centers (FQHCs) Services	Per Client	$73.91
Office-based Opioid Treatment Programs (OBOTs) Outpatient Clinic Services	Per Client	$94.96
Office-based Opioid Treatment Programs (OBOTs) Hospital Services	Per Client	$194.21

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Docket # 623

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **101 CMR 425.00**

CHAPTER TITLE: **Rates for Certain Young Parent Support Programs**

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

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

Governs the payment rates for Certain Young Parent Support Programs provided to publicly aided individuals by governmental units. These services are purchased by the Department of Transitional Assistance.

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

AGENCY CONTACT: **Deborah Briggs, MassHealth Publications** PHONE: **617-921-1744**

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: 4/7/26
Regulatory Review approval: 6/21/26

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: **5/15/26**

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

For the first and second year: **estimated total annualized increase of $330,178**

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 425.00.

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: **Jul 02 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/17/26**

CODE OF MASSACHUSETTS REGULATIONS

Remove these Pages:	*Insert these Pages:*
1035 & 1036	**1035 & 1036**

A TRUE COPY ATTEST

WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

DATE 7/2/26 CLERK MG

101 CMR 425.00: RATES FOR CERTAIN YOUNG PARENT SUPPORT PROGRAMS

Section

425.01: General Provisions

(1) Scope. 101 CMR 425.00 governs the payment rates for certain young parent support services purchased by a governmental unit including, but not limited to, the Department of Transitional Assistance (DTA).

(2) Applicable Dates of Service. Rates contained in 101 CMR 425.00 apply for dates of service provided on or after July 1, 2026.

(3) Disclaimer of Authorization of Services. 101 CMR 425.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 425.00. Governmental units that purchase the services described in 101 CMR 425.00 are responsible for the definition, authorization, and approval of services extended to clients.

(4) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 425.00.

425.02: Definitions

As used in 101 CMR 425.00, unless the context requires otherwise, terms have the meanings in 101 CMR 425.02.

Client. An individual that receives young parent support services purchased by a governmental unit.

Cost Report. The document used to report costs and other financial and statistical data. The Uniform Financial Statements and Independent Auditor's Report (UFR) is used when required.

Enrollment Completion. An enrollment payment occurs when a YPP enrollee has been accepted into the Young Parent Program by the contractor and has participated in program activities for a minimum of 40 hours. The official enrollment date reflects the date of the start of participation, at a minimum 100% attendance.

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

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

Outcome Completion. Achievement of a high school diploma or HiSET™. At a minimum, eight weeks at 100% attendance is required prior to completion. An outcome can also be defined as a job placement, acceptance into skills training, acceptance into a community college, transitioning to a college program, a progress payment with two grade levels of improvement, work program placement, full employment program placement, or high school placement. Outcome completions are further defined by the purchasing agency in the scope of services and contracts.

Placement Completion. The start date of the placement must occur while the participant is actively participating in YPP or within 90 days of a reimbursable completion (HiSET™). A placement is counted as a completion only after 30 days of employment. Placement completions are further defined by the purchasing agency in the scope of services and contracts.

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425.02: continued

Provider. Any individual, group, partnership, trust, corporation, or other legal entity that offers services for purchase by a governmental unit and that meets the conditions of purchase or licensure that have been adopted by a purchasing governmental unit.

Reporting Year. The provider's fiscal year for which costs incurred are reported to the Operational Services Division on the Uniform Financial Statements and Independent Auditor's Report (UFR).

Young Parent Program. The Young Parent Program (YPP) is a part of the Department of Transitional Assistance's Employment Services Program (ESP). These services are provided for Transitional Aid to Families with Dependent Children (TAFDC) participants. The YPP is directed toward reducing welfare dependency among young parents, 14 through 24 years old, who have not achieved a high school diploma or its equivalent.

425.03: 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 in the terms of the purchase agreement between the eligible provider and the purchasing governmental unit(s).

(2) Reimbursement as Full Payment. Each eligible provider must, as a condition of acceptance of payment made by any purchasing governmental units for services rendered, accept the approved program rate as full payment and discharge of all obligations for the services rendered. Payment from any other source will be used to offset the amount of the purchasing governmental unit's obligation for services rendered to the publicly assisted client.

(3) Payment Limitations. No purchasing governmental unit may pay less than or more than the approved program rate.

(4) Administrative Adjustment for Extraordinary Circumstances. A provider may petition the purchasing governmental unit for an administrative adjustment to reflect increases in operating costs due to unusual and unforeseen circumstances or extraordinary client service requirements not considered in the development of the current rates. Unusual and unforeseen circumstances are events of catastrophic nature (*e.g.*, fire, flood, or earthquake) that are not covered by insurance that the prudent provider would carry. The provider must demonstrate 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. 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 425.03(5).

Service	Rate
Enrollment Completion	$4,871
Outcome/Placement Completion	$5,005

425.04: 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.

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Docket # 1182

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **130 CMR 508.000**

CHAPTER TITLE: **MassHealth: Managed Care Requirements**

AGENCY: **Division of Medical Assistance**

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

This regulation details requirements for MassHealth managed care enrollment and coverage.

REGULATORY AUTHORITY: **M.G.L. c. 118E, §§ 7 and 12**

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: February 25, 2026
Regulatory Review approval: June 23, 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: **April 3, 2026**

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

For the first and second year: **No fiscal effect**

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: **July 1, 2026**

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 130 CMR 508.000:: MassHealth:: Managed Care Requirements.

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: **Jul 02 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/17/26**

CODE OF MASSACHUSETTS REGULATIONS

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21 & 22 **683 - 688.8**	**21 & 22** **683 - 688.8**

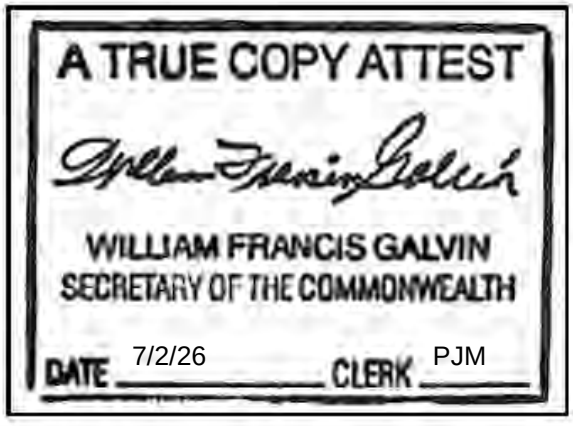

Table of Contents

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Table of Contents

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130 CMR 508.000: MASSHEALTH: MANAGED CARE REQUIREMENTS

Section

508.001: MassHealth Member Participation in Managed Care

(A) Mandatory Enrollment with a MassHealth Managed Care Provider. MassHealth members who are younger than 65 years old must enroll in a MassHealth managed care provider available for their coverage type. Members described in 130 CMR 508.001(B) or who are excluded from participation in a MassHealth managed care provider under 130 CMR 508.002(A) are not required to enroll with a MassHealth managed care provider.

(B) Voluntary Enrollment in a MassHealth Managed Care Provider. The following MassHealth members who are younger than 65 years old may, but are not required to, enroll with a MassHealth managed care provider available for their coverage type:

(1) MassHealth members who are receiving services from DCF or DYS;

(2) MassHealth members who are enrolled in the Kaileigh Mulligan Program, described in 130 CMR 519.007(A): *The Kaileigh Mulligan Program*. Such members may choose to receive all services on a fee-for-service basis;

(3) MassHealth members who are enrolled in a home- and community-based services waiver. Such members may choose to receive all services on a fee-for-service basis; or

(4) MassHealth members who are receiving Title IV-E adoption assistance as described at 130 CMR 522.003: *Adoption Assistance and Foster Care Maintenance*. Such members may choose to receive all services on a fee-for-service basis.

(C) Senior Care Options (SCO) Plan. MassHealth members who are 65 years of age or older may enroll in a SCO Plan under 130 CMR 508.008(A).

(D) One Care Plan (ICO). MassHealth members who are 21 through 64 years old at time of enrollment may enroll in a One Care Plan under 130 CMR 508.007(A).

(E) MassHealth Behavioral Health Contractor.

(1) MassHealth members enrolled with a Primary Care ACO or in the PCC Plan must enroll with the MassHealth behavioral health contractor.

(2) MassHealth Standard and CommonHealth members who are younger than 21 years old and who are excluded from participation with a MassHealth managed care provider under 130 CMR 508.002(A)(1) or (2) must enroll with the MassHealth behavioral health contractor.

(3) MassHealth members who are receiving services from DCF or DYS and who do not choose to enroll with a MassHealth managed care provider must enroll with the MassHealth behavioral health contractor.

(4) MassHealth members who are enrolled in the Kaileigh Mulligan Program, described in 130 CMR 519.007(A): *The Kaileigh Mulligan Program* and who do not choose to enroll with a MassHealth managed care provider are enrolled with the MassHealth behavioral health contractor. Such members may choose to receive all services on a fee-for-service basis.

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508.001: continued

(5) MassHealth members who are receiving Title IV-E adoption assistance as described at 130 CMR 522.003: *Adoption Assistance and Foster Care Maintenance* and who do not choose to enroll with a MassHealth managed care provider are enrolled with the MassHealth behavioral health contractor. Such members may choose to receive all services on a fee-for-service basis.

508.002: MassHealth Members Excluded from Participation in Managed Care

(A) MassHealth Managed Care Provider. The following MassHealth members are excluded from participation with a MassHealth managed care provider.

(1) a member who has Medicare;

(2) a member who has access to other health insurance that meets the basic-benefit level as defined in 130 CMR 501.001: *Definition of Terms*;

(3) a member who is 65 years of age or older;

(4) a member who is not eligible for benefits under Title XIX or XXI of the Social Security Act;

(5) a member who is only eligible for benefits under Title XIX or XXI of the Social Security Act through Title XXI during the period from conception to the end of pregnancy;

(6) a member in a nursing facility, chronic disease or rehabilitation hospital, intermediate care facility for individuals with intellectual disabilities (ICF/ID), or a state psychiatric hospital for other than a short-term rehabilitative stay;

(7) a member who is eligible for emergency Medicaid benefits pursuant to Section 1903(v) of the Social Security Act;

(8) a member who is eligible for Children's Medical Security Plan (CMSP);

(9) a member who is eligible through the Emergency Aid to the Elderly, Disabled and Children (EAEDC) Program;

(10) a member who is receiving hospice care through MassHealth on a fee-for-service basis, or who is terminally ill as documented by a medical prognosis of a life expectancy of six months or less; and

(11) a member who has presumptive eligibility.

(B) SCO Plan. The following MassHealth members 65 years of age and older who are enrolled in Medicare Parts A and B and are eligible for Medicare Part D are excluded from participating in a SCO Plan.

(1) A member who has access to other health insurance, with the exception of Medicare, that meets the basic-benefit level as defined in 130 CMR 501.001: *Basic-Benefit Level (BBL)*;

(2) a member who does not live in the designated service area of a SCO Plan;

(3) a member in an ICF/ID;

(4) a member who is not eligible for MassHealth Standard;

(5) a member who has presumptive eligibility;

(6) a member who is enrolled in a home- and community-based services waiver, except the Home- and Community-based Services Waiver – Frail Elder as described at 130 CMR 519.007(B): *Home- and Community-based Services Waiver – Frail Elder*; and

(7) a member who is eligible through the Emergency Aid to the Elderly, Disabled and Children (EAEDC) Program;

(8) a member who is a refugee described at 130 CMR 522.002: *Refugee Resettlement Program*;

(9) a member who is not eligible for benefits under Title XIX or XXI of the Social Security Act;

(10) a member who is only eligible for benefits under Title XIX or XXI of the Social Security Act through Title XXI during the period from conception to the end of pregnancy;

(11) a member who is eligible for emergency Medicaid benefits pursuant to Section 1903(v) of the Social Security Act; and

(12) a member who is subject to a six-month deductible period under 130 CMR 520.028: *Eligibility for a Deductible*.

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508.002: continued

(C) One Care Plan. The following MassHealth members who are 21 through 64 years old at time of enrollment and who are enrolled in Medicare Parts A and B and are eligible for Medicare Part D are excluded from participation in a One Care Plan.

(1) a member who has other health insurance, with the exception of Medicare, that meets the basic-benefit level as defined in 130 CMR 501.001: *Basic-benefit Level (BBL)*;
(2) a member who does not live in the designated service area of a One Care Plan;
(3) a member in an ICF/ID;
(4) a member who is not eligible for MassHealth Standard or CommonHealth;
(5) a member who has presumptive eligibility;
(6) a member who is enrolled in a home- and community-based services waiver;
(7) a member who is eligible through the Emergency Aid to the Elderly, Disabled and Children (EAEDC) Program;
(8) a member who is a refugee described at 130 CMR 522.002: *Refugee Resettlement Program*;
(9) a member who is not eligible for benefits under Title XIX or XXI of the Social Security Act;
(10) a member who is only eligible for benefits under Title XIX or XXI of the Social Security Act through Title XXI during the period from conception to the end of pregnancy;
(11) a member who is eligible for emergency Medicaid benefits pursuant to Section 1903(v) of the Social Security Act; and
(12) a member who is subject to a six-month deductible period under 130 CMR 520.028: *Eligibility for a Deductible*.

508.003: Enrollment with a MassHealth Managed Care Provider

(A) Member Selection.

(1) In accordance with 130 CMR 508.004 through 508.006, members required or permitted to select a MassHealth managed care provider may select any MassHealth managed care provider from the MassHealth agency's list of MassHealth managed care providers for the member's coverage type in the member's service area, if the provider is able to accept new members.
(2) A member who seeks to enroll with a managed care provider outside of the member's service area must submit a request in writing to the MassHealth agency on forms provided by the MassHealth agency. The MassHealth agency may grant such a request if they determine that:
(a) The out-of-area MassHealth managed care provider is in a service area contiguous to the member's service area; or
(b) The MassHealth agency determines either of the following:
1. the member seeks a specific provider who is in the network of the out-of-area MassHealth managed care provider, such requested provider is not in the network of a MassHealth managed care provider in the member's service area, and the travel time or distance to such requested provider is equal to or less than the travel time to, as determined by the MassHealth agency, a comparable provider in the network of a MassHealth managed care provider in the member's service area; or
2. the medical benefit of receiving care from a MassHealth managed care provider in the member's service area is substantially outweighed, as determined by the MassHealth agency, by the medical benefit of receiving care from the out-of-area MassHealth managed care provider requested by the member.

(B) Member Assignment to a MassHealth Managed Care Provider. If a member does not choose a MassHealth managed care provider within the time specified by the MassHealth agency in a notice to the member or in other circumstances determined appropriate by the MassHealth agency and consistent with applicable laws, the MassHealth agency assigns the member to an available MassHealth managed care provider.

(1) The MassHealth agency assigns a member to a MassHealth managed care provider only if the MassHealth managed care provider is:
(a) available for the member's coverage type;
(b) in the member's service area as described in 130 CMR 508.004(A)(1), 130 CMR 508.005(A)(1), 508.006(A)(1)(a), 508.006(B)(1)(a), as applicable;

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508.003: continued

(c) physically accessible to the member, if the member is disabled;

(d) suitable for the member's age and sex (for example, the member is the appropriate age for a pediatrician);

(e) able to communicate with the member directly or through an interpreter, unless there is no medical care available in the member's service area that meets this requirement; and

(f) located in an area to which the member has available and affordable transportation.

(2) If the MassHealth agency determines that no MassHealth managed care provider meeting the criteria of 130 CMR 508.003(B)(1) is available in the member's service area:

(a) The member may

1. choose not to enroll with a MassHealth managed care provider if such circumstances prevail; or

2. select an available MassHealth managed care provider outside of the member's service area.

(b) Any MassHealth Standard or CommonHealth member younger than 21 years old who is not enrolled with a MassHealth managed care provider pursuant to 130 CMR 508.003(B)(2)(a)1. must obtain any behavioral health services through the MassHealth behavioral health contractor. All other services for which the member is eligible may be obtained through any qualified participating MassHealth provider.

(c) If, after a determination by the MassHealth agency under 130 CMR 508.003(B)(2), the MassHealth agency determines that a MassHealth managed care provider meeting the criteria of 130 CMR 508.003(B)(1) has become available, the member must enroll with such a provider, unless the member is otherwise enrolled with a MassHealth managed care provider pursuant to 130 CMR 508.003(B)(2)(a)2.

(3) Notification. The MassHealth agency will notify a member in writing of the name and applicable contact information of the member's MCO, Accountable Care Partnership Plan, Primary Care ACO, or PCC, and the effective date of the member's enrollment with the MassHealth managed care provider.

(C) Member Choice to Transfer or Disenroll from a MassHealth Managed Care Provider. Members enrolled with a MassHealth managed care provider may transfer to another available MassHealth managed care provider by providing the MassHealth agency with an oral or written request as provided in 130 CMR 508.003(C).

(1) Members enrolled with an MCO, Accountable Care Partnership Plan, or Primary Care ACO may transfer to another available MassHealth managed care provider for any reason during a plan selection period.

(a) For members newly enrolled with an MCO, Accountable Care Partnership Plan, or Primary Care ACO, except for members re-enrolled in accordance with 130 CMR 508.003(E), the plan selection period occurs during the first 90 days of the member's enrollment, or notification of the member's enrollment, whichever is later, with the MCO, Accountable Care Partnership Plan, or Primary Care ACO.

(b) For all other members, the plan selection period will be a 90-day period that occurs annually.

(c) The MassHealth agency may designate additional plan selection periods at its discretion.

(2) Except as set forth in 130 CMR 508.003(C)(3), a member enrolled with an MCO, Accountable Care Partnership Plan, or Primary Care ACO must remain enrolled with the MCO, Accountable Care Partnership Plan, or Primary Care ACO for the fixed enrollment period. For all members, the fixed enrollment period is the period of time when a member is not in a plan selection period. The MassHealth agency will notify members in writing of their disenrollment rights at least annually.

(a) Members enrolled in an MCO, Accountable Care Partnership Plan, or Primary Care ACO pursuant to 130 CMR 508.001(B)(1) or who is younger than one year old do not have a fixed enrollment period.

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508.003: continued

(b) Members voluntarily enrolled in an MCO, Accountable Care Partnership Plan, or Primary Care ACO pursuant to 130 CMR 508.001(B)(2) through (4) may disenroll from their MCO, Accountable Care Partnership Plan, or Primary Care ACO at any time. Such members may be enrolled with the behavioral health contractor pursuant to 130 CMR 508.001(E). Members voluntarily enrolled in an MCO, Accountable Care Partnership Plan, or Primary Care ACO pursuant to 130 CMR 508.001(B)(2) through (4) may transfer to another MassHealth managed care provider only in accordance with 130 CMR 508.003(C).

(3) During fixed enrollment, a member may only request a transfer out of the member's current MCO, Accountable Care Partnership Plan, or Primary Care ACO for the reasons listed in 130 CMR 508.003(C)(3).

(a) The following reasons defined as cause for disenrollment in 42 CFR 438.56(d)(2):

1. the member moves such that the member's MCO, Accountable Care Partnership Plan, or Primary Care ACO is not available in the member's new service area;

2. the MCO, Accountable Care Partnership Plan, or Primary Care ACO does not, because of moral or religious objections, cover the service the member seeks;

3. the member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time; not all related services are available within the network; and the member's primary care provider or another provider determines that receiving the services separately would subject the member to unnecessary risk; or

4. other reasons, including but not limited to, poor quality of care, lack of access to services covered, or lack of access to providers experienced in dealing with the member's health-care needs.

(b) the MCO or Accountable Care Partnership Plan is no longer contracted with the MassHealth agency to cover the member's service areas or a PCP that participates in the member's Primary Care ACO is not available in the member's service area;

(c) the member adequately demonstrates to the MassHealth agency that the MCO, Accountable Care Partnership Plan, or Primary Care ACO has not provided access to providers that meet the member's health care needs over time, even after member's request for assistance;

(d) the member is homeless, the MassHealth agency's records indicate the member is homeless, and the MCO, Accountable Care Partnership Plan, or Primary Care ACO cannot accommodate the geographic needs of the member;

(e) the member adequately demonstrates to the MassHealth agency that the MCO, Accountable Care Partnership Plan, or Primary Care ACO substantially violated a material provision of its contract with MassHealth agency;

(f) the MassHealth agency imposes a sanction on the MCO, Accountable Care Partnership Plan, or Primary Care ACO that specifically allows for members to disenroll from the MCO, Accountable Care Partnership Plan, or Primary Care ACO without cause;

(g) the member adequately demonstrates to the MassHealth agency that the MCO, Accountable Care Partnership Plan, or Primary Care ACO is not meeting the member's language, communication, or other accessibility needs or preferences;

(h) the member adequately demonstrates to the MassHealth agency that the member's key network providers, including PCPs, specialists, or behavioral health providers, leave the MCO, Accountable Care Partnership Plan, or Primary Care ACO network; or

(i) the member's service area is Oak Bluffs or Nantucket.

(4) Members enrolled in the PCC Plan may transfer from the PCC Plan to another available MassHealth managed care provider at any time.

(5) The MassHealth agency will determine if the requirements needed for a member transfer pursuant to 130 CMR 508.003(C)(1) through (4) have been met within 30 days of MassHealth's receipt of the request. The MassHealth agency's determination is a ground for appeal in accordance with 130 CMR 610.032(A).

(a) If the MassHealth agency fails to make a determination within 30 days of MassHealth's receipt of the request, the request will be considered approved.

(b) The effective date for a member transfer will be within 30 days of MassHealth's receipt of the request.

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508.003: continued

(D) Other Disenrollment of Member from a MassHealth Managed Care Provider.

(1) The MassHealth agency may disenroll a member from an MCO, Accountable Care Partnership Plan, or Primary Care ACO at the MCO's, Accountable Care Partnership Plan's, or Primary Care ACO's request, if the MCO, Accountable Care Partnership Plan, or Primary Care ACO demonstrates to the MassHealth agency's satisfaction that the MCO, Accountable Care Partnership Plan, or Primary Care ACO has made reasonable efforts to provide medically necessary services to the member through available primary care providers or other relevant network providers and, despite such efforts, the continued enrollment of the member with the MCO, Accountable Care Partnership Plan, or Primary Care ACO seriously impairs the MCO's, Accountable Care Partnership Plan's, or Primary Care ACO's ability to furnish services to either this particular member or other members.

(2) The MassHealth agency may disenroll a member from a PCC's panel or a Primary Care ACO's Participating PCP's panel, at the PCC's or PCP's request, if the PCC or PCP demonstrates to the MassHealth agency's satisfaction that

(a) there is a pattern of noncompliant or disruptive behavior by the member that is not the result of the member's special needs;

(b) the continued enrollment of the member with the provider seriously impairs the provider's ability to furnish services to either this particular member or other members; or

(c) the PCC or PCP is unable to meet the medical needs of the member.

(3) If the MassHealth agency approves a request for disenrollment under 130 CMR 508.003(D)(1), (2)(a), or (2)(b), it will state the good cause basis for disenrollment in a notice to the member in accordance with 130 CMR 610.032(A)(10).

(E) Re-enrollment. Any member enrolled with a MassHealth managed care provider who loses and then regains managed care eligibility may be automatically re-enrolled with the MassHealth managed care provider with which the member was most recently enrolled, if such MassHealth managed care provider is available for the member's coverage type and service area.

(1) A member enrolled with an MCO, Accountable Care Partnership Plan, or Primary Care ACO who loses managed care eligibility during a plan selection period will receive a new plan selection period upon regaining eligibility.

(2) A member enrolled with an MCO, Accountable Care Partnership Plan, or Primary Care ACO who loses managed care eligibility during the fixed enrollment period will not receive a new plan selection period upon regaining managed care eligibility; provided, however, that if a member's loss of managed care eligibility causes the member to miss part or all of the member's annual plan selection period, the member will receive a new plan selection period upon regaining managed care eligibility.

508.004: Managed Care Organizations (MCOs)

(A) Enrollment in an MCO.

(1) Selection Procedure. When a member becomes eligible for managed care, the MassHealth agency notifies the member of the member's obligation to select a MassHealth managed care provider within the time period specified by the MassHealth agency. The MassHealth agency makes available to the member a list of the MCOs in the member's service area. The list of MCOs that the MassHealth agency will make available to members will include those MCOs that contract with the MassHealth agency to serve the coverage type for which the member is eligible and provide services within the member's service area. The member's service area is determined by the MassHealth agency based on zip codes or geographic area. Service area listings may be obtained from the MassHealth agency.

(2) MassHealth members assigned to MCOs, may transfer from MCOs, may be disenrolled from MCOs, and may be re-enrolled in MCOs as described in 130 CMR 508.003(B) through 130 CMR 508.003(E).

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508.004: continued

(B) Obtaining Services When Enrolled in an MCO.

(1) Primary Care Services. When the member selects or is assigned to an MCO, that MCO will deliver the member's primary care, determine if the member needs medical or other specialty care from other providers, and determine referral requirements for such necessary medical services.

(2) Other Medical Services. All medical services to members enrolled in an MCO (except those services not covered under the MassHealth contract with the MCO, family planning services, and emergency services) are subject to the authorization and referral requirements of the MCO. MassHealth members enrolled in an MCO may receive family planning services from any MassHealth family planning provider and do not need an authorization or referral in order to receive such services. Members enrolled with an MCO should contact their MCO for information about covered services, authorization requirements, and referral requirements.

(3) Behavioral Health Services. Members who enroll in an MCO receive behavioral health services through that MCO. All behavioral health services to members enrolled in an MCO, except those services not covered under the MassHealth contract with the MCO, are subject to the authorization and referral requirements of the MCO. Members enrolled with an MCO should contact their MCO for information about covered services, authorization requirements, and referral requirements.

(4) Native Americans and Alaska Natives. Individuals who are Native Americans (within the meaning of "Indians" as defined at 42 U.S.C. 1396u-2) or Alaska Natives who participate in managed care under MassHealth may choose to receive covered services from an Indian health-care provider. Such Indian health care providers may participate in MassHealth subject to applicable provisions of 130 CMR 450.000: *Administrative and Billing Regulations*.

(C) Copayments. Members who are enrolled in MCOs must make copayments in accordance with the MCO's MassHealth copayment policy. Those MCO copayment policies must

(1) be approved by MassHealth; and

(2) be consistent with applicable copayment requirements set forth in 130 CMR 450.000*: Administrative and Billing Regulations*, 130 CMR 506.000: *MassHealth: Financial Requirements*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

508.005: MassHealth Primary Care Clinician Plan (PCC Plan)

(A) Enrollment in the PCC Plan.

(1) Selection Procedure. When a member becomes eligible for managed care, the MassHealth agency notifies the member of the member's obligation to select a MassHealth managed care provider within the time period specified by the MassHealth agency. To enroll in the PCC Plan, the member must select the PCC Plan and an available primary care clinician (PCC). The MassHealth agency makes available to the member a list of the PCCs in the member's service area. The member's service area is determined by the MassHealth agency based on zip codes or geographic area. Service area listings may be obtained from the MassHealth agency. The list of PCCs that the MassHealth agency will make available to members may include those approved as a PCC by MassHealth in accordance with 130 CMR 450.118: *Primary Care Clinician (PCC) Plan* and who practices within the member's service area.

(2) MassHealth members assigned to the PCC Plan, may transfer from the PCC Plan, may be disenrolled from a PCC's panel, and may be re-enrolled in the PCC Plan as described in 130 CMR 508.003(B) through 130 CMR 508.003(E).

(B) Obtaining Services When Enrolled with the PCC Plan.

(1) Primary Care. When the member selects or is assigned to the PCC Plan, the member's selected or assigned PCC will deliver the member's primary care, determine if the member needs medical or other specialty care from other providers, and make referrals for such necessary medical services.

(2) Other Medical Services. All medical services, except those services listed in 130 CMR 450.118(J): *Referral for Services*, require a referral or authorization from the member's PCC. MassHealth members enrolled in the PCC Plan may receive those services listed in 130 CMR 450.118(J), for which they are otherwise eligible, without a referral from their PCC.

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508.005: continued

(3) Behavioral Health Services. All members enrolled with the PCC Plan receive behavioral health (mental health and substance use disorder) services, except those services not covered under the MassHealth contract with the behavioral health contractor, through the MassHealth behavioral health contractor. Such behavioral health services, except for emergency services, may be obtained only from a provider that has entered into an agreement with the MassHealth behavioral health contractor. The MassHealth behavioral health contractor is responsible for authorizing or denying behavioral health services based on the member's medical need for those services.

(4) Emergency Services. Members enrolled with the PCC Plan may obtain emergency services, including emergency behavioral health services, from any qualified participating MassHealth provider as well as any provider that has entered into an agreement with the MassHealth behavioral health contractor.

(5) Native Americans and Alaska Natives. Individuals who are Native Americans (within the meaning of "Indians" as defined at 42 U.S.C. 1396u-2) or Alaska Natives may choose to receive covered services from an Indian health-care provider. Such Indian health-care providers may participate in MassHealth subject to applicable provisions of 130 CMR 450.000: *Administrative and Billing Regulations*.

(C) Copayments. Members who are enrolled in the PCC Plan must make copayments in accordance with MassHealth copayment requirements set forth in 130 CMR 450.000: *Administrative and Billing Regulations*, 130 CMR 506.000: *MassHealth: Financial Requirements*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

508.006: Accountable Care Organizations (ACOs)

(A) Accountable Care Partnership Plans.

(1) Enrollment in an Accountable Care Partnership Plan.

(a) Selection Procedure. When a member becomes eligible for managed care, the MassHealth agency notifies the member of the member's obligation to select a MassHealth managed care provider within the time period specified by the MassHealth agency. The MassHealth agency makes available to the member a list of Accountable Care Partnership Plans in the member's service area. The list of Accountable Care Partnership Plans that the MassHealth agency will make available to members will include those Accountable Care Partnership Plans that contract with the MassHealth agency to serve the coverage type for which the member is eligible and provide services within the member's service area. The member's service area is determined by the MassHealth agency based on zip codes or geographic area. Service area listings may be obtained from the MassHealth agency.

(b) MassHealth members are assigned to Accountable Care Partnership Plans, may transfer from Accountable Care Partnership Plans, may be disenrolled from Accountable Care Partnership Plans, and may be re-enrolled in Accountable Care Partnership Plans as described in 130 CMR 508.003(B) through 130 CMR 508.003(E).

(2) Obtaining Services When Enrolled in an Accountable Care Partnership Plan.

(a) Primary Care Services. When the member selects or is assigned to an Accountable Care Partnership Plan, that Accountable Care Partnership Plan will deliver the member's primary care, determine if the member needs medical or other specialty care from other providers, and determine referral requirements for such necessary medical services.

(b) Other Medical Services. All medical services to members enrolled in an Accountable Care Partnership Plan (except those services not covered under the MassHealth contract with the Accountable Care Partnership Plan, family planning services, and emergency services) are subject to the authorization and referral requirements of the Accountable Care Partnership Plan. MassHealth members enrolled in an Accountable Care Partnership Plan may receive family planning services from any MassHealth family planning provider and do not need an authorization or referral in order to receive such services. Members enrolled with an Accountable Care Partnership Plan should contact their Accountable Care Partnership Plan for information about covered services, authorization requirements, and referral requirements.

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508.006: continued

(c) Behavioral Health Services. Members who enroll in an Accountable Care Partnership Plan receive behavioral health services through that Accountable Care Partnership Plan. All behavioral health services to members enrolled in an Accountable Care Partnership Plan, except those services not covered under the MassHealth contract with the Accountable Care Partnership Plan, are subject to the authorization requirements and referral requirements of the Accountable Care Partnership Plan. Members enrolled with an Accountable Care Partnership Plan should contact their Accountable Care Partnership Plan for information about covered services, authorization requirements, and referral requirements.

(d) Native Americans and Alaska Natives. Individuals who are Native Americans (within the meaning of "Indians" as defined at 42 U.S.C. 1396u-2) or Alaska Natives who participate in managed care under MassHealth may choose to receive covered services from an Indian health-care provider. Such Indian health-care providers may participate in MassHealth subject to applicable provisions of 130 CMR 450.000: *Administrative and Billing Regulations*.

(3) Copayments. Members who are enrolled in an Accountable Care Partnership Plan must make copayments in accordance with the Accountable Care Partnership Plan's MassHealth copayment policy. Those Accountable Care Partnership Plan copayment policies must

(a) be approved by MassHealth; and

(b) be consistent with applicable copayment requirements set forth in 130 CMR 450.000: *Administrative and Billing Regulations*, 130 CMR 506.000: *MassHealth: Financial Requirements*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

(B) Primary Care ACOs.

(1) Enrollment in a Primary Care ACO.

(a) Selection Procedure. When a member becomes eligible for managed care, the MassHealth agency notifies the member of the member's obligation to select a MassHealth managed care provider within the period specified by the MassHealth agency. To enroll in a Primary Care ACO, the member must select a Primary Care ACO and an available PCP that participates with the Primary Care ACO the member has selected. The MassHealth agency makes available to the member a list of PCPs that are participating with each Primary Care ACO. The list of PCPs that the MassHealth agency will make available to members may include those approved as a PCP in accordance with 130 CMR 450.119: *Primary Care ACOs* and who practices within the member's service area.

(b) MassHealth members are assigned to Primary Care ACOs, may transfer from Primary Care ACOs, may be disenrolled from Primary Care ACOs, and may be re-enrolled in Primary Care ACOs as described in 130 CMR 508.003(B) through 130 CMR 508.003(E).

(2) Obtaining Services When Enrolled in a Primary Care ACO.

(a) Primary Care. When the member selects or is assigned to a Primary Care ACO, the member's selected or assigned PCP will deliver the member's primary care, determine if the member needs medical or other specialty care from other providers, and make referrals for such necessary medical services.

(b) Other Medical Services (excluding Behavioral Health). All medical services, except those services listed in 130 CMR 450.119: *Primary Care ACOs* and those provided by providers in a Primary Care ACO's referral circle, require a referral or authorization from the member's primary care provider. MassHealth members enrolled in a Primary Care ACO may receive those services listed in 130 CMR 450.119, for which they are otherwise eligible, without a referral from their PCP.

(c) Behavioral Health Services. All members enrolled with a Primary Care ACO receive behavioral health (mental health and substance use disorder) services, except those services not covered under the MassHealth contract with the behavioral health contractor, through the MassHealth behavioral health contractor as follows:

1. Non-emergency Behavioral Health Services. Behavioral health services, except for emergency services, may be obtained only from a provider that has entered into an agreement with the MassHealth behavioral health contractor. The MassHealth behavioral health contractor is responsible for authorizing or denying behavioral health services based on the member's medical need for those services.

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508.006: continued

2. Emergency Behavioral Health Services. Members may obtain emergency behavioral health services from any qualified participating MassHealth provider as well as any provider that has entered into an agreement with the MassHealth behavioral health contractor.

(d) Native Americans and Alaska Natives. Individuals who are Native Americans (within the meaning of "Indians" as defined at 42 U.S.C. 1396u-2) or Alaska Natives may choose to receive covered services from an Indian health-care provider. Such Indian health-care providers may participate in MassHealth subject to applicable provisions of 130 CMR 450.000: *Administrative and Billing Regulations*.

(3) Copayments. Members enrolled in Primary Care ACOs must make copayments in accordance with MassHealth copayment requirements set forth in 130 CMR 450.000: *Administrative and Billing Regulations*, 130 CMR 506.000: *MassHealth: Financial Requirements*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

508.007: One Care Plans

(A) Enrollment Requirements. To voluntarily enroll in a One Care Plan, a MassHealth Standard or MassHealth CommonHealth member must meet all of the following criteria:

(1) be 21 through 64 years old at the time of enrollment. If a member is enrolled in a One Care Plan and turns 65 years old and is eligible for MassHealth Standard or MassHealth CommonHealth, they may elect to remain in the One Care Plan beyond 65 years old;

(2) be eligible for MassHealth Standard as described in 130 CMR 519.001(B)(1) or 130 CMR 505.001(A)(1) or MassHealth CommonHealth as described in 130 CMR 519.001(B)(5) or 130 CMR 505.001(A)(2);

(3) be enrolled in Medicare Parts A and B, be eligible for Medicare Part D, and have no other health insurance that meets the basic-benefit level as defined in 130 CMR 501.001: *Basic-level Benefit (BLB)*;

(4) live in a designated service area of a One Care Plan; and

(5) not be subject to any of the exclusions defined in 130 CMR 508.002(C).

(B) Selection Procedure. The MassHealth agency will notify members of the availability of a One Care Plan in their service area and of the procedures for enrollment. An eligible member may voluntarily enroll in any One Care Plan in the member's service area. A service area is the specific geographical area of Massachusetts in which a One Care Plan agrees to serve in its contracts with the MassHealth agency and the Centers for Medicare & Medicaid Services. Service area listings may be obtained from the MassHealth agency or its designee. The list of One Care Plans that the MassHealth agency will make available to members will include those One Care Plans that contract with the MassHealth agency and provide services within the member's service area.

(C) Obtaining Services When Enrolled in a One Care Plan. When a member is enrolled in a One Care Plan in accordance with the requirements under 130 CMR 508.007, the One Care Plan will authorize, arrange, integrate, and coordinate the provision of all covered services for the member. Upon enrollment, the One Care Plan is required to provide evidence of its coverage, the range of available covered services, what to do for emergency conditions and urgent care needs, and how to obtain access to specialty, behavioral health, and long-term services and supports.

(D) Disenrollment from a One Care Plan. Disenrollment requests will be effective the first day of the month following the month the request is received by the MassHealth agency or its designee.

(E) Discharge or Transfer. The MassHealth agency may discharge or transfer a member from a One Care Plan for good cause, including but not limited to cases where the One Care Plan demonstrates to the MassHealth agency's satisfaction a pattern of noncompliant or disruptive behavior by the member. In each case, notice to the member of the discharge or transfer will state the justification for the discharge or transfer.

(F) Other Programs. A member may not be enrolled in a One Care Plan and concurrently participate or be enrolled in any of the following programs or plans:

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508.007: continued

(1) programs described at 130 CMR 519.007: *Individuals Who Would Be Institutionalized*;
(2) Medicare demonstration program or Medicare Advantage plan, except for a Medicare Advantage Special Needs Plan for Dual Eligibles contracted as a One Care Plan;
(3) any Medicare Demonstrations wherein concurrent participation in a One Care Plan is prohibited;
(4) Employer Group Waiver Plans or other employer-sponsored plans; or
(5) plans receiving a retiree drug subsidy.

(G) Copayments. Members who are enrolled in a One Care Plan must make copayments in accordance with the One Care Plan's MassHealth copayment policy. Those One Care Plan copayment policies must
(1) be approved by MassHealth; and
(2) be consistent with applicable copayment requirements set forth in 130 CMR 450.000: *Administrative and Billing Regulations*, 130 CMR 506.000: *MassHealth: Financial Requirements*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

508.008: Senior Care Options (SCO) Plan

(A) Enrollment Requirements. In order to voluntarily enroll in a SCO Plan, a MassHealth Standard member must meet all the following criteria:
(1) be 65 years of age or older;
(2) be eligible for MassHealth Standard as defined in 130 CMR 519.001(B)(1);
(3) be enrolled in Medicare Parts A and B, be eligible for Medicare Part D, and have no other health insurance that meets the basic-benefit level as defined in 130 CMR 501.001: *Definition of Terms*;
(4) live in a designated service area of a SCO Plan;
(5) not be subject to any of the exclusions defined in 130 CMR 508.002(B).

(B) Selection Procedure. The MassHealth agency will notify members of the availability of a SCO Plan in their service area and of the procedures for enrollment. An eligible member may voluntarily enroll in any SCO Plan in the member's service area. A service area is the specific geographical area of Massachusetts in which a SCO Plan agrees to serve its contract with the MassHealth agency and the Centers for Medicare & Medicaid Services. Service area listings may be obtained from the MassHealth agency or its designee. The list of SCO Plans that the MassHealth agency will make available to members will include those SCO Plans that contract with the MassHealth agency and provide services within the member's service area.

(C) Obtaining Services When Enrolled in a SCO Plan. When a member chooses to enroll in a SCO Plan in accordance with the requirements under 130 CMR 508.008, the SCO Plan will deliver the member's primary care and will authorize, arrange, integrate, and coordinate the provision of all covered services for the member. Upon enrollment, each SCO Plan is required to provide evidence of its coverage, including a complete list of participating providers, the range of available covered services, what to do for emergency conditions and urgent care needs, and how to obtain access to covered services such as specialty, behavioral health, and long-term-care services.

(D) Disenrollment from a SCO Plan. Disenrollment requests will be effective the first day of the month following the month the request is received by the MassHealth agency or its designee.

(E) Discharge or Transfer. The MassHealth agency may discharge or transfer a member from a SCO Plan for good cause, including but not limited to cases where the SCO Plan demonstrates to the MassHealth agency's satisfaction a pattern of noncompliant or disruptive behavior by the member. In each case, notice to the member of the discharge or transfer will state the justification for the discharge or transfer.

(F) Other Programs. A member may not be enrolled in a SCO Plan and concurrently participate or be enrolled in any of the following programs or plans:
(1) programs described at 130 CMR 519.007: *Individuals Who Would Be Institutionalized*; except the Home- and Community-based Services Waiver – Frail Elder described in 130 CMR 519.007(B): *Home- and Community-based Services Waiver – Frail Elder*;

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508.008: continued

(2) Medicare demonstration program or Medicare Advantage plan, except for a Medicare Advantage Special Needs Plan for Dual Eligibles contracted as a SCO Plan;(3) any Medicare Demonstrations wherein concurrent participation in a SCO Plan is prohibited;
(4) Employer Group Waiver Plans or other employer-sponsored plans; or
(5) plans receiving a retiree drug subsidy.

(G) Copayments. Members who are enrolled in a SCO Plan must make copayments in accordance with the SCO's MassHealth copayment policy. Those SCO Plan copayment policies must
(1) be approved by MassHealth; and
(2) be consistent with applicable copayment requirements set forth in 130 CMR 450.000: *Administrative and Billing Regulations*, 130 CMR 506.000: *MassHealth: Financial Requirements*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

508.009: Behavioral Health Contractor

The following applies to MassHealth members who are not in the PCC Plan or a Primary Care ACO and who receive behavioral health services through MassHealth's behavioral health contractor. (*See* 130 CMR 508.001(E).)

(A) Nonemergency Behavioral Health Services. Behavioral health services, except for emergency services and those services not covered under the MassHealth contract with the behavioral health contractor, may be obtained only from a provider that has entered into an agreement with the MassHealth behavioral health contractor. The MassHealth behavioral health contractor is responsible for authorizing or denying those behavioral health services based on the member's medical need for those services.

(B) Emergency Behavioral Health Services. Members may obtain emergency behavioral health services from any qualified participating MassHealth provider as well as any provider that has entered into an agreement with the MassHealth behavioral health contractor.

(C) Copayments. Members who are enrolled in the MassHealth behavioral health contractor must make copayments in accordance with the MassHealth behavioral health contractor's MassHealth copayment policy. Those MassHealth behavioral health contractor copayment policies must
(1) be approved by MassHealth; and
(2) be consistent with applicable copayment requirements set forth in 130 CMR 450.000: *Administrative and Billing Regulations*, 130 CMR 506.000: *MassHealth: Financial Requirements*, and 130 CMR 520.000: *MassHealth: Financial Eligibility*.

508.010: Right to a Fair Hearing

Members are entitled to a fair hearing under 130 CMR 610.000: *MassHealth: Fair Hearing Rules* to appeal for the reasons described in 130 CMR 610.032: *Grounds for Appeal*.

508.011: Timely Notice of Appealable Actions

(A) Whenever an MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or the behavioral health contractor reaches a decision that constitutes an appealable action, as described in 130 CMR 610.032(B), it must send a notice to the member within the following time frames that describes its decision and its internal appeal procedures:
(1) for a standard service authorization decision to deny or provide limited authorization for a requested service, no later than seven days following receipt of the request for service, unless the time frame is extended up to 14 additional days because the member or a provider requested the extension or the MCO, Accountable Care Partnership Plan, SCO Plan, and One Care Plan, or behavioral health contractor can demonstrate a need for additional information and how the extension is in the member's interest;

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508.011: continued

(2) for an expedited service decision to deny or provide limited authorization for a requested service, where a provider requests, or an MCO, Accountable Care Partnership Plan, SCO Plan, and One Care Plan, or behavioral health contractor determines, that following the standard time frame in 130 CMR 508.011(A) could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function, no later than three business days after receipt of the request for service, unless the time frame is extended up to 14 additional calendar days because the member requested the extension or the MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or behavioral health contractor can demonstrate a need for additional information and how the extension is in the member's interest;

(3) for termination, suspension, or reduction of a previous authorization for a service, at least ten days before the action, except as provided in 42 CFR 431.213; and

(4) for denial of payment where coverage of the requested service is at issue, on the day of the payment denial, except that no notice is necessary for procedural denials, which include, but are not limited to, the following:

(a) failure to follow the MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or behavioral health contractor's prior authorization procedures;

(b) failure to follow referral rules; and

(c) failure to file a timely claim.

(B) Whenever an MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or the behavioral health contractor fails to reach a decision on a standard or expedited service authorization within the time frames described in 130 CMR 508.011(A)(1) and (2), whichever is applicable, it must send a notice to the member on the date that such time frame expires.

508.012: Time Limits for Resolving Internal Appeals

(A) MCOs, Accountable Care Partnership Plans, SCO Plans, One Care Plans, and the behavioral health contractor must resolve standard internal appeals within 30 days after receiving the appeal, including any extensions pursuant to 130 CMR 508.012(C).

(B) Where the provider requests an expedited appeal or the MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or behavioral health contractor determines (for a request from the member) that following the standard time frame could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function, the MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or the behavioral health contractor must resolve the internal appeal on an expedited basis within 72 hours after receiving the appeal, unless the time frames are extended by up to 14 days pursuant to 130 CMR 508.012(C), in which event the MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or behavioral health contractor must resolve the appeal within 17 days after receiving the appeal. If the MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or behavioral health contractor denies a member's request for expedited resolution of an internal appeal, the MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or behavioral health contractor must resolve the appeal in accordance with the time frames in 130 CMR 508.012(A) and must make reasonable efforts to give the member prompt, oral notice of the denial and follow up within two calendar days with a written notice. The MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or behavioral health contractor cannot deny a provider's request (on the member's behalf) that an internal appeal be expedited.

(C) MCOs, Accountable Care Partnership Plans, SCO Plans, One Care Plans, and the behavioral health contractor may extend the time frame for resolving internal appeals under the following circumstances, provided that, if the MCO, Accountable Care Partnership Plan, SCO Plan, One Care Plan, or the behavioral health contractor extends the time frame, it must give the member written notice of the reason for the extension:

(1) the member requested the extension;

(2) the MCO, Accountable Care Partnership Plan, SCO Plan or the behavioral health contractor showed (to the MassHealth agency's satisfaction) that there is a need for additional information and how the extension is in the member's interest; or

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508.012: continued

(3) the One Care Plan showed (to the satisfaction of the MassHealth agency and the Centers for Medicare and Medicaid Services (CMS) that there is a need for additional information and how the extension is in the member's interest.

508.013: Timely Notice of Internal Appeal Decisions

(A) MCOs, Accountable Care Partnership Plans, SCO Plans, One Care Plans, and the behavioral health contractor must provide notice of an internal appeal decision concerning an appealable action, as described in 130 CMR 610.032(B), within the timeframes described in 130 CMR 508.012.

(B) Notice from an MCO, an Accountable Care Partnership Plan, a SCO Plan, a One Care Plan, or the behavioral health contractor concerning an internal appeal must be in writing and, for an expedited internal appeal, reasonable efforts must be made to provide oral notice.

508.014: Severability

The provisions of 130 CMR 508.000 are severable. If any provision of 130 CMR 508.000 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 130 CMR 508.000 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

130 CMR 508.000: M.G.L. c. 118E.

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Docket # 455

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **205 CMR 138.00**

CHAPTER TITLE: **Uniform Standards of Accounting Procedures and Internal Controls for Gaming**

AGENCY: **Massachusetts Gaming Commission**

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

205 CMR 138.00 governs the system of internal controls required to be in place by a gaming licensee. The portion being amended, 205 CMR 138.69 regulates entertainment, photography, and filming in the gaming area.

REGULATORY AUTHORITY: **G.L. c. 23K, §§ 4(28) and 25(d)**

AGENCY CONTACT: **Autumn Birarelli** PHONE: **(617)533-9716**

ADDRESS: **101 Federal Street, 12th Floor, 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.*

LGAC Filing: 4/9/2026
Notice to the Secretary of the Commonwealth: 4/24/2026
Publication in the Boston Herald: 4/28/2026

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: **5/19/2026**

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

For the first and second year: **0.00**

For the first five years: **0.00**

No fiscal effect: **0.00**

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: **6/18/2026**

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

Massachusetts Gaming Commission, gaming, Gaming Licensees, Sports Wagering, Internal Controls, filming, photography

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 205 CMR 138.00, specifically 205 CMR 138.69:: Entertainment, Filming or Photography within the Gaming Area.

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 23 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/17/26**

CODE OF MASSACHUSETTS REGULATIONS

Remove these Pages:	*Insert these Pages:*
4.7 - 4.10	**4.7 - 4.10**
496.41 & 496.42	**496.41 & 496.42**
496.53 - 496.54.4	**496.53 - 496.54.6**

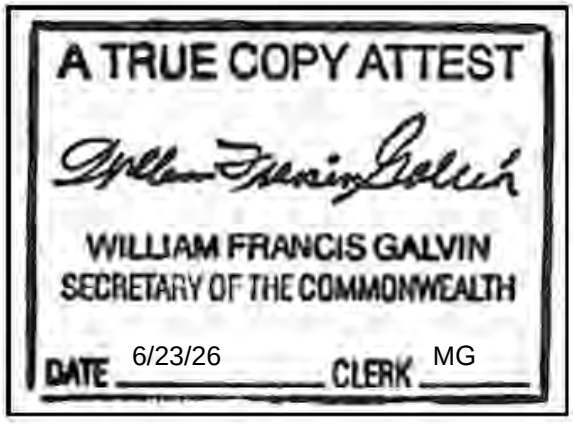

Table of Contents

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Table of Contents

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Table of Contents

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Table of Contents

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138.46: continued

(6) Statements shall be sent to patrons and the collections department at the gaming establishment, by accounting department employees with no incompatible functions, in a reasonably prompt manner upon initial receipt of a returned check or immediately upon receipt of a check returned for a second time if the check was immediately re-deposited pursuant to 205 CMR 138.46(5), and such statements shall include, but not be limited to, the following:

(a) The name and address of the drawer;

(b) The date of the check;

(c) The amount of the check; and

(d) The date(s) and amount(s) of any collections received on the check after being returned by the bank.

(7) Patrons to whom statements are sent shall be advised of a contact telephone number, a return address and the department to which replies shall be sent.

(8) Employees with no incompatible functions shall receive directly and shall initially record all collections.

(9) Copies of statements and other documents supporting collection efforts shall be maintained and controlled by accounting department employees.

(10) A record of all collection efforts shall be recorded and maintained by the collection area within the accounting department.

(11) Listings of uncollectible checks shall be approved in writing by, at a minimum, the chief executive officer or the chief gaming executive, a key gaming employee identified and approved by the commission as part of the gaming licensee's system of internal controls, and the controller or the person to whom the controller directly reports; provided that, with the exception of the chief executive officer and chief gaming executive, none of the foregoing persons shall also have the authority to approve credit. All such uncollectible checks and listings shall be maintained and controlled by accounting department employees. A continuous trial balance of all uncollectible checks shall be maintained by employees of the accounting department. The continuous trial balance shall be adjusted for any subsequent collections.

138.47: Automated Teller Machines (ATM)

(1) Use and operation of an Automated Teller Machine (ATM) or electronic branch, as defined by M.G.L. c. 167B, § 1, within a gaming establishment is governed by M.G.L. c. 167B and 209 CMR: *Division of Banks and Loan Agencies*.

(2) No ATM or electronic branch, as defined by M.G.L. c. 167B, § 1, shall be located closer than 15 feet from the gaming area, simulcasting area, Sports Wagering Area, or Sports Wagering Area in a gaming establishment or Sports Wagering Facility.

(3) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures that identify reasonable measures to be implemented that are tailored to inhibit the initiation and processing of any transaction allowing for the use of a card or card equivalent issued by a financial institution to obtain cash from a line of credit (*e.g.*, credit card cash advance) in the gaming establishment by either an ATM or any other means. Such reasonable measures shall include, but not be limited to:

(a) The conspicuous placement of signage on an ATM indicating that use of credit cards is prohibited;

(b) Ensuring that an ATM does not offer to a user any transaction option that is designed to enable the patron to obtain cash from a line of credit (*i.e.* no option to press a "credit card" or "cash advance" button); and

(c) Ensuring that no transaction in which a card or card equivalent issued by a financial institution is being used to obtain cash from a line of credit is, in whole or part, initiated or processed at the cage or elsewhere in the gaming establishment, by any employee or anyone else.

(4) No data relative to an individual patron that is collected by an ATM or electronic branch may be sold, transmitted, or otherwise used for marketing purposes by a gaming licensee or provider of such device.

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138.48: Procedure for Opening, Counting and Recording Contents of Table Drop Boxes and Slot Cash Storage Boxes

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures relative to opening, counting, and recording contents of table drop boxes and slot cash storage boxes that include, at a minimum, the following provisions:

(1) Immediately prior to the commencement of the count process, a count room supervisor shall:

(a) Obtain a preliminary master game report which shall list forms and documents related to the table drop box count that were entered into the computer system at the time of preparation;

(b) Reconcile the number of boxes recorded on the drop box verification form to the number of boxes secured in the trolley;

(c) Remove the emergency drop box log and reconcile the log to the boxes removed from the emergency drop box cabinet or trolley; and

(d) Document any unresolved discrepancies on a two-part Drop Variance Report, the original of which shall be delivered to the IEB and the duplicate placed in the locked accounting box.

(2) A gaming licensee shall open, count and record the contents of each drop box in the soft count room except that an emergency slot cash storage box may be held and counted on the regularly scheduled count for the slot machine from which it originated. For currency, gaming vouchers, and coupons, a gaming licensee shall perform a second count to obtain the aggregate total of each denomination of currency and coupon, and the total number of gaming vouchers counted. The counts shall be independent of each other and access to the result of the first count shall not be available to the employee performing the second count until completion of the second count. At the completion of the second count, a comparison of the two counts shall be made and any discrepancies resolved by the count team supervisor.

(3) A gaming licensee shall use a counting machine, to be identified in the internal controls, to count currency, gaming vouchers, and coupons. An alternative procedure shall be provided in the event that a counting machine cannot be used due to mechanical failure or other emergent situation.

(a) A gaming licensee may use one counting machine that automatically provides the counts required in 205 CMR 138.48(2) of the items at different stages of the counting process. If the counts are not in agreement, the machine shall document the discrepancy and cease operation until the discrepancy is resolved by a count team member.

(b) If a gaming licensee does not use a counting machine described in 205 CMR 138.48(3)(a), two different counting machines shall be used. Upon completion of the count using the first machine, the cash storage bins or cassettes shall be emptied and displayed to the full view of a closed circuit television camera to assure that the contents have been emptied. The second machine count shall be performed to verify the totals of the first machine. If the counts are not in agreement, the count team shall resolve the discrepancy before continuing the second count.

(c) Each machine shall generate a report at the completion of its count documenting the following:

1. The total of each denomination of currency;
2. The total of all currency;
3. The total number of gaming vouchers;
4. The total number and amount of coupons for which the count machine can determine the value of the coupon (machine count coupons); and
5. The total number of coupons for which the count machine cannot determine the value of the coupon (manual count coupons).

(4) A test count shall be conducted prior to the start of the first use of each counting machine, each gaming day, and prior to each count. The count room supervisor shall:

(a) Verify that the counting machine has a zero balance on its display and cause a receipt to be printed which denotes 0 cash, gaming vouchers or coupons on hand, and 0 notes, gaming vouchers or coupons in the machine, or other approved means to indicate that the machine has been cleared of all currency, gaming vouchers and coupons;

(b) Visually check the counting machine to be sure there are no bills, gaming vouchers or coupons remaining in the various compartments of the machine;

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138.66: continued

(4) The gaming manager or his or her designee shall notify in writing the accounting department, the security department and the IEB, at least 24 hours in advance of all movements and removals of gaming tables. The notification shall include at a minimum:
(a) The date and time of movement or removal;
(b) The gaming table(s) or asset number(s), as applicable;
(c) Whether a movement or removal;
(d) The location from which gaming table will be moved;
(e) The location to which the gaming table will be moved; and
(f) The signature of a gaming manager or designee.

(5) Prior to moving or removing a gaming table:
(a) The table inventory shall be credited from the table; and
(b) The table drop box shall be removed during a scheduled drop box pick-up and a replacement box not placed on the table.

(6) Immediately after each gaming table is brought into, removed from or moved within a gaming establishment, the gaming licensee completing the move shall file and serve, in accordance with 205 CMR 138.66(1), updated master lists of its table games to the extent that the move causes a change in the information contained on the most recent version of the applicable list on file with the IEB.

138.67: Employee Signatures

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions relative to signatures required in accordance with the internal controls and 205 CMR in general that incorporate the following provisions:

(1) Signatures shall, at a minimum, comply with either of the following requirements:
(a) If written, they shall be the signer's first initial, last name, and legible credential number, written by the signer, and be immediately adjacent to or above the title of the signer; or
(b) If electronic, they shall be the employee's name and identification number or other computer identification code issued to the employee by the gaming licensee, if the document to be signed is authorized to be generated by computer; and
(c) They shall signify that the signer has personally prepared forms, records, and documents, and/or authorized, observed, and/or participated in a transaction to a sufficient extent to attest to the accuracy of the information recorded thereon, in conformity with the internal controls.

(2) Written signature records shall be prepared for each employee required to sign records and documents and shall include specimens of signatures, titles of signers and the date the signature was obtained. Such signature records shall be maintained alphabetically by last name either on a company-wide or departmental basis. The signature records shall be adjusted on a timely basis to reflect changes of personnel.

(3) Signature records shall either be:
(a) Securely stored in the accounting department; or
(b) Stored in electronic form and maintained by the IT Department in a secure format so that such signature records can be promptly retrieved in the event of a computer failure.

138.68: Expiration of Gaming-related Obligations Owed to Patrons; Payment to the Gaming Revenue Fund

(1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions governing the expiration of gaming-related obligations, and unclaimed cash and prizes that provide, at a minimum, that:
(a) Any money that is owed to a patron by a gaming licensee as a result of a gaming transaction must be claimed within one year of the date of the gaming transaction or the obligation of the gaming licensee to pay the patron will expire. Upon expiration of the obligation, the involved funds must be transferred to the Gaming Revenue Fund in accordance with M.G.L. c. 23K, §§ 53 and 59. In calculating the one year period referenced in 205 CMR 138.68(1) and in M.G.L. c. 23K, § 53, any period of time for which the gaming establishment was not in operation shall be excluded;

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138.68: continued

(b) Any unsecured funds that did not register on a slot machine's coin-in meter, as described in 205 CMR 138.33(7), must be claimed by the owner within one year of the date the funds are located or the obligation of the gaming licensee to pay the patron will expire. Provided, verification procedures designed to prevent fraudulent claims shall be included in the provision. Upon expiration of the obligation, the cash or equivalent cash value of the subject funds shall be transferred to the Gaming Revenue Fund in accordance with M.G.L. c. 23K, §§ 53 and 59. In calculating the one year period referenced in 205 CMR 138.68(1) and in M.G.L. c. 23K, § 53, any period of time for which the gaming establishment was not in operation shall be excluded; and

(c) A gaming licensee shall maintain a record of all unclaimed cash and prizes and gaming-related obligations that have expired.

(2) Before the end of each calendar month the gaming licensee shall report the total value of gaming debts owed to its patrons that expired during the preceding calendar month in a format prescribed by the commission.

(3) Each gaming licensee shall submit a check with its monthly report payable to the Gaming Revenue Fund in accordance with M.G.L. c. 23K, § 59 in the amount of the gaming debts owed to its patrons that expired during the preceding month as stated in the report.

(4) Upon the payment of the expired debt, the gaming licensee shall post the payment and remove the amount from its records as an outstanding debt.

(5) Failure to make the payment to the Gaming Revenue Fund by the due date shall result in the imposition of penalties and interest as prescribed by 205 CMR.

(6) Nothing in 205 CMR 138.68 shall preclude the gaming licensee from, in its discretion, issuing cash or other form of complimentary to a patron to compensate the patron for a gaming debt that has expired.

138.69: Entertainment, Filming or Photography within the Gaming Area

(1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a plan under which a gaming licensee may permit entertainment, filming or photography if it is offered or conducted within the gaming area or is significantly visible or audible from or in the gaming area. Entertainment, filming or photography may be permitted by the gaming licensee to advertise, market or promote the gaming establishment, for general entertainment purposes, for the reporting of news stories, and/or for documenting the general maintenance and upkeep of the gaming establishment. Filming or photography may also be permitted in the event of an emergency in which filming or photography is necessary to memorialize the emergency event for the purpose of maintaining the facility or gaming equipment.

(2) The gaming licensee may permit employees or vendors licensed or registered pursuant to 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations* or news media, including television, radio, newspaper, internet or other similar outlets, to engage in entertainment, filming or photography under the plan submitted pursuant to 205 CMR 138.69(1). The gaming licensee shall file a written notice with the IEB at least 24 hours prior to the commencement of such entertainment, filming or photography that meets the requirements of 205 CMR 138.69(6).

(3) The gaming licensee may permit patrons to engage in filming or photography under the plan submitted by the gaming licensee pursuant to 205 CMR 138.69(1) upon the patron's written request. If the gaming licensee proposes to allow the patron's request, the gaming licensee shall comply with the following:

(a) File a written notice with the IEB at least five days prior to such filming or photography which meets the requirements of 205 CMR 138.69(6); and

(b) Provide information to the patron about any applicable statutes or regulations, including but not limited to 205 CMR 138.69 and those referenced therein.

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138.69: continued

(4) Any entertainment, filming or photography offered or permitted by the gaming licensee shall be subject to the following limitations:

(a) The gaming licensee shall not permit entertainment, filming or photography that infringes upon the privacy of others or which adversely affects the security or integrity of gaming operations. To the extent possible, only the individuals whose participation is outlined in the notice submitted to the IEB should be captured on film or in photographs;

(b) The gaming licensee shall not permit table games in operation to be involved in entertainment or shown on film or in photographs. This includes the table, equipment, chips, cards, dice, dealer actions, or patron activities;

(c) The gaming licensee shall not permit the real-time or near real-time transmission of audio or visual content (*ie*. live streaming) *via* television, internet platforms, social media, or other digital or electronic methods;

(d) The gaming licensee shall not permit filming or photography that utilizes panoramic or wide-angle shots which encompass a broad view of the gaming floor;

(e) The gaming licensee shall not permit news media or patrons to film or photograph or be permitted in secure or restricted areas, including the cashier's cage, the surveillance or operations center, count rooms, back of house area, surveillance camera configurations, and any other location where sensitive security or operational equipment is contained;

(f) The gaming licensee shall not permit the placing of a wager on behalf of another individual, whether present at the gaming establishment or remote, at the individual's direction or using the individual's funds to be involved in entertainment or captured on film or in photographs;

(g) The gaming licensee shall not permit individuals who appear intoxicated or are otherwise under the influence of alcohol or drugs to participate in or be shown in any entertainment, film or photography; and

(h) The gaming licensee shall require that any news media or patrons engaging in filming or photography in the gaming area meet with a representative of the gaming licensee prior to commencing any activity. The gaming licensee shall further conduct periodic monitoring while the filming or photography is occurring in the gaming area and ensure that the surveillance department is notified of such activity.

(5) The gaming licensee may request a waiver of the limitations outlined in 205 CMR 138.69(4)(a) through (e). Such waiver request must be submitted in writing to the IEB along with the notice required by 205 CMR 138.69(6). The IEB shall review any waiver request in accordance with the provisions of 205 CMR 102.03(4)(a).

(6) The written notice required by 205 CMR 138.69(2) and (3) shall include, at a minimum, the following information:

(a) The date and time of the scheduled entertainment, filming or photography;

(b) A detailed description of the type of entertainment, filming or photography to be offered, including the location, website or platform where any filming or photography will be broadcast or posted;

(c) The number and names of persons involved in the entertainment, filming or photography;

(d) A description of the relationship between the gaming licensee and the individuals involved in the entertainment, filming or photography, including but not limited to any compensation or thing of value received by said individuals in connection with the relationship;

(e) The exact location of the entertainment, filming or photography in the gaming\area;

(f) A description of any additional security measures that will be implemented as a result of the entertainment, filming or photography;

(g) A certification from the supervisors of the gaming licensee's security, gaming operations, and surveillance departments that the proposed entertainment, filming or photography will not adversely affect the security and integrity of gaming operations; and

(h) An attestation from the individuals involved in the entertainment, filming or photography that they will comply with the following:

1. All limitations, restrictions or prohibitions imposed by the gaming licensee, including but not limited to the limitations outlined in 205 CMR 138.69(4);

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138.69: continued

2. Prohibitions against firearm possession on the premises as required pursuant to 205 CMR 138.20;

3. Any filming or photography produced will contain no false or misleading claims, including but not limited to, claims that achieve the following:

a. Encourage players to chase losses or reinvest winnings;

b. Suggest that gambling is a means of solving financial, personal or professional problems or a way to pay bills;

c. Guarantee winning or financial, social or personal success;

d. Imply that the chance of winning increases the longer one plays or the more one spends;

e. Suggest that skill can influence the outcome of a game in which skill is not a significant factor; and

f. Suggest that the odds of winning or losing any games offered by the gaming licensee is different from the actual odds; and

4. Any filming or photography produced will not be directed at individuals under 21 years old, such as by engaging in the following:

a. Featuring anyone who is, or appears to be, under 21 years old;

b. Using imagery, language, symbols, themes, role models and/or celebrity endorsers that primarily appeal to those under 21 years old;

c. Suggesting that gambling is a rite of passage to adulthood; and

d. Broadcasting, placing or posting the final product before an audience which is reasonably known to be predominantly under 21 years old.

5. The attestation may be filed once per year. If the individual(s) engage in subsequent activities in the gaming area as permitted by the gaming licensee, only written notice that meets the requirements of 205 CMR 138.69(6)(a) through (g) must be submitted to the IEB during the one year period.

(7) Upon receipt and review of the notice described in 205 CMR 138.69, the IEB may deny the proposed entertainment, filming or photography, request additional information, or require modifications. In reviewing the suitability of proposed entertainment, filming or photography, the IEB shall consider the extent to which the proposed entertainment, filming or photography may unduly disrupt or interfere with:

(a) Efficient gaming operations;
(b) The security of the gaming establishment or any portion thereof;
(c) Surveillance operations;
(d) The security or integrity of gaming operations or any authorized game; or
(e) Patron safety.

(8) The IEB may at any time require the gaming licensee to immediately cease any entertainment, filming or photography offered within the gaming area if the entertainment, filming or photography deviates in any material way from the gaming licensee's approved plan or notice submitted to the IEB or in any way compromises efficient gaming operations, the security of the gaming establishment or any portion thereof, surveillance operations, the security or integrity of gaming operations or any authorized game, or patron safety.

(9) Any entertainment, filming or photography offered pursuant to the gaming licensee's approved plan shall comply with all applicable regulations, including but not limited to, 205 CMR 133.00: *Voluntary Self-Exclusion*; 205 CMR 150.00: *Protection of Minors and Underage Youth*; and 205 CMR 256.00: *Sports Wagering Advertising*.

(10) The gaming licensee shall post a notice in a conspicuous location at each entrance to the gaming establishment that notifies patrons that filming (audio and/or visual) or photography may be taking place on the gaming floor and that their continued presence on the gaming floor constitutes consent to being captured on film or in photographs.

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The official version is the printed copy which is available from the State Bookstore at http://www.sec.state.ma.us/spr/sprcat/catidx.htm.

138.70: Technical Standards for Count Room Equipment

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall identify all equipment used in the counting process of the contents of drop boxes, slot cash storage boxes, slot drop buckets, and slot drop boxes that include, at a minimum, the provisions in 205 CMR 138.70(1) through (3):

(1) A detailed description of the design and use of the computer equipment and any communication interfaces related to the counting process;

(2) Names of all revenue files and who has access and what type of access they have to these files; and

(3) Procedures for controlling changes to computer equipment, communication interfaces, configuration, and software which provide for, at a minimum, written or electronic notification in accordance with 205 CMR.

138.71: Table Game Tournaments and Promotional Events within the Gaming Area

(1) A gaming licensee may conduct a gaming tournament for any table game authorized by the Commission pursuant to 205 CMR 147.00: *Uniform Standards of Rules of the Games*.

(2) A system of internal controls submitted in accordance with 205 CMR 138.02, which shall be maintained by the gaming licensee, shall set forth a process that provides for submission of a written notice to the Bureau at least five business days prior to the commencement of a gaming tournament, which shall include, at a minimum, the following:

(a) The date(s), time(s), and location(s) of the scheduled gaming tournament;
(b) The number of participants expected;
(c) The game type;
(d) Rules concerning tournament play and participation;
(e) The prize structure;
(f) Dealer tips determined in accordance with 205 CMR 138.34, if applicable;
(g) Participant registration procedures;
(h) The methodology for determining winners;
(i) The equipment to be used;
(j) Forms utilized in connection with the tournament;
(k) A description of security and surveillance measures that will be implemented for the gaming tournament;
(l) A certification from the supervisors of the gaming licensee's security, gaming operations, and surveillance departments that the proposed gaming tournament will not adversely affect the security and integrity of gaming operations;
(m) A certification from the gaming establishment controller or designee that he or she has reviewed the rules for the tournament in regard to gaming tournament revenue reporting and certified conformance with 205 CMR 140.02(2)(c); and
(n) A certification from a holder of a key gaming employee license that the tournament will be conducted in accordance with the tournament rules developed pursuant to 205 CMR 138.71(2).

(3) Tournaments may not be played with cash, value chips, plaques, gaming vouchers or other cash equivalents. Table game tournaments shall be conducted using tournament chips.

(4) A gaming licensee may charge an entry fee to participate in a tournament. The gaming licensee that charges an entry fee shall submit electronically the revenue from the tournament at the end of gaming day following the conclusion of the tournament.

(5) The IEB may at any time require the gaming licensee to immediately cease any tournament or promotional event offered within the gaming area if the tournament or promotional event provided is in any material manner different from the description contained in the submission filed pursuant to 205 CMR 138.71(2) or in any way compromises the security or integrity of gaming operations.

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138.71: continued

(6) No false or misleading statements, written or oral, shall be made by a licensee or its employees regarding any aspect of any promotional activity.

(7) The licensee shall maintain the rules of the event, including eligibility to participate, criteria for entry and winning prizes awarded, and prize winners, for a minimum of two years from the last day of the event. Written rules governing the tournament or promotional event shall be made immediately available to the public and the commission upon request.

(8) All prizes offered in the promotional activity shall be awarded according to the rules governing the event.

(9) Large tournaments and promotions held in non-gaming areas will be submitted and reviewed on a case-by-case basis.

(10) Payouts from promotional activities are not winnings paid to patrons and as such shall not be deductible when calculating gross gaming revenue in accordance with 205 CMR 140.02: *Computation of Gross Gaming Revenue*.

(11) Promotional coupons shall contain the following information preprinted on the coupon:
(a) The name of the gaming establishment;
(b) The city or other locality and state where the gaming facility is located;
(c) The specific value of any monetary coupon stated in U.S. dollars;
(d) Sequential identification numbers, player tracking numbers with unique numbers added to them, or other similar means of unique identification of each coupon for complete and accurate tracking and accounting purposes;
(e) An expiration date; and
(f) All conditions required to redeem the coupon.

(12) Licensees offering promotional coupons shall track the issuance and redemption of each promotional coupon. Documentation of the promotional coupon tracking shall be maintained on file for two years and made readily available to the Bureau upon request. The inventory of unissued promotional coupons must be maintained in a reasonable manner that prevents theft or fraud.

(13) Promotional coupons shall be cancelled at the time they are redeemed in a manner that will prevent multiple redemptions of the same coupon.

(14) An activity involving a table game or other gaming equipment which occurs on the gaming floor of a gaming establishment or in areas off the gaming floor where contests or tournaments are conducted and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a gaming licensee must have surveillance coverage.

138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures, or incorporate by reference existing corporate policies, relative to ensuring a workplace free from unlawful discrimination, harassment and retaliation. These policies and procedures shall comply with all federal, state, and local laws relating to unlawful discrimination, harassment, and retaliation, and shall include, at a minimum:
(a) Specific written policies prohibiting unlawful discrimination, harassment and retaliation in the workforce, as well as a statement that the gaming licensee complies with all applicable federal, state and local laws relating to unlawful discrimination, harassment and retaliation. Without limiting any of the below, such policies shall at a minimum incorporate all elements of the Massachusetts Commission Against Discrimination (MCAD) Model Sexual Harassment Policy;

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138.72: continued

(b) Specific written procedures outlining how concerns, allegations or claims regarding unlawful discrimination, harassment and retaliation are to be reported, including multiple reporting options such as reporting to: an employee's direct supervisor or another supervisor within the organization; any member of the human resources staff; the general manager or president of the property where the employee works; a reporting hotline; and/or any member of the gaming licensee's legal department. The procedures shall identify by name and/or title, address and telephone number at least two individuals to whom concerns of discrimination, harassment or retaliation may be reported; provided, further, that any employee with supervisory powers shall report complaints, concerns or other matters arising or reported under these policies and procedures to the representatives of the organization so identified, and shall be trained on the obligation to ensure immediate and appropriate corrective action in addressing harassment complaints. The licensee shall ensure and shall inform employees that individuals of different genders are available for reporting of complaints. The licensee's procedures may suggest, but need not require, a specific reporting process;

(c) The identification of a specific position at the property or corporate level (or both) that is responsible for overseeing and enforcing the policies and procedures;

(d) A requirement that each employee receive a copy of the policies and procedures as part of the gaming licensee's onboarding process;

(e) A requirement that training on unlawful discrimination, harassment and retaliation be provided by the gaming licensee to all employees within 90 days of the date of hire and every two years thereafter;

(f) A personal relationships policy that identifies prohibited personal relationships as well as the disclosure requirements for personal relationships;

(g) A statement in the policies and procedures that all concerns, allegations or claims will be investigated promptly and that all concerns, allegations or claims will be handled in a confidential manner to the extent possible to ensure a thorough and complete investigation of the concern, allegation or claim; and

(h) A listing of the federal and state agencies located in the Commonwealth that enforce the unlawful discrimination, harassment and retaliation laws, including names and addresses of each location within the Commonwealth of the offices of such agencies.

(2) A gaming licensee shall create a process and procedure to track that all employees attend training as required.

(3) A gaming licensee shall review its policies and procedures every two years to ensure that such policies and procedures comply with all federal, state and local laws relating to unlawful discrimination, harassment and retaliation.

(4) A gaming licensee and its corporate parent qualifying entity (as designated by the Bureau) shall each maintain the following information for the previous calendar year regarding their respective employees:

(a) each concern, allegation or claim of unlawful discrimination, harassment or retaliation reported to the gaming licensee and/or to the corporate parent qualifying entity and the method used to report such concerns, allegations or claims.

(b) for each concern, allegation or claim identified in 205 CMR 138.72(4)(a):

1. the identity, by name or title, of the representative of the licensee or corporate parent qualifying entity who investigated the concerns, allegations or claims;

2. the manner in which the concerns, allegations or claims were investigated; and

3. the ultimate resolution of the concern, allegation or claim, such as whether the concern, allegation or claim was resolved internally (by agreement, disciplinary action up to and including termination, or settlement and/or separation agreement) and/or filed with the appropriate federal, state or local authority; provided further, if the matter was resolved by settlement or separation agreement, the licensee or corporate parent qualifying entity shall maintain a copy of such agreement;

(c) a general description of the concerns, allegations or claims, *i.e.*, sexual harassment, unlawful discrimination, retaliation;

(d) a listing of the number of concerns, allegations or claims awaiting investigation or resolution;

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138.72: continued

(e) a breakdown of the concerns, allegations or claims by the type of concern, allegation or claim and by the level of employee, member of the public/patron or vendor against whom the concern, allegation or claim was made;

(f) the gaming licensee's unlawful discrimination, harassment or retaliation policies and procedures with any changes made to the policies and procedures within the last year highlighted;

(g) information relating to the training required by 205 CMR 138.72(1)(e), including a listing of the training sessions provided and the number of employees trained by position records of the dates of training; names of participants/sign-in sheets; the identity and title of the trainers; and a brief description of the training; and

(h) a statement signed by the gaming licensee's head of human resources at the gaming licensee's corporate level that the gaming licensee and the corporate parent qualifying entity have complied with their policies and procedures and that the information compiled as required in 205 CMR 138.72(4) is true and correct to the best of such representatives' knowledge and belief.

The Commission shall have the right to review such information upon reasonable notice to the licensee. When providing information identified in 205 CMR 138.72(4)(a) through (d), for review, the licensee and the corporate parent qualifying entity may produce such information in a format that does not include: names of the individual(s) reporting the concern, allegation or claim; the names of witnesses; and specific details of the concern, allegation or claim which could be used to identify the individuals involved in the underlying incident(s).

(5) The gaming licensee shall ensure that any concerns, allegations or claims relating to unlawful discrimination, harassment or retaliation are investigated and resolved in accordance with 205 CMR 138.00 and all other applicable laws and regulations.

(6) The Commission shall have the right, upon request and notice to the gaming licensee, to review any gaming licensee records pertaining to the policies and procedures outlined in 205 CMR 138.72.

138.73: Personally Identifiable Information and Confidential Information Security

(1) Any Confidential Information and Personally Identifiable Information obtained and maintained with respect to a patron, shall be obtained and maintained in compliance with the privacy regulations and standards observed by the Commission, including the application of M.G.L. c. 93H, 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth*, and any other applicable law, regulation or court order for the protection of Personally Identifiable Information or Confidential Information for any patron regardless of residency.

(2) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures for the security and sharing of Personally Identifiable Information and Confidential Information, including:

(a) The designation and identification of one or more employees having primary responsibility for the design, implementation and ongoing evaluation of such procedures and practices;

(b) The procedures to be used to determine the nature and scope of all information collected, the locations in which such information is stored, and the storage devices on which such information may be recorded for purposes of storage or transfer;

(c) The measures to be utilized to protect information from unauthorized access; and

(d) The procedures to be used in the event the gaming licensee determines that a Data Breach has occurred, including required notification to the Commission or any other person or entity.

REGULATORY AUTHORITY

205 CMR 138.00: M.G.L. c. 23K, §§ 4(28), 5, 25(d), 27 and 28.

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Docket # 433

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Notice of Correction

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **205 CMR 239.00**

CHAPTER TITLE: **Continuing disclosure and reporting obligations of sports wagering licensees**

AGENCY: **Massachusetts Gaming Commission**

ORIGINAL PUBLICATION REFERENCE: **1558** *Date:* **10/10/25**

SUMMARY OF CORRECTION:

205 CMR 239.03(1)(i) references 205 CMR 234, however the section title listed for that regulation is incorrect. The correction would strike the incorrect section title "Continuing disclosure and reporting obligations of sports wagering licensees" and replace it with the correct section title for 205 CMR 234.00: Sports Wagering Vendors.

AGENCY CONTACT: **Autumn Birarelli** PHONE: **(617)533-9716**

ADDRESS: **101 Federal Street, 12th Floor, Boston MA 02110.**

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 23 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **10/10/25**

CODE OF MASSACHUSETTS REGULATIONS

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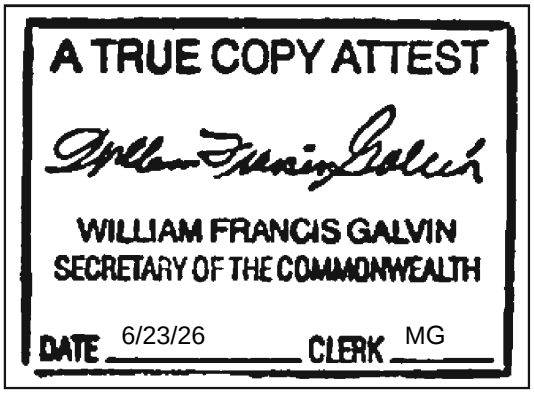
745 & 746	**745 & 746**



205 CMR 239.00: CONTINUING DISCLOSURE AND REPORTING OBLIGATIONS OF SPORTS WAGERING LICENSEES

Section

239.01: Access to and Maintenance and Production of Operator Records

(1) The Commission shall have access to, and may inspect, the premises of a Category 1 Sports Wagering License or Category 2 Sports Wagering License Operator.

(2) An Operator shall maintain complete, accurate, and legible records of all transactions pertaining to the revenues and costs associated with its Sports Wagering operation, including those required in accordance with 205 CMR. General accounting records shall be maintained on a double entry system of accounting with transactions recorded on the accrual basis. Detailed, supporting, subsidiary records sufficient to meet the requirements of 205 CMR shall also be maintained.

(3) The Commission may request the production of records of an Operator in accordance with the provisions of 205 CMR 142.00: *Regulatory Monitoring and Inspections* and 205 CMR 241.00: *Surveillance and Monitoring*.

239.02: Fiscal Year

The Operator shall establish a fiscal year for accounting purposes and shall advise the Commission of such.

239.03: Reports and Information to Be Filed with the Commission

(1) The following reports and information shall be filed with the Commission, or its designee, in the manner and time provided:

(a) A detailed annual, and at other times as directed by the Commission, statistical report on the number, job titles, benefits, race, gender, veteran status, and salaries of employees hired and retained in employment in the Commonwealth by the Operator;

(b) A detailed annual, and at other times as directed by the Commission, statistical report on the total dollar amounts contracted with and actually paid to minority business enterprises, women business enterprises and veteran business enterprises by the Operator. The annual statistical report shall also identify the amounts so contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms;

(c) On an annual basis, and at other times as directed by the Commission, a report explicitly stating the Operator's progress on meeting each of the stated goals and stipulations put forth in its application for a Sports Wagering Operator License;

(d) Any reports prescribed by the Commission relative to Occupational Licenses;

(e) Quarterly reports in accordance with 205 CMR 239.05;

(f) Documents and other materials required to be submitted in accordance with the terms of the Sports Wagering Operator License;

(g) An Operator's House Rules, system of internal controls, amendments thereto, and any documents or information required to be submitted in accordance with the approved system of internal controls;

(h) Any declared event of default related to any debt obligation maintained by the Operator, affiliate, holding company or intermediary company thereof shall be immediately reported to the Commission, in writing, along with any plans to address or cure such default;

(i) A bi-monthly (twice per month) disbursement report relative to vendors licensed or registered in accordance with 205 CMR 234.00: *Sports Wagering Vendors*, which shall contain the same information as is required in a disbursement report filed pursuant to 205 CMR 138.06(2);

(j) An annual problem gaming plan in accordance with M.G.L. c. 23N, § 4(d)(2)(vii);

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239.03: continued

(k) Daily, monthly, and annual Adjusted Gross Sports Wagering Receipts and Adjusted Gross Fantasy Sports Receipts remittance and reconciliation reports as required in accordance with 205 CMR 240.00: *Adjusted Sports Wagering Receipts and Adjusted Gross Fantasy Sports Receipts Tax Remittance and Reporting*;

(l) An underage person report containing the information required in accordance with 205 CMR 250.04; and

(m) A quarterly report, covering all complimentary services offered or engaged in by the Operator during the immediately preceding quarter. The reports shall identify regulated complimentary services or items including, but not limited to, food and beverage, hotel and travel accommodations, and promotional Sports Wagering credits. The reports shall be aggregated by, at a minimum, the costs of the complimentary services or items, and the number of people who received each service or item for the quarter. The report shall also document any services or items valued in excess of $2,000 that were provided to patrons, including detailed reasons as to why they were provided. Valuation shall be performed in accordance with M.G.L. c. 23K, § 28(c).

(2) Promptly upon discovery, the Operator shall notify the Commission or its designees assigned to the Operator of any violation, or suspected violation, of M.G.L. c. 23N, 205 CMR, or any Sports Wagering related law and file any requested written report. In accordance with M.G.L. c. 23N, § 12(a)(i), "suspected violations" shall include irregularities in volume or changes in odds that could signal suspicious activities.

(3) An Operator shall promptly notify the Commission or its designees assigned to the Operator if an individual on the voluntary self-exclusion list established in accordance with 205 CMR 233.00: *Sports Wagering Voluntary Self-exclusion* is found to have engaged in Sports Wagering.

239.04: Reports and Information to Be Compiled and Maintained by the Operator

The following reports and information shall be compiled and maintained by the Operator, or where applicable the Operator's holding company, intermediary company, qualifying subsidiary, or entity qualifier thereof, in the manner provided as follows or as required by the governing body responsible for the oversight of the subject information, and shall be made available and provided upon request by the Commission, or its designee:

(1) Up to date records regarding the business structure, capital structure, and controlling interest of the Operator, where applicable, and the Operator's holding company, intermediary company, qualifying subsidiary, or entity qualifier thereof including, at a minimum:

(a) Certified copies of incorporation and formation documents and any amendments thereto;

(b) By-laws, shareholders agreements, governing and/or operating agreements or documents, partnership agreement, intercompany transactions, joint venture agreements, merger and acquisition agreements, and other relevant corporate documents;

(c) Current listing of officers, directors, members, partners;

(d) Minutes of all meetings of shareholders;

(e) Detailed records regarding all record and beneficial owners of any class of non-publicly traded securities, including both equity and debt securities, issued by the Operator, its holding company, intermediary company, qualifying subsidiary or entity qualifier thereof, including the names and addresses of record and beneficial owners of such equity or debt securities, date(s) acquired and the number of equity securities held or face amount of debt securities held, as applicable;

(f) Detailed records regarding all record and beneficial owners of 5% or more of any class of publicly traded securities, including both equity and debt securities, issued by the Operator, its holding company, intermediary company, qualifying subsidiary or entity qualifier thereof, including the names and addresses of record and beneficial owners of such equity or debt securities held in street name or other name, date(s) acquired and the number of equity securities held or face amount of debt securities held, as applicable;

(g) Detailed records regarding distributions to equity holders holding 5% or more of the entity;

(h) Detailed records regarding all remuneration paid to officers, directors, partners and members;

(i) (for the Operator only) Detailed records regarding all capital contributions;

(j) (for the Operator only) Detailed records regarding any equity transfers;

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Docket # 456

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **205 CMR 248.00**

CHAPTER TITLE: **Sports wagering account management**

AGENCY: **Massachusetts Gaming Commission**

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

205 CMR 248.00 governs the management of sports wagering accounts created and used at both sports wagering facilities and on sports wagering platforms.

REGULATORY AUTHORITY: **MGL c. 23N, § 4**

AGENCY CONTACT: **Autumn Birarelli** PHONE: **(617)533-9716**

ADDRESS: **101 Federal Street, 12th Floor, 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.*

LGAC Filing: 4/9/2026
Notice to the Secretary of the Commonwealth: 4/24/2026
Publication in the Boston Herald: 4/28/2026

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: **5/19/2026**

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

For the first and second year: **0.00**

For the first five years: **0.00**

No fiscal effect: **0.00**

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: **6/18/2026**

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

Massachusetts Gaming Commission, Sports Wagering, Operators, Accounts, requirements, registration, withdrawals

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 205 CMR 248.00, specifically 205 CMR 248.12:: Account Withdrawals.

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 23 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/17/26**

CODE OF MASSACHUSETTS REGULATIONS

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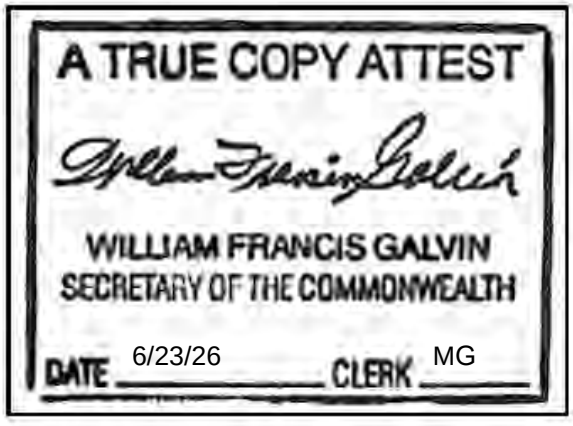

248.07: continued

(2) If the system does not recognize the authentication credentials when entered, an explanatory message shall be displayed to the patron which prompts the patron to try again. The error message shall be the same regardless of which authentication credential is incorrect.

(3) Patrons must be given the option to use a multi-factor authentication process when accessing their account. In addition, a multi-authentication process shall be employed for the retrieval or reset of a patron's forgotten or lost authentication credentials.

(4) Current account balance information, including any restricted wagering credits and unrestricted funds, and transaction options shall be available to the patron once the patron has been authenticated. All restricted wagering credits and unrestricted funds that may expire shall be identified separately.

(5) The Operator shall employ a mechanism allowing for an account to be locked in the event that suspicious authentication activity is detected including, but not limited to, three consecutive failed access attempts in a 30-minute period. A multi-factor authentication process shall be employed for the account to be unlocked.

248.08: Sufficient Account Balance

Wagers and withdrawals will not be accepted which would cause the available balance of a Sports Wagering Account to fall below $0. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.

248.09: Financial Transactions

Operators shall provide a patron written confirmation or denial of every financial transaction initiated using the patron's Sports Wagering Account, including:

(a) The type of transaction (deposit/withdrawal);
(b) The transaction value; and
(c) For denied transactions, a descriptive message as to why the transaction did not complete as initiated.

248.10: Account Deposits

(1) A Sports Wagering Account may be funded using approved methods which shall produce a sufficient audit trail for verification of the source of the wagers.

(2) Approved methods for funding Sports Wagering Accounts include:
(a) Cash or cash equivalents;
(b) Foreign currency and coin converted to U.S. currency;
(c) Electronic funds transfers (EFTs), including online and mobile payment systems;
(d) Debit instruments, including debit cards and prepaid access instruments, excluding those that can be purchased or loaded with a credit card;
(e) Promotional Gaming Credits;
(f) Sports Wager Payouts;
(g) Adjustments made by the Sports Wagering Operator with documented notification to the patron; and
(h) Any other means approved by the Commission or its designee.

(3) No deposits may be made by credit card, either directly or indirectly, including without limitation through an account funded by credit card, and no Wagering on credit is allowed.

(4) The Sports Wagering Account shall be credited for any deposit in accordance with the system of internal controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.00: *Additional Uniform Standards of Accounting Procedures and Internal Controls for Sports Wagering*.

(5) The proceeds of a check may first need banker's clearance. Holding periods will be determined by the Sports Wagering Operator and communicated to the patron.

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248.10: continued

(6) For debit cards and EFTs, the patron may be liable for any charges imposed by the transmitting or receiving Sports Wagering Operator. Such charges may be deducted from the patron's Sports Wagering Account.

248.11: Failed Electronic Funds Transfers (EFTs)

(1) The Sports Wagering Operator shall have security measures and controls to prevent EFT fraud where financial transactions are conducted through EFT. A failed EFT attempt is not considered fraudulent if the patron has successfully performed an EFT on a previous occasion and has no outstanding chargebacks. Otherwise, the Sports Wagering Operator shall:

(a) Temporarily block the patron's Sports Wagering Account for investigation of fraud after five consecutive failed EFT attempts within a ten-minute period. If there is no evidence of fraud, the block may be vacated; and

(b) Suspend the patron's Sports Wagering Account after five additional consecutive failed EFT attempts within any subsequent ten-minute period.

248.12: Account Withdrawals

(1) The Sports Wagering Operator shall implement procedures that:

(a) Prevent unauthorized withdrawals from Sports Wagering Accounts by the Sports Wagering Operator or others;

(b) Establish a protocol by which patrons can withdraw funds maintained in their Sports Wagering Accounts, whether such accounts are open or closed, except as otherwise provided in 205 CMR, or any other applicable state, local or federal law.

(2) Pursuant to M.G.L. c. 23N, § 4(d)(2)(vi), a patron must be allowed to withdraw the funds maintained in his or her Sports Wagering Account, without further solicitation or promotion in the manner in which the funds were deposited, to the extent technologically feasible. In the event that withdrawal of the funds in the same manner in which the funds were deposited is not technologically feasible they shall be returned to the patron *via* another approved withdrawal method or *via* check.

Upon a request from a patron to withdraw funds from their Sports Wagering Account, the Sports Wagering Operator shall immediately freeze the amount requested and ensure the funds cannot be used for any other purpose until the withdrawal is complete.

(3) A Sports Wagering Operator must employ a mechanism that can detect and prevent any withdrawal activity initiated by a patron that would result in a negative balance of the Sports Wagering Account.

(4) A Sports Wagering Operator shall not allow a Sports Wagering Account to be overdrawn unless caused by payment processing issues outside the control of the Sports Wagering Operator.

(5) Except as otherwise provided in 205 CMR 248.12(5)(a), requests for withdrawals must be honored by the later of five business days of the request or ten business days of submission of any tax reporting paperwork required by law.

(a) If the Sports Wagering Operator believes in good faith that the patron engaged in either fraudulent conduct or other conduct that violate or would put the Sports Wagering Operator in violation of 205 CMR, the Sports Wagering Operator may decline to honor the request for withdrawal for a reasonable investigatory period until its investigation is resolved if it provides notice of the nature of the investigation to the patron.

(b) For purposes of the timing requirements of 205 CMR 248.12(5), a request for withdrawal will be considered honored if it is processed by the Sports Wagering Operator but delayed by a payment processor, debit card issuer or by the custodian of a financial account.

(6) The Sports Wagering Operator shall not be liable for any unauthorized withdrawal of funds from a Sports Wagering Account where such unauthorized withdrawal is not caused by the negligence or misconduct of the Sports Wagering Operator. It is the patron's responsibility to protect deposits in the account by keeping their authentication credentials strictly confidential.

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Docket # 891

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Notice of Correction

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **322 CMR 6.00**

CHAPTER TITLE: **Regulation of Catches**

AGENCY: **Division of Marine Fisheries**

ORIGINAL PUBLICATION REFERENCE: **1573** *Date:* **5/8/26**

SUMMARY OF CORRECTION:

This corrects changes to the Commonwealth's bait and biomedical quotas at 322 CMR 6.34 that were erroneously published in Massachusetts Register #1573. See Docket #891.

AGENCY CONTACT: **Jared A. Silva** PHONE: **617-634-9573**

ADDRESS: **836 S. Rodney French Boulevard, New Bedford, MA 02744**

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: **Jul 02 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **5/8/26**

CODE OF MASSACHUSETTS REGULATIONS

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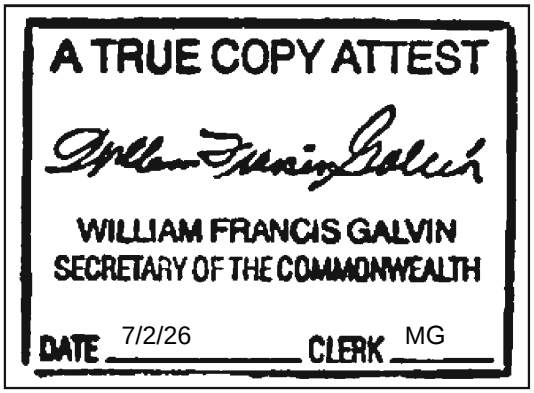
58.15 - 58.16.2	**58.15 - 58.16.2**



6.34: Horseshoe Crab Management

(1) Purpose. The Division of Marine Fisheries manages horseshoe crabs in compliance with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Horseshoe Crabs. Additionally, DMF manages local horseshoe crab populations to ensure the resource is available for current and future generations for use as a commercial fishery resource, in biomedical applications, for education and scientific research, and to provide cultural and ecological services. This requires the Division of Marine Fisheries control harvest and mortality across all fisheries and provide for spawning opportunities.

(2) Definitions.

Asian Horseshoe Crab means those species of horseshoe crab identified as *Carcinoscorpius rotundicauda*, *Tachypleus gigas* and *Tachypleus tridentatus*.

Bait Fishery Quota means the total annual allowable harvest of horseshoe crabs for the bait fishery to be established by the Division of Marine Fisheries.

Biomedical Fisher means any person who has been issued a special biomedical horseshoe crab harvest permit by the Director in accordance with 322 CMR 7.01(4)(f) allowing the retention, possession, and landing of horseshoe crabs for biomedical or research purposes and direct sale to a biomedical dealer or biomedical processor or research institution authorized by the Director to conduct biomedical or research activities.

Biomedical Dealer means any person or entity, permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3), who has a contractual relationship with a biomedical processor and authorized at 322 CMR 7.07: *Dealers Acting as Primary Buyers* to conduct a primary purchase of horseshoe crabs from a biomedical fisher.

Biomedical Processor means any person or entity, permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and authorized by the Director to process horseshoe crabs for biomedical purposes.

Biomedical Processor Quota means the total annual allowable harvest of horseshoe crabs for biomedical processing in Massachusetts assigned by the Division in equal shares to each permitted biomedical processor.

Cape Cod National Seashore means that area of land and waters located in Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham under the control of the United States Department of the Interior's National Park Service pursuant to 16 U.S.C. 459b.

Commercial Fisher means any person permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2) to participate in the commercial bait fishery for horseshoe crabs and retain, possess, and land horseshoe crabs for purpose of sale, barter, or exchange or any person who keeps for personal or family use any horseshoe crab taken under the authority of said permit.

Director means the Director of the Massachusetts Division of Marine Fisheries.

Division means the Massachusetts Division of Marine Fisheries.

Horseshoe Crab means the species known as *Limulus polyphemus*.

Land means to transfer or attempt to transfer the catch of horseshoe crabs from any vessel to any other vessel or onto any land, pier, ramp, wharf, dock or other artificial structure, or for a fishing vessel with any horseshoe crabs onboard to tie-up to any pier, wharf, dock, or artificial structure.

Mobile Gear means any moveable gear or encircling fishing gear or nets, which are towed, hauled or dragged through the water for the harvest of fish. This includes, but is not limited to, pair trawls, otter trawls, beam trawls, mid-water trawls, Scottish seines, pair seines, purse seines or shellfish dredges.

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6.34: continued

Monomoy National Wildlife Refuge means that area of lands and waters located in Chatham under the control of the United States Department of the Interior's Fish and Wildlife Service. The boundaries thereof are described in the October 30, 2015 Notice of Availability for the Monomoy National Wildlife Refuge Final Comprehensive Conservation Plan and Environmental Impact Statement at 80 F.R. 66928; published in the March 2016 *Monomoy National Wildlife Refuge Comprehensive Conservation Plan*; and first established in 1944 *via* the Declaration of the Taking filed by the Department of the Interior with the Federal District Court for the District of Massachusetts.

Primary Purchase means the first commercial transaction by sale, barter, or exchange of horseshoe crabs after its harvest.

Total Mortality means the number of horseshoe crabs harvested in the biomedical horseshoe crab fishery that died during harvest, handling, transportation, storage, penning, processing, and release.

Trawl means a fishing practice that herds or captures target species by towing a net through the ocean.

Trip means that period of time that begins when a fishing vessel departs from a dock, berth, beach, seawall, ramp or port to carry out commercial fishing operations and that ends with a return to a dock, berth seawall, ramp or port.

Trip Limit means the maximum lawful amount of horseshoe crabs that a commercial fisher or biomedical fisher may retain, possess, or land within the Commonwealth or sell, barter or exchange or offer for sale barter or exchange. Trip limits apply per trip or per calendar day, whichever period of time is longer and are applied to the vessel named on the commercial fishing permit regardless of the number of commercial fishing permits or letters of authorization carried on board the vessel.

(3) General Restrictions.

(a) Non-commercial Possession Limit. It shall be unlawful for any person to retain, possess, or land more than six horseshoe crabs per day, unless authorized at 322 CMR 6.34(4) or 322 CMR 6.34(5). Any horseshoe crabs retained under this non-commercial possession limit shall be maintained only for personal or family use and shall not be sold, bartered, exchanged, or offered for sale, barter, or exchange.

(b) Spawning Closure. It shall be unlawful for any fisher to harvest, possess, or land horseshoe crabs from April 15th through June 7th.

(c) Asian Horseshoe Crab. It shall be unlawful to possess, purchase, import, transport, sell, barter, exchange, purchase, or offer for sale, barter or exchange Asian horseshoe crabs or to release into the waters under the jurisdiction of the Commonwealth any Asian horseshoe crabs.

(d) Cape Cod National Seashore. It shall be unlawful for any person to harvest horseshoe crabs within the boundaries of the Cape Cod National Seashore.

(e) Monomoy National Wildlife Refuge. It shall be unlawful for any person to harvest horseshoe crabs within the boundaries of the Monomoy National Wildlife Refuge.

(f) Authority to Temporarily Close Areas to Harvest of Horseshoe Crabs. The Director may temporarily close any area within the waters under the jurisdiction of the Commonwealth to harvest of horseshoe crabs, subject to the procedure below:

1. It has been approved by a majority of the members of the Marine Fisheries Advisory Commission;
2. A Declaration of Closure has been filed with the Massachusetts Secretary of State for publication in the Massachusetts Register;
3. A Declaration of Closure has been published in a local newspaper of record and posted on the Division's Legal Notice website; and
4. A Declaration of Closure has been distributed *via* the Division's e-mail list serve and directly to any and all affected permit holders.

(4) Bait Fishery Management.

(a) Commercial Bait Fishery Quota. The annual bait fishery quota shall be 140,000 horseshoe crabs.

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6.34: continued

(b) Minimum Size. It shall be unlawful for any commercial fisher or dealer to retain, possess or land a horseshoe crab with a prosomal width of less than seven inches.

(c) Trip Limits for the Commercial Bait Fishery.

1. Limited Entry Bait Crab Trip Limit. The trip limit for any commercial fisher with a regulated fishery permit endorsement for horseshoe crabs shall be 300 horseshoe crabs. On August 1st, should DMF determine that more than 50% of the annual quota remain, the trip limit shall increase to 400 horseshoe crabs. Should DMF determine that 80% of the annual quota is taken on or before September 15th, then the trip limit shall be decreased to 200 horseshoe crabs.

2. Open Entry Bait Crab Limit for Mobile Gear. The trip limit for any commercial fisher without a regulated fishery permit endorsement for horseshoe crabs and using mobile gear shall be 75 horseshoe crabs.

3. Quota Closure. It shall be unlawful for any commercial fisher to retain, possess, or land any horseshoe crabs once the Director has determined that 100% of the annual bait fishery quota has been reached. The quota closure will be enacted and announced in accordance with 322 CMR 6.41(2)(c).

4. Exceptions. The commercial bait fishery trip limits described above shall not apply to:

a. Commercial pot fishers, permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 6.12 and 7.01(4) who are using horseshoe crabs as bait, provided their documented source of horseshoe crabs is a permitted bait dealer or the horseshoe crabs are held in storage by the commercial fisher named on the permit.

b. Dealers permitted in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3).

(d) Bait Fishery Reporting. Beginning in 2024, all commercial fishers participating in the commercial bait fishery for horseshoe crabs at 322 CMR 6.34(5) shall report all their catch electronically daily prior to landing through an electronic reporting application approved by the Division.

(e) Closures to Bait Harvest.

Pleasant Bay Complex. It shall be unlawful to harvest horseshoe crabs from Pleasant Bay, as defined at 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters*, except if lawfully participating in the biomedical horseshoe fishery under the authority of a special biomedical horseshoe crab harvest permit endorsement issued in accordance with 322 CMR 7.01(4).

(f) Primary Purchase of Horseshoe Crabs.

1. The primary purchase of horseshoe crabs taken in the commercial bait fishery shall be conducted between the commercial fisher and an entity that holds a bait dealer permit and primary buyer authorization, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and 322 CMR 7.07: *Dealers Acting as Primary Buyers*.

2. It shall be unlawful for a bait dealer to purchase horseshoe crabs from a single commercial fisher in excess of the commercial bait fishery limits established at 322 CMR 6.34(4)(c)1. and 2.

3. It shall be unlawful for a bait dealer to purchase horseshoe crabs from any commercial fisher during the lunar spawning closures at 322 CMR 6.34(3).

4. For a commercial fisher to sell horseshoe crabs to an entity other than a bait dealer authorized as a primary buyer, that commercial fisher must hold a bait dealer permit and primary buyer authorization, pursuant to M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and 322 CMR 7.07: *Dealers Acting as Primary Buyers*.

(5) Biomedical Fishery for Horseshoe Crabs.

(a) Biomedical Processor Quota. The biomedical processor quota shall be 200,000 crabs annually. This shall be divided equally between all entities permitted as biomedical processors, in accordance with 322 CMR 7.01(3). Only horseshoe crabs processed by biomedical processors and harvested from within the waters under the jurisdiction of the Commonwealth exclusively by biomedical harvesters for biomedical purposes shall be counted against the biomedical processor quota. The biomedical processor quota shall not include any horseshoe crabs borrowed from a bait dealer for processing or horseshoe crabs imported into the Commonwealth from another jurisdiction.

(b) Minimum Size. It shall be unlawful for any biomedical fisher, biomedical dealer, or biomedical processor to retain, possess, or land a horseshoe crab with a prosomal width of less than seven inches.

(c) Restrictions Affecting Biomedical Fishers

1. Permit Issuance. The Division shall issue a special biomedical horseshoe crab harvest permit endorsements only to persons who:

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6.34: continued

a. have been endorsed on their special biomedical horseshoe crab harvest permit endorsement application by a biomedical dealer or biomedical processor to harvest and sell horseshoe crabs for biomedical purposes; and

b. hold a commercial fishing permit with the Division, in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(2), but do not hold a regulated fishery permit endorsement for horseshoe crabs, issued pursuant to 322 CMR 7.01(4).

2. Permit Conditions. In accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(7) the Director may further condition a special biomedical horseshoe crab harvest permit endorsement as necessary and appropriate for conservation and management, and to protect public health and welfare.

3. Use of Biomedical Horseshoe Crabs. Biomedical fishers shall retain, possess, and land horseshoe crabs only for biomedical purposes and direct sale only to a biomedical dealer or biomedical processor. It shall be unlawful for a biomedical fisher to retain, possess, or land crabs as part of the commercial bait fishery or for personal or family use.

4. Sale of Biomedical Horseshoe Crabs. Biomedical fishers shall sell their horseshoe crabs only to a biomedical dealer or a biomedical processor.

5. Biomedical Fishery Trip Limit. The trip limit for any biomedical fisher shall be 1,000 horseshoe crabs.

6. Prohibition on Retention of Marked Crabs. It shall be unlawful to retain any horseshoe crabs during harvest that have been marked in accordance with 322 CMR 6.34(5)(e)(5)(a). Any horseshoe crabs caught bearing such a mark shall be returned immediately to the sea.

7. Biomedical Processor Quota Closure. It shall be unlawful for any biomedical fisher to retain, possess, or land any horseshoe crabs or for a biomedical dealer or biomedical processor to obtain any horseshoe crabs from a biomedical fisher once the Director has determined that 100% of the annual biomedical processor quota has been reached. The quota closure will be enacted and announced in accordance with 322 CMR 6.41(2)(c).

8. Restrictions on Biomedical Fishers. Biomedical fishers are subject to the following restrictions:

a. A biomedical fisher using trawl gear shall land horseshoe crabs only in a port approved by the Director and listed as a condition of the special biomedical horseshoe crab harvest permit.

b. Throughout harvest and until offloading at landing, all horseshoe crabs shall be held in containers that are no more than two-thirds full of horseshoe crabs. Exempt from this requirement are biomedical fishers using trawl gear who are required to hold horseshoe crabs in containers that are actively fed by sea water.

9. Biomedical Fishery Reporting. Beginning in 2024, biomedical fishers participating in the biomedical fishery for horseshoe crabs at 322 CMR 6.34(5) shall report all their catch electronically daily prior to landing through an electronic reporting application approved by the Division.

(d) Limits on Biomedical Dealers and Biomedical Processors.

1. Biomedical Processor Permit Issuance. Any entity seeking to process horseshoe crabs for biomedical purposes, including but not limited to the bleeding of horseshoe crabs for the production of Limulus Amebocyte Lysate, shall hold a biomedical processor permit issued by the Division in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(3) and (4)(c). The biomedical processor permit may be authorized as a primary buyer, in accordance with 322 CMR 7.07: *Dealers Acting as Primary Buyers*, to allow for the primary purchase of horseshoe crabs directly from a biomedical fisher.

2. Biomedical Dealer Permit Issuance. Any biomedical processor may contract a biomedical dealer to conduct primary purchases of horseshoe crabs from biomedical fishers. These biomedical dealers shall have an established relationship with a biomedical processor or multiple biomedical processors. The biomedical dealer permit may be authorized as a primary buyer, in accordance with 322 CMR 7.07: *Dealers Acting as Primary Buyers*, to allow for the primary purchase of horseshoe crabs directly from a biomedical fisher.

3. Primary Purchase of Horseshoe Crabs.

a. The primary purchase of horseshoe crabs may only be between a biomedical fisher and a biomedical processor or biomedical dealer.

b. It shall be unlawful for a biomedical dealer or a biomedical processor to accept more than 1,000 horseshoe crabs from a biomedical fisher during any calendar day.

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Docket # 892

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Notice of Correction

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **322 CMR 7.00**

CHAPTER TITLE: **Permits**

AGENCY: **Division of Marine Fisheries**

ORIGINAL PUBLICATION REFERENCE: **1573** *Date:* **5/8/26**

SUMMARY OF CORRECTION:

This correction rescinds commercial lobster permitting rules allowing the one time exchange of a Coastal Lobster Permit for an Offshore Lobster Permit. These regulations were erroneously published in Massachusetts Register #1573. See Docket #892.

AGENCY CONTACT: **Jared A. Silva** PHONE: **617-634-9573**

ADDRESS: **836 S. Rodney French Boulevard, New Bedford, MA 02744**

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: **Jul 01 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

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CODE OF MASSACHUSETTS REGULATIONS

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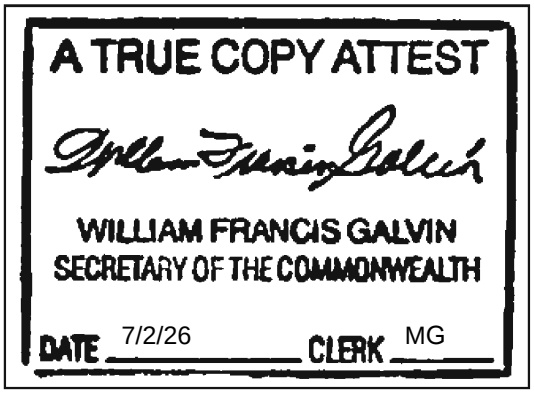

7.03: continued

Permit Transferee means the person to whom a commercial lobster permit is transferred who must document that he or she has at least one year of full-time or equivalent part-time experience in the commercial lobster trap fishery or two years of full-time or equivalent part-time experience in other commercial fisheries, according to criteria developed by the Division.

Transfer Trap Debit means the area-specific percentage of each allocation transfer transaction retained by the Division for conservation purposes as defined by the Division and subject to criteria developed by the Division, and not restricted by the Director under his authority to condition permits.

(3) Renewals.

(a) The Director shall renew all existing Coastal Commercial Lobster Permits in accordance with M.G.L. c.130, § 38B, and 322 CMR 7.01(2)(a) and (5)(f), provided that catch reports and renewal applications are received by February 28th and the renewal process, including late renewals approved for sufficient cause, is completed prior to December 31st of any year.

(b) Coastal Lobster Permit holders are prohibited from multiple LCMA endorsements, except those commercial lobster permits held by persons with valid federal authorization for LCMA 3 who may additionally receive authorization for either LCMA 1, 2 or Outer Cape Cod or those commercial lobster permit holders not fishing with trap gear who may additionally receive authorization for LCMA 1, 2, or Outer Cape Cod.

(c) Those authorized for more than one LCMA as designated on their permits shall observe the most restrictive of different regulations for the areas declared as established by 322 CMR and the ASMFC Lobster Management Plan.

(d) Coastal Lobster Permit holders are prohibited from making changes in area designations during the annual renewal period except to drop a LCMA or to add a LCMA under management of an approved effort control plan for which the permit holder has received a LCMA-specific trap allocation.

(4) Forfeiture. All Coastal Lobster Permits which are not renewed in accordance with 322 CMR 7.03 shall be forfeited to the Division. The Director may transfer, in order, no more than 50% of the forfeited permits to waiting list applicants.

(5) Transfer Programs.

(a) OCC Transfer Program is administered by the Division. Applications for transfers shall be provided by the Division, must be signed by the permit holder and the allocation or permit transferee, and must be notarized prior to submission to the Division. No applications may be accepted after November 30th for the following fishing year. Commercial lobster permit holders endorsed for Outer Cape Cod may:

1. transfer their commercial lobster permit involving the sale or transfer their entire trap allocation;
2. transfer all of their trap allocation to an allocation transferee; or
3. in compliance with 322 CMR 7.03(9)(d), transfer part of their transferable allocation in multiples of ten traps to an allocation transferee.

(b) LCMA 2 Transfer Program is administered by the Division. Applications for transfers shall be provided by the Division, must be signed by the permit holder and the allocation or permit transferee, and must be notarized prior to submission to the Division. No trap allocation transfer applications may be accepted after November 30th for the following fishing year. Commercial lobster permit holders endorsed for LCMA 2 may:

1. transfer their commercial lobster permit involving the sale or transfer their entire trap allocation;
2. transfer all of their trap allocation to an allocation transferee; or
3. transfer part of their transferable allocation in multiples of 10 traps to an allocation transferee.

(c) LCMA 1 Transfer Program enables commercial lobster permit holders endorsed for LCMA 1 to transfer their permits to a permit transferee, provided the permit has been actively fished for four of the last five years, as evidenced by valid catch reports filed with the Division, subject to criteria developed by the Division, and is not restricted by the Director under his authority to prohibit transfers. The transfer program is administered by the Division. Applications for transfers shall be provided by the Division, must be signed by the permit holder and the transferee, and must be notarized prior to submission to the Division. Commercial lobster permit holders endorsed for LCMA 1 may transfer their commercial lobster permit involving the sale or transfer of lobster related business assets to a permit transferee.

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7.03: continued

(6) Restrictions.

(a) Transfers shall involve the sale or transfer of lobster related business assets.

(b) Permit and allocation transfers may be denied if any evidence of fraud is found, or the Director determines that the transfer is not in the best interests of the Commonwealth.

(c) All lobster businesses fishing under the authority of a coastal lobster permit as defined in 322 CMR 7.01(2)(a) shall be owner-operated.

(d) Trap Allocation transfers may be subject to a transfer trap debit of 10% of the total amount of traps transferred through the trap transfer process.

(e) Any permit holder issued a trap allocation based in part or whole upon SCUBA history as determined in 322 CMR 6.13: *Lobster Trap Limit in the Coastal Waters of the Commonwealth* shall be prohibited from transferring any part of their trap allocation except when transferring their commercial lobster permit.

(f) Any permit holder issued a trap allocation based in part or whole upon SCUBA history as determined in 322 CMR 6.13: *Lobster Trap Limit in the Coastal Waters of the Commonwealth* shall be prohibited from transferring their trap allocation along with their commercial lobster permit until the permit has been actively fished for four of the last five years as evidenced by valid catch reports filed with the Division, subject to criteria developed by the Division, and not restricted by the Director under his authority to prohibit transfers. Catch history prior to the issuance of a trap allocation shall not apply towards fulfilling meeting actively fished requirements.

(7) Exceptions.

(a) The permit holder's actively fished performance criteria for the Coastal Lobster Transfer programs, established at 322 CMR 7.03(5), may be waived by the Director in instances of posthumous transfer; a recent disability to the Coastal Lobster Permit holder; or for persons on active military duty, provided the permit holder actively fished their permit for four out of the past five years prior to death, disability, or military duty. In the case of disability, there must be a signed statement from a physician that verifies the disability prevented the permit holder from fishing.

(b) The permit holder's actively fished performance criteria and the permit transferee's experience criteria for Coastal Lobster Transfer programs may be waived for transfers to immediate family.

(c) The requirement that permit holders be owner/operators may be waived through a letter of authorization issued by the Director that is subject to annual renewal. Letters of authorization may be issued for use of the permit and associated fishing operation that includes the gear and vessel owned by the permit holder that was actively fished prior to the request. Authorizations may be issued for permit holders on active military service or for immediate family members. For the recipient of a posthumous transfer, or disabled permit holder, authorizations may be issued for up to two years, provided the disability prevents the permit holder from fishing their permit as evidenced by a signed statement from a physician.

(8) Reserved.

(9) Prohibitions. It shall be unlawful:

(a) To loan, lease, or sell a Coastal Commercial Lobster Permit except under the provisions of 322 CMR 7.03.

(b) To submit false or incomplete forms or applications according to the provisions of M.G.L. c. 130, § 38B.

(c) For the holder of a Coastal Commercial Lobster Permit to acquire an additional permit(s) through a transfer pursuant to 322 CMR 7.03 or from the established waiting list unless specifically authorized by the Director as a means to mitigate trap allocation cuts required by the interstate management plan.

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7.08: continued

(2) Definitions.

Offshore Lobster Permit means the commercial fisherman permit, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 38, and 322 CMR 7.01(2) and 322 CMR 7.08, that authorizes the permit holder to possess and land lobsters harvested from waters outside the jurisdiction of the Commonwealth using a vessel registered under the laws of the state and validly endorsed for FCZ fishing.

(3) Moratorium. After February 6, 2003, the Director may not issue new offshore lobster permits for the purpose of landing lobsters taken with traps from federal waters. The Director shall renew all existing Offshore Commercial Lobster Permits in accordance with M.G.L. c. 130, § 38B, and 322 CMR 7.01(2)(b), provided that catch reports and renewal applications are received by February 28th and the renewal process, including late renewals approved for sufficient cause, is completed prior to December 31st of any year.

Exception: Holders of federal permits authorized to fish traps in Lobster Conservation Management area 2 and 3 may apply to the Director for a new offshore landing permit. The Director may issue the permit if it is determined to result in no increased trap fishing effort in waters adjacent to Massachusetts.

(4) Transfers of Offshore Lobster Permits.

(a) Transfer Eligibility Criteria. Limited entry Offshore Lobster permits are non-transferable unless approved by the Director. The Director may approve the transfer of a limited entry Offshore Lobster permit subject to the following criteria:

1. The holder of the Offshore Lobster permit is in good standing with the marine fisheries laws and regulations at M.G.L. c. 130, and 322 CMR.
2. The limited entry Offshore Lobster permit is being transferred in conjunction with a Federal American Lobster Trap permit that has been held on the same vessel for at least one year.

(b) Restrictions.

1. Transfers shall involve the sale or transfer of fishing related business assets.
2. Transfers may be denied by the Director if any evidence of fraud is found, or if the Director determines that the transfer is not in the best interests of the Commonwealth.

(5) Forfeiture. All Offshore Lobster Permits which are not renewed in accordance with 322 CMR 7.08 shall be forfeited to the Division.

7.09: Further Regulation of Permits (Reserved)

The text of the regulations published in the electronic version of the Massachusetts Register is unofficial and for informational purposes only.
The official version is the printed copy which is available from the State Bookstore at http://www.sec.state.ma.us/spr/sprcat/catidx.htm.

7.10: Recreational Saltwater Fishing Permits

(1) Authority and Purpose.

(a) The Director is authorized, pursuant to St. 2009, c. 161, § 8, to establish the Commonwealth's recreational saltwater fishing permit program in compliance with the state exemption requirements of section 401(g)(2) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1881 (the "Federal Act"). The Director, pursuant to his authority under the Federal Act, and M.G.L. c. 130, §§ 17 and 17A, has promulgated 322 CMR 7.10 for the purposes of implementing the state recreational saltwater fishing permit program in regulation.

(b) 322 CMR 7.10 identifies the persons who must apply for or are exempt from a recreational saltwater fishing permit, sets forth the application and permit requirements applicable to individual and for-hire permits, and gives notice of the penalties that may be assessed against persons who violate M.G.L. c. 130, § 17C, or 322 CMR 7.10.

(2) Definitions. As used in 322 CMR 7.10, the definitions have the following meaning, unless the context otherwise requires. Other words used in 322 CMR 7.10 have the meaning set forth in 322 CMR 7.01(1).

For-hire means that activity permitted in accordance with M.G.L. c. 130, § 17C, and 322 CMR 7.10(5), whereby the vessel named on the for-hire permit is carrying paying customers for the purpose of recreational fishing.

Recreational Fishing means the noncommercial taking or attempted taking of finfish for personal or family use, sport, or pleasure, and which are not sold, traded or bartered.

Trip means the period of time that begins when the fishing vessel departs from the dock, berth, mooring, beach, seawall, ramp, or port to carry out recreational fishing and terminates with a return to a dock, berth, mooring, beach, seawall, ramp, or port.

(3) Persons Required to Obtain a Permit. Unless exempted pursuant to 322 CMR 7.10(4), all persons engaged in the recreational fishing, or who take or land finfish for recreational purposes in or from the coastal waters of the Commonwealth, shall obtain a recreational saltwater fishing permit from the Director in accordance with 322 CMR 7.10.

(4) Persons Exempt from Obtaining a Permit. A recreational saltwater fishing permit is not required in the following circumstances:

(a) persons younger than 16 years old;

(b) persons who, regardless of their age, otherwise meet the definition of a disabled person in M.G.L. c. 19C;

(c) persons fishing during a for-hire trip conducted under the authority of a for-hire permit issued in accordance with M.G.L. c. 130, § 17C, and 322 CMR 7.10(5).

(d) persons who hold a commercial fishing permit from the Director and keep for personal use any fish taken under the authority of that permit in accordance with the applicable commercial fishing regulations set forth at 322 CMR 6.00 or 9.00; or

(e) nonresident persons holding a valid recreational saltwater fishing permit of any coastal state, provided however, that the Director has determined in writing that the requirements of such other state permit is substantially the same as the permit issued by the Director pursuant to 322 CMR 7.10 and that the other state provides similar privileges granted under its law to residents as permitted by the Director.

(5) For-hire Permit Requirements Applicable to For-hire Vessels. The Director may issue a recreational for-hire permit to a named individual for use onboard the vessel identified on the permit application. This permit shall cover all recreational fishing by recreational anglers onboard the for-hire vessel during a for-hire trip, as well as any private recreational fishing conducted by the individual person named on the for-hire permit.

(a) Permit Categories: The following for-hire permit categories are available based on vessel capacity:

1. Charter Boat. The for-hire vessel has a capacity to carry up to six persons fishing as passengers from the for-hire vessel.

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Docket # 344

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **760 CMR 77.00**

CHAPTER TITLE: **Surplus Real Property**

AGENCY: **Executive Office of Housing and Livable Communities**

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

The proposed regulation implements Section 122 of the Affordable Homes Act (AHA) which requires municipalities to allow the as-of-right residential use of real property conveyed under Section 121 of AHA at a density of not less than four (4) units per acre.

REGULATORY AUTHORITY: **St. 2024, c. 150 § 122**

AGENCY CONTACT: **Caitlin Loftus** PHONE: **617-573-1506**

ADDRESS: **100 Cambridge Street, Suite 300, 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.*

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 2/18/26; 6/9/26; 7/1/26; Governor approval 2/18/26; 6/9/26; 7/1/26; Notice to LGAC 2/18/26

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: **end of comment period 4/13/26**

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

For the first and second year: **none**

For the first five years: **none**

No fiscal effect: **n/a**

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: **7/1/26**

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

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:*
New chapter 760 CMR 77.00.

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: **Jul 02 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/17/26**

CODE OF MASSACHUSETTS REGULATIONS

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------	**10.1 & 10.2**
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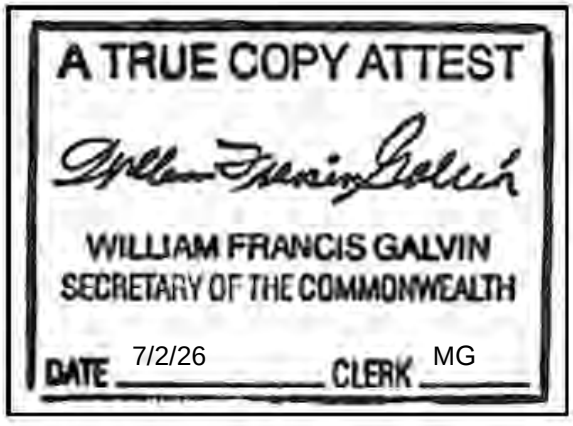

Table of Contents

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760 CMR 77.00: SURPLUS REAL PROPERTY

Section

77.01: Purpose, Program Overview

1. St. 2024, c. 150 (the Act) established a plain and explicit authorization for the Division of Capital Asset Management & Maintenance under St. 2024, c. 150, § 121 to convey Surplus Real Property for Housing Purposes and other Reuse Restrictions as defined by the Commissioner of the Division of Capital Asset Management & Maintenance. St. 2024, c. 150, § 122 requires Municipalities to allow as of right Residential Development of Surplus Real Property conveyed pursuant to St. 2024, c. 150, § 121 for Housing Purposes.
2. EOHLC is authorized to promulgate regulations to effectuate St. 2024, c. 150, § 122. 760 CMR 77.00 establishes a framework to guide Municipalities and Developers in the Residential Development of Surplus Real Property and are intended to give full effect to the preemptive and as-of-right requirements of St. 2024, c. 150, § 122, to maximize the production of housing on Surplus Real Property consistent with the Act, and to align with the Commissioner's authority under St. 2024, c. 150, § 121 to incorporate additional requirements through the Conveyance.

77.02: Definitions

Affordable Homes Act (Act). St. 2024, c. 150.

As-of-right. As defined in M.G.L. c. 40A, § 1A.

Building Coverage. Lot Area that may be used for Residential Development including any building, parking structures, or accessory structures.

Bulk and Height. The total volume that a building may occupy on a Lot as expressed by the allowable number of stories, total maximum height in feet and any other restrictions on bulk, such as required step-backs above the first floor.

Commissioner. The Commissioner of the Division of Capital Asset Management and Maintenance.

Conveyance. The deed or other legally binding instrument transferring an interest in Surplus Real Property pursuant to St. 2024, c. 150, § 121, together with any applicable Land Disposition Agreement and Reuse Restrictions imposed by the Commissioner pursuant to St. 2024, c. 150, § 121.

Design Standards. Clear and objective standards or provisions of Municipal Regulations applicable to the exterior design of a building and land area on the lot.

Developer. Any person, entity or governmental body, or their successors and assignees, that acquires an interest in Surplus Real Property, or a portion thereof, pursuant to St. 2024, c. 150, § 121.

Development Agreement. A legally binding agreement between the Municipality and Developer intending to pursue Residential Development of Surplus Real Property conveyed pursuant to St. 2024, c. 150, § 121.

Dwelling Unit. A single unit of housing, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

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77.02: continued

Effective Density. The total number of Dwelling Units that a Municipality must permit on a particular Lot of Surplus Real Property expressed on a Dwelling Unit per acre basis.

EOHLC. The Executive Office of Housing and Livable Communities.

Federal and State Health and Safety Laws. All mandatory federal and state laws, codes, and regulations concerning building safety, the public's health, the public's safety, utilities, the general welfare, and the environment, including but not limited to those listed in 760 CMR 71.04(3).

Housing Purposes. As defined in St. 2024, c. 150, § 121.

Land Disposition Agreement. An agreement between the Commissioner and Developer.

Lot. As defined in M.G.L. c. 40A, § 1A.

Lot Area. The area of a horizontal plane bounded by the front, side, and rear lot lines of a Lot, measured in acreage or square footage.

Mixed-use Development. The use of Surplus Real Property conveyed pursuant to St. 2024, c. 150, § 121 for development containing a mix of Residential Development and uses that are not Residential Development, including, without limitation, commercial, institutional, industrial or other uses and residential types.

Multi-Family Housing. As defined in M.G.L. c. 40A, § 1A.

Municipality. A city or town where Surplus Real Property is located, in whole or in part.

Municipal Regulations. Zoning, including form-based zoning, general ordinances and by-laws or other local legislative, regulatory or other actions or requirements of a Municipality, including wetlands ordinances or by-laws, subdivision and board of health rules, and other local ordinances, by-laws, codes, regulations, and impact fees.

Open Space. Outdoor area not covered by any parking, building, or accessory structure, including, but not limited to, yards, land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and saltwater marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.

Open Space Coverage. The measure of the allowable total Open Space land coverage of a Lot calculated as a percentage of the total Lot Area.

Residential Development. The use of land and structures on Surplus Real Property by a Developer for the construction or rehabilitation of Dwelling Units.

Residential Development Type. Any sort, class, or building typology that Residential Development may take in form, including but not limited to single-family, two-family, and Multi-Family Housing, and any form, class, or kind of Residential Development, including but not limited to, cluster development, open space residential development, condominium development, and subdivision.

Reuse Restriction. Uses, restrictions and encumbrances as defined by the Commissioner in any Conveyance including, but not limited to, a restriction for Housing Purposes pursuant to St. 2024, c. 150, § 121(d)(4), a restriction requiring the Developer to enter into an affordability restriction, Design Standards, including but not limited to mandating clustering of development so as to preserve portions of a parcel for conservation or recreation purposes, and any other use limitations as may be determined by the Commissioner.

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77.02: continued

Setbacks. The minimum linear distance between a boundary of a Lot and a structure located on said Lot as set by the Municipality.

Site Plan Review. A process established by local ordinance or by-law by which a Municipal board or authority may review and impose terms and conditions on the appearance and layout of a proposed use of land or structures prior to the issuance of a building permit.

Surplus Property Municipal Regulations. Municipal Regulations applicable to Residential Development of Surplus Real Property pertaining to any of the following:

(i) Bulk and Height of structures;
(ii) Lot Area;
(iii) Setbacks;
(iv) Open Space Coverage requirements, including yard size requirements;
(v) Building Coverage requirements; and
(vi) Site Plan Review.

Surplus Real Property. As defined in St. 2024, c. 150, § 121(a).

Zoning. As defined in M.G.L. c. 40A, § 1A.

77.03: Residential Development on Surplus Real Property

(1) Notwithstanding any general or special law, Zoning, or general ordinance or by-law to the contrary, a Municipality shall allow and permit As-of-right Residential Development of Surplus Real Property as proposed by a Developer and may reasonably regulate such Residential Development in the following manner:

(a) A Municipality may impose reasonable Surplus Property Municipal Regulations pursuant to 760 CMR 77.04, provided that such regulations do not directly or indirectly prevent or make physically or financially infeasible the development of the total number of Dwelling Units allowed by the Lot's minimum Effective Density based on the density calculation described in 760 CMR 77.05;

(b) A Municipality may enforce the terms of a Development Agreement, provided that the Development Agreement does not conflict with the terms of the Conveyance. Nothing in 760 CMR 77.00 should be construed to prevent Development Agreements from addressing Municipal Regulations beyond those allowed as Surplus Property Municipal Regulations;

(c) A Municipality may impose Municipal Regulations on Residential Development that are necessary to ensure the Developer's compliance with the terms of the Conveyance; and

(d) Unless authorized pursuant to the Conveyance, Municipal Regulations that are inconsistent or in conflict with or exceed the scope of land-use controls described in St. 2024, c. 150, § 122 or the provisions of 760 CMR 77.00, shall be unenforceable when applied to Residential Development on Surplus Real Property. Such inconsistent and conflicting Municipal Regulations include, but are not limited to, Municipal requirements for specific Design Standards, parking, and impact fees.

(2) Municipally Imposed Use Restrictions. Unless imposed, required or allowed by the Commissioner in the Conveyance or voluntarily agreed to by the Developer in a Development Agreement, a Municipality shall not require the imposition of any occupancy or use restriction on Surplus Real Property, including but not limited to, affordability restrictions and conservation restrictions pursuant to M.G.L. c. 184, § 31.

(3) Additional Uses. A Municipality may allow, but shall not require, additional non-residential uses on Surplus Real Property, such as Mixed-use Development provided that they are primarily residential, and may provide density bonuses, Zoning relief, or additional incentives to encourage such additional uses. The incorporation of uses that are not Residential Development shall not cause the Effective Density to be reduced to fewer than four Dwelling Units per acre.

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77.04: Reasonable Surplus Property Municipal Regulations

(1) St. 2024, c. 150, § 122 provides that a Municipality is permitted, but not required, to impose reasonable regulations on Residential Development of Surplus Real Property. Regulations are reasonable where they are Surplus Property Municipal Regulations and are consistent with 760 CMR 77.04 and 760 CMR 77.05. Surplus Property Municipal Regulations shall be deemed unreasonable if, in combination with the enforcement of minimum Federal and State Health and Safety Laws, they result in the prohibition of Dwelling Units required to be permitted by the Surplus Parcel's Effective Density that could otherwise be constructed in compliance with minimum Federal and State Health and Safety Laws.

(2) Residential Development Types. Surplus Property Municipal Regulations shall not explicitly or effectively prohibit, or require, any particular bedroom count or Residential Development Type. This provision is meant to encourage a diversity of Dwelling Unit types and sizes and to provide for Residential Development that is suitable for a diverse population, including households with children and individuals with disabilities.

(3) Building, Health, Safety, Utility, General Welfare, and Environmental Laws.

(a) Nothing contained within these regulations is intended to supersede or conflict with any federal law which may be applicable to Residential Development on Surplus Real Property.

(b) The Massachusetts state building code, 780 CMR, and all Massachusetts health, safety, utility, general welfare, and environmental laws, codes, and regulations shall apply to all Residential Development on Surplus Real Property, including but not limited to, 527 CMR 1.00: *Massachusetts Comprehensive Fire Safety Code*, M.G.L. c. 111, § 189A: *Massachusetts Lead Law*, 310 CMR 15.000: *The State Environmental Code*, M.G.L. c. 131, § 40: *The Wetlands Protection Act*, 310 CMR 10.00: *Wetlands Protection Act Regulations*, M.G.L. c. 40, §§ 81K through 81GG: *The Subdivision Control Law*, and Title 5: *Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage, and Stormwater Management Standards*, provided that:

1. Municipalities may not impose more than the minimum requirements established by, or impose regulations and programs in a manner that exceeds the minimum obligations required by, any Federal and State Health and Safety Law, unless the Developer is required by the Conveyance, or voluntarily agrees in a Development Agreement, to comply with such additional requirements;
2. Municipalities may not prohibit a Developer from using a method of compliance with Federal and State Health and Safety Laws that complies with state and federal law;
3. Municipal enforcement of minimum Federal and State Health and Safety Laws may not be exercised in a way that would directly or indirectly prevent or make physically or financially infeasible the development of the total number of Dwelling Units allowed by the Surplus Real Property's minimum Effective Density where the Developer proposes a method for compliance that satisfies state and federal law;
4. Unless otherwise provided for pursuant to the Conveyance, the municipal opt-in specialized stretch energy code developed pursuant to M.G.L. c. 25A, § 6 shall be considered the minimum required by state law if the Municipality has opted in; and
5. Any additional local or regional requirement shall not apply to Residential Development on Surplus Real Property, unless the Developer is required by the Conveyance, or voluntarily agrees in a Development Agreement, to comply with such additional requirements. For purposes of this subdivision, such local or regional requirements include building, health, safety, utility, general welfare, or environmental law, code, ordinance, by-law, rule, or regulation, including, but not limited to, requirements imposed by local or regional government, planning commission, or other entity.

(4) Site Plan Review.

(a) A Municipal Regulation that imposes Site Plan Review on a Lot of Surplus Real Property shall only regulate:

(i) aspects of a Residential Development that relate directly to the public's safety, health, and welfare, and

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77.04: continued

(ii) any Surplus Property Municipal Regulations, provided, however, that Site Plan Review may regulate additional aspects of the Residential Development if they are provided for by:

(1) the Developer voluntarily,
(2) a Reuse Restriction,
(3) a Land Disposition Agreement, or
(4) a Development Agreement.

Such aspects of Residential Development which may not be provided for in Surplus Property Municipal Regulations include, but are not limited to, parking requirements, affordable housing requirements, and allowable Residential Development Types.

(b) Site Plan Review shall not unreasonably delay Residential Development, nor impose conditions that directly or indirectly prevent or make the development of the total number of Dwelling Units allowed by the Lot's minimum Effective Density physically or financially infeasible. Site Plan Review approval as applied to Surplus Real Property shall be issued no later than 90 days from the filing of a complete application unless a different time is agreed to by the applicant and the Municipality.

(c) Site Plan Review criteria that apply to Surplus Real Property shall be written, clear, and objective and shall not provide discretionary review or authority to deny approval of any Residential Development.

77.05: Minimum Effective Density

(1) Minimum Effective Density Calculation. The required minimum Effective Density for Surplus Real Property is four Dwelling Units per acre and shall be used to determine the total minimum number of Dwelling Units that a Municipality is required to permit As-of-right on the Surplus Real Property, provided that:

(a) The Effective Density calculation shall include the entire Lot Area of the Surplus Real Property at the time the Conveyance is recorded, without any exclusions. For example, all open bodies of water and any public or private rights of way shall be included in the entire Lot Area;

(b) Rounding Acreage. Municipalities may round down to the nearest quarter acre when determining the total Lot Area used for the Effective Density calculation; and

(c) Rounding Effective Density. Effective Density may not be rounded up to achieve the required minimum Effective Density of not fewer than four Dwelling Units per acre.

(2) Protected Use ADUs. The minimum Effective Density required to be permitted on Surplus Real Property shall not include Protected Use Accessory Dwelling Units developed pursuant to M.G.L. c. 40A, § 6 and 760 CMR 71.00: *Protected Use Accessory Dwelling Units*, and nothing herein shall be construed to prohibit the development of Protected Use ADUs in addition to the Dwelling Units required to be permitted by the Lot of Surplus Real Property's minimum Effective Density.

(3) Dwelling Unit Caps. A Municipality may not directly impose a maximum or minimum density or dwelling unit cap on Residential Development on a per building or per Lot basis, unless separately provided for under the Conveyance.

(4) Surplus Property Municipal Regulations shall be deemed unreasonable if they directly or indirectly prevent or make physically or financially infeasible the development of the total number of Dwelling Units allowed by the Surplus Real Property's minimum Effective Density.

(5) A Mixed-use Development shall provide for an Effective Density of not fewer than four Dwelling Units per acre and be primarily residential.

REGULATORY AUTHORITY

760 CMR 77.00: St. 2024, c. 150, § 122.

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Docket # 101

THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin

Secretary of the Commonwealth

Regulation Filing

To be completed by filing agency

CHAPTER NUMBER: **940 CMR 40.00**

CHAPTER TITLE: **Assisted Living Residences**

AGENCY: **Office of the Attorney General**

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

This regulation is new consumer protection regulation for Assisted Living Residences (ALRs) to protect residents from unfair and deceptive acts and practices, including misrepresentation of available services, improper fees, and unlawful evictions. The regulation describes certain unfair or deceptive acts or practices, and necessary disclosures, in the context of operating an assisted living residence in Massachusetts.

REGULATORY AUTHORITY: **M.G.L. c. 93A, § 2(c)**

AGENCY CONTACT: **Jamie Hoag** PHONE: **617-963-2057**

ADDRESS: **One Ashburton Place, 20th Floor 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 to Local Government Advisory Committee on March 25, 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: **April 29, 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 anticipated fiscal impact on the public or private sector.**

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: **June 22, 2026**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Assisted Living, Consumer Protection, Long-Term Care

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:*
Promulgates new regulation 940 CMR 40.00.

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 22 2026**

Publication - *To be completed by the regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1578** DATE: **7/17/26**

EFFECTIVE DATE: **7/17/26**

CODE OF MASSACHUSETTS REGULATIONS

Remove these Pages:	*Insert these Pages:*
4.3 & 4.4	**4.3 & 4.4**
----------	**259 & 260**
----------	**267 - 278**

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 6/22/26 CLERK MG

Table of Contents

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Table of Contents

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(940 CMR 39.00: RESERVED)

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(PAGES 261 THROUGH 266 ARE RESERVED FOR FUTURE USE)

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940 CMR 40.00: ASSISTED LIVING RESIDENCES

Section

40.01: Purpose

The Attorney General of the Commonwealth of Massachusetts promulgates 940 CMR 40.00 pursuant to authority granted to the Attorney General under M.G.L. c. 93A, § 2(c). 940 CMR 40.00 is designed to promote the protection, health and well-being of Residents of Assisted Living Residences and to be consistent with existing legal standards.

40.02: Scope

940 CMR 40.00 regulations shall apply to Assisted Living Residences defined in M.G.L. c. 19D, §§ 1 and 2.

940 CMR 40.00 defines unfair or deceptive acts or practices that violate M.G.L. c. 93A, § 2(a). 940 CMR 40.00 regulations are not intended to define all activities that violate the statute. Acts or practices not specifically proscribed in 940 CMR 40.00 are not to be treated, by implication, as permitted under M.G.L. c. 93A or other applicable law.

40.03: Definitions

As used in 940 CMR 40.00, the following words have the following meaning:

Activities of Daily Living (ADL). Tasks related to bathing, dressing, grooming, ambulation, eating, toileting and other similar tasks related to personal care needs.

Administrative Fee or Assessment Fee. Any charge billed to and payable by a Resident as a condition of admission, excluding room, board, and ongoing services, including any fee to conduct an initial screening assessment with each Resident.

Advertisement. Any representation

(a) made in a newspaper, in a magazine, or other publication; or

(b) contained in any notice, handbill, sign, billboard, banner, poster, display, circular, pamphlet, catalog, or letter; or

(c) presented through or during the use of any electronic device or the use of a software application, including *via* telephone, text message, radio, television, or the Internet.

Applicant. A person or legal entity applying to EOAI for Certification as a Sponsor of an Assisted Living Residence.

Assisted Living Residence or Residence. Any institution or distinct part of an institution, however organized, whether conducted for profit or not for profit, which is advertised, announced or maintained for the express or implied purpose of all of the following criteria:

(a) providing room and board;

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40.03: continued

(b) providing, directly by its employees or through arrangements with another organization which the entity may or may not control or own, Personal Care Services for three or more adults who are not related by consanguinity or affinity to their care provider; and
(c) collecting payments or third-party reimbursements from or on behalf of Residents to pay for the provision of assistance with Activities of Daily Living or arranging for the same.

Basic Health Services. Certain services provided at an Assisted Living Residence by employees of the Residence who are qualified to administer such services or by a qualified third-party in accordance with a care order issued by a licensed independent provider; provided, however, that such services shall include all of the following:
(i) injections;
(ii) the application or replacement of simple non-sterile dressings;
(iii) the management of oxygen on a regular and continuing basis;
(iv) specimen collection and the completion of a home diagnostic test, including, but not limited to, COVID-19, influenza, warfarin, prothrombin or international normalized ratio testing and glucose testing; provided, that such home diagnostic test or monitoring is approved by the United States Food and Drug Administration for home use; and
(v) application of ointments or drops. Basic Health Services shall be permitted in Residences certified to provide such services.

Certification. EOAI's initial approval, or subsequent renewal of that approval, of the qualifications of an Applicant or Sponsor to operate and maintain an Assisted Living Residence subject to the requirements of M.G.L. c. 19D and 651 CMR 12.00: *Certification Procedures and Standards for Assisted Living Residences*.

Clear and Conspicuous. Without limiting any other provisions of law, disclosures required by these regulations shall be of such size or color contrast and so placed as to be easily noticeable and easily understandable by older adults reading advertising, sales promotional literature, rental agreements, documentation, signage, or bills containing same. A term is conspicuous when it is so written that a person against whom it is to operate ought to have noticed it. A notice or sign is conspicuous when presented in a way that is easily noticeable and difficult to miss in a location frequented by Residents. Language in the body of a form is conspicuous if it is in larger or contrasting type or color. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

Emergency. A situation in which the Resident's medical or psychological condition requires immediate medical attention or treatment; the existence of an emergency shall be determined by a physician or nurse, except that if a physician or nurse is not readily available, the existence of an emergency may be determined by the person on the premises of the assisted living residence who is in charge of the residence's medical or nursing services at the time that the situation giving rise to the emergency occurs or is about to occur.

EOAI. The Executive Office of Aging and Independence.

Fee. Any charge billed to a Resident by the Assisted Living Residence or payable by a Resident.

Instrumental Activities of Daily Living (IADL). Tasks related to meal preparation, housekeeping, clothes laundering, shopping for food and other items, telephoning, use of transportation, and other similar tasks related to environmental needs.

Legal Representative. Guardian, Conservator, or attorney in fact under a Power of Attorney, as appropriate.

Lessor. Any person, corporation, or other entity that owns the building or land on which an Assisted Living Residence is located.

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40.03: continued

Manager. The individual who has general administrative charge of an Assisted Living Residence.

Operator. Any person, corporation, or other entity who operates, maintains, controls, or supervises an Assisted Living Residence.

Owner. Any person, corporation, or other entity with a direct or indirect possession of equity in the capital, stock or profits totaling more than 5% of an Assisted Living Residence.

Personal Care Service. Assistance with one or more of the Activities of Daily Living and Self-administered Medication Management, either through physical support or supervision. Supervision includes reminding or observing Residents while they perform activities.

Rent. The monthly charge a Resident must pay to reside in a Unit.

Residency Agreement. The written contract between an Assisted Living Residence and a Resident or prospective Resident on either a temporary (for example, for respite care) or more permanent basis, as well as any later addenda thereto.

Resident. An individual who resides in an Assisted Living Residence and who receives housing and Resident Services and, when the context requires or permits, such individual's Legal Representative.

Resident Representative. An individual who is authorized by the Resident to help the Resident fully participate in planning services or paying fees. This can, but need not, include the individual's health care agent or Legal Representative

Resident Services. Services to assist Residents with Activities of Daily Living (ADL), Instrumental Activities of Daily Living (IADL), Self-administered Medication Management (SAMM), or other similar services, but does not include optional services such as concierge services, recreational or leisure services.

Self-administered Medication Management. A process which includes reminding Residents to take medication, opening containers for Residents, opening prepackaged medication for Residents, reading the medication label to Residents, creating written records for the Residents of the administration of doses of the medication, and observing Residents while they take the medication.

Service. Any care or product for which the Assisted Living Residence charges a Resident a Fee, including but not limited to Resident Services, Personal Care Services, or optional services, including Basic Health Services.

Special Care Residence. The Residence in its entirety or any separate and distinct section or sections within the Residence that provide(s) an enhanced level of supports and services for one or more Residents to address their specialized needs due to cognitive or other impairments.

Special Care Unit. A portion of a Special Care Residence designed for and occupied pursuant to a Residency Agreement by one or two individuals as the private living quarters of such individuals.

Sponsor. The person or legal entity named in the Certification of an Assisted Living Residence regulated by the EOAI.

Unit. A portion of an Assisted Living Residence designed for and occupied pursuant to a Residency Agreement by one or two individuals as the private living quarters of such individuals.

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40.03: continued

Total Cost. The maximum price a Resident must pay for a Service, Fee, or Rent, inclusive of all Fees, charges, or other expenses.

Written Acknowledgement. A copy of a signed statement by a Resident or the Resident's Legal Representative, preserved in the Resident's personal file, stating that the Resident has received a copy of the documents required to be tendered to the Resident; if a Resident is unable or unwilling to sign their name, the Assisted Living Residence may satisfy the requirement of written acknowledgement by placing a written and dated statement in the Resident's personal records which indicates receipt of the documents and the Resident's inability or unwillingness to sign the Resident's name; such statement must be signed by the person who tendered the required documents to the Resident and by a witness thereto and must include a detailed explanation of the Resident's inability or unwillingness to sign the Resident's name. If the Resident's personal file is an electronic rather than physical file, having an image of the signed statement in the electronic file is deemed to satisfy the need to preserve the Written Acknowledgement.

40.04: Unfair or Deceptive Acts or Practices: General Provisions

(1) It is an unfair or deceptive act or practice in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager or Lessor of an Assisted Living Residence:

(a) to fail to comply with any existing state or federal statute, rule or regulation which provides for the protection of health or safety of Residents or prospective residents of Assisted Living Residences, including, but not limited to, the Residents' rights set out in M.G.L. c. 19D and 651 CMR 12.00: *Certification Procedures and Standards for Assisted Living Residences*;

(b) to make or publish, or cause to be published, any false, untrue or deceptive statement or representation or any statement or representation that has the tendency or capacity to mislead or deceive Residents, prospective Residents or any other person, by way of advertising or otherwise concerning the Residence or the character, nature, quality or value of services provided to Residents;

(c) to fail or refuse to inform the Resident that the Attorney General has promulgated consumer protection regulations relating to Assisted Living Residences. Such disclosure shall be made both orally and in writing at the start of the Resident's tenancy in Clear and Conspicuous type, in a language the Resident understands; or

(d) to fail or refuse to furnish a copy of 940 CMR 40.00 printed in Clear and Conspicuous type. For new Residents, such disclosures shall be made at the start of the Resident's tenancy at the Assisted Living Residence; disclosure to each Resident shall also be made annually thereafter and at any time the Resident makes a reasonable request for 940 CMR 40.00; in the case of a Resident adjudged incompetent, the facility may satisfy the requirements of these regulations by making a reasonable effort to inform the Resident of their rights under 940 CMR 40.00 and by satisfying the requirements pertaining to notification of their Legal Representative.

(2) Misrepresentations. In connection with any Advertising or marketing, solicitation or rental of a Unit in an Assisted Living Residence, the following shall constitute an unfair and deceptive practice under M.G.L. c. 93A, § 2(a):

(a) Misrepresenting, or failing to disclose Clearly and Conspicuously, the actual Total Cost of any Fee, Service, or Rent at the time of the initial presentation of the price, or any subsequent presentation thereafter;

(b) misrepresenting the licensure, certification, training or qualification of anyone providing services to Residents;

(c) misrepresenting or failing to disclose the actual Services or amenities offered to Residents, including but not limited to, activities, social outings, dining or nutritional options, transportation services, grounds, physical space, location, Resident services, Personal Care Services, or optional services, including Basic Health Services available to Residents; or

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40.04: continued

(d) misrepresenting or failing to disclose the staffing levels of an Assisted Living Residence in accordance with 651 CMR 12.08(3)(b), whether in total or for a specific time period or shift, by, among other things, counting part-time employees in the same manner as full-time employees, or including staff who do not provide Services directly to Residents.

40.05: Disclosures

(1) It is an unfair or deceptive act or practice in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager or Lessor of and Assisted Living Residence:

(a) to fail to include any information required by state or federal law or statute in a Resident's Residency Agreement, disclosure statements or other residency documents;

(b) to fail to provide any Resident with copies, upon request, of all policies, rules or regulations of the Assisted Living Residence which apply to the conduct of the Resident as a Resident of the Assisted Living Residence, as well as policies describing or setting forth the obligations of the Assisted Living Residence and the Resident regarding the delivery of goods or services to the Resident; or

(c) to fail to meet the reporting requirements of 651 CMR 12.04(14).

(2) It is an unfair or deceptive act or practice in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager or Lessor of and Assisted Living Residence:

(a) to fail to disclose in Clear and Conspicuous writing, at the start of a Resident's tenancy, that, if a resident's income is insufficient to pay for the full amount of their monthly charges, and, if at any time the resident does not have sufficient access to other sources of funding, whether through family, personal assets, or otherwise, to pay the full amount of their monthly charges, and, as a result, the Resident fails to pay their Rent, the Resident could be subject to eviction proceedings and no longer remain a Resident at the Assisted Living Residence; or

(b) to fail to inform a Resident or an authorized Representative of the Resident, directly and through posting in a conspicuous location, the name and contact information of the Long-term Care Ombudsman office and the telephone number of the Elder Abuse Hotline.

(3) It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a legal entity or person to fail to make any disclosure to the EOAI as required during the application for Certification of an Assisted Living Residence as detailed in 651 CMR 12:03(2) and M.G.L. c. 19D.

(4) If an Assisted Living Residence allows non-Residents to use any of its facilities, such as a swimming pool, gymnasium or other meeting or function room, it is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to fail to disclose the fact of such usage to Residents prior to a Resident's signing of a Residency Agreement. Said disclosure shall: inform Residents of the existence of non-regulated programming on-site; disclose the amount of interaction or shared use of the facilities; and describe any resultant impact on Residence staffing.

(5) If an Assisted Living Residence contains a Special Care Unit or is a Special Care Residence, the Residence shall provide a written disclosure statement to the Resident and Resident Representative (if applicable), or Legal Representative describing its special care philosophy and mission and explaining how it implements this philosophy and achieves the stated mission and the licensure, certification, training, or qualification of anyone providing services to Residents in such unit.

40.06: Payments and Billing

(1) Charges. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to fail to itemize in a Clear and Conspicuous manner all bills for Fees, charges, and expenses for the provision of housing, assessments, Resident Services, Personal Care Services, medical services, and additional Services, including enumeration and breakout of the components of all bundled Fees;

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40.06: continued

(b) to impose, seek to impose, or collect a charge related to a Service not proffered or provided to the Resident;
(c) to impose, seek to impose, or collect a charge for a service the Resident did not request or agree to receive, outside of an Emergency requiring medically necessary services;
(d) to impose, seek to impose, or collect a charge for a Service at a rate other than the rate to which the Resident agreed in their Residency Agreement or any amendment thereto;
(e) to increase the price, fee, or charge applicable to a specific Service provided by the Residence without first providing 60 days' notice to all Residents, regardless of whether an individual Resident has agreed to the increase as described in 940 CMR 40.06(d);
(f) to enforce a 30-day notice of vacancy policy in the event of the Resident's death. The assisted living residency shall be entitled to Rent and fees for not more than ten days from the date of the Resident's death. If there is personal property to remove that impedes the reuse of the Resident's unit, the ten-day period shall not begin until after the family, estate, or responsible party has removed the deceased person's personal property. If the room is occupied by a new Resident before the expiration of the ten-day period, Rent and fees for the ten-day period shall be prorated from the date of such occupancy;
(g) to allow any personnel of the Residence to control or manage any Resident's funds or property, except as provided by 651 CMR 12.04(6)(a)6;
(h) to impose any interest or penalty for late payment of Rent unless such payment is more than 30 days overdue; or
(i) to fail to provide within seven business days, a response to any request by a Resident, or on behalf of a Resident by an authorized person, for an accounting of any charges for Rent or Services alleged to have been provided, or for any record or ledger of payments made by, or on behalf of, the Resident.

(2) Financial Assistance. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:
(a) to refuse to engage in an interactive dialogue with a Resident, Resident Representative (if applicable), or Legal Representative upon the Resident's request to participate as a member in a Senior Care Organization, a PACE program, a Group Adult Foster Care program, or similar health maintenance program, which assists a Resident in obtaining assisted living or other Services from a third-party provider; or
(b) to fail to obtain a Resident's written informed consent to have Resident Services, Personal Care Services, home health, medical, or any other Services provided by the Assisted Living Residence directly without coverage by Medicare and Medicaid funds, when such Services otherwise may be covered by a third-party provider which is paid by Medicare or Medicaid funds; or
(c) to fail to or refuse to cooperate with or otherwise comply with a Resident's request to participate as a member of housing subsidy program in order to assist in payment of their rental housing costs, notwithstanding an Assisted Living Residence's right to refuse to accept a Resident's participation in such a program if the program, either in whole or in part when combined with the Resident's own payments, will not cover the market rate for the provision of rental housing.

40.07: Tenancy Protections

(1) Residency Agreement. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to enter into or attempt to enter into a Residency Agreement with a Resident that does not comply with the Residency Agreement requirements of M.G.L. c. 19D, § 14 and 651 CMR 12.08(2).

(2) It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to enter into or attempt to enter into a Residency Agreement with a Resident that:
(a) violates any law intended for the protection, safety and well-being of tenants;
(b) fails to state Clearly and Conspicuously in the rental agreement the conditions upon which an automatic increase in Rent or Fee for Service shall be determined;
(c) contains a penalty clause not in conformity with the provisions of M.G.L. c. 186, § 15B; or

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40.07: continued

(d) contains a tax escalator clause not in conformity with the provisions of M.G.L. c. 186, § 15C.

(3) Arbitration. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to fail to disclose, both orally and in writing, to the Resident and, if applicable, their Legal Representative:

(a) the existence of any arbitration provision within any document they are presented with to sign; and

(b) the impact of signing any arbitration agreement, including but not limited to the fact that the Resident may be forfeiting their right to a jury trial, and their right, as a consumer, to prosecute a claim under M.G.L. c. 93A in court, and that, instead, the Resident may be required to submit to mandatory arbitration to prosecute any such claim.

(4) Residential Units. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to rent a Unit to a Resident that, at the inception of the Resident's tenancy, contains a condition which amounts to a violation of law which may endanger or materially impair the health, safety, or well-being of the Resident, or is unfit for human habitation;

(b) to fail, after notice is provided in accordance with M.G.L. c. 111, § 127L to remedy a violation of law in a Unit which may endanger or materially impair the health, safety, or well-being of the Resident, or maintain the Unit in a condition fit for human habitation;

(c) to fail to disclose to a prospective Resident the existence of any condition amounting to a violation of law within the Unit of which the Assisted Living Residence had knowledge or upon reasonable inspection could have acquired such knowledge at the start of the tenancy;

(d) to represent to a prospective Resident that a Unit meets all requirements of law when, in fact, it contains violations of law;

(e) to fail to make repairs in accordance with a pre-existing representation made to the Resident within a reasonable time after receipt of notice from the Resident;

(f) to fail to comply with the State Sanitary Code or any other law applicable to the conditions of a Unit within a reasonable time after notice of a violation of such code or law from the Resident or a local or state agency;

(g) to retaliate or threaten to retaliate in any manner against a Resident for exercising or attempting to exercise any legal rights as set forth in M.G.L. c. 186, § 18; or

(h) to violate willfully any provisions of M.G.L. c. 186, § 14.

(5) Security Deposit. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence,

(a) at or prior to the commencement of any Resident's tenancy, to require a Resident or prospective Resident to pay any amount more than is authorized by M.G.L. c. 186, § 15B and, if applicable, an assessment Fee to cover the cost of the initial assessment and intake required by 651 CMR 12.04: *General Requirements for an Assisted Living Residence*, unless the Resident is eligible for the medical assistance program under M.G.L. c. 118E.

(b) to fail to keep and maintain any funds collected as last month's Rent or Security Deposit in accordance with the requirements of M.G.L. c. 186, § 15B.

(6) Eviction. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to fail to comply with M.G.L. c. 186 and M.G.L. c. 239 in any dispute or action to evict a Resident;

(b) to deprive a Resident of access to or full use of the Resident's assigned Unit or otherwise exclude the Resident without first obtaining a valid writ of execution for possession of the premises as set forth in M.G.L. c. 239 or such other proceedings authorized by law, or for the purposes of addressing an urgent health or safety issue related to the Unit;

(c) to commence summary process for possession of a Unit before the time period designated in the notice to quit under M.G.L. c. 186, §§ 11 and 12, has expired; provided, however, nothing in 940 CMR 40 shall affect the rights and remedies contained in M.G.L. c. 239, § 1A;

(d) to issue a notice to quit under M.G.L. c. 186, § 11 for any unpaid charges other than Rent; or

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40.07: continued

(e) to include in any notice to quit or summary process complaint a demand for any payments other than for Rent. Such a demand may not include attorney's fees, expenses, penalties, costs, or Fees of any kind.

40.08: Resident Rights

(1) Initial Meeting. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to fail to inform a prospective Resident of their right to be accompanied by a Legal Representative or other adviser prior to scheduling a formal meeting;

(b) to fail to provide during the first meeting with a prospective Resident as part of the application, admission or leasing process, the consumer guide and disclosure of rights and services required by 651 CMR 12.08(3) which incorporates the provisions of 651 CMR 12.08(1); or

(c) to include, as part of the application, admission, or leasing process, any documents printed in less than 14-point type, and in a language other than one which the prospective Resident understands.

(2) Initial Assessment. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to fail to conduct an initial screening and assessment with each Resident as required by 651 CMR 12.04(7), or

(b) to fail to complete an individualized service plan for each Resident upon entry and to update the plan, as required by 651 CMR 12.04(8).

(3) Conditions of Admission. It is an unfair or deceptive act in violation of M.G.L. c. 93A, §2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to require a Resident or a prospective Resident, or their Legal Representative, as a condition for admission, expedited admission, or continued stay in the Assisted Living Residence, to agree to treatment by a physician chosen by the facility or otherwise to limit the Resident's right to choose the Resident's attending physician including by charging the Resident additional fees to see the physician of their choosing;

(b) to require a Resident or a prospective Resident, or their Legal Representative, as a condition of admission, expedited admission, or continued stay in the facility, to purchase medications at or from a pharmacy chosen by the facility, or to otherwise limit the Resident's right to select a pharmacy of the Resident's choice including by charging the Resident additional fees to use the pharmacy of their choosing;

(c) to require a Resident or a prospective Resident, their Legal Representative, as a condition for admission, expedited admission, or continued stay in the Assisted Living Residence, to agree to receive Basic Health Services from a third-party chosen by the Residence or otherwise to limit the Resident's right to choose who provides the Resident's Basic Health Services;

(d) to require a Resident or a prospective Resident, or their Legal Representative, as a condition for admission, expedited admission, or continued stay in the Assisted Living Residence, to agree to waive or limit the Assisted Living Residence's liability for loss of personal property or any injury, financial, personal, or otherwise, suffered as a result of actions on the part of the Assisted Living Residence or of the Assisted Living Residence's employees or agents;

(e) to require a Resident or a prospective Resident, or their Legal Representative, as a condition for admission, expedited admission, or continued stay in the Assisted Living Residence, to agree to pay attorney's fees, incurred in collecting payment from the Resident or in seeking their removal from the Assisted Living Residence; or

(f) to require a Resident or a prospective Resident, or their Legal Representative, as a condition of initial or continued occupancy to provide a third-party guarantee of payment to the Assisted Living Residence, notwithstanding an Assisted Living Residence's right to refuse occupancy to a prospective Resident who cannot provide verification of sufficient income, benefits, and/or assets to pay for all monthly charges. Any guarantee must be strictly voluntary.

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40.08: continued

(4) Facility Operations. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to fail to provide a Resident with a Residency Agreement and disclosure statement that includes all material terms required of Resident Agreement relating to staffing, policies and procedures for Self-administered Medication Management, the role of the nurse(s) (RNs and LPNs) employed by the Assisted Living Residence, a copy of the instruction to Residents in the Residence's Disaster and Emergency Preparedness Plan, and other Resident Rights as set forth in 651 CMR 12.08(3).

(5) Provision of Services. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to fail:

(a) to provide all services included in a Resident's individual service plan;

(b) to comply with any corrective actions ordered by EOAI, or orders issued by any other government agency with authority over the Assisted Living Residence;

(c) to allow any duly designated officer or employee of EOAI access to the Assisted Living Residence to inspect at any time without prior notice any Unit within an Assisted Living Residence, with the permission of the Resident; or

(d) to assist the Long-term Care Ombudsman Program in its duties as required by 101 CMR 30.00: *Statewide Long-term Care Ombudsman Program* and 651 CMR 12.04(10).

(6) Safety and Quality Standards. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to fail to establish and maintain a Quality Assurance and Performance Improvement program to evaluate its operations and services as required by 651 CMR 12.04(11);

(b) to fail to comply with the requirements of 651 CMR 12.04 through 12:07;

(c) to fail to implement a plan to prevent and limit the spread of communicable disease as required by 651 CMR 12.04(13); or

(d) to fail to provide a Resident or, if applicable, the Resident's Legal Representative, upon reasonable request, with the most recent copy of any reports, responses and notices of final action that resulted from an annual or biennial review conducted by EOAI.

(7) Basic Health Services. It is an unfair or deceptive act in violation of M.G.L. c. 93A, §2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to fail to report an incident involving Basic Health Services that causes a Resident harm at the Assisted Living Residence to EOAI not later than 24 hours after said incident.

(8) Retaliation. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to retaliate against a Resident or staff member for reporting or pursuing legal actions against the Assisted Living Residence for any violations of the sanitary code, EOAI regulations, elder abuse, or any other law or regulation which has the purpose of protecting older adults or Residents of an Assisted Living Residence.

(9) Special Care Residences. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to fail to meet Special Care requirements as described in 651 CMR 12.04(5).

40.09: Privacy and Other Personal Rights

(1) Visitation. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to refuse to permit Resident visitation from family, friends, social, legal, or medical supports, a duly appointed designee of the Long-term Care Ombudsman, or other guests of a Resident's choice, unless such visitation would endanger the safety of Residents and staff and the Residence documents any such safety concern.

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40.09: continued

(2) Abuse. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to fail or refuse to effectuate the right of any Resident to be free from verbal, sexual, physical and mental abuse, corporal punishment, and/or involuntary seclusion;

(b) to fail or refuse to effectuate the right of any Resident to be free from discrimination or harassment on the basis of a status protected by state or federal law;

(c) to fail or refuse to effectuate the right of any Resident to be free from any physical or chemical restraints, except in accordance with state and federal law;

(d) to administer or permit the administration of any anti-psychotic drug without a Resident's clear informed consent or to any Resident who has been adjudged incapacitated in making treatment decisions other than pursuant to a court-ordered substituted judgment establishing a treatment plan in accordance with the standards set forth in *Rogers v. Commissioner of Department of Mental Health*, 390 Mass. 489 (1983), subsequent case law, and relevant DPH guidance; or

(e) to fail or refuse to ensure that alleged violations involving mistreatment, neglect or abuse, including injuries of unknown source and/or misappropriation of Resident property, are reported immediately to the Manager of the Assisted Living Residence and within 24 hours to EOAI and other officials in accordance with state law.

(3) Privacy. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to fail or refuse to assure a Resident's privacy during the provision of assisted living services, including but not limited to bathing, dressing and toileting, Basic Health Services, or any other Services provided by the Assisted Living Residence.

(b) to fail or refuse to assure a Resident's privacy within their Unit, subject to rules of the Assisted Living Residence which are reasonably designed to promote the health, safety and welfare of Residents; or

(c) to enter a Resident's unit, without the Resident's permission or without a legitimate purpose related to the operation of the Assisted Living Residence.

(4) Records. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence:

(a) to fail or refuse to permit a Resident and the Resident's Representative, or their Legal Representative, upon an oral or written request, to access within 24 hours all records pertaining to any services provided by the Assisted Living Residence or its contractors to the Resident;

(b) to fail or refuse to provide a Resident and the Resident's Representative (if applicable), or their Legal Representative with a copy of all records pertaining to any services provided by the Assisted Living Residence or its contractors to the Resident within two business days of a Resident's request;

(c) to release a Resident's Personal Information to any individual outside the Assisted Living Residence without the prior written authorization of the Resident and Resident's Representative (if applicable), or their Legal Representative, except to the extent necessary to protect the health or safety of a Resident, guest, or staff member from an urgent threat or as required by state law or regulation.

(5) Emergencies. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to fail or refuse to immediately inform the Resident and the Resident Representative or health care agent (if applicable), and the Legal Representative, if there is:

(a) an accident involving the Resident which results in injury and has the potential for requiring physician intervention;

(b) a significant change in the Resident's physical, mental or psychosocial status (e.g., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications); or

(c) a need to alter the service plan significantly (*e.g.* , a need to discontinue an existing Service, or to augment Services, including by providing or altering the provision of Basic Health Services, as may or may not be offered by the Assisted Living Residence).

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40.09: continued

(6) Grievances. It is an unfair or deceptive act in violation of M.G.L. c. 93A, § 2(a) for a Sponsor, Owner, Operator, Manager, or Lessor of an Assisted Living Residence to:

(a) fail or refuse to permit a Resident to present grievances free from restraint, interference or coercion, discrimination or reprisal, on both their own behalf or on behalf of others, to the facility's staff, to government officials including, but not limited to, a representative of the EOAI or a duly appointed designee of the Long-term Care Ombudsman, if applicable, or to any other person; or

(b) fail to take prompt action to resolve any grievance presented by a Resident or their legal representative, or to fail to respond promptly, to the extent possible, to all requests or inquiries made by a Resident, their legal representative, or a duly appointed designee of the State Long-term Care Ombudsman.

40.10: Relations to Other Laws and Regulations

(1) Although the provisions of 940 CMR 40.00 do not apply to the following entities and premises for the original facilities and services for which said entities and premises were originally licensed or organized to provide, if any such entity seeks to have all or part of its premises advertised, operated or maintained as an Assisted Living Residence it will be subject to 940 CMR 40.00:

(a) Convalescent homes, licensed nursing homes, licensed rest homes, charitable homes for the aged or intermediate care facilities for persons with an intellectual disability licensed pursuant to M.G.L. c. 111, § 71;

(b) Hospices licensed pursuant to the provisions of M.G.L. c. 111, § 57D;

(c) Facilities providing continuing care to residents, as those terms are defined by M.G.L. c. 93, § 76;

(d) Congregate housing authorized by M.G.L. c. 121B, § 39;

(e) Group homes or supported living programs operating under contract with the Department of Mental Health, the Rehabilitation Commission, or the Department of Developmental Services; and

(f) any residential premises available for lease by elderly or disabled individuals that is financed or subsidized in whole or in part by local, state, or federal housing programs established primarily to develop or operate housing rather than to provide housing and personal services in combination; provided, however, that such premises are not currently licensed under M.G.L. c. 111.

40.11: Severability

(1) If any provision of 940 CMR 40.00 or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of 940 CMR 40.00 and the applicability of such provision to other persons or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

940 CMR 40.00: M.G.L. c. 93A, § 2(c).

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