

# The

---

# Massachusetts

---

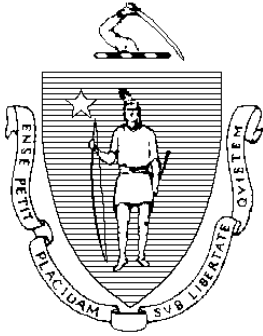
# Register

---

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

**\$15.00**





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

**The Massachusetts Register**  
**TABLE OF CONTENTS**

---

	<u>Page</u>
<b>THE GENERAL COURT</b>	
Acts and Resolves	1
<b>OFFICE OF THE GOVERNOR</b>	
Executive Order No. 574: Establishing the Massachusetts Digital Healthcare Council	5
<b>OFFICE OF THE SECRETARY OF THE COMMONWEALTH</b>	
State Register of Historic Places	9
<b>CENTER FOR HEALTH INFORMATION AND ANALYSIS</b>	
Administrative Bulletin 16-10: 957 CMR 4.00: Uniform Provider Reporting of the Standard Quality Measure Set	11
<b>EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES</b>	
Administrative Bulletin 16-18: 101 CMR 206.00: Standard Payments to Nursing Facilities	21
<b>DIVISION OF MARINE FISHERIES</b>	
Fishery Closure Notice: 2016 Atlantic Sea Herring Fishery in Management Area 1B Closed Effective Friday, November 18	23
<b>ADMINISTRATIVE PROCEDURES</b>	
Notices of Public Review of Prospective Regulations	25
Cumulative Table	135
Notice of Expiration of Emergency Regulation	-
Emergency Regulations	-
Permanent Regulations	155
Future Effective Date Regulations	-

---

**MASSACHUSETTS REGISTER (THE) (ISSN-08963681)** is published biweekly for \$300.00 per year by the Secretary of the Commonwealth, State House, Boston, MA 02133. Second Class postage is paid at Boston, MA. POSTMASTER: Send address change to: Massachusetts Register, State Bookstore, Room 116, State House, Boston, MA 02133.

**Notice of Expiration of Emergency Regulation**

There are no *Notices of Expiration* in this *Massachusetts Register*. -

**Emergency Regulations**

There are no *Emergency Regulations* in this *Massachusetts Register* -

**Permanent Regulations**

**101 CMR Executive Office of Health and Human Services**

411.00 Rates for Certain Placement, Support, and Shared Living Services - *Correction* 155

**106 CMR Department of Transitional Assistance**

343.000 Fair Hearing Rules 157  
*Involves technical corrections and language simplifications that do not change DTA's current policies or procedures, but makes the regulations easier to read and understand for clients, applicants and the general public.*

**109 CMR Department of Youth Services**

11.00 Client Medical Care and Treatment 159  
*Repeals regulation.*

**110 CMR Department of Children and Families**

8.00 Service Denial, Reduction, or Termination 161  
*Revises the time frame for notifying a young adult when the Department denies, reduces or terminates services to a young adult who has turned 18 years of age.*

**130 CMR Division of Medical Assistance**

519.000 MassHealth Coverage Types 163  
*Defines the eligibility criteria for MassHealth coverage types available to individuals 65 years of age or older, and to individuals of any age in need of long-term services and supports.*



		<u>Page</u>
630.000	<b>Home- and Community-based Services Waivers</b> <i>Governs the provision of services to MassHealth members enrolled in the Acquired Brain Injury (ABI) and Money Follows the Person (MFP) home- and community-based services (HCBS) waivers. Updates the regulation to align it with the current ABI and MFP waivers as approved by the Centers for Medicare and Medicaid Services (CMS) and provide additional clarity around the provision of HCBS waiver services.</i>	165
<b>209 CMR</b>	<b>Division of Banks and Loan Agencies</b>	
54.00	Mortgage Lender Community Investment - <i>Correction</i>	167
<b>231 CMR</b>	<b>Board of Registration of Architects</b>	
2.00	General Provisions <i>Provides basic definitions governing the licensure and practice of architecture as well as basic procedures followed by the Board of Registration of Architects.</i>	169
3.00	Procedures for Application, Examination, Registration, and Renewal <i>Provides the basic educational prerequisites to becoming an architect, examination procedures, and continuing education requirements for registered architects.</i>	171
<b>314 CMR</b>	<b>Division of Water Pollution Control</b>	
5.00	Ground Water Discharge Permit Program <i>Establishes the program whereby discharges of pollutants to the ground waters of the Commonwealth are regulated by MassDEP pursuant to the Massachusetts Clean Water Act, M.G.L. c. 21, §§ 26 through 53. Through this regulation MassDEP controls the discharge of pollutants to ground waters to assure that they are protected for their actual and potential use as a source of potable water, and that surface waters are protected for their existing and designated uses. The revisions include new exemptions from permitting for certain discharges that are adequately regulated by another program or agency; a streamlined permit process for administrative renewals; consolidated financial assurance mechanisms.</i>	173

8.00	<b>Supplemental Requirements for Hazardous Waste Management Facilities</b>	175
	<i>Establishes a program to regulate wastewater treatment works exempted from the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, which treat, store or dispose of hazardous wastes generated on the same site to ensure that such activities are conducted in a manner that protects public health, safety and the environment. Updates references to obsolete departments and positions, align definitions with other Department regulations, and update cross-references to other Department regulations and forms.</i>	
<b>330 CMR</b>	<b>Department of Agricultural Resources</b>	
12.00	<b>Licensing and Operation of Pet Shops</b>	177
	<i>Makes typographical corrections and updating the name of the agency and bureau or division that may be listed in order to conform to the current organization of the agency. The name of the agency was changed from the Department of Food and Agriculture to the Department of Agricultural Resources by St. 2003, c. 41. No other changes are proposed.</i>	
<b>453 CMR</b>	<b>Department of Labor and Workforce Development</b>	
7.00	<b>Apprentice Training</b>	179
	<i>Rescinds regulation which was already reissued under a different title and chapter, 454 CMR 26.00.</i>	
<b>651 CMR</b>	<b>Executive Office of Elder Affairs</b>	
15.00	<b>Prescription Advantage Program</b>	181
	<i>Establishes an operational framework for a prescription drug benefit program for elders and younger persons with disabilities as established by statute.</i>	
<b>801 CMR</b>	<b>Executive Office for Administration and Finance</b>	
4.00	<b>Rates</b>	183
	<i>Lists various charges and fees that may be imposed by the Department of Conservation and Recreation (DCR) for a variety of licenses, permits, and services the agency administers and/or provides. Fees for non-Massachusetts residents for camping and parking will be increased.</i>	

## Acts 2016

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
292	H 4185	Authorizing the Town of Acton to Grant 16 Additional Licenses for the Sale of All Alcoholic Beverages and 6 Additional Licenses for the Sale of Wines and Malt Beverages to be Drunk on the Premises.	10/14/2016
293	H 4418	Authorizing the Town of Westborough to Grant Additional Licenses for the Sale of All Alcoholic Beverages to be Drunk on the Premises.	10/14/2016
294	S 2374	Relative to Personal Savings.	10/14/2016
295	H 4364	Relative to Preservation of Evidence for Victims of Rape and Sexual Assault.	10/19/2016
296	S 2091	Authorizing the Town of Middleborough to Grant an Additional License for the Sale of Wines and Malt Beverages not to be Drunk on the Premises.	10/20/2016
297	H 199	Further Regulating the Recorking of Wine	10/20/2016
298	H 4455	Creating a Special Commission Studying Cutting, Welding and Hot Work Processes Regulated by the State Fire Code.	10/20/2016
299	H 4589	Validating the Actions Taken at a Special Town Election Held in the Town of Westport.	10/27/2016
300	H 4609	Authorizing the Town of Foxborough to Grant 4 Additional Licenses for the Sale of All Alcoholic Beverages to be Drunk on the Premises.	10/27/2016
301	H 4641	Establishing a Sick Leave Bank for Robert Clark, an Employee of the Department of Mental Health.	10/27/2016
302	S 2484	Establishing a Sick Leave Bank for Donna Paul, an Employee of the Department of Correction.	10/27/2016
303	H 4412	Establishing a Landfill Solar Special Revenue Fund in the Town of Dennis.	10/28/2016
304	H 4598	Relative to a Municipal Employee in the Town of Lee, The Town of Lenox or the Town of Stockbridge Acting in Relation to an Intermunicipal Agreement.	11/3/2016
305	H 3742	Establishing a Year-Round Market Rate Rental Housing Trust Fund in the Town of Provincetown.	11/3/2016
306	H 3664	Authorizing the Town of Orleans to Lease a Certain Parcel of Land.	11/3/2016

## Acts 2016

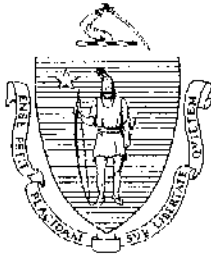
CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
307	H 3715	Further Regulating Certain Licenses for the Sale of All Alcoholic Beverages to be Drunk on the Premises in the Town of Northborough.	11/3/2016
308	H 4550	Authorizing the Town of Foxborough to Grant 3 Additional Licenses for the Sale of All Alcoholic Beverages to be Drunk on the Premises.	11/3/2016
309	H 4536	Relative to the Middlesex Canal Commission.	11/3/2016
310	H 4586	Authorizing the City of Beverly to Grant Additional Licenses for the Sale of Alcoholic Beverages	11/10/2016
311	H 4380	Changing the Membership of the Old and Historic District Commission of the Town of Marblehead and Lengthening the Commission's Determination Period for a Certificate of Appropriateness	11/10/2016
312	H 3569	Relative to the Charter of the City of Chelsea	11/10/2016
313	H 4382	Validating the Results of a Certain Election in the Town of East Longmeadow	11/17/2016
314	H 3938	Authorizing the Division of Capital Asset Management and Maintenance to Convey a Certain Parcel of Land in the Town of Foxborough to the Foxborough Housing Authority	11/17/2016
315	S 2494	Establishing a Sick Leave Bank for Aaron Paul, an Employee of the Department of Correction	11/17/2016
316	S 2498	Establishing a Sick Leave Bank for Karen Tavernier, an Employee of the Massachusetts Department of Transportation	11/17/2016
317	H 4704	Establishing a Sick Leave Bank for Mary Katherine Sheehan, an Employee of the Trial Court	11/17/2016
318	H 3966	Further Regulating the Lease of a Certain Parcel of Land in the Town of Plymouth	11/17/2016
319	S 2483	Amending the Charter of the Town of Wareham Relative to the Time of Town Meeting.	11/22/2016
320	S 2368	Elimating Sub-Precinct 9A in the Town of Andover	11/29/2016
321	H 4175	Relative to Municipal Elections in the City of Somerville	11/29/2016
322	S 2355	Relative to the Membership of the Conservation Commission of the Town of Sturbridge	11/29/2016

## Acts 2016

<b>CHAPTER NUMBER</b>	<b>BILL NUMBER</b>	<b>TITLE</b>	<b>DATE</b>
323	H 4025	Exempting the Position of Police Chief in the Town of Orange from the Civil Service Law	11/29/2016
324	H 4642	Establishing a Sick Leave Bank for Rhodaja Shubrick, an Employee of the Department of Transitional Assistance	11/29/2016
325	S 2499	Establishing a Commission on Malnutrition Prevention Among Older Adults	11/29/2016

## Resolves 2016

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
1	S 2426	To Establish a Special Commission to Consider an Appropriate Tribute to Nelson Mandela in the City of Boston.	8/2/2016
2	S 1984	Creating a Commission to Study Ways to Prevent Bullying of Tenants in Public and Subsidized Multi-Family Housing.	8/10/2016
3	S 2296	Establishing the Special Commission on Local and Regional Public Health.	8/12/2016
4	H 4627	Establishing a Task Force on Integrity In State and Local Government.	11/22/2016



OFFICE OF THE GOVERNOR  
COMMONWEALTH OF MASSACHUSETTS  
STATE HOUSE • BOSTON, MA 02133  
(617) 725-4000

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

**By His Excellency**

**CHARLES D. BAKER**  
GOVERNOR

**EXECUTIVE ORDER NO. 574**

**ESTABLISHING THE MASSACHUSETTS DIGITAL HEALTHCARE COUNCIL**

WHEREAS, the digital healthcare industry is a rapidly growing industry with the potential to significantly improve healthcare delivery and contain costs;

WHEREAS, Massachusetts's strong base of established and startup healthcare companies, robust investment community, high rate of use of electronic health records, and unparalleled healthcare providers, universities, and research institutions uniquely position the Commonwealth to lead in the growth of the worldwide digital healthcare industry;

WHEREAS, private sector innovators, leaders and mentors are partnering with institutional researchers to create the nation's top innovation economy, and a globally-leading life sciences sector;

WHEREAS, as a result, vibrant digital healthcare innovation hubs are already emerging in Boston, Worcester, and Springfield;

WHEREAS, Massachusetts can best capitalize on its resources and position by convening stakeholders, participants, and experts in the digital healthcare industry to determine the best means for the state to support the industry in Massachusetts; and

WHEREAS, targeted support of the digital healthcare industry can bring new jobs and investment, improved healthcare outcomes, and reduced costs to the Commonwealth; and

WHEREAS, working together, we can set and achieve the goal of creating the leading global ecosystem for the digital healthcare industry here in Massachusetts;

NOW, THEREFORE, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. I, do hereby order as follows:

Section 1. There is hereby established within the Executive Office of Housing and Economic Development a Massachusetts Digital Healthcare Council (the "Council") to advise the Governor regarding the digital healthcare industry and to develop a growth plan to achieve the goal of creating the leading global ecosystem for the digital healthcare industry in Massachusetts.

Section 2. The Council shall be co-chaired by the Assistant Secretary of Innovation, Technology, and Entrepreneurship and a second member of the council designated by the Governor. The Council shall also include the Secretary of the Executive Office of Health and Human Services or her designee, Undersecretary of Housing and Community Development, and no fewer than fifteen or more than forty persons who shall be appointed by the Governor and serve at the pleasure of the Governor. Appointed council members shall include representatives of the diverse groups participating in the digital healthcare industry, including providers, payers, investors, universities, and quasi-public agencies supporting the science and technology sectors of the Massachusetts economy.

Section 3. The Council's primary responsibility shall be to deliver to the Governor, by August 15, 2017, a three-year growth plan that will make recommendations and establish clear objectives for the state to promote and accelerate digital healthcare innovation across the Commonwealth. In formulating this plan, the Council shall consider and address:

- a. The resources and strategies needed to help early, mid-stage, and scaling digital healthcare companies grow and compete;
- b. Opportunities to help the digital healthcare marketplace build better connections among digital healthcare customers and innovators, helping bring new ideas to market;
- c. The alignment between the policies, programs, and resources of the Commonwealth and the workforce needs of the industry;
- d. The strengths of different regions in the Commonwealth, and how the industry can continue to thrive and offer benefits across the entire state;
- e. Opportunities for the Commonwealth, as a payer and customer of healthcare innovation, to harness the benefits of digital healthcare;
- f. Strategies for Massachusetts to capitalize on the benefits of cross-sector collaboration in digital health, to ensure global leadership which benefits from advances in data analytics and cybersecurity;
- g. Potential changes to laws, policies and regulations in order to support digital healthcare innovation; and
- h. Opportunities to publicize and promote the digital healthcare sector and the Commonwealth's unique resources.



The Council shall also establish and support programs and projects in order to implement the growth plan, and produce annually on the date of the signing of this executive order a written report that describes the Council's activities and progress towards its objectives.

Section 4. The Council shall establish a Strategy Steering Committee consisting of not more than sixteen Council members designated by the Co-Chairs. The Strategy Steering Committee shall meet as often as required until the growth plan is delivered to the Governor and may continue to meet as necessary thereafter. The Council shall meet at least four times annually. The Council may establish such additional committees and working groups as are necessary and appropriate to carry out its duties and responsibilities.

Section 5. The Executive Office of Housing and Economic Development shall provide staff support for the Council and shall seek additional staff support from the Massachusetts eHealth Institute at the Massachusetts Technology Collaborative.

Section 6. The Council, its committees, and its working groups are empowered to hold public meetings, fact-finding hearings, and other public forums to solicit feedback from business leaders, researchers, healthcare providers, healthcare consumers, and other interested persons. The Council shall consider information received from these sources in the development of its recommendations.

Section 7. The Council shall terminate four years after the signing of this order.



Given at the Executive Chamber in Boston this 17<sup>th</sup> day of November in the year of our Lord two thousand sixteen and of the Independence of the United States of America two hundred forty-one.

Handwritten signature of Charles D. Baker in black ink.

CHARLES D. BAKER  
GOVERNOR  
Commonwealth of Massachusetts

Handwritten signature of William Francis Galvin in black ink.

WILLIAM FRANCIS GALVIN  
Secretary of the Commonwealth

**GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS**



# STATE REGISTER OF HISTORIC PLACES

**WEEKS OF:** October 15, 2016 – November 18, 2016

For further information call the Massachusetts Historical Commission (617-727-8470)

ACTIONS TAKEN UNDER 950 CMR 71.00			
Town/Property/Agency NONE	Finding	Date	
<b>ADDITIONAL LISTINGS UNDER 950 CMR 71.00</b>			
Town/Name/Address	Designation	Date	Number of Properties
<b>Amesbury</b> Rocky Hill Meeting House and Parsonage 255 Elm St	PR	07/29/2016	2
<b>Ipswich</b> Ipswich Old Town Hall-Ipswich Unitarian Church 30 South Main St	PR	10/14/2016	1
<b>Leominster</b> Drake, Frances H. & Jonathon House 21 Franklin St	PR	07/20/2016	2
<b>Marblehead</b> Fort Sewall-Fort on Gale's Head 11 Fort Sewall Terr	PR	06/16/2016	1
<b>Mendon</b> Union Chapel (Taft Public Library) 18 Main St	PR	08/02/2016	1
<b>Petersham</b> District No. 4 School 191 East St	NRIND	10/11/2016	3
<b>Stockbridge</b> Curtisville Stone Bridge Willard Hill Rd and Interlaken Cross Rd	PR	05/20/2016	1
<b>Williamstown</b> Boston Finishing Works 160 Water St	NRIND	10/04/2016	11



SECRETARY OF HEALTH  
2016 NOV 17 PM 3:42



## ADMINISTRATIVE BULLETIN 16-10

### 957 CMR 4.00: Uniform Provider Reporting of the Standard Quality Measure Set

Effective November 18, 2016

The Center for Health Information and Analysis (Center) is issuing this Administrative Bulletin in accordance with 957 CMR 4.05(1) to notify Providers, as defined in 957 CMR 4.02, of the updates to the quality measures in the Standard Quality Measure Set (SQMS).

The changes to the SQMS outlined below were recommended to the Center by the Statewide Quality Advisory Committee (SQAC) on October 31, 2016. Pursuant to M.G.L. c. 12C, § 14, the SQAC is required to make its recommendation of SQMS measures to the Center annually, on or before November 1. The SQAC's 2016 recommendation added six measures to and removed twenty-one measures from the SQMS.

The six measures that were added are:

1. Follow-up after emergency department visit for mental illness (IIEDIS)
2. Follow-up after emergency department visit for alcohol or other drug dependence (HEDIS)
3. Depression remission or response for adolescents and adults (HEDIS)
4. Statin therapy for patients with cardiovascular conditions (HEDIS)
5. Statin therapy for patients with diabetes (HEDIS)
6. Patients discharged on multiple antipsychotic medications with appropriate justification (HBIPS 5)

The twenty-one measures that were removed are:

1. Use of appropriate medications for people with asthma (HEDIS)
2. Human Papillomavirus vaccine for female adolescents (HEDIS)
3. Evaluation of Left Ventricular Systolic (LVS) function (HF-2)
4. Surgery patients on beta-blocker therapy prior to arrival who received beta-blocker during the perioperative period (SCIP-Card-2)
5. Prophylactic antibiotics discontinued within 24 hours after surgery end time (SCIP-Inf-3a)
6. Surgery patients who received appropriate venous thromboembolism prophylaxis within 24 hours prior to surgery to 24 hours after surgery (SCIP-VTE-2)
7. Cardiac surgery patients with controlled postoperative blood glucose (SCIP-Inf-4)

501 BOYLSTON STREET  
BOSTON, MA 02119

T 617 701 8300  
F 617 727 7652

8. Home management plan of care document given to patient/caregiver (CAC-3)
9. Detailed discharge instructions (HF-1)
10. Patients discharged on multiple antipsychotic medications (IIBIPS-4)
11. Annual dental visit (HEDIS)
12. Aspirin use and discussion (HEDIS)
13. CAHPS Health Plan Survey v 3.0 children with chronic conditions supplement (HEDIS)
14. Counseling on physical activity in older adults (HEDIS)
15. Fall risk management (IIEDIS)
16. Flu shots for adults ages 18-64 (HEDIS)
17. Flu shots for adults ages 65 and older (HEDIS)
18. Medical assistance with smoking and tobacco use cessation (HEDIS)
19. Osteoporosis testing in older women (HEDIS)
20. Pneumococcal vaccination status for older adults (IIEDIS)
21. Urinary incontinence management in older adults (HEDIS)

The SQMS now includes the following measures:

#### Physician Group/Practice Measures

Count	Measure/Tool Name	Set	NQF #
1	Consumer assessment of healthcare providers and systems (CAHPS) - clinician & group survey	CAHPS	5
2	Therapeutic monitoring: Annual monitoring for patients on persistent medications	HEDIS	2371
3	Use of spirometry testing in the assessment and diagnosis of chronic obstructive pulmonary disease (COPD)	IIEDIS	577
4	Controlling high blood pressure	HEDIS	18
5	Comprehensive diabetes care	HEDIS	
6	Disease modifying anti-rheumatic drug therapy for rheumatoid arthritis	HEDIS	54
7	Osteoporosis management in women who had a fracture	IIEDIS	53
8	Pharmacotherapy of chronic obstructive pulmonary disease (COPD) exacerbation	HEDIS	2856
9	Medication management for people with asthma	HEDIS	1799
10	Asthma medication ratio	HEDIS	1800

11	Potentially harmful drug-disease interactions in the elderly	HEDIS	
12	Avoidance of antibiotic treatment in adults with acute bronchitis	HEDIS	58
13	Use of imaging studies for low back pain	HEDIS	52
14	Use of high-risk medications in the elderly	HEDIS	22
15	Care for older adults - medication review	HEDIS	553
16	Persistence of beta-blocker treatment after a heart attack	HEDIS	71
17	Medication reconciliation post-discharge	HEDIS	554
18	Appropriate treatment for children with upper respiratory infection	HEDIS	69
19	Well-child visits in the third, fourth, fifth and sixth years of life	HEDIS	1516
20	Appropriate testing of children with pharyngitis	HEDIS	
21	Follow-up care for children prescribed ADHD medication	HEDIS	108
22	Adolescent well-care visits	HEDIS	
23	Childhood immunization status	HEDIS	38
24	Immunizations for adolescents	HEDIS	1407
25	Lead screening in children	HEDIS	
26	Weight assessment and counseling for nutrition and physical activity for children/adolescents	HEDIS	24
27	Children and adolescents' access to primary care practitioners	HEDIS	
28	Frequency of ongoing prenatal care	HEDIS	1391
29	Prenatal and postpartum care	HEDIS	1517
30	Well-child visits in the first 15 months of life	HEDIS	1392

31	Breast cancer screening	HEDIS	2372
32	Colorectal cancer screening	HEDIS	34
33	Cervical cancer screening	HEDIS	32
34	Chlamydia screening in women	HEDIS	33
35	Adult BMI assessment	HEDIS	
36	Adults' access to preventive/ambulatory health services	HEDIS	
37	Initiation and engagement of alcohol and other drug dependence treatment	HEDIS	4
38	Antidepressant medication management	HEDIS	105
39	Follow-up after hospitalization for mental illness	HEDIS	576
40	Adherence to antipsychotics for individuals with schizophrenia	HEDIS	1879
41	Diabetes screening for people with schizophrenia or bipolar disorder who are using antipsychotic medications	HEDIS	1932
42	Diabetes monitoring for people with diabetes and schizophrenia	HEDIS	1934
43	Cardiovascular monitoring for people with cardiovascular disease and schizophrenia	HEDIS	1933
44	Non-recommended cervical cancer screening in adolescent females	HEDIS	
45	Non-recommended PSA-based screening in older men	HEDIS	
46	Use of multiple concurrent antipsychotics in children and adolescents	HEDIS	
47	Metabolic monitoring for children and adolescents on antipsychotics	HEDIS	2800
48	Use of first-line psychosocial care for children and adolescents on antipsychotics	HEDIS	2801
49	Follow-up after emergency department visit for mental illness ◊	HEDIS	2605
50	Follow-up after emergency department visit for alcohol or other drug dependence ◊	HEDIS	2605



51	Depression remission or response for adolescents and adults ◊	HEDIS	
52	Statin therapy for patients with cardiovascular conditions ◊	HEDIS	
53	Statin therapy for patients with diabetes ◊	HEDIS	
54	Asthma in younger adults admission rate (PQI 15)	PQI	283
55	Chronic obstructive pulmonary disease (COPD) or asthma in older adults admission rate (PQI 5)	PQI	275
56	Heart failure admission rate (PQI 8)	PQI	277
57	Diabetes short-term complications admission rate (PQI 1)	PQI	272
58	Low birth weight rate (PQI 9)	PQI	278
59	Screening for clinical depression and follow-up plan		418
60	Preventive care & screening: Tobacco use: Screening and cessation intervention	AMA-PCPI	28
61	Preventive care & screening: Unhealthy alcohol use: screening & brief counseling	AMA-PCPI	2152
62	Asthma emergency department Visits		
63	Depression utilization of the PHQ-9 tool	MN Community Management	712
64	Maternal depression screening		
65	Depression screening by 18 years of age		

### Hospital Measures

Count	Measure/Tool Name	Set	NQF #
66	VTE prophylaxis (STK-1)	STK	434
67	Thrombolytic therapy (STK-4)	STK	437

68	Discharged on statin (STK-6)	STK	439
69	Stroke education (STK-8)	STK	
70	VTE prophylaxis (VTE-1)	VTE	371
71	ICU VTE prophylaxis (VTE-2)	VTE	372
72	VTE patients w/anticoagulation (VTE-3)	VTE	373
73	VTE Warfarin therapy discharge instructions (VTE-5)	VTE	
74	Hospital acquired potentially-preventable VTE (VTE-6)	VTE	
75	Severe sepsis & septic shock: Management bundle (SEP-1)	SEP	500
76	Influenza immunization (IMM 2)	IMM	1659
77	Relievers for inpatient asthma (CAC 1)	CAC	
78	Systemic corticosteroids for inpatient asthma (CAC 2)	CAC	
79	Hospital-wide all-cause unplanned readmission measure (IIWR)	Yale/CMS	1789
80	Timely transmission of transition record (CCM 3)	AMA-PCPI	648
81	Fibrinolytic therapy received within 30 minutes of hospital arrival (AMI 7a)	AMI	
82	Hospital consumer assessment of healthcare providers and systems (HCAHPS)	CAHPS	166/ 228
83	Computerized physician order entry standards		
84	Pressure ulcer rate (PSI 3)	PSI	
85	Iatrogenic pneumothorax rate (PSI 6)	PSI	346
86	Central venous catheter-related blood stream infection rate (PSI 7)	PSI	
87	Post-operative respiratory failure rate (PSI 11)	PSI	533

88	Perioperative pulmonary embolism or deep vein thrombosis (PE/DVT) Rate (PSI 12)	PSI	450
89	Unrecognized abdominopelvic accidental puncture or laceration rate (PSI 15)	PSI	345
90	Post-operative hip fracture rate (PSI 8)	PSI	
91	Birth trauma rate: Injury to neonates (PSI 17)	PSI	
92	Obstetric trauma: Vaginal delivery with instrument (PSI 18)	PSI	
93	Obstetric trauma: Vaginal delivery without instrument (PSI 19)	PSI	
94	Patients discharged on multiple antipsychotic medications with appropriate justification (HBIPS 5) ◊	HBIPS	560
95	Post-discharge continuing care plan transmitted to next level of care provider upon discharge (HBIPS 7)	HBIPS	
96	Post-discharge continuing care plan created (HBIPS 6)	HBIPS	
97	Elective deliveries (PC-01)	PC	469
98	Cesarean section (PC-02)	PC	471
99	Antenatal steroids (for high risk newborn deliveries) (PC-03)	PC	476
100	Health care-associated bloodstream infections in newborns (PC-04)	PC	1731
101	Exclusive breast milk feeding (PC-05)	PC	480
102	Newborn bilirubin screening		
103	DVT prophylaxis in women undergoing cesarean section		473
104	Incidence of episiotomy		470
105	Aortic valve replacement		
106	Survival predictor for pancreatic resection surgery		
107	Patient safety composite (PSI 90)	PSI	531

108	Pneumonia 30-day mortality rate (risk-adjusted)		468
109	Heart failure 30-day mortality rate for patients 18 and older (risk-adjusted)		229
110	AMI 30-day mortality rate (risk-adjusted)		230
111	National Healthcare Safety Network (NHSN) hospital-onset methicillin resistant staphylococcus bacteremia aureus (MRSA)		1716
112	National Healthcare Safety Network (NIISN) central-line associated bloodstream infection		139
113	National Healthcare Safety Network (NHSN) hospital-onset <i>C. difficile</i>		1717
114	National Healthcare Safety Network (NHSN) catheter-associated urinary tract infections		138
115	American College of Surgeons – Centers for Disease Control and Prevention (ACS-CDC) harmonized procedure specific surgical site (SSI) outcome measure	CDC	753
116	30-day all-cause risk-standardized readmission rate following AMI hospitalization		505
117	30-day all-cause risk-standardized readmission rate following heart failure (HFrEF) hospitalization		330
118	30-day all-cause risk-standardized readmission rate following pneumonia hospitalization		506
119	30-day all-cause risk-standardized readmission rate following acute ischemic stroke hospitalization		
120	30-day all-cause risk-standardized readmission rate following CABG surgery		2515
121	30-Day all-cause risk-standardized readmission rate following COPD hospitalization		1891
122	30-day all-cause risk-standardized readmission rate following elective primary THA and/or TKA		1551

### Post-Acute Measures

Count	Measure/Tool Name	Set	NQF #
123	Acute care hospitalization (risk-adjusted)	OASIS	171
124	Emergency department use without hospitalization (risk-adjusted)	OASIS	173

125	Timely initiation of care	OASIS	526
126	Percent of residents with pressure ulcers that are new or worsened (short-stay) (risk-adjusted)	CMS- Minimum Data Set (MDS)	678
127	Percent of high risk residents with pressure ulcers (long stay) (risk-adjusted)	CMS- Minimum Data Set (MDS)	679
128	Percent of residents who self-report moderate to severe pain (short-stay)	CMS- Minimum Data Set (MDS)	676
129	Percent of residents who self-report moderate to severe pain (long-stay) (risk-adjusted)	CMS- Minimum Data Set (MDS)	677
130	Proportion admitted to hospice for less than 3 days		216
131	Advance care plan	AMA-PCPI/NCQA	326
132	Palliative and end of life care: Dyspnea screening & management		
133	Hospice and palliative care pain screening*	HIS	1634
134	Hospice and palliative care – pain assessment*	HIS	1637
135	Hospice and palliative care – dyspnea screening*	HIS	1639
136	Hospice and palliative care – dyspnea treatment*	HIS	1638
137	Hospice and palliative care – beliefs/values addressed*	HIS	1647
138	Hospice and palliative care – treatment preferences*	HIS	1641

**Key**

\* May apply to care delivered in acute and non-acute settings

◇ Measure added in 2016





The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
One Ashburton Place  
Boston, Massachusetts 02108

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

**Administrative Bulletin 16-18**

**101 CMR 206.00: Standard Payments to Nursing Facilities**

Tel: (617) 573-1600  
Fax: (617) 573-1891  
[www.mass.gov/eohhs](http://www.mass.gov/eohhs)

Effective October 1, 2016

**Nursing Facility Direct Care Add-On**

The Executive Office of Health and Human Services is issuing this Administrative Bulletin pursuant to 101 CMR 206.06(13) to set forth the compliance criteria, reporting requirements, penalty amount, and recovery procedures for the add-on for direct care staff.

**1. Compliance Criteria**

- (a) **Eligible Staff:** As specified at 101 CMR 206.06(13)(c), each facility must spend the entire amount of its direct care add-on revenue for the following staff employed by the facility: certified nursing assistants (CNAs), licensed practical nurses (LPNs), registered nurses (RNs), dietary aides, housekeeping aides, laundry aides, activities staff, and social workers. Facilities may spend the amount for all of these positions or only a subset of these positions. Facilities may not spend direct care add-on revenue for temporary nursing service, contract employees, or directors of nursing.
- (b) **Permissible Use:** As specified at 101 CMR 206.06(13)(c), facilities must spend direct care add-on funding on one or more of the following uses for eligible staff identified in paragraph a above: increased wages, increased benefits, overtime pay, and bonuses. Spending for those permissible uses occurring on or after July 1, 2016, will be considered permissible use of direct care add-on funding.

**2. Compliance Determination**

- (a) Facilities will be required to submit data to EOHHS using the Nursing Facility Direct Care Add-on Compliance Form ("Compliance Form") as described in section 5 below.
- (b) Using the data provided on the Compliance Form, EOHHS will determine the amount of spending that will be counted toward compliance. These amounts will include the sum of two amounts:
  - i. the total amount paid by the facility in bonuses to eligible staff between July 1, 2016, and September 15, 2017; and
  - ii. the amount of increased spending in eligible staff wages, benefits, and overtime pay per hour between a base period of January 1, 2016, through June 30, 2016, and a rate period of July 1, 2016, through June 30, 2017. The amount of increased spending is determined by multiplying the difference in the direct care per hour spending between the rate period and the base period by the number of direct care hours in the rate period.
- (c) EOHHS will compare the amount of spending counted toward compliance with the amount of direct care add-on revenue received to determine if the facility has complied. EOHHS will provide each facility with a compliance calculation and notify the facility of its determination.

**3. Penalty Amount**

If EOHHS determines that facility has failed to spend the full amount or impermissibly spent any amount of its direct care add-on funding according to the requirements of 101 CMR 206.06(13) and this



administrative bulletin, the facility will be assessed a penalty of 25% of the unspent or impermissibly spent amount.

#### 4. **Penalty and Recovery Procedures**

- (a) If EOHHS notifies a facility that it has failed to spend the full amount of its direct care add-on revenue according to the requirements of 101 CMR 206.06(13) and this administrative bulletin, the facility will have 60 days from the date of the notification to issue a one-time bonus to employees in the amount of the unspent funds. The facility will be required to provide to EOHHS documentation demonstrating that the bonus was paid to the employees.
- (b) If the facility fails to issue a one-time bonus within 60 days as described in 4(a), EOHHS may recoup the entire amount of unspent or impermissibly spent direct care add-on funds from the facility pursuant to 130 CMR 450.260(F), **plus** a penalty of 25% of the unspent or impermissibly spent amount as described in section 3 pursuant to 130 CMR 450.238-240.

#### 5. **Reporting Requirements**

- (a) Facilities will be required to complete an Interim and Final Compliance Form in electronic format as specified by EOHHS. The website URL for the electronic submission will be provided at a later date along with compliance form instructions.
- (b) Facilities must submit a completed interim Compliance Form to EOHHS no later than April 30, 2017, and a final Compliance form no later than September 30, 2017.
- (c) All data reported on the Compliance Form is subject to review and audit by EOHHS, the Center for Health Information and Analysis, or their designated contractors in accordance with 130 CMR 450.205 and other applicable regulations. The audits may include field or desk audits, and facilities may be required to provide additional supporting documents including but not limited to payroll records.
- (d) All data reported on the Compliance Form must be reported on an accrual basis. Note that the accrual of paid leave time must be consistent between the base and rate periods. For example, do not accrue vacation time in the rate period while failing to accrue vacation time in the base period.
- (e) *Buyer/Seller Arrangements:* A provider that purchased a facility during or after the base period remains responsible for ensuring that the direct care add-on was used in compliance with EOHHS regulations. If the purchase occurred after September 30, 2016, the facility must use data from the seller in its calculation. If the sale was during the base period or rate period, the data must be summed for the two owners.
- (f) *New or Closed Facilities:* Facilities that closed or entered receivership during the rate period are still obligated to fulfill the requirements of the direct care add-on and complete the Compliance Form. New facilities must complete the Compliance Form as instructed and indicate the open date of the facility.





David E. Pierce, Ph.D.  
Director

# Commonwealth of Massachusetts

## Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617) 626-1520

fax (617) 626-1509



Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

George N. Peterson, Jr.  
Commissioner

Mary-Lee King  
Deputy Commissioner

### FISHERY CLOSURE NOTICE

#### **2016 ATLANTIC SEA HERRING FISHERY IN MANAGEMENT AREA 1B CLOSED EFFECTIVE FRIDAY, NOVEMBER 18**

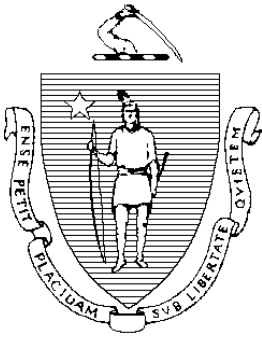
Pursuant to the notice and public comment requirements at G.L. c. 130 §3 and under the authorities at G.L. c. 130 §§17A, 21 and 80 and 322 CMR §§6.41(2)(c), 7.01(7) and 9.05(2), the quota for Atlantic sea herring in Management Area 1B, as established at 322 CMR § 9.02(1) has been taken and the directed Atlantic sea herring fishery in Management Area 1B is closed effective November 18, 2016 through December 31, 2016. During this closed period, permitted vessels may catch, possess or land an incidental catch of up to 2,000 pounds of Atlantic sea herring taken from Management Area 1B. This action affects any vessel registered under the laws of the Commonwealth.

This closure also applies to dealers, authorized in accordance with G.L. c. 130 §80 and 322 CMR §§7.01(3) and 7.07(3) to purchase Atlantic sea herring directly from commercial fishermen. In accordance with 322 CMR §§7.01(7), 7.07(5)(b) and 9.05, these dealers are prohibited from purchasing or receiving more than 2,000 pounds of sea herring per vessel during any calendar day or from any fishing trip that occurred within Management Area 1B, except if otherwise authorized by the Director.

Dated: November 18, 2016

By: \_\_\_\_\_





**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**

---

December 2, 2016

Children and Families,  
Department of



CMR 1.00

Written comments  
accepted on or before  
12/23/16.

110 CMR 2.00

Written comments  
accepted on or before  
12/23/16.

110 CMR 4.00

Written comments  
accepted on or before  
12/23/16.

110 CMR 18.00

Written comments  
accepted on or before  
12/23/16.

Deaf and Hard of Hearing,  
Commission for the

112 CMR 6.00

Written comments  
accepted on or before  
12/23/16.

Health Care Finance and Policy,  
Department of

114.1 CMR 2.00, 17.00,  
36.00 & 42.00; 114.2 CMR  
2.00 & 5.00; 114.5 CMR  
2.00, 8.00, 9.00, 11.00, 19.00,  
21.00 & 22.00; 114.6 CMR  
10.00, 11.00 & 12.00

Written comments  
accepted until 12/19/16  
@ 5:00 P.M.

Medical Assistance, Division of

130 CMR 420.000

Written comments  
accepted until 12/23/16  
@ 5:00 P.M.

130 CMR 501.000, 502.000,  
503.000, 505.000, 506.000,  
515.000, 516.000, 517.000,  
518.000, 520.000, 522.000  
& 610.000

12/16/16 @ 10:00 A.M.  
Written comments  
accepted until 12/16/16  
@ 5:00 P.M.

Public Health, Department of	105 CMR 150.000, 151.000, & 153.000	12/19/16 @ 12:00 P.M. Written testimony accepted until 12/23/16 @ 5:00 P.M.
	105 CMR 155.000, 156.000, & 157.000	12/21/16 @ 1:00 P.M. Written testimony accepted until 12/28/16 @ 5:00 P.M.
	105 CMR 725.000	1/3/17 @ 10:00 A.M.; 1/5/17 @ 10:00 A.M. Written testimony accepted until 1/6/17 @ 5:00 P.M.
Transitional Assistance, Department of	106 CMR 705.000	Written comments accepted on or before 12/9/16.
	106 CMR 706.000	Written comments accepted on or before 12/9/16.



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Children and Families  
600 Washington Street, 6<sup>th</sup> Floor  
Boston, MA 02111*

*Tel.: 617-748-2000 Fax: 617-261-7435  
www.mass.gov/dcf*

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

LINDA S. SPEARS  
Commissioner

NOTICE OF PROPOSED AMENDMENT OF REGULATIONS

Notice is hereby given that the Department of Children and Families (“DCF”) proposes to amend its regulations at 110 CMR 1.00 (Principles and Responsibilities), under the authority of G.L. c. 18B §§ 3 and 7; G.L. c. 119 § 37; and G.L. c. 30A, § 3.

The regulation is being revised to update the Department’s governing principles to be consistent with changes to the Department’s mission and vision statements, guiding principles and values and revisions needed to its non-discrimination regulation.

Individuals wishing to submit public comment may do so by sending comments to Thomas P. Weierman, Deputy General Counsel, Department of Children and Families, 600 Washington Street, 6<sup>th</sup> Floor, Boston, MA 02111 or by email to [thomas.p.weierman@state.ma.us](mailto:thomas.p.weierman@state.ma.us) on or before December 23, 2016.

Individuals wishing to review the current draft of the proposed amendments may find a copy at [www.Mass.Gov/dcf](http://www.Mass.Gov/dcf) or may request a copy in writing or in person from Office of the General Counsel, Department of Children and Families, 600 Washington Street, 6<sup>th</sup> Floor, Boston MA 02111, by e-mail at [thomas.p.weierman@state.ma.us](mailto:thomas.p.weierman@state.ma.us), or by calling (617) 748-2020.

By order of the Department of Children and Families,

Linda S. Spears

Commissioner

December 2, 2016

## Small Business Impact Statement

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

**Agency: Department of Children and Families**

**CMR No: 110 CMR 1 – Principles and Responsibilities of the Department of Children and Families**

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

**The obligations in the regulation apply solely to the Department of Children & Families and families involved with the Department.**

### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) The regulation describes the mission, vision and value the agency applies when working with families as well as the agency non-discrimination regulation and values in working with other unique populations, such as Native Americans. These requirements apply to all Department cases and need operational standards.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The regulation does not affect small business.



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Children and Families  
600 Washington Street, 6<sup>th</sup> Floor  
Boston, MA 02111*

*Tel.: 617-748-2000 Fax: 617-261-7435  
www.mass.gov/dcf*

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

LINDA S. SPEARS  
Commissioner

## NOTICE OF PROPOSED AMENDMENT OF REGULATIONS

Notice is hereby given that the Department of Children and Families (“DCF”) proposes to amend its regulations at 110 CMR 2.00 (Glossary), under the authority of G.L. c. 18B §§ 3 and 7; G.L. c. 119 § 37; and G.L. c. 30A, § 3.

This regulation provides the definitions of terms used throughout the Department’s regulations and policies. The regulation is being revised to update the definitions due to changes in agency policies being planned for implementation this fiscal year, as well as to align with recent changes in both state and federal laws.

Individuals wishing to submit public comment may do so by sending comments to Thomas P. Weierman, Deputy General Counsel, Department of Children and Families, 600 Washington Street, 6<sup>th</sup> Floor, Boston, MA 02111 or by email to [thomas.p.weierman@state.ma.us](mailto:thomas.p.weierman@state.ma.us) on or before December 23, 2016.

Individuals wishing to review the current draft of the proposed amendments may find a copy at [www.Mass.Gov/dcf](http://www.Mass.Gov/dcf) or may request a copy in writing or in person from Office of the General Counsel, Department of Children and Families, 600 Washington Street, 6<sup>th</sup> Floor, Boston MA 02111, by e-mail at [thomas.p.weierman@state.ma.us](mailto:thomas.p.weierman@state.ma.us), or by calling (617) 748-2020.

By order of the Department of Children and Families,

Linda S. Spears

Commissioner

December 2, 2016



## Small Business Impact Statement

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

**Agency: Department of Children and Families**

**CMR No: 110 CMR 2 – Glossary**

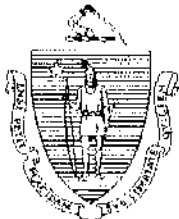
**Estimate of the Number of Small Businesses Impacted by the Regulation: 0**

**The obligations in the regulation apply solely to the Department of Children & Families and families involved with the Department.**

### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) The regulation define terms used throughout the Department’s regulatory framework. These definitions apply to all Department cases and need operational standards.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The regulation does not affect small business.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The regulation does not affect small business.



The Commonwealth of Massachusetts  
 Executive Office of Health and Human Services  
 Department of Children and Families  
 600 Washington Street, 6<sup>th</sup> Floor  
 Boston, MA 02111

CHARLES D. BAKER  
 Governor

KARYN E. POLITO  
 Lieutenant Governor

Tel.: 617-748-2000 Fax: 617-261-7435  
[www.mass.gov/DCF](http://www.mass.gov/DCF)

MARYLOU SUDDERS  
 Secretary

LINDA S. SPEARS  
 Commissioner

NOTICE OF PROPOSED AMENDMENT OF REGULATIONS

Notice is hereby given that the Department of Children and Families proposes to amend its Intake regulations, 110 CMR 4.00 et. seq., under the authority of G.L. c. 18B §§ 3 and 7 and G.L. c. 119 §37 and 51B(j) and pursuant to M.G.L. c. 30A, §3.

The proposed changes to the protective intake regulations, 110 CMR 4.20- 4.54, reflect the changes in the agency's policy and any changes made to state or federal law since 2008 that impact the agency's protective intake process. The changes to the "CHINS"/CRA intake regulations, 110 CMR 4.60-4.67, reflect changes made to the state law in 2012. The changes to the voluntary intake regulations, 110 CMR 4.01-16 reflect changes to the Department's Permanency Planning Policy and any changes to state law that impacted these sections.

Individuals wishing to submit public comment may do so by sending comments to Thomas P. Weierman, Deputy General Counsel, Department of Children and Families, 600 Washington Street, 6<sup>th</sup> Floor, Boston, MA 02111 or by email to [Thomas.P.Weierman@state.ma.us](mailto:Thomas.P.Weierman@state.ma.us) on or before December 23, 2016.

Individuals wishing to review the current draft of the proposed amendments may find a copy at [www.Mass.Gov/DCF](http://www.Mass.Gov/DCF) or may request a copy in writing or in person from Office of the General Counsel, Department of Children and Families, 600 Washington Street, 6<sup>th</sup> Floor, Boston MA 02111, or by EMAIL at [Thomas.P.Weierman@state.ma.us](mailto:Thomas.P.Weierman@state.ma.us), or by calling (617) 748-2063.

By order of the Department of Children and Families

Linda S Spears

Commissioner

2016 NOV 16 PM 1:09

SECRET



### Small Business Impact Statement

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

**Agency: Department of Children and Families**

**CMR No: 110 CMR 4.00 – Intake**

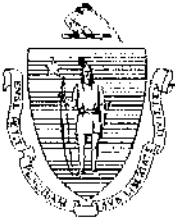
**Estimate of the Number of Small Businesses Impacted by the Regulation: 0**

**The obligations in this regulation applies solely to the Department of Children & Families and families involved with the Department.**

#### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) The regulation governs how the Department will handle its obligations to screen and investigate reports of abuse and/or neglect. There needs to be a standardized process for these requests.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The regulation does not affect small business.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? The regulation does not affect small business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The regulation does not affect small business.



The Commonwealth of Massachusetts  
 Executive Office of Health and Human Services  
 Department of Children and Families  
 600 Washington Street, 6<sup>th</sup> Floor  
 Boston, MA 02111

CHARLES D. BAKER  
 Governor

Tel.: 617-748-2000 Fax: 617-261-7435  
[www.mass.gov/DCF](http://www.mass.gov/DCF)

MARYLOU SUDDERS  
 Secretary

KARYN E. POLITTO  
 Lieutenant Governor

LINDA S. SPEARS  
 Commissioner

NOTICE OF PROPOSED AMENDMENT OF REGULATIONS

Notice is hereby given that the Department of Children and Families proposes to amend its Criminal Offender Record Check regulations, 110 CMR 18.00 et. seq., under the authority of G.L. c. 18B §§ 3 and 7 and G.L. c. 119 §§ 23, 26A, 37 and pursuant to M.G.L. c. 30A, §3.

The proposed changes to the Criminal Record Check regulations are being made to reflect changes made to state and federal law, other state agency regulations and changes to the Department's policy on Background Record Checks. These changes include lifetime and five year disqualification to be a foster/pre-adoptive parent if an individual is convicted of certain felonies, fingerprinting foster/pre-adoptive parent household members age 15 and older, and fingerprint foster/pre-adoptive parents every two years.

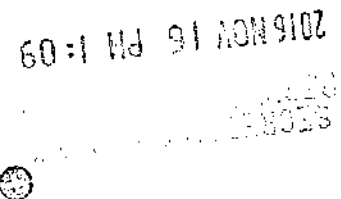
Individuals wishing to submit public comment may do so by sending comments to Thomas P. Weierman, Deputy General Counsel, Department of Children and Families, 600 Washington Street, 6<sup>th</sup> Floor, Boston, MA 02111 or by email to [Thomas.P.Weierman@state.ma.us](mailto:Thomas.P.Weierman@state.ma.us) on or before December 23, 2016.

Individuals wishing to review the current draft of the proposed amendments may find a copy at [www.Mass.Gov/DCF](http://www.Mass.Gov/DCF) or may request a copy in writing or in person from Office of the General Counsel, Department of Children and Families, 600 Washington Street, 6<sup>th</sup> Floor, Boston MA 02111, or by EMAIL at [Thomas.P.Weierman@state.ma.us](mailto:Thomas.P.Weierman@state.ma.us), or by calling (617) 748-2063.

By order of the Department of Children and Families

Linda S Spears

Commissioner



### Small Business Impact Statement

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

**Agency: Department of Children and Families**

**CMR No: 110 CMR 18.00 – Criminal Offender Record Checks**

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

**The obligations in the regulation applies to potential employees, volunteers, foster parents and potential employees of contracted providers of the Department of Children & Families.**

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The regulation does not add any additional reports or files from existing requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? There are no additional recordkeeping procedures necessary.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The regulation does not require any additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? The will not be any need to hire additional employees to comply with this proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? The regulation does not require the hiring of any other professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? The regulation does not require the purchasing of other products or capital investments.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) The regulation governs the requirement of completing a Criminal Offender record check prior to the hiring of employees or volunteers for the Department and for contracted providers who provide foster care to children in the care/custody of the Department.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? This regulation does not conflict with other regulations and works in coordination with DHS regulation 101 CMR 15.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require additional audits, inspections or other regulatory enforcement activities.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation does not require any additional educational services.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The regulation will not deter small business from forming in Massachusetts.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation is neutral regarding encouraging the formation of small businesses in Massachusetts.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation is neutral regarding compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation is neutral regarding schedules and deadlines for compliance and reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulation is as concise and simplified as can be.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? This regulation is regarding Criminal Offender records and performance standards could not be utilized to obtain the objectives of this regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? There is not adverse impact so no other methods are needed.





CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

MARYLOU SUDDERS  
SECRETARY

ADELAIDE OSBORNE  
COMMISSIONER

*The Commonwealth of Massachusetts*  
*Executive Office of Health and Human Services*  
*Massachusetts Rehabilitation Commission*  
*600 Washington Street*  
*Boston, MA 02111-1704*

Massachusetts Commission for the Deaf and Hard of Hearing

(617) 204-3600  
1 (800) 245-6543  
Voice/TDD (617) 204-3868  
FAX (617) 727-1354

PUBLIC COMMENT

PUBLIC COMMENT PERIOD

In accordance with Massachusetts General Laws, Chapter 6, Section 75 and 78, the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) will hold a public comment period to consider the proposed rescission of the regulation 112 CMR 6:00: Criminal Offender Record Checks.

The Commission will accept written comments on this proposed rescission submitted on or before December 23, 2016. Written comments should be addressed to:

Erik Nordahl, Associate Counsel;  
The Massachusetts Rehabilitation Commission;  
600 Washington Street, 2<sup>nd</sup> floor;  
Boston, MA. 02111-1704; or  
E-mail at [Erik\\_Nordahl@MassMail.State.MA.US](mailto:Erik_Nordahl@MassMail.State.MA.US)

SUBJECT MATTER

112 CMR 6.00: Criminal Offender Record Checks established policy relative to review of criminal records of candidates for employment as paid employees, volunteers, or trainees for the Massachusetts Commission for Deaf and Hard Hearing and Commission funded programs. This regulation has been replaced by EHS 101 CMR 15.00: Criminal Offender Record Checks which covers all EHS agencies.

### Small Business Impact Statement

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

CMR No: 112 CMR 6

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

Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? This regulation does not affect small businesses.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? This regulation does not affect small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? This regulation does not affect small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? This regulation does not affect small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? This regulation does not affect small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? This regulation does not affect small businesses.



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
One Ashburton Place, Room 1109  
Boston, Massachusetts 02108

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

Tel: (617) 573-1600  
Fax: (617) 573-1891  
[www.mass.gov/eohhs](http://www.mass.gov/eohhs)

### NOTICE OF PROPOSED REPEAL OF REGULATIONS

The Executive Office of Health and Human Services (EOHHS) proposes to repeal the following regulations under the authority of M.G.L. c. 118E, and pursuant to M.G.L. c. 30A.

- **114.1 CMR 2.00: Procedure for Processing Blue Cross Audits and Final Settlements for Non-Acute Hospitals**
- **114.1 CMR 17.00: Requirement for the Submission of Hospital Case Mix and Charge Data**
- **114.1 CMR 36.00: Acute Care Hospital Charges and Rates of Payment for Certain Publicly Assisted Individuals**
- **114.1 CMR 42.00: Hospital Financial Reports**
- **114.2 CMR 2.00: Rates of Payment for Long-Term Care Facilities**
- **114.2 CMR 5.00: Prospective Rates of Payment to Nursing Facilities**
- **114.5 CMR 2.00: Disclosure of Hospital Case Mix and Charge Data**
- **114.5 CMR 8.00: Criteria and Procedures for Awarding Hardship Relief Grants**
- **114.5 CMR 9.00: Criteria and Procedures for Awarding One-Time Grants for Community Health Centers**
- **114.5 CMR 11.00: Criteria and Procedures for the Submission of Health Plan Data**
- **114.5 CMR 19.00: Insurer Assessment**
- **114.5 CMR 21.00: Health Care Payer Claims Data Submission**
- **114.5 CMR 22.00: Health Care Claims Data Release**
- **114.6 CMR 10.00: Criteria for Determining Eligibility for Free Care at Acute Care Hospitals and Freestanding Community Health Centers**
- **114.6 CMR 11.00: Administration of the Uncompensated Care Pool**
- **114.6 CMR 12.00: Services Eligible for Payment from the Uncompensated Care Trust Fund**

These actions are being taken in order to comply with c. 224 of the Acts of 2012, which transferred authority for these regulations from the Division of Health Care Finance and Policy in M.G.L. c. 118G to the Executive Office of Health and Human Services (EOHHS) in M.G.L. c. 118E. EOHHS has determined that these regulations have been superseded or are otherwise obsolete, and therefore proposes to repeal them in their entirety.



It is estimated that annual aggregate state expenditures will not be impacted as a result of these proposed actions. There is no fiscal impact on cities and towns. These actions do not impose new costs on small businesses and no other impact on small businesses is anticipated.

It is anticipated that these proposed rescissions will not be effective before December 30, 2016.

All persons desiring to submit data, views, or arguments concerning these proposed actions may submit them in writing to EOHHS, c/o D. Briggs, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171, or e-mail them to [ehs-regulations@state.ma.us](mailto:ehs-regulations@state.ma.us). E-mailed comments should contain the sender's name, mailing address, and organization or affiliation, if any. Comments will be accepted through 5:00 p.m. on December 19, 2016.

All persons desiring to review the current regulations may go to <http://www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html> or request a copy in writing or in person from the MassHealth Publications Unit, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, Massachusetts 02171.

November 28, 2016



<b>Small Business Impact Statement</b> (As required by M.G.L. c. 30A §§ 2, 3 & 5)		
<b>CMR No:</b> 114.1 CMR 2.00		
<b>Estimate of the Number of Small Businesses Impacted by the Regulation:</b> Zero. The regulation is proposed to be rescinded and will not impact small businesses.		
<b>Select Yes or No and Briefly Explain</b>		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.

114.1 CMR 2.00: Procedure for Processing Blue Cross Audits and Final Settlements  
for Non-Acute Hospitals

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.



### Small Business Impact Statement

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

**CMR No: 114.1 CMR 17.00: Requirement for the Submission of Hospital Case Mix and Charge Data**

**Estimate of the Number of Small Businesses Impacted by the Regulation: Zero.** The regulation is proposed to be rescinded and will not impact small businesses.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.

### Small Business Impact Statement

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

**CMR No: 114.1 CMR 36.00: Acute Care Hospital Charges and Rates of Payment for Certain Publicly Assisted Individuals**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?

		N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.



### Small Business Impact Statement

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

**CMR No: 114.1 CMR 42.00: Hospital Financial Reports**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

#### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.

### Small Business Impact Statement

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

**CMR No: 114.2 CMR 2.00**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

#### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.

### Small Business Impact Statement

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

**CMR No: 114.2 CMR 5.00**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.

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

**CMR No: 114.5 CMR 2.00 Disclosure of Hospital Case Mix and Charge Data**

**Estimate of the Number of Small Businesses Impacted by the Regulation: Zero.** The regulation is proposed to be rescinded and will not impact small businesses.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.



<b>Small Business Impact Statement</b> (As required by M.G.L. c. 30A §§ 2, 3 & 5)		
<b>CMR No:</b> 114.5 CMR 8.00		
<b>Estimate of the Number of Small Businesses Impacted by the Regulation:</b> Zero. The regulation is proposed to be rescinded and will not impact small businesses.		
Select Yes or No and Briefly Explain		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.



### Small Business Impact Statement

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

**CMR No: 114.5 CMR 9.00: Criteria and Procedures for Awarding One-Time Grants for Community Health Centers**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

#### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?

		N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.



### Small Business Impact Statement

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

**CMR No: 114.5 CMR 11.00: Criteria and Procedures for the Submission of Health Plan Data**

**Estimate of the Number of Small Businesses Impacted by the Regulation: Zero.** The regulation is proposed to be rescinded and will not impact small businesses.

#### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.

### Small Business Impact Statement

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

**CMR No: 114.5 CMR 19.00: Insurer Assessment**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.



### Small Business Impact Statement

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

**CMR No: 114.5 CMR 21.00**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

#### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.

## Small Business Impact Statement

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

**CMR No: 114.5 CMR 22.00**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.

### Small Business Impact Statement

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

**CMR No: 114.6 CMR 10.00 Determining Eligibility for Free Care at Acute Care Hospitals and Freestanding Community Health Centers**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.

<b>Small Business Impact Statement</b> (As required by M.G.L. c. 30A §§ 2, 3 & 5)		
<b>CMR No:</b> 114.6 CMR 11.00		
<b>Estimate of the Number of Small Businesses Impacted by the Regulation:</b> Zero. The regulation is proposed to be rescinded and will not impact small businesses.		
Select Yes or No and Briefly Explain		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.



### Small Business Impact Statement

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

**CMR No: 114.6 CMR 12.00: Services Eligible for Payment From the Uncompensated Care Trust Fund**

**Estimate of the Number of Small Businesses Impacted by the Regulation:** Zero. The regulation is proposed to be rescinded and will not impact small businesses.

#### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) As the regulation is proposed to be rescinded, small businesses are not affected by this action.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? N/A the regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? N/A The regulation is proposed to be rescinded.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? N/A The regulation is proposed to be rescinded.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? N/A The regulation is proposed to be rescinded.



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
One Ashburton Place  
Boston, Massachusetts 02108



CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

DANIEL TSAI  
Assistant Secretary for  
MassHealth

**Division of Medical Assistance**

[www.mass.gov/eohhs](http://www.mass.gov/eohhs)

**NOTICE OF PROPOSED AMENDMENT OF REGULATIONS**

The Division proposes to amend its MassHealth regulations under the authority of M.G.L. c. 6A; M.G.L. c. 118E; and pursuant to M.G.L. c. 30A. The Division describes the substance of the proposed actions as amendments to **MassHealth regulations at 130 CMR 420.000: Dental Services**. The proposed amendments update and clarify provisions related to provider eligibility requirements, covered dental services (including sections on radiographs, orthodontics, and dentures), and enhancements to program integrity. The proposed amendments also align terminology and protocols with industry standards, improve consistency, and reduce ambiguity. It is anticipated that these amendments will not go into effect before July 1, 2017. All persons desiring to submit data, views, or arguments concerning these proposed actions may submit them in writing to the Assistant Secretary for MassHealth, EOHHS, One Ashburton Place, Rm 1109, Boston, MA 02108, or e-mail them to [masshealthpublicnotice@state.ma.us](mailto:masshealthpublicnotice@state.ma.us). E-mailed comments should contain the sender's name, mailing address, and organization or affiliation, if any. Comments will be accepted through 5 p.m. on Friday, December 23, 2016. All persons desiring to review the current draft of the proposed actions may go to [www.mass.gov/masshealth/proposedregs](http://www.mass.gov/masshealth/proposedregs) or request a copy in writing or in person from the MassHealth Publications Unit, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. The Division may adopt a revised version of the proposed actions taking into account relevant comments and any other practical alternatives that come to its attention.



## Small Business Impact Statement

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

**CMR No: 130 CMR 420: MassHealth Dental**

**Estimate of the Number of Small Businesses Impacted by the Regulation: 2,678**

### Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The regulation does not require small businesses to create, file, or issue additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? The regulation does not require additional recordkeeping procedures for small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The regulation does not require additional administrative oversight for small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? Compliance does not require hiring additional employees.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance does not require hiring other professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? The regulation does not require purchases or capital investments.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design or operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) Performance standards are not more appropriate than design or operational standards.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The current amendments do not include additional requirements concerning cooperation with audits, inspections or other regulatory enforcement activities.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation does not require small businesses to provide educational services to keep up to date with regulatory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The regulation updates rules for providers of dental services to MassHealth members and is unlikely to deter or encourage the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation updates rules for providers of dental services to MassHealth members and is unlikely to deter or encourage the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not distinguish between small and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not distinguish between small and other businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulation does not distinguish between small and other businesses.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? Distinguishing small businesses from other businesses would not be practicable for this regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The regulation is required by statutes and its goals could not be achieved through alternative methods.



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
One Ashburton Place  
Boston, Massachusetts 02108



CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

DANIEL TSAI  
Assistant Secretary for  
MassHealth

**Division of Medical Assistance**

[www.mass.gov/eohhs](http://www.mass.gov/eohhs)

**NOTICE OF PUBLIC HEARING**

Pursuant to the authority of M.G.L. c. 6A, s. 16 and in accordance with M.G.L. c. 30A, a public hearing will be held on Friday, December 16, 2016, at 10 a.m. in Amphitheater III S6-102 at the UMass Medical School (Main Entrance-School Side) – University Campus, 55 Lake Avenue North, Worcester, MA relative to the adoption of:

**130 CMR 501.000: MassHealth: General Policies; 130 CMR 502.000: MassHealth: Eligibility Process (formerly The Request for Benefits); 130 CMR 503.000: MassHealth: Universal Eligibility Requirements; 130 CMR 505.000: MassHealth: Coverage Types; 130 CMR 506.000: MassHealth: Financial Requirements; 130 CMR 515.000: MassHealth: General Policies; 130 CMR 516.000: MassHealth: Eligibility Process; 130 CMR 517.000: MassHealth: Universal Eligibility Requirements; 130 CMR 518.000: MassHealth: Citizenship and Immigration; 130 CMR 520.000: MassHealth: Financial Eligibility; 130 CMR 522.000: MassHealth: Other Division Programs; 130 CMR 610.000: MassHealth: Fair Hearing Rules**

Pursuant to Executive Order 562, the Executive Office of Health and Human Services (EOHHS) proposes to update MassHealth regulations at 130 CMR 501.000 through 522.000 to clarify regulatory language and purpose, to ensure compliance with federal and state law, delete outdated references, align definitional terms across agency regulations, improve accuracy, readability and organization, and communicate certain policy changes.

In addition, EOHHS proposes to amend the Board of Hearing regulations at 130 CMR 610.000 to reflect changes related to the implementation of the Affordable Care Act (ACA) and to simplify and modernize the regulations to ensure a clear, concise, and uniform regulatory scheme for the parties involved in fair hearings before the Board of Hearings.

The proposed regulation is planned to go into effect no sooner than February 1, 2017. There is no fiscal impact on cities and towns.

Individuals who notify EOHHS of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers may notify EOHHS of their intention to testify at the hearing by registering online at [www.mass.gov/masshealth/proposedregs](http://www.mass.gov/masshealth/proposedregs). Individuals may also submit written testimony by e-mailing [masshealthpublicnotice@state.ma.us](mailto:masshealthpublicnotice@state.ma.us). Please submit electronic



testimony as an attached Word document or as text within the body of the e-mail 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 e-mail should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. Written testimony must be submitted by 5:00 p.m. on Friday, December 16, 2016.

All persons desiring to review the current draft of the proposed actions may go to [www.mass.gov/masshealth/proposedregs](http://www.mass.gov/masshealth/proposedregs) or request a copy in writing or in person from MassHealth Publications, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by e-mail at [masshealthhelp@ehs.state.ma.us](mailto:masshealthhelp@ehs.state.ma.us) 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 actions taking into account relevant comments and any other practical alternatives that come to its attention.

November 24, 2016

## Small Business Impact Statement

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

**CMR No: 130CMR:501.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

## Small Business Impact Statement

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

**CMR No: 130 CMR 502.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

## Small Business Impact Statement

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

**CMR No: 130 CMR 503.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

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

**CMR No: 130 CMR 505.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

## Small Business Impact Statement

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

**CMR No: 130 CMR:506.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

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

**CMR No: 130CMR:515.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

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

**CMR No: 130 CMR 516.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

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

**CMR No: 130 CMR 517.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.



Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

## Small Business Impact Statement

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

**CMR No: 130CMR:518.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

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

**CMR No: 130 CMR 520.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).

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

**CMR No: 130 CMR 522.000**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to the regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not impose additional recordkeeping requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investments for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities. It does require MassHealth members to cooperate with agency efforts relating to quality control and third party liability.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The regulation provides the criteria and process for applying and obtaining Medicaid benefits in the Commonwealth.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	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.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. Medicaid eligibility is covered under the Commonwealth's Medicaid state plan, and MassHealth is required by federal law to establish rules and regulations for administering the state's Medicaid state plan (42 USC § 1396(a)(5) as codified by 42 CFR 431.10(b)(2)(ii)).



## Small Business Impact Statement

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

**CMR No:130 CMR 610.000: MassHealth: Fair Hearing Rules**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No. The proposed changes to regulation do not require additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No. The proposed changes to regulation do not require additional recordkeeping procedures.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No. The proposed changes to regulation do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No additional employees are required to comply with the proposed changes to regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Compliance with the proposed changes to regulation does not require small businesses to hire additional professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? None of the proposed changes to regulation require capital investment for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Regulation is required for MassHealth to provide applicants and members due process review of MassHealth actions, where required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No. The MassHealth Fair Hearing Rules concern only the MassHealth Board of Hearings, which is required by state and federal law to review certain MassHealth determinations.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulation does not require small businesses to cooperate with audits, inspections or other regulatory enforcement activities.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulation is intended to be clear and concise. No educational services are required.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The regulation provides an opportunity for review of MassHealth determinations.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation provides an opportunity for review of MassHealth determinations.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The regulation does not provide for less stringent compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulation does not establish less stringent deadlines for compliance.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulation is intended to simplify certain requirements for accessing the MassHealth Board of Hearings.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? The MassHealth Board of Hearings is required by state and federal law to review certain MassHealth determinations.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The MassHealth Board of Hearings is required by state and federal law to review certain MassHealth determinations.



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

MONICA BHAREL, MD, MPH  
Commissioner

Tel: 617-624-6000  
www.mass.gov/dph

### 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 on amendments to the following regulations: 105 CMR 150.000, *Licensing of Long-Term Care Facilities* and 105 CMR 153.00, *Licensure Procedure and Suitability Requirements for Long-Term Care Facilities*. The public hearing will also concern the proposed rescission of 105 CMR 151.000, *General Standards of Construction for Long-Term Care Facilities in Massachusetts*.

These amendments will update terminology and remove outdated language and requirements to make the regulations easier to read and understand. In addition, the proposed amendments delete unnecessary or outdated regulations, update provisions to be consistent with current practice, and consolidate regulations for consistency and ease of use by the regulated parties.

The public hearing will be held at **12:00 p.m. on December 19, 2016, in the Public Health Council Room, Second Floor, Department of Public Health, 250 Washington Street, Boston, MA, 20108.**

Speakers are requested to provide a copy of their oral testimony. The Department encourages all interested parties to submit testimony electronically to the following address: [Reg.Testimony@state.ma.us](mailto:Reg.Testimony@state.ma.us). Please submit electronic testimony as an attached Word document or as text within the body of an email and type "DoN regulations" in the subject line. All submissions must include the sender's full name and address. The Department will post all electronic testimony that complies with these instructions on its website. Parties who are unable to submit electronic testimony should mail submissions to William Anderson, Office of the General Counsel, Department of Public Health, 250 Washington Street, Boston, MA 02108. All written or oral comments submitted to the Department may be posted on the Department's website and released in response to a request for public records. All testimony must be submitted by **5:00 p.m. on Friday, December 23, 2016.**

A copy of the proposed amendments may be viewed on the Department's website or obtained from the Office of the General Counsel at 617-624-5220.

2016 NOV 16 PM 2:45



**Small Business Impact Statement**  
**Licensing of Long-Term Care Facilities**  
*(As required by M.G.L. c. 30A §§ 2, 3 & 5)*

**CMR No:** 105 CMR 150.000

**Estimate of the Number of Small Businesses Impacted by the Regulation:** There are 500 long-term care facilities in Massachusetts (425 Nursing Homes and 75 Rest Homes). According to the SBA website, 26 of these have self-designated as small businesses, but it is likely the actual number is higher.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No X	<p>Will small businesses have to create, file, or issue additional reports?</p> <p>Small businesses will not have to create, file, or issue additional reports as a result of proposed amendments to this regulation because the proposed changes do not add requirements, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.</p>
Yes <input type="checkbox"/>	No X	<p>Will small businesses have to implement additional recordkeeping procedures?</p> <p>Small businesses will not have to implement additional recordkeeping procedures as a result of proposed amendments to this regulation because the proposed changes do not add requirements, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.</p>
Yes <input type="checkbox"/>	No X	<p>Will small businesses have to provide additional administrative oversight?</p> <p>Small businesses will not have to provide additional administrative oversight as a result of proposed amendments to this regulation because the proposed changes do not add requirements, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.</p>
Yes <input type="checkbox"/>	No X	<p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>Small businesses will not have to hire additional employees in order to comply with proposed amendments to this regulation.</p>
Yes <input type="checkbox"/>	No X	<p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>Although compliance with the regulation may require small businesses to hire other professionals (e.g., an architect when submitting architectural plans), the proposed amendments do not increase this burden.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>This regulation does not require small businesses to purchase a product or make any other capital investments in order to comply with the regulation.</p>
Yes <input type="checkbox"/>	No X	<p>Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective?(Performance standards express requirements in terms of outcomes, giving the</p>



		<p>regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p> <p>This regulation, which is required by statute, sets forth clear minimum standards to ensure consistency among programs and protect the health and safety of residents.</p>
Yes <input checked="" type="checkbox"/>	No	<p>Do any other regulations duplicate or conflict with the proposed regulation?</p> <p>Presently, construction requirements in DPH regulation 105 CMR 151.000 overlap with physical plant standards in 105 CMR 150.000. In order to eliminate duplication and conflict, outdated construction requirements in this regulation have been removed and replaced with current standards incorporated from 105 CMR 151.000, which is proposed for rescission.</p>
Yes X	No <input type="checkbox"/>	<p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>This regulation does require small businesses to cooperate with inspections and other regulatory enforcement activities in order for DPH to ensure the health and safety of residents. Proposed amendments to this regulation do not increase this burden.</p>
Yes	No <input checked="" type="checkbox"/>	<p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>This regulation does not require small businesses to provide educational services to keep up to date with regulatory requirements.</p>
Yes <input type="checkbox"/>	No X	<p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>This regulation will not deter the opening of additional nursing homes, as the current supply of nursing home beds is more than adequate to meet demand, and most facilities are operating with a bed vacancy rate of 10% or higher.</p>
Yes <input type="checkbox"/>	No X	<p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>This regulation will not encourage the opening of additional nursing homes, as the current supply of nursing home beds is more than adequate to meet demand, and most facilities are operating with a bed vacancy rate of 10% or higher.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>The reporting requirements are the same for all regulated parties, and result from individual incidents involving regulated parties, rather than volume of service delivered or number of staff employed.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>The compliance standards for resident care and reporting requirements are the same for all regulated parties, and result from individual incidents involving regulated parties rather than volume of service delivered or number of staff employed.</p>
Yes <input type="checkbox"/>	No X	<p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p>

		The compliance standards for resident care and reporting requirements are the same for all regulated parties, and result from individual incidents involving regulated parties rather than volume of service delivered or number of staff employed.
Yes <input type="checkbox"/>	No X	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?  This regulation sets forth clear minimum standards to ensure consistency among programs, protect the health and safety of residents, and reflect the individualized needs of residents.
Yes <input type="checkbox"/>	No X	Are there alternative regulatory methods that would minimize the adverse impact on small businesses?  By incorporating and rescinding duplicative regulations, the proposed changes provide the minimum regulatory standards reflecting the need for long-term care services to meet the individualized needs of residents.

**Small Business Impact Statement**  
**General Standards of Construction for Long Term Care Facilities in Massachusetts**  
*(As required by M.G.L. c. 30A §§ 2, 3 & 5)*

CMR No: 105 CMR 151.000

**Estimate of the Number of Small Businesses Impacted by the Regulation: There are 500 regulated businesses (425 Nursing Homes and 75 Rest Homes), of which 26 qualify as small businesses according the SBA website. The Department considers this number to be significantly smaller than the actual count of small businesses.**

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports?  The proposed rescission of this regulation and consolidation of its existing provisions into the DPH regulation overseeing licensure standards for long-term care facilities (105 CMR 150.000) will not result in any additional reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures?  The proposed rescission of this regulation and consolidation of its existing provisions into the DPH regulation overseeing licensure standards for long-term care facilities (105 CMR 150.000) will not result in any additional recordkeeping procedures.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight?  The proposed rescission of this regulation and consolidation of its existing provisions into the DPH regulation overseeing licensure standards for long-term care facilities (105 CMR 150.000) will not result in any additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation?  Long-term care facilities will not have to hire additional employees in order to comply with the proposed rescission and incorporation because the provisions of the rescinded regulations will continue to apply to long-term care facilities through the long-term care licensing regulations (105 CMR 150.000).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?  Long-term care facilities will not have to hire other professionals in order to comply with the proposed rescission and incorporation because the provisions of the rescinded regulations will continue to apply to long-term care facilities through the long-term care licensing regulations (105 CMR 150.000).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?  Long-term care facilities will not have to purchase a product or make any other capital investments in order to comply with the proposed rescission and incorporation because the provisions of the rescinded regulations will continue to apply to long-term care facilities through the long-term care licensing regulations (105 CMR 150.000).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the



<input type="checkbox"/>	X	<p>regulatory objective?(Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p> <p>By rescinding these regulations and incorporating provisions into licensing regulations, specific construction standards will be more closely tied to performance standards of long-term care facilities than if construction standards remained separate from licensing provisions.</p>
Yes <input checked="" type="checkbox"/>	No	<p>Do any other regulations duplicate or conflict with the proposed regulation?</p> <p>Yes. Rescinding this regulation and consolidating its provisions into 105 CMR 150.000, as proposed, would incorporate long-term care licensure standards, including physical plant requirements, into one regulation which will limit the regulatory burden on long-term care facilities and eliminate existing duplication across these two regulations.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>As part of licensure, long-term care facilities are subject to inspections and regulatory enforcement activities subject to the standards in 105 CMR 150.000. The non-duplicative provisions of 105 CMR 151.000 will be incorporated into 105 CMR 150.000</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>Long-term care facilities will not have to provide educational services to keep up to date with the rescinded regulation or the provisions that will be incorporated into 105 CMR 150.000.</p>
Yes <input type="checkbox"/>	No X	<p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>This rescission is not likely to deter the formation of a long-term care facility.</p>
Yes <input type="checkbox"/>	No X	<p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>This rescission is not likely to encourage the formation of a long-term care facility.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>This regulation, and the proposed provisions to be incorporated into 105 CMR 150.000, does not establish less stringent standards for small businesses; it applies a consistent standard across long-term care facilities.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>This regulation, and the proposed provisions to be incorporated into 105 CMR 150.000, does not establish less stringent standards for small businesses; it applies a consistent standard across long-term care facilities.</p>

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p> <p>This regulation, and the proposed provisions to be incorporated into 105 CMR 150.000, does not establish less stringent standards for small businesses; it applies a consistent standard across long-term care facilities.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>By rescinding these regulations and incorporating provisions into licensing regulations, construction standards for long-term care facilities will be more directly tied to specific licensure and suitability performance standards than if they were applied separately.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>Rescission of this regulation and incorporation of relevant provisions into 105 CMR 150.000 will minimize regulatory burden on long-term care facilities, to which the regulation already applies, while maintaining construction standards that provide for licensure of safe facilities.</p>

**Small Business Impact Statement**  
**Licensure Procedure and Suitability Requirements for Long-Term Care Facilities**  
*(As required by M.G.L. c. 30A §§ 2, 3 & 5)*

CMR No: 105 CMR 153.000

**Estimate of the Number of Small Businesses Impacted by the Regulation:** There are 500 long-term care facilities in Massachusetts (425 Nursing Homes and 75 Rest Homes), and 26 are designated as small businesses.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No X	Will small businesses have to create, file, or issue additional reports?  Small businesses may have to provide notice to residents upon revocation of a license.
Yes <input type="checkbox"/>	No X	Will small businesses have to implement additional recordkeeping procedures?  Small businesses will not have to implement additional recordkeeping procedures, because the proposed changes do not add such procedures, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.
Yes <input type="checkbox"/>	No X	Will small businesses have to provide additional administrative oversight?  Small businesses will not have to provide additional administrative oversight, because proposed changes do not add such oversight, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.
Yes <input type="checkbox"/>	No X	Will small businesses have to hire additional employees in order to comply with the proposed regulation?  Small businesses will not have to hire additional employees in order to comply with the proposed regulation.
Yes <input type="checkbox"/>	No X	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?  Compliance with the regulation will not require small businesses to hire other professionals.
Yes <input type="checkbox"/>	No X	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 does not require small businesses to purchase a product or make any other capital investments in order to comply with the regulation.
Yes <input type="checkbox"/>	No X	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective?(Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)  This regulation sets forth clear minimum standards to ensure consistency among programs and protect the health and safety of residents.
Yes <input type="checkbox"/>	No X	Do any other regulations duplicate or conflict with the proposed regulation?



		The proposed regulatory amendments, in conjunction with amendments to regulations for long-term care licensing standards (105 CMR 150) reduce overlap, conflict and inconsistency, and align the regulations in a more efficient manner.
Yes X	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?  These regulations do require small businesses to cooperate with suitability review and administrative process for closure and change of ownership in order for DPH to ensure the safety and security of residents in transition. The regulation, as amended, does not increase this burden.
Yes	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?  This regulation does not require small businesses to provide educational services to keep up to date with regulatory requirements.
Yes <input type="checkbox"/>	No X	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?  This regulation will not deter or encourage the opening of additional nursing homes, as the current supply of nursing home beds is more than adequate to meet demand, and most facilities are operating with a bed vacancy rate of 10% or higher.
Yes <input type="checkbox"/>	No X	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?  This regulation will not deter or encourage the opening of additional nursing homes, as the current supply of nursing home beds is more than adequate to meet demand, and most facilities are operating with a bed vacancy rate of 10% or higher.
Yes <input type="checkbox"/>	No X	Does the regulation provide for less stringent compliance or reporting requirements for small businesses?  The reporting requirements are the same for all regulated parties, and result from licensure actions, rather than volume of service delivered or number of staff employed.
Yes <input type="checkbox"/>	No X	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?  The compliance standards for patient care and reporting requirements are the same for all regulated parties, and result from licensure actions, rather than volume of service delivered or number of staff employed.
Yes <input type="checkbox"/>	No X	Did the agency consolidate or simplify compliance or reporting requirements for small businesses?  The compliance standards for patient care and reporting requirements are the same for all regulated parties, and result from licensure actions, rather than volume of service delivered or number of staff employed.
Yes <input type="checkbox"/>	No X	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?

		This regulation sets forth clear minimum standards to ensure consistency among facilities, protect the health and safety of residents, and reflect their individualized needs.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses?  This regulation reflects the need for long-term care facilities to meet the individualized needs of residents rather than volume of service delivered or number of staff employed.



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

MONICA BHAREL, MD, MPH  
Commissioner

Tel: 617-624-6000  
www.mass.gov/dph

### NOTICE OF PUBLIC HEARING

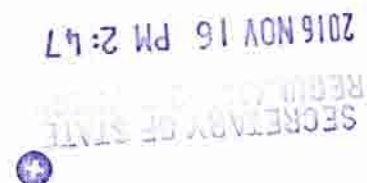
Notice is hereby given pursuant to M.G.L. c. 30A, §2, that the Department of Public Health will hold a public hearing on amendments to the following regulations: 105 CMR 155.000: *Patient and Resident Abuse Prevention, Reporting, Investigation, Penalties and Registry*; 105 CMR 156.000: *The Training of Nurses' Aides in Long-Term Care Facilities*; and 105 CMR 157.000: *The Registration and Operation of Temporary Nursing Service Agencies*.

The purpose of the proposed amendments is to remove outdated language and requirements to make the regulations easier to read and understand. In addition, the proposed amendments delete unnecessary or outdated regulations, update provisions to be consistent with current practice, and consolidate regulations for consistency and ease of use by the regulated parties.

The public hearing will be held on **Wednesday, December 21, at 1:00 P.M. in the Public Health Council Room, Second Floor, Department of Public Health, 250 Washington Street, Boston, MA, 02108.**

Speakers are requested to provide a copy of their oral testimony. The Department encourages all interested parties to submit testimony electronically to the following address: [Reg.Testimony@state.ma.us](mailto:Reg.Testimony@state.ma.us). Please submit electronic testimony as an attached Word document or as text within the body of an email and type "DPH: 105 CMR 155.000, 156.000, and 157.000" in the subject line. All submissions must include the sender's full name and address. The Department will post all electronic testimony that complies with these instructions on its website. Parties who are unable to submit electronic testimony should mail submissions to: William Anderson, Office of the General Counsel, Department of Public Health, 250 Washington Street, Boston, MA 02108. All written or oral comments submitted to the Department may be posted on the Department's website and released in response to a request for public records. All testimony must be submitted by **5:00 p.m. on Wednesday, December 28, 2016.**

A copy of the proposed amendments may be viewed on the Department's website or obtained from the Office of the General Counsel at 617-624-5220.





**Small Business Impact Statement**  
**Patient and Resident Abuse Prevention, Reporting, Investigation, Penalties and Registry**  
*(As required by M.G.L. c. 30A §§ 2, 3 & 5)*

CMR No: 105 CMR 155.000

**Estimate of the Number of Small Businesses Impacted by the Regulation:** A search of applicable codes on the SBA website (623110 - nursing homes; 621610 - home health services; 624120 - homemaker services; and 623311, 623312 - community care facilities for the elderly) did not yield accurate results. For instance, the database yielded 26 results for nursing homes qualifying as small businesses in Massachusetts, which DPH considers to be significantly smaller than the actual number of qualifying businesses among the 425 licensed nursing homes. Similarly, the SBA website shows 13 home health services businesses while online information shows this total to be closer to 700 (around 463 Medicare-certified home health agencies and around 209 non-certified home care agencies). Lastly, results from a search of the SBA website yielded 25 small businesses offering homemaker services; DPH believes the actual number of businesses to be higher.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports?  Small businesses will not have to create, file, or issue additional reports under this regulation, as amended, because the proposed changes do not add requirements, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures?  Small businesses will not have to implement additional recordkeeping procedures, because the proposed changes do not add such procedures, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight?  Small businesses will not have to provide additional administrative oversight, because proposed changes do not add such oversight, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation?  Small businesses will not have to hire additional employees in order to comply with the proposed regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?  Compliance with the regulation will not require small businesses to hire other professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?  This regulation does not require small businesses to purchase a product or make any other capital investments in order to comply with the regulation.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the

<input type="checkbox"/>	X	<p>regulatory objective?(Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p> <p>This regulation sets forth clear minimum standards to ensure consistency among programs and protect the health and safety of patients.</p>
Yes <input type="checkbox"/>	No X	<p>Do any other regulations duplicate or conflict with the proposed regulation?</p> <p>Establishment of a registry by the state is required under Federal law (42 USC 1396r). P.L. 105-33 section 4755(b)(2)(D) requires the state to outline appeal procedures, including the possibility that a name may be removed from the registry.</p>
Yes X	No <input type="checkbox"/>	<p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>These regulations do require small businesses to cooperate with inspections and other regulatory enforcement activities in order for DPH to ensure the safety of residents and patients from abuse, neglect, and mistreatment, and the misappropriation. The regulation, as amended, does not increase this burden.</p>
Yes X	No <input type="checkbox"/>	<p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>This regulation does include requirements for training and for the approval of training programs. These requirements were part of the regulation before it was amended, and are required by Federal Law (42 USC 1396r).</p>
Yes <input type="checkbox"/>	No X	<p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>Many new programs and providers have been approved since the regulation went into effect based upon an increased demand for nurse aide services in long-term care facilities and in the home.</p>
Yes <input type="checkbox"/>	No X	<p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>Many new programs and providers have been approved since the regulation went into effect based upon an increased demand for nurse aide services in long-term care facilities and in the home.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>The reporting requirements are the same for all regulated parties, and result from individual incidents involving a patient or resident, rather than volume of service delivered or number of staff employed.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>The compliance standards for patient care and reporting requirements are the same for all regulated parties, and result from individual incidents involving a patient or resident rather than volume of service</p>

		delivered or number of staff employed.
Yes <input type="checkbox"/>	No X	Did the agency consolidate or simplify compliance or reporting requirements for small businesses?  The compliance standards for patient care and reporting requirements are the same for all regulated parties, and result from individual incidents involving a patient or resident rather than volume of service delivered or number of staff employed.
Yes <input type="checkbox"/>	No X	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?  This regulation sets forth clear minimum standards to ensure consistency among programs, protect the health and safety of patients, and reflect the individualized needs of patients and residents.
Yes <input type="checkbox"/>	No X	Are there alternative regulatory methods that would minimize the adverse impact on small businesses?  This regulation reflects the need for nurse aide services to meet the individualized needs of patients rather than volume of service delivered or number of staff employed.



**Small Business Impact Statement**  
**The Training of Nurse Aides in Long-Term Care Facilities**  
*(As required by M.G.L. c. 30A §§ 2, 3 & 5)*

**CMR No:** 105 CMR 156.000

**Estimate of the Number of Small Businesses Impacted by the Regulation:** There are 425 DPH-licensed nursing homes, of which 26 qualify as small businesses according the SBA website. The Department considers this number to be significantly smaller than the actual count of small businesses.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No X	<p>Will small businesses have to create, file, or issue additional reports?</p> <p>Small businesses will not have to create, file, or issue additional reports under this regulation, as amended, because the proposed changes do not add requirements, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.</p>
Yes	No <input checked="" type="checkbox"/>	<p>Will small businesses have to implement additional recordkeeping procedures?</p> <p>Small businesses will not have to implement additional recordkeeping procedures, because the proposed changes do not add such procedures, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.</p>
Yes <input type="checkbox"/>	No X	<p>Will small businesses have to provide additional administrative oversight?</p> <p>Small businesses will not have to provide additional administrative oversight, because proposed changes do not add such oversight, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.</p>
Yes <input type="checkbox"/>	No X	<p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>Small businesses will not have to hire additional employees in order to comply with the proposed regulation.</p>
Yes <input type="checkbox"/>	No X	<p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>Compliance with the regulation will not require small businesses to hire other professionals.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>This regulation does not require small businesses to purchase a product or make any other capital investments in order to comply with the regulation.</p>
Yes <input type="checkbox"/>	No X	<p>Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective?(Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p> <p>This regulation sets forth clear minimum standards to ensure consistency among programs and protect</p>

		the health and safety of patients.
Yes <input type="checkbox"/>	No X	Do any other regulations duplicate or conflict with the proposed regulation?  By these amendments, this regulation meets, but does not exceed Federal testing and training requirements (42 CFR 483), even where the state statute (MGL c. 111 s. 72W) allows training hours to exceed the 75-hour minimum Federal requirement.
Yes X	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?  This regulation does require small businesses to cooperate with inspections and other regulatory enforcement activities in order for DPH to ensure the safety of residents and patients served by nurse aides. The regulation, as amended, does not increase this burden.
Yes X	No <input type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?  This regulation does include requirements for training and for the approval of training programs. These requirements were part of the regulation before it was amended, and are required by Federal regulation (42 CMR 483).
Yes <input type="checkbox"/>	No X	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?  Many new programs and providers have been approved since the regulation went into effect in 1986 based upon an increased demand for nurse aide services in long-term care facilities and in the home.
Yes <input type="checkbox"/>	No X	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?  Many new programs and providers have been approved since the regulation went into effect in 1986 based upon an increased demand for nurse aide services in long-term care facilities and in the home.
Yes <input type="checkbox"/>	No X	Does the regulation provide for less stringent compliance or reporting requirements for small businesses?  The reporting requirements are the same for all regulated parties, and are intended to inform the Department of compliance with and adequacy of training programs to ensure the safety of residents and patients served by nurse aides.
Yes <input type="checkbox"/>	No X	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?  The compliance standards for training of nurse aides and approval of such training are the same for all regulated parties, and are intended to inform the Department of compliance with and adequacy of training programs to ensure the safety of residents and patients served by nurse aides.
Yes <input type="checkbox"/>	No X	Did the agency consolidate or simplify compliance or reporting requirements for small businesses?  The compliance standards for training of nurse aides and approval of such training are the same for all regulated parties, and are intended to inform the Department of compliance with and adequacy of

		training programs to ensure the safety of residents and patients served by nurse aides.
Yes <input type="checkbox"/>	No X	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?  This regulation sets forth clear minimum standards to ensure compliance with and adequacy of training programs to ensure the safety of residents and patients served by nurse aides.
Yes <input type="checkbox"/>	No X	Are there alternative regulatory methods that would minimize the adverse impact on small businesses?  This regulation reflects the need for compliance with and adequacy of training programs to ensure the safety of residents and patients served by nurse aides.



**Small Business Impact Statement**  
**The Registration and Operation of Temporary Nursing Service Agencies**

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

**CMR No:** 105 CMR 157.000

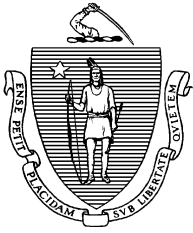
**Estimate of the Number of Small Businesses Impacted by the Regulation:** A search of applicable codes on the SBA website (561320 - temporary help services) yielded 62 results, however none of these represented temporary nurse agencies. Presently, DPH licenses 116 such agencies.

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No X	<p>Will small businesses have to create, file, or issue additional reports?</p> <p>Small businesses will not have to create, file, or issue additional reports under this regulation, as amended, because the proposed changes do not add requirements, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring. Though not an additional report temporary nursing agencies will be required to file applications for initial registration and changes of location at least 30 days before the planned effective date to afford the Department sufficient review time, consistent with other facilities' timelines.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to implement additional recordkeeping procedures?</p> <p>Small businesses will not have to implement additional recordkeeping procedures, because the proposed changes do not add such procedures, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.</p>
Yes <input type="checkbox"/>	No X	<p>Will small businesses have to provide additional administrative oversight?</p> <p>Small businesses will not have to provide additional administrative oversight, because proposed changes do not add such oversight, but remove provisions that are outdated or unnecessary, provide clarity throughout, and include several technical corrections and restructuring.</p>
Yes <input type="checkbox"/>	No X	<p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>Small businesses will not have to hire additional employees in order to comply with the proposed regulation.</p>
Yes <input type="checkbox"/>	No X	<p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>Compliance with the regulation will not require small businesses to hire other professionals.</p>
Yes <input type="checkbox"/>	No X	<p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>This regulation does not require small businesses to purchase a product or make any other capital investments in order to comply with the regulation.</p>
Yes <input type="checkbox"/>	No X	<p>Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective?(Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p>

		This regulation sets forth clear minimum standards to ensure consistency among programs and protect the health and safety of patients.
Yes <input checked="" type="checkbox"/>	No	Do any other regulations duplicate or conflict with the proposed regulation?  Temporary Nurse Staffing Agencies are also regulated by MassHealth pursuant to 101 CMR 345, which governs the rates paid by health care providers to registered agencies.
Yes X	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?  These regulations require small businesses to cooperate with inspections and other regulatory enforcement activities in order for DPH to ensure the safety of residents and patients. The regulation, as amended, does not increase this burden.
Yes	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?  This regulation does not require small businesses to provide educational services to keep up to date with regulatory requirements.
Yes <input type="checkbox"/>	No X	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?  Many new programs and providers have been approved since the regulation went into effect based upon an increased demand for temporary nursing services in facilities.
Yes <input type="checkbox"/>	No X	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?  Many new programs and providers have been approved since the regulation went into effect based upon an increased demand for temporary nursing services in facilities.
Yes <input type="checkbox"/>	No X	Does the regulation provide for less stringent compliance or reporting requirements for small businesses?  The reporting requirements are the same for all regulated parties, and result from individual incidents involving a patient or resident, rather than volume of service delivered or number of staff employed.
Yes <input type="checkbox"/>	No X	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?  The compliance standards are the same for all regulated parties, and result from individual incidents involving a patient or resident rather than volume of service delivered or number of staff employed.
Yes <input type="checkbox"/>	No X	Did the agency consolidate or simplify compliance or reporting requirements for small businesses?  The compliance and reporting requirements have been made consistent for all providers in the long-term care setting, and result from individual incidents involving a patient or resident rather than volume of service delivered or number of staff employed.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>This regulation sets forth clear minimum standards to ensure consistency among programs, protect the health and safety of patients, and reflect the individualized needs of patients and residents.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>This regulation reflects the need for temporary nursing services to meet the individualized needs of patients and residents rather than volume of service delivered or number of staff employed.</p>



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

MONICA BHAREL, MD, MPH  
Commissioner

Tel: 617-624-6000  
[www.mass.gov/dph](http://www.mass.gov/dph)

### NOTICE OF PUBLIC HEARING

Notice is hereby given pursuant to M.G.L. c. 30A, §2, that the Department of Public Health will hold public hearings on the amendment of 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*. The regulation is proposed to be amended to update regulations to be consistent with current law, as well as streamline administrative processes and clarify operational issues.

The hearings will be held on **January 3, 2017, at 10:00 a.m.** in the Public Health Council Room, Second Floor, Department of Public Health, 250 Washington Street, Boston, Massachusetts and **January 5, 2017 at 10:00 a.m.** at the Holyoke Community College Kittredge Center for Business and Workforce Development, 303 Homestead Avenue, Holyoke, Massachusetts. Speakers are requested to provide a copy of their oral testimony. The Department encourages all interested parties to submit testimony electronically to [Reg.Testimony@state.ma.us](mailto:Reg.Testimony@state.ma.us). Please submit electronic testimony as an attached Word document or as text within the body of an email and type "*Medical Use of Marijuana*" in the subject line. All submissions must include the sender's full name and address. The Department will post all electronic testimony that complies with these instructions on its website. Parties who are unable to submit electronic testimony should mail submissions to Office of the General Counsel, Department of Public Health, 250 Washington Street, Boston, MA 02108. All written or oral comments submitted to the Department may be posted on the Department's website and released in response to a request for public records. All written testimony must be submitted by **5:00 p.m. on January 6, 2017.**

A copy of the proposed amendments may be viewed on the Department's website or obtained from the Office of the General Counsel at 617-624-5220.

## Small Business Impact Statement

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

**CMR No:105 CMR 725.000**

**Estimate of the Number of Small Businesses Impacted by the Regulation: 180**

**Select Yes or No and Briefly Explain**

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Will small businesses have to create, file, or issue additional reports?</p> <p>Yes; one proposed amendment would require independent testing laboratories and registered marijuana dispensaries to report to the Department within 72 hours if contamination is discovered in a testing batch. In practice, such reporting is already occurring with registrants, but the timeline provides clarity to the industry.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Will small businesses have to implement additional recordkeeping procedures?</p> <p>The proposed amendments would require certain business who choose to participate in the medical use of marijuana industry to register with the Department:</p> <ul style="list-style-type: none"> <li>- If a laboratory wishes to register as an independent testing laboratory to test marijuana for registered marijuana dispensaries, it will need to register with the Department.</li> <li>- If an employee of the laboratory wishes to transport marijuana for the laboratory she or he will need to carry a registration card while in possession of marijuana or marijuana-infused products (MIPs).</li> <li>- If a caregiving institution (e.g., long term care facility, medical facility) wishes to facilitate the medical use of marijuana on its premises, it will need to register itself and register its employees who will serve as institutional caregivers.</li> </ul> <p>Additionally, Certified Nurse Practitioners (CNPs) who wish to certify qualifying patients for marijuana would need to register with the Department.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to provide additional administrative oversight?</p> <p>Due to the nature of the industry, participant businesses already provide comprehensive oversight. The proposed amendments to the regulation clarify administrative processes so as to ease compliance.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>The proposed regulatory amendments clarify legal protections and administrative processes for emerging participants in a developing industry. No significant additional burdens are proposed.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>The proposed regulatory amendments clarify legal protections and administrative processes for emerging participants in a developing industry. No significant additional burdens are proposed.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>The proposed regulatory amendments clarify and simplify requirements in the original regulation,</p>

		including easing certain standards after review of stakeholder feedback. No additional capital investments would be required for compliance.
Yes <input type="checkbox"/>	No X	<p>Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p> <p>The 2013 Cole Memorandum issued by the U.S. Department of Justice encourages states allowing the medical use of marijuana to adopt comprehensive regulations to protect public safety and prevent diversion, amongst other issues identified in the memorandum. Failure to comprehensively regulate the medical use of marijuana industry may lead to federal intervention if federal enforcement priorities are triggered.</p>
Yes <input type="checkbox"/>	No X	<p>Do any other regulations duplicate or conflict with the proposed regulation?</p> <p>The proposed regulatory amendments, in part, seek to reconcile an existing conflict between the 105 CMR 725.000 and 244 CMR 4.06(3)(d), nursing regulations amended in 2014 to allow CNPs to certify patients for the medical use of marijuana.</p>
Yes <input checked="" type="checkbox"/>	No	<p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>Currently, the regulation authorizes the Department or its agents to inspect an RMD. The proposed regulatory amendments do not increase any requirements to cooperate with audits, inspections or other regulatory enforcement activities.</p>
Yes X	No <input type="checkbox"/>	<p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>CNPs that choose to certify medical use of marijuana are required to take a minimum number of continuing education credits. The proposed amendments make no changes to existing requirements under the regulations that RMDs provide educational materials to registered qualifying patients.</p>
Yes <input type="checkbox"/>	No X	<p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>The proposed regulatory amendments clarify and simplify requirements in the original regulation, including easing certain standards after review of stakeholder feedback, and are not likely to deter formation of small businesses.</p>
Yes X	No <input type="checkbox"/>	<p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>The proposed regulatory amendments clarify and simplify requirements in the original regulation, including easing certain standards after review of stakeholder feedback, and may encourage the formation of small businesses.</p>
Yes	No	Does the regulation provide for less stringent compliance or reporting requirements for small



X	<input type="checkbox"/>	businesses?  The proposed regulatory amendments, in part, make organic cultivation an option, rather than a requirement, and ease restrictions on trade between RMDs.
Yes <input type="checkbox"/>	No X	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?  The proposed regulatory amendments do not establish less stringent schedules or deadlines for compliance or reporting for small businesses.
Yes X	No <input type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses?  The proposed regulatory amendments, in part, clarify and simplify requirements in the original regulation, including: clarifying deadlines for renewal of certificate of registration; setting clear methods of registration for caregiving institutions and institutional caregivers, who were previously identified in the regulation as “personal caregivers;” and creating a path for laboratories to register themselves and their employees, rather than having to register multiple times with RMDs.
Yes <input type="checkbox"/>	No X	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?  The 2013 Cole Memorandum issued by the U.S. Department of Justice encourages states allowing the medical use of marijuana to adopt comprehensive regulations to protect public safety and prevent diversion, amongst other issues identified in the memorandum. Failure to adopt and enforce comprehensive regulations may result in federal intervention if federal enforcement priorities are triggered.
Yes <input type="checkbox"/>	No X	Are there alternative regulatory methods that would minimize the adverse impact on small businesses?  The 2013 Cole Memorandum issued by the U.S. Department of Justice encourages states allowing the medical use of marijuana to adopt comprehensive regulations to protect public safety and prevent diversion, amongst other issues identified in the memorandum. Failure to adopt and enforce comprehensive regulations may result in federal intervention if federal enforcement priorities are triggered.



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Transitional Assistance*

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TRANSITIONAL ASSISTANCE  
NOTICE OF PROPOSED AMENDMENT OF REGULATIONS

The Department proposes to amend its regulations under the authority of M.G.L. c. 18, § 10 and pursuant to M.G.L. c. 30A, § 3. The Department describes the substance of the proposed actions as amendments to regulations found at 106 CMR 705.

106 CMR 705 – Transitional Cash Assistance Program (TCAP): Related Benefits. This chapter describes additional benefits for which cash assistance clients may be eligible. In response to Executive Order 562, the Department is proposing amendments to simplify regulatory language and fix technical errors.

All persons desiring to submit data, views or arguments concerning these proposed actions shall file the same with the Associate Commissioner for Programs, Department of Transitional Assistance, 600 Washington Street, Boston, Massachusetts 02111, on or before **12/9/2016**.

It is anticipated that these regulations will not go into effect before **12/16/2016**.

All persons desiring to review the current draft of the proposed actions shall request a copy in writing to the above address, in person, by phone (**617-348-8470**), Fax (**617-727-0166**), E-mail [DTA.PolicyUnit@MassMail.State.MA.US](mailto:DTA.PolicyUnit@MassMail.State.MA.US) or by accessing [www.mass.gov/dta](http://www.mass.gov/dta).

The Department may adopt a revised version of the proposed actions taking into account relevant comments and any other practical alternatives which come to the Department's attention.

By Order of the Department of Transitional Assistance

Jeff McCue, Commissioner

**November 18, 2016**

90:1 WD 6- AON 6107  
600 Washington Street • Boston MA 02111  
[www.mass.gov/dta](http://www.mass.gov/dta) • @DTA\_Listens

RECEIVED  
NOV 21 2016  
SECRETARY OF STATE

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

**106 CMR 705 Transitional Cash Assistance Program (TCAP): Related Benefits**

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

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small

<input type="checkbox"/>	<input checked="" type="checkbox"/>	businesses? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The regulations have no impact on small businesses.



*Commonwealth of Massachusetts*  
*Executive Office of Health and Human Services*  
*Department of Transitional Assistance*

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TRANSITIONAL ASSISTANCE  
NOTICE OF PROPOSED AMENDMENT OF REGULATIONS

The Department proposes to amend its regulations under the authority of M.G.L. c. 18, § 10 and pursuant to M.G.L. c. 30A, § 3. The Department describes the substance of the proposed actions as amendments to regulations found at 106 CMR 706.

106 CMR 706 – Transitional Cash Assistance Program (TCAP): Auxiliary Activities. This chapter describes activities that affect the delivery of benefits and are required to ensure the proper and accurate direction of funds. These regulations apply to the Transitional Aid to Families with Dependent Children (TAFDC) and Emergency Aid to the Elderly, Disabled and Children (EAEDC) programs. In response to Executive Order 562, the Department is proposing amendments to simplify regulatory language and fix technical errors.

All persons desiring to submit data, views or arguments concerning these proposed actions shall file the same with the Associate Commissioner for Programs, Department of Transitional Assistance, 600 Washington Street, Boston, Massachusetts 02111, on or before **12/9/2016**.

It is anticipated that these regulations will not go into effect before **12/16/2016**.

All persons desiring to review the current draft of the proposed actions shall request a copy in writing to the above address, in person, by phone (**617-348-8470**), Fax (**617-727-0166**), E-mail [DTA.PolicyUnit@MassMail.State.MA.US](mailto:DTA.PolicyUnit@MassMail.State.MA.US) or by accessing [www.mass.gov/dta](http://www.mass.gov/dta).

The Department may adopt a revised version of the proposed actions taking into account relevant comments and any other practical alternatives which come to the Department's attention.

By Order of the Department of Transitional Assistance

Jeff McCue, Commissioner

**November 18, 2016**

SECRETARY OF STATE  
2016 NOV -9 PM 1:06

600 Washington Street • Boston MA 02111  
[www.mass.gov/dta](http://www.mass.gov/dta) • @DTA\_Listens

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

**106 CMR 706 - Transitional Cash Assistance Program (TCAP): Auxiliary Activities**

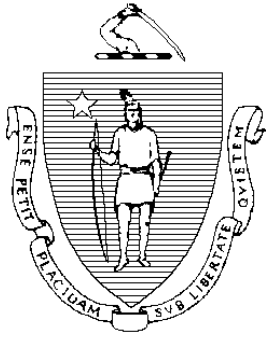
**Estimate of the Number of Small Businesses Impacted by the Regulation: None**

**Select Yes or No and Briefly Explain**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?



		The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?  The regulations have no impact on small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses?  The regulations have no impact on small businesses.



**THE COMMONWEALTH OF MASSACHUSETTS**  
*Secretary of the Commonwealth - William Francis Galvin*  
**2016 CUMULATIVE TABLE TO THE MASSACHUSETTS REGISTER**  
**1303-1327**

---

The cumulative Table 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: 1997	Register: # 833
1978	138	1998	859
1979	193	1999	885
1980	241	2000	911
1981	292	2001	937
1982	344	2002	963
1983	396	2003	989
1984	448	2004	1016
1985	500	2005	1042
1986	546	2006	1068
1987	572	2007	1094
1988	598	2008	1120
1989	624	2009	1146
1990	650	2010	1172
1991	676	2011	1198
1992	702	2012	1124
1993	729	2013	1250
1994	755	2014	1276
1995	871	2015	1302
1996	Supp. # 2 807		

		<u>Issue</u>	<u>Effective Date</u>
<b>101 CMR</b>	<b>Executive Office of Health and Human Services</b>		
204.00	Rates of Payment to Resident Care Facilities .....	1314	6/3/16
206.00	Standard Payments to Nursing Facilities		
	- <i>Emergency Re-file</i> (MA Reg. # 1298) .....	1304	10/1/15
	- <i>Compliance</i> (MA Reg. # 1298) .....	1310	10/1/15
	- <i>Emergency</i> .....	1324	9/30/16
309.00	Independent Living Services for the Personal Care Attendant Program	1307	2/26/16
331.00	Prescribed Drugs .....	1319	8/12/16
343.00	Hospice Services .....	1324	10/21/16
346.00	Rates for Certain Substance Related and Addictive Disorder Programs - <i>Emergency</i> .....	1305	1/4/16
	- <i>Compliance</i> (MA Reg. # 1305) .....	1309	1/4/16
	- <i>Emergency</i> .....	1310	3/25/16
	- <i>Correction</i> (MA Reg. # 1310) .....	1315	3/25/16
	- <i>Compliance</i> (MA Reg. # 1310) .....	1316	3/25/16
349.00	Rates for Early Intervention Program Services - <i>Emergency</i> .....	1314	5/9/16
	- <i>Compliance</i> (MA Reg. # 1314) .....	1318	5/9/16
352.00	Rates of Payment for Certain Children's Behavioral Health Services		
	- <i>Compliance</i> (MA Reg. # 1298) .....	1303	7/1/15
	- <i>Emergency</i> .....	1305	1/4/16
	- <i>Emergency Re-file</i> (MA Reg. # 1305) .....	1310	1/4/16
	- <i>Compliance</i> (MA Reg. # 1305) .....	1317	1/4/16
358.00	Applied Behavior Analysis .....	1306	2/12/16
410.00	Rates for Competitive Integrated Employment Services .....	1317	7/15/16
	- <i>Correction</i> (MA Reg. # 1317) .....	1324	7/15/16
	- <i>Correction</i> (MA Reg. # 1317) .....	1326	7/15/16
411.00	Rates for Certain Placement and Support Services .....	1325	11/4/16
	- <i>Correction</i> (MA Reg. # 1325) .....	1327	11/4/16
412.00	Rates for Family Transitional Support Services .....	1316	7/1/16
413.00	Payments for Youth Intermediate-term Stabilization Services .....	1308	3/11/16
414.00	Rates for Family Stabilization Services - <i>Emergency</i> .....	1304	1/1/16
	- <i>Correction to Emergency</i> (MA Reg. # 1304) .....	1305	1/1/16
	- <i>Emergency Re-file</i> (MA Reg. # 1305) .....	1310	1/1/16
	.....	1315	6/17/16
415.00	Rates for Community-based Support Services .....	1308	3/11/16
416.00	Rates for Clubhouse Services .....	1314	6/3/16
417.00	Rates for Certain Elder Care Services - <i>Emergency</i> .....	1304	1/1/16
	- <i>Emergency Re-file</i> (MA Reg. # 1304) .....	1310	1/1/16
	.....	1315	6/17/16
418.00	Payments for Youth Short-term Stabilization and Emergency Placement Services - <i>Emergency</i> .....	1305	1/4/16
	- <i>Emergency Re-file</i> (MA Reg. # 1305) .....	1309	1/4/16
	.....	1310	4/8/16
	.....	1323	10/7/16
419.00	Rates for Supported Employment Services .....	1306	2/12/16
420.00	Rates for Adult Long-term Residential Services - <i>Emergency</i> .....	1311	4/1/16
	.....	1316	7/1/16
	- <i>Correction</i> (MA Reg. # 1316) .....	1318	7/1/16

		<u>Issue</u>	<u>Effective Date</u>
422.00	General Programs Disability Services - <i>Emergency Re-file</i> (MA Reg. # 1300) . . . . .	1306	1/1/16
	. . . . .	1308	3/11/16
423.00	Rates for Certain In-Home Basic Living Supports - <i>Emergency Re-file</i> (MA Reg. # 1300) . . . . .	1306	1/1/16
	. . . . .	1308	3/11/16
424.00	Rates for Certain Developmental and Support Services - <i>Emergency</i> . . . . .	1313	4/27/16
	. . . . .	1317	7/15/16
	- <i>Correction</i> (MA Reg. # 1317) . . . . .	1320	7/15/16
425.00	Rates for Certain Young Parents Support Programs . . . . .	1317	7/15/16
512.00	Nursing Facility User Fees . . . . .	1324	10/6/16
613.00	Health Safety Net Eligible Services - <i>Emergency Re-file</i> (MA Reg. # 1296) . . . . .	1303	10/1/15
	. . . . .	1304	1/15/16
	. . . . .	1310	4/8/16
	- <i>Emergency</i> . . . . .	1323	10/1/16
614.00	Health Safety Net Payments and Funding - <i>Correction to Emergency</i> (MA Reg. # 1296) . . . . .	1303	10/1/15
	- <i>Compliance</i> (MA Reg. # 1296) . . . . .	1303	10/1/15
	- <i>Emergency</i> . . . . .	1323	10/1/16
<b>102 CMR</b>	<b>Department of Child Care Services</b>		
3.00	Standards for the Licensure or Approval of Residential Programs Serving Children and Teen Parents . . . . .	1303	1/1/16
<b>104 CMR</b>	<b>Department of Mental Health</b>		
27.00	Licensing and Operational Standards for Mental Health Facilities - <i>Emergency</i> . . . . .	1306	1/25/16
	- <i>Emergency Re-file</i> (MA Reg. # 1306) . . . . .	1312	1/25/16
	. . . . .	1316	7/1/16
	. . . . .	1316	7/1/16
31.00	Human Subject Research Authorization and Monitoring . . . . .	1326	11/18/16
33.00	Designation and Appointment of Qualified Mental Health Professionals . . . . .	1326	11/18/16
<b>105 CMR</b>	<b>Department of Public Health</b>		
120.000	The Control of Radiation . . . . .	1307	2/26/16
144.000	Licensure of Pine Street Inn Nurses Clinics . . . . .	1312	5/6/16
153.000	Licensure Procedure and Suitability Requirements for Long-term Care Facilities . . . . .	1303	1/1/16
164.000	Licensure of Substance Abuse Treatment Programs - <i>Compliance</i> (MA Reg # 1299) . . . . .	1304	10/21/15
	. . . . .	1305	1/29/16
	- <i>Correction</i> (MA Reg. # 1305) . . . . .	1314	1/29/16
170.000	Emergency Medical Services System . . . . .	1321	9/9/16
230.000	Healthy Start Program . . . . .	1312	5/6/16
270.000	Blood Screening of Newborns for Treatable Diseases and Disorders .	1324	10/21/16
302.000	Congenital Anomalies Registry . . . . .	1325	11/4/16

		<u>Issue</u>	<u>Effective Date</u>
310.000	Transportation and Funerals of Persons Dead of Diseases Dangerous to Public Health . . . . .	1312	5/6/16
315.000	Cremation of Bodies Received from Outside Massachusetts . . . . .	1325	11/4/16
335.000	Treatment of Persons Exposed to Rabies . . . . .	1316	7/1/16
340.000	Reporting and Control of Sexually Transmitted Diseases (STD) . . . . .	1312	5/6/16
345.000	The Establishment of State Certified Clinics for the Diagnosis, Treatment and Control of Sexually Transmitted Disease . . . . .	1312	5/6/16
350.000	Determining Active Tuberculosis . . . . .	1312	5/6/16
360.000	Tuberculosis Treatment Unit Standards for Admission, Treatment, and Discharge . . . . .	1316	7/1/16
365.000	Standards for Management of Tuberculosis Outside Hospitals . . . . .	1316	7/1/16
370.000	Prophylactic Remedy for Use in the Eyes of Infants . . . . .	1312	5/6/16
380.000	Approval of Bacteriological and Serological Laboratories . . . . .	1321	9/9/16
500.000	Good Manufacturing Practices for Food . . . . .	1322	9/23/16
510.000	Standards of Identity and Definitions of Purity and Quality of Food . . . . .	1322	9/23/16
520.000	Labeling . . . . .	1322	9/23/16
530.000	Sanitation in Meat and Poultry Processing Establishments . . . . .	1322	9/23/16
531.000	Inspection of Meat Slaughtering and Processing . . . . .	1322	9/23/16
532.000	Inspection of Poultry and Poultry Products . . . . .	1322	9/23/16
533.000	Fish and Fishery Products . . . . .	1322	9/23/16
541.000	Milk and Milk Products, Grade A Condensed and Dry Milk Products, Grade A Condensed and Dry Whey, and Milk Pasteurization Plants . . . . .	1322	9/23/16
561.000	Frozen Desserts and Frozen Dessert Mixes . . . . .	1322	9/23/16
565.000	Dietetic Foods . . . . .	1322	9/23/16
570.000	The Manufacture, Collection and Bottling of Water and Carbonated Nonalcoholic Beverages . . . . .	1322	9/23/16
620.000	Bedding, Upholstered Furniture and Related Products . . . . .	1322	9/23/16
630.000	Plastic Bags and Plastic Film . . . . .	1322	9/23/16
670.000	Right to Know . . . . .	1321	9/9/16
680.000	Phosphates in Household Cleansing Products . . . . .	1312	5/6/16
730.000	The Distribution of Biologic Products . . . . .	1312	5/6/16
731.000	The Sale of Surplus Biologic Products . . . . .	1312	5/6/16
921.000	Assuring Visitation at the Department of Public Health Hospitals for Patients having a Relationship of Mutual Support . . . . .	1312	5/6/16
<b>106 CMR</b>	<b>Department of Transitional Assistance</b>		
100.000	General Provisions . . . . .	1322	9/23/16
101.000	Meaning of Terms in 106 CMR 101.000 . . . . .	1322	9/23/16
102.000	Officer Designation . . . . .	1322	9/23/16
103.000	Administration of Personal Data . . . . .	1322	9/23/16
104.000	Regulation of Access to Personal Data . . . . .	1322	9/23/16
105.000	Access by Data Subjects . . . . .	1322	9/23/16
106.000	Objections . . . . .	1322	9/23/16
107.000	Administrative Appeals . . . . .	1322	9/23/16
108.000	Enforcement . . . . .	1322	9/23/16

		<u>Issue</u>	<u>Effective Date</u>
203.000	Transitional Aid to Families with Dependent Children: Nonfinancial Eligibility . . . . .	1310	4/8/16
	- <i>Correction</i> (MA Reg. # 1310) . . . . .	1312	4/8/16
204.000	Transitional Aid to Families with Dependent Children: Financial Eligibility . . . . .	1310	4/8/16
	- <i>Correction</i> (MA Reg. # 1310) . . . . .	1312	4/8/16
207.000	Transitional Aid to Families with Dependent Children: Employment Services Program . . . . .	1310	4/8/16
208.000	Transitional Aid to Families with Dependent Children: Full Employment Program: Employer Regulations . . . . .	1310	4/8/16
309.000	Emergency Assistance . . . . .	1315	6/17/16
321.000	Emergency Aid to the Elderly, Disabled and Children: Financial Eligibility . . . . .	1310	4/8/16
326.000	Eligibility Requirements for Repatriated U.S. Citizens . . . . .	1316	7/1/16
327.000	Eligibility Requirements for State Supplement Program (SSP) . . . . .	1316	7/1/16
343.000	Fair Hearing Rules . . . . .	1327	12/2/16
701.000	Transitional Cash Assistance Programs: General Policies . . . . .	1310	4/8/16
702.000	Transitional Cash Assistance Programs: The Eligibility Process . . . . .	1310	4/8/16
	- <i>Correction</i> (MA Reg. # 1310) . . . . .	1312	4/8/16
706.000	Transitional Cash Assistance Programs: Auxiliary Activities . . . . .	1310	4/8/16
<b>107 CMR</b>	<b>Massachusetts Rehabilitation Commission</b>		
20.00	Vocational Training Services . . . . .	1313	5/20/16
<b>109 CMR</b>	<b>Department of Youth Services</b>		
5.00	Involuntary Room Confinement of Youth Detained by or Committed to the Department of Youth Services . . . . .	1312	5/6/16
6.00	Restraints and Use of Force with Youth Detained by or Committed to the Department of Youth Services . . . . .	1312	5/6/16
7.00	The Granting of Passes for Youth Committed to the Department of Youth Services . . . . .	1312	5/6/16
9.00	Discharge of Juveniles Committed to the Department of Youth Services . . . . .	1320	8/26/16
11.00	Client Medical Care and Treatment . . . . .	1327	12/2/16
<b>110 CMR</b>	<b>Department of Children and Families</b>		
8.00	Service Denial, Reduction, or Termination . . . . .	1327	12/2/16
<b>111 CMR</b>	<b>Massachusetts Commission for the Blind</b>		
9.00	Criminal Offender Record Checks . . . . .	1312	5/6/16
<b>114 CMR</b>	<b>Department of Health Care Finance and Policy</b>		
<b>114.3</b>			
9.00	Independent Living Services for the Personal Care Attendant Program . . . . .	1307	2/26/16
31.00	Prescribed Drugs . . . . .	1319	8/12/16



		<u>Issue</u>	<u>Effective Date</u>
<b>114.4</b>			
15.00	Rates for Community-based Support Services . . . . .	1308	3/11/16
16.00	Rates for Clubhouse Services . . . . .	1314	6/3/16
<b>114.5</b>			
12.00	Nursing Facility User Fees . . . . .	1324	10/6/16
<b>115 CMR</b>	<b>Department of Developmental Services</b>		
1.00	Scope and Authority . . . . .	1326	11/18/16
2.00	Definitions . . . . .	1311	4/22/16
6.00	Eligibility, Individual Support Planning and Appeals . . . . .	1311	4/22/16
	- <i>Correction</i> (MA Reg. # 1311) . . . . .	1320	4/22/16
7.00	Standards for All Services and Supports . . . . .	1317	7/15/16
	- <i>Correction</i> (MA Reg. # 1317) . . . . .	1318	7/29/16
8.00	Licensure and Certification of Providers . . . . .	1317	7/15/16
12.00	National Criminal Background Checks . . . . .	1326	11/18/16
<b>118 CMR</b>	<b>Disabled Persons Protection Commission</b>		
1.00	Scope and Authority . . . . .	1319	8/12/16
2.00	Definitions . . . . .	1319	8/12/16
3.00	Reporters . . . . .	1319	8/12/16
4.00	Screening and Referrals to Other Agencies . . . . .	1319	8/12/16
5.00	Investigations . . . . .	1319	8/12/16
6.00	Formal Commissioner's Investigations . . . . .	1319	8/12/16
7.00	Protective Services . . . . .	1319	8/12/16
8.00	Petition for Protective Order . . . . .	1319	8/12/16
9.00	Records . . . . .	1319	8/12/16
10.00	Annual Report . . . . .	1319	8/12/16
11.00	Interagency Agreements . . . . .	1319	8/12/16
12.00	Non-discrimination . . . . .	1319	8/12/16
13.00	Advisory Council . . . . .	1319	8/12/16
14.00	Filing Objections and Administrative Review		
<b>130 CMR</b>	<b>Division of Medical Assistance</b>		
403.000	Home Health Agency Services - <i>Emergency</i> . . . . .	1308	2/26/16
	- <i>Emergency Re-file</i> (MA Reg. # 1308) . . . . .	1314	2/26/16
	. . . . .	1319	8/12/16
405.000	Community Health Centers . . . . .	1319	8/12/16
406.000	Pharmacy Services . . . . .	1319	8/12/16
410.000	Outpatient Hospital Services - <i>Correction</i> (MA Reg. # 1277) . . . . .	1308	1/2/15
	. . . . .	1319	8/12/16
418.000	Substance Use Disorder Treatment Services - <i>Emergency</i> . . . . .	1316	6/8/16
	- <i>Compliance</i> (MA Reg. # 1316) . . . . .	1321	6/8/16
422.000	Personal Care Services . . . . .	1318	7/29/16
424.000	Podiatrist Services . . . . .	1319	8/12/16
431.000	Independent Diagnostic Testing Facility . . . . .	1321	9/9/16
433.000	Physician Services . . . . .	1319	8/12/16
441.000	Chiropractic Services - <i>Correction</i> (MA Reg. # 1170) . . . . .	1313	12/1/10
450.000	Administrative and Billing Regulations . . . . .	1322	9/23/16

		<u>Issue</u>	<u>Effective Date</u>
508.000	MassHealth Managed Care Requirements . . . . .	1322	10/1/16
519.000	MassHealth Coverage Types . . . . .	1327	12/2/16
630.000	Home- and Community-based Services Waivers . . . . .	1327	12/2/16
<b>201 CMR</b>	<b>Office of Consumer Affairs and Business Regulation</b>		
14.00	Home Improvement Contractor Arbitration and Guaranty Fund . . . .	1314	6/3/16
18.00	Registration and Enforcement of Home Improvement Contractor Program . . . . .	1314	6/3/16
<b>205 CMR</b>	<b>Massachusetts Gaming Commission</b>		
3.00	Harness Horse Racing - <i>Emergency</i> . . . . .	1307	2/9/16
	- <i>Emergency Re-file</i> (MA Reg. # 1307) . . . . .	1313	2/9/16
	- <i>Compliance</i> (MA Reg. # 1307) . . . . .	1317	2/9/16
4.00	Rules of Horse Racing - <i>Emergency</i> . . . . .	1307	2/9/16
	- <i>Emergency Re-file</i> (MA Reg. # 1307) . . . . .	1313	2/9/16
	- <i>Compliance</i> (MA Reg. # 1307) . . . . .	1317	2/9/16
6.00	Pari-mutuel Rules for Thoroughbred Racing, Harness Racing, and Greyhound Racing - <i>Emergency</i> . . . . .	1315	5/31/16
	- <i>Emergency Re-file</i> (MA Reg. # 1315) . . . . .	1320	5/31/16
	- <i>Compliance</i> (MA Reg. # 1315) . . . . .	1324	5/31/16
102.00	Construction and Application . . . . .	1308	3/11/16
116.00	Persons Required to Be Licensed or Qualified . . . . .	1308	3/11/16
	<i>Emergency</i> . . . . .	1309	3/12/16
	- <i>Compliance</i> (MA Reg. # 1309) . . . . .	1313	3/12/16
129.00	Review of a Proposed Transfer of Interests . . . . .	1308	3/11/16
133.00	Voluntary Self-exclusion . . . . .	1312	5/6/16
134.00	Licensing and Registration of Employees, Vendors, Junket Enter- prises and Representatives, and Labor Organizations - <i>Emergency</i> . .	1309	3/3/16
	- <i>Compliance</i> (MA Reg. # 1309) . . . . .	1313	3/3/16
	- <i>Correction</i> (MA Reg. # 1313) . . . . .	1316	3/3/16
	- <i>Emergency</i> . . . . .	1319	7/22/16
	- <i>Compliance</i> (MA Reg. # 1319) . . . . .	1325	7/22/16
138.00	Uniform Standards of Accounting Procedures and Internal Controls - <i>Emergency</i> . . . . .	1317	6/24/16
	- <i>Emergency Re-file</i> (MA Reg. # 1317) . . . . .	1321	6/24/16
	- <i>Compliance</i> (MA Reg. # 1317) . . . . .	1324	6/24/16
143.00	Gaming Devices and Electronic Gaming Equipment . . . . .	1312	5/6/16
149.00	Race Horse Development Fund . . . . .	1314	6/3/16
152.00	Individuals Excluded from a Gaming Establishment . . . . .	1312	5/6/16
<b>209 CMR</b>	<b>Division of Banks and Loan Agencies</b>		
4.00	Compliance with Federal Law and Regulation . . . . .	1314	6/3/16
32.00	Truth in Lending . . . . .	1320	8/26/16
35.00	Check Cashing Procedures for Certain Banks Required to Honor and Cash Certain Checks of Pensioners and Retirees . . . . .	1316	7/1/16
40.00	Unfair and Deceptive Acts and Practices . . . . .	1314	6/3/16
41.00	The Licensing of Mortgage Loan Originators . . . . .	1320	8/26/16
42.00	The Licensing of Mortgage Lenders and Mortgage Brokers . . . . .	1320	8/26/16

		<i>Issue</i>	<i>Effective Date</i>
43.00	Audit Requirements for Credit Unions .....	1314	6/3/16
44.00	The Licensing of Foreign Transmittal Agencies .....	1321	9/9/16
45.00	The Licensing and Regulation of Money Services Businesses .....	1321	9/9/16
	- <i>Correction</i> (MA Reg. # 1321) .....	1324	9/9/16
46.00	Community Reinvestment .....	1319	8/12/16
49.00	Insurance Sales by Banks and Credit Unions .....	1316	7/1/16
50.00	Parity with Federal Credit Unions .....	1319	8/12/16
52.00	Credit Insurance Disclosure Requirements .....	1316	7/1/16
54.00	Mortgage Lender Community Investment .....	1318	7/29/16
	- <i>Correction</i> (MA Reg. # 1318) .....	1327	7/29/16

**211 CMR      Division of Insurance**

3.00	Motorcycle Insurance .....	1320	8/26/16
8.00	Investments of Officers, Directors, and Principal Stock- holders of Domestic Stock Insurance Companies .....	1319	8/12/16
10.00	Nation-wide Marine Definitions .....	1320	8/26/16
11.00	Insurance on Outboard Motors and Motor Boats - Ocean Marine or Inland Marine .....	1320	8/26/16
15.00	Reporting of Statistical Data by Property and Casualty Insurance Companies .....	1321	9/9/16
20.00	Risk-based Capital (RBC) for Insurers .....	1320	8/26/16
23.00	Audits of Insurers by Independent Certified Public Accountants for Years Ending 1991 and After .....	1320	8/26/16
25.00	Risk-based Capital (RBC) for Health Organizations .....	1320	8/26/16
38.00	Coordination of Benefits (COB) .....	1323	10/7/16
	- <i>Correction</i> (MA Reg. # 1323) .....	1325	10/7/16
39.00	Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities .....	1319	8/12/16
50.00	Continuing Education for Insurance Producers .....	1320	8/26/16
51.00	Preferred Provider Health Plans and Workers' Compensation Preferred Provider Arrangements .....	1323	10/7/16
54.00	Procedures for Surrender and Non-renewal of Licenses by Insurers Authorized to Write Motor Vehicle Insurance .....	1320	8/26/16
63.00	Young Adult Health Benefit Plans .....	1320	8/26/16
67.00	Workers' Compensation Self-insurance Groups .....	1320	8/26/16
92.00	Safe Driver Insurance Plan .....	1320	8/26/16
96.00	Consumer Protection and Suitability in Annuity Transactions .....	1316	7/1/16
113.00	Requirements Regarding Workers' Compensation Insurance Deductibles .....	1321	9/9/16
115.00	Requirements Applicable to Workers' Compensation Insurance Deductible Plans .....	1321	9/9/16
	- <i>Correction</i> (MA Reg. # 1321) .....	1323	9/9/16
130.00	Credit for Reinsurance .....	1323	10/7/16
142.00	Insurance Sales by Banks and Credit Unions .....	1317	7/15/16
	- <i>Correction</i> (MA Reg. # 1317) .....	1319	7/15/16
155.00	Risk-bearing Provider Organizations .....	1323	10/7/16
	- <i>Correction</i> (MA Reg. # 1323) .....	1324	10/7/16

		<u>Issue</u>	<u>Effective Date</u>
<b>220 CMR</b>	<b>Department of Public Utilities</b>		
1.00	Procedural Rules . . . . .	1315	6/17/16
2.00	Rules for Adopting, Amending or Repealing Regulations and for Issuing Advisory Rulings . . . . .	1315	6/17/16
	- <i>Correction</i> (MA Reg. # 1315) . . . . .	1317	6/17/16
5.00	Tariffs, Schedules, and Contracts (Other Than Commercial Motor Vehicle) . . . . .	1315	6/17/16
	- <i>Correction</i> (MA Reg. # 1315) . . . . .	1317	6/17/16
6.00	Standard Cost of Gas Adjustment Clause . . . . .	1315	6/17/16
9.00	Cost Recovery for Major Electric Company Generation Investments	1315	6/17/16
11.00	Rules Governing the Restructuring of the Electric Industry . . . . .	1315	6/17/16
14.00	The Unbundling of Services Related to the Provision of Natural Gas	1315	6/17/16
18.00	Net Metering - <i>Emergency</i> . . . . .	1314	5/11/16
	. . . . .	1318	7/29/16
30.00	Requiring Private Investor Owned Electric Companies Operating within the Commonwealth to Adopt Rate Structures Based on Peak Load and Time Differential Pricing and Relating Costing Methodologies . . . . .	1315	6/17/16
	- <i>Correction</i> (MA Reg. # 1315) . . . . .	1317	6/17/16
77.00	Voting Trust Certificates of Public Utilities . . . . .	1315	6/17/16
	- <i>Correction</i> (MA Reg. # 1315) . . . . .	1317	6/17/16
79.00	Annual Return to be Filed by Gas, Electric and Water Companies and Municipal Lighting Plants . . . . .	1315	6/17/16
150.00	Railroad Safety Regulations . . . . .	1309	3/25/16
250.00	Transportation Oversight Division Practice . . . . .	1309	3/25/16
271.00	Administration of M.G.L. c. 159B . . . . .	1309	3/25/16
<b>225 CMR</b>	<b>Department of Energy Resources</b>		
14.00	Renewable Energy Portfolio Standard - Class 1 - <i>Emergency</i> . . . . .	1311	4/8/16
	. . . . .	1316	7/1/16
<b>231 CMR</b>	<b>Board of Registration of Architects</b>		
2.00	General Provisions . . . . .	1327	12/2/16
3.00	Procedures for Application, Examination, Registration, and Renewal	1327	12/2/16
<b>237 CMR</b>	<b>Board of State Examiners of Electricians and Board of Electricians' Appeals</b>		
12.00	Definitions . . . . .	1326	11/18/16
13.00	Eligibility Criteria for Initial Licensure . . . . .	1326	11/18/16
14.00	Examinations for Licensure . . . . .	1326	11/18/16
16.00	Licenses . . . . .	1326	11/18/16
17.00	Mandatory Continuing Education (MCE) . . . . .	1326	11/18/16
18.00	Rules Governing Practice . . . . .	1326	11/18/16
19.00	Adjudicatory Proceedings . . . . .	1326	11/18/16
20.00	Inspectors of Wires . . . . .	1326	11/18/16
21.00	Board of Electricians' Appeals . . . . .	1326	11/18/16

		<i>Issue</i>	<i>Effective Date</i>
<b>247 CMR</b>	<b>Board of Registration in Pharmacy</b>		
11.00	Registration under the Controlled Substances Act (M.G.L. c. 94C) . . .	1305	1/29/16
21.00	Registration of Outsourcing Facilities . . . . .	1305	1/29/16
<b>251 CMR</b>	<b>Board of Registration of Psychologists</b>		
1.00	Ethical Standards, Professional Conduct, and Disciplinary Procedures . . . . .	1315	6/17/16
3.00	Registration of Psychologists . . . . .	1315	6/17/16
<b>253 CMR</b>	<b>Board of Registration of Radio and Television Technicians</b>		
2.00	Rules and Regulations Governing Radio and Television Technicians	1309	3/25/16
<b>254 CMR</b>	<b>Board of Registration of Real Estate Brokers and Salesmen</b>		
4.00	Real Estate School Authorization . . . . .	1323	10/7/16
	- <i>Correction</i> (MA Reg. # 1323) . . . . .	1324	10/7/16
7.00	Apartment Rentals . . . . .	1323	10/7/16
	- <i>Correction</i> (MA Reg. # 1323) . . . . .	1324	10/7/16
<b>259 CMR</b>	<b>Board of Registration of Allied Health Professions</b>		
3.00	Occupational Therapists . . . . .	1326	11/18/16
4.00	Athletic Trainers . . . . .	1326	11/18/16
5.00	Physical Therapists . . . . .	1326	11/18/16
<b>260 CMR</b>	<b>Board of Registration in Speech-Language Pathology and Audiology</b>		
1.00	Standards, Complaint and Grievance Procedure . . . . .	1321	9/9/16
2.00	Application and Licensing Requirements . . . . .	1321	9/9/16
5.00	Renewal Procedures . . . . .	1321	9/9/16
7.00	Continuing Education . . . . .	1321	9/9/16
10.00	Use and Supervision of Speech-Language Pathology and Audiology Assistants . . . . .	1321	9/9/16
<b>264 CMR</b>	<b>Board of Registration of Real Estate Appraisers</b>		
1.00	Disciplinary Provisions . . . . .	1323	10/7/16
2.00	General Provisions . . . . .	1323	10/7/16
3.00	Application, Examination and Registration Procedures . . . . .	1323	10/7/16
4.00	Renewal Procedures and Continuing Education Requirements . . . . .	1323	10/7/16
5.00	Licensure/Certification Requirements . . . . .	1323	10/7/16
6.00	Practice of Real Estate Appraisal . . . . .	1323	10/7/16
7.00	Special Classification of License/Certificate . . . . .	1323	10/7/16
9.00	Course Approval Requirements for Providers of Primary and Continuing Education . . . . .	1323	10/7/16
11.00	Standards of Practice and Ethics . . . . .	1323	10/7/16
12.00	Board Procedures . . . . .	1323	10/7/16

		<i>Issue</i>	<i>Effective Date</i>
<b>265 CMR</b>	<b>Board of Registration of Hearing Instrument Specialists</b>		
3.00	Procedure for Registration . . . . .	1319	8/12/16
4.00	Apprentice Training and Registration Requirements . . . . .	1319	8/12/16
5.00	Continuing Education . . . . .	1319	8/12/16
6.00	Standards of Practice . . . . .	1319	8/12/16
7.00	Professional Competence and Conduct . . . . .	1319	8/12/16
9.00	Procedures for Hearings and Appeals . . . . .	1319	8/12/16
<b>271 CMR</b>	<b>Board of Examiners of Sheet Metal Workers</b>		
3.00	Individual Licensure . . . . .	1326	11/18/16
5.00	Code of Professional Ethics and Standards of Professional Practice .	1326	11/18/16
7.00	Business Licensure . . . . .	1326	11/18/16
8.00	Sheet Metal Worker Training Programs . . . . .	1326	11/18/16
9.00	Permits and Inspections . . . . .	1326	11/18/16
<b>301 CMR</b>	<b>Executive Office of Energy and Environmental Affairs</b>		
5.00	LAND and PARC Programs . . . . .	1325	11/4/16
10.00	Densely Developed Areas . . . . .	1325	11/4/16
12.00	Areas of Critical Environmental Concern . . . . .	1325	11/4/16
15.00	Provisions for Administration of the Dam and Sea Wall Repair or Removal Fund . . . . .	1325	11/4/16
41.00	Toxic or Hazardous Substance List . . . . .	1321	9/9/16
51.00	Land Acquisition . . . . .	1325	11/4/16
<b>310 CMR</b>	<b>Department of Environmental Protection</b>		
4.00	Timely Action Schedule and Fee Provisions . . . . .	1321	9/9/16
7.00	Air Pollution Control . . . . .	1303	1/1/16
	. . . . .	1321	9/9/16
14.00	Financial Assistance to Municipalities for Correcting Failed Onsite Disposal Systems . . . . .	1320	8/26/16
15.00	The State Environmental Code, 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 . . . . .	1321	9/9/16
22.00	Drinking Water . . . . .	1309	3/25/16
27.00	Underground Injection Control Regulations . . . . .	1322	9/23/16
28.00	Water Supply Contamination Correction Program . . . . .	1320	8/26/16
31.00	Water Conservation Grants Program . . . . .	1320	8/26/16
32.00	Land Application of Sludge and Septage . . . . .	1322	9/23/16
35.00	Household Hazardous Waste Grant Program . . . . .	1317	7/15/16
37.00	Landfill Capping Grant Program . . . . .	1317	7/15/16
42.00	Certification and Operation of Environmental Analysis Laboratories	1325	11/4/16
39.00	Solid Waste Grant and Loan Program . . . . .	1317	7/15/16
60.00	Air Pollution Control for Mobile Sources . . . . .	1319	8/12/16
70.00	Environmental Results Program Certification . . . . .	1321	9/9/16



		<i>Issue</i>	<i>Effective Date</i>
71.00	Industrial Wastewater Regulations for Photo Processors and Printers	1321	9/9/16
73.00	Amalgam Wastewater and Recycling Regulations for Dental Facilities	1321	9/9/16
<b>314 CMR Division of Water Pollution Control</b>			
5.00	Ground Water Discharge Permit Program	1327	12/2/16
8.00	Supplemental Requirements for Hazardous Waste Management Facilities	1327	12/2/16
18.00	Industrial Wastewater Holding Tank and Container Construction, Operation, and Record Keeping Requirements	1322	9/23/16
<b>320 CMR Department of Fish and Game</b>			
2.00	Public Access Facilities	1321	9/9/16
<b>321 CMR Division of Fisheries and Wildlife</b>			
2.00	Miscellaneous Regulations Relating to Fisheries and Wildlife	1320	8/26/16
3.00	Hunting	1312	5/6/16
		1320	8/26/16
4.00	Fishing	1320	8/26/16
6.00	Dog Restraining Order	1320	8/26/16
8.00	Endangered Wildlife and Plants Section	1320	8/26/16
11.00	Nature Preserves	1320	8/26/16
<b>322 CMR Division of Marine Fisheries</b>			
3.00	1971 Compilation - <i>Emergency</i>	1304	12/30/15
	- <i>Compliance</i> (MA Reg. # 1304)	1310	12/30/15
		1324	10/21/16
4.00	Fishing and Shellfish Equipment - <i>Emergency</i>	1304	12/30/15
		1309	3/25/16
		1324	10/21/16
6.00	Regulation of Catches - <i>Emergency</i>	1304	12/30/15
		1309	3/25/16
	- <i>Emergency</i>	1313	4/29/16
	- <i>Compliance</i> (MA Reg. # 1313)	1319	4/29/16
	- <i>Emergency</i>	1314	5/9/16
	- <i>Compliance</i> (MA Reg. # 1314)	1319	5/9/16
		1324	10/21/16
7.00	Permits - <i>Emergency</i>	1304	12/30/15
	- <i>Compliance</i> (MA Reg. # 1304)	1310	12/30/15
		1324	10/21/16
8.00	Coastal Fisheries and Conservation Management - <i>Emergency</i>	1309	2/29/16
	- <i>Emergency</i>	1314	5/9/16
	- <i>Compliance</i> (MA Reg. # 1314)	1319	5/9/16
		1324	10/21/16
9.00	Management of Sea Herring	1321	9/9/16
10.00	Management of Moderately Contaminated Shellfish	1324	10/21/16
11.00	Internal Waters Processing	1324	10/21/16

		<i>Issue</i>	<i>Effective Date</i>
12.00	Protected Species - <i>Emergency</i> .....	1304	12/30/15
	.....	1309	3/25/16
14.00	Regulation of Aquaculture Products .....	1324	10/21/16
	.....	1326	11/18/16
16.00	Shellfish Harvest and Handling .....	1313	5/20/16
	- <i>Correction</i> (MA Reg. # 1313) .....	1319	5/20/16
<b>330 CMR</b>	<b>Department of Agricultural Resources</b>		
3.00	Shipment of Dogs into the Commonwealth .....	1323	10/7/16
4.00	Cattle .....	1323	10/7/16
5.00	Poultry .....	1323	10/7/16
6.00	Seeds, Apples and Potatoes .....	1323	10/7/16
9.00	Plant Quarantines .....	1324	10/21/16
10.00	Prevention of the Spread of Rabies - <i>Emergency</i> .....	1319	7/28/16
	- <i>Compliance</i> (MA Reg. # 1319) .....	1323	7/28/16
	- <i>Correction</i> (MA Reg. # 1323) .....	1325	7/28/16
11.00	Swine .....	1323	10/7/16
12.00	Licensing and Operation of Pet Shops .....	1327	12/2/16
16.00	Horses .....	1323	10/7/16
18.00	Land Use .....	1324	10/21/16
21.00	Supervision of Milk Pricing and Supply .....	1323	10/7/16
27.00	Standards and Sanitation Requirements for Grade A Raw Milk .....	1323	10/7/16
	- <i>Correction</i> (MA Reg. # 1323) .....	1325	10/7/16
28.00	Milk and Milk Products .....	1323	10/7/16
29.00	Dairy Farmer Tax Credit Program - <i>Emergency</i> .....	1305	1/13/16
	- <i>Compliance</i> (MA Reg. # 1305) .....	1310	1/13/16
<b>331 CMR</b>	<b>Bureau of Milk Marketing</b>		
2.00	Designation of Natural Milk Marketing Areas .....	1323	10/7/16
4.00	Fixing Minimum Prices Paid to Natural Milk Producers .....	1323	10/7/16
6.00	Monthly Payments; Periodic Reports; Minimum Prices Paid .....	1323	10/7/16
7.00	Determination of Milk Fat Content in Milk or Cream .....	1323	10/7/16
8.00	Prices and Rule for Milk Dealers .....	1323	10/7/16
<b>333 CMR</b>	<b>Pesticide Board</b>		
2.00	General Information .....	1323	10/7/16
3.00	Rules for the Conduct of Board and Subcommittee Business .....	1323	10/7/16
10.00	Certificate and Licensing of Pesticide Applicators .....	1322	9/23/16
<b>430 CMR</b>	<b>Division of Unemployment Assistance</b>		
2.00	Lost Time .....	1312	5/6/16
	- <i>Correction</i> (MA Reg. # 1312) .....	1313	5/6/16
7.00	Medical Security Plan for the Unemployment .....	1312	5/6/16
	- <i>Correction</i> (MA Reg. # 1312) .....	1313	5/6/16
10.00	Employer Medical Assistance Contribution .....	1312	5/6/16
	- <i>Correction</i> (MA Reg. # 1312) .....	1313	5/6/16
12.00	Seasonal Employment under M.G.L. c. 151A, §§ 1, 24 .....	1312	5/6/16
	- <i>Correction</i> (MA Reg. # 1312) .....	1313	5/6/16
15.00	Fair Share Employer Contribution .....	1312	5/6/16

		<u>Issue</u>	<u>Effective Date</u>
<b>453 CMR</b>	<b>Department of Labor and Workforce Development</b>		
7.00	Apprentice Training . . . . .	1327	12/2/16
<b>454 CMR</b>	<b>Department of Labor Standards</b>		
2.00	Toilets in Industrial Establishments . . . . .	1322	9/23/16
4.00	Industries Where Anthrax Is a Hazard . . . . .	1322	9/23/16
6.00	General Safety and Machinery Standards . . . . .	1322	9/23/16
7.00	Working Conditions in Iron and Steel Foundries and Employment of Women in Core Rooms . . . . .	1322	9/23/16
8.00	Working Conditions in Brass Foundries . . . . .	1322	9/23/16
9.00	Benzol, Carbon Tetrachloride and other Substances Hazardous to Health . . . . .	1322	9/23/16
10.00	Construction Industry Rules and Regulations . . . . .	1322	9/23/16
11.00	Structural Painting Safety Code . . . . .	1322	9/23/16
12.00	Requirements for the Care of Employees Injured or Taken Ill in Industrial Establishments . . . . .	1322	9/23/16
13.00	Protection of the Health and Safety of Employees in the Rubber, Plastic and Allied Industries . . . . .	1322	9/23/16
14.00	Safeguarding Woodworking Machinery . . . . .	1322	9/23/16
15.00	Safeguarding Power Press Tools . . . . .	1322	9/23/16
16.00	Light Code for Factories, Workshops, Manufacturing, Mechanical and Mercantile Establishments . . . . .	1322	9/23/16
17.00	Common Drinking Cup and Common Towel in Factories, Workshops, Manufacturing, Mechanical and Mercantile Establishments . . . . .	1322	9/23/16
19.00	Window Cleaning . . . . .	1322	9/23/16
<b>456 CMR</b>	<b>Department of Labor Relations</b>		
1.00	Rules and Regulations of the Department of Labor Relations (DLR) . . . . .	1322	9/23/16
2.00	Administration of the Labor Relations Law: M.G.L. c. 150A . . . . .	1322	9/23/16
10.00	Administration of M.G.L. c. 150E, an Act Providing for Collective Bargaining for Public Employees . . . . .	1322	9/23/16
11.00	Definitions . . . . .	1322	9/23/16
12.00	General Provisions . . . . .	1322	9/23/16
13.00	Conduct of Hearings . . . . .	1322	9/23/16
14.00	Questions of Representation . . . . .	1322	9/23/16
15.00	Investigations . . . . .	1322	9/23/16
16.00	Various Provisions of the Law . . . . .	1322	9/23/16
17.00	Agency Service Fee . . . . .	1322	9/23/16
18.00	Designation of Department Agents . . . . .	1322	9/23/16
19.00	Advisory Council . . . . .	1322	9/23/16
20.00	Construction of Rules, Amendment and Publication . . . . .	1322	9/23/16
21.00	Rules for Interest Mediation, Fact-finding and Interest Arbitration in Disputes Involving Public Employers and Public Employees; Private Sector Interest Mediation . . . . .	1322	9/23/16

		<u>Issue</u>	<u>Effective Date</u>
22.00	Grievance Mediation and Arbitration in the Public and Private Sectors . . . . .	1322	9/23/16
23.00	Conduct of Grievance Arbitration Proceedings . . . . .	1322	9/23/16
<b>501 CMR</b>	<b>Executive Office of Public Safety and Security</b>		
2.00	Safe Roads . . . . .	1309	3/25/16
5.00	Firearms Record Keeping Fund and Grant Program . . . . .	1309	3/25/16
7.00	Approved Weapons Rosters . . . . .	1309	3/25/16
8.00	Standards for Law Enforcement Training in the Use of Electronic Control Weapons and the Sale of Electronic Control Weapons in the Commonwealth . . . . .	1323	10/7/16
10.00	Witness Protection Program . . . . .	1323	10/7/16
11.00	Financing the Repair, Renovation, and Construction of Municipal Police Stations . . . . .	1323	10/7/16
14.00	Testing, Certification, Marking and Enforcement of Massachusetts Fire Standard Compliant Cigarettes . . . . .	1323	10/7/16
<b>502 CMR</b>	<b>Office of the State Fire Marshall</b>		
3.00	Provisions for Approving Underground Steel Storage Tank Dismantling Yards . . . . .	1325	11/4/16
5.00	Permit and Inspection Requirements of Aboveground Storage Tanks of More than Ten Thousand Gallons Capacity - <i>Correction</i> (MA Reg. # 1278) . . . . .	1311	1/16/15
<b>510 CMR</b>	<b>Office of the Adjutant General</b>		
2.00	Drill or Parade with Firearms or Harmless Imitations Thereof . . . . .	1318	7/29/16
<b>520 CMR</b>	<b>Department of Public Safety</b>		
6.00	Hoisting Machinery . . . . .	1326	11/18/16
10.00	Power Lawn Mowers . . . . .	1320	8/26/16
16.00	Enforcement of Civil Fines for Expired Elevator Certificates . . . . .	1325	11/4/16
<b>522 CMR</b>	<b>Board of Boiler Rules</b>		
1.00	General Provisions . . . . .	1321	9/9/16
2.00	Power Boilers . . . . .	1321	9/9/16
3.00	Power Reactor Vessels and Piping and Unfired Pressure Vessels as Used in Atomic Energy Installations . . . . .	1321	9/9/16
4.00	Heating Boilers and Other Heat Storage Sources . . . . .	1321	9/9/16
5.00	Heating Boilers . . . . .	1321	9/9/16
6.00	Low Pressure Heating Boilers . . . . .	1321	9/9/16
7.00	Air Tanks . . . . .	1321	9/9/16
8.00	Existing Air Tanks . . . . .	1321	9/9/16
9.00	Refrigeration and Air Conditioning Systems . . . . .	1321	9/9/16
10.00	Material Specifications - <i>Future Effective Date</i> . . . . .	1321	2/25/17
11.00	Welding Specifications - <i>Future Effective Date</i> . . . . .	1321	2/25/17
12.00	Fiberglass-Reinforced Plastic Pressure Vessels . . . . .	1321	9/9/16

		<u>Issue</u>	<u>Effective Date</u>
13.00	Inservice Inspection of Nuclear Power Plant Components - Division I .....	1321	9/9/16
15.00	National Board Inspection Code .....	1321	9/9/16
16.00	Controls and Safety Devices for Automatically Fired Boilers (ASME Code CSD-1-2015), Part CW: Steam and Waterside Control .....	1321	9/9/16
17.00	Piping .....	1321	9/9/16
18.00	Continuing Education Requirements for Engineers and Firemen	1321	9/9/16
19.00	Portable Boilers .....	1321	9/9/16
<b>527 CMR Board of Fire Prevention Regulations</b>			
1.00	Massachusetts Comprehensive Fire Safety Code .....	1320	8/26/16
	.....	1323	10/7/16
	- Correction (MA Reg. # 1323) .....	1325	10/7/16
	.....	1325	11/4/16
<b>550 CMR Municipal Police Training Committee</b>			
5.00	Police Training Part-time Police Officers .....	1309	3/25/16
<b>560 CMR State 911 Department</b>			
3.00	Establishing and Equitable and Reasonable Method for the Remittance and Collection of a Surcharge on Prepaid Wireless Telephone Service .....	1303	1/1/16
<b>603 CMR Department of Elementary and Secondary Education</b>			
4.00	Vocational Technical Education - Correction (MA Reg. # 1283) ...	1309	3/27/15
6.00	Teacher Quality Enhancement .....	1317	7/15/16
18.00	Program and Safety Standards for Approved Public or Private Day and Residential Special Education School Programs .....	1303	1/1/16
38.00	School Construction .....	1317	7/15/16
45.00	Independent Agricultural and Technical Institutes .....	1317	7/15/16
46.00	Prevention of Physical Restraint and Requirements if Used .....	1303	1/1/16
<b>605 CMR Board of Library Commissioners</b>			
4.00	Free Public Library Service .....	1323	10/7/16
7.00	Regional Library Systems .....	1306	2/12/16
<b>606 CMR Department of Early Education and Care</b>			
3.00	Standards for the Licensure or Approval of Residential Programs Serving Children and Teen Parents - Correction (MA Reg. # 1303) .	1306	1/1/16
	- Correction (MA Reg. # 1303) .....	1307	1/1/16

		<u>Issue</u>	<u>Effective Date</u>
<b>610 CMR</b>	<b>Board of Higher Education</b>		
3.00	Appointment of Volunteer Chief Executive Officers at State Universities and Community Colleges . . . . .	1320	8/26/16
5.00	Hazing Reporting . . . . .	1320	8/26/16
10.00	Privacy, Confidentiality, and Data Security . . . . .	1320	8/26/16
11.00	Optional Retirement Plan . . . . .	1320	8/26/16
<b>651 CMR</b>	<b>Executive Office of Elder Affairs</b>		
15.00	Prescription Advantage Program . . . . .	1327	12/2/16
<b>700 CMR</b>	<b>Massachusetts Department of Transportation</b>		
7.00	Use of the Massachusetts Turnpike and the Metropolitan Highway System . . . . .	1324	10/21/16
11.00	Maurice J. Tobin Memorial Bridge . . . . .	1324	10/21/16
<b>702 CMR</b>	<b>Aeronautics Division</b>		
1.00	Adjudicatory Proceedings . . . . .	1316	7/1/16
2.00	Construction and Application . . . . .	1316	7/1/16
3.00	Licensing and Registration . . . . .	1316	7/1/16
4.00	Flight Rules . . . . .	1316	7/1/16
5.00	Airports, Heliports and Restricted Landing Areas . . . . .	1316	7/1/16
6.00	Aircraft Accidents . . . . .	1316	7/1/16
7.00	Alteration of Licenses, Approval Forms, <i>etc.</i> . . . . .	1316	7/1/16
<b>760 CMR</b>	<b>Department of Housing and Community Development</b>		
13.00	Commercial Area Revitalization District (CARD) Plans . . . . .	1322	9/23/16
15.00	Pilot Program to Enable Households in State-sided Public Housing to Transition to Unsubsidized Private Housing Options . . . . .	1322	9/23/16
20.00	Homeownership Program . . . . .	1322	9/23/16
21.00	Tax Exempt Local Loans to Encourage Rental Housing Program - Teller Program . . . . .	1322	9/23/16
55.00	Housing Production and Replacement Program . . . . .	1322	9/23/16
64.00	Publicly-assisted Affordable Housing Preservation Program - <i>Emergency</i> . . . . .	1315	6/3/16
	. . . . .	1320	8/26/16
	- <i>Correction</i> (MA Reg. # 1320) . . . . .	1324	8/26/16
<b>780 CMR</b>	<b>State Board of Building Regulations and Standards</b>		
13.00	Energy Efficiency . . . . .	1319	8/12/16
51.00	Massachusetts Residential Code . . . . .	1319	8/12/16
115.00	Appendices . . . . .	1319	8/12/16

		<u>Issue</u>	<u>Effective Date</u>
<b>801 CMR</b>	<b>Executive Office for Administration and Finance</b>		
4.00	Rates . . . . .	1305	1/29/16
	. . . . .	1327	12/2/16
26.00	Financing the Construction of Off-street Parking Facilities . . . . .	1308	3/11/16
27.00	Assisting Cities and Towns in Financing Civic and Convention Centers . . . . .	1308	3/11/16
28.00	Reimbursements to Non-profit Organizations . . . . .	1325	11/4/16
	- <i>Correction</i> (MA Reg. # 1325) . . . . .	1326	11/4/16
30.00	Allocation of State Ceiling on Volume of Private Activity Bonds . . .	1305	1/29/16
50.00	Expendable Trust Regulation . . . . .	1323	10/7/16
52.00	Municipal Health Insurance . . . . .	1305	1/29/16
54.00	Vocational School Equipment Grant Program . . . . .	1304	1/15/16
55.00	IT and Facilities Infrastructure Grant Program . . . . .	1304	1/15/16
<b>802 CMR</b>	<b>Operational Services Division</b>		
3.00	Disposition of State Surplus Property (Personal) . . . . .	1309	3/25/15
7.00	Energy Audit of Utility Services . . . . .	1320	8/26/16
<b>803 CMR</b>	<b>Department of Criminal Justice Information Services</b>		
1.00	Registration, Classification and Dissemination - <i>Correction</i> (MA Reg. # 1305) . . . . .	1306	1/29/16
	- <i>Correction</i> (MA Reg. # 1305) . . . . .	1308	1/29/16
<b>805 CMR</b>	<b>Group Insurance Commission</b>		
1.00	General Provisions . . . . .	1310	4/8/16
5.00	Miscellaneous . . . . .	1310	4/8/16
	- <i>Correction</i> (MA Reg. # 1310) . . . . .	1312	4/8/16
8.00	Municipal Health Coverage . . . . .	1310	4/8/16
9.00	Eligibility and Participation . . . . .	1310	4/8/16
<b>807 CMR</b>	<b>Teachers' Retirement Board</b>		
3.00	Retirement and Credit for Service . . . . .	1311	4/22/16
6.00	Regular Compensation . . . . .	1315	6/17/16
10.00	Maternity Service Purchases . . . . .	1324	10/21/16
12.00	Rollover Distributions and Trust to Trust Transfers . . . . .	1324	10/21/16
14.00	Purchase of Creditable Service For Prior Vocational Work Experience . . . . .	1324	10/21/16
<b>808 CMR</b>	<b>Bureau of Purchased Services</b>		
1.00	Compliance, Reporting and Auditing for Human and Social Services	1325	11/4/16
<b>830 CMR</b>	<b>Department of Revenue</b>		
59.00	Assessment of Local Taxes . . . . .	1319	8/12/16
62.00	Income Tax . . . . .	1309	3/25/16
62C.00	State Tax Administration - <i>Correction to Emergency</i> (MA Reg. # 1302) . . . . .	1307	11/30/15



		<i>Issue</i>	<i>Effective Date</i>
	- <i>Compliance</i> (MA Reg. # 1302) . . . . .	1307	11/30/15
	- <i>Correction to Emergency</i> (MA Reg. # 1302) . . . . .	1307	11/30/15
	- <i>Compliance</i> (MA Reg. # 1302) . . . . .	1307	11/30/15
	- <i>Compliance</i> (MA Reg. # 1302) . . . . .	1307	11/30/15
	. . . . .	1309	3/25/16
	. . . . .	1319	8/12/16
63.00	Taxation of Corporations . . . . .	1309	3/25/16
<b>840 CMR</b>	<b>Public Employee Retirement Administration</b>		
7.00	Standard Rules for Elections . . . . .	1308	3/11/16
10.00	Standard Rules for Disability Retirement . . . . .	1308	3/11/16
<b>940 CMR</b>	<b>Office of the Attorney General</b>		
34.00	Daily Fantasy Sports Contest Operators in Massachusetts . . . . .	1310	4/8/16
<b>941 CMR</b>	<b>State Board of Retirement</b>		
2.00	Administrative Regulations . . . . .	1325	11/4/16
<b>950 CMR</b>	<b>Office of the Secretary of the Commonwealth</b>		
20.00	Preparing and Filing Regulations . . . . .	1306	2/12/16
21.00	Preparing and Filing Notices for the Central Register . . . . .	1306	2/12/16
32.00	Public Records Access - <i>Emergency</i> . . . . .	1309	2/29/16
	- <i>Compliance</i> (MA Reg. # 1309) . . . . .	1314	2/29/16
46.00	Pose-election Audit Procedures - <i>Emergency</i> . . . . .	1326	10/25/16
47.00	Early Voting . . . . .	1320	8/26/16
57.00	Voter Registration . . . . .	1315	6/17/16
	- <i>Emergency</i> . . . . .	1324	9/28/16
58.00	Central Registry of Voters . . . . .	1315	6/17/16
59.00	State Ballot Law Commission: Adjudicatory Proceedings . . . . .	1315	6/17/16
<b>956 CMR</b>	<b>Commonwealth Health Insurance Connector Authority</b>		
5.00	Minimum Creditable Coverage - <i>Correction</i> . . . . .	1312	4/12/13
<b>957 CMR</b>	<b>Center for Health Information and Analysis</b>		
9.00	Hospital Financial Data Reporting Requirements . . . . .	1310	4/8/16
10.00	Health Care Payers Premiums and Claims Data Reporting Requirements . . . . .	1308	3/11/16
<b>958 CMR</b>	<b>Health Policy Commission</b>		
9.00	Assessment on Certain Health Care Providers and Surcharge Payors	1319	8/12/16
<b>961 CMR</b>	<b>State Lottery Commission</b>		
2.00	Rules and Regulations . . . . .	1317	7/15/16
<b>970 CMR</b>	<b>Office of Campaign and Political Finance</b>		
2.00	Political Expenditures . . . . .	1310	4/8/16





THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth

Notice of Correction

Regulation Filing To be completed by filing agency

CHAPTER NUMBER: 101 CMR 411.00

CHAPTER TITLE: Rates for Certain Placement, Support, and Shared Living Services

AGENCY: Executive Office of Health and Human Services

ORIGINAL PUBLICATION REFERENCE: 1325 Date: 11/04/2016

SUMMARY OF CORRECTION:

(1) Change chapter title to "Rates for Certain Placement, Support, and Shared Living Services." (2) In 101 CMR 411.01(1), in the first sentence, change "Placement and Support Services" to "Placement, Support, and Shared Living Services." (3) In 101 CMR 411.02, in the definition of "Client," change "placement and support services" to "placement, support, and shared living services." (4) In 101 CMR 411.03(4)(a)4., in the chart, below the "Closure" row, insert the following new row: "Case Maintenance ... \$337.85." (5) In the same chart, in the next row, after "Delayed Adoption," insert the words "-Legal Delay/Appeal." (6) In the same chart, above "Transfer of case," insert the following new row: "Conflict of Interest Family Resource ... \$231.99."

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

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

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: Nov 18 2016

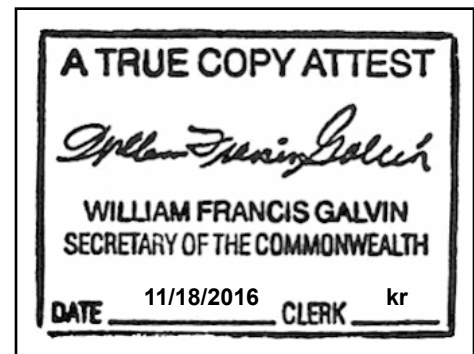
Publication To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 11/04/2016

CODE OF MASSACHUSETTS REGULATIONS

Table with 2 columns: Remove these pages: and Insert these pages:
Remove these pages: 931 & 932, 937 & 938
Insert these pages: 931 & 932, 937 & 938





101 CMR 411.00: RATES FOR CERTAIN PLACEMENT, SUPPORT, AND SHARED LIVING SERVICES

Section

- 411.01: General Provisions
- 411.02: Definitions
- 411.03: Rate Provisions
- 411.04: Filing and Reporting Requirements
- 411.05: Severability

411.01: General Provisions

(1) Scope. 101 CMR 411.00 governs the payment rates for certain Placement, Support, and Shared Living Services as further described in 101 CMR 411.01(2) through (5), purchased by a governmental unit including, but not limited to, the Department of Developmental Services (DDS), the Massachusetts Commission for the Blind (MCB), the Massachusetts Rehabilitation Commission (MRC), the Department of Children and Families (DCF), and the Department of Youth Services (DYS).

(2) Effective Date. Rates are effective for dates of service provided on or after October 1, 2016.

(3) Disclaimer of Authorization of Services. 101 CMR 411.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 411.00. Governmental units that purchase such services are responsible for the definition, authorization, and approval of services extended to clients.

(4) Services and Rates Covered by Other Regulations. Payments and rates for the following services are not included within the scope of 101 CMR 411.00 and are governed by other regulations promulgated by EOHHS as follows.

<i>Add-on Service</i>	<i>Regulation</i>
Behavioral Analyst Clinician	101 CMR 352.00: <i>Rates for Certain Children's Behavioral Health Services</i>
Registered Nurse (RN) Licensed Practical Nurse (LPN)	101 CMR 350.00: <i>Rates for Home Health Services</i>

(5) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 411.00.

411.02: Definitions

As used in 101 CMR 411.00, unless the context requires otherwise, terms have the meanings ascribed in 101 CMR 411.00.

Add-on Rate. A rate that is intended to provide an additional, necessary service not included in the current programmatic model, which will be instituted at the discretion of the purchasing governmental unit.

Adoption Management Support Services (AMSS). Services that address specific client needs and provide specific services or full case management. Examples of AMSS include a provider's recruitment of an adoptive family for a specific child, the assessment of a child for adoption, the training and home study of prospective adoptive families, and the management of pre-adoptive homes. Purchasing governmental unit requests for responses contain specific definitions of AMSS. There are specific rates that are determined by the child's needs (mild, moderate, severe), or the placement of a specific number of siblings with the child in an adoptive family.

411.02: continued

Child Home-based Rehabilitation. An IFC Other Model that provides IFC Placement and specialized, intensive foster care services for children with problem sexualized behavior and sexually abusive youth. In addition to placement in specially trained, intensive foster care homes, youth receive intensive case management, clinical, psychiatric, psychopharmacological, health care, educational, and recreational services supported by 24-hour-a-day, seven-day-a-week emergency coverage.

Client. An individual who receives placement, support, and shared living services purchased by a governmental unit.

Community-based Alternative to Detention. Services that are an alternative to the juvenile locked secure detention component of the juvenile justice system.

Community-based Alternative to Detention Bed Hold. Services to retain Community-based Alternative to Detention caregivers while a Community-based Alternative to Detention bed is unoccupied.

Complex Medical Foster Care. A foster care program that is designed to provide care and treatment supports to children and youth who have medically complex or unstable conditions and require intensive medical care management and coordination. Care often involves multiple medical specialists.

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

Emergency Shelter Homes. An IFC Other Model that provides IFC placement for children from birth through 22 years of age for a duration not to exceed 45 days. IFC emergency foster care providers are responsible for facilitating emergency health care, emergency school placement, intensive family work to support reunification, and collaboration with community providers that have preexisting relationships with youth placed.

Enhanced Intensive Foster Care (EIFC). Services provided to a client at a higher level of intensity in accordance with specifications determined by DCF.

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

Family Residential Homes. Licensed foster homes with expertise sufficiently compatible with IFC Level One clients, where the caregiver is considered an employee of the agency and up to six IFC clients can reside within the same home.

Foster Home Management and Recruitment. Services that strengthen children and families via permanent placements and family reunification, and include clinical mental health services designed to respond to the unique needs of the family system, as well as child abuse prevention and intervention services.

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

IFC Level One Homes. Licensed foster homes with expertise sufficient to meet the needs of children and youth referred for nonspecialized Intensive Foster Care.

IFC Level Two Homes. Licensed foster homes with expertise compatible with IFC Level One where caregivers have additional applicable training and extensive previous foster home experience.

Individual Consideration (I.C.). Payment rates for certain services are designated as individual consideration (I.C.). Where I.C. rates are designated, the purchasing governmental unit will determine the appropriate payment as the actual cost of the item or service as evidenced by invoice, published tuition amount, or other price reasonably obtained by a competitive market for the product or service.

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

411.03: continued

AMSS Product-based Services	Rate
<b>Family Development</b>	
Mild	\$3080.18
Moderate	\$4939.55
Severe	\$7409.33
<b>Reevaluations</b>	
Mild	\$755.69
Moderate	\$1232.07
Severe	\$1848.11
<b>Child(ren)/Legalization</b>	
Mild	\$3835.87
Moderate	\$6171.62
Severe	\$9327.26
Adjustment for a case held at least three years but less than five.	\$581.12
<b>Sibling Bonus in Same Home/Legalization</b>	
2 siblings	\$1092.42
3 siblings	\$2324.49
4 siblings	\$4299.86
5 or more siblings	\$1371.72
Family Bonus for Provider's Home at Legalization per child, minimum of two children	\$482.02
Closure	\$1232.07
Case Maintenance	\$337.85
Delayed Adoption-Legal Delay/Appeal	\$418.95
Conflict of Interest Family Resource	\$231.99
Transfer of case	\$1092.42
3. Adoption Family Development Services:	
Purchase of Home	\$4648.99
Reuse of a Closed Home	\$1644.26
4. Recruitment:	
Child-specific recruitment	\$1644.26
Child-specific recruitment renewal	\$1644.26
5. Intervention Services	\$45.98 per hour
6. Interstate Cases:	
Home Study	\$2182.21
Assignment	\$482.02
Case Supervision	\$3835.87



411.03: continued

AMSS Product-based Services	Rate
7. Puerto Rico Cases:	
Family Evaluation Home Study in Puerto Rico	\$1514.00
Family Evaluation Home Study in Puerto Rico (Daily Rate)	\$25.23
8. International Cases:	
International Family Evaluation Home Study	I.C.

5. Additional Support Services.

Support Contracts	Rate	Unit
Youth Permanency Connections	\$48.85	Per Client Per Day Rate
Foster Home Management and Recruitment	\$17011	Accommodation Rate Per Month
Multiple Pre-adoption Services	\$62910	Accommodation Rate Per Month
Complex Foster Care Medical	\$292.17	Per Client Per Day Rate
Multiple Post-adoption Services	\$137438	Accommodation Rate Per Month
Multiple Foster Parent Support Services	\$152004	Accommodation Rate Per Month

6. Shared Living.

a. Operational Rates.

Service	Operational	Units
A	\$43.94	Per Placement Per Day
B	\$61.51	Per Placement Per Day
C	\$104.03	Per Placement Per Day
Direct Care Add-on Rate	\$17.59	Per Hour

b. Stipend Rates.

i. Stipend amounts for caregivers are established at a rate within the applicable rate range for a given Operational Rate tier, as noted in the following chart.

Operational Rate Level	Minimum Stipend Level	Maximum Stipend Level
A	1	12
B	2	16
C	3	21

ii. Purchasing governmental units may approve exceptions to the maximum stipend level in 101 CMR 411.03(4)(b)4.b. for caregivers providing services as of September 30, 2016. In these cases, the stipend rate is no higher than the amount paid as of September 30, 2016, as may be adjusted to reflect applicable stipend inclusions and exclusions, in keeping with provisions contained in the procurement for these services. This payment level continues at the current level until such time as material changes in client circumstances occur to warrant a reassessment of the stipend level or a change in caregiver takes place, at which point revised stipend levels may not exceed applicable maximum amounts. Stipend levels 22 through 25 are available only by special application to the purchasing governmental unit.



THE COMMONWEALTH OF MASSACHUSETTS  
William Francis Galvin  
Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*

SL 1373

CHAPTER NUMBER: 106 CMR 343.000

CHAPTER TITLE: Fair Hearing Rules

AGENCY: Department of Transitional Assistance

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

**This regulation change involves technical corrections and language simplifications that do not change DTA's current policies or procedures, but will make the regulations easier to read and understand for clients, applicants and the general public. This regulatory change is effective December 2, 2016.**

REGULATORY AUTHORITY: M. G. L. c. 18 § 10

AGENCY CONTACT: Amy Kershaw, Associate Commissioner for Programs PHONE: (617) 348-5914

ADDRESS: 600 Washington Street, 5th Floor, Boston, MA 02111

**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.*

**The agency has met the requirements of E.O. 562.**

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: 5/20/2016 - 6/10/2016

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: None

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: 6/13/2016

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 106 CMR 343.000 in its entirety.**

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: Nov 17 2016

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* | *Insert these pages:*

7 & 8  
639 - 660

7 & 8  
639 - 654

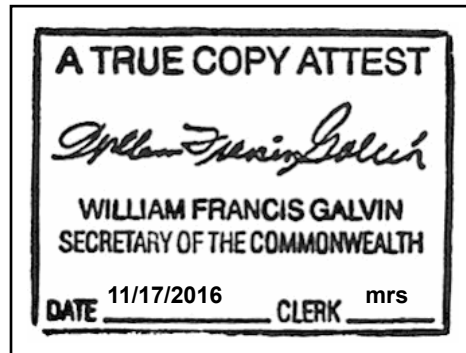


Table of Contents

	<u>Page</u>
106 CMR 321.000: EMERGENCY AID TO THE ELDERLY, DISABLED AND CHILDREN: FINANICAL ELIGIBILITY (continued)	
Section 321.410: Living Arrangement	584
Section 321.420: Table of Standards of Assistance	585
Section 321.500: Calculation of Grant Amount	587
Section 321.510: Guide for Income-In-Kind	587
(106 CMR 322.000 THROUGH 326.000: RESERVED)	589
106 CMR 327.000: ELIGIBILITY REQUIREMENTS FOR SSP	613
Section 327.010: Authority for State Supplement Program	613
Section 327.100: Overview of State Supplement Program	613
Section 327.110: Definitions	613
Section 327.120: Eligibility for State Supplement Program	614
Section 327.130: Eligibility for Other Programs; Treatment of SSP Payments in Other Programs	614
Section 327.140: Fair Hearings and Notices	614
Section 327.150: Verifications	614
Section 327.200: Overview of Categorical Eligibility	614
Section 327.210: Eligibility Categories	615
Section 327.220: State Living Arrangements	615
Section 327.230: Residence	616
Section 327.300: Overview of Financial Requirements	616
Section 327.310: Income	616
Section 327.320: Resources	616
Section 327.330: Payment Standards	616
Section 327.340: Date Benefits Begin	617
Section 327.350: Timing and Method of SSP Benefit Payments	617
Section 327.360: Minimum Monthly Payment	617
Section 327.370: Designated Payees and SSA Representative Payees	617
Section 327.380: Determination of Continuing Eligibility	617
Section 327.390: Eligibility Requirements for Special Benefits - Aged and Disabled	617
(106 CMR 328.000 THROUGH 342.000: RESERVED)	621
106 CMR 343.000: FAIR HEARING RULES	639
Section 343.010: Purpose	639
Section 343.020: Scope	640
Section 343.030: Definitions	640
Section 343.100: The Division of Hearings (DOH)	641

Table of Contents

	<u>Page</u>
106 CMR 343.000: FAIR HEARING RULES (continued)	
Section 343.110: General Description of the Fair Hearing Process	641
Section 343.120: Methods for Conducting a Fair Hearing	641
Section 343.130: Availability of Fair Hearing Decisions	641
Section 343.140: Time Limits	641
Section 343.150: Authorized Representative	642
Section 343.160: Auxiliary Aids and Reasonable Accommodation	642
Section 343.200: Adequate Notice Requirements	643
Section 343.210: Timely Notice Exceptions	643
Section 343.225: Notification of the Right to Request a Hearing	644
Section 343.230: Grounds for Appeal	644
Section 343.235: Coercive or Otherwise Improper Conduct	645
Section 343.240: Request for Fair Hearing	645
Section 343.245: Dismissal of Request for a Hearing	645
Section 343.250: Continuation of Benefits Pending Appeal	646
Section 343.300: Notification of Hearing	646
Section 343.310: Scheduling	646
Section 343.320: Procedures and Requirements for Rescheduling	646
Section 343.330: Dismissal for Failure to Prosecute	648
Section 343.340: Right to Examine Case File and Documents, or "Discovery"	648
Section 343.350: Adjustment Procedures	648
Section 343.360: Subpoenas	648
Section 343.410: Rights of the Appellant	649
Section 343.420: Department Rights and Responsibilities	649
Section 343.430: Responsibilities of the Department Attorney	650
Section 343.440: Rights of the Department Employee	650
Section 343.450: Powers and Duties of the Hearing Official	650
Section 343.500: Evidence	651
Section 343.510: Hearing Involving Medical Issues	651
Section 343.520: Interim Orders	651
Section 343.530: Continuance	652
Section 343.540: Consolidated Hearings	652
Section 343.550: The Record	652
Section 343.600: Reopening Prior to Decision	652
Section 343.610: Basis of Fair Hearing Decisions	652
Section 343.620: Content of Decision	653
Section 343.625: Transmittal of Decision	653
Section 343.630: Finality of the Appeal Decision	653
Section 343.640: Implementation of the Appeal Decision	653
Section 343.710: Remand of Hearing Officer Decisions	654
Section 343.720: Judicial Review	654
Section 343.730: Access to the Record	654
(106 CMR 344.000 through 359.000: RESERVED)	661
106 CMR 360.000: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: GENERAL PROVISIONS	663
Section 360.010: Purpose	663
Section 360.020: Authority	663
Section 360.030: Definitions	663
Section 360.100: Uses of SNAP Benefits	664
Section 360.120: Special Uses of SNAP Benefits	664
Section 360.200: Nondiscrimination	665
Section 360.210: Right to File a Complaint	665
Section 360.220: Complaint Requirements	666
Section 360.230: Public Notification	666
Section 360.240: Racial - Ethnic Data Collection	666

106 CMR 343.000: FAIR HEARING RULES

Section

- 343.010: Purpose
- 343.020: Scope
- 343.030: Definitions
- 343.100: The Division of Hearings (DOH)
- 343.110: General Description of the Fair Hearing Process
- 343.120: Methods for Conducting a Fair Hearing
- 343.130: Availability of Fair Hearing Decisions
- 343.140: Time Limits
- 343.150: Authorized Representative
- 343.160: Auxiliary Aids and Reasonable Accommodation
- 343.200: Adequate Notice Requirements
- 343.210: Timely Notice Exceptions
- 343.225: Notification of the Right to Request a Hearing
- 343.230: Grounds for Appeal
- 343.235: Coercive or Otherwise Improper Conduct
- 343.240: Request for Fair Hearing
- 343.245: Dismissal of Request for a Hearing
- 343.250: Continuation of Benefits Pending Appeal
- 343.300: Notification of Hearing
- 343.310: Scheduling
- 343.320: Procedures and Requirements for Rescheduling
- 343.330: Dismissal for Failure to Prosecute
- 343.340: Right to Examine Case File and Documents, or "Discovery"
- 343.350: Adjustment Procedures
- 343.360: Subpoenas
- 343.410: Rights of the Appellant
- 343.420: Department Rights and Responsibilities
- 343.430: Responsibilities of the Department Attorney
- 343.440: Rights of the Department Employee
- 343.450: Powers and Duties of the Hearing Officer
- 343.500: Evidence
- 343.510: Hearing Involving Medical Issues
- 343.520: Interim Orders
- 343.530: Continuance
- 343.540: Consolidated Hearings
- 343.550: The Record
- 343.600: Reopening Prior to Decision
- 343.610: Basis of Fair Hearing Decisions
- 343.620: Content of Decision
- 343.625: Transmittal of Decision
- 343.630: Finality of the Appeal Decision
- 343.640: Implementation of the Appeal Decision
- 343.710: Remand of Hearing Officer Decisions
- 343.720: Judicial Review
- 343.730: Access to the Record

343.010: Purpose

106 CMR 343.00 sets forth the rules for hearings and appeals filed by applicants or clients dissatisfied with certain actions or inactions by the Department of Transitional Assistance.

343.020: Scope

106 CMR 343.000 sets forth the exclusive rules for hearings and appeals filed by applicants, clients and, if applicable, any sponsors of aliens under the programs of Transitional Aid to Families with Dependent Children (TAFDC), Emergency Aid to the Elderly, Disabled and Children (EAEDC) and State Supplement Program (SSP), and by clients or former clients and/or their spouses under M.G.L. c. 62D. Hearings and appeals arising under Supplemental Nutrition Assistance Program (SNAP) are governed by 106 CMR 367.000: *Supplemental Nutrition Assistance Program: Violations, Hearings and Claims*, excepting that matters not addressed therein shall be governed by 106 CMR 343.000. The Department may enter into interdepartmental service agreements with other state agencies to conduct hearings in accordance with 106 CMR 343.000.

343.030: Definitions

(A) Adequate Notice. A notice of an intended action to reduce, suspend or terminate assistance or to change the manner or form of payments to protective, vendor, or two-party payments, or to deny a prior approval request for services, which contains the elements provided in 106 CMR 343.200(A).

(B) Appellant. An applicant, client, resident or certain sponsors of aliens or certain spouses of clients requesting a fair hearing.

(C) Applicant. A person or family who has applied or attempted to apply for a program administered by the Department of Transitional Assistance.

(D) Assistance. Any financial assistance provided by the Department.

(E) Authorized Representative. Any person, such as a legal counsel, a relative, or a friend, who is authorized in writing by the appellant to represent him or her at the hearing.

(F) Cyclical Month. The monthly issuance cycle which begins and ends on a date determined by the Department by using the client's social security number or other identifying number.

(G) Department. The Department of Transitional Assistance of the Commonwealth of Massachusetts.

(H) DOH. The Division of Hearings within the Department of Transitional Assistance.

(I) Fair Hearing. A proceeding where the legal rights, duties, benefits, or privileges of persons and agencies are determined.

(J) Interpreter. A person who translates for the appellant, when the appellant's primary language is not English or when the appellant is deaf or hearing-impaired. The interpreter is sworn to make an impartial and accurate translation of the events occurring at the hearing.

(K) Party. The appellant or the Department.

(L) Client. A person or family who is or had been receiving assistance under a program administered by the Department of Transitional Assistance.

(M) Hearing Officer. An impartial and independent person designated by the Director of the Division of Hearings to conduct hearings and render decisions under 106 CMR 343.000.

No hearing officer who has a direct or indirect interest, personal involvement or bias in a hearing shall conduct such a hearing or participate in the decision-making process of such matters.

(N) Timely Notice. A timely notice shall be adequate notice which meets the requirements found in 106 CMR 343.140. Prior to an intended action to reduce, suspend or terminate assistance, the Department must send a timely notice to the client except as provided in 106 CMR 343.210 and 702.950: *Inadequate or Incomplete Monthly Report*. A timely notice is a notice mailed at least ten calendar days prior to the action. This is called the timely notice period.



343.030: continued

(O) Timely Request. A timely request for a hearing is one received by DOH within the timely notice period.

343.100: The Division of Hearings (DOH)

The Division of Hearings (DOH) has the responsibility for administering the fair hearing process, holding hearings, and rendering decisions. DOH is administered by a Director who is appointed by the Commissioner. DOH is wholly separate and independent from all other offices and divisions of the Department and from all other personnel of the Department. No person shall attempt to interfere with or influence the independence of DOH, the decision of the hearing officer, or the implementation of the decision. No person shall review the decision of the hearing officer before it is issued.

343.110: General Description of the Fair Hearing Process

The fair hearing process is an adjudicatory proceeding which allows dissatisfied applicants and clients and certain spouses, as well as certain sponsors of aliens, upon written request, to obtain a determination of the appropriateness of certain actions or inactions on the part of the Department, or of alleged coercive or otherwise improper conduct by a Department employee.

The process is designed to secure and protect the interests of both the appellant and appropriate Department personnel and to ensure fair and equitable treatment for all involved. A hearing is conducted by an impartial hearing officer of DOH. The decision of the hearing officer is based only on evidence and testimony presented at the hearing. The hearing officer examines the facts, the law, and the other circumstances of the case presented by the parties to determine the legality and appropriateness of the disputed Department actions or decision of the Department. The hearing decision is binding upon the Department and is not subject to any review within the Department except in the case of a remand of the decision for a new hearing pursuant to 106 CMR 343.710.

343.120: Methods for Conducting a Fair Hearing

A fair hearing may be conducted face-to-face, whether in person or by video conferencing or telephonically.

343.130: Availability of Fair Hearing Decisions

Copies of fair hearing decisions are available upon request after steps have been taken to delete personal data, including the appellant's name and address, in order to protect the confidentiality of public assistance information.

343.140: Time Limits

(A) Timely Notice. Prior to an action to reduce, suspend or terminate assistance, the Department must send a timely notice to the client, except as provided in 106 CMR 343.210 and 702.950: *Inadequate or Incomplete Monthly Report*. A timely notice is a notice mailed at least ten calendar days prior to the action.

(B) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which the Division of Hearings receives a written statement from the appellant asking for the opportunity for a fair hearing will be treated as a request for an appeal. The Division of Hearings must receive the request within the following time limits:

- (1) 90 days from the date of official written notice of action by the Department.
- (2) Unless waived by the Division of Hearing Director or his or her designee, 120 days from:
  - (a) the date of application when the Department fails to act on an application;
  - (b) the date of request for service when the Department fails to act on the request;
  - (c) the date of Department action when the Department fails to send official written notice of the action;

343.140: continued

(d) the date of the alleged coercive or otherwise improper conduct. This time limit can be extended up to one year from the date of the conduct provided that the appellant files an affidavit with the Director of the Division of Hearings stating that, and can establish at a hearing that:

1. he or she did not know of the right to appeal;
2. he or she reasonably believed that the problem was being resolved administratively; or
3. he or she was justifiably unaware of the conduct in question; and
4. the appeal is made in good faith.

Failure to substantiate allegations of coercive or improper conduct either prior to or at the hearing shall be grounds for dismissal.

(3) 30 days from the date of mailing by the Department of Revenue of the notice of state income tax refund intercept to offset an overpayment due to the Department of Transitional Assistance.

(C) Computation of Time Periods. Any time period referred to in these regulations shall be on the basis of calendar days unless stated otherwise. Time periods shall expire on the last day of such periods unless the day falls on a Saturday, Sunday, legal holiday or other day when the Division of Hearings is closed. In this situation, the last day of the time period shall be deemed to be the next business day.

(D) Time Limits for Rendering Decision.

(1) The hearing officer must issue the hearing decision within 45 days of the date of the request for a hearing when the issue under appeal is:

- (a) the denial of the right to apply or reapply for assistance;
- (b) the denial of an application for assistance;
- (c) the failure to act on an application in a timely manner; or
- (d) the failure to issue Disaster Benefits for SSI clients.

(2) The hearing officer must issue the hearing decision within 90 days of the date of request for a hearing for all other appeals.

(3) The above time limits may be extended for good cause as follows:

(a) Where delays are caused by the appellant or his or her representative, the time limits may be extended by the total number of days of the delay, which includes the advance notice period prior to scheduled hearing dates. Such delays include the appellant's delay in the submission of evidence, briefs or other statements, rescheduling or continuances granted at the request or for the benefit of the appellant, and any other delays caused by the actions of the appellant or his or her representative.

(b) Where delays occur due to acts of God or serious illness of the hearing officer which makes him or her unable to render a decision.

#### 343.150: Authorized Representative

(A) An appellant has the right to be represented at his or her own expense by a person who is authorized in writing to do so or is present at the hearing with the appellant. Such written authorization shall contain the name, address, and telephone number of the representative and the signature of the appellant. This information will be submitted at the hearing if DOH was not previously told that the appellant had an authorized representative. An authorized representative may exercise on a party's behalf any of the rights and powers vested in that party by these rules.

(B) Where an interpreter also acts as the appellant's authorized representative, the appellant shall supply a signed written statement in both English and the primary language that authorizes the representative's dual roles. If the appellant is a deaf or hearing-impaired person, one person shall not act as both interpreter and authorized representative.

#### 343.160: Auxiliary Aids and Reasonable Accommodation

Upon request DOH shall provide reasonable accommodations including appropriate auxiliary aids to appellants with disabilities. DOH shall inform appellants of the availability of this assistance. DOH shall appoint an interpreter for an appellant who is deaf or hearing-impaired unless the appellant provides his or her own interpreter or the appellant knowingly and voluntarily signs a waiver of such assistance.

343.200: Adequate Notice Requirements

(A) In addition to the requirements of timely notice as provided in 106 CMR 343.140, a notice about an intended action to reduce, suspend or terminate assistance or to change the manner or form of payments to a protective, vendor, or two-party payment must be "adequate" in that it contains:

- (1) A statement of the intended Department action;
- (2) The reason(s) for the intended action;
- (3) A citation to the regulations supporting such action;
- (4) An explanation of the client's right to request a fair hearing and the time limits for the appeal request; and
- (5) The circumstances under which assistance is continued if a hearing is requested.

(B) When changes in either federal or state law require automatic grant adjustments for classes of clients, notice is adequate if it cites the law requiring the reduction, suspension or termination. In these instances a citation to a Department regulation is not required.

(C) Prior to a Department action to recoup an overpayment, a timely and adequate notice must be mailed to the client. In addition to the requirements of adequate notice as provided above, the notice must contain:

- (1) The repayment amount;
- (2) The amount of any monthly deduction; and
- (3) The expected duration of the repayment period.

343.210: Timely Notice Exceptions

The Department need not send a timely notice for a reduction or termination, but must send an adequate notice as defined in 106 CMR 343.200, no later than the date of the Department action when:

(A) There is factual information confirming the death of a client and there is no relative to serve as a new grantee;

(B) The Department receives a clear written statement signed by the client that he or she no longer wants to receive benefits;

(C) The client has been admitted or committed to an institution and he or she is not eligible for further payments or service under any category of assistance;

(D) The client has been placed in a skilled nursing home, intermediate care facility or chronic hospital;

(E) A client's whereabouts are unknown and the Department's mail directed to that person has been returned by the Postal Service indicating there is no known forwarding address. However, if the client was receiving TAFDC or EAEDC and the client's whereabouts become known, the lost benefit must be made available if the client is found to be eligible during the time period at issue. The client's MassHealth card must likewise be made available;

(F) A TAFDC child is removed from the home by a court or is voluntarily placed in foster care by the grantee;

(G) An EAEDC client starts receiving Supplemental Security Income (SSI) or State Supplement Program (SSP) benefits;

(H) The Department takes action because of information the client furnished in a monthly report or because the client has failed without good cause to submit a complete or timely monthly report;

(I) A special allowance granted for a specific period is terminated and the client has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period;

343.210: continued

- (J) The Department recovers an unaccessed EBT cash benefit; or
- (K) The Department lowers or terminates benefits in state-funded programs due to reduced or eliminated funding.

343.225: Notification of the Right to Request a Hearing

- (A) At the time of application, and at the time of any Department action affecting his or her assistance, each applicant or client shall be informed in writing of his or her right to a hearing, how to request a hearing and of the right to an authorized representative.
- (B) At any time that an applicant or client indicates disagreement with a Department action, he or she shall be told of the right to request a fair hearing. The Department shall help the applicant or client by providing an appeal form and, if asked, help completing the form. The Department must assure the unrestricted freedom to request a fair hearing.
- (C) If there is an individual or organization that gives free legal representation, the person asking for a hearing shall be told of the availability of that service.

343.230: Grounds for Appeal

Applicants and clients have a right to request a fair hearing for:

- (A) Denial of an application or request for assistance or the right to apply or reapply for assistance (including supplemental payments) programs administered by the Department.
- (B) The failure of the Department to give official notice of action on an application for financial assistance within 30 days.
- (C) Any Department action concerning the suspension, reduction or termination of financial assistance.
- (D) The failure of the Department to give official notice to the client of action taken on a request for increased assistance within 30 days of the denial, in whole or in part, of such a request.
- (E) Unresolved disputes pertaining to:
  - (1) classification regarding employment on issues concerning the suitability of employment under EAEDC or TAFDC;
  - (2) manner or form of assistance payments including appropriateness of paying as protective or vendor payments;
  - (3) scope and amount of payment; and
  - (4) a decision to recoup an overpayment;
- (G) Coercive or otherwise improper conduct as defined in 106 CMR 343.235 on the part of any Department employee acting in the capacity of a worker directly involved in the applicant's or client's case.
- (H) Any condition of eligibility for assistance or receipt of assistance which is not authorized by regulations of the Department.
- (I) The failure of the Department to act upon a request for assistance within the required time limits.
- (J) The failure of the Department to pay up to the first \$50 of monthly current support collected by the Department of Revenue on behalf of the assistance unit.
- (K) Denials of requests for reasonable accommodations/modifications under the Americans with Disabilities Act.

343.235: Coercive or Otherwise Improper Conduct

(A) Definitions.

(1) Coercive conduct means knowingly compelling an applicant, client or former client by force, threat, intimidation, or other abuse of position to take action which is harmful to his or her best interest and which he or she would not otherwise have done.

(2) Improper conduct means reckless and unreasonable abuse of authority. Examples of improper conduct include, but are not limited to:

(a) A worker recklessly and unreasonably violates a Department regulation or procedure in a manner which is directly harmful to the best interests of an applicant, client or former client;

(b) A worker recklessly and unreasonably requires documents, visits or other actions by the applicant, client or former client which are not authorized by regulation or procedures of the Department;

(c) A worker recklessly and unreasonably violates the confidentiality of the applicant, client or former client;

(d) worker recklessly and unreasonably fails to treat the applicant, client or former client with dignity and respect to which he or she is reasonably entitled; or

(e) A worker recklessly and unreasonably discourages the applicant, client or former client from applying for assistance or discourages the applicant, client or former client from making inquiries regarding their rights or appealing.

(B) Remedies. When a hearing officer has found coercive or otherwise improper conduct on the part of any Department employee acting in the capacity of a worker directly involved in the applicant's, client's or former client's case at a fair hearing, the local office director shall:

(1) assign a different worker; and

(2) initiate appropriate personnel action in accordance with 106 CMR 343.640(B)(2) including a copy of the written findings, if any, in the worker's personnel file; and

(3) where appropriate, require the worker to send a written apology to the client.

343.240: Request for Fair Hearing

(A) A request for a fair hearing is defined as a written statement by the appellant or his or her authorized representative which asks for the opportunity to present the case to a higher authority. The request for a fair hearing must be received by DOH within the time limits provided in 106 CMR 343.140.

(B) Any request for a fair hearing which alleges coercive or otherwise improper conduct on the part of a Department employee must state the name of the employee and the place, date and nature of the incident. If the request lacks the information required by 106 CMR 343.240, DOH shall notify the appellant of the requirement. If the appellant then fails to provide the information within ten days, the appeal shall be dismissed.

343.245: Dismissal of Request for a Hearing

(A) DOH shall dismiss a request for a hearing when:

(1) The request is not received within the appropriate time frame provided in 106 CMR 343.140;

(2) The request is withdrawn either orally or in writing by the appellant or his or her authorized representative;

(3) The sole issue is one of state or federal law requiring automatic adjustments for classes of clients and the correctness of the grant computation is not at issue;

(4) The stated reason for the request is not grounds for appeal as defined in 106 CMR 343.230;

(5) The stated reason for the hearing request is outside the scope of 106 CMR 343.000; or

(6) The party requesting the hearing has no standing.

(B) The Director may schedule a hearing to allow the appellant the opportunity to contest the dismissal.

343.250: Continuation of Benefits Pending Appeal

(A) If the Division of Hearings receives the request within the timely notice period, assistance shall be continued, or a change in the manner or form of payment shall be postponed, until the appeal decision is rendered. If assistance has been terminated or reduced prior to a timely request for a hearing, it shall be reinstated. If the decision is adverse to the appellant, the proposed action shall take place immediately.

If a change affecting the client's grant occurs while the hearing decision is pending, the Department shall take appropriate action to implement the subsequent change, subject to the advance notice requirements and the right to assistance pending a hearing decision.

(B) Assistance pending a hearing shall not be granted if the Department has granted assistance on a presumption of eligibility and subsequently determines that the client is ineligible, and that determination is the subject of a hearing request.

(C) Assistance continued pending the appeal is subject to recoupment by the Department.

343.300: Notification of Hearing

(A) The time, date, and place of the hearing shall be arranged so that the hearing is accessible to the appellant. At least ten days' advance written notice shall be sent to all parties involved to permit adequate preparation of the case. However, the appellant or his or her representative may ask for less advance notice to expedite the scheduling of the hearing.

(B) The notice shall contain the following:

(1) Date, Time and Site of Hearing.

(2) Contact Person in the Division of Hearings. The name, address, and phone number of the person to notify in DOH in the event it is not possible for the appellant to attend the scheduled hearing.

(3) Fair Hearing Procedures. An explanation of the Department's hearing procedures and other relevant information to provide the appellant with an understanding of the proceedings and assist the appellant in presenting an effective case, including the right to counsel or authorized representation at the appellant's expense.

(4) The Right to Examine the Case File. A statement that the appellant or representative may examine the case file prior to the hearing.

(5) Notice that the Appeal will be Dismissed for a Failure to Appear. A statement notifying the appellant that the Department will dismiss the hearing request if the appellant or his representative fails to appear for the hearing without good cause.

343.310: Scheduling

Upon receipt of a request for a fair hearing, DOH will register the appeal, set a date for a hearing and so notify the appellant, the appropriate office of the Department, and if applicable, the Department employee against whom allegations of coercive or otherwise improper conduct have been made.

DOH shall designate a hearing site accessible to the appellant. If the appellant has a disability which reasonably prevents his or her appearance at the designated site, he or she may request the hearing be held telephonically, at his or her home, or other accessible location.

343.320: Procedures and Requirements for Rescheduling

(A) Rescheduling Prior to the Day of the Hearing.

(1) DOH may change the date, time, and place of the hearing upon due notice to the parties involved.

(2) For all hearings for good cause shown as defined in 106 CMR 343.320(D) (except for initial scheduled SNAP hearings where good cause need not be demonstrated), DOH may at the request of either party to a hearing, or a Department employee charged with coercive or otherwise improper conduct, reschedule the hearing provided that the request is received before the hearing date. If the Director of DOH or designee concludes that the request does not constitute good cause, the request shall be denied. If that request is denied, the appellant shall have the right to a hearing on the issue of good cause. If the request is approved, the requesting party will be required at the rescheduled hearing to establish good cause for the prior nonappearance. A finding by the hearing officer that good cause has not been shown shall result in the appeal's dismissal.

343.320: continued

(3) DOH shall inform the parties of these procedures.

(B) Rescheduling Following Failure to Appear at a Scheduled Hearing.

(1) If the appellant fails to appear at the hearing, DOH shall notify the appellant in writing (at the address supplied by the appellant) that if he or she fails to request a rescheduled hearing and show good cause for the failure to appear within ten days of the notice, the appeal will be considered abandoned. If, the determination of the Director of DOH or designee, is that good cause has not been shown, the appeal shall be dismissed subject to the vacate procedures provided below and any aid pending shall be discontinued. The Director or designee may, at his or her discretion, reschedule the hearing at which time the appellant will be required to establish good cause for the failure to appear. A finding by the hearing officer that good cause has not been shown shall result in dismissal of the appeal.

(2) In cases where coercive or otherwise improper conduct has been alleged against a Department employee and the employee fails to appear at the hearing after notice, the hearing officer shall proceed with the hearing in his or her absence.

Whether or not the employee is present, the hearing officer shall make a decision on the basis of evidence produced at the hearing. If a Department employee fails to appear at the hearing, he or she may file a written request with the hearing officer within five days of the hearing that the hearing be reopened. Such requests shall be granted by the hearing officer only for good cause shown for the failure to appear.

(C) Procedures for Vacating a Dismissal.

(1) The appellant shall be informed by written notice of the dismissal and of the procedures for requesting that the dismissal be vacated.

(2) A request to vacate a dismissal must be in writing and signed by the appellant or authorized representative. This request must be received by DOH within ten days of the date of the dismissal notice. A dismissal shall be vacated if the Director of DOH or designee finds that the appellant has shown good cause both for:

- (a) Failure to appear at a scheduled hearing; and
- (b) Failure to inform DOH prior to the date of a scheduled hearing of his or her inability to appear.

(D) Good Cause.

(1) The following circumstances shall constitute good cause subject to 106 CMR 343.320(D)(2):

- (a) A death in the family;
- (b) A personal injury or illness which reasonably prevents the party from attending the hearing;
- (c) A sudden and serious emergency which reasonably prevents the party from attending the hearing;
- (d) An obligation or responsibility which a reasonable person in the conduct of his or her serious affairs would conclude takes precedence over attendance at the hearing; or
- (e) The reasonable need for additional time to produce evidence or witnesses or get legal assistance.

(2) In evaluating a party's good cause claim, the hearing officer shall consider the following factors:

- (a) The amount of time the party had advance notice of the hearing date;
- (b) The party's ability to anticipate the circumstances which resulted in the inability to appear for the hearing;
- (c) The party's ability to reschedule the conflicting event;
- (d) Any delay by the party in notifying DOH of his or her inability to attend the hearing; and
- (e) Previous rescheduling requests or failure to appear for scheduled hearings which indicate a pattern of abuse or neglect of the hearings process.

(3) If a party will be required to show good cause at the hearing, DOH shall notify that party in advance that the hearing officer will address that issue. The party shall also be notified of the advantage of bringing documentation and witnesses in support of the good cause claim and of the possible consequences if the hearing officer finds against the party on this issue.



343.330: Dismissal for Failure to Prosecute

When the appellant fails to file documents required by 106 CMR 343.000, respond to correspondence, or comply with DOH orders or when the appellant otherwise indicates his or her intention not to continue to prosecute the appeal, DOH may issue an order requiring the appellant to show cause why the matter should not be dismissed for lack of prosecution. That determination shall be made by the Director of DOH, except in cases where the hearing has been scheduled and a hearing officer has been designated to conduct the hearing, the determination shall be made by the hearing officer. If the appellant is found to have failed to show such cause, the appeal shall be dismissed with or without prejudice.

343.340: Right to Examine Case File and Documents, or "Discovery"

The appellant and his or her authorized representative shall have reasonable opportunity to examine the entire contents of his or her case file, subject to the Fair Information Practices Act requirements set forth in 106 CMR 100.000: *General Provisions*, as well as all documents and records to be used by the Department at the hearing. An appointment must be scheduled in advance with the appellant's worker for examination of the case file.

343.350: Adjustment Procedures

(A) Local Office Procedures. The worker is primarily responsible for responding to complaints from applicants or clients and facilitating a resolution, if possible. If a complaint cannot be resolved, the Department shall remind the applicant or client of the right to request a fair hearing.

(B) Prehearing Adjustment.

(1) The Department may make an adjustment in the matters at issue prior to a hearing. If the adjustment resolves the issue and the appellant wishes to withdraw his or her appeal, the Department shall send the appellant's written withdrawal to DOH. DOH shall not delay a fair hearing because a possible adjustment is under consideration unless the appellant requests such a delay.

(2) If the appellant and the Department resolve the issues appealed at the hearing, they may agree to proposed language for the hearing officer's decision. The hearing officer may accept such proposals.

(3) Any adjustment arising from allegations of coercive or otherwise improper conduct must be agreed to by the Department, the appellant, and the Department employee.

343.360: Subpoenas

(A) A subpoena is a document which commands a witness to appear at a given time to give testimony before a court or an administrative proceeding such as a fair hearing. A subpoena can also require the witness to produce specified books, documents, papers or records in his possession or control at the hearing.

(B) Right to Subpoena. Any party to a hearing and DOH on its own shall have the right to a subpoena requiring the attendance and testimony of witnesses and the production of any evidence including books, records, correspondence or documents relating to any matter in question at the hearing. Any party may:

(1) Have a subpoena issued by a notary public or justice of the peace in the name of DOH; or

(2) Apply to DOH in writing for the issuance of a subpoena. A subpoena shall be issued within two business days of receipt of the application.

(C) Petition to Vacate Subpoena. Any witness subpoenaed may petition the director of DOH to vacate or modify a subpoena.

(1) The Director shall give notice to the party who requested the subpoena notice of such petition orally or in writing. The notice shall include the contents of the petition and shall indicate that the party may oppose the petition orally or, if time permits, in writing to the Director. If time does not permit a party to respond to the request to vacate, the hearing shall be postponed long enough to permit the party to respond to the petition. This procedure shall not be construed to require a hearing or adjudicatory proceeding.

343.360: continued

(2) After any investigation the Director considers appropriate, the Director may grant the petition in whole or in part upon a finding that:

- (a) The testimony or the evidence subpoenaed does not relate with reasonable directness to any matter in question;
- (b) The subpoena is unreasonable or oppressive; or
- (c) The subpoena has not been issued a reasonable period in advance of the hearing.

Unless the Director finds that at least one of the above conditions exists, the Director shall deny the petition.

(D) Failure to Comply with a Subpoena. If any person fails to comply with a properly issued subpoena, DOH (or the party who requested the subpoena) may petition the Superior Court for an order requiring compliance with the subpoena. If the Superior Court issues such an order and any person who is subject to it does not comply with it, he or she will be subject to the contempt powers of the Court.

343.410: Rights of the Appellant

The appellant shall have the right to:

- (A) be assisted by an authorized representative;
- (B) present witnesses;
- (C) examine and introduce evidence from his or her case record, and examine and introduce any pertinent Department documents;
- (D) present and establish all relevant facts and circumstances by oral testimony and documentary evidence;
- (E) make any pertinent arguments without undue interference; and
- (F) question or refute any testimony, and confront and cross-examine adverse witnesses.

343.420: Department Rights and Responsibilities

The Department can present its case or can request the assistance of a Department attorney. The Department shall:

- (A) submit all evidence on which any decision at issue is based at the hearing;
- (B) designate a representative to represent the Department at the hearing and arrange for adequate space for the hearing;
- (C) resent witnesses when appropriate and subpoena witnesses upon request to DOH;
- (D) ensure that the case record is available at the hearing and that the appellant has adequate opportunity to examine it prior to and during the hearing;
- (E) introduce evidence from the case record and other pertinent Department documents which pertain to the issues raised during the hearing;
- (F) present and establish all relevant facts and circumstances by oral testimony and documentary evidence;
- (G) have the right to make pertinent arguments without undue interference;
- (H) have the right to question and refute any testimony and confront and cross-examine adverse witnesses; and
- (I) arrange for the appearance at the hearing of a representative of other programs, if appropriate.

343.430: Responsibilities of the Department Attorney

An attorney for the Department may appear at the request of the Department or DOH. The appearance shall be for the purpose of representing the interests of the Department.

343.440: Rights of the Department Employee

Any Department employee against whom allegations of coercive or otherwise improper conduct have been made may present his or her own case, or may be assisted by an authorized representative at his or her own expense, and shall have the right to:

- (A) bring witnesses or subpoena witnesses upon request to DOH;
- (B) present and establish all relevant facts and circumstances by oral testimony and documentary evidence;
- (C) make any pertinent arguments without undue interference;
- (D) question or refute any testimony and confront and cross-examine adverse witnesses; and
- (E) examine and introduce any pertinent evidence, including material from the case record.

343.450: Powers and Duties of the Hearing Officer

- (A) The hearing officer shall:
  - (1) administer the oath or affirmation to those testifying at the hearing including any interpreter/translator;
  - (2) help all those present in making a full and free statement of the facts to bring out all the information necessary to decide the issues involved and to ascertain the rights of the parties;
  - (3) ensure an orderly presentation of the evidence;
  - (4) ensure that all parties have a full opportunity to present their claims orally or in writing and to present witnesses and evidence to establish their claims;
  - (5) receive, rule on, exclude, or limit evidence;
  - (6) introduce into the record by reference or production any regulations, statutes, memoranda, or other materials he or she believes relevant to the issues at the hearing;
  - (7) ensure a record is made of the proceedings;
  - (8) render a fair, independent and impartial decision based on the issues and evidence presented at the hearing and in accordance with the law and to order Department action if appropriate; and
  - (9) inform appellants who are not fluent in English of the right to a full and accurate interpretation by their own interpreter, or by a Department-provided interpreter. The hearing officer shall conduct any bilingual hearing in accordance with the guidelines for conducting hearings through interpretation in the Department's manual for hearing officers. To ensure full understanding and participation by non-English-speaking appellants, all statements, including questions, answers, and comments, of all persons participating in the hearing, shall be fully translated without alteration of such statements, such as by changing the statement from the first person to the third person.
- (B) The hearing officer shall have the following powers:
  - (1) to limit attendance at the hearing;
  - (2) to change the date, time, or place of the hearing on his or her own motion or at the request of any party, upon due notice to the parties;
  - (3) to request a statement of the issues and define the issues;
  - (4) to regulate the presentation of evidence and the participation of the parties for the purpose of ensuring an adequate and comprehensive record of the proceedings;
  - (5) to issue subpoenas on his or her own motion or upon request of any party to secure the presentation of evidence or testimony;
  - (6) to question witnesses and ensure that relevant evidence is secured and introduced;
  - (7) to continue the hearing to a later date to let either party to produce additional relevant evidence, witnesses, or other materials;

## 343.450: continued

- (8) to authorize, when appropriate, the Department to pay for the costs of an independent medical examination;
- (9) to rule on any requests that may be made during the hearing;
- (10) to reconvene the hearing at his or her discretion at any time prior to the rendering of the decision in accordance with 106 CMR 343.600; and
- (11) to order written briefs to be submitted provided that all parties shall be notified of the submission of the briefs and have opportunity to answer.

343.500: Evidence

(A) General. The rules of evidence observed by courts shall not apply to fair hearings, but the hearing officer shall observe the rules of privilege recognized by law. Evidence may be admitted and given probative effect only if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Unduly repetitious or clearly irrelevant evidence may be excluded.

The hearing officer shall not exclude evidence at the hearing because it had not been previously submitted to the Department, provided that the hearing officer may permit the Department representative reasonable time to respond to newly submitted evidence. The effective date of any adjustments to the appellant's grant level or eligibility status shall be the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted. In hearings regarding SNAP household-caused delays within 30 days of the end of SNAP certification periods, the date on which all eligibility conditions were met shall be the date on which all required household actions were taken. *See* 106 CMR 361.900 through 361.960. Likewise, the rules of 106 CMR 366.120: *Department Responsibility to Take Timely Action* apply in determining the date on which all eligibility conditions were met, when a case maintenance is reported that affects the SNAP grant amount but is not timely verified.

(B) Presentation at Hearing. Except as the hearing officer may otherwise order within his or her discretion in accordance with 106 CMR 343.600, any evidence on which a decision is based must be presented at the hearing. Copies of any evidence not submitted at the hearing shall be provided to all other parties who shall then have the opportunity to respond.

(C) Oral Testimony. Oral testimony shall be given under oath or affirmation. Witnesses shall be available for examination and cross-examination.

(D) Regulations, Statutes, Memoranda. Regulations and statutes may be put into evidence by reference to the citation or by submitting a copy of the regulations. Memoranda and other materials may be put into evidence by submission of the original or a copy.

(E) Stipulations. Stipulations of facts or stipulations as to the testimony that would have been given by an absent witness may, if agreed upon by the parties, be used as evidence at the hearing.

(F) Additional Evidence. The hearing officer may require either party, with appropriate notice to the other party, to submit additional evidence on any relevant matter.

343.510: Hearing Involving Medical Issues

When the hearing involves medical issues, the hearing officer may upon his or her own motion order that a medical examination and assessment be obtained from an impartial medical practitioner designated by the Director of DOH. The examination and assessment shall be made a part of the record and be at the expense of the Department.

343.520: Interim Orders

(A) If the hearing officer determines at the hearing that the sole issue is the legality of a state or federal law or regulation, or change in federal or state law, he or she shall issue a written interim order denying the appeal and directing the Department to proceed with the planned action, if the action was delayed pending the hearing. The order shall be made a part of the record. A final written decision must also be rendered.

343.520: continued

(B) The hearing officer may further order, in writing, the Department to take immediate action to implement a decision announced at the hearing pending issuance of the decision.

343.530: Continuance

Once a hearing has been opened, it may be continued at the discretion of the hearing officer. All parties shall be notified as to the time, date, and place of the continued hearing.

343.540: Consolidated Hearings

DOH may respond to a series of individual requests for hearings by conducting a single group hearing. DOH may consolidate only cases where the sole issue is one of state and/or federal law, regulation or policy and where individual issues of fact are not disputed. In all group hearings, the regulations governing individual hearings must be followed. Each appellant shall be permitted to present his or her own case or have the case presented by a representative.

343.550: The Record

(A) All documents and other evidence offered and taken shall become part of the record. The record shall further contain recordings or transcripts of the proceedings and all exhibits and documents introduced at the hearing and, wherever applicable, medical documents obtained to resolve medical issues. The record shall be the exclusive source of the hearing officer's decision. For purposes of judicial review, the record shall also include the decision.

(B) All evidence and testimony at the hearing shall be recorded electronically.

(1) At the discretion of the hearing officer, any party may record the hearing.

(2) Regardless of whether an appellant intends to file a Complaint for Judicial Review, transcripts or recordings of the proceedings shall be supplied, upon request by the appellant, at his or her expense. The record shall be open for inspection by any party or his or her authorized representative during the regular business hours of DOH.

343.600: Reopening Prior to Decision

After the close of the hearing and prior to a decision, the hearing officer, if he or she determines the need of further testimony, evidence, materials or legal support is warranted before rendering his or her decision, the hearing officer may reopen the record or, if appropriate, the hearing to consider further information. If the hearing officer decides to reopen the hearing, DOH must send written notice within seven days to all parties of the reopening including the date, time and place of the resumed hearing, and the reasons for reopening the hearing. The hearing shall be held at a location accessible to the appellant. Prior to the issuance of a hearing decision, any party to a hearing may request in writing that the hearing officer exercise his or her power to reopen the hearing, which request shall become part of the record.

343.610: Basis of Fair Hearing Decisions

(A) The hearing officer's decision shall be based upon evidence, testimony, materials and legal rules presented at the hearing. Any evidence, testimony, materials, legal rules or arguments presented after the close of the hearing will be excluded unless the hearing is reopened, the parties stipulate procedures for response, or otherwise waive the right to respond.

(B) The decision shall be based upon a preponderance of evidence.

(C)(1) The decision must be rendered in accordance with the law. The law includes the State and Federal Constitutions, statutes, and duly promulgated regulations, as well as decisions of the State and Federal Courts.

(2) Notwithstanding 106 CMR 343.610(C)(1) hearing officers shall not render decisions which require their determination of the legality of the Department's regulations. If the legality of a Department regulation is at issue, the hearing officer shall render a decision that he or she cannot rule on that issue and base the decision on the applicable regulation.

343.610: continued

(3) The Department memoranda and materials containing legal rules, standards, or interpretations which are not in the form of duly promulgated regulations cannot be relied on as the sole basis for the decision. However, where the Departmental procedures or policies are pertinent, they may be entered into evidence. Time to respond in writing to those items admitted into evidence may be allowed by the hearing officer upon request by the appellant.

(D) When the subject of an appeal is an adverse action regarding a request for a family cap waiver pursuant to 106 CMR 703.140: *Concluding the Application Process*, a domestic violence waiver pursuant to 106 CMR 703.110: *The Application Process* or an extension of benefits beyond the 24-month period pursuant to 106 CMR 703.130: *Responsibility for Eligibility Determination*, the hearing officer shall not substitute his or her judgment for that of the Commissioner. Such actions may only be overturned by a hearing officer if it is found that the Commissioner (or designee) abused his or her discretion when making the determination on the waiver or extension request.

#### 343.620: Content of Decision

(A) The decision of the hearing officer shall contain the following:

- (1) Statement of the issues involved in the hearing;
- (2) Summary of evidence;
- (3) Findings of fact on all relevant factual matters;
- (4) Rulings of law on all relevant legal issues, with citations to supporting regulations or other law;
- (5) Conclusions drawn from the findings of fact and rulings of law if appropriate; and
- (6) An order of the hearing officer which shall order appropriate action to be taken by the Department including, if appropriate, retroactive and/or prospective relief.

(B) The hearing officer shall also notify the appellant of his or her right to full and prompt implementation of the decision in accordance with 106 CMR 343.640. The appellant shall be further notified of this right to judicial review in accordance with 106 CMR 343.720.

#### 343.625: Transmittal of Decision

Copies of the decision shall be forwarded to the appellant, the appellant's authorized representative, interpreter (if requested) and appropriate Departmental offices. The appellant and his or her authorized representative shall also be notified in writing of the right of judicial review.

#### 343.630: Finality of the Appeal Decision

The decision of the hearing officer is final and binding on the Department. The Department shall not interfere with the independence of the decision-making process of the hearing officer. Facts found and issues decided by the hearing officer in each case are binding on the parties to that case and cannot be disputed again between them in any other administrative proceeding, except as provided in 106 CMR 343.710 or otherwise provided by law.

#### 343.640: Implementation of the Appeal Decision

(A) Notification to Appellant. When the decision is issued, DOH shall notify the appellant of his or her right to full and prompt implementation of the decision within 30 days. The notice shall direct the appellant to notify the appropriate Department official in writing if there is not full compliance within 30 days.

(B) Responsibility to the Department.

- (1) The Department shall be responsible for implementation of all fair hearing decisions so that the appellant will receive any benefits due within 30 days of the date of the decision. No official or any other employee of the Department shall obstruct or otherwise interfere with, review, change or attempt to influence the implementation of the fair hearing decision.

343.640: continued

(2) In a case where the hearing officer has found coercive or otherwise improper conduct on the part of the Department employee, the hearing officer shall refer the record, together with the findings and any supporting documents, directly to the Commissioner or his or her designee, who shall determine what disciplinary action, if any, is appropriate and shall take such action within 30 days of the date of the decision. The remainder of 106 CMR 343.640 does not apply to appeal decisions where the sole finding is coercive or otherwise improper conduct on the part of a Department employee.

(C) Procedure for Monitoring Implementation. The Department shall monitor appeal decisions to ensure implementation and compliance within 30 days of the decision.

343.710: Remand of Hearing Officer Decisions

Following the issuance of a decision of the Division of Hearings, the Commissioner, upon the recommendation of the General Counsel and for good cause shown, may remand a case for further consideration by the hearing officer who rendered the original decision or by another hearing officer. A petition to the Commissioner for a remand must be received within 14 calendar days following issuance of the hearing officer's decision.

343.720: Judicial Review

If the appellant is dissatisfied with the final decision of the hearing officer, he or she may exercise the right of judicial review in accordance with M.G.L. c. 30A. If the appellant seeks judicial review, he or she must file a Complaint with the Superior Court in the county where he or she resides or has his or her principal place of business, or in Suffolk County within 30 days after receipt of the fair hearing decision. If the appellant petitions for remand, then the decision following the remand, or the denial of the request for the remand, is the Department's final action and the appellant has 30 days from the final action to file a Complaint for Judicial Review. The Department must notify the appellant and his or her authorized representative of his or her right to seek judicial review and of the time limits for seeking said review.

343.730: Access to the Record

The record of the fair hearing shall be provided to the appellant within the appropriate time limits after filing a Complaint for Judicial Review. DOH will provide access to the record of the hearing. Such access may be accomplished by allowing the appellant or his or her representative to examine all the documentary evidence and to listen to the recording of the hearing.

REGULATORY AUTHORITY

106 CMR 343.000: 42 USC 602, M.G.L. c. 18, § 16, c. 62D, c. 30A, and 801 CMR 1.03(7).

(PAGES 655 THROUGH 660 ARE RESERVED FOR FUTURE USE.)



**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**  
Secretary of the Commonwealth**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **109 CMR 11.00**CHAPTER TITLE: **Client Medical Care and Treatment**AGENCY: **Department of Youth Services**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.***109 CMR 11.00 established standards of medical care for youth committed to the Department of Youth Services (DYS) which are now outdated and unnecessary, as DYS contracts with vendors for the provision of medical care who are bound by professional standards, Medicaid regulations and contractual terms.**REGULATORY AUTHORITY: **M.G.L. c. 18A and c. 120, section 4**AGENCY CONTACT: **Cecely A. Reardon** PHONE: **617 960 3330**ADDRESS: **600 Washington Street, 4th floor, Boston, MA 02111****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.***Rescission of this regulation was approved by ANF February 23, 2016 and notice was sent to the Local Government Advisory Committee on**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: **March 25, 2016 to May 27, 2016.**

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: \_\_\_\_\_

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: November 10, 2016

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**109 CMR regarding the Department of Youth Services**

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:*

**Repeals 109 CMR 11.00**

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: Nov 14 2016

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
1 - 4	1 & 2
31 - 42	_____

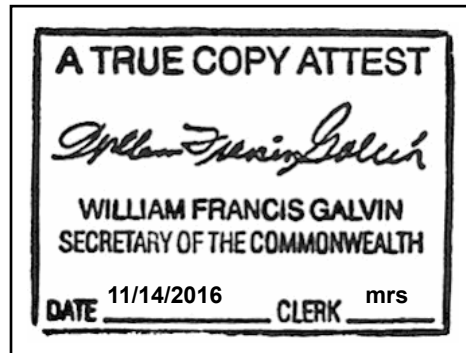


Table of Contents

	<u>Page</u>
(109 CMR 1.00: RESERVED)	5
109 CMR 2.00: GENERAL CONDITIONS	7
Section 2.01: Introduction	7
Section 2.02: Definitions	7
Section 2.03: Applicability	8
Section 2.04: Administrative Relief	8
Section 2.05: Sanctions	8
109 CMR 3.00: ACCESS TO ALL RECORDS OF JUVENILES COMMITTED TO THE DEPARTMENT OF YOUTH SERVICES	9
Section 3.01: Purpose and Scope	9
Section 3.02: Applicability	9
Section 3.03: Definitions	9
Section 3.04: Client and Former Client Records	9
Section 3.05: Response to Compulsory Legal Process	10
Section 3.06: Administrative Process	10
Section 3.07: Audit Trails	11
Section 3.08: Return of Personal Data	11
Section 3.09: Training of Staff	12
109 CMR 4.00: CLASSIFICATION OF JUVENILES COMMITTED TO THE DEPARTMENT OF YOUTH SERVICES	13
Section 4.01: Purpose and Scope	13
Section 4.02: Applicability	13
Section 4.03: Definitions	13
Section 4.04: Classification Process	13
Section 4.05: Classification Grid	14
Section 4.06: Classification Factors	15
Section 4.07: Classification Decision	15
Section 4.08: Appeal Procedure	15
109 CMR 5.00: INVOLUNTARY ROOM CONFINEMENT OF YOUTH DETAINED BY OR COMMITTED TO THE DEPARTMENT OF YOUTH SERVICES	17
Section 5.01: Purpose and Scope	17
Section 5.02: Applicability	17
Section 5.03: Authorization, Documentation and Reporting of Involuntary Room Confinement	17
Section 5.04: Visual Observation	18
109 CMR 6.00: RESTRAINTS AND USE OF FORCE WITH YOUTH DETAINED BY OR COMMITTED TO THE DEPARTMENT OF YOUTH SERVICES	19
Section 6.01: Purpose	19
Section 6.02: Applicability	19
Section 6.03: Documentation and Reporting	19

109 CMR: DEPARTMENT OF YOUTH SERVICES

Table of Contents

	<u>Page</u>
109 CMR 7.00: THE GRANTING OF PASSES FOR YOUTH COMMITTED TO THE DEPARTMENT OF YOUTH SERVICES	21
Section 7.01: Purpose and Scope	21
Section 7.02: Applicability	21
Section 7.03: Emergency Pass Procedures	21
Section 7.04: Behavior Expected of Youth on Pass	21
109 CMR 8.00: THE GRANTING AND REVOCATION OF CONDITIONAL LIBERTY FOR JUVENILES COMMITTED TO THE DEPARTMENT OF YOUTH SERVICES	23
Section 8.01: Purpose and Scope	23
Section 8.02: Applicability	23
Section 8.03: Definitions	23
Section 8.04: Procedure	24
Section 8.05: Conditional Liberty Agreement	24
Section 8.06: Violation of Conditional Liberty Agreement	24
Section 8.07: Notice of Violation and Right to Hearing	24
Section 8.08: Waiver	24
Section 8.09: Revocation Hearing	25
Section 8.10: Procedures at Revocation Hearing	25
Section 8.11: Disposition Options	25
Section 8.12: Appeals	26
Section 8.13: Detainer Provision	26
Section 8.14: Emergency Provision	26
109 CMR 9.00: DISCHARGE OF JUVENILES COMMITTED TO THE DEPARTMENT OF YOUTH SERVICES	27
Section 9.01: Purpose and Scope	27
Section 9.02: Applicability	27
Section 9.03: Definitions	27
Section 9.04: Procedures for Discharge	27
Section 9.05: Criteria for Discharge	28
Section 9.06: Notice Upon Discharge	28
109 CMR 10.00: SOCIAL SCIENCE RESEARCH BY OUTSIDE AGENCIES OR PERSONS	29
Section 10.01: Purpose and Scope	29
Section 10.02: Applicability	29
Section 10.03: Definitions	29
Section 10.04: Application to Conduct Research	29
Section 10.05: Conduct of Research	30
Section 10.06: Compensation of Subjects	30

(PAGES 3 AND 4 ARE RESERVED FOR FUTURE USE.)



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

**Regulation Filing** *To be completed by filing agency*

---

CHAPTER NUMBER: 110 CMR 8.00

CHAPTER TITLE: Service Denial, Reduction, or Termination

AGENCY: Department of Children and Families

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

**The proposed amendments revise the time frame for notifying a young adult when the Department denies, reduces or terminates services to a young adult who has turned 18 years of age.**

REGULATORY AUTHORITY: MGL. c.18B, sec. 3 and 7; and MGL c. 119, sec 37

AGENCY CONTACT: Virginia A Peel PHONE: 617-748-2014

ADDRESS: 600 Washington Street, 6th Floor, Boston, MA 02111

**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.*

**Administration and Finance - 12/18/14 and 6/16/16**  
**Local Governments - 12/19/14**

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

Date of public hearing or comment period: 1/2/2015-1/30/2015

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: XX

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: 11/16/16

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

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:  
**regulation amends 110 CMR 8.01-8.02**

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: Nov 17 2016

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 12/01/2016

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
5,6 127, 128	5,6 127, 128

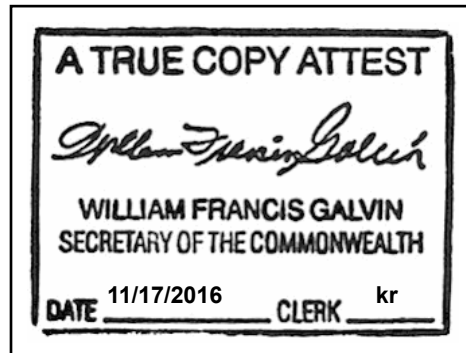


Table of Contents

	<u>Page</u>
110 CMR 7.000: SERVICES (Continued)	
Section 7.105A: Waiver of Standards for Approval of Foster/Pre-adoptive Parents or Homes	90
Section 7.106A: Non-department State Employees as Foster/Pre-adoptive Parents	90
Section 7.106B: Department Employees as Foster/Pre-adoptive Parents	90
Section 7.106C: Department Employees as Mentor, Visiting Resource or Other Significant Adult to Child in Department Care or Custody	91
Section 7.106D: Employees of Department Contracted Agencies as Foster/Pre-adoptive Parents	92
Section 7.106E: Department Contracted Foster/Pre-adoptive Parents	92
Section 7.107: Assessment and Licensing of Foster/Pre-adoptive Parent Applicants	92
Section 7.108: Kinship or Child-specific Placements	94
Section 7.109: TAFDC Grantee Relative vs. Department Foster Care Payments	95
Section 7.111: Written Agreement Between Department and Foster/Pre-adoptive Parents	95
Section 7.112: Department Obligations to Foster/Pre-adoptive Parents	96
Section 7.113: Reassessment of Foster/Pre-adoptive Parents and Foster/Pre-adoptive Homes	96
Section 7.113A: Limited Reassessments	98
Section 7.113B: License Revocation	99
Section 7.113C: Closing a Foster/Pre-adoptive Home	100
Section 7.113D: Reopening of Former Foster/Pre-adoptive Home	100
Section 7.114: Temporary Placement of Foster Children in Care of Persons Other Than Foster/Pre-adoptive Parents	100
Section 7.115: Runaway Foster Children	100
Section 7.116: Removal of Children from Foster/Pre-adoptive Homes	100.2
Section 7.118: Foster/Pre-adoptive Parent Appeals	100.4
Section 7.119: Access to Foster/Pre-adoptive Parent File	100.5
Section 7.120: Community Residential Care	100.5
Section 7.121: Periodic Health Care - Generally	100.6
Section 7.122: Periodic Health Care - Training	101
Section 7.123: Periodic Health Care - Project Good Health	101
Section 7.124: Periodic Health Care - Medical Passport	101
Section 7.125: Periodic Health Care - Emergency Treatment at Time of Placement	101
Section 7.126: Periodic Health Care - Routine Treatment After Placement	102
Section 7.127: Periodic Health Care - Responsibility of Substitute Care Providers	102
Section 7.128: Visitation	102
Section 7.129: Legal Representation for Injured Children in Substitute Care	103
Section 7.130: Reimbursement/Stipend to Foster/Pre-adoptive Parents	103
Section 7.131: Department Certification	104
 Adoption	
Section 7.200: Special Provisions Regarding Pre-adoptive Placements	104
Section 7.209: Adoption Subsidy	105
Section 7.209A: Nonrecurring Adoption Expenses	110
Section 7.210: Post Adoptive Services	110
Section 7.211: Adoption Records	110
Section 7.212: Fair Hearings and Grievances on Adoption-related Matters	111
Section 7.214: Claims of Paternal Responsibility	111
Section 7.215: Open Adoption	111
 Guardianship	
Section 7.300: Policy on Guardianship	112
Section 7.301: Selecting Children to be Considered for Department Sponsored Guardianship	112
Section 7.302: Implementation of Guardianship	112
Section 7.303: Guardianship Subsidy	112
Section 7.303A: Fair Hearing and Grievances on Guardianship Subsidy Related Matters	112.5
Section 7.304: Nonrecurring Guardianship Expenses	112.5



Table of Contents

	<u>Page</u>
110 CMR 7.000: SERVICES (Continued)	
Special Education Services	
Section 7.400: Provision of Education Services to Children in Department Care or Custody	113
Section 7.401: Special Education Definitions	113
Section 7.402: Advocacy on Behalf of Children with Special Needs in Department Care or Custody	114
Section 7.403: Referral for Special Education Assessment and Services	114
Section 7.404: Cost Sharing	115
Interstate Placement Services	
Section 7.500: Introduction to Interstate Placement Services	115
Section 7.501: Interstate Placement Definitions	115
Section 7.502: Interstate Compact Administrator for Massachusetts	116
Section 7.503: Applicability of the Interstate Compact and M.G.L. c. 119, § 36	117
Section 7.504: Placement of Out-of-state Children in Educational Institutions	117
Section 7.505: Placement of Out-of-state Children in Medical Institutions	118
Section 7.506: Placement of Out-of-state Children in Residential Institutions	118
Section 7.507: Placement with Parent(s)	119
Section 7.508: Independent Adoptions	119
Section 7.509: Identified Adoptions	119
Section 7.510: Guardians	120
Section 7.511: Foreign Children	120
Section 7.512: Moves Across State Borders	120
Section 7.513: Runaway Children	120
Section 7.514: Procedural Requirements when Sending Agency is within the Commonwealth	121
Section 7.515: Financial Responsibility for the Child	121
Section 7.516: Procedural Requirements When the Commonwealth is the Receiving State	122
Section 7.517: Jurisdiction under the Interstate Compact	124
Section 7.518: Law Governing	124
Section 7.519: Enforcement	125
Section 7.520: Effect of Violation on Placements	125
Section 7.521: Termination of Placements	125
Section 7.522: Confidentiality	126
Section 7.523: Administrative Review	126
110 CMR 8.00: SERVICE DENIAL, REDUCTION, OR TERMINATION	127
Section 8.01: Notice of Action	127
Section 8.02: Service Continuation for 18 through 22 Years of Age	127
110 CMR 9.00: CASE CLOSURE	129
Section 9.01: Introduction	129
Section 9.02: Required Closings	129
Section 9.03: Procedures	129
Section 9.04: Closing a Supported Case	130
Section 9.05: Court Approval Requirement for Closing Certain Cases	130

110 CMR 8.00: SERVICE DENIAL, REDUCTION, OR TERMINATION

Section

8.01: Notice of Action

8.02: Service Continuation for 18 through 22 Years of Age

8.01: Notice of Action

(1) The Department or provider shall give written notice to a client if the Department intends to deny, reduce, or terminate services, or increase the cost thereof. The written notice shall contain:

- (a) a statement of what action the Department intends to take;
- (b) the reasons for the action;
- (c) the date on which the action shall become effective;
- (d) the address and telephone number of the Department office making the decision;
- (e) an explanation of the applicant's or recipient's right to request a fair hearing;
- (f) the process used to request a fair hearing; and
- (g) an explanation of the circumstances, if any, under which services will be continued pending the fair hearing.

(2) The Department or provider shall mail or hand-deliver the written notice set forth in 110 CMR 8.01(1) to the applicant or recipient at least 15 days prior to the date of the intended action or 30 calendar days if the intended action relates to young adult services except as set forth in 110 CMR 8.01(3).

(3) The Department or provider shall mail or hand deliver the written notice set forth in 110 CMR 8.01(1) without advance notice but no later than the date of action when:

- (a) the Department or provider has factual information confirming the death of the recipient of services;
- (b) the Department or provider has received a clear, written statement from the recipient that he or she no longer wishes services;
- (c) the recipient gives to the Department information which requires termination or reduction of services, and the recipient has indicated, in writing, that he or she understands that this must be the consequence of supplying such information;
- (d) the recipient has been accepted as a recipient of services in a new jurisdiction;
- (e) a service was granted for a specific period and the recipient had been informed in writing at the time of initiation that the service would terminate at the end of the specified period; or
- (f) the department is unable to locate the applicant or recipient after using diligent efforts.

8.02: Service Continuation for 18 through 22 Years of Age

The Department is committed to assisting older adolescents and young adults in their transition to independence and self sufficiency.

REGULATORY AUTHORITY

110 CMR 8.00: M.G.L. c. 18B, §§ 3, 7; and c. 119, § 37.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS  
William Francis Galvin  
Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*

---

CHAPTER NUMBER: 130 CMR 519.000

CHAPTER TITLE: MassHealth Coverage Types

AGENCY: Division of Medical Assistance

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

**130 CMR 519.000 defines the eligibility criteria for MassHealth coverage types available to individuals 65 years of age and older, and to individuals of any age in need of long-term services and supports.**

REGULATORY AUTHORITY: 130 CMR 519.000: M.G.L. c. 118E, §§ 7 and 12

AGENCY CONTACT: Deborah Briggs 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.*

**EO 145 Notifications: June 17, 2016**

**EO 562: November 8, 2016**

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: September 9, 2016

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

For the first and second year: \$3 million annual aggregate decrease

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: November 17, 2016

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:*

**130 CMR 519.000 has been 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: Nov 18 2016

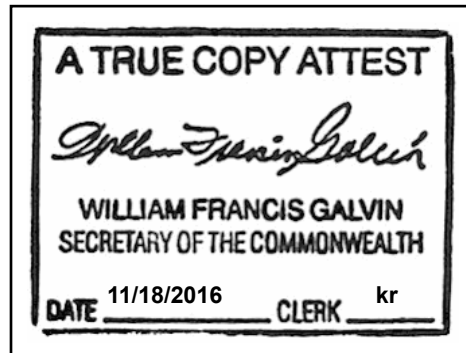
Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
23 - 26 789 - 796.8	23 - 26 789 - 796.8



130 CMR: DIVISION OF MEDICAL ASSISTANCE

Table of Contents

	<u>Page</u>
130 CMR 515.000: MASSHEALTH: GENERAL POLICIES (continued)	
Section 515.004: Administration of MassHealth	778.1
Section 515.005: Receiving Public Assistance from Another State	778.2
Section 515.007: Rights of Applicants and Members	778.2
Section 515.008: Responsibilities of Applicants and Members	778.3
Section 515.009: Referrals to Investigative Units	778.3
Section 515.010: Recovery of Overpayment of Medical Benefits	778.4
Section 515.011: Estate Recovery	778.4
Section 515.012: Real Estate Liens	778.6
Section 515.013: Voter Registration	778.7
Section 515.014: Long-term-care Insurance Minimum Coverage Requirements for MassHealth Exemptions	778.7
Section 515.015: Reimbursement of Certain Out-of-pocket Medical Expenses	778.8
130 CMR 516.000: MASSHEALTH: THE ELIGIBILITY PROCESS	779
Section 516.001: Overview	779
Section 516.002: Date of Application	780
Section 516.003: Matching Information	781
Section 516.004: Time Standards for Eligibility Determination	781
Section 516.005: Coverage Date	781
Section 516.006: Continuing Eligibility	781
Section 516.007: Notice	782.1
Section 516.008: Voluntary Withdrawal	782.1
Section 516.009: Issuance of a MassHealth Card	782.1
130 CMR 517.000: MASSHEALTH: UNIVERSAL ELIGIBILITY REQUIREMENTS	783
Section 517.001: Universal Eligibility Requirements	783
Section 517.002: Residence Requirements	783
Section 517.003: Residence of Institutionalized Individuals	784
Section 517.005: Persons Institutionalized for Mental Disease	785
Section 517.006: Social Security Number (SSN)	785
Section 517.007: Utilization of Potential Benefits	785
Section 517.008: Potential Sources of Health Care	786
Section 517.009: Assignment of Rights to Medical Support and Third-party Payments	786
Section 517.010: Waiver of Cooperation for Good Cause	786.1
Section 517.011: Assignment of Rights to Spousal Support	786.1
Section 517.012: Assignment for Third-party Recoveries	786.1
130 CMR 518.000: MASSHEALTH: CITIZENSHIP AND IMMIGRATION	787
Section 518.001: Introduction	787
Section 518.002: Requirements	787
130 CMR 519.000: MASSHEALTH: COVERAGE TYPES	789
Section 519.001: Introduction	789
Section 519.002: MassHealth Standard	789
Section 519.003: Pickle Amendment Cases	790
Section 519.004: Disabled Adult Children	790
Section 519.005: Community Residents 65 Years of Age or Older	791
Section 519.006: Long-term-care Residents	791
Section 519.007: Individuals Who Would Be Institutionalized	792
Section 519.009: MassHealth Limited	796.4
Section 519.010: MassHealth Senior Buy-in	796.5
Section 519.011: MassHealth Buy-in	796.5
Section 519.012: MassHealth CommonHealth	796.6
Section 519.013: MassHealth Family Assistance	796.7

Table of Contents

	<u>Page</u>
130 CMR 520.000: MASSHEALTH: FINANCIAL ELIGIBILITY	797
Section 520.001: Introduction to General Financial Requirements	797
Section 520.002: Financial Responsibility	797
Section 520.003: Asset Limit	798
Section 520.004: Asset Reduction	798
Section 520.005: Ownership of Assets	799
Section 520.006: Inaccessible Assets	800
Section 520.007: Countable Assets	800
Section 520.008: Noncountable Assets	807
Section 520.009: Countable-income Amount	808
Section 520.010: Business Expenses	809
Section 520.011: Standard Income Deductions	810
Section 520.012: Community Earned-income Deductions	810
Section 520.013: Community Unearned-income Deductions	810
Section 520.014: Long-term-care Earned-income Deductions	811
Section 520.015: Noncountable Income	811
Section 520.016: Long-term-care: Treatment of Assets	812
Section 520.017: Right to Appeal the Asset Allowance or Minimum-monthly-maintenance-needs Allowance	813
Section 520.018: Transfer of Resources Regardless of Date of Transfer	815
Section 520.019: Transfer of Resources Occurring on or after August 11, 1993	815
Section 520.021: Treatment of Trusts	818.2
Section 520.022: Trusts or Similar Legal Devices Created before August 11, 1993	818.3
Section 520.023: Trusts or Similar Legal Devices Created on or after August 11, 1993	818.3
Section 520.024: General Trust Rules	818.4
Section 520.025: Long-term-care Income Standard	818.5
Section 520.026: Long-term-care General Income Deductions	818.5
Section 520.027: Long-term-care Deductible	818.8
Section 520.028: Eligibility for a Deductible	818.9
Section 520.029: The Deductible Period	818.9
Section 520.030: Calculating the Deductible	818.9
Section 520.031: Notification of Potential Eligibility	818.9
Section 520.032: Submission of Bills to Meet the Deductible	818.10
Section 520.033: Verification of Medical Expenses	818.10
Section 520.034: Interim Changes	818.10
Section 520.035: Conclusion of the Deductible Process	818.11
Section 520.036: Copayments Required by the MassHealth Agency	818.11
Section 520.037: Copayment and Cost Sharing Requirement Exclusions	818.11
Section 520.038: Services Subject to Copayments	818.12
Section 520.039: Members Unable to Pay Copayment	818.12
Section 520.040: Maximum Cost Sharing	818.12
(130 CMR 521.000: RESERVED)	819
130 CMR 522.000: MASSHEALTH: OTHER DIVISION PROGRAMS	823
Section 522.001: Massachusetts Insurance Connection for Individuals with AIDS or HIV-related Diseases	823
Section 522.002: Refugee Resettlement Program	824
Section 522.003: Adoption Assistance and Foster Care Maintenance	825
Section 522.004: Children's Medical Security Plan (CMSP)	825



Table of Contents

	<u>Page</u>
(130 CMR 523.000 THROUGH 609.000: RESERVED)	827
130 CMR 610.000: MASSHEALTH: FAIR HEARING RULES	875
Section 610.001: Purpose	875
Section 610.002: Authority	876
Section 610.003: Scope	876
Section 610.004: Definitions	876
Section 610.011: The Office of Medicaid Board of Hearings	879
Section 610.012: General Description of the Fair Hearing Process	879
Section 610.013: Methods for Conducting a Fair Hearing	880
Section 610.014: Compilation of Fair Hearing Decisions	880
Section 610.015: Time Limits	881
Section 610.016: Appeal Representative	882.1
Section 610.017: Auxiliary Aids	882.1
Section 610.018: Appeal Process for Enrollees in an Integrated Care Organization	882.1
Section 610.026: Adequate Notice Requirements	883
Section 610.027: Timely Notice Exceptions	883
Section 610.028: Notice Requirements Regarding Actions Initiated by a Nursing Facility	883
Section 610.029: Time Frames for Notices Issued by Nursing Facilities	884
Section 610.030: Stay of a Transfer or Discharge from a Nursing Facility Pending Appeal	885
Section 610.031: Notification of the Right to Request a Hearing	885
Section 610.032: Grounds for Appeal	886
Section 610.033: Coercive or Otherwise Improper Conduct	887
Section 610.034: Request for Fair Hearing	887
Section 610.035: Dismissal of a Request for a Hearing	887
Section 610.036: Continuation of Benefits Pending Appeal	888
Section 610.037: Notice Requirements for PASRR Determination	888
Section 610.046: Notification of Hearing	889
Section 610.047: Scheduling	889
Section 610.048: Procedures and Requirements for Rescheduling	889
Section 610.049: Dismissal for Failure to Prosecute	891
Section 610.050: Right to Examine Case File and Documents, or "Discovery"	891
Section 610.051: Adjustment Procedures and Mediation	891
Section 610.052: Subpoenas	891
Section 610.061: Appellant Rights	892
Section 610.062: Acting Entity Rights and Responsibilities	892
Section 610.064: MassHealth Agency Employee Rights	893
Section 610.065: Powers and Duties of the Hearing Officer	893
Section 610.071: Evidence	894
Section 610.072: Continuance	894.1
Section 610.073: Consolidated Hearings	894.1
Section 610.074: The Record	894.1
Section 610.081: Reopening Before Decision	894.2
Section 610.082: Basis of Fair Hearing Decisions	894.2
Section 610.083: Content of Decision	894.2
Section 610.084: Transmittal of Decision	894.3
Section 610.085: Finality of the Appeal Decision	894.3
Section 610.086: Implementation of the Appeal Decision	894.3
Section 610.091: Review of Hearing Officer Decisions	894.4
Section 610.092: Judicial Review	894.4
Section 610.093: Access to the Record	894.4
(130 CMR 611.000 THROUGH 629.000: RESERVED)	895

130 CMR: DIVISION OF MEDICAL ASSISTANCE

Table of Contents

	<u>Page</u>
130 CMR 630.000: HOME- AND COMMUNITY-BASED SERVICES WAIVER SERVICES	901
Section 630.401: Introduction	901
Section 630.402: Definitions	901
Section 630.403: Eligible Members	906
Section 630.404: Provider Eligibility	907
Section 630.405: HCBS Waiver Coverage Types	910
Section 630.406: HCBS Waiver Conditions for Payment	912
Section 630.407: HCBS Waiver Coverage Requirements	912
Section 630.408: Nonpayable Services	913
Section 630.409: Service Plan and Notice of Approval or Denial of HCBS Waiver Services	913
Section 630.410: Adult Companion	914
Section 630.411: Assisted Living Services	915
Section 630.412: Chore Services	915
Section 630.413: Community Family Training and Residential Family Training	915
Section 630.414: Day Services	915
Section 630.415: Home Accessibility Adaptations	916
Section 630.416: Homemaker	916
Section 630.417: Home Health Aide	916
Section 630.418: Independent Living Supports	916
Section 630.419: Individual Support and Community Habilitation	917
Section 630.420: Peer Support	917
Section 630.421: Personal Care Services	917
Section 630.422: Prevocational Services	917
Section 630.423: Residential Habilitation	918
Section 630.424: Respite	918
Section 630.425: Shared Home Supports	918
Section 630.426: Shared Living - 24 Hour Supports	919
Section 630.427: Skilled Nursing	919
Section 630.428: Specialized Medical Equipment	919
Section 630.429: Supported Employment	920
Section 630.430: Supportive Home Care Aide	920
Section 630.431: Occupational Therapy, Physical Therapy, and Speech Therapy	920
Section 630.432: Transitional Assistance	921
Section 630.433: Transportation	922
Section 630.434: Vehicle Modification	922
Section 630.435: Location Requirements for HCBS Waiver Providers	923
Section 630:436: Personnel Requirements and Responsibilities of HCBS Waiver Providers	923
Section 630.437: Withdrawal by a HCBS Waiver Provider from MassHealth	924
Section 630.438: Recordkeeping Requirements	925

(PAGES 27 THROUGH 30 ARE RESERVED FOR FUTURE USE.)

130 CMR 519.000: MASSHEALTH: COVERAGE TYPES

Section

- 519.001: Introduction
- 519.002: MassHealth Standard
- 519.003: Pickle Amendment Cases
- 519.004: Disabled Adult Children
- 519.005: Community Residents 65 Years of Age or Older
- 519.006: Long-term-care Residents
- 519.007: Individuals who Would be Institutionalized
- 519.009: MassHealth Limited
- 519.010: MassHealth Senior Buy-in
- 519.011: MassHealth Buy-in
- 519.012: MassHealth CommonHealth
- 519.013: MassHealth Family Assistance

519.001: Introduction

(A) Categorical Requirements and Financial Standards. 130 CMR 519.000 explains the categorical requirements and financial standards that must be met to qualify for a MassHealth coverage type. The rules of financial responsibility and the calculation of financial eligibility are detailed in 130 CMR 520.000: *MassHealth: Financial Eligibility*.

(B) MassHealth Coverage Types. The MassHealth coverage types available to individuals aged 65 and older, institutionalized individuals, and those who would be institutionalized without community-based services are the following:

- (1) MassHealth Standard;
- (2) MassHealth Limited;
- (3) MassHealth Senior Buy-in;
- (4) MassHealth Buy-in;
- (5) MassHealth CommonHealth; and
- (6) MassHealth Family Assistance.

(C) Determining Eligibility. The MassHealth agency determines eligibility for the most comprehensive coverage available to the applicant, although the applicant has the right to choose to have eligibility determined only for Senior Buy-in or Buy-in coverage. If no choice is made by the applicant, the MassHealth agency determines eligibility for all available coverage types.

519.002: MassHealth Standard

(A) Overview.

- (1) 130 CMR 519.002 through 519.007 contain the categorical requirements and asset and income standards for MassHealth Standard, which provides coverage for individuals aged 65 and older, institutionalized individuals, and those who would be institutionalized without community-based services.
- (2) Individuals eligible for MassHealth Standard are eligible for medical benefits on a fee-for-service basis as defined in 130 CMR 515.001: *Definition of Terms*. The medical benefits are described in 130 CMR 450.105(A): *MassHealth Standard*.
- (3) The begin date of medical coverage for MassHealth Standard is established in accordance with 130 CMR 516.005: *Coverage Date*.
- (4) The MassHealth agency pays the following costs for members eligible for MassHealth Standard who meet the requirements of 130 CMR 519.010(A)(1) and (2):
  - (a) Medicare Part B premiums for members with countable income that is less than or equal to 120% of the federal poverty level;
  - (b) Medicare Part A premiums for adult members of MassHealth Standard who are entitled to Medicare Part A with a countable income that is less than or equal to 100% of the federal poverty level; and
  - (c) the deductibles and coinsurance under Medicare Parts A and B for members with a countable income that is less than or equal to 100% of the federal poverty level.

519.002: continued

(B) Automatic Eligibility for SSI Recipients.

(1) Individuals described in 130 CMR 519.002(A)(1) who meet basic, categorical, and financial requirements under the Supplemental Security Income (SSI) program are automatically eligible to receive MassHealth Standard coverage.

(2) Eligibility for retroactive coverage must be established by the MassHealth agency in accordance with 130 CMR 516.005: *Coverage Date*.

(C) Extended Eligibility for SSI Recipients. An individual whose SSI assistance has been terminated, and who is determined to be potentially eligible for MassHealth, continues to receive MassHealth Standard coverage until a determination of ineligibility is made by the MassHealth agency.

(D) Automatic and Extended Eligibility for EAEDC Recipients 65 Years of Age or Older.

(1) Automatic Eligibility. Individuals 65 years of age or older who meet the requirements of the Emergency Aid to the Elderly, Disabled and Children (EAEDC) program administered by the Department of Transitional Assistance and who are United States citizens as described in 130 CMR 518.002: *U.S. Citizens* or qualified noncitizens, as described in 130 CMR 518.003(A)(1): *Qualified Noncitizens*, are automatically eligible for MassHealth Standard benefits.

(2) Extended Eligibility. Individuals described in 130 CMR 519.002(D)(1) whose EAEDC cash assistance ends will continue to receive MassHealth Standard benefits until the MassHealth agency determines that the member is ineligible.

519.003: Pickle Amendment Cases

(A) Eligibility Requirements. Under the Pickle Amendment, former SSI recipients whose income exceeds 100% of the federal poverty level are eligible for MassHealth Standard provided they

(1) or their spouse or both are receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits;

(2) were eligible for and received SSI benefits after April 1977;

(3) would be currently eligible for SSI, in accordance with SSI payment standards at 130 CMR 519.003(B), if the incremental amount of RSDI cost-of-living increases paid to them since the last month subsequent to April 1977, for which they were both eligible for and receiving SSI and entitled to (but not necessarily receiving) RSDI were deducted from the current amount of RSDI benefits. Cost-of-living increases referred to in 130 CMR 519.003 include increases received by the applicant or member or by the spouse. The spouse need not be otherwise eligible for SSI; and

(4) have countable assets that are \$2,000 or less for an individual, and \$3,000 or less for a married couple.

(B) SSI Payment Standards. The RSDI amount, as described in 130 CMR 519.003(A)(3), and any other countable-income amount, as defined in 130 CMR 520.009: *Countable-income Amount*, of the individual or couple is compared to the SSI payment standards to determine Pickle eligibility. Each calendar year, the SSI Payment Standards shall be made available on MassHealth's website.

(C) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards in 130 CMR 519.003 may establish eligibility by reducing assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described in 130 CMR 520.028 through 520.035, or both.

519.004: Disabled Adult Children

(A) Eligibility Requirements. Individuals who lose eligibility for Supplemental Security Income (SSI) benefits may retain eligibility for MassHealth Standard provided that they

(1) are 18 years of age or older;

(2) became blind or disabled before attaining 22 years of age;

519.004: continued

- (3) receive or received SSI based on their blindness or disability;
- (4) received an increase in child's insurance benefits under § 202(d) of the Social Security Act, or became entitled to those benefits on the basis of blindness or disability, on or after July 1, 1987;
- (5) lose or lost SSI as a result of this entitlement or increase in child's insurance benefits under § 202(d) of the Social Security Act; and
- (6) would still be eligible for SSI in the absence of such RSDI benefits or increase in benefits.

(B) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.004(A) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible*, through 520.035: *Conclusion of the Deductible Process* or both.

519.005: Community Residents 65 Years of Age or Older

(A) Eligibility Requirements. Except as provided in 130 CMR 519.005(C), noninstitutionalized individuals 65 years of age and older may establish eligibility for MassHealth Standard coverage provided they meet the following requirements:

- (1) the countable income amount, as defined in 130 CMR 520.009: *Countable-income Amount*, of the individual or couple is less than or equal to 100% of the federal poverty level; and
- (2) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less.

(B) Financial Standards Not Met. Except as provided in 130 CMR 519.005(C), individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.005(A) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*, or both.

(C) Parents and Caretaker Relatives of Children Younger than 19 Years Old.

- (1) Eligibility Requirements. Adults who are 65 years of age and older and are the parents or caretaker relatives of a child younger than 19 years old receive MassHealth Standard if they meet the requirements of 130 CMR 505.002(C): *Eligibility Requirements for Parents and Caretaker Relatives* or (L): *Extended Eligibility*.
- (2) Other Provisions. The following provisions apply to adults described in 130 CMR 519.005(C)(1) and 130 CMR 505.002(A)(6), (M): *Use of Potential Health Insurance Benefits*, (O): *Medicare Premium Payment*, and (P): *Medical Coverage Date*.
- (3) Countable Income. Eligibility for adults described in 130 CMR 519.005(C)(1) is based on the individual's modified adjusted gross income of the MassHealth MAGI household and the income rules described at 130 CMR 506.002: *Household Composition* through 506.004: *Noncountable Household Income*.
- (4) Exemption from Asset Limits. The asset limits in 130 CMR 520.003: *Asset Limit* do not apply to applicants or members described in 130 CMR 519.005(C)(1).

519.006: Long-term-care Residents

(A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must

- (1) be younger than 21 years old or 65 years of age or older, or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing-facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: *Long Term Care Services*;
- (3) contribute to the cost of care as defined at 130 CMR 520.026: *Long-term-care General Income Deductions*;

519.006: continued

(4) have countable assets of \$2,000 or less for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets when One Spouse is Institutionalized*; and

(5) not have transferred resources for less than fair market value as described at 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

(B) Verification of Disability or Pregnancy.

(1) Disability is verified by:

(a) certification of legal blindness by the Massachusetts Commission for the Blind (MCB);

(b) a determination of disability by the Social Security Administration (SSA); or

(c) a determination of disability by the MassHealth Disability Determination Unit (DDU). Until this determination is made, the applicant's submission of a completed disability supplement will satisfy the verification requirement.

(2) Pregnancy is verified by a written statement from a competent medical authority certifying the pregnancy.

519.007: Individuals Who Would Be Institutionalized

130 CMR 519.007 describes the eligibility requirements for MassHealth Standard coverage for individuals who would be institutionalized if they were not receiving home- and community-based services.

(A) The Kaileigh Mulligan Program. The Kaileigh Mulligan Program enables severely disabled children younger than 18 years old to remain at home. The income and assets of their parents are not considered in the determination of eligibility.

(1) Eligibility Requirements. Children younger than 18 years old may establish eligibility for the Kaileigh Mulligan Program by meeting the following requirements. They must

(a) 1. meet Title XVI disability standards in accordance with the definition of permanent and total disability for children younger than 18 years old in 130 CMR 515.001: *Definition of Terms* or have been receiving SSI on August 22, 1996; and  
2. continue to meet Title XVI disability standards that were in effect before August 22, 1996;

(b) have \$2,000 or less in countable assets;

(c) 1. have a countable income amount of \$72.80 or less; or

2. if greater than \$72.80, meet a deductible in accordance with 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*; and

(d) require a level of care equivalent to that provided in a hospital or nursing facility in accordance with 130 CMR 519.007(A)(3) and (4).

(2) Additional Requirements. The MassHealth agency must have determined

(a) that care provided outside an institution is appropriate; and

(b) that the estimated cost paid by the MassHealth agency would not be more than the estimated cost paid if the child were institutionalized.

(3) Level of Care That Must Be Required in a Hospital. To require the level of care provided in a hospital, the child must have a medical need for the following:

(a) direct administration of at least two discrete skilled-nursing services (as defined in 130 CMR 515.001: *Definition of Terms*) on a daily basis, each of which requires complex nursing procedures, such as administration of intravenous hyperalimentation, changing tracheotomy tubes, assessment or monitoring related to an uncontrolled seizure disorder, assessment or monitoring related to an unstable cardiopulmonary status, or other unstable medical condition;

(b) direct management of the child's medical care by a physician or provided directly by someone who is under the supervision of a physician on at least a weekly basis;

(c) ongoing use of invasive medical technologies or techniques to sustain life (such as ventilation, hyperalimentation, gastrostomy tube feeding), or dialysis, or both; and

519.007: continued

- (d) at least one of the following:
1. assistance in one or more activities of daily living (ADLs), as defined in 130 CMR 515.001: *Definition of Terms*, beyond what is required at an age-appropriate activity level; or
  2. one or more skilled therapeutic services (occupational therapy, physical therapy, or speech and language therapy), provided directly by or under the supervision of a licensed therapist at least five times a week.
- (4) Level of Care That Must Be Required in a Skilled-nursing Facility. To require the level of care provided in a skilled-nursing facility, the child must be nonambulatory and meet the following requirements.
- (a) A child 12 months of age or older must have global developmental skills (as defined in 130 CMR 515.001: *Definition of Terms*) not exceeding those of a 12-month-old child as indicated by a developmental assessment performed by the child's physician or by another certified professional. In addition, the child's developmental skills level must not be expected to improve.
  - (b) A child younger than 12 months old must have global developmental skills significantly below an age-appropriate level and such skills must not be expected to progress at an age-appropriate rate as indicated by a developmental assessment performed by the child's physician or by another certified professional.
  - (c) Regardless of age, the child must also require all of the following:
    1. direct administration of at least two discrete skilled-nursing services on a daily basis, each of which requires complex nursing procedures as described at 130 CMR 519.007(A)(3);
    2. direct management of the child's medical care by a physician or provided directly by someone who is under the supervision of a physician on a monthly basis;
    3. assistance in one or more ADLs beyond what is required at an age-appropriate activity level; and
    4. any combination of skilled therapeutic services (physical therapy, occupational therapy, speech and language therapy) provided directly by or under the supervision of a licensed therapist at least five times a week.
- (5) Premium Assistance for Standard Kaileigh Mulligan. Individuals eligible for MassHealth Standard in 130 CMR 519.007(A) may be eligible for Premium Assistance if they meet the requirements described in 130 CMR 505.002(N): *Access to Employer-sponsored Insurance and Premium Assistance Investigations for Individuals Who Are Eligible for MassHealth Standard* and 506.012: *Premium Assistance Payments*.
- (B) Home- and Community-based Services Waiver—frail Elder.
- (1) Clinical and Age Requirements. The Home- and Community-based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing-facility services to receive certain waiver services at home if he or she
    - (a) is 60 years of age or older and, if younger than 65 years old, is permanently and totally disabled in accordance with Title XVI standards; and
    - (b) would be institutionalized in a nursing facility, unless he or she receives one or more of the services administered by the Executive Office of Elder Affairs under the Home- and Community-based Services Waiver-frail Elder authorized under § 1915(c) of the Social Security Act.
  - (2) Eligibility Requirements. In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
    - (a) meet the requirements of 130 CMR 519.007(B)(1)(a) and (b);
    - (b) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual; and
    - (c) have countable assets of \$2,000 for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
    - (d) have not transferred resources for less than fair market value as described at 130 CMR 520.018: *Transfer of Resources Regardless of the Transfer Date* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

519.007: continued

(3) Financial Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(B)(2) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described at 130 CMR 520.028 through 520.035, or by both.

(C) Program of All-inclusive Care for the Elderly (PACE).

(1) Overview. The PACE program is a comprehensive health program that is designed to keep frail, older individuals who are certified eligible for nursing-facility services living in the community.

(a) A complete range of health-care services is provided by one designated community-based program with all medical and social services coordinated by a team of health professionals.

(b) The MassHealth agency administers the program in Massachusetts as the Elder Service Plan (ESP).

(c) Persons enrolled in PACE have services delivered through managed care

1. in day-health centers;
2. at home; and
3. in specialty or inpatient settings, if needed.

(2) Eligibility Requirements. In determining PACE eligibility, the MassHealth agency counts the income and assets of only the applicant or member regardless of his or her marital status. The applicant or member must meet all of the following criteria:

- (a) be 55 years of age or older;
- (b) meet Title XVI disability standards if 55 through 64 years of age;
- (c) be certified by the MassHealth agency or its agent to be in need of nursing-facility services;
- (d) live in a designated service area;
- (e) have medical services provided in a specified community-based PACE program;
- (f) have countable assets whose total value does not exceed \$2,000 or, if assets exceed these standards, reduce assets in accordance with 130 CMR 520.004: *Asset Reduction*; and
- (g) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual.

(3) Income Standards Not Met. Individuals whose income exceeds the standards set forth in 130 CMR 519.007(C)(2) may establish eligibility for MassHealth Standard by meeting a deductible as described at 130 CMR 520.028 through 520.035.

(D) Home- and Community-based Services Waivers for Persons with an Intellectual Disability.

(1) Intensive Supports Waiver.

(a) Clinical and Age Requirements. The Intensive Supports Home- and Community-based Services Waiver for Persons with an Intellectual Disability allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the intellectually disabled to receive residential habilitation and other specified waiver services if he or she meets all of the following criteria:

1. has an intellectual disability/developmental disability in accordance with Department of Developmental Services standards;
2. needs one or more of the services administered by the Department of Developmental Services under the Intensive Supports Home- and Community-based Services Waiver authorized under § 1915(c) of the Social Security Act;
3. needs 24/7 support either in a 24-hour supervised residential setting or in the family home as provided under the Intensive Supports Waiver
4. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards.

(b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must meet all of the following criteria:



519.007: continued

1. meet the requirements of 130 CMR 519.007(D)(1)(a);
  2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
  3. have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
  4. have not transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (c) Financial Eligibility Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(D)(1)(b) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described in 130 CMR 520.028 through 520.035, or by both.
- (d) Enrollment Limits. Enrollment in the Intensive Supports Home- and Community-based Services Waiver for Persons with an Intellectual Disability is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in the waiver may be limited in a manner determined by the MassHealth agency.
- (2) Community Living Waiver.
- (a) Clinical and Age Requirements. The Community Living Home- and Community-based Services Waiver for Persons with an Intellectual Disability allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the intellectually disabled to receive certain waiver services, other than residential habilitation, at home or in the community provided he or she
1. has an intellectual disability/developmental disability in accordance with Department of Developmental Services standards;
  2. needs one or more of the services administered by the Department of Developmental Services under the Community Living Home- and Community-based Services Waiver authorized under § 1915(c) of the Social Security Act;
  3. needs one or more of the services provided only under the Community Living Waiver; and
  4. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards.
- (b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must meet all of the following criteria:
1. meet the requirements of 130 CMR 519.007(D)(2)(a);
  2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
  3. have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
  4. have not transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (c) Financial Eligibility Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(D)(2)(b) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described in 130 CMR 520.028 through 520.035, or by both.
- (d) Enrollment Limits. Enrollment in the Community Living Home- and Community-based Services Waiver for Persons with an Intellectual Disability is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in the waiver may be limited in a manner determined by the MassHealth agency.

519.007: continued

(3) Adult Supports Waiver.

(a) Clinical and Age Requirements. The Adult Supports Home- and Community-based Services Waiver for Persons with an Intellectual Disability allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the intellectually disabled to receive certain waiver services, other than residential habilitation, at home or in the community provided he or she

1. has an intellectual disability/developmental disability in accordance with Department of Developmental Services standards;
2. needs one or more of the services administered by the Department of Developmental Services under the Adult Supports Home- and Community-based Services Waiver authorized under § 1915(c) of the Social Security Act; and
3. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards.

(b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must meet all of the following criteria:

1. meet the requirements of 130 CMR 519.007(D)(3)(a);
2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
3. have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
4. have not transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

(c) Financial Eligibility Standards Not Met. Individuals whose income, assets, or both exceed the standards set forth in 130 CMR 519.007(D)(3)(b) may establish eligibility for MassHealth Standard by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, by meeting a deductible as described in 130 CMR 520.028 through 520.035, or by both.

(d) Enrollment Limits. Enrollment in the Adult Supports Home- and Community-based Services Waiver for Persons with an Intellectual Disability is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in the waiver may be limited in a manner determined by the MassHealth agency.

(E) Home- and Community-based Services Waiver for Young Children with Autism.

(1) Clinical Requirements. The Home- and Community-based Services Waiver allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of inpatient care at an intermediate-care facility for the intellectually disabled to receive certain waiver services at home or in the community provided he or she

- (a) has a confirmed diagnosis of an autism spectrum disorder (which includes autistic disorder, pervasive developmental disorder-not otherwise specified (PDD-NOS), Rhetts syndrome, childhood disintegrative disorder, and Asperger's syndrome);
- (b) would be institutionalized in an intermediate-care facility for the intellectually disabled unless he or she receives one or more of the services administered by the Department of Developmental Services under the Home- and Community-based Services Waiver authorized under § 1915(c) of the Social Security Act; and
- (c) is able to be safely served in the community.

(2) Eligibility Requirements and Limitations.

- (a) The applicant or member must be younger than nine years old.
- (b) The child must be eligible for MassHealth Standard in accordance with 130 CMR 505.002(B)(1): *Children Younger than One Year Old* and (2): *Children One through 18 Years of Age*.
- (c) Assets are not considered in the eligibility determination.
- (d) The number of children who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency or its agent.

519.007: continued

- (F) Home- and Community-based Services Waiver for Persons with Traumatic Brain Injury.
- (1) Clinical and Age Requirements. The Home- and Community-based Services Waiver for Persons with Traumatic Brain Injury allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services or chronic or rehabilitation hospital services to receive specified waiver services in the home or community if he or she
- (a) is 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
  - (b) has traumatic brain injury, as defined in Massachusetts Rehabilitation Commission (MRC) regulations at 107 CMR 12.02: *Meaning of Terms in 107 CMR 12.00*;
  - (c) needs one or more of the services administered by MRC under the Home- and Community-based Services Waiver authorized under § 1915(c) of the Social Security Act; and
  - (d) is able to be safely served in the community.
- (2) Eligibility Requirements. In determining eligibility for MassHealth Standard and for waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
- (a) meet the requirements of 130 CMR 519.007(F)(1);
  - (b) have a countable income amount that is less than or equal to 300 percent of the federal benefit rate (FBR) for an individual;
  - (c) have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
  - (d) have not transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (3) Enrollment Limits. Enrollment in this waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency or its agent.
- (G) Home- and Community-based Services Waivers for Persons with Acquired Brain Injury.
- (1) Residential Habilitation Waiver for Persons with Acquired Brain Injury.
- (a) Clinical and Age Requirements. The Residential Habilitation Waiver for Persons with Acquired Brain Injury, as authorized under § 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services or chronic disease or rehabilitation hospital services to receive residential habilitation and other specified waiver services in a provider-operated 24-hour supervised residential setting if he or she meets all of the following criteria:
1. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
  2. acquired, after reaching 22 years of age, a brain injury including, without limitation, brain injuries caused by external force, but not including Alzheimer's disease and similar neuro-degenerative diseases, the primary manifestation of which is dementia;
  3. is an inpatient in a nursing facility or chronic disease or rehabilitation hospital with a continuous length of stay of 90 or more days at the time of application for the waiver;
  4. needs a residential support service available under the Residential Habilitation Waiver;
  5. is able to be safely served in the community within the terms of the Residential Habilitation Waiver.
- (b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
1. meet the requirements of 130 CMR 519.007(G)(1)(a);
  2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;

519.007: continued

3. have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
  4. not have transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (c) Enrollment Limits. Enrollment in the Residential Habilitation Waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency.
- (d) Waiver Services. Eligible members who are enrolled as waiver participants in the Residential Habilitation Waiver are eligible for the waiver services described in 130 CMR 630.405(A): *Acquired Brain Injury with Residential Rehabilitation (ABI-RH) Waiver*.
- (2) Non-residential Habilitation Waiver for Persons with Acquired Brain Injury.
- (a) Clinical and Age Requirements. The Non-residential Habilitation Waiver for Persons with Acquired Brain Injury, as authorized under § 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services or chronic disease or rehabilitation hospital services to receive specified waiver services, other than residential support services, in the home or community if he or she meets all of the following criteria:
1. is 22 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
  2. acquired, after reaching 22 years of age, a brain injury including, without limitation, brain injuries caused by external force, but not including Alzheimer's disease and similar neuro-degenerative diseases, the primary manifestation of which is dementia;
  3. is an inpatient in a nursing facility or chronic disease or rehabilitation hospital with a continuous length of stay of 90 or more days at the time of application for the waiver;
  4. needs one or more of the services under the Non-residential Habilitation Waiver; and
  5. is able to be safely served in the community within the terms of the Non-residential Habilitation Waiver.
- (b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must
1. meet the requirements of 130 CMR 519.007(G)(2)(a);
  2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
  3. have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
  4. not have transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.
- (c) Enrollment Limits. Enrollment in the Non-residential Habilitation Waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency.
- (d) Waiver Services. Eligible members who are enrolled as waiver participants in the Non-residential Habilitation Waiver are eligible for the waiver service described in 130 CMR 630.405(B): *Acquired Brain Injury Non-residential Habilitation (ABI-N) Waiver*.

519.007: continued

(H) Money Follows the Person Home- and Community-based Services Waivers.(1) Money Follows the Person (MFP) Residential Supports Waiver.

(a) Clinical and Age Requirements. The MFP Residential Supports Waiver, as authorized under § 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services, chronic disease or rehabilitation hospital services, or, for participants 18 through 21 years of age or 65 years of age or older, psychiatric hospital services to receive residential support services and other specified waiver services in a 24-hour supervised residential setting if he or she meets all of the following criteria:

1. is 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;
2. is an inpatient in a nursing facility, chronic disease or rehabilitation hospital, or, for participants 18 through 21 years of age or 65 years of age or older, psychiatric hospital with a continuous length of stay of 90 or more days, excluding rehabilitation days;
3. must have received MassHealth benefits for inpatient services, and be MassHealth eligible at least the day before discharge;
4. must be assessed to need residential habilitation, assisted living services, or shared living 24-hour supports services within the terms of the MFP Residential Supports Waiver;
5. is able to be safely served in the community within the terms of the MFP Residential Supports Waiver; and
6. is transitioning to the community setting from a facility, moving to a qualified residence, such as a home owned or leased by the applicant or a family member, an apartment with an individual lease, or a community-based residential setting in which no more than four unrelated individuals reside.

(b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant or member regardless of his or her marital status. The applicant or member must

1. meet the requirements of 130 CMR 519.007(H)(1)(a);
2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
3. have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
4. not have transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

(c) Enrollment Limits. Enrollment in the MFP Residential Supports Waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency.

(d) Waiver Services. Eligible members who are enrolled as waiver participants in the MFP Residential Supports Waiver are eligible for the waiver services described in 130 CMR 630.405(C): *Money Follows the Person Residential Supports (MFP-RS) Waiver*.

(2) Money Follows the Person (MFP) Community Living Waiver.

(a) Clinical and Age Requirements. The MFP Community Living Waiver, as authorized under § 1915(c) of the Social Security Act, allows an applicant or member who is certified by the MassHealth agency or its agent to be in need of nursing facility services, chronic disease or rehabilitation hospital services, or, for participants 18 through 21 years of age or 65 years of age or older, psychiatric hospital services to receive specified waiver services, other than residential support services in the home or community, if he or she meets all of the following criteria:

1. is 18 years of age or older and, if younger than 65 years old, is totally and permanently disabled in accordance with Title XVI standards;

519.007: continued

2. is an inpatient in a nursing facility, chronic disease or rehabilitation hospital, or, for participants 18 through 21 years of age or 65 years of age or older, psychiatric hospital with a continuous length of stay of 90 or more days, excluding rehabilitation days;
3. must have received MassHealth benefits for inpatient services, and be MassHealth eligible at least the day before discharge;
4. needs one or more of the services under the MFP Community Living Waiver;
5. is able to be safely served in the community within the terms of the MFP Community Living Waiver; and
6. is transitioning to the community setting from a facility, moving to a qualified residence, such as a home owned or leased by the applicant or a family member, an apartment with an individual lease, or a community-based residential setting in which no more than four unrelated individuals reside.

(b) Eligibility Requirements. In determining eligibility for MassHealth Standard and for these waiver services, the MassHealth agency determines income eligibility based solely on the applicant's or member's income regardless of his or her marital status. The applicant or member must

1. meet the requirements of 130 CMR 519.007(H)(2)(a);
2. have countable income that is less than or equal to 300% of the federal benefit rate (FBR) for an individual;
3. have countable assets of \$2,000 or less for an individual and, for a married couple if the initial Waiver eligibility determination was on or after January 1, 2014, have assets that are less than or equal to the standards at 130 CMR 520.016(B): *Treatment of a Married Couple's Assets When One Spouse Is Institutionalized*; and
4. not have transferred resources for less than fair market value, as described in 130 CMR 520.018: *Transfer of Resources Regardless of Date of Transfer* and 520.019: *Transfer of Resources Occurring on or after August 11, 1993*.

(c) Enrollment Limits. Enrollment in the MFP Community Living Waiver is subject to a limit on the total number of waiver participants. The number of participants who can be enrolled in this waiver may be limited in a manner determined by the MassHealth agency.

(d) Waiver Services. Eligible members who are enrolled as waiver participants in the MFP Community Living Waiver are eligible for the waiver services described in 130 CMR 630.405(D): *Money Follows the Person Community Living (MFP-CL) Waiver*.

#### 519.009: MassHealth Limited

##### (A) Eligibility Requirements.

(1) MassHealth Limited is available to community residents 65 years of age or older meeting the financial and categorical requirements of MassHealth Standard coverage as described at 130 CMR 519.005(A) and (B) and who are

- (a) other noncitizens described in 130 CMR 518.003(D): *Undocumented Noncitizens*;
- (b) qualified noncitizens barred as described in 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*;
- (c) nonqualified individuals lawfully present as described in 130 CMR 518.003(A)(3): *Nonqualified Individuals Lawfully Present*; or
- (d) nonqualified PRUCOLs as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*.

(2) Community residents 65 years of age or older who are qualified noncitizens barred, as described in 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individuals lawfully present, as described in 130 CMR 518.003(A)(3): *Nonqualified Individuals Lawfully Present*, and nonqualified PRUCOLs, as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, may also be eligible for MassHealth Family Assistance if they meet the categorical and financial requirements of 130 CMR 519.013.

(3) Persons eligible for MassHealth Limited coverage are eligible for medical benefits described at 130 CMR 450.105(F): *MassHealth Limited*.

519.009: continued

(B) Use of Potential Benefits. All individuals who meet the requirements of 130 CMR 519.009 must use potential health-insurance benefits in accordance with 130 CMR 517.008: *Potential Sources of Health Care* and must enroll in health insurance, including Medicare, if available at no greater cost to the applicant or member than he or she would pay without access to health insurance. Members must access those other health-insurance benefits and must show both their private health-insurance card and their MassHealth card to providers at the time services are provided.

(C) Coverage Date. The begin date of medical coverage is established in accordance with 130 CMR 516.005: *Coverage Date*.

519.010: MassHealth Senior Buy-in

(A) Eligibility Requirements. MassHealth Senior Buy-in coverage is available to Medicare beneficiaries who

- (1) are entitled to hospital benefits under Medicare Part A;
- (2) have a countable income amount (including the income of the spouse with whom he or she lives) that is less than or equal to 100% of the federal poverty level;
- (3) have countable assets less than or equal to the amount of allowable assets for Buy-in programs as identified by the Centers for Medicare and Medicaid Services in the *Federal Register*. Each calendar year, the allowable asset limits shall be made available on MassHealth's website; and
- (4) meet the universal requirements of MassHealth Standard coverage.

(B) Benefits. The MassHealth agency pays for Medicare Part A and Part B premiums and for deductibles and coinsurance under Medicare Parts A and B.

(C) Begin Date. The begin date for MassHealth Senior Buy-in coverage is the first day of the calendar month following the date of the MassHealth eligibility determination.

519.011: MassHealth Buy-in

(A) MassHealth Buy-in for Specified Low Income Medicare Beneficiaries.

- (1) Eligibility Requirements. MassHealth Buy-in coverage for Specified Low Income Medicare Beneficiaries is available to Medicare beneficiaries who meet the eligibility requirements of MassHealth Senior Buy-in coverage at 130 CMR 519.010 with the following exception: the countable income amount of the individual and his or her spouse must be greater than 100% of the federal poverty level and less than 120% of the federal poverty level.
- (2) Benefits. The MassHealth agency pays the cost of the monthly Medicare Part B premium for members who establish eligibility for MassHealth Buy-in coverage in accordance with 130 CMR 519.011(A).
- (3) Begin Date. MassHealth Buy-in coverage, in accordance with 130 CMR 519.011(A), begins with the month of application and may be retroactive up to three calendar months before the month of application.

(B) MassHealth Buy-in for Qualifying Individuals.

- (1) Eligibility Requirements. MassHealth Buy-in coverage for Qualifying Individuals is also available to Medicare beneficiaries who
  - (a) are entitled to hospital benefits under Medicare Part A;
  - (b) are not eligible for MassHealth Standard or CarePlus under the Medicaid State Plan;
  - (c) have a countable income amount (including the income of the spouse with whom he or she lives) that is equal to or greater than 120% of the federal poverty level and less than 135% of the federal poverty level; and
  - (d) have countable assets less than or equal to the amount of allowable assets for Buy-in programs as identified by the Centers for Medicare and Medicaid Services in the *Federal Register*. Each calendar year, the allowable asset limits shall be made available on MassHealth's website.

## 519.011: continued

- (2) Benefits. The MassHealth agency pays the entire Medicare Part B premium, in accordance with § 1933 of the Social Security Act (42 U.S.C. § 1396u-3), for members who meet the requirements of 130 CMR 519.011(B) and have a countable income amount that is equal to or greater than 120 % of the federal poverty level and less than 135% of the federal poverty level. Such payments are made through the state Medicare Buy-in process.
- (3) Eligibility Coverage Period.
- (a) MassHealth Buy-in coverage, in accordance with 130 CMR 519.011(B), begins with the month of application. Coverage may be retroactive up to three months before the month of application provided
1. the retroactive date does not extend into a calendar year in which the expenditure cap described at 130 CMR 519.011(B)(4) has been met;
  2. the retroactive date is not earlier than October 1, 1998; and
  3. the applicant was not receiving MassHealth during the retroactive period.
- (b) Once determined eligible, a member who continues to meet the requirements of 130 CMR 519.011(B) is eligible for the balance of the calendar year. Such members are not adversely impacted by the provisions of 130 CMR 519.011(B)(4).
- (4) Cap on Expenditures.
- (a) The MassHealth agency does not extend eligibility to individuals who meet the requirements of 130 CMR 519.011(B), if the MassHealth agency estimates the amount of assistance provided to these members during the calendar year will exceed the state's allocation, as described in § 1933 of the Social Security Act.
- (b) The MassHealth agency gives preference to members who were eligible for MassHealth Buy-in, as described in 130 CMR 519.011, or MassHealth Senior Buy-in, as described in 130 CMR 519.010, in December of the previous calendar year when determining an individual's eligibility for MassHealth Buy-in, as described in 130 CMR 519.011(B), in the subsequent calendar year.

519.012: MassHealth CommonHealth

- (A) Working Disabled Adults.
- (1) Eligibility Requirements. MassHealth CommonHealth for working disabled adults is available to community residents 65 years of age or older in the same manner as it is available to those younger than 65 years old. This means that eligible applicants must meet the requirements of 130 CMR 505.004(B)(2), (3), and (5) to be eligible for CommonHealth.
- (2) Other Provisions. The following provisions apply to CommonHealth applicants and members 65 years of age or older: 130 CMR 505.004(A)(2), (H) through (J), (M)(1) and (2), and (N).
- (B) Certain Disabled Institutionalized Who Are Noncitizens Children.
- (1) Eligibility Requirements. MassHealth CommonHealth is available to institutionalized disabled children who meet the requirements of 130 CMR 505.004(G): *Disabled Children Younger Than 18 Years Old* and 519.006(A)(2), and who
- (a) have attained the immigration status described in 130 CMR 518.003(A)(2): *Qualified Aliens Barred*, and five years have not passed from the date they attained such status;
  - (b) are noncitizens under the Immigration and Nationality Act (INA); or
  - (c) are noncitizens paroled into the United States under § 212(d)(5) of the INA for less than one year.
- (2) Other Provisions. The following provisions apply to CommonHealth applicants and members who are described in 130 CMR 519.012(B)(1): 130 CMR 505.004(A)(2), (H) and (J), and (M)(1) and (2).
- (C) Financial Eligibility. Financial eligibility for all MassHealth CommonHealth applicants and members is based on 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements*. 130 CMR 520.000: *MassHealth: Financial Eligibility* does not apply.



519.013: MassHealth Family Assistance

(A) Eligibility Requirements. MassHealth Family Assistance is available to community residents 65 years of age or older who meet the following requirements:

(1) are qualified noncitizens barred, as described in 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individuals lawfully present, as described in 130 CMR 518.003(A)(3): *Nonqualified Individual Lawfully Present*, or a nonqualified PRUCOLs, as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*

(a) with the countable income amount, as defined in 130 CMR 520.009: *Countable-income Amount*, of the individual or married couple living together is less than or equal to 100% of the federal poverty level (FPL);

(b) the countable assets of an individual are \$2,000 or less, and those of a married couple living together are \$3,000 or less; and

(c) without health insurance, or access to health insurance; or

(2) are nonqualified PRUCOL, as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*,

(a) with modified adjusted gross income of the MassHealth MAGI household as described in 130 CMR 506.000: *Health Care Reform: MassHealth: Financial Requirements* between 100 and 300% of the federal poverty level (FPL); and

(b) without health insurance, or access to health insurance.

(B) Financial Standards Not Met. Individuals described in 130 CMR 519.013(A)(1) whose income, assets, or both exceed the standards set forth in 130 CMR 519.013(A) may establish eligibility for MassHealth Family Assistance by reducing their assets in accordance with 130 CMR 520.004: *Asset Reduction*, meeting a deductible as described at 130 CMR 520.028 through 520.035.

(C) Automatic Eligibility for EAEDC Recipients 65 Years of Age or Older.

(1) Individuals 65 years of age or older who meet the requirements of the Emergency Aid to the Elderly, Disabled and Children (EAEDC) program administered by the Department of Transitional Assistance and who are qualified noncitizens barred, as described in 130 CMR 518.003(A)(2): *Qualified Noncitizens Barred*, nonqualified individuals lawfully present, as described in 130 CMR 518.003(A)(3): *Nonqualified Individuals Lawfully Present*, or nonqualified PRUCOLs, as described in 130 CMR 518.003(C): *Nonqualified Persons Residing under Color of Law (Nonqualified PRUCOLs)*, are automatically eligible for benefits under 130 CMR 519.013.

(2) Individuals whose EAEDC cash assistance ends and who are determined to be potentially eligible for MassHealth continue to receive medical benefits under MassHealth Family Assistance until a determination of ineligibility is made by the MassHealth agency.

(D) Benefits. Individuals eligible for MassHealth Family Assistance are eligible for medical benefits on a fee-for-service basis as defined in 130 CMR 515.001: *Definition of Terms*. These medical benefits are described in MassHealth regulations at 130 CMR 450.105(G): *MassHealth Family Assistance*.

(E) Coverage Date. The begin date of medical coverage is established in accordance with 130 CMR 516.005: *Coverage Date*. MassHealth Family Assistance members are eligible for medical coverage under MassHealth Limited if otherwise eligible for MassHealth Limited as described in 130 CMR 519.009.

## REGULATORY AUTHORITY

130 CMR 519.000: M.G.L. c. 118E, §§ 7 and 12.

NON-TEXT PAGE



## THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin  
Secretary of the Commonwealth**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: 130 CMR 630.000CHAPTER TITLE: Home- and Community-Based Services WaiversAGENCY: Division of Medical AssistanceSUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The regulation at 130 CMR 630.000 governs the provision of services to MassHealth members enrolled in the Acquired Brain Injury (ABI) and Money Follows the Person (MFP) home- and community-based services (HCBS) waivers. The amendments to 130 CMR 630.000 update the regulation to align it with the current ABI and MFP waivers as approved by the Centers for Medicare and Medicaid Services (CMS) and provide additional clarity around the provision of HCBS waiver services.

REGULATORY AUTHORITY: 130 CMR 630.000: M.G.L. c. 118EAGENCY CONTACT: Debby Briggs PHONE: 617-847-3302ADDRESS: 100 Hancock Street, 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 562 Approval: April 20, 2016

Executive Order 145 Notification: June 3, 2016

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 8, 2016

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: **November 17, 2016**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Elders, Health Care, Persons with Disabilities**

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:*

**130 CMR 630.000 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: **Nov 18 2016**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1327** DATE: **12/02/2016**

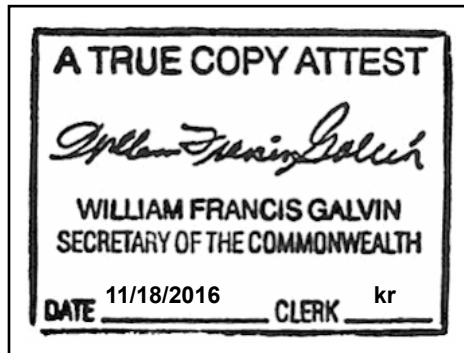
EFFECTIVE DATE: **12/02/2016**

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* \_\_\_\_\_ *Insert these pages:* \_\_\_\_\_

**901 - 916.10**

**901 - 926**



130 CMR 630.000: HOME- AND COMMUNITY-BASED SERVICES WAIVER SERVICES

Section

- 630.401: Introduction
- 630.402: Definitions
- 630.403: Eligible Members
- 630.404: Provider Eligibility
- 630.405: HCBS Waiver Coverage Types
- 630.406: HCBS Waiver Conditions for Payment
- 630.407: HCBS Waiver Coverage Requirements
- 630.408: Nonpayable Services
- 630.409: Service Plan and Notice of Approval or Denial of HCBS Waiver Services
- 630.410: Adult Companion
- 630.411: Assisted Living Services
- 630.412: Chore Services
- 630.413: Community Family Training and Residential Family Training
- 630.414: Day Services
- 630.415: Home Accessibility Adaptations
- 630.416: Homemaker
- 630.417: Home Health Aide
- 630.418: Independent Living Supports
- 630.419: Individual Support and Community Habilitation
- 630.420: Peer Support
- 630.421: Personal Care Services
- 630.422: Prevocational Services
- 630.423: Residential Habilitation
- 630.424: Respite
- 630.425: Shared Home Supports
- 630.426: Shared Living - 24 Hour Supports
- 630.427: Skilled Nursing
- 630.428: Specialized Medical Equipment
- 630.429: Supported Employment
- 630.430: Supportive Home Care Aide
- 630.431: Occupational Therapy, Physical Therapy, and Speech Therapy
- 630.432: Transitional Assistance
- 630.433: Transportation
- 630.434: Vehicle Modification
- 630.435: Location Requirements for HCBS Waiver Providers
- 630.436: Personnel Requirements and Responsibilities of HCBS Waiver Providers
- 630.437: Withdrawal by a HCBS Waiver Provider from MassHealth
- 630.438: Recordkeeping Requirements

630.401: Introduction

130 CMR 630.000 governs the provision of services under the MassHealth Home and Community-based Services (HCBS) waivers, which include the Acquired Brain Injury Home- and Community-based Services waivers (ABI waivers). All providers of services under the HCBS waivers must comply with MassHealth regulations set forth in 130 CMR 630.000 and 450.000: *Administrative and Billing Regulations*, and with HCBS regulations and requirements established by the Centers for Medicare and Medicaid Services.

630.402: Definitions

The following terms used in 130 CMR 630.000 have the meanings given in 130 CMR 630.402 unless the context clearly requires a different meaning.

Acquired Brain Injury (ABI) - all forms of brain injury that occur after age 22, including without limitation brain injuries caused by external force, but not including Alzheimer's disease and similar neurodegenerative diseases of which the primary manifestation is dementia.

630.402: continued

Acquired Brain Injury Home- and Community-based Service Waiver (ABI Waiver) - Two Massachusetts home- and community-based services waivers for persons with acquired brain injury are approved by the Centers for Medicare & Medicaid Services (CMS) under § 1915(c) of the Social Security Act. The two separate Acquired Brain Injury Waivers, each with different covered services and eligibility requirements are: the Acquired Brain Injury with Residential Habilitation (ABI-RH) Waiver and the Acquired Brain Injury Non-residential Habilitation (ABI-N) Waiver.

Activities of Daily Living (ADL) - certain basic tasks required for daily living, including the ability to bathe, dress/undress, eat, toilet, transfer in and out of bed or chair, get around inside the home, and manage incontinence.

Adult Companion Service - nonmedical care, supervision, and socialization provided to a participant. Companions may assist or supervise the participant with such light household tasks as meal preparation, laundry, and shopping.

Assisted Living Services - services consists of personal care and supportive services (homemaker, chore, personal care services, meal preparation) that are furnished to participants who reside in a Money Follows the Person (MFP) qualified assisted living residence (ALR) that includes 24-hour on-site response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety and security. Services may also include social and recreational programs, and medication assistance (consistent with ALR certification and to the extent permitted under State law). Nursing and skilled therapy services are incidental rather than integral to the provision of Assisted Living Services. Intermittent skilled nursing services and therapy services may be provided to the extent allowed by applicable regulations.

Behavioral Health Diversionary Services - services that are provided, as necessary and appropriate, to all Participants enrolled in the MFP waivers through the state's MassHealth managed behavioral health plan. Under the managed behavioral health plan, participants have access to mental health and substance use disorder services that are clinically appropriate alternatives to behavioral health inpatient services, or support a participant returning to the community following a 24-hour acute placement; or provide intensive support to maintain functioning in the community.

Chore - an unusual or infrequent household maintenance task that is needed to maintain the participant's home in a clean, sanitary, and safe environment. Chore includes heavy household chores such as washing floors, windows, and walls; tacking down loose rugs and tiles; and moving heavy items of furniture in order to provide safe access and egress.

Community Family Training - a service designed to provide training and instruction about the treatment regimes, behavior plans, and the use of specialized equipment that support a participant in the community. Community family training may also include training in family leadership, support of self-advocacy and independence for the family member. The service enhances the skills of the family to assist the waiver participant to function in the community and at home.

Coverage Type - a scope of services that are available to MassHealth members who meet specific eligibility criteria.

Day Services - a structured, site-based, group program for participants that fosters community integration and offers assistance with the acquisition, retention, or improvement in self-help, socialization, and adaptive skills, and that takes place in a nonresidential setting separate from the participant's private residence or other residential living arrangement. Services often include assistance to learn activities of daily living and functional skills; language and communication training; compensatory, cognitive and other strategies; interpersonal skills; prevocational skills; and recreational and socialization skills.

Department of Developmental Services (DDS) - the state agency within the Executive Office of Health and Human Services that is organized pursuant to M.G.L. c. 19B, to provide specialized services and supports to individuals with intellectual disabilities and developmental disabilities and to promote full and meaningful participation of the individuals as valued members.

630.402: continued

Family Member - a spouse or any legally responsible relative of the participant.

Fiscal Intermediary (FI) - an entity under contract with EOHHS to perform employer-required tasks and related administrative tasks as described in 130 CMR 422.419(B).

Home Accessibility Adaptations - physical modifications to the participant's home that are necessary to ensure the health, welfare, and safety of the participant or that enable the participant to function with greater independence in the home.

Home and Community-based Services (HCBS) Waiver - A federally approved program operated under § 1915(c) of the Social Security Act that authorizes the U.S. Secretary of Health and Human Services to grant waivers of certain Medicaid statutory requirements so that a state may furnish home and community based services to certain Medicaid beneficiaries who need a level of care that is provided in a hospital, nursing facility, or Intermediate Care Facility for Individuals with Intellectual Disability (ICF/IID). For the purpose of 130 CMR 630.000, Home and Community-based Service Waiver refers to the two ABI waivers and the two MFP waivers.

Homemaker - a person who performs light housekeeping duties (for example, cooking, cleaning, laundry, and shopping) for the purpose of maintaining a household.

Home Health Aide - a person who performs certain personal care and other health-related services as described in 130 CMR 403.000: *Home Health Agency*.

Independent Living Supports - a service that ensures 24 hour seven days per week access to supportive services for participants who have intermittent, scheduled and unscheduled needs for various forms of assistance, but who do not require 24-hour supervision. It provides participants with services and supports in a variety of activities such as: ADLs and instrumental activities of daily living (IADLs), support and companionship, emotional support and socialization. This service is provided by a site-based provider, and is available to participants who choose to reside in locations where a critical mass of individuals reside who require such support and where providers of such supports are available.

Individual Support and Community Habilitation - regular or intermittent services designed to develop, maintain, and/or maximize the participant's independent functioning in self-care, physical and emotional growth, socialization, communication, and vocational skills, to achieve objectives of improved health and welfare and to the support the ability of the participant to establish and maintain a residence and live in the community.

Instrumental Activities of Daily Living (IADL) - certain basic environmental tasks required for daily living, including the ability to prepare meals, do housework, laundry, and shopping, get around outside, use transportation, manage money, and use the telephone.

Legally Responsible Individual - any person who has a duty under state law to care for another person and includes a legal guardian or a spouse of a participant.

Massachusetts Rehabilitation Commission (MRC) - the state agency within the Executive Office of Health and Human Services that is organized pursuant to M.G.L. c. 6, §§ 74 through 84, to provide comprehensive services to individuals with disabilities, which maximize their quality of life and economic self-sufficiency. MRC accomplishes its work through multiple programs in its Community Living Division, the Disability Determination Service Division and the Vocational Rehabilitation Division.

Money Follows the Person Demonstration (MFP Demonstration) - a MassHealth demonstration program authorized through 2016 pursuant to a federal grant received by EOHHS that seeks to assist eligible Members residing in institutional long term care settings to transition to community-based settings where they can receive home and community-based services.

630.402: continued

Money Follows the Person Waivers (MFP Waivers) - two Massachusetts Home and Community-based Services Waivers for persons participating in the MFP Demonstration and other qualified individuals and approved by the CMS under § 1915(c) of the Social Security Act. Massachusetts operates two separate MFP Waivers - the Money Follows the Person Residential Supports (MFP-RS) waiver and the Money Follows the Person Community Living (MFP-CL) waiver - each with different covered services and eligibility requirements.

Occupational Therapist - a person who is licensed by the Massachusetts Division of Registration in Allied Health Professions and registered by the American Occupational Therapy Association (AOTA) or is a graduate of a program in occupational therapy approved by the Committee on Allied Health Education and Accreditation of the American Medical Association and engaged in the supplemental clinical experience required before registration by AOTA.

Occupational Therapy - therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of functions that affect the activities of daily living that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Occupational therapy programs are designed to improve quality of life by recovering competence and preventing further injury or disability, and to improve the individual's ability to perform tasks required for independent functioning, so that the individual can engage in activities of daily living.

Participant - a MassHealth member determined by the MassHealth agency to be eligible for enrollment in one of the HCBS waivers, who chooses to receive HCBS waiver services, and for whom a service plan has been developed that includes one or more HCBS waiver services.

Peer Support - ongoing services and supports designed to assist participants to acquire, maintain or improve the skills necessary to live in a community setting. This service provides supports necessary for the participant to develop the skills that enable them to become more independent, integrated into, and productive in their communities. The service enables the participant to retain or improve skills related to personal finance, health, shopping, use of community resources, community safety, and other adaptive skills needed to live in the community.

Personal Care - services provided to a participant, which may include physical assistance, supervision or cuing of participants, for the purpose of assisting the participant to accomplish activities of daily living (ADLs), including, but not limited to, eating, toileting, dressing, bathing, transferring, and ambulation.

Physical Therapist - a person licensed by the Massachusetts Division of Registration in Allied Health Professions to provide physical therapy.

Physical Therapy - therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Physical therapy emphasizes a form of rehabilitation focused on treatment of dysfunctions involving neuromuscular, musculoskeletal, cardiovascular/pulmonary, or integumentary systems through the use of therapeutic interventions to optimize functioning levels.

Prevocational Services - a service that consists of a range of learning and experiential type activities that prepare a participant for paid or unpaid employment in an integrated, community setting. Services are not job-task oriented but instead, aimed at a generalized result (e.g. attention span, motor skills). The service may include teaching such concepts as attendance, task completion, problem solving and safety as well as social skills training, improving attention span, and developing or improving motor skills. Basic skill-building activities are expected to specifically involve strategies to enhance a participant's employability in integrated, community settings.



630.402: continued

Provider Agreement - the contract between the MassHealth agency and a person or organization under which the provider agrees to furnish services to MassHealth members in compliance with state and federal Title XIX requirements. Federal regulations concerning provider agreements are located in 42 CFR § 431.107.

Residential Family Training - a service designed to provide training and instruction about treatment regimes, behavior plans, and the use of specialized equipment that support a participant in the community. Residential family training may also include training in family leadership, support of self-advocacy, and independence for the family member. The service enhances the skill of the family to assist the waiver participant to function in the community and at home when the waiver participant visits the family home.

Residential Habilitation - ongoing services and supports provided to a participant in a provider-operated residential setting that are designed to assist participants in acquiring, maintaining, or improving the skills necessary to live in a community setting. Residential habilitation provides participants with daily staff intervention including care, supervision, and skills training in activities of daily living, home management, and community integration in a qualified residential setting with 24-hour staffing. This service may include the provision of medical and health-care services that are integral to meeting the daily needs of participants.

Respite Services - services provided to individuals unable to care for themselves; furnished on a short-term basis because of the absence or need for relief of unpaid caregivers.

Room and Board - the term room means shelter-type expenses, including all property-related costs, such as rental or purchase of real estate, maintenance, utilities, and related administrative services. The term board means up to three meals a day or any other full nutritional regimen.

Self-directed Services - a model of service delivery in which a waiver participant has decision making authority over certain aspects of the delivery of their care.

Service Plan - a written document that specifies the waiver and other services (regardless of funding source) along with any informal supports that are furnished to meet the participant's needs and goals, as assessed and identified through a person-centered planning process, and to assist a participant in remaining in the community. Service Plan is also known as the individual service plan and can include the waiver plan of care.

Shared Home Supports - an individually tailored supportive service that assists with the acquisition, retention, or improvement in skills related to living in the community. A participant is matched with a shared Home supports caregiver. This arrangement is overseen by a residential support agency. Shared home supports do not include 24-hour care. Shared home supports include such supports as: adaptive skill development, assistance with ADLs and IADLs, adult educational supports, social and leisure skill development, and supervision.

Shared Living-24 Hour Supports - a residential service that matches a participant with a shared living caregiver. This arrangement is overseen by a residential support agency. Shared living is an individually tailored 24 hour/seven day per week, supportive service available to a participant who needs daily structure and supervision. Shared living includes supportive services that assist with the acquisition, retention, or improvement of skills related to living in the community. This includes such supports as: adaptive skill development, assistance with ADLs and IADLs, adult educational supports, social and leisure skill development, protective oversight and supervision.

Skilled Nursing Services - the assessment, planning, provision, and evaluation of goal-oriented nursing care that requires specialized knowledge and skills acquired under the established curriculum of a school of nursing approved by a board of registration in nursing. Such services include only those services that require the skills of a nurse. Skilled nursing services are provided by a person licensed as a registered nurse or a licensed practical nurse by a state's board of registration in nursing.

Specialized Medical Equipment and Supplies - devices, controls, or appliances to increase abilities in activities of daily living, or to control or communicate with the environment.

630.402: continued

Speech/Language Therapist - a person who is licensed by the Massachusetts Division of Registration in Speech-language Pathology and Audiology and has either a Certificate of Clinical Competence from the American Speech-language-Hearing Association (ASHA) or a statement from ASHA of certification equivalency.

Speech/Language Therapy - therapy services, including diagnostic evaluation and therapeutic intervention, that are designed to improve, develop, correct, rehabilitate, or prevent the worsening of speech/language communication and swallowing disorders that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Speech and language disorders are those that affect articulation of speech, sounds, fluency, voice, swallowing (regardless of presence of a communication disability), and those that impair comprehension, spoken, written, or other symbol systems used for communication.

Supported Employment - regularly scheduled services that enable participants, through training and support, to work in integrated work settings in which individuals are working toward compensated work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals.

Supportive Home Care Aide - services provided to participants with Alzheimer's/dementia or behavioral health needs to assist with ADLs and IADLs. These services include personal care, shopping, menu planning, meal preparation including special diets, laundry, light housekeeping, escort, and socialization /emotional support.

Transitional Assistance - nonrecurring residential set-up expenses for participants who are transitioning from a nursing facility or hospital to a community living arrangement where the participant is directly responsible for his or her own set-up expenses. Allowable expenses are those that are necessary to enable a person to establish a basic household and do not constitute Room and Board.

Transportation Service - conveyance of participants by vehicle, from their residence to and from the site of HCBS waiver services and other community services, activities, and resources, including physical assistance to participants while entering and exiting the vehicle.

Vehicle Modification - necessary adaptations or alterations to an automobile or van that is the waiver participant's primary means of transportation and that is not owned or leased by an entity providing services to the participant. Vehicle modifications are necessary when they are required to accommodate special needs of the participant. Examples of vehicle modifications include: van lift, tie downs, ramp, specialized seating equipment and seating/safety restraint.

Visit - a face-to-face personal contact with the participant for the purpose of providing an HCBS waiver service.

Waiver Provider - a qualified individual or organization that meets the requirements of 130 CMR 630.000, provides waiver services to participants, and has signed a provider agreement with the MassHealth agency.

Waiver Services - home- and community-based services that are covered in accordance with the requirements of 130 CMR 630.000 for participants enrolled under an ABI waiver or MFP waiver.

### 630.403: Eligible Members

(A) MassHealth pays for services under an HCBS waiver only when provided to eligible MassHealth members who are enrolled as participants in the HCBS waiver, in accordance with 130 CMR 519.007(G): *Home- and Community-based Services Waivers for Persons with Acquired Brain Injury* and (H): *Money Follows the Person Home- and Community-based Services Waivers*, subject to the restrictions and limitations described in 130 CMR 630.000 and 450.000: *Administrative and Billing Regulations*. 130 CMR 630.405 specifically states, for each HCBS waiver, which HCBS waiver services are covered and which HCBS waiver participants are eligible to receive those services.

630.403: continued

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

630.404: Provider Eligibility

(A) Requirements for Participation. An individual or organization seeking to participate as a provider of services under an HCBS waiver must

- (1) be duly authorized to conduct a business in Massachusetts that delivers health or human services to elderly or disabled adult populations;
- (2) comply with all standards, requirements, policies, and procedures established by DDS or MRC for the provision of services under an HCBS waiver;
- (3) meet the applicable HCBS waiver service provider application qualifications;
- (4) comply with all standards, requirements, policies, and procedures established by the MassHealth agency for the participation of providers in MassHealth, including all provider participation requirements described in 130 CMR 630.000 and 450.000: *Administrative and Billing Regulations*;
- (5) obtain, as required, a MassHealth provider number; and
- (6) accept MassHealth payment, DDS payment, or MRC payment where applicable, as payment in full for all services provided under an HCBS waiver.

(B) Required Documentation. All required MassHealth application documentation will be specified by the MassHealth agency. In order to participate as an HCBS waiver provider, an applicant must submit all required documentation, and the MassHealth agency or its designee must approve it.

(C) Periodic Inspections. The MassHealth agency or its designee may conduct periodic inspections of HCBS waiver providers to ensure compliance with all provider participation requirements described in 130 CMR 630.000 and 450.000: *Administrative and Billing Regulations*. An HCBS waiver provider must cooperate with any inspection and furnish any requested records.

(D) HCBS Waiver Provider Eligibility Requirements by Service Type.

- (1) Adult Companion. In order to participate as a provider of adult companion services under an HCBS waiver, a provider must be a health or human service organization or an individual with experience providing nonmedical care, supervision, and socialization for persons with disabilities in accordance with all standards, requirements, policies, and procedures established by the MRC for the provision of such services.
- (2) Assisted Living Services. In order to participate as a provider of assisted living services under a HCBS waiver, a provider must be certified as an assisted living residence by the Executive Office of Elder Affairs in accordance with 651 CMR 12.00: *Certification Procedures and Standards for Assisted Living Residences* and meet the MFP waiver qualified residence requirements.
- (3) Chore Service. In order to participate as a provider of chore services under an HCBS waiver, a provider must be a health or human service organization or an individual with experience providing services needed to maintain the home in a clean, sanitary, and safe condition, in accordance with all standards, requirements, policies, and procedures established by MRC for the provision of such services.
- (4) Day Services. In order to participate as a provider of day services under an HCBS waiver, a provider must be a health or human service organization with experience providing day services to persons with disabilities in accordance with all standards, requirements, policies, and procedures established by DDS or MRC for the provision of day services to participants of an HCBS waiver. Day services must be provided at a provider-operated site in the community and not in a participant's residence. A provider of day services must meet the location requirements of 130 CMR 630.435.

630.404: continued

- (5) Community Family Training and/or Residential Family Training. In order to participate as a provider of community family training and/or residential family training under an HCBS waiver, a provider must be an organization or an individual with experience in providing training and instruction about treatment regimes, behavior plans, and the use of specialized equipment that supports the waiver participant to participate in the community. If an agency or individual is providing activities where licensure or certification if necessary, they must have the necessary licensure and certifications.
- (6) Home Accessibility Adaptations. In order to participate as a provider of home accessibility adaptations under an HCBS waiver, a provider must be qualified to perform environmental and minor home adaptations in accordance with applicable state and local building codes, comply with any applicable registration or licensure requirements. Providers must also be under contract with MRC in accordance with its standards, requirements, policies, and procedures for the provision of home accessibility adaptations.
- (7) Home Health Aide. In order to participate as a provider of home health aide services under an HCBS waiver, a provider must be an organization engaged in the business of home health aide services that meet the following requirements:
- (a) employs registered nurses who have a current license by the Massachusetts Board of Registration in Nursing that supervise the home health aides; and
  - (b) employs home health aides who have certification in CPR and either a certificate of home health aide training or certificate of certified nurse's aide training.
- (8) Homemaker. In order to participate as a provider of homemaker services under an HCBS waiver, a provider must be an individual homemaker or an organization engaged in the business of homemaker services that employs homemakers with at least one of the following qualifications:
- (a) certificate of home health aide training;
  - (b) certificate of nurse's aide training;
  - (c) certificate of 40-hour homemaker training; or
  - (d) certificate of 60-hour personal care training.
- (9) Independent Living Supports. In order to participate as a provider of independent living supports services under an HCBS waiver, a provider must be a site-based organization that ensures 24 hour seven days per week access to supportive services for participants who have intermittent, scheduled and unscheduled needs for various forms of assistance, but who do not require 24 hour supervision.
- (10) Individual Support and Community Habilitation. In order to participate as a provider of individual support and community habilitation under an HCBS waiver, a provider must be a health or human service organization or an individual with experience providing services that are designed to develop, maintain, or maximize independent functioning in self-care, physical and emotional growth, socialization, communication, and vocational skills for persons with disabilities in accordance with all standards, requirements, policies, and procedures established by DDS or MRC for the provision of such services.
- (11) Peer Support. In order to participate as a provider of peer support services under an HCBS waiver, a provider must be an agency or individual with relevant competencies and experiences in peer support. For an agency providing this service, the agency needs to employ individuals who meet all relevant state and federal licensure or certification requirements in their discipline.
- (12) Personal Care Services. In order to participate as a provider of personal care services under an HCBS waiver, a provider must be an individual personal care worker or an organization engaged in the business of
- (a) providing assistance with the performance of activities of daily living to persons with disabilities in accordance with all standards, requirements, policies, and procedures established by MRC for the provision of such service; and
  - (b) providing personal care services through personal care workers must have a certificate in CPR and at least one of the following qualifications:
    1. certificate of home health aide training; or
    2. certificate of nurse's aide training; or
    3. certificate of 60-hour personal care training.
- (13) Prevocational Services. In order to participate as a provider of prevocational services under an HCBS waiver, a provider must be a prevocational service agency with experience in providing services that prepare a participant for paid or unpaid employment in an integrated, community setting.

630.404: continued

- (14) Residential Habilitation. Residential habilitation under an HCBS waiver must be provided by organizations under contract with DDS in accordance with its standards, requirements, policies, and procedures for the provision of residential habilitation services to persons with disabilities.
- (15) Respite. In order to participate as a provider of respite services under an HCBS waiver, a respite provider must be:
- (a) licensed as a hospital by the Massachusetts Department of Public Health under 105 CMR 130.00: *Hospital Licensure*;
  - (b) certified as an assisted living residence by the Executive Office of Elder Affairs under 651 CMR 12.00: *Certification Procedures and Standards for Assisted Living Residences*;
  - (c) licensed as a nursing facility by the Massachusetts Department of Public Health under 105 CMR 153.00: *Licensure Procedure and Suitability Requirements for Long Term Care Facilities*;
  - (d) able to meet site-based respite requirements established by the Massachusetts Department of Developmental Services under 115 CMR 7.00: *Standards for All Services and Supports*;
  - (e) licensed as a respite care facility by the Department of Developmental Services under 115 CMR 7.00: *Standards for All Services and Supports*;
  - (f) licensed as a rest home by the Massachusetts Department of Public Health under 105 CMR 153.000: *Licensure Procedure and Suitability Requirements for Long Term Care Facilities*; or
  - (g) enrolled in MassHealth as a participating adult foster care provider under 130 CMR 408.000: *Adult Foster Care*.
- (16) Self-directed Services. Participants who choose to self-direct waiver services will have the authority and responsibility for recruiting and hiring workers to provide their Self-directed Services, subject to the standards, requirements, policies and procedures for the hiring of such workers under the participant's HCBS Waiver.
- (17) Shared Home Supports. In order to participate as a provider of shared home supports, a provider must be an organization licensed by DDS as a provider of placement services in accordance with its standards, requirements, policies, and procedures for the provision of these services to persons with disabilities.
- (18) Shared Living - 24 Hour Supports. In order to participate as a provider of shared living - 24 hour supports under an HCBS waiver, organizations under contract with DDS in accordance with its standards, requirements, policies, and procedures for the provision of shared living - 24 hour supports services to persons with disabilities.
- (19) Skilled Nursing. In order to participate as a provider of skilled nursing services under an HCBS waiver, a provider must be an organization engaged in the business of providing nursing services that employ nurses who are a registered nurse or a licensed practical nurse by the Massachusetts Board of Registration in Nursing.
- (20) Specialized Medical Equipment. In order to participate as a provider of specialized medical equipment and supplies under an HCBS waiver, a provider must be an individual or entity engaged in the business of furnishing durable medical equipment, medical/surgical supplies, or customized equipment, or a provider participating in MassHealth under 130 CMR 409.000: *Durable Medical Equipment Services* or a pharmacy participating in MassHealth under 130 CMR 406.000: *Pharmacy Services*.
- (21) Supported Employment. In order to participate as a provider of supported employment services under an HCBS waiver, a provider must be a human service organization with experience providing supported employment programs in accordance with all standards, requirements, policies, and procedures established by DDS or MRC for the provision of supported employment to persons with disabilities.
- (22) Supportive Home Care Aide. In order to participate as a provider of supportive home care aide services under a HCBS waiver, a provider must be an organization engaged in the business of supportive home care aide services that employs supportive home care aides who:
- (a) have certification in CPR and either a certificate of home health aide training or certificate of certified nurse's aide training; and
  - (b) have completed an additional 12 hours of training in the area of serving individuals with behavioral health needs or the 12 hour training developed by the Alzheimer's Association, Massachusetts Chapter on serving individuals with Alzheimer's disease or related disorders.

630.404: continued

(23) Therapy Services.

(a) Occupational Therapy. In order to participate as a provider of occupational therapy under an HCBS waiver, a provider must be an occupational therapist participating in the MassHealth program under 130 CMR 432.000: *Therapist Services*, a rehabilitation center participating in MassHealth under 130 CMR 430.000: *Rehabilitation Center Services*, a home health agency participating in MassHealth under 130 CMR 403.000: *Home Health Agency*, a chronic disease and rehabilitation inpatient hospital participating in MassHealth under 130 CMR 435.000: *Chronic Disease and Rehabilitation Inpatient Hospital Services*, or a chronic disease and rehabilitation outpatient hospital participating in MassHealth under 130 CMR 410.000: *Outpatient Hospital Services*.

(b) Physical Therapy. In order to participate as a provider of physical therapy under an HCBS waiver, a provider must be a physical therapist participating in the MassHealth program under 130 CMR 432.000: *Therapist Services*, a rehabilitation center participating in MassHealth under 130 CMR 430.000: *Rehabilitation Center Services*, a home health agency participating in MassHealth under 130 CMR 403.000: *Home Health Agency*, a chronic disease and rehabilitation inpatient hospital participating in MassHealth under 130 CMR 435.000: *Chronic Disease and Rehabilitation Inpatient Hospital Services*, or a chronic disease and rehabilitation outpatient hospital participating in MassHealth under 130 CMR 410.000: *Outpatient Hospital Services*.

(c) Speech Therapy. In order to participate as a provider of speech therapy under an HCBS waiver, a provider must be a speech/language therapist participating in MassHealth under 130 CMR 432.000: *Therapist Services*, a speech and hearing center participating in MassHealth under 130 CMR 413.000: *Speech and Hearing Center Services*, a rehabilitation center participating in MassHealth under 130 CMR 430.300: *Rehabilitation Center Services*, a home health agency participating in MassHealth under 130 CMR 403.000: *Home Health Agency*, a chronic disease and rehabilitation inpatient hospital participating in MassHealth under 130 CMR 435.000: *Chronic Disease and Rehabilitation Inpatient Hospital Services*, or a chronic disease and rehabilitation outpatient hospital participating in MassHealth under 130 CMR 410.000: *Outpatient Hospital Services*.

(24) Transitional Assistance. Transitional assistance under an HCBS waiver must be provided by organizations under contract with MRC or DDS in accordance with its standards, requirements, policies, and procedures for the provision of transitional assistance services to persons with disabilities.

(25) Transportation. In order to participate as a provider of transportation under an HCBS waiver, a provider must be an organization engaged in the business of transporting persons with disabilities in accordance with all standards, requirements, policies, and procedures established by DDS or MRC for the provision of such services.

(26) Vehicle Modification. In order to participate as a provider of vehicle modifications under an HCBS waiver, a provider must be an individual or organization engaged in the business of vehicle modification and be under contract with MRC for the provision of vehicle modification to persons with disabilities.

630.405: HCBS Waiver Coverage Types

A participant is eligible for HCBS waiver services according to the applicable HCBS waiver under which the participant is enrolled. See 130 CMR 519.007: *Individuals Who Would be Institutionalized*. Each HCBS waiver coverage type is described in 130 CMR 630.405(A) through (D). Payment for the covered services listed in 130 CMR 630.000 is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment.

(A) Acquired Brain Injury with Residential Rehabilitation (ABI-RH) Waiver. The following ABI waiver services are covered for eligible MassHealth members who are enrolled as participants under the ABI-RH Waiver:

- (1) residential habilitation;
- (2) assisted living services;
- (3) shared living - 24 hour supports;
- (4) supported employment;

630.405: continued

- (5) day services;
- (6) occupational therapy;
- (7) physical therapy;
- (8) specialized medical equipment;
- (9) speech therapy;
- (10) transitional assistance; and
- (11) transportation.

(B) Acquired Brain Injury Non-residential Habilitation (ABI-N) Waiver. The following ABI waiver services are covered for eligible MassHealth members who are enrolled as participants under the ABI-N Waiver:

- (1) homemaker;
- (2) personal care;
- (3) respite;
- (4) supported employment;
- (5) adult companion;
- (6) chore;
- (7) day services;
- (8) home accessibility adaptations;
- (9) individual support and community habilitation;
- (10) occupational therapy;
- (11) physical therapy;
- (12) specialized medical equipment;
- (13) speech therapy;
- (14) transitional assistance; and
- (15) transportation.

(C) Money Follows the Person Residential Supports (MFP-RS) Waiver. The following HCBS waiver services are covered for eligible MassHealth members who are enrolled as participants under the MFP-RS Waiver:

- (1) assisted living services;
- (2) behavioral health diversionary services;
- (3) day services;
- (4) home accessibility adaptations;
- (5) individual support and community habilitation;
- (6) occupational therapy;
- (7) peer support;
- (8) physical therapy;
- (9) prevocational services;
- (10) residential family training;
- (11) residential habilitation;
- (12) shared living - 24 hour supports;
- (13) skilled nursing;
- (14) specialized medical equipment;
- (15) speech therapy;
- (16) supported employment; and
- (17) transportation.

(D) Money Follows the Person Community Living (MFP-CL) Waiver. The following HCBS waiver services are covered for eligible MassHealth members who are enrolled as participants under the MFP-CL Waiver:

- (1) adult companion;
- (2) behavioral health diversionary services ;
- (3) chore;
- (4) community family training;
- (5) day services;
- (6) home accessibility adaptations;
- (7) homemaker;
- (8) home health aide;

630.405: continued

- (9) independent living supports;
- (10) individual support and community habilitation;
- (11) occupational therapy;
- (12) peer support;
- (13) personal care;
- (14) physical therapy;
- (15) prevocational services;
- (16) respite;
- (17) shared home supports;
- (18) skilled nursing;
- (19) specialized medical equipment;
- (20) speech therapy;
- (21) supported employment;
- (22) supportive home care aide;
- (23) transportation; and
- (24) vehicle modification.

630.406: HCBS Waiver Conditions for Payment

(A) The MassHealth agency pays an HCBS waiver provider for the provision of waiver services in accordance with the applicable payment methodology and rate schedule established by the Executive Office of Health and Human Services (EOHHS) or by the MassHealth agency.

(B) Payment for services is subject to the conditions, exclusions, and limitations set forth in 130 CMR 630.000 and 450.000: *Administrative and Billing Regulations*.

(C) The MassHealth agency pays an HCBS waiver provider for a waiver service only if

- (1) the member was enrolled as a participant under one of the HCBS waivers on the date of service;
- (2) the service billed was appropriate and necessary;
- (3) the service billed was authorized and included in the service plan for the participant pursuant to 130 CMR 630.409(A); and
- (4) the waiver services were provided by an HCBS waiver provider in accordance with the requirements of 130 CMR 630.000 and 450.000: *Administrative and Billing Regulations*.

(D) Additional conditions of payment for waiver services by service type are located as applicable in 130 CMR 630.410 through 630.434.

(E) Self-directed Services. Participants who self-direct their services will submit timesheets to the fiscal intermediary (FI) for each worker who provided self-directed services. The FI reviews the time sheets and verifies that they are in accordance with the participant's service plan and that payment is permissible. The FI sends approved payments to the participant who is responsible for making payment to the worker for the self-directed services.

630.407: HCBS Waiver Coverage Requirements

(A) Limitations on Covered Services. The MassHealth agency pays for HCBS waiver services provided to a participant who resides in a home or community-based setting, which may include, without limitation, a temporary residence. With the exception of respite services, as described in 130 CMR 630.424, and transitional assistance, as described in 130 CMR 630.432, the MassHealth agency does not pay for HCBS waiver services provided to a participant who is a resident or inpatient of a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other medical facility subject to state licensure or certification.

(B) Least Costly Form of Care. The MassHealth agency pays for HCBS waiver services only when services are the least costly form of comparable care available in the community.



630.408: Nonpayable Services

- (A) The MassHealth agency does not pay for any HCBS waiver services that are furnished before the development of the service plan or that are not included in a participant's service plan pursuant to 130 CMR 630.409(A).
- (B) The MassHealth agency does not pay for HCBS waiver services that are provided to any individual other than the participant who is eligible to receive such services and for whom such services are approved in the service plan.
- (C) The MassHealth agency does not pay an HCBS waiver provider for
- (1) any service that is not listed as a covered service for the participant under 130 CMR 630.405;
  - (2) any service that is not authorized in the service plan;
  - (3) any service to a person who is a resident or inpatient of a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other medical facility subject to state licensure or certification, except for respite services, in accordance with 130 CMR 630.424, and transitional assistance, in accordance with 130 CMR 630.432;
  - (4) any service to a participant who is receiving a service from another home- and community-based waiver program;
  - (5) the cost of room and board, unless provided as part of respite care in accordance with 130 CMR 630.424;
  - (6) the cost of maintenance, upkeep, an improvement, or home accessibility adaptations to a residential habilitation site, group home, or other residential facility; and
  - (7) the cost of maintenance, upkeep, or an improvement to a participant's place of residence, except for home accessibility adaptations in accordance with 130 CMR 630.415, and transitional assistance in accordance with 130 CMR 630.432.
- (D) The MassHealth agency does not pay for HCBS waiver services furnished by legally responsible individuals as defined in 130 CMR 630.402.
- (E) The MassHealth agency does not pay for HCBS waiver services that are unsafe, inappropriate, or unnecessary for a participant. Each HCBS waiver provider is responsible for ensuring that the HCBS waiver services it provides are safe, appropriate, and necessary for the participant.
- (F) The MassHealth agency does not pay for HCBS waiver services in excess of the units identified and authorized in the participant's service plan.
- (G) The MassHealth agency does not pay for HCBS waiver services that duplicate care provided by another payment source or by a family member or legally responsible individual as defined in 130 CMR 630.402.
- (H) Additional information about nonpayable services by service type is located as applicable in 130 CMR 630.410 through 630.434.

630.409: Service Plan and Notice of Approval or Denial of HCBS Waiver Services

- (A) Service Plan.
- (1) The MassHealth agency or its designee assigns a case manager to each participant under an HCBS waiver.
  - (2) The participant will lead the service plan process where possible. The participant's representative should have a participatory role, as needed and as defined by the participant, unless the legal representative has decision-making authority.
  - (3) The service planning process shall comply with requirements in the federally approved HBCS waiver application and HCBS Waiver policies for service planning established by DDS or MRC, and shall include identification of the strengths, preferences and cultural considerations of the participant, goals, desired outcomes, clinical and support needs, HCBS services and supports to be furnished, strategies for solving disagreement within the process, and modifications that are supported by a specific assessed need and justified in the service plan.

630.409: continued

(4) The service plan shall also comply with requirements in the federally approved HCBS waiver application and HCBS Waiver policies for service plans established by DDS or MRC, such as but not limited to containing the HCBS services and supports to be furnished, the amount, frequency, and duration of each service, and the type of provider to furnish each service; reflecting the setting in which the participant resides is chosen by the participant; reflecting clinical and support needs as identified through an assessment of functional needs; reflect risk factors and measures in place to minimize them; and document that any additional conditions are supported by a specific assessed need and justified in the service plan.

(5) The service plan may not be backdated.

(B) Notice of Approval. For all HCBS waiver services authorized and included in a service plan, the MassHealth agency or its designee will provide a copy of the service plan to the participant. The service plan must contain, at a minimum, the types of HCBS waiver services to be furnished, the amount, frequency, and duration of each service, and the effective date of the authorization.

(C) Notice of Denial or Modification and Right of Appeal.

(1) A participant and the participant's authorized representative, as applicable, will receive a written notification from the MassHealth agency or its designee whenever a service plan contains a denial or modification of a requested HCBS waiver service requested by a participant. The notification will describe the reason for the denial or modification and provide information to the participant about the participant's right to appeal and the appeal procedure.

(2) A participant may request a fair hearing whenever the MassHealth agency or its designee denies or modifies the participant's request for an HCBS waiver service. As used in 130 CMR 630.409, a denial or modification includes the MassHealth agency's denial, suspension, reduction, or termination of a requested HCBS waiver service as well as the agency's failure to act on the participant's request for an HCBS waiver service within 30 days of receiving such request. The participant must request a fair hearing in writing within the time limits set forth in 130 CMR 610.015(B)(1) or (2), as applicable. The Office of Medicaid Board of Hearings conducts the hearing in accordance with 130 CMR 610.000: *MassHealth: Fair Hearing Rules*.

(D) Information for HCBS Waiver Providers. The MassHealth agency or its designee will furnish applicable information from each service plan to an HCBS waiver provider that provides an HCBS waiver service to a participant. Applicable information will include the amount, frequency, duration, and effective date of the HCBS waiver service that is authorized in the service plan. The information will be provided in a manner and format specified by the MassHealth agency or its designee.

(E) Information for Fiscal Intermediary (FI). Waiver participants will be given the option to self-direct certain waiver services as specified in the particular HCBS waiver in which they are enrolled. Participants who choose to self-direct will have those self-directed waiver services listed in their service plan. Information regarding the frequency and duration of the self-directed services in the service plan is forwarded to the FI. The information will be provided in a manner and format specified by the MassHealth agency or its designee.

#### 630.410: Adult Companion

(A) Conditions of Payment. Adult companion services must be provided in accordance with a therapeutic goal in the service plan. Adult companion services are covered where the adult companion enables the participant to function with greater independence within the participant's home or community.

(B) Nonpayable Services. Adult companion services are not covered where the services are purely recreational or diversionary in nature.

630.411: Assisted Living Services

(A) Conditions of Payment. Assisted Living services are covered when the participant requires personal care and supportive services (homemaker, chore, personal care services, and meal preparation) and the availability of 24-hour on-site response capability to meet scheduled or unpredictable resident needs.

(B) Nonpayable Services. Payment is not made for the cost of room and board, including items of comfort or convenience, or the costs of facility maintenance, upkeep and improvement. Assisted living services do not include, and payment will not be made for, 24-hour skilled care. Duplicative waiver and state plan services are not available to participants receiving assisted living services. The following waiver services are not available to participants receiving assisted living services: chore, homemaker, personal care, home health aide, and supportive home care aide.

630.412: Chore Services

(A) Conditions of Payment. Chore services are covered only on a one-time-only or infrequent basis and only when an unusual household task is required to be performed to maintain a participant's home in a clean, sanitary, and safe condition.

(B) Nonpayable Services. Chore services are not covered when the participant or someone else in the household is capable of performing the tasks or when a relative, caregiver, landlord, community/volunteer agency, or third-party payer is capable of or responsible for provision of the tasks. In the case of rental property, the responsibility of the landlord, pursuant to a lease agreement, is examined before authorizing any chore services in a service plan.

630.413: Community Family Training and Residential Family Training

(A) Conditions of Payment. Documentation in the participant's record must demonstrate the benefit of this service to the participant. Community family training and residential family training is not available for individuals who are employed to care for the participant. Family training may be provided in a small group format or the family trainer may provide individual instruction to a specific family based on the needs of the family to understand the specialized needs of the waiver participant. The one-to-one family training is instructional; it is not counseling.

(1) Community Family Training. For purpose of this service, family is defined as the persons who live with or provide unpaid care to a waiver participant and may include a parent or other relative.

(2) Residential Family Training. For purpose of this service, family is defined as the persons who provide unpaid care to a waiver participant and may include a parent or other relative.

(B) Nonpayable Services.

(1) Community Family Training. This service is not available to those participants who do not live in the family home or do not regularly visit with their family.

(2) Residential Family Training. This service is not available in provider operated residential habilitation or assisted living sites or in shared living settings unless the participant regularly leaves the site to visit his or her family.

630.414: Day Services

(A) Conditions of Payment. Day services are covered for participants who need a structured day activity program and who are not interested in employment or not ready to join the general workforce.

(B) Recordkeeping. In addition to the requirements of 130 CMR 630.438, the provider must maintain records that include detailed descriptions of day services provided and documentation of all units of services.

630.415: Home Accessibility Adaptations

(A) Conditions of Payment.

(1) Home accessibility adaptations are covered only when the participant would be unable to reside in the participant's home without the accessibility adaptations and the adaptations would enable the participant to function with greater independence within the participant's home.

(2) All home accessibility adaptations must be provided in accordance with applicable state and local building codes.

(B) Nonpayable Services. Home accessibility adaptations are not covered when the adaptations:

(1) bring a substandard dwelling up to minimum standards or to make improvements to a residence that are of general utility (for example, new carpeting, roof repairs, or central air conditioning) and are not of direct medical or remedial benefit to the participant;

(2) are required by law to be made by a landlord or other third party;

(3) are made to a residential habilitation site, group home, or other residential facility; or

(4) add to the total square footage of the home, except when necessary to complete an adaptation (for example, in order to improve entrance and egress to a residence or to configure a bathroom to accommodate a wheelchair).

630.416: Homemaker

(A) Conditions of Payment. Homemaker services are covered under the ABI waiver on a short-term or periodic basis when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for the participant.

(B) Nonpayable Services. Homemaker services are not covered when the participant or someone else in the household is capable of performing the tasks or when a relative, caregiver, landlord, community/volunteer agency, or third party payer is capable of or responsible for homemaking tasks.

630.417: Home Health Aide

(A) Conditions of Payment.

(1) Home health aide services are covered when the participant requires a range of assistance with ADLs and IADLS related to independent living and when the home health aide service enables the participant to function with greater independence within the participant's home and community.

(2) Home health aide services are covered under the waiver if the home health aide receives supervision by a registered nurse with a current license by the Massachusetts Board of Registration in Nursing.

(B) Nonpayable Services. Home health aide services are not covered when duplicative services are provided to the waiver participant.

630.418: Independent Living Supports

(A) Conditions of Payment.

(1) Independent Living Supports are covered when the participant requires assistance with intermittent, scheduled and unscheduled needs for ADLs, IADLS, support and companionship, emotional support and socialization.

(2) The independent living supports service provider cannot be the owner of the building in which the services are delivered to the waiver participant.

(B) Nonpayable Services. Duplicative services, including, but not limited to waiver, personal care, homemaker, adult companion, shared home supports, and supportive home care aide, are not available to participants receiving independent living supports services.

630.419: Individual Support and Community Habilitation

(A) Conditions of Payment.

(1) Individual support and community habilitation is covered when a participant needs assistance to develop, maintain, or maximize independent functioning in self-care, physical and emotional growth, socialization, communication, and vocational skills. This service includes training and education in self-determination and self-advocacy to enable the participant to acquire skills to exercise control and responsibility over the services and supports they receive, and to become more independent, integrated, and productive in the community.

(2) Individual support and community habilitation may be provided regularly or intermittently. These services may not be provided on a 24-hour basis, and must be determined necessary for the participant to remain in the community, as documented in the participant's service plan.

(B) Recordkeeping. In addition to the requirements of 130 CMR 630.438, the provider must maintain records that include detailed descriptions of individual support and community habilitation services provided and documentation of all units of services.

630.420: Peer Support

(A) Conditions of Payment. Peer support services are covered up to a maximum of 16 hours per week when it:

- (1) is instructional and not counseling; and
- (2) enhances the skills of the participant to function in the community.

(B) Recordkeeping. In addition to the requirements of 130 CMR 630.438, the provider must maintain documentation in the participant's record that demonstrates the benefit of this service to the participant.

630.421: Personal Care Services

(A) Conditions of Payment. Personal care services are covered when the participant requires a range of assistance with ADLs related to independent living and when the personal care service enables the participant to function with greater independence within the participant's home and community. Personal care services under an HCBS waiver may include supervision and cuing of participants. Personal care services may also include assistance with IADLs. Personal care services provided under a HCBS waiver may not duplicate personal care services provided under the state plan.

(B) Nonpayable Services. Personal Care services are not covered when duplicative services are provided to the waiver participant.

630.422: Prevocational Services

(A) Conditions of Payment.

(1) Prevocational services are covered when the participant requires habilitative or rehabilitative services, rather than explicit employment training, as specified in the participant's service plan. These services may be provided one-to-one or in a group format. This service may be provided as a site-based service, in community settings or in a combination of these settings and must include integrated community activities that support development of vocational needs.

(2) The amount, duration and scope of prevocational services provided to a participant is based on the participant's pre-employment needs that arise as a result of their functional limitations and condition, including services that enable the participant to acquire, improve, retain/maintain, and prevent deterioration of functioning consistent with the participant's interest, strengths, priorities, abilities and capabilities.

630.422: continued

(B) Recordkeeping. In addition to the requirements of 130 CMR 630.438, the provider must have documentation in the participant's file that the service the participant received is not available under a program funded under § 110 of the Rehabilitation Act of 1973 or the IDEA (20 U.S.C. 1401 *et seq.*).

630.423: Residential Habilitation

(A) Conditions of Payment. Residential habilitation is covered solely when authorized in the participant's service plan. Residential habilitation is covered when a participant requires ongoing services and supports delivered to a participant in a provider-operated 24-hour staffed residential setting.

(B) Nonpayable Services. Residential habilitation is not covered for participants who live with their immediate family unless the immediate family (for example, grandparent, parent, sibling, or spouse) is also eligible for residential habilitation and, if applicable, has received prior authorization from the MassHealth agency or its designee for residential habilitation. The following waiver services are not available to participants receiving Residential Habilitation: Assisted Living, Shared Living - 24 Hour Supports.

(C) Payer for Residential Habilitation. DDS pays providers for residential habilitation.

630.424: Respite

(A) Conditions of Payment. Respite care is covered solely to provide temporary relief to non-paid caregivers when the participant requires assistance with activities related to independent living.

(B) Nonpayable Services.

- (1) Respite care is not covered for the purpose of compensating relief or substitute staff for a paid service provider.
- (2) Respite care is not covered for any time period during which other assistance with activities related to independent living is available to a participant.

630.425: Shared Home Supports

(A) Conditions of Payment.

- (1) Shared home supports provide daily structure, skills training and supervision, but does not include 24-hour care.
- (2) The shared home supports provider must match a participant with a shared home supports caregiver. The caregiver lives with the participant at the residence of the caregiver or the participant.
- (3) Shared home supports include supportive services that assist with the acquisition, retention, or improvement of skills related to living in the community. This includes such supports as: adaptive skills development, assistance with ADLs and IADLs, adult educational supports, social and leisure skill development.
- (4) The shared home supports provider must provide regular and ongoing oversight and supervision of the caregiver.
- (5) Shared home supports may be provided to no more than two participants in a home.

(B) Nonpayable Services.

- (1) Shared home supports is not available to participants who live with their immediate family unless the immediate family member is also eligible for shared home supports and had received authorization in their service plan for shared home supports.
- (2) Duplicative services are not available to participants receiving shared home supports services.
- (3) Payment is not made for the cost of room and board, including the cost of building maintenance, upkeep and improvement.

630.426: Shared Living - 24 Hour Supports

(A) Conditions of Payment.

- (1) Shared Living - 24 Hour Supports is a residential service that provides 24 hour seven days per week supportive service.
- (2) Shared Living - 24 Hour Supports integrates the participant into the usual activities of the caregiver's family life. In addition, there will be opportunities for learning, developing and maintaining skills including in such areas as ADLs, IADLs, social and recreational activities, and personal enrichment.
- (3) The caregiver lives with the participant at the residence of the caregiver or the participant. Shared Living agencies recruit caregivers, assess their abilities, coordinate placement of participant or caregiver, train and provide guidance, supervision and oversight for caregivers and provide oversight of participants' living situations. The caregiver may not be a legally responsible family member.
- (4) The Shared Living - 24 Hour Supports provider must provide regular and ongoing oversight and supervision of the caregiver.
- (5) Shared Living - 24 Hour Supports may be provided to no more than two participants in a home.

(B) Nonpayable Services.

- (1) Shared Living - 24 Hour Supports is not available to individuals who live with their immediate family unless the immediate family member (grandparent, parent, sibling or spouse) is also eligible for Shared Living - 24 Hour Supports and had received prior authorization, as applicable, for Shared Living - 24 Hour Supports.
- (2) Duplicative waiver and state plan services are not available to participants receiving Shared Living - 24 Hour Supports services.
- (3) Payment is not made for the cost of room and board, including the cost of building maintenance, upkeep and improvement.

(C) Payer for Shared Living - 24 Hour Supports. The DDS pays providers for shared living - 24 hour supports.

630.427: Skilled Nursing

(A) Conditions of Payment. Skilled nursing services listed in a participant's service plan must be provided within the scope of the State's Nurse Practice Act at M.G.L. c. 112 and the Registered Nurse and Licensed Practical Nurse regulations at 244 CMR 3.00: *Registered Nurse and Licensed Practical Nurse*.

(B) Nonpayable Services.

- (1) This service is limited to one skilled nursing visit per week per participant. The MassHealth agency or its designee may authorize an exception to the limit on a temporary basis to facilitate transitions to a community setting, to ensure that a participant at risk for medical facility admission is able to remain in the community, or to otherwise stabilize a participant's medical condition.
- (2) Skilled nursing services are not covered when duplicative nursing services are provided to the participant.

630.428: Specialized Medical Equipment

(A) Payable Services. Covered specialized medical equipment includes:

- (1) devices, controls, or appliances that enable a participant to increase his or her ability to perform daily living activities or to perceive, control, or communicate with the environment or to perceive or communicate with other people;
- (2) medical equipment necessary to address physical conditions or participant functional limitations; and
- (3) ancillary supplies and equipment necessary for the proper functioning of specialized items.

(B) Conditions of Payment. Specialized medical equipment must:

- (1) not be covered under 130 CMR 406.000: *Pharmacy Services* or 409.000: *Durable Medical Equipment Services*;
- (2) meet applicable standards of manufacture, design, and installation; and

630.428: continued

(3) have been examined or tested by Underwriters Laboratories (or other appropriate organization), and comply with FCC regulations, as appropriate.

(C) Nonpayable Services. Items that are not of direct medical or remedial benefit to a participant are not covered.

630.429: Supported Employment

(A) Service Limitations. When supported employment services are provided at a work site where persons without disabilities are employed, payment is made only for the adaptations, supervision, and training required by participants as a result of their disabilities.

(B) Nonpayable Services.

(1) Payment for supported employment does not include incentive payments, subsidies, or unrelated vocational training expenses, including but not limited to the following exclusions:

(a) incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;

(b) payments that are passed through to users of supported employment programs; or

(c) payments for training that is not directly related to a participant's supported employment needs.

(2) Supervisory activities performed as a normal part of the business setting are not covered.

(3) Supported employment services are not covered when provided in settings that are solely comprised of individuals with disabilities, also known as sheltered workshops.

(C) Recordkeeping. In addition to the requirements of 130 CMR 630.438, each provider of supported employment services must maintain documentation in the file of each participant receiving this service that the service is not available under a program funded under § 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 *et seq.*).

630.430: Supportive Home Care Aide

(A) Conditions of Payment. Supportive home care aide is covered when a participant needs assistance with ADLs and IADLs, in addition to providing emotional support, socialization, and escort services to participants with Alzheimer's Disease/Dementia or behavioral health needs.

(B) Nonpayable Services. Supportive home care aide services are not covered when duplicative services are provided to the waiver participant.

630.431: Occupational Therapy, Physical Therapy, and Speech Therapy

(A) Occupational Therapy.

(1) Conditions of Payment. Occupational therapy is covered when:

(a) authorized and included in the participant's service plan;

(b) appropriate and necessary for the participant to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions that have been lost, impaired or reduced as a result of acute or chronic medical conditions, congenital anomalies or injuries; or required to maintain or prevent the worsening of function;

(c) of such a level of complexity and sophistication that the judgment, knowledge, and skills of a licensed occupational therapist are required;

(d) performed by a licensed occupational therapist, or by a licensed occupational therapy assistant under the supervision of a licensed occupational therapist; and

(e) not be covered under 130 CMR 403.000: *Home Health Agency*, 432.000: *Therapist Services*, 430.600: *Rehabilitation Center Services*, 435.000: *Chronic Disease and Rehabilitation Inpatient Hospital Services*, or 410.000: *Outpatient Hospital Services*.

(2) Nonpayable Services. Services that are not of direct medical or remedial benefit to a participant are not covered by MassHealth.



630.431: continued

(B) Physical Therapy.

- (1) Conditions of Payment. To be covered under the ABI waiver, physical therapy must
  - (a) be authorized and included in the participant's service plan;
  - (b) be appropriate and necessary for the participant to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries; or required to maintain or prevent the worsening of function;
  - (c) be of such a level of complexity and sophistication that the judgment, knowledge, and skills of a licensed physical therapist are required;
  - (d) be performed by a licensed physical therapist, or by a licensed physical therapy assistant under the supervision of a licensed physical therapist; and
  - (e) not be covered under 130 CMR 403.000: *Home Health Agency*, 432.000: *Therapist Services*, 430.600: *Rehabilitation Center Services*, 435.000: *Chronic Disease and Rehabilitation Inpatient Hospital Services*, or 410.000: *Outpatient Hospital Services*.
- (2) Nonpayable Services. Services that are not of direct medical or remedial benefit to a participant are not covered by MassHealth.

(C) Speech Therapy.

- (1) Conditions of Payment. Speech therapy is covered when:
  - (a) authorized and included in the participant's service plan;
  - (b) appropriate and necessary for the participant to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions that have been lost, impaired or reduced as a result of acute or chronic medical conditions, congenital anomalies or injuries; or required to maintain or prevent the worsening of function;
  - (c) be of such a level of complexity and sophistication that the judgment, knowledge, and skills of a licensed speech/language therapist are required;
  - (d) be performed by a licensed speech/language therapist; and
  - (e) not be covered under 130 CMR 403.000: *Home Health Agency*, 432.000: *Therapist Services*, 430.600: *Rehabilitation Center Services*, 435.000: *Chronic Disease and Rehabilitation Inpatient Hospital Services*, or 410.000: *Outpatient Hospital Services*.
- (2) Nonpayable Services. Services that are not of direct medical or remedial benefit to a participant are not covered by MassHealth.

(D) Maintenance Program.

- (1) The MassHealth agency pays for the establishment of a maintenance program and for the training of the participant, the participant's family, or other persons to carry it out, as part of a regular treatment visit, not as a separate service.
- (2) In certain instances, the specialized knowledge and judgment of a licensed therapist may be required to perform services that are part of a maintenance program, to ensure safety or effectiveness that may otherwise be compromised due to the participant's medical condition. At the time the decision is made that the services must be performed by a licensed therapist, all information that supports the appropriateness and necessity for performance of such services by a licensed therapist, rather than a non-therapist, must be documented in the manner and format designated by the MassHealth agency or its designee.

630.432: Transitional Assistance(A) Services and Expenses Included under Transitional Assistance Services. Transitional assistance consists of the following items, when appropriate and necessary for the participant's discharge from a nursing facility or hospital and safe transition to the community:

- (1) security deposits that are required to obtain a lease on an apartment or home;
- (2) essential household furnishings and moving expense required to occupy and use a community domicile, including furniture, window coverings, food preparation items, and bed/bath linens;
- (3) set-up fees or deposits for utility or service access, including telephone, electricity, heating, and water;

630.432: continued

- (4) household services necessary for the individual's health and safety, such as pest eradication and one-time cleaning prior to occupancy;
- (5) moving expenses; and
- (6) home accessibility adaptations needed for discharge from a hospital or nursing facility.

(B) Conditions of Payment. To qualify for payment as transitional assistance services, expenses must be:

- (1) authorized and included in the participant's service plan;
- (2) incurred within 180 days before a participant's discharge from a nursing facility or hospital or another provider-operated living arrangement or during the period following discharge from the facility; and
- (3) necessary for the participant's safe transition to the community.

(C) Nonpayable Services and Expenses. Transitional assistance services does not include expenses:

- (1) for monthly rental or mortgage expense; food, regular utility charges; and/or household appliances or items that are intended for pure diversion or recreational purposes;
- (2) for residential facilities that are owned or leased by an HCBS waiver provider; or
- (3) that are not necessary for the participant's safe transition to the community.

(D) Payer for Transitional Assistance Services. The MRC or DDS pay providers for transitional assistance services.

630.433: Transportation

(A) Driver and Vehicle Requirements.

- (1) All driver's must have a valid driver's license, appropriate for the type and class of vehicle used to transport HCBS waiver participants.
- (2) All vehicles must be insured and documentation of vehicle and liability insurance must be provided.
- (3) Transportation providers must provide written certification of:
  - (a) vehicle maintenance;
  - (b) age of vehicles; and
  - (c) passenger capacity of vehicles.
- (4) Transportation providers must be duly registered with the Massachusetts Registry of Motor Vehicles and must meet all safety and inspection requirements of the Registry.
- (5) All accessible vehicles specifically equipped to carry one or more persons who are mobility-impaired or using a wheelchair must be equipped with applicable safety equipment to secure a wheelchair and all drivers must be trained in the use of vehicle lifts and safety equipment.
- (6) All vehicles must be maintained in such a manner as to ensure the safety and comfort of the passengers being transported. Such vehicles must be clean, sanitary, vermin free, and protected against motor-exhaust fumes. The vehicle must carry no more than the number of passengers for which it was designed, in accordance with local town or city licensing regulations.

(B) Conditions of Payment. Transportation services are covered only to the extent that they enable a waiver participant to gain access to waiver and other community services, activities, and resources, as specified in the participant's service plan.

630.434: Vehicle Modification

(A) Conditions of Payment.

- (1) Vehicle modifications, to an automobile or van which is the participant's primary means of transportation, are covered when such adaptations or alterations are:
  - (a) made in order to accommodate the special needs of the participant;
  - (b) necessary to enable the participant to integrate more fully into the community; and
  - (c) required to ensure the health, welfare and safety of the participant.
- (2) The need for vehicle modification must be documented in the participant's service plan, subject to the MRC requirements and approved for payment by the MRC.

630.434: continued

- (B) Nonpayable Services. The following are specifically excluded vehicle modifications:
- (1) Adaptations or improvements to the vehicle that are of general utility, and are not of direct medical or remedial benefit to the participant.
  - (2) Adaptations or improvements to a vehicle that is owned or leased by an entity providing services to the participant.
  - (3) Purchase or Lease of a Vehicle. However, payment for adaptations to a new van or vehicle purchased or leased by a participant or family can be made available at the time of purchase or lease to accommodate the special needs of the participant.
  - (4) Regularly scheduled upkeep and maintenance of a vehicle, except upkeep and maintenance of the adaptations.
  - (5) Cost can not exceed the cost limit for the service as provided under the HCBS waiver in which the participant is enrolled.
  - (6) Modifications to a paid caregiver's vehicle or provider agency vehicle are excluded.
- (C) Payer for Vehicle Modification Services. The MRC pays providers for Vehicle Modification services.

630.435: Location Requirements for HCBS Waiver Providers

- (A) Any location where HCBS waiver services are provided must comply with applicable site requirements established by DDS or MRC for the provision of HCBS waiver services. In addition, the location must be integrated in and support full access of participants receiving HCBS waiver services to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving HCBS waiver services.
- (B) Any location that is owned or operated by an HCBS waiver provider where HCBS waiver services are provided must meet all applicable building, sanitary, health, safety, and zoning requirements.
- (1) All HCBS waiver providers must ensure that the location in which HCBS waiver services are provided is clean, environmentally safe, free of vermin and obvious fire and chemical hazards, maintained in accordance with common fire safety practices, and of sufficient size to accommodate comfortably the number of individuals and staff it serves. Any objects or conditions that represent a fire hazard greater than that which could be expected of ordinary household furnishings is not permitted.
  - (2) All HCBS waiver providers must ensure that the location in which HCBS waiver services are provided is a barrier-free environment in those areas used by persons with substantial mobility impairment, to the extent necessary to permit access to the supports, services, personal, and common areas. A location is deemed barrier free, in whole or part, if it meets the applicable standards of 521 CMR: *Architectural Access Board* as adopted in 780 CMR: *State Board of Building Regulations and Standards*.
- (C) A location where day services are provided must meet the site requirements of 130 CMR 404.000: *Adult Day Health Services* or 419.000: *Day Habilitation Program Services* or the licensure/certification standards of an EOHHS agency for day services (such as Department of Developmental Services requirements at 115 CMR 7.00: *Standards for All Services and Supports* and 8.00: *Certification, Licensing and Enforcement* or Department of Mental Health requirements at 104 CMR 28.00: *Licensing and Operational Standards for Community Programs: Subpart B*) or the site requirements established by DDS or MRC for the provision of day services to participants of an HCBS waiver.

630.436: Personnel Requirements and Responsibilities of HCBS Waiver Providers

- (A) Personnel Hiring Requirements. The requirements in 130 CMR 630.436 apply to HCBS waiver providers in 130 CMR 630.404(D) who hire volunteers, contractors, or employees to provide HCBS waiver services to participants. Each HCBS waiver provider that uses volunteers or employs or independently contracts with hired personnel must:
- (1) check the candidate's references and job history and ensure that the candidate meets all of the required experience, education, and qualifications before hiring;

630.436: continued

- (2) conduct a Criminal Offender Records Information (CORI) check and determine whether any offender records may disqualify any personnel from direct contact with the participant;
- (3) ensure that each person who will have direct contact with participants has satisfactorily completed a prehiring physical examination and received a tuberculosis screening within the previous 12 months;
- (4) ensure that all personnel who will have direct contact with participants receive tuberculosis screening every two years;
- (5) ensure that all personnel are appropriately trained and managed;
- (6) have available at all times a sufficient number of educated, experienced, trained, and competent personnel to provide services to persons with acquired brain injuries;
- (7) evaluate personnel annually using standardized evaluation measures; and
- (8) maintain a record of each performance evaluation in a separate personnel file for each person.

(B) Personnel Training Requirements. Each HCBS waiver provider that uses volunteers or employs or independently contracts with hired personnel must:

- (1) provide initial and periodic training to all personnel who are responsible for the care and services to a participant. Records of completed training must be kept on file and updated regularly;
- (2) hold an orientation for new personnel within one month of hire. This orientation must include the following topics for all personnel who will have direct contact with participants:
  - (a) delivery of HCBS waiver services;
  - (b) written policies and procedures of the HCBS waiver provider;
  - (c) the requirements of 130 CMR 630.000;
  - (d) the roles and responsibilities of provider personnel;
  - (e) behavioral interventions, behavior acceptance, and accommodations;
  - (f) cardiopulmonary resuscitation (CPR) and first aid;
  - (g) infection control and safety practices;
  - (h) information about local health, fire, safety, and building codes;
  - (i) privacy and confidentiality;
  - (j) communication skills;
  - (k) abuse identification and reporting;
  - (l) good body mechanics;
  - (m) cultural sensitivity;
  - (n) universal precautions; and
  - (o) emergency procedures, including the provider's fire, safety, and disaster plans.

(C) Direct Service Delivery. Each individual who is responsible for delivery of HCBS waiver services to a participant must:

- (1) be a responsible person who is at least 18 years of age, with the ability to make mature and accurate judgments and with no mental, physical, or other impairments that would interfere with the adequate performance of the duties and responsibilities of an HCBS waiver provider;
- (2) not abuse alcohol or drugs;
- (3) be able to devote appropriate time necessary to provide needed services to the participant to ensure the participant's safety and well-being at all times during which the service is delivered; and
- (4) meet all other requirements established by MRC or DDS.

#### 630.437: Withdrawal by an HCBS Waiver Provider from MassHealth

An HCBS waiver provider that intends to withdraw from MassHealth must satisfy all of the requirements set forth in 130 CMR 630.437.

(A) MassHealth Agency Notification.

- (1) An HCBS waiver provider electing to withdraw from participation in MassHealth must give written notice of its intention to withdraw to the MassHealth agency. The HCBS waiver provider must send the withdrawal notice by certified or registered mail (return receipt requested) to the MassHealth agency. The notice must be received by the MassHealth agency no less than 90 days before the effective date of withdrawal.

630.437: continued

(2) If such withdrawal results from a situation beyond the control of the HCBS waiver provider, such as fire or natural or unnatural disaster, the HCBS waiver provider must notify the MassHealth agency or its designee immediately by phone and follow up in writing within three calendar days. The burden of proof to demonstrate an emergency is the responsibility of the HCBS waiver provider.

(2) Notification to Participant and Family.

(1) The HCBS waiver provider must notify all participants, guardians, emergency contacts, and other funding sources in writing of the intended closing date no less than 90 days before the intended closing date and specify the assistance to be provided to each participant in identifying alternative services.

(2) On the same date on which the HCBS waiver provider sends a withdrawal notice to the MassHealth agency, the provider must give notice, in hand, to the participants it serves and their authorized representatives. The notice must advise any participant that on the effective date of the withdrawal, the participant must locate another HCBS waiver provider participating in MassHealth to ensure continuation of HCBS waiver services.

(3) The notice must also state that the HCBS waiver provider will work promptly and diligently to arrange for the transfer of participants to other MassHealth-participating HCBS waiver providers or, if appropriate, to alternative community-service providers.

(C) Coordination. The HCBS waiver provider must cooperate and coordinate with the case manager and assist in transferring participants to other programs.

630.438: Recordkeeping Requirements

In addition to the recordkeeping requirements set forth in 130 CMR 450.205: *Recordkeeping and Disclosure*, all HCBS waiver providers must maintain a record for each participant receiving care and services that includes the following information:

(A) the member's name, member identification number, address, sex, age, and next of kin;

(B) the care plan for the specific service being provided, including information about coordination with other services, as appropriate;

(C) complete documentation of all services provided and events that occurred while providing HCBS waiver services;

(D) for products and materials, a copy of the original invoice showing the cost to the HCBS waiver provider, copies of written warranties, and any discounts;

(E) for transportation, the originating location, destination, and mileage of all trips; and

(F) other documentation as may be specified by EOHHS, DDS, or MRC.

REGULATORY AUTHORITY

130 CMR 630.000: M.G.L. c. 118E, §§ 7 and 12.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS  
William Francis Galvin  
Secretary of the Commonwealth

Notice of Correction

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 209 CMR 54.00

CHAPTER TITLE: Mortgage Lender Community Investment

AGENCY: Division of Banks and Loan Agencies

ORIGINAL PUBLICATION REFERENCE: 1318 Date: 07/29/2016

SUMMARY OF CORRECTION:

In the final amendments to 209 CMR 54.00, two provisions should be deleted: 54.23(4)(b) and the words "and loss mitigation services to modify loans or otherwise keep delinquent home loan borrowers in their homes" in 54.23(1). These two provisions should have been deleted but remained inadvertently. By amending 54.23(1), the Division adopted a 'streamlined' MLCI evaluation for low-volume lenders, and therefore to meet statutory review standards, the loss mitigation criteria formerly in 54.23(4)(b) was moved to 54.22(2)(d) since all lenders making 50+ loans are subject to the lending test.

AGENCY CONTACT: Merrily S. Gerrish, Deputy Commissioner of PHONE: 617-956-1520

ADDRESS: Banks and General Counsel  
1000 Washington St., 10th 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: Nov 15 2016

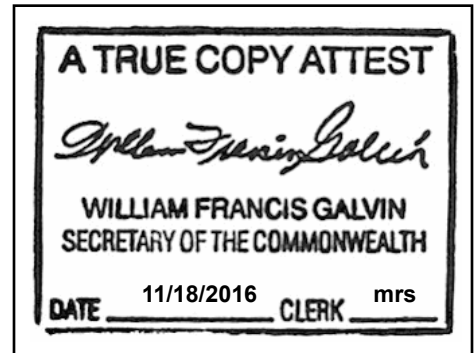
Publication *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 07/29/2016

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
303 - 306	303 - 306







54.12: continued

MSA. A metropolitan statistical area as defined by the Director of the Office of Management and Budget.

Qualified Investment. A lawful investment, deposit, donation, membership share, or grant that has as its primary purpose community development, and lawful investments in the following:

- (a) corporations for the purpose of providing technical assistance to nonprofit housing corporations for the purpose of establishing creditworthiness;
- (b) contributions to any private nonprofit organization organized for improving the social and economic conditions, such as community development programs, foreclosure prevention initiatives, and educational institutions focusing on financial literacy initiatives, in communities in the Commonwealth;
- (c) contributions for the purpose of relieving suffering or distress resulting from disaster or other calamity, such as hurricane or flood, occurring in any part of the Commonwealth; and
- (d) contributions to any private nonprofit organization organized for fair housing and fair lending education and training.

54.21: Performance Tests, Standards, and Ratings, in General

(1) Performance Tests and Standards. The Commissioner assesses the MLCI performance of a mortgage lender in an examination as follows:

Mortgage Lender Performance Standards. The Commissioner applies the lending and service tests, as provided in 209 CMR 54.22 and 54.23 in evaluating the performance of a mortgage lender. However, a mortgage lender that achieves at least a "satisfactory" rating under both the lending and service tests may warrant consideration for an overall rating of "high satisfactory" or "outstanding" depending on the mortgage lender's performance in making qualified investments and community development loans to the extent authorized under law, in accordance with 209 CMR 54.61(2)(c).

(2) Performance Context. The Commissioner applies the tests and standards in 209 CMR 54.21(1) in the context of:

- (a) demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to the Commonwealth;
- (b) any information about lending and service opportunities in the Commonwealth maintained by the mortgage lender or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;
- (c) the mortgage lender's product offerings and business strategy as determined from data provided by the mortgage lender in the Commonwealth;
- (d) the mortgage lender's capacity and constraints, including the size and financial condition of the mortgage lender, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the mortgage lender's ability to provide lending or services in the Commonwealth;
- (e) the mortgage lender's past performance and the performance of similarly situated lenders in the Commonwealth; and
- (f) any other information deemed relevant by the Commissioner.

(3) Assigned Ratings. The Commissioner assigns to a mortgage lender one of the following five ratings pursuant to 209 CMR 54.25 and 54.61: "outstanding"; "high satisfactory"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in M.G.L. c. 255E, § 8. The rating assigned by the Commissioner reflects the mortgage lender's record of helping to meet the mortgage credit needs of the Commonwealth, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the mortgage lender.

(4) Safe and Sound Operations. 209 CMR 54.00 does not require a mortgage lender to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the Commissioner anticipates mortgage lenders can meet the standards of 209 CMR 54.00 with safe and sound loans, investments, and services on which the mortgage lender can expect to make a profit. Mortgage lenders are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit and are suitable for low- and moderate-income geographies or individuals, only if consistent with safe and sound operations.

54.22: Lending Test

- (1) Scope of Test.
- (a) The lending test evaluates a mortgage lender's record of helping to meet the mortgage credit needs of the Commonwealth through its lending activities by considering a mortgage lender's home mortgage and community development lending.
- (b) The Commissioner considers originations and purchases of loans as reported by the mortgage lender under HMDA. The Commissioner will also consider any other loan data the mortgage lender may choose to provide.
- (2) Performance Criteria. The Commissioner evaluates a mortgage lender's performance pursuant to the following criteria:
- (a) Geographic Distribution. The geographic distribution of the mortgage lender's home mortgage loans, based on the loan location, including:
1. the dispersion of lending in the Commonwealth and whether lending arbitrarily excludes low- and moderate-income geographies; and
  2. the number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the Commonwealth;
- (b) Borrower Characteristics. The distribution of the mortgage lender's home mortgage loans based on borrower characteristics, including the number and amount of home mortgage loans to low-, moderate-, middle-, and upper-income individuals, including loans to assist existing low- and moderate-income residents to be able to acquire or remain in affordable housing in their neighborhoods at rates and terms that are reasonable considering the mortgage lender's history with similarly situated borrowers;
- (c) Innovative or Flexible Lending Practices. The mortgage lender's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income individuals or geographies, including loans and other products to assist delinquent home mortgage borrowers to be able to remain in their homes. The Commissioner shall also consider the availability of mortgage loan products that are suitable for such low- and moderate-income individuals;
- (d) Loss Mitigation Efforts. The mortgage lender's efforts to work with delinquent home mortgage loan borrowers to facilitate a resolution of the delinquency, including the number of loan modifications, the timeliness of such modifications, and the extent to which such modifications are effective in preventing subsequent defaults or foreclosures;
- (e) Fair Lending. The mortgage lender's performance relative to fair lending policies and practices pursuant to written policies and directives issued by the Commissioner; and
- (f) Loss of Affordable Housing. The mortgage lender's number and amount of loans that show an undue concentration and a systematic pattern of lending resulting in the loss of affordable housing units, including a pattern of early payment defaults.
- (3) Third-party Lending. No mortgage lender may include a loan origination or loan purchase for consideration if another mortgage lender or depository institution claims the same loan origination or purchase under 209 CMR 54.00 or the state or federal Community Reinvestment Act.
- (4) Lending Performance Rating. The Commissioner rates a mortgage lender's performance as provided in 209 CMR 54.61.

54.23: Service Test

- (1) Scope of Test. The service test evaluates a mortgage lender's record of helping to meet the mortgage credit needs in the Commonwealth by analyzing both the availability and effectiveness of a mortgage lender's systems for delivering mortgage loan products and the extent and innovativeness of its community development services. A mortgage lender that has made fewer than 100 home mortgage loans in the Commonwealth in the last calendar year shall not be subjected to the service test outlined in 209 CMR 54.23.
- (2) Area(s) Benefited. Community development services must benefit the Commonwealth or a broader regional area that includes the Commonwealth.

## 54.23: continued

- (3) Performance Criteria - Community Development Services. The Commissioner evaluates community development services pursuant to the following criteria:
- the extent to which the mortgage lender provides community development services; and
  - the innovativeness and responsiveness of community development services.
- (4) Performance Criteria - Mortgage Lending Services. The Commissioner evaluates the availability and effectiveness of a mortgage lender's systems for delivering mortgage lending services, pursuant to the following criteria:
- the availability and effectiveness of systems for delivering mortgage lending services (e.g., Internet, telephone solicitation, direct mail) in low- and moderate-income geographies and to low- and moderate-income individuals, including, to the extent applicable, the current distribution of the mortgage lender's branches among low-, moderate-, middle-, and upper-income geographies; and
  - the range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.
- (5) Service Performance Rating. The Commissioner rates a mortgage lender's service performance as provided in 209 CMR 54.61.

54.25: Assigned Ratings

- (1) Ratings in General. Subject to 209 CMR 54.25(2) and (3), the Commissioner assigns to a mortgage lender a rating of "outstanding," "high satisfactory," "satisfactory," "needs to improve," or "substantial noncompliance" based on the mortgage lender's performance under the lending and service tests.
- (2) Lending Test. No mortgage lender may receive an assigned overall rating of "satisfactory" or higher unless it receives a rating of at least "satisfactory" on the lending test.
- (3) Effect of Evidence of Discriminatory or Other Illegal Credit Practices. Evidence of discriminatory or other illegal credit practices adversely affects the Commissioner's evaluation of mortgage lender's performance. In determining the effect on the mortgage lender's assigned rating, the Commissioner considers the nature and extent of the evidence, the policies and procedures that the mortgage lender has in place to prevent discriminatory or other illegal credit practices, any corrective action that the mortgage lender has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, the mortgage lender's compliance with written policies and directives with regard to fair lending, and other relevant information.
- In connection with any type of lending activity described in 209 CMR 54.22, evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes but is not limited to:
- Discrimination against applicants on a prohibited basis in violation, for example of the Equal Credit Opportunity Act or Fair Housing Act or M.G.L. c. 151B;
  - Violations of M.G.L. c. 183C: *Predatory Home Loan Practices*;
  - Violations of § 5 of the Federal Trade Commission Act or M.G.L. c. 93A, including 940 CMR: *Office of the Attorney General*;
  - Violations of § 8 of the Real Estate Settlement Procedures Act; and
  - Violations of the provisions of M.G.L. c. 140D regarding a consumer's right of rescission or other violations of M.G.L. c. 140D and 209 CMR 32.00: *Truth in Lending*.

54.26: Effect of Record of Performance on Applications

- (1) Performance. Among other factors, the Commissioner takes into account the record of performance of each mortgage lender, under the mortgage lender community investment provisions of M.G.L. c. 255E, § 8 when submitting applications for the following:

## 54.26: continued

- (a) renewal of a license to conduct business in the Commonwealth by all mortgage lenders;
- (b) establishment or renewal of any branch by all mortgage lenders;
- (c) any merger with or acquisition of a mortgage lender or mortgage broker by a mortgage lender or any other proposed change in control of a mortgage lender; and
- (d) any other approval of the Commissioner, provided that there are no other countervailing financial safety and soundness or other policy considerations.

(2) Interested Parties. In considering a record of performance in applications described in 209 CMR 54.26(1), the Commissioner takes into account any views expressed by interested parties that are submitted.

(3) Denial, Deferral, or Conditional Approval of Application. A mortgage lender's record of performance may be the basis for denying, deferring, or conditioning approval of an application listed in 209 CMR 54.26(1).

54.42: Data Collection and Reporting

(1) As part of its examination, the Commissioner shall require a mortgage lender to collect and report for examination purposes additional data fields beyond what is required under HMDA. The mortgage lender shall be expected to test its data collection and reporting, including its HMDA data, as part of its routine internal controls to ensure compliance with all data reporting requirements as well as its own policies and procedures.

(2) Optional Data Collection and Maintenance. At its option, a mortgage lender may provide other information concerning its lending performance, including additional loan distribution data.

54.43: Content and Availability of Public Information

(1) Information Available to the Public. A mortgage lender shall maintain the following information to be made available to the public upon request:

- (a) all written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the mortgage lender's performance in helping to meet the mortgage credit needs of the Commonwealth, and any response to the comments by the mortgage lender, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the mortgage lender or publication of which would violate specific provisions of law;
- (b) a copy of the public section of the mortgage lender's most recent Performance Evaluation prepared by the Commissioner; and
- (c) a copy of the HMDA Disclosure Statement provided by the Federal Financial Institutions Examination Council pertaining to the mortgage lender for each of the prior two calendar years.

(2) Copies. Upon request, a mortgage lender shall provide within five business days of the request, copies, either on paper or in another form acceptable to the person making the request, of the information required under 209 CMR 54.43(1). The mortgage lender may charge a reasonable fee not to exceed the cost of copying and mailing, if applicable.

54.45: Publication of Planned Examination Schedule

The Commissioner publishes at least 30 days in advance of the beginning of each calendar quarter a list of mortgage lenders scheduled for examinations in that quarter.

54.46: Alternative Examination Procedures

The Commissioner shall establish alternative examination procedures for mortgage lenders which were rated "outstanding" or "high satisfactory" as of their most recent evaluation. The purpose of such alternative procedures shall be to reduce the cost to mortgage lenders. The alternative procedures shall in no way limit public participation.



## THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin  
Secretary of the Commonwealth**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: 231 CMR 2.00CHAPTER TITLE: General ProvisionsAGENCY: Board of Registration of ArchitectsSUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The purpose of 231 CMR 2.00 is to provide basic definitions governing the licensure and practice of architecture as well as basic procedures followed by the Board of Registration of Architects.

REGULATORY AUTHORITY: M.G.L. c. 13 §§ 44A to 44D, and c. 112, §§60A to 600AGENCY CONTACT: Charles Kilb PHONE: 617-727-2707ADDRESS: Div. of Prof. Licensure, 1000 Washington St., 7th Fl., Boston, MA 02118**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.***Local Government Advisory Counsel - July 13, 2016****Massachusetts Register Publication - September 9, 2016****Boston Globe and Springfield Republican - August 29, 2016**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: September 21, 2016

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

For the first and second year: No fiscal effect anticipated

For the first five years: No fiscal effect anticipated

No fiscal effect: No fiscal effect anticipated

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: November 9, 2016

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Architects, Definitions, Duties**

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:*

**231 CMR 2.00 (amend)**

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: Nov 10 2016

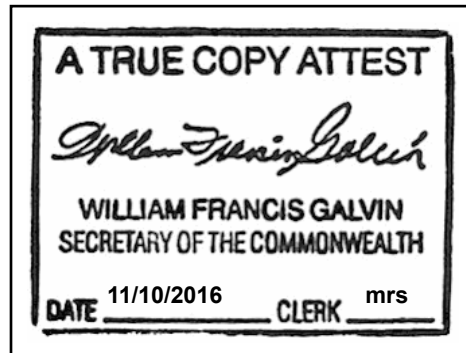
Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
1 & 2	1 & 2
5 - 8	5 - 8



231 CMR: BOARD OF REGISTRATION OF ARCHITECTS

Table of Contents

	<u>Page</u>
(231 CMR 1.00: RESERVED)	3
231 CMR 2.00: GENERAL PROVISIONS	5
Section 2.01: Purpose	5
Section 2.02: Definitions	5
Section 2.03: Duties of the Board	7
Section 2.04: Board Procedures	7
Section 2.05: Severability	8
231 CMR 3.00: PROCEDURES FOR APPLICATION, EXAMINATION, REGISTRATION AND RENEWAL	9
Section 3.01: Application Procedures	9
Section 3.02: Eligibility Requirements for Initial Registration by Examination	9
Section 3.03: Examination Procedures	10
Section 3.04: Registration Procedures	11
Section 3.05: Renewal of Registration	11
Section 3.06: Continuing Education Requirements	12
231 CMR 4.00: RULES OF PROFESSIONAL CONDUCT	17
Section 4.01: Rules of Professional Conduct	17
Section 4.02: Design and Use of Architect's Seal	19
Section 4.03: Restricted and Prohibited Uses of Professional Titles	19
Section 4.04: Practice in Corporations, Partnerships, Limited Liability Companies and Limited Liability Partnerships	20
Section 4.05: Grounds for Disciplinary Action	22

NON-TEXT PAGE



231 CMR 2.00: GENERAL PROVISIONS

Section

- 2.01: Purpose
- 2.02: Definitions
- 2.03: Duties of the Board
- 2.04: Board Procedures
- 2.05: Severability

2.01: Purpose

The purpose of 231 CMR is to establish the requirements and procedures for registration of architects, and prescribe standards of professional service and conduct to be followed by such registered architects, in the Commonwealth of Massachusetts.

2.02: Definitions

(1) The meanings of words as defined in M.G.L. c. 112, § 60A shall apply in 231 CMR unless otherwise required by the context.

(2) The following words, as used in M.G.L. c. 112, §§ 60A to 60O and 231 CMR, shall have the following meanings unless the context requires otherwise:

Architect Emeritus. An architect who has retired from the active practice of architecture in the commonwealth and has been issued a certificate of registration as an Architect *Emeritus* by the Board.

Architect Officer. An Officer of a Business Enterprise who is registered to practice architecture in the Commonwealth of Massachusetts.

A.R.E. The current Architectural Registration Examination as prepared by the National Council of Architectural Registration Boards (NCARB).

Board. The Massachusetts Board of Registration of Architects.

Business Enterprise. A corporation, partnership, limited liability company, or other form of enterprise. Business Enterprise shall not be deemed to include a solo practitioner, meaning a personally licensed architect conducting business in his or her real name or via a business certificate issued pursuant to M.G.L. c. 110, § 5.

CACB. The Canadian Architectural Certification Board.

Certificate of Registration. A license issued by the Board pursuant to M.G.L. c. 112, § 60C which authorizes an individual to engage in the practice of architecture in the Commonwealth of Massachusetts.

Continuing Education. Post-licensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety, and welfare.

Continuing Education Hour (CEH). One continuous instructional hour (50 to 60 minutes of contact) spent in Structured Educational Activities intended to increase or update the architect's knowledge and competence in Health, Safety, and Welfare Subjects. If the provider of the Structured Educational Activities prescribes a customary time for completion of such an Activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the architect's time for Continuing Education Hour purposes irrespective of actual time spent on the activity.

Design Professional. An individual who is licensed, registered or otherwise authorized to practice their respective design profession as defined by the statutory requirements of the professional registration laws of Massachusetts.

2.02: continued

Examination. The Architect Registration Examination (A.R.E.) as prepared by the National Council of Architectural Registration Boards (NCARB) and accepted by the Board.

Intern Development Program or IDP. A comprehensive program of training and practical experience in the practice of architecture administered by NCARB or an equivalent intern development program.

NAAB. The National Architectural Accrediting Board.

NCARB. The National Council of Architectural Registration Boards.

Officer. An individual who in the case of a corporation is a president, a treasurer, a secretary, a director, and such other officer as appointed by the board of directors in accordance with the bylaws; in the case of a limited liability company is a manager (or, in the case of a limited liability company in which management of the business is vested in one or more members, is a member); and in the case of a partnership, is an equity partner. Persons having equivalent authority and responsibility in another form of business enterprise shall also be deemed Officers.

Plans. Any drawings or graphic representations, any combination of drawings or graphic representations, or any reproduction of the same, whether in print media or electronic media, which are prepared for the purpose of illustrating proposed or intended designs for the construction, enlargement or alteration of any building or project.

Practice of Architecture. Performing or agreeing to perform or holding one's self out as able to perform professional services in connection with the design, construction, enlargement or alteration of a building including consultations, investigations, evaluations, preliminary studies, aesthetic design, the preparation of plans, specifications and contract documents, the co-ordination of structural and mechanical design and site development, administration of construction contracts and any other similar service or combination of services in connection with the design and construction of buildings, regardless of whether one or all of these services are being performed and regardless of whether these services are performed in person or as the directing head of an office or organization performing them; provided, that the practice of architecture shall not include the practice of engineering as defined in M.G.L. c. 112, but a registered architect may perform such engineering work as is incidental to the practice of architecture.

Registered Architect. Any person duly licensed as an architect by the Board and thereby authorized to engage in the practice of architecture in the Commonwealth of Massachusetts.

Registration Card. The evidence of initial and annual registration as an architect issued by the Board.

Registration Period. The one-year period between registration renewals which begins on September 1<sup>st</sup> of each calendar year and ends on August 31<sup>st</sup> of the next calendar year.

Responsible Control. That amount of control over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by a registered architect applying the required professional standard of care. Except as permitted by 231 CMR 4.01(5): *Professional Conduct*, review and correction of technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed professional knowledge of the content of such submissions throughout their preparation.

Specifications. Any written instructions, or reproduction of the same, describing any material or method of construction, enlargement or alteration of any building or project.

Technical Submissions. Plans, drawings, designs, specifications, studies and other technical reports prepared in the course of practicing architecture.

2.03: Duties of the Board

The duties of the Board shall include, but shall not be limited to, the following:

- (1) To establish the conditions and qualifications required for registration as an architect in the Commonwealth of Massachusetts, in accordance with M.G.L. c. 112, §§ 60A through 60O;
- (2) To determine the eligibility of applicants for registration;
- (3) To prescribe and conduct examinations for the registration of architects;
- (4) To evaluate and determine the eligibility of out-of-state and Canadian architects for registration as architects in the Commonwealth of Massachusetts by means of reciprocity in accordance with the procedures established by the National Council of Architectural Registration Boards;
- (5) To issue certificates of registration to all individuals who have met all of the applicable requirements for registration;
- (6) To establish and maintain records of the names and addresses of all registered architects in the Commonwealth of Massachusetts;
- (7) To make such rules and regulations as are necessary and proper for the performance of its duties;
- (8) To investigate complaints of possible violations of any of the provisions of M.G.L. c. 112, §§ 60A through 60O and/or 231 CMR, or of the accepted standards of practice for architects;
- (9) To take such disciplinary action as may be appropriate in the case of any violation of any of the provisions of M.G.L. c. 112, §§ 60A through 60O or 231 CMR 2.00 through 4.00; and
- (10) To perform such other duties and functions as may be necessary and proper for the administration and enforcement of M.G.L. c. 112, §§ 60A through 60O.

2.04: Board Procedures

- (1) Board Meetings. In addition to the two regular meetings prescribed by law, the Board shall hold additional meetings at the call of its Chairman or Secretary, who shall give due notice of the time and place of such meetings. Three members of the Board shall constitute a quorum for the transaction of business, but not less than three like votes shall constitute a majority necessary for official action by the Board. Executive sessions shall be conducted only for the purposes authorized by M.G.L. c. 30A, § 21, and shall be conducted in accordance with that statute.
- (2) Officers. Officers of the Board shall be elected and shall serve as prescribed by M.G.L. c. 13, § 44B.
- (3) Membership in NCARB. The Board shall maintain membership in the National Council of Architectural Registration Boards (NCARB). The Board shall maintain up-to-date information on the policies and procedures adopted from time to time by NCARB, and shall cooperate with NCARB in establishing and maintaining uniform standards of professional qualification throughout the United States and Canada.
- (4) Membership in NECARB. The Board shall maintain membership in the New England Conference of Architectural Registration Boards (NECARB).
- (5) Roster. The Board shall establish and maintain an annual roster of registered architects in the Commonwealth of Massachusetts, which shall show the name, registration number and last known mailing address of each such registered architect.

2.05: Severability

If any provision of 231 CMR, or the application of any such provision to any person or circumstances, is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of 231 CMR which can be given effect without the invalid provision or application. To this end, the provisions of 231 CMR are declared to be severable.

REGULATORY AUTHORITY

231 CMR 2.00: M.G.L. c. 13, §§ 44A-44D; c. 112, §§ 60A through 60O.

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**  
Secretary of the Commonwealth**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **231 CMR 3.00**CHAPTER TITLE: **Procedures for Application, Examination, Registration, and Renewal**AGENCY: **Board of Registration of Architects**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.***The purpose of 231 CMR 3.00 is to provide the basic educational prerequisites to becoming an architect, examination procedures, and continuing education requirements for registered architects.**REGULATORY AUTHORITY: **M.G.L. c. 13 §§ 44A to 44D, and c. 112, §§60A to 60O**AGENCY CONTACT: **Charles Kilb** PHONE: **617-727-2707**ADDRESS: **Div. of Prof. Licensure, 1000 Washington St., 7th Fl., Boston, MA 02118****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.***Local Government Advisory Counsel - July 13, 2016****Massachusetts Register Publication - September 9, 2016****Boston Globe and Springfield Republican - August 29, 2016**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: **September 21, 2016**

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

For the first and second year: No fiscal effect anticipated

For the first five years: No fiscal effect anticipated

No fiscal effect: No fiscal effect anticipated

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: November 9, 2016

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Applications, Architects, Continuing Education, Examination, Renewal**

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:*

**231 CMR 3.00 (amend)**

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: Nov 10 2016

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

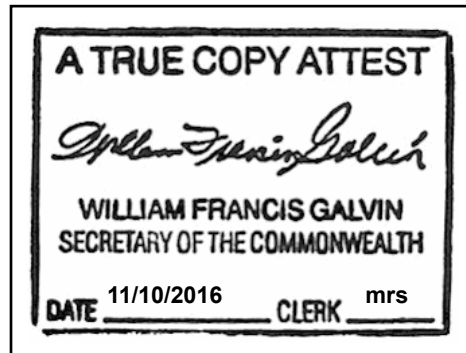
EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* \_\_\_\_\_ *Insert these pages:* \_\_\_\_\_

9 - 16

9 - 16



231 CMR 3.00: PROCEDURES FOR APPLICATION, EXAMINATION, REGISTRATION AND RENEWAL

Section

- 3.01: Application Procedures
- 3.02: Eligibility Requirements for Initial Registration by Examination
- 3.03: Examination Procedures
- 3.04: Registration Procedures
- 3.05: Renewal of Registration
- 3.06: Continuing Education Requirements

3.01: Application Procedures

(1) Filing of Applications. Applications for registration as an architect shall be made on forms approved by the Board. Application forms shall be filled in completely and shall be accompanied by a photograph and a check or money order in the amount of the fee established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B. Supplemental applications shall be completed in full and shall include copies of all information which accompanied the original application.

(2) Board Action on Applications. When an application is complete, fully processed and ready for Board action, it shall be reviewed by the Board. The applicant will be notified of the Board's decision in writing.

(3) Interviews. The Board may, at its discretion, conduct informal interviews with an applicant, or with any person supplying information in connection with any applicant's application, for the purpose of obtaining additional information or clarifying any ambiguities in any information concerning an applicant or registrant.

(4) In *lieu* of accepting applications directly, the Board may require applicants to submit some or all required materials to NCARB pursuant to a delegation from the Board. NCARB shall thereafter notify the Board when an applicant is eligible for registration pursuant to the requirements of 231 CMR 3.02 and 3.03 have been met.

3.02: Eligibility Requirements for Initial Registration by Examination

(1) Eligibility for initial registration by examination shall be determined by the Board after review and verification of information contained in the application.

(2) To be eligible for initial registration by examination, an applicant shall:

- (a) Submit written proof satisfactory to the Board that he or she is at least 21 years of age;
- (b) Submit satisfactory written proof, from individuals having direct knowledge of the applicant's qualifications and suitability to become an architect, that he or she is of good moral character;
- (c) Submit written proof satisfactory to the Board that he or she holds a professional degree in architecture from a degree program that has been accredited by NAAB or CACB, or has otherwise satisfied educational requirements approved by the Board;

For purposes of 231 CMR 3.02(2)(c), an NAAB accredited degree is a professional degree in architecture earned in a degree program accredited by the National Architectural Accrediting Board not later than two years after termination of enrollment. A CACB-accredited degree is a professional degree in architecture earned in a degree program accredited by the Canadian Architectural Certification Board not later than two years after termination of enrollment.

- (d) Submit written proof satisfactory to the Board that he or she has successfully completed the Intern Development Program (IDP); and
- (e) Submit written proof satisfactory to the Board that he or she has successfully passed the A.R.E. in accordance with the standards approved by the Board.

3.03: Examination Procedures

- (1) The examination for applicants who are eligible for admission and registration shall be the current Architectural Registration Examination (A.R.E.), as prepared and graded by the National Council of Architectural Registration Boards (NCARB) and as accepted and administered on behalf of the Board.
- (2) Applicants shall take the examination subject to the following conditions:
  - (a) Grading of the examination shall be in accordance with the national grading procedures and passing score standards which are established by NCARB, and which are approved by the Board;
  - (b) No information pertaining to the subject matter of the examination shall be given to any applicant in advance except as specifically authorized by NCARB;
  - (c) Transfer credits for divisions of the examination passed prior to the currently-administered Architectural Registration Examination shall be in accordance with policies established by the Board, which may be those which are recommended by NCARB. Information as to transfer credits shall be provided, when appropriate, to applicants as a supplement to the application forms;
  - (d) An applicant may take the A.R.E., or any portion thereof, at any NCARB-approved test center, whether located in or outside of Massachusetts; and
  - (e) An applicant who has met the education requirements as set forth in 231 CMR 3.02(2)(c), and has enrolled in the NCARB Intern Development Program by establishing an NCARB Record, shall be eligible for admission to the A.R.E.
- (3) The fees for the A.R.E. which are paid to the Board, if any, shall be as approved by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B. Fees shall not be refunded under any circumstances.
- (4) A record shall be maintained by NCARB on behalf of the Board for each applicant, showing the dates on which that applicant took each division of the A.R.E., the number of divisions of the A.R.E. completed by that applicant, and the number of divisions not completed to date.
- (5) An applicant shall not be permitted to review or appeal any division of the A.R.E. which he or she fails.
- (6) Upon proper application, the Board may, at its discretion, accept passing grades achieved by an applicant on the various divisions of the A.R.E., under the auspices of any other jurisdiction and the grades are attested to by NCARB or by any NCARB Member Board in accordance with NCARB recommended grading procedures and passing score standards. Such an applicant may then take the remaining divisions of the A.R.E. If the applicant completes those remaining divisions successfully, and submits proof that he or she meets the eligibility requirements for registration, as set forth in 231 CMR 3.02, he or she may then be registered by the Board.
- (7) Upon written request by an applicant, the Board shall cause to be forwarded the grades achieved by that applicant in the various divisions of the A.R.E. in Massachusetts to other NCARB Member Boards or duly constituted architectural registration boards in Canada for their use in evaluating that applicant and determining whether he or she may be registered in their jurisdiction. An applicant requesting a transfer of such grades to another jurisdiction shall pay a fee for this service to be established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B. A transfer of an applicant's grades to another jurisdiction shall terminate that applicant's pending application for registration in Massachusetts.
- (8) Reciprocal Registration. An applicant who holds a current and valid certification issued by NCARB and who submits satisfactory evidence of such certification to the Board shall be registered without having to comply with the requirements of 231 CMR 3.02 or 3.03 if:
  - (a) The applicant also submits satisfactory evidence that he or she holds a current and valid registration issued by any other NCARB Member Board; and
  - (b) The applicant files an application with the Board, on a form prescribed by the Board, containing such additional information, satisfactory to the Board, as the Board considers pertinent, and pays the applicable fee established by the Secretary of Administration and Finance pursuant to M.G.L. c. 7, § 3B and 801 CMR 4:00: *Rates*.



3.04: Registration Procedures

(1) If, after review of an applicant's application and examination results, the Board determines that the applicant has the qualifications required to practice architecture in the Commonwealth of Massachusetts, the Board shall issue a certificate of registration to that applicant. The certificate of registration shall have a seal attached, containing the name of the person to whom it is issued and his or her registration number, and shall be signed by duly authorized representative(s) of the Board. This certificate of registration shall constitute *prima facie* evidence that the person named in that certificate is authorized to engage in the practice of architecture in Massachusetts.

(2) At the time of initial registration, the Board shall also issue a registration card to the registrant, which shall contain the registrant's name and address, email address, his or her registration number, and such other information as the Board may prescribe. This registration card shall also constitute *prima facie* evidence that the person named on the card is lawfully authorized to practice architecture in Massachusetts.

(3) An individual's registration and right to practice shall commence upon the issuance of a registration card and registration number to him or her. Unless that registration is revoked, suspended or cancelled, it shall remain in effect until the expiration date shown on the certificate. If the registrant submits an application for renewal of that registration pursuant to 231 CMR 3.05, together with payment of the annual registration renewal fee prescribed by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B, prior to the expiration date shown on the certificate, the registrant's registration shall continue in effect until the Board actually issues his or her annual renewal registration. Failure to pay the annual registration renewal fee shall constitute sufficient grounds for refusal of the Board to renew the individual's registration.

(4) After initial registration, the Board shall enter the registrant's registration number, the date of his or her initial registration, and the basis upon which he or she was registered, into a permanent file on the registrant.

(5) Registration as an architect shall not be transferable, and the authorization to practice architecture conveyed to an individual by that registration shall not extend to any other individual or individuals.

(6) In the event of revocation, cancellation, suspension or annulment of an individual's registration, that individual shall immediately return his or her certificate of registration and annual registration card, and his or her seal shall be impounded. A person whose certificate of registration has been revoked, suspended or annulled shall be informed of his rights under the provisions of M.G.L. c. 30A at the same time that he or she is informed of the Board's action on his or her certificate.

(7) If a registered architect dies, his or her registration shall expire on the date of his or her death, and no further use of his or her professional stamp or seal shall be made by any person after that date.

3.05: Renewal of Registration

(1) An individual's certificate of registration as an architect shall expire on August 31 of each calendar year. However, if an architect dies, his or her registration shall expire on the date of his or her death, and no further use of his or her professional stamp or seal shall be made after that date.

(2) Every registered architect shall apply for renewal of his or her certificate of registration on or before August 31<sup>st</sup> of each calendar year. Said application shall be accompanied by payment of the registration renewal fee prescribed by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B, and the applicant shall attest, under the pains and penalties of perjury, that he or she is in compliance with the continuing education requirements of 231 CMR 3.06.

3.05: continued

- (3) If a registered architect allows his/her registration to expire, but attempts to renew it within 60 days after the date of its expiration, said registrant may obtain renewal of his or her registration by submitting the renewal application to the Board, together with the required evidence of continuing education as required by 231 CMR 3.06, the appropriate fee for registration renewal and any late fee as may be established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B.
- (4) If a registered architect allows his or her registration to expire and does not attempt to renew it within 60 days after the date of its expiration, the registrant shall, if thereafter seeking registration, be treated as though he or she were applying for initial registration and may be required to take and pass the examination for initial registration and pay all applicable fees.
- (5) The Board may suspend, revoke, or refuse to renew the registration of an architect who fails to comply with the continuing education requirements of 231 CMR 3.06.
- (6) A registered architect must provide the following as a condition of renewal:
- (a) A certification to the Board that he or she has disclosed any criminal convictions or other adverse actions as required by 231 CMR 4.01(4): *Compliance With Laws*;
  - (b) A certification to the Board that he or she understands that an Architect Officer must execute all architectural contracts and exercise professional and supervisory control over all architectural services provided by Business Enterprises;
  - (c) The name and contact information for every Business Enterprise with which he or she practices;
  - (d) An email address; and
  - (e) Such other information as the Board may require.

3.06: Continuing Education Requirements

- (1) General Requirement. Every registered architect shall complete a minimum of 12 continuing education hours each calendar year in continuing education courses, programs or activities which meet the applicable requirements of 231 CMR 3.06(3) through (6) as a condition for renewal of his or her registration.
- (2) Exemption from Requirement. A registered architect may be exempted from the continuing education requirements of 231 CMR 3.06(1) if:
- (a) He or she submits written proof satisfactory to the Board that he or she was unable to complete the continuing education required by 231 CMR 3.06(1) because he or she was called to active duty in the armed forces of the United States for a substantial period of time;
  - (b) He or she submits written proof satisfactory to the Board that he or she was ill or disabled for a substantial period of time and that the functional limitations imposed by that illness or disability prevented him or her from practicing and thus could not complete the continuing education required by 231 CMR 3.06(1);
  - (c) He or she submits written proof satisfactory to the Board that he or she was unable to complete the continuing education required by 231 CMR 3.06(1) because of an unforeseen emergency, extreme hardship or other similar circumstances deemed sufficient by the Board;
  - (d) He or she has been issued a certificate of registration by the Board as an Architect Emeritus and meets the requirements of M.G.L. c. 112, § 60N; or
  - (e) He or she submits written proof satisfactory to the Board that:
    1. He or she is duly registered as an architect by a duly constituted architectural registration board in another state, province or territory of the United States or Canada in which continuing education is required for renewal of his or her registration;
    2. He or she has completed the continuing education required for the most recent period of renewal of his or her registration by the laws or regulations of the architectural registration board in that state, province or territory; and
    3. The continuing education requirements of the architectural registration board in that state, province or territory are, in the opinion of the Board, substantially equivalent to the requirements of 231 CMR 3.06.

## 3.06: continued

(3) Program Content Requirements.

(a) Continuing Education Hours. 12 continuing education hours must be completed in Health, Safety, and Welfare Subjects acquired in structured educational activities. Continuing education hours may be acquired at any location. Excess continuing education hours may not be credited to a future calendar year. For purposes of 231 CMR 3.06(3), the following minimum requirements must be met:

1. Structured Educational Activities. An educational activity shall be considered a structured educational activity only if at least 75% of an activity's content and instructional time is devoted to Health, Safety, and Welfare Subjects related to the practice of architecture, including courses of study or other activities under the areas identified as Health, Safety and Welfare Subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.

2. Health, Safety, and Welfare Subjects are technical and professional subjects that the Board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment. These areas shall include, but not be limited to, the following:

- a. Building Systems. Structural, Mechanical, Electrical, Plumbing, Communications, Security, Fire Protection;
- b. Construction Contract Administration. Contracts, Bidding, Contract Negotiations;
- c. Construction Documents. Drawings, Specifications, Delivery Methods;
- d. Design. Urban Planning, Master Planning, Building Design, Site Design, Interiors, Safety and Security Measures;
- e. Environmental. Energy Efficiency, Sustainability, Natural Resources, Natural Hazards, Hazardous Materials, Weatherproofing, Insulation;
- f. Legal. Laws, Codes, Zoning, Regulations, Standards, Life Safety, Accessibility, Ethics, Insurance to protect Owners and Public;
- g. Materials and Methods. Construction Systems, Products, Finishes, Furnishings, Equipment;
- h. Occupant Comfort. Air Quality, Lighting, Acoustics, Ergonomic;
- i. Pre-design. Land Use Analysis, Programming, Site Selection, Site and Soils Analysis, Surveying;
- j. Preservation. Historic, Reuse, Adaptation.

(b) A continuing education course, program or activity may be used to satisfy the continuing education requirements of 231 CMR 3.06(1) only if it increases an architect's knowledge or understanding of technical or professional subjects and contributes directly to improving his or her professional knowledge and competence in the practice of architecture.

(4) Methods of Earning Continuing Education Credit. A registered architect may earn continuing education contact hours for any of the following types of continuing education activities:

(a) Attending a graduate or undergraduate level course or seminar at an educational institution for which academic credit is granted by that institution, as long as:

1. The course or seminar in question meets the program content requirements of 231 CMR 3.06(3); and
2. The educational institution in question is accredited by the United States Department of Education, accredited by a regional accrediting body recognized by the United States Department of Education, or is otherwise approved by the Board;

(b) Attending a course, program, seminar, conference, workshop or similar educational event for which academic credit is not granted, as long as:

1. The educational event in question meets the program content requirements of 231 CMR 3.06(3);
2. The educational event in question is presented, sponsored or approved by an educational institution which meets the requirements of 231 CMR 3.06(4), or by a professional organization recognized by the Board.

(c) Completing a monograph approved by the Board (such as a monograph from the NCARB monograph series) and achieving a passing score on a written instrument which tests the registered architect on his or her comprehension and understanding of the content of that monograph;

3.06: continued

- (5) Amount of Credit Earned. The amount of continuing education contact hours to be granted shall be determined as follows:
- (a) A registered architect who attends a graduate or undergraduate level course or seminar at an educational institution which meets the requirements of 231 CMR 3.06(4) shall earn 12 continuing education hours for each hour of academic credit received;
  - (b) A registered architect who attends a course, seminar, program, conference, workshop or similar continuing education event which meets the requirements of 231 CMR 3.06(4) shall earn a number of continuing education contact hours equal to the actual number of hours of instruction actually provided; and
  - (c) A registered architect who completes a monograph approved by the Board which meets the requirements of 231 CMR 3.06(4) shall earn the number of continuing education contact hours specified in that monograph.
- (6) Completion of Continuing Education Through Distance Learning. A registered architect may complete continuing education required for renewal of his or her registration through the use of a continuing education course or program, as long as it is approved by the Board and:
- (a) The continuing education course or program in question meets all applicable requirements of 231 CMR 3.06(4);
  - (b) The audio tape or videotape version of the continuing education course or program in question is accompanied by a written instrument which tests the registered architect on his or her comprehension and understanding of the content of that course or program; and
  - (c) The registered architect receives a certificate or other written evidence of his or her completion of that course or program only if he or she demonstrates satisfactory comprehension or understanding of the content of that course or program to the provider or sponsor of that course or program.
- (7) Documentation of reported continuing education hours shall be maintained by the architect for six years from the date of award.
- (8) Each registered architect, as part of his or her application for renewal of his or her registration, shall attest under the pains and penalties of perjury that he or she has completed the number of continuing education hours required by 231 CMR 3.06(1), or that he or she is exempt from the continuing education requirement pursuant to 231 CMR 3.06(2). Such attestation shall be made on a form prescribed and provided by the Board.
- (9) Upon written request by the Board, a registered architect shall furnish to the Board such information as the Board may reasonably require about any or all continuing education courses, programs or activities completed by said architect. Failure or refusal to provide timely proof of completion of the number of continuing education hours required by 231 CMR 3.06 upon the request of the Board shall constitute grounds for disciplinary action by the Board, including but not limited to refusal to renew the registration of said architect.
- (10) If the Board disallows any continuing education hours, the architect shall have 60 days from notice of such disallowance to either provide further evidence of having completed the continuing education hours disallowed or to remedy the disallowance by completing the required number of continuing education hours (such continuing education hours shall not be used for any other calendar year).
- (11) Falsification of reports of continuing education courses, seminars, workshops and completed hours, or misrepresentation of any material fact concerning the completion of such continuing education hours, by any registered architect shall constitute grounds for disciplinary action by the Board.

231 CMR: BOARD OF REGISTRATION OF ARCHITECTS

3.06: continued

(12) In the event that an application for approval of a specific continuing education course or program, or for approval of an individual continuing education activity, is denied by the Board, the applicant shall have the right, upon written request, to have the Board's decision reviewed and reconsidered. As part of said review process, the applicant may appear personally before the Board and shall have the right to present any additional information which may reasonably have a bearing on the issue of whether the application for approval should be approved.

REGULATORY AUTHORITY

231 CMR 3.00: M.G.L. c. 13, § 44; c. 112, §§ 60A through 60-O.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS  
William Francis Galvin  
Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*

---

CHAPTER NUMBER: 314 CMR 5.00

CHAPTER TITLE: Ground Water Discharge Permit Program

AGENCY: Division of Water Pollution Control

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*  
**Establishes the program whereby discharges of pollutants to the ground waters of the Commonwealth are regulated by MassDEP pursuant to the Massachusetts Clean Water Act, M.G.L. c. 21, §§ 26 through 53. Through this regulation MassDEP controls the discharge of pollutants to ground waters to assure that they are protected for their actual and potential use as a source of potable water, and that surface waters are protected for their existing and designated uses.**

REGULATORY AUTHORITY: M.G.L. c. 21, §§ 26 - 53

AGENCY CONTACT: Marybeth Chubb PHONE: 617 556-1029

ADDRESS: One Winter Street, 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.*

**MA Dept. Public Health; Dept. of Housing and Community Development; MA Municipal Association; MA Historical Commission; MA Office of the Secretary of State; MA Dept. Public Utilities; Executive Office of Energy and Environmental Affairs; Division of Local Mandates; MA Energy Facilities Siting Board;**

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: 10/3/16

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: \_\_\_\_\_

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: 11/17/16

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:*

**The revisions include new exemptions from permitting for certain discharges that are adequately regulated by another program or agency; a streamlined permit process for administrative renewals; consolidated financial assurance mechanisms; required elec**

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: Nov 18 2016

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
1 - 4 161 - 198	1 - 4 161 - 198.2

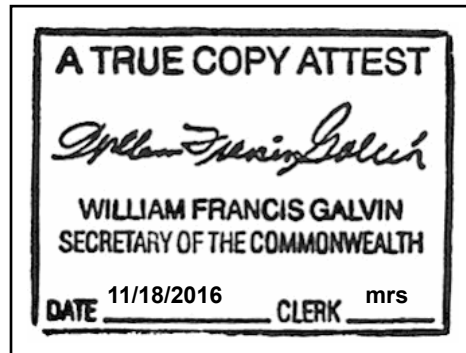




Table of Contents

	<u>Page</u>
(314 CMR 1.00: RESERVED)	5
314 CMR 2.00: PERMIT PROCEDURES	7
Section 2.01: Purpose and Authority	7
Section 2.02: Definitions	7
Section 2.03: Application for a Permit or General Permit Coverage	8
Section 2.04: Tentative Determination and Preparation of Draft Permits	8
Section 2.05: Preparation of Fact Sheet or Statement of Basis for Permit	9
Section 2.06: Public Notice and Comment	10
Section 2.07: Public Hearings	13
Section 2.08: Issuance and Effective Date of Permit, General Permit Coverage, or Other Determination and Requests for Adjudicatory Hearings	13
Section 2.09: Response to Comments	14
Section 2.10: Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage	14.1
Section 2.11: Confidentiality of Information	14.1
Section 2.12: Applications, Fees and Inspection Information	14.2
Section 2.13: Computation of Time	14.2
Section 2.14: Violations	14.3
314 CMR 3.00: SURFACE WATER DISCHARGE PERMIT PROGRAM	15
Section 3.01: Purpose and Authority	15
Section 3.02: Definitions	15
Section 3.03: Discharges Requiring a Permit	19
Section 3.04: Other Activities Requiring a Permit	20
Section 3.05: Exemptions	21
Section 3.06: General Permits	22
Section 3.07: Restrictions on the Issuance of a Permit	28
Section 3.08: Effect of a Permit	29
Section 3.09: Continuation of an Expiring Permit	29
Section 3.10: Application for a Permit	29
Section 3.11: Permit Conditions	30
Section 3.12: Variances for Thermal Discharges	34
Section 3.13: Modification, Suspension, Revocation and Renewal of Permits	36
Section 3.14: Transfer of Permits	37
Section 3.15: Signatories to Permit Applications and Reports	37
Section 3.16: Appendix A - Criteria for Determining a Concentrated Aquatic Animal Production Facility	38
Section 3.17: Appendix B - Toxic Pollutants	38
Section 3.19: Standard Permit Conditions	40
314 CMR 4.00: MASSACHUSETTS SURFACE WATER QUALITY STANDARDS	65
Section 4.01: General Provisions	65
Section 4.02: Definitions	65
Section 4.03: Application of Standards	68
Section 4.04: Antidegradation Provisions	71
Section 4.05: Classes and Criteria	72
Section 4.06: Basin Classification and Maps	80

Table of Contents

	<u>Page</u>
314 CMR 5.00: GROUND WATER DISCHARGE PERMIT PROGRAM	161
Section 5.01: Purpose, Authority and Scope	161
Section 5.02: Definitions	161
Section 5.03: Discharges Requiring a Permit	168
Section 5.04: Other Activities Requiring a Permit	169
Section 5.05: Activities Not Requiring a Permit	169
Section 5.06: Restrictions on the Issuance of a Permit	172
Section 5.07: Effect of a Permit	173
Section 5.08: Continuation of an Expiring Permit	173
Section 5.09: Duty to Submit Hydrogeological Evaluation	173
Section 5.09A: Application for a Permit	174
Section 5.10: Permit Conditions	176
Section 5.11: Ground Water Standards	185
Section 5.12: Modification, Suspension, Revocation, Renewal, and Transfer of Permits	186
Section 5.13: General Permits	189
Section 5.14: Signatories to Permit Applications, Notices of Intent, and Reports	192
Section 5.15: Requirements for Privately Owned Wastewater Treatment Facilities	193
Section 5.16: General Conditions	195
Section 5.17: Orders, Violations and Penalties	198.2
(314 CMR 6.00: RESERVED)	199
314 CMR 7.00: SEWER SYSTEM EXTENSION AND CONNECTION PERMIT PROGRAM	211
Section 7.01: Purpose and Authority	211
Section 7.02: Definitions	211
Section 7.03: Activities Requiring a Permit	214
Section 7.05: Activities Not Requiring a Permit	214
Section 7.06: Prohibitions	216
Section 7.07: Effect of a Permit	216
Section 7.08: Continuation of an Expiring Permit	216
Section 7.09: Application for a Permit	217
Section 7.10: Permit Conditions	217
Section 7.12: Modification, Suspension, Revocation and Renewal of Permits	218
Section 7.13: Transfer of Permits	219
Section 7.14: Signatories to Permit Applications and Reports	219
Section 7.17: Standard Industrial Classification (SIC) Codes	219

Table of Contents

	<u>Page</u>
314 CMR 8.00: SUPPLEMENTAL REQUIREMENTS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES	227
Section 8.01: Purpose and Authority	227
Section 8.02: Definitions	227
Section 8.03: RCRA Facilities Subject to 314 CMR 8.00	229
Section 8.04: Additional Standards and Requirements for RCRA Facilities	231
Section 8.05: Standards for Wastewater Treatment Units Permitted under 314 CMR 3.00: <i>Surface Water Discharge Permit Program</i>	232
Section 8.06: Standards for all other RCRA Facilities	232
Section 8.07: Supplemental Application and Permit Requirements	233
Section 8.08: Interim Status Standards for RCRA Facilities	233
314 CMR 9.00: 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED OR FILL MATERIAL, DREDGING, AND DREDGED MATERIAL DISPOSAL IN WATERS OF THE UNITED STATES WITHIN THE COMMONWEALTH	237
Section 9.01: Authority, Jurisdiction, and Purpose	237
Section 9.02: Definitions	238
Section 9.03: Activities Not Requiring an Application	244
Section 9.04: Activities Requiring an Application	245
Section 9.05: Submission of an Application	247
Section 9.06: Criteria for the Evaluation of Applications for Discharge of Dredged or Fill Material	248
Section 9.07: Criteria for the Evaluation of Applications for Dredging and Dredged Material Management	250.3
Section 9.08: Variance	250.18
Section 9.09: 401 Water Quality Certification	250.19
Section 9.10: Appeals	250.20
Section 9.11: Enforcement	250.21
Section 9.12: Authorization of Emergency Action	250.21
Section 9.13: Effective Date, Transition Rule, and Severability	250.22
(314 CMR 10.00 Through 11.00: RESERVED)	251
314 CMR 12.00: OPERATION AND MAINTENANCE AND PRETREATMENT STANDARDS FOR WASTEWATER TREATMENT WORKS AND INDIRECT DISCHARGERS	253
Section 12.01: Purpose	253
Section 12.02: Definitions	253
Section 12.03: Operations of Treatment Works and Sewer Systems	257
Section 12.04: Maintenance of Treatment Works and Sewer Systems	259
Section 12.05: Safety Program	262
Section 12.06: Sampling and Analysis	263
Section 12.07: Recordkeeping and Reporting	263
Section 12.08: Prohibitions and Standards for Discharge to POTWs	264
Section 12.09: POTW Pretreatment Programs	264.2
Section 12.10: Exemptions	263.3
Section 12.11: Requirements for Industrial Wastewater Pretreatment Systems	264.3
Section 12.12: Enforcement	264.5
(314 CMR 13.00 THROUGH 17.00: RESERVED)	265

Table of Contents

	<u>Page</u>
314 CMR 18.00: INDUSTRIAL WASTEWATER HOLDING TANK AND CONTAINER CONSTRUCTION, OPERATION, AND RECORD KEEPING REQUIREMENTS	271
Section 18.01: Purpose	271
Section 18.02: Applicability	271
Section 18.03: Exemptions	271
Section 18.04: Definitions	272
Section 18.05: Partial and General Prohibitions for Industrial Wastewater Holding Tanks, Mobile Tanks and Containers	275
Section 18.06: Design and Operation Requirements for Containers	275
Section 18.07: Design and Operation Requirements for Above-ground Holding Tanks	276
Section 18.08: Design and Operation Requirements for In-ground Holding Tanks	277
Section 18.09: Record Keeping	278
Section 18.10: Certification	278
Section 18.11: Holding Tank Decommissioning Requirements	279
Section 18.12: Transportation	279
314 CMR 19.00: OIL SPILL PREVENTION AND RESPONSE	281
Section 19.01: Purpose and Authority	281
Section 19.02: Definitions	281
Section 19.03: Tugboat Escort Requirements	283
Section 19.04: Transit Notifications	284
Section 19.05: Dispatching a State Pilot	284.1
Section 19.06: State-provided Tugboat Escort Requirements	284.1
Section 19.07: Reporting Requirements	284.3
314 CMR 20.00: RECLAIMED WATER PERMIT PROGRAM AND STANDARDS	285
Section 20.01: Purpose and Authority	285
Section 20.02: Definitions	285
Section 20.03: Permit Requirements for Reclaimed Water Systems	289
Section 20.04: Public Notice Requirements for Reclaimed Water	291
Section 20.05: Additional Requirements for Reclaimed Water Systems	291
Section 20.06: Requirements for the Use, Sale, Distribution or Offering for Use, Sale or Distribution of Reclaimed Water	292
Section 20.07: Activities Not Requiring a Permit Under 314 CMR 20.00, 314 CMR 3.00 or 314 CMR 5.00	292
Section 20.08: Effect of a Permit	293
Section 20.09: Restrictions on the Issuance of a Permit	293
Section 20.10: Application for a Permit for a Reclaimed Water System	293
Section 20.11: Required Submissions for Reclaimed Water Permit Applications	294
Section 20.12: The Engineering Report	294
Section 20.13: Requirements for Use of Reclaimed Water for Irrigation	295
Section 20.14: Requirements for Privately Owned Reclaimed Water Systems	296
Section 20.15: Signatories to Permit Applications, Reports and other Submittals	297
Section 20.16: Continuation of an Expiring Permit that was Issued by the Department Pursuant to 314 CMR 20.00	298
Section 20.17: Special Permit Conditions	302
Section 20.18: General Permit Conditions	305
Section 20.19: Modification, Transfer, Suspension, Revocation and Renewal of Reclaimed Water System Permits Issued by the Department Pursuant to 314 CMR 20.00	305
Section 20.20: Appendix A	307

314 CMR 5.00: GROUND WATER DISCHARGE PERMIT PROGRAM

Section

- 5.01: Purpose, Authority and Scope
- 5.02: Definitions
- 5.03: Discharges Requiring a Permit
- 5.04: Other Activities Requiring a Permit
- 5.05: Activities Not Requiring a Permit
- 5.06: Restrictions on the Issuance of a Permit
- 5.07: Effect of a Permit
- 5.08: Continuation of an Expiring Permit
- 5.09: Duty to Submit Hydrogeological Evaluation
- 5.09A: Application for a Permit
- 5.10: Permit Conditions
- 5.11: Ground Water Standards
- 5.12: Modification, Suspension, Revocation, Renewal, and Transfer of Permits
- 5.13: General Permits
- 5.14: Signatories to Permit Applications, Notices of Intent, and Reports
- 5.15: Requirements for Privately Owned Wastewater Treatment Facilities
- 5.16: General Conditions Applicable to All Permits
- 5.17: Orders, Violations and Penalties

5.01: Purpose, Authority and Scope

314 CMR 5.00 establishes the program to regulate discharges of pollutants to the ground waters of the Commonwealth in accordance with M.G.L. c. 21, §§ 27 and 43. In addition to regulating these discharges, M.G.L. c. 21, §§ 26 through 53 directs that the Department to regulate the outlets for these discharges and any associated treatment works. The requirements of 314 CMR 5.00 are designed to ensure that ground waters of the Commonwealth are protected for their actual and potential use as a source of potable water and surface waters are protected for their existing and designated uses and that 314 CMR 4.00: *Massachusetts Surface Water Quality Standards* are attained and maintained.

5.02: Definitions

As used in 314 CMR 5.00, the following words have the following meaning:

Agricultural Byproducts - secondary organic materials produced from the raising of animals and crops as part of agronomic, horticultural, silvicultural, or livestock operations including, but not limited to, animal manure, liquid manure, bedding materials, plant stalks, leaves, and other vegetative matter and byproducts from the on-farm processing of fruits, vegetables, dairy and other food products.

Agricultural Land - land used for agriculture or farming as defined in M.G.L. c. 128, § 1A.

Agricultural Operation - a business engaged in agriculture or farming as defined in M.G.L. c. 128, § 1A. An Agricultural Operation shall include all operations, whether conducted on one or more parcels of land within the Commonwealth, which are owned or operated by the same Person.

Agricultural Process Water - process water that is generated as a byproduct from Agricultural Operation activities and processing of agricultural products. Agricultural Process Water includes, but is not limited to, water generated as a byproduct in a milking parlor, milkhouse, or bottling operation.

Aquifer - a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

5.02: continued

Best Management Practices or BMP - schedules of activities, prohibitions of practices, maintenance procedures, and other management practices designed to prevent or reduce the discharge of pollutants to waters of the Commonwealth. BMPs include treatment requirements, operating procedures, structures, devices and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

Biological Monitoring - any test which includes the use of aquatic algal, bacterial, invertebrate, or vertebrate species to measure acute or chronic toxicity, and any biological or chemical measure of bioaccumulation.

Boiler Blowdown - wastewater that results from the periodic or continuous bleed off of water from a boiler during operation for the purpose of eliminating excess solids from the boiler water. This wastewater may include steam condensate from boiler operations. Boiler Blowdown does not include the wastewater and waste alkaline cleaning solution generated by the use of acidic cleaning solutions to remove scale or other contaminants from a boiler or the hot alkaline cleaning solution used to remove oil and grease, protective coatings or soil from a new boiler operation.

Bypass - the diversion of wastes from any portion of a treatment works.

Closed-loop Ground Source Heat Pump (GSHP) Well - a ground source heat pump well that uses a closed-loop fluid system to prevent the discharge or escape of its fluid into the subsurface.

Commissioner - the Commissioner of the Massachusetts Department of Environmental Protection.

Contact Cooling Water - water used to reduce temperature which comes into contact with a raw material, intermediate product, waste product (other than heat), or finished product.

Continuous Monitoring - monitoring and recording that occurs without interruption through the use of automated instrumentation.

Department - the Massachusetts Department of Environmental Protection.

Discharge or Discharge of Pollutants - any addition of any pollutant or combination of pollutants to waters of the Commonwealth from any source.

Direct Exchange GSHP (DX) Well - a ground source heat pump well that circulates a refrigerant through a closed-loop fluid/vapor system to prevent the discharge or escape of its contents into the subsurface. DX well systems are also commonly referred to as direct expansion systems.

Effluent - a discharge of pollutants into the environment, whether or not treated.

Effluent Limitation or Effluent Limit - any requirement, restriction, or standard imposed by the Department on quantities, discharge rates, and concentrations of pollutants that are discharged from point sources into waters of the Commonwealth, to publicly or privately owned treatment works or to a reclaimed water distribution system so that the effluent may be beneficially reused as reclaimed water in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards*.

Effluent Limitation Guideline or Effluent Standard - a regulation published by the EPA Administrator under The Federal Act § 304, 306, or 307, 33 U.S.C. § 1314, 1316, or 1317, or by the Department under M.G.L. c. 21, § 27 that is used as a basis for establishing effluent limitations.

Enhanced Secondary Treatment - secondary treatment that includes disinfection to ensure that the effluent is capable of meeting an effluent limitation of no more than 200 fecal coliform organisms per 100 ml, and additional processes capable of meeting an effluent limitation of 10 mg/l of nitrate nitrogen and total nitrogen.

5.02: continued

Environmental Protection Agency or EPA - the United States Environmental Protection Agency.

Facility or Facilities - any and all devices, processes, and properties real or personal used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of water-borne pollutants. A facility does not include any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal; or any works constructed for the distribution or use of reclaimed water in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards* and a Service and Use Agreement approved by the Department that are not located on the same site as the devices and processes used for wastewater treatment and are not under the direct ownership or control of the permittee.

Federal Act - the Federal Water Pollution Control Act commonly known as the Clean Water Act, 33 U.S.C. § 1251 *et seq.*

Filtered Water - an oxidized, coagulated wastewater which has been passed through filter media so that the turbidity as determined by an approved laboratory method does not exceed an operating turbidity of two nephelometric turbidity units (NTU) in any 24-hour period, nor exceed five NTU more than 5% of the time, and does not exceed ten NTU at any time.

Ground Source Heat Pump (GSHP) Well - an excavation by any method for the purpose of transferring heat to or from the earth for heating or cooling purposes in which the ambient ground temperature is 90°F or less.

Ground Water - water below the land surface in a saturated zone, including perched ground water.

Ground Water Travel Time or Ground Water Time of Travel - the time it takes a particle of water to flow through an aquifer from one point to another point of lower hydraulic gradient.

Hazardous Substance - any of the substances designated under 40 CFR Part 116 pursuant to § 311 of the Federal Act, 33 U.S.C. § 1321, or any hazardous material as defined in M.G.L. c. 21E.

Hazardous Waste - a hazardous waste pursuant to 310 CMR 30.000: *Hazardous Waste*.

Health Advisory - the level of a pollutant in water that, with a margin of safety, would not be anticipated to cause adverse health effects, as determined by the Department or EPA.

Indirect Discharger - a discharger introducing pollutants to a treatment works.

Industrial Plant Associated Areas - industrial plant yards, immediate access roads, drainage ponds, refuse piles, storage piles or areas, and material or product loading and unloading areas. The term excludes areas located on plant lands separated from the plant's industrial activities, such as office buildings and accompanying parking lots.

Industrial Waste - any liquid, gaseous, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

Industrial Wastewater - waste in liquid form resulting from any process of industry, trade or business, regardless of volume or pollutant content. Industrial Wastewater includes, but is not limited to, wastewater from the activities under the Standard Industrial Classification Codes listed in 310 CMR 15.004(5). Notwithstanding the foregoing, wastewater consisting only of sewage is not industrial wastewater.

Infiltration - water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through means that include, but are not limited to, defective pipes, pipe joints, connections or manholes. Infiltration does not include and is distinguished from inflow.

5.02: continued

Infiltration/Inflow (I/I) - extraneous flow that enters a sewer system through a variety of defects and illegal connections.

Inflow - water other than sanitary flow that enters a sewer system (including sewer service connections) from sources that include, but are not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, connections between storm and sanitary sewers, catch basins, cooling towers, stormwater, surface runoff or street drainage. Inflow does not include and is distinguished from infiltration.

Interim Wellhead Protection Area or IWPA - an area established by the Department for public water systems using wells or wellfields that lack a Department approved Zone II. The IWPA is a ½ mile radius measured from the well or wellfield for sources with an approved pumping rate of 100,000 gallons per day or greater. For wells or wellfields that pump less than 100,000 gallons per day the IWPA radius is proportional to the approved pumping rate, which may be calculated according to the follow equation: IWPA radius in feet = (32 x pumping rate in gallons per minute) + 400. A default IWPA radius or an IWPA radius otherwise computed and determined by the Department shall be applied to Transient Non-community Water System (TNC) and Non-transient Non-community Water System (NTNC) wells when there is no metered rate of withdrawal or no approved pumping rate.

Leachate - any liquid, including any suspended or dissolved components in the liquid, that has percolated through or drained from a landfill or other solid waste disposal site.

Local Government Unit - a town, city, district, commission, agency, authority, board or other instrumentality of the Commonwealth or any of its political subdivisions including a regional government unit.

Massachusetts Surface Water Quality Standards - 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*.

Milligrams Per Liter-or mg/l - the weight in milligrams of any specific substance or substances contained in one liter of solution.

Monitoring Well - a well that is specifically designed, constructed, emplaced, and located to measure the impact of a discharge of pollutants on ground water quality and quantity.

Natural Background Conditions - the chemical, physical or biological characteristics of surface or ground waters unaltered by human activity.

Nephelometric Turbidity Unit (NTU) - measurement of the ratio of the intensity of light scattered by a sample to the intensity of light scattered by a standard reference suspension under the same conditions, as measured by Method 2130B in *Standard Methods for the Examination of Water and Wastewater*, 22<sup>nd</sup> edition, published by the American Public Health Association, American Water Works Association, and the Water Environment Federation, 2016.

Nitrogen Sensitive Area - an area of land and/or natural resource area so designated by the Department in accordance with 310 CMR 15.215: *Designation of Nitrogen Sensitive Areas*.

Non-contact Cooling Water - uncontaminated water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat), or finished product.

On-site Subsurface Sewage Disposal System - a system or series of systems for the treatment or disposal of sanitary sewage below the ground as defined in 310 CMR 15.002: *Definitions*.

Open Sand Bed - a system for the disposal of wastewater in which effluent is spread onto the surface of a sand media so that it may percolate through that media prior to discharge through the soil and the unsaturated zone to the ground water.



5.02: continued

Open-loop Ground Source Heat Pump (GSHP) Well - a ground source heat pump well that withdraws ground water and discharges it back to an aquifer. Open-loop GSHP Wells include wells that pump and discharge into the same well (standing column well) and wells that are only used to discharge water that is pumped from other supply wells.

Other Wastes - all liquid discarded matter other than sewage or industrial waste which may cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards* or interfere with the use of the ground water as an actual or potential source of potable water.

Outlet - the terminus of a sewer system, or the point of emergence of any water-borne sewage, industrial waste, other wastes, or the effluent therefrom, into the waters of the Commonwealth, or onto the land surface.

Permit - an authorization issued pursuant to M.G.L. c. 21, § 43 and 314 CMR 2.00: *Permit Procedures*, 3.00: *Surface Water Discharge Permit Program*, 5.00, 7.00: *Sewer System Extension and Connection Permit Program*, or 20.00: *Reclaimed Water Permit Program and Standards*, to implement the requirements of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53, the Federal Act, 33 U.S.C. §§ 1251 *et seq.*, and the NPDES regulations, 40 CFR Part 122. Depending on the context in 314 CMR 5.00, Permit applies to an individual permit that regulates one or more discharges by a discharger; or a general permit that regulates one or more categories of discharges and covers multiple dischargers who have properly applied for and obtained coverage under the general permit.

Person - any agency or political subdivision of the Commonwealth, the Federal government, any public or private corporation or authority, individual, partnership or association, or other entity, including any officer of a public or private agency or organization.

Plant Nutrient - a substance that contains one or more of the primary nutrients of nitrogen, phosphorus, or potassium, or any recognized Plant Nutrient, including but not limited to, animal manure, fertilizer, organic compost natural organic fertilizer, Agricultural Byproducts, digestate, biosolids or combinations thereof. Terms used in Plant Nutrient that are not defined in 314 CMR 5.02 shall be defined as set forth in 330 CMR 31.02: *Definitions*.

Point Source - any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged. Point Source does not include return flows from irrigated agriculture.

Pollutant - any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, in whatever form and whether originating at a point or non-point source, which is or may be discharged, drained or otherwise introduced into any sewer system, treatment works or waters of the Commonwealth.

Pollution - the presence in the environment of pollutants in quantities or with characteristics which are or may be injurious to human, plant or animal life, or to property, or that unreasonably interfere with the comfortable enjoyment of life and property throughout such areas as may be affected.

Potable Water - water from any source that has been approved by the Department for human consumption under 310 CMR 22.00: *Drinking Water*.

Potentially Productive Aquifer.

- (a) all aquifers delineated by the U.S. Geological Survey (USGS) as a high or medium yield aquifer; and
- (b) all aquifers located east of the Cape Cod Canal, on the Elizabeth Islands, on Martha's Vineyard, or on Nantucket.

5.02: continued

Pretreatment - the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants' properties in wastewater prior to or in *lieu* of discharging or otherwise introducing such pollutants into a POTW or PWTF.

Primary Treatment - the process or group of processes capable of removing from sewage a minimum of 25% of the five day biochemical oxygen demand, 55% of the suspended solids, and 85% of the floating and settleable solids.

Privately Owned Wastewater Treatment Facility or PWTF - any device or system owned by a private entity that is used for the treatment and disposal (including recycling and reclamation) of sewage or industrial wastewater. Privately Owned Wastewater Treatment Facility includes the sewers, pipes, pump stations, or other conveyances that carry the wastewater to the treatment facility and the discharge location.

Private Water Supply Area - an area that is served by private wells and where, in the opinion of the Department, it is not reasonable to connect to a public water system or where approval to connect to the public water system cannot be obtained.

Publicly Owned Treatment Works or POTW - any device or system used in the treatment (including recycling and reclamation) and disposal of municipal sewage or industrial wastewater which is owned by a local government unit. A POTW includes any sewers, pipes, pump stations, or other conveyances only if they convey wastewater to a POTW providing treatment, or to the location where the treated wastewater is discharged.

RCRA - the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*

RCRA Facility - a hazardous waste management facility as defined in 314 CMR 8.03: *RCAA Facilities Subject to 314 CMR 8.00.*

Reclaimed Water - wastewater that is treated so that it is suitable for beneficial reuse in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards.*

Reclaimed Water Distribution System - a system that distributes reclaimed water so that it may be reused in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards.*

Reclaimed Water System - a treatment works that includes a system for treating wastewater so that it may be beneficially reused in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards.*

Reject Water from a Reverse Osmosis Facility - sidestream wastewater from reverse osmosis treatment units.

Residential Uses - apartment buildings, townhouses, condominiums, cooperatives, single-family and multi-family homes, including without limitation manufactured homes, and rooming and boarding houses. Residential uses do not include the use of property for the activities listed in the following Standard Industrial Classification Codes: 7011, hotels; 7032, sporting and recreational camps; 7033, recreational vehicle parks and camp sites; 7041, organizational hotels and lodging on a membership basis; 8051 through 8059, nursing and personal care facilities; 8062 through 8069, hospitals; and 8361, residential care facilities.

Satellite Reclaimed Water System - a system for the distribution, use, sale or offering for use, sale or distribution of reclaimed water in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards* that does not include wastewater treatment.

Saturated Zone - any portion of the earth below the land surface where every available opening (pore, fissure, joint, or solution cavity) is filled with water.

Seasonal Wastewater Treatment Facility - a facility that discharges liquid effluent as a result of the treatment of sewage only, and that is in operation no more than six months of the year.

5.02: continued

Secondary Treatment - the process or group of processes capable of removing from untreated wastewater a minimum of 85% of the five day biochemical oxygen demand and suspended solids, and virtually all floating and settleable solids, followed by disinfection.

Sewage - the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present.

Sewer System - pipelines or conduits, pumping stations, force mains, and all other structures, devices, appurtenances, and facilities used for collecting and conveying wastes to a site or works for treatment or disposal.

Stormwater - stormwater runoff, snowmelt runoff, surface runoff, and drainage.

Total Dissolved Solids - the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136, or other method approved by the Department

Total Maximum Daily Load - the sum of a receiving surface water's individual waste load allocations, load allocations, and natural background that, together with a margin of safety that accounts for any lack of knowledge concerning the relationship between effluent limitations and surface water quality, represents the maximum amount of a pollutant that a surface water body can receive and still meet 314 CMR 4.00: *Massachusetts Surface Water Quality Standards* in all seasons.

Total Organic Carbon - the oxidizable organic carbon present in treated sewage as measured by a Massachusetts certified laboratory.

Toxic Pollutants - any pollutant or combination of pollutants including disease-causing agents, that are capable of producing an adverse effect in an organism or its offspring, including, without limitation, food chain effects according to information available to the Department. The effect may be the result of direct or indirect exposure and may injure structure, function, or cause death of the organism. These pollutants include, but are not limited to, those identified in 314 CMR 3.17: *Appendix B - Toxic Pollutants*.

Treatment Works - any and all devices, processes, and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of water-borne pollutants. Treatment Works does not include any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal or any works for the distribution or use of reclaimed water in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards and a Service and Use Agreement* approved by the Department that are not located on the same site as the devices and processes used for wastewater treatment and are not under the direct ownership or control of the permittee.

Uncontaminated Water - water that does not contain dredge spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological waste materials, radioactive materials, wrecked or discarded equipment, cellar dirt, industrial, municipal or agricultural waste or any other pollutant upon discharge, could cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards* or interfere with the actual or potential use of ground water as a source of potable water.

Underground Source of Drinking Water - an aquifer, or any portion thereof that supplies a public water system or that contains a sufficient quantity of ground water to supply a public water system, and either currently supplies drinking water for human consumption or contains less than 3000 mg/l total suspended solids. Every aquifer shall be presumed to be an underground source of drinking water unless otherwise determined by the Department in accordance with 314 CMR 5.10(9)(c).

Unsaturated Zone - the portion of the earth's crust that does not contain sufficient water to fill all interconnected voids or pore spaces. Perched water bodies may exist within the unsaturated zone.

## 5.02: continued

Wastewater - sewage, industrial waste, other wastes or any combination of the three. Water used to wash vehicles, machinery, materials, products, equipment, or buildings with detergents or other cleaning agents as part of the ordinary operations of a commercial or industrial enterprise, or a local government unit, is wastewater.

Waters of the Commonwealth - all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, ground waters, and vernal pools. Wetlands constructed for the sole purpose of stormwater management on or after January 2, 2008 are not waters of the Commonwealth. Wetlands constructed for the sole purpose of wastewater management and lined basins constructed for the sole purpose of water supply treatment works residuals treatment, or for storing reclaimed water so that it may be reused are not waters of the Commonwealth provided they are constructed on or after March 20, 2009.

Well - a bored, drilled, or driven shaft, or a dug hole with a depth greater than its largest surface dimension.

Zone A - the land area between a surface water source and the upper boundary of the bank as defined in 310 CMR 22.02: *Definitions*, the land area within a 400 foot lateral distance from the upper boundary of a bank of a Class A surface water source as defined in 314 CMR 4.05(3)(a): Class A; and the land area within a 200 foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body.

Zone I - the protective radius around a public water supply well or wellfield as defined in 310 CMR 22.02: *Definitions*. For public water system wells with approved yields of 100,000 gallons per day (gpd) or greater, the protective radius is 400 feet. Wellfields and infiltration galleries with approved yields of 10,000 gpd or greater require a protective radius of 250 feet. The protective radii for all other public water system wells, wellfields and infiltration galleries are determined by the following equation: Zone I radius in feet =  $(150 \times \log \text{ of pumping rate in gpd}) - 350$ . This equation is equivalent to the chart in the Guidelines and Policies for Public Water Systems. A default Zone I radius or a Zone I radius otherwise computed and determined by the Department shall be applied to Transient Non-community (TNC) and Non-transient, Non-community (NTNC) water system wells when there is no metered rate of withdrawal and no approved pumping rate. In no case shall the Zone I radius be less than 100 feet.

Zone II - the area of an aquifer that contributes water to a well under the most severe pumping and recharge conditions that can realistically be anticipated (180 days of pumping at approved yield, with no recharge from precipitation), as defined in 310 CMR 22.02: *Definitions*. It is bounded by the ground water divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, the Zone II shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a ground water flow divide, a contact with till or bedrock, or a recharge boundary). The Zone II must include the entire Zone I area. For springs, the Zone II is that area of an aquifer, that contributes water to the spring under naturally flowing conditions.

5.03: Discharges Requiring a Permit

(1) No person shall discharge pollutants to ground waters of the Commonwealth without a currently valid permit from the Department pursuant to M.G.L. c. 21, § 43, and 314 CMR 5.00, except as otherwise provided in 314 CMR 5.05. No person shall construct, install, modify, operate or maintain an outlet for such a discharge, or any treatment works required to treat such discharge without having first obtained a discharge permit in accordance with 314 CMR 5.03(1) and written approval from the Department for such activity, except as otherwise provided in 314 CMR 5.05. The Department may require any person to provide information to determine whether that person is subject to M.G.L. c. 21, §§ 26 through 53 or 314 CMR 5.00 or in violation of M.G.L. c. 21, §§ 26 through 53 or 314 CMR 5.00. Any person who discharges or proposes to discharge pollutants to ground waters of the Commonwealth shall apply for an individual permit, or request coverage under a general permit where applicable, by filing the appropriate application forms and paying the applicable fees in accordance with 314 CMR 5.00, 2.00: *Permit Procedures* and 310 CMR 4.00: *Timely Action Schedule and Fee Provisions*.

## 5.03: continued

(2) Except as otherwise provided in 314 CMR 5.05, activities which constitute discharges of pollutants requiring a permit under 314 CMR 5.03(1) include, but are not limited to, the construction, installation, modification, operation or maintenance of the facilities listed in 314 CMR 5.03(2)(a) through (e):

- (a) Any facility that discharges a liquid effluent onto or below the land surface;
- (b) Any facility that discharges a liquid effluent to a percolation pit, pond, or lagoon;
- (c) Any facility that discharges a liquid effluent via a soil absorption system, including but not limited to: leaching pits, galleries, chambers, trenches, fields, and pipes;
- (d) Any facility that discharges a liquid effluent into a Class V injection well as defined in 310 CMR 27.00: *Underground Injection Control Regulations*; or
- (e) Any facility with an associated unlined pit, pond, lagoon, or surface impoundment in which wastewaters or sludges are collected, stored, treated, or disposed and from which a liquid portion seeps into the ground.

5.04: Other Activities Requiring a Permit

(1) No person shall engage in any activity, in addition to those described in 314 CMR 5.03, which may reasonably be expected to result, directly or indirectly, in the discharge of pollutants into ground waters of the Commonwealth, without a currently valid permit from the Department, pursuant to 314 CMR 5.00 and 2.00: *Permit Procedures*, except as otherwise provided in 314 CMR 5.05. Any person who engages or proposes to engage in such activities shall apply for an individual permit or request coverage under a general permit where applicable by filing the appropriate application forms and paying the applicable fees in accordance with 314 CMR 5.00, 2.00: *Permit Procedures* and 310 CMR 4.00: *Timely Action Schedule and Fee Provisions*.

(2) Such other activities shall specifically include, but not be limited to, a conveyance or system of conveyances *e.g.* pipes, conduits, ditches and channels) primarily used for collecting and conveying storm water runoff, but not including combined municipal sewer systems, and that:

- (a) Discharge stormwater runoff contaminated by contact with process wastes, raw materials, toxic pollutants, hazardous substances, or oil and grease to a leaching facility, percolation pit, unlined pond, or unlined lagoon;
- (b) Are located in Industrial Plant Associated Areas where there is a potential for significant discharge of storm water contaminated by contact with process wastes, raw materials, toxic pollutants or hazardous substances; or
- (c) Is designated under on a case-by-case basis as a stormwater discharge requiring a permit, where the Department determines that a storm water discharge is or may be a significant contributor of pollution to the ground waters of the Commonwealth. In making this determination, the Department shall consider the following factors:
  1. The location of the discharge with respect to ground waters of the Commonwealth;
  2. The size of the discharge;
  3. The quantity and nature of the pollutants reaching ground waters of the Commonwealth and the Massachusetts water quality standards applicable to such waters; and
  4. Other relevant factors.

5.05: Activities Not Requiring a Permit

The following activities do not require a permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 5.00:

- (1) (a) The construction, installation, modification, operation and maintenance of a facility that discharges a liquid effluent as a result of the treatment of sewage at a treatment works that is designed to receive and receives less than 10,000 gallons per day, provided that such facility and treatment works are designed, approved, constructed, operated and maintained in accordance with 310 CMR 15.000: *The State Environmental Code, 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*.

5.05: continued

(b) The operation and maintenance of a facility which discharges a liquid effluent as a result of the treatment of sewage at a treatment works that: is designed to receive and receives 10,000 to 15,000 gallons per day, provided that the facility and treatment works were designed, approved, constructed and have been and are operated and maintained in accordance with 310 CMR 15.000: *The State Environmental Code, 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 its predecessor Codes, as applicable; and provided further that the facility is not located in a nitrogen sensitive area designated by the Department in accordance with 310 CMR 15.215: *Designation of Nitrogen Sensitive Areas*, or the Zone A of a public water system.

(c) As used in 314 CMR 5.05(1)(a) and (b), the word "maintained" includes, but is not limited to, upgraded, if upgrading is required by 310 CMR 15.000: *The State Environmental Code, 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*

(d) For purposes of determining whether the design, construction, operation or maintenance of a facility is an activity not requiring a permit as provided in 314 CMR 5.05(1)(a) and (b), the volume of sewage the treatment works is designed to receive and receives shall be calculated in accordance with all applicable provisions of 310 CMR 15.000: *The State Environmental Code, 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*, including without limitation, 310 CMR 15.006: *Facilities with a Design Flow of 10,000 GPD or Greater but Less than 15,000 GPD*, 15.007: *Campgrounds*, 15.010: *Division and Aggregation of Facilities*, and 15.203: *System Sewage Flow Design Criteria*.

(2) The application of Plant Nutrients and Agricultural Process Water to Agricultural Land in compliance 330 CMR 31.00: *Plant Nutrient Application Requirements for Agricultural Land and Land Not Used for Agricultural Purposes*.

(3) A discharge in compliance with the written instructions of an On-scene Coordinator pursuant to 33 CFR Part 153 - *Control of Pollution by Oil and Hazardous Substances, Discharge Removal* and 40 CFR Part 300: *Subchapter J - Superfund, Emergency Planning, and Community Right-to-know Programs, Subparts B and C*, or if conducted as an Immediate Response Action in compliance with M.G.L. c. 21E, 310 CMR 40.0000: *Massachusetts Contingency Plan*, or compliance with an approval issued by the Department, as necessary to abate, prevent, or eliminate an imminent hazard to the public health, safety, welfare or the environment.

(4) The construction, installation, modification, operation or maintenance of a closed-loop or direct exchange ground source heat pump well that has been installed and is operating in accordance with the Department's *Guidelines for Ground Source Heat Pump Wells*, and provided that the well is not used to produce water.

(5) The construction, installation, modification, operation or maintenance of an open-loop ground source heat pump well that has applied for and been accepted for registration in accordance with 310 CMR 27.00: *Underground Injection Control Regulations* and the Department's *Guidance Document for Ground Source Heat Pump Wells*; provided the well remains in compliance with the registration and all applicable requirements of 310 CMR 27.00.

(6) The construction, installation, modification, operation or maintenance of a facility used to discharge non-contact cooling waters, provided that: the temperature of the non-contact cooling water does not exceed 40°C; the discharge is not within 500 feet of a cold-water fishery; the facility is designed to ensure that the discharge does not break out onto the ground surface; and the discharge will not cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*. The discharge must be registered in accordance with the 310 CMR 27.00: *Underground Injection Control Regulations*, and remain in compliance with the registration and all applicable requirements of 310 CMR 27.00.

## 5.05: continued

- (7) The construction, installation, modification, operation and maintenance of a facility that recirculates landfill leachate on top of the landfill over an area that has been specifically designed with a liner and collection system for the purpose of recycling the leachate, provided the facility has been approved by the Department in accordance with 310 CMR 19.000: *Solid Waste Management* and is in compliance with the approval and all applicable requirements of 310 CMR 19.000 and is in compliance with the approval and all applicable requirements of 310 CMR 19.00.
- (8) The construction, installation, modification, operation and maintenance of a conveyance or system of conveyances operated primarily for the purpose of collecting and conveying stormwater runoff that does not constitute a stormwater discharge subject to the provisions of 314 CMR 5.04(2).
- (9) Any introduction of pollutants from non-point source agricultural, silvicultural, land management or right-of-way maintenance activities including runoff from orchards, cultivated crops, pastures, range lands, forest lands and rights-of-way, but not including point source discharges from concentrated animal feeding operations, or point source discharges of silvicultural process water.
- (10) The construction, installation, modification, operation or maintenance of a landfill approved by the Department pursuant to 310 CMR 19.000: *Solid Waste Management*, provided that the facility remains in compliance with the approval and all applicable requirements of 310 CMR 19.000, does not result in a point source, and does not result in a discharge which will cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*, impair the use of the ground water as an actual or potential source of potable water, or result in a threat to public health, safety, welfare, or the environment.
- (11) Any land application of sewage sludge performed in accordance with 310 CMR 32.00: *Land Application of Sludge and Septage* and a plan approved by the Department.
- (12) The construction, installation, modification, operation or maintenance of a reclaimed water system in accordance with all the terms and conditions of a permit issued by the Department pursuant to 314 CMR 20.00: *Reclaimed Water Permit Program and Standards*, and in compliance with all applicable requirements of 314 CMR 20.00.
- (13) The construction, installation, modification, operation, and maintenance of a satellite reclaimed water system in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program*.
- (14) The use of reclaimed water in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program*.
- (15) Any discharge for which a UIC registration has been approved by the Department, provided that the discharge remains in compliance with the conditions stated in the Department's approval and 310 CMR 27.00: *Underground Injection Control Regulations*. Discharges potentially eligible for a UIC registration include, but are not limited to: aquifer recharge wells; salt water intrusion barrier wells; stormwater wells not subject to 314 CMR 5.04(2); water purification backwash wells; swimming pool drainage wells; the injection of uncontaminated water used for the purpose of subsidence control (*i.e.*, to reduce or eliminate subsidence associated with the overdraft of ground water); and ground water infiltration (*e.g.*, sump pumps).
- (16) Any discharge that results from a response action conducted or performed in accordance with the provisions of M.G.L. c. 21E and 310 CMR 40.0000: *Massachusetts Contingency Plan*.
- (17) Any discharge from water supply treatment works to a lined lagoon, followed by a discharge of supernatant from the lined lagoon to an unlined lagoon; provided the water supply treatment works, and the discharge design and location, are approved by the Department and remain in compliance with the approval and all applicable requirements of 310 CMR 22.00: *Drinking Water*.

## 5.05: continued

(18) The on-site infiltration of produce pack house wash water into the ground provided that only clean potable water containing no detergents or other additives is used for washing. Infiltration best management practices, such as gravel or stone pads, must be designed, sited and maintained to prevent off-site run-off and protect sensitive resources, including drinking water wells, surface waters and wetlands. This exemption does not include point source discharges of such wash water.

(19) The construction, installation, modification, operation or maintenance of waste treatment areas used for the treatment of agricultural process waters that are installed and maintained in accordance with the Conservation Practice Standards for Waste Treatment Code 629 (“NRCS Code 629”), March 2011), and Vegetated Treatment Area Code 635 (“NRCS Code 635”), March 2009), developed by the Natural Resources Conservation Service of the U.S. Department of Agriculture.

5.06: Restrictions on the Issuance of a Permit

(1) The Department will not issue a permit pursuant to 314 CMR 5.00 if the discharge will cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards* or impair the use of ground water as an actual or potential source of potable water. In addition, the Department shall not issue a permit pursuant to 314 CMR 5.00 for the following discharges:

- (a) A discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste.
- (b) A discharge of effluent from a POTW within the Zone I of a public water supply source, or within the six-month ground water travel time to the public water supply source, whichever is larger.
- (c) A discharge of effluent from a POTW within the Zone A of a public water supply source.
- (d) A discharge within the Zone II or Interim Wellhead Protection Area of a public water supply source, of effluent from a POTW that treats industrial wastewater and has failed to establish and implement a pretreatment program as required by 314 CMR 12.08: *Prohibitions and Standards for Discharge to POTWs*, 12.09: *POTW Pretreatment Programs* and 5.10(8)(a).
- (e) A discharge of effluent from a Privately Owned Wastewater Treatment Facility (PWTF) that treats industrial wastewater within the Zone I, Zone A, Zone II or within the Interim Wellhead Protection Area of a public water supply source.
- (f) A discharge within the Zone I of a public water supply source, or the six-month ground water travel time to the public water supply source, whichever is larger, of effluent from a PWTF limited to the treatment of sewage.
- (g) A discharge of effluent from a PWTF limited to the treatment of sewage within the Zone A of a public water supply source.

(2) Notwithstanding the provisions of 314 CMR 5.06(1)(b) and (c), (e) through (g), the Department may renew a permit for a discharge described in 314 CMR 5.06(1)(b) and (c), (e) through (g), if the Department determines that:

- (a) the discharge was authorized by a permit issued by the Department before March 20, 2009;
- (b) no action is proposed that will increase the volume of effluent or the amount of pollutants that will be discharged above that authorized in the permit issued by the Department prior to March 20, 2009;
- (c) the permit requires the discharge to meet the more stringent of the water quality based effluent limitations or the technology based effluent limitations set forth in 314 CMR 5.10(3) and (4), and the additional effluent limitations set forth in 314 CMR 5.10(4A) that apply to discharges within the two-year travel time to a ground water source for a public water system;
- (d) if the facility is a PWTF, the sewer system is not reasonably accessible or permission to enter the system cannot be obtained from the authority having jurisdiction over it, in accordance with M.G.L. c. 83, §§ 3 and 11; and
- (e) if the facility is a POTW that treats industrial wastewater, the POTW has a pretreatment program that meets the requirements of 314 CMR 12.08: *Prohibitions and Standards for Discharge to POTWs*, 12.09: *POTE Pretreatment Programs* and 5.10(8)(a).



5.07: Effect of a Permit

Issuance of an individual permit or coverage under a general permit under 314 CMR 5.00 and 2.00: *Permit Procedures* shall be deemed to allow, to the extent specified in the permit and 314 CMR 5.07, the permittee to discharge pollutants to ground waters of the Commonwealth, and to construct, install, modify, operate and maintain an outlet for such discharge, together with any treatment works required to meet effluent limitations or other requirements specified in the permit for such discharge. Issuance of an individual permit under 314 CMR 5.00 and 2.00 shall also be deemed to allow to the extent specified in the permit and 314 CMR 20.00: *Reclaimed Water Permit Program and Standards*, the permittee to construct, install, modify, operate, and maintain a reclaimed water system, and to use, sell, distribute and offer for use, sale or distribution the reclaimed water produced by the system in accordance with the permit and 314 CMR 20.00. Issuance of an individual permit or coverage under a general permit pursuant to 314 CMR 5.00 and 2.00 does not relieve the permittee of its obligation to comply with all applicable, Federal, State, and local laws and regulations.

5.08: Continuation of an Expiring Permit

(1) The conditions of an individual permit shall continue in force under M.G.L. c. 30A, § 13, beyond the expiration date if:

- (a) The permittee has made a timely application for renewal or issuance of an individual permit pursuant to 314 CMR 5.09A(3), which is a complete application under 314 CMR 5.09A(4) and (5), or submits a complete and timely notice of intent requesting coverage under a general permit in accordance with 314 CMR 5.13; and
- (b) The Department does not renew or issue an individual permit or grant coverage under a general permit with an effective date under 314 CMR 2.08: *Issuance and Effective Date of Permit Coverage, or Other Determination and Requests for Adjudicatory Hearings* on or before the expiration date of the previous permit, and does not issue a decision denying an application for an individual permit, or modifying or revoking the previous permit. If, in lieu of applying for renewal or issuance of an individual permit as set forth in 314 CMR 5.08(1)(a), the permittee files a notice of intent requesting coverage under a general permit, the Department may, as provided in 314 CMR 5.13, require the permittee to apply for renewal or issuance of an individual permit, or file a notice of intent requesting coverage under an alternative general permit, and set a deadline for the permittee to file such application or notice of intent. In that event, the conditions of an individual permit continue in force beyond the expiration date as provided in 314 CMR 5.08(1)(b), only if the permittee submits a complete application for an individual permit or files a complete notice of intent requesting coverage under an alternative general permit by the deadline established by the Department.

(2) Individual permits continued under 314 CMR 5.08 shall remain fully effective and enforceable.

(3) The conditions of a general permit and coverage under a general permit shall continue beyond the expiration date as provided in 314 CMR 5.13.

5.09: Duty to Submit Hydrogeological Evaluation

(1) Except as otherwise provided in 314 CMR 5.09(2) or as otherwise determined by the Department, no person shall apply for an individual permit or file a notice of intent requesting coverage under a general permit for a proposed discharge of pollutants to the ground water without an authorization from the Department. A person shall apply for such authorization by:

- (a) preparing a scope of work for a hydrogeological investigation in accordance with the Department's guidelines to determine whether the proposed discharge site is a suitable location for the proposed discharge, to assess the impact of the proposed discharge on all potentially impacted ground water sources of potable water for public water systems and all private drinking water supplies, and to determine whether the proposed discharge will cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards* or impair the actual or potential use of the ground water as a source of potable water;

## 5.09: continued

- (b) placing a public notice in the *Environmental Monitor* that the scope of work has been prepared and will be submitted to the Department;
  - (c) submitting to the Department for its review and approval the scope of work along with a copy of the public notice as published in the *Environmental Monitor*;
  - (d) conducting a hydrogeological investigation in accordance with the scope of work approved by the Department and the Department's guidelines;
  - (e) documenting the results of the hydrogeological investigation in a Hydrogeological Report prepared in accordance with the scope of work approved by the Department and the Department's Guidelines;
  - (f) submitting to the Department for its review and approval the Hydrogeological Report and a request for authorization by the Department to apply for an individual permit or to file a notice of intent requesting coverage under the general permit; and
  - (g) if a discharge is proposed within the Zone II or Interim Wellhead Protection Area of a ground water source of potable water for a public water system, the applicant shall also notify the public water system in writing by certified mail, return receipt requested, when the scope of work and Hydrogeological Report is submitted and at the same time provide a copy of said notice to the Department;
  - (h) the documents required by 314 CMR 5.09(1)(c) and (f) shall be submitted to the Department along with the appropriate Department-approved form(s) and the applicable application fees. An applicant shall submit the hydrogeological evaluation prior to submitting an application for an individual permit or a request for coverage under a general permit.
- (2) The requirements of 314 CMR 5.09(1) do not apply to:
- (a) Persons applying for an individual permit or requesting coverage under a general permit for a stormwater discharge subject to 314 CMR 5.04(2);
  - (b) Persons who filed an application for an individual permit pursuant to 314 CMR 5.00 prior to March 20, 2009;
  - (c) Persons who obtained a permit for the discharge pursuant to 314 CMR 5.00 on or before March 20, 2009; or
  - (d) Persons who file a notice of intent requesting coverage under a general permit that expressly provides that compliance with 314 CMR 5.09(1) is not a condition of eligibility for coverage under the general permit.

5.09A: Application for a Permit

- (1) Duty to Apply. Any person required to obtain a permit pursuant to 314 CMR 5.03 or 5.04 shall apply for an individual permit in accordance with 314 CMR 5.09A(5) or seek coverage under a general permit in accordance with 314 CMR 5.13 by completing and submitting the appropriate form(s). An applicant shall provide the Department with any information and analyses the Department deems necessary to determine whether the applicant and the proposed activity meet the requirements of 314 CMR 5.00 and applicable guidelines. Such information includes, but is not limited to, pollutant loading information, water quality analyses relevant to the discharge location, and information regarding areas and resources potentially impacted by the discharge, including without limitation, ground water sources for public water systems and private water supply wells.
- (2) Who Must Apply. Except as otherwise provided in 314 CMR 5.09A(2) or otherwise determined by the Department, the owner of the treatment works or the owner of the activity resulting in a discharge of pollutants shall apply for an individual permit or request coverage under a general permit. For a POTW, the owner of the treatment works shall apply. For a PWTF, the applicant shall meet the requirements set forth in 314 CMR 5.15.
- (3) Time to Apply.
- (a) Any person required to obtain a permit pursuant to 314 CMR 5.03 or 5.04, who does not have a currently effective permit, and who is applying for an individual permit, shall submit an application at least 180 days before the date on which the discharge will commence, unless permission for a later date has been granted by the Department in writing. Persons proposing a new discharge are encouraged to submit their applications well in advance of the 180-day requirement to avoid delay

## 5.09A: continued

(b) Any person with a currently effective individual permit shall submit a new application for an individual permit or request coverage under a general permit at least 180 days before the expiration date of the existing individual permit, unless permission for a later date has been granted by the Department in writing.

(c) A person required to obtain a permit pursuant to 314 CMR 5.03 or 5.04 who does not have a currently effective permit and who is requesting coverage under a general permit shall submit a notice of intent requesting such coverage in accordance with 314 CMR 5.13.

(4) **Completeness.** The Department shall not issue a permit before receiving a complete application as required by 314 CMR 2.03(2): *Completeness of Application.* A complete application must include any information that the Department determines is necessary or appropriate to assess the impact of the proposed discharge on the use of the receiving ground water as an actual or potential source of potable water, or on the existing and designated uses of downgradient hydrologically connected surface waters. Such additional information may include, without limitation, information on natural background conditions in the receiving ground waters and in hydrologically connected surface waters.

(5) Except as otherwise provided in 314 CMR 5.09A(5)(d) or as otherwise determined by the Department, a complete application for an individual permit for a POTW or a PWTF shall include the following submissions along with the required Department-approved forms and permit application fees:

(a) Engineering Report prepared in accordance with all applicable Department guidelines by a Massachusetts Registered Professional Engineer with a concentration in sanitary, civil or environmental engineering. Said report shall include information on any conditions that have changed since the date of the Hydrogeological Report submitted in accordance with 314 CMR 5.09.

(b) A certification from a Massachusetts Registered Professional Engineer with a concentration in sanitary, civil or environmental engineering that:

1. The Engineer has reviewed the Hydrogeological Report submitted in accordance with 314 CMR 5.09 and the Engineering Report submitted in accordance with 314 CMR 5.09A(5)(a) and has determined that the information presented in the Hydrogeological Report, as updated by the Engineering Report, accurately reflects conditions as of the date of the permit application; and

2. The treatment works described in the Engineering Report will enable the facility to operate in compliance with the requirements of 314 CMR 5.00 including, but not limited to, effluent limitations established in accordance with 314 CMR 5.10.

(c) The signature of a person identified in 314 CMR 5.14 along with the certification required by 314 CMR 5.14(3).

(d) The provisions of 314 CMR 5.09A(5)(a) and (b) do not apply to applications filed prior to March 20, 2009.

(6) If the applicant is requesting the Department to include special effluent limitations established in accordance with 314 CMR 5.10(9) in an individual permit for the discharge of an effluent resulting from the treatment of sewage at a treatment works, the applicant shall submit sufficient information to make the required demonstrations.

(7) If the application is for a discharge of effluent from a PWTF, the applicant shall submit sufficient information to demonstrate compliance with all applicable requirements of 314 CMR 5.15.

(8) If a discharge is proposed within the Zone II or Interim Wellhead Protection Area of a ground water source of potable water for a public water system, the applicant shall notify the public water system in writing by certified mail, and provide a copy of the notice to the Department.

(9) The applicant shall maintain a copy of all records, regardless of form (e.g., printed, electronic) upon which they rely in making the certification in 314 CMR 5.14(3)(a). Such records shall include without limitation all documents, records and information necessary, and any supporting documentation provided to the applicant by, or relied upon by, such qualified legal, technical or other professionals the applicant consults.

5.10: Permit Conditions

(1) General Conditions. The conditions in 314 CMR 5.16 apply to every individual and general permit issued under 314 CMR 5.00, whether or not expressly incorporated into the permit. The permittee shall comply with all of the general conditions in 314 CMR 5.16.

(2) Special Conditions.

(a) In addition to the conditions applicable to all permits listed in 314 CMR 5.16, the Department will include special conditions in general permits and on a case-by-case basis in individual permits to provide for and assure compliance with all applicable requirements of M.G.L. c. 21, §§ 26 through 53, and 314 CMR 5.00. An applicable requirement of M.G.L. 21, §§ 26 through 53, and 314 CMR 5.00 is a state statutory or regulatory requirement which takes effect prior to issuance of the permit. Applicable requirements will be identified in the fact sheet or statement of basis prepared under 314 CMR 2.05: *Preparation of Fact Sheet or Statement of Basis for Permit*.

At a minimum, the special conditions shall establish effluent limitations in accordance with 314 CMR 5.10(3), and (4), and other applicable requirements such as: the duration of the permit (314 CMR 5.10(5)); monitoring, recordkeeping and reporting requirements (314 CMR 5.10(6)); and, where applicable, schedules of compliance (314 CMR 5.10(7)) and other conditions (314 CMR 5.10(8)). The permittee shall comply with all special conditions included in the permit.

(b) Effluent Limitations. Except as expressly provided in 314 CMR 5.10(3)(c), (4)(a)2., (4A), (4B), (4C), and (9), the Department shall apply the more stringent of the water quality based effluent limitations under 314 CMR 5.10(3), or the technology based effluent limitations under 314 CMR 5.10(4). In the case of reissued permits, the Department shall apply effluent limitations which are at least as stringent as those in the previous permit, unless the effluent limitations imposed by the previously issued permit are more stringent than subsequently promulgated effluent guidelines and one or more of the following conditions apply:

1. The discharger has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities, but has nevertheless been unable to achieve the previous effluent limitations. In this case, the limitations in the renewed or reissued permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by the subsequently promulgated effluent limitation guidelines);
2. The circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under 314 CMR 5.12(2).

(3) Water Quality Based Effluent Limitations. Except as otherwise provided in 314 CMR 5.10(3)(c) and (9), all permits shall contain limitations which are adequate to assure that no pollutants shall be discharged in an amount or concentration that would impair the use of the ground water as an actual or potential source of potable water. All permits shall also contain limits which are adequate to protect surface waters for their existing and designated uses and to assure the attainment and maintenance of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*. The Department shall consider natural background conditions and any Total Maximum Daily Loads established by the Department. The permit limitations shall protect existing uses of hydrologically connected downgradient ground waters and surface waters, and shall not interfere with the maintenance and attainment of beneficial uses in hydrologically connected downgradient waters. Except as otherwise provided in 314 CMR 5.10(3)(c), (4A), (4B), (4C), and (9), the water quality based effluent limitations in 314 CMR 5.105.10(a) through (c) shall apply to all discharges.

(a) Effluent Limitations for All Ground Waters. Pathogenic Organisms shall not be present in amounts sufficient to render the ground water detrimental to the public health, safety, welfare, or the environment, or impair the use of the ground water as an actual or potential source of potable water. Pathogenic Organisms shall not be present in amounts sufficient to interfere with the attainment and maintenance of the existing and designated uses of hydrologically connected downgradient surface waters. Any discharge shall not exceed the maximum contaminant levels set forth in 310 CMR 22.00: *Drinking Water*.

## 5.10: continued

(b) The Department may establish water quality based effluent limitations for a pollutant subject to the maximum contaminant levels set forth in 310 CMR 22.00: *Drinking Water* that are more stringent than those specified in 314 CMR 5.10(3)(a), if needed to protect ground waters as an actual or potential source of potable water or surface waters of the Commonwealth for their existing and designated uses. The Department may also establish water quality based effluent limitations for other pollutants to protect the ground waters of the Commonwealth for use as an actual or potential source of potable water and the surface waters of the Commonwealth for their existing and designated uses set forth in 314 CMR 4.00: *Massachusetts Surface Water Quality Standards* including, but not limited to, effluent limitations on contaminants which are not regulated by 310 CMR 22.00: *Drinking Water*. The Department will prohibit the discharge of any toxic pollutant for which the EPA or the Department has not yet developed a Health Advisory and for which there is not sufficient data available to the Department for the establishment of a Health Advisory. The Department may establish a Health Advisory for additional toxic pollutants when sufficient data becomes available.

(c) Special Water Quality Based Effluent Limitations for Existing Discharges to Ground Water Previously Classified as Class III. A discharge authorized by a permit issued before March 20, 2009, to a ground water classified as a Class III Ground Water before March 20, 2009, may be allowed to meet the effluent limitations listed in 314 CMR 5.10(3)(c)1. and 2. provided that no action is proposed that will increase the volume of discharge or the amount of pollutants discharged above what is authorized in the permit issued before March 20, 2009:

1. The concentrations of nitrate nitrogen shall not exceed 50 milligrams per liter; and
2. The concentration of total nitrogen shall not exceed 50 milligrams per liter.

(d) Notwithstanding the provisions of 314 CMR 5.10(3)(c), the Department may require a discharge to ground water classified as a Class III Ground Water before March 20, 2009, that was not authorized by a permit issued before March 20, 2009, to meet the water quality based effluent limitations set forth in 314 CMR 5.10(3)(a) and (b). The Department may also require any discharge to ground water classified as a Class III Ground Water before March 20, 2009 to meet more stringent effluent limitations than those set forth in 314 CMR 5.10(3)(c) if it determines, based on a Total Maximum Daily Load Report or otherwise, that additional and more stringent effluent limitations are necessary to ensure that the discharge will not cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*.

(4) Technology Based Effluent Limitations.

(a) The following technology based effluent limitations shall apply to POTWs and PWTFS that do not treat industrial wastewater.

1. Except as provided in 314 CMR 5.10(4)(a)2., (4A), (4B), (4C), and (9), technology based limitations for discharges from POTW's and PWTFS that do not treat industrial wastewater shall be enhanced secondary treatment. Limitations defining enhanced secondary treatment may be expressed in terms of concentration, mass, or both.
2. Except as otherwise provided in 314 CMR 5.10(4A), (4B), or (4C), the Department will not require disinfection unless the treatment works includes open sand beds, or unless the Department determines that disinfection is necessary to protect the public health, safety, welfare, or the environment.
3. Special Technology Based Effluent Limitations for Existing Discharges to Ground Water Previously Classified as Class III. A permit issued before March 20, 2009, authorizing a discharge to a ground water classified as Class III Ground Water before March 20, 2009, may provide that the technology based effluent limitation is primary treatment if no action is proposed that will increase the volume of effluent or the amount of pollutants that will be discharged above that authorized in the permit issued before March 20, 2009. Notwithstanding the foregoing, the Department will require any discharge to ground water classified as Class III Ground Water before March 20, 2009, that was not authorized by a permit issued prior to March 20, 2009, to receive treatment in addition to primary treatment. The Department may also require any discharge to ground water classified as Class III Ground Water as of March 20, 2009 receive treatment in addition to that specified in 314 CMR 5.10(4)(a)2. if it determines, based

## 5.10: continued

on a Total Maximum Daily Load or otherwise, that such additional treatment is necessary to ensure that the discharge will not cause or contribute to a violation of the Massachusetts Surface Water Quality Standards.

(b) Technology based limitations for discharges from PWTs that treat industrial wastewater shall be the more stringent of the following:

1. Limitations and standards for the applicable industrial category promulgated by EPA pursuant to §§ 304, 306, 307 and 405 of the Federal Act, 33 U.S.C. §§ 1314, 1316, 1317, and 1345, as required by § 301 of the Federal Act, 33 U.S.C. § 1311.
2. Limitations developed on a case-by-case basis that, in the Department's judgment, define the appropriate level of control set forth in the Federal Act for the category of discharger or class of pollutants discharged. In defining the appropriate level of control hereunder, the Department will consider any draft or promulgated EPA effluent limitation guidelines, draft or proposed EPA development documents or guidance, any available state guidance, or any technology or process which has been demonstrated to be achievable in the experience of the Department for the class or category of discharger.

(4A) Additional and More Stringent Water Quality and Technology Based Effluent Limitations for Discharges within a Zone II or Interim Wellhead Protection Area.

(a) Except as otherwise provided in 314 CMR 5.10(9), discharges of liquid effluent from a POTW or a PWT within a Zone II or Interim Wellhead Protection Area shall, at a minimum, meet the following additional and more stringent water quality based effluent limitations and technology based effluent limitations:

1. Total Suspended Solids shall not exceed 10 milligrams per liter;
2. Turbidity shall not exceed 5 NTU;
3. Total Organic Carbon shall not exceed 3 milligrams per liter unless the Department determines otherwise based on considerations such as the location of the discharge relative to the Zone of Contribution (as determined by a Hydrogeological Evaluation performed in accordance with 314 CMR 5.09), and whether mitigation or additional source protection measures are provided; and
4. The effluent must be filtered and disinfected to meet an effluent limitation of no more than 200 fecal coliform organisms per 100 ml.

(b) Any POTW that treats industrial wastewater and discharges a liquid effluent within a Zone II or Interim Wellhead Protection Area shall establish and implement a pretreatment program that meets the requirements of 314 CMR 12.08: *Prohibitions and Standards for Discharge to POTWs*, 12.09: *POTW Pretreatment Programs* and 5.10(8)(a). Unless a permit was issued prior to March 20, 2009 a PWT located within a Zone II or IWPA shall not treat industrial wastewater.

(c) Except as otherwise provided in 314 CMR 5.10(9), a discharge of a liquid effluent from a POTW or a PWT located within a Zone II or Interim Wellhead Protection Area of a ground water source and the two-year ground water travel time to the source shall, at a minimum, meet the following additional and more stringent water quality based limitations:

1. Total Suspended Solids shall not exceed 5 milligrams per liter;
2. Turbidity shall not exceed 2 NTU;
3. Biological Oxygen Demand (BOD) shall not exceed 10 milligrams per liter;
4. Total Organic Carbon (TOC) shall not exceed one milligram per liter; and
5. Total nitrogen and nitrate nitrogen shall not exceed 5 milligrams per liter.

(d) Except as otherwise provided in 314 CMR 5.10(9), a discharge of a liquid effluent from a POTW or a PWT located within a Zone II or Interim Wellhead Protection Area of a ground water source and the two-year ground water travel time to the source shall, at a minimum, meet the following additional technology based limitations:

1. The effluent shall at all times be oxidized, filtered, and disinfected so that the median concentration of fecal coliform in the disinfected effluent does not exceed a limit of no detectable colonies per 100 milliliters over a continuous seven-day sampling period, and no sample shall exceed a limit of 14 colonies per 100 milliliters.
2. The permittee shall demonstrate that the disinfection process can inactivate or remove five logs of F-specific bacteriophage of MS 2 or poliovirus from the effluent. A virus at least as resistant as poliovirus may be used for the purpose of demonstration. This requirement may be met by a combination of removal and inactivation. Compliance may also be based on the treatment process, turbidity, and type of performance of the disinfection.

## 5.10: continued

3. The Department may allow the effluent to be filtered without coagulation if the turbidity requirement can be satisfied after filtration without coagulation.
- (e) Notwithstanding anything to the contrary in 314 CMR 5.10(4A), the Department may allow a discharge of effluent from a POTW or a PWTF located within a Zone II or Interim Wellhead Protection Area to meet effluent limitations that are less stringent than required by 314 CMR 5.10(4A)(a), (c) and (d), provided that:
  1. The discharge was authorized by a permit issued pursuant to 314 CMR 5.00 prior to March 20, 2009;
  2. No action is proposed that will increase the volume of the discharge or the amount of pollutants discharged above that authorized in the permit issued prior to March 20, 2009;
  3. The continued discharge of effluent from the POTW or PWTF will not impair the use of the ground water as an actual or potential source of potable water;
  4. The continued discharge of effluent from the POTW or PWTF will not cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*;
  5. The discharge is required to meet effluent limitations at least as stringent as those set forth in the permit issued prior to March 20, 2009; and
  6. The discharge is outside the six-month ground water travel time to the public water source for a public water system.
- (f) If, pursuant to 314 CMR 5.10(4A)(e), the Department issues a permit that allows a discharge within a Zone II or Interim Wellhead Protection Area to meet effluent limitations less stringent than required by 314 CMR 5.10(4A)(a), (c) and (d), the Department may modify the permit to require the discharge to meet the applicable effluent limitations set forth in 314 CMR 5.10(4A)(a), (c) and (d) if, at permit renewal, or any other time, the Department determines that such modification is necessary to protect the public health, safety, welfare, or the environment.

(4B) Additional and More Stringent Effluent Limitations for Discharges Within 100 Feet of an Irrigation Well. If a permit authorizes the discharge of reclaimed water within 100 feet of an irrigation well, the permit shall establish effluent limitations that are at least as stringent as effluent limitations established in accordance with 314 CMR 20.17(8).

(4C) Additional and More Stringent Effluent Water Quality and Technology Based Effluent Limitations for Discharges from Treatment Works That Discharge an Effluent to the Ground Water Without the Benefit of Treatment in the Unsaturated Zone. If an applicant proposes a wastewater treatment facility that does not include treatment in the unsaturated zone prior to discharge to the ground water, the permit shall require the discharge to meet the effluent limitations set forth in 314 CMR 5.10(4A) that apply to discharges within a Zone II or Interim Wellhead Protection Area of a ground water source and the two-year ground water travel time to the source.

(5) Duration of Permits. Permits shall be effective for a fixed term not to exceed five years. The Department may issue any permit for a lesser duration.

(6) Monitoring, Recordkeeping and Reporting Requirements.

- (a) Each permit shall contain monitoring requirements to assure compliance with permit limitations and conditions, including without limitation the installation of monitoring wells to ensure the protection of the ground water as an actual or potential source of potable water, protection of surface waters for their existing and designated uses, and to assure the attainment and maintenance of the 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*. The Department shall approve the number, location, dimensions, method of construction, sampling parameters, and method of sampling of monitoring wells. The type, intervals, and frequency of monitoring shall be sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring. Monitoring requirements may include the mass (or other measurement specified in the permit) for each pollutant limited in the permit, the volume of effluent discharged from each facility, and other measurements as appropriate (including biological monitoring methods

## 5.10: continued

when appropriate). Monitoring shall be conducted in accordance with the provisions of 314 CMR 5.16(10). Permittees shall maintain records of all monitoring activities in accordance with 314 CMR 5.16(11).

(b) Each permit shall contain requirements to report monitoring results with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year. Pollutants for which the permittee must report violations of maximum daily discharge limitations under 314 CMR 5.16(20)(e) shall be listed in the permit.

(c) The permittee shall demonstrate that permitted discharges comply with the effluent limitations and other relevant conditions in the permit through tests or analytical determination of ground water and effluent samples collected, transported, and stored in the manner outlined in *Standard Methods for the Examination of Water and Wastewater*, 22<sup>nd</sup> edition, published by the American Public Health Association, American Water Works Association, and the Water Environment Federation, 2016, and the latest EPA analytical procedures. The Department must approve the location of ground water, influent, and effluent sampling. Effluent samples must be collected at a point where the effluent emerges from a treatment works, disposal system, outlet, or point source, and prior to being discharged to the ground, unless otherwise approved by the Department. In selecting or approving monitoring well locations and construction, the Department may consider all relevant facts including, but not limited to:

1. The mobility of pollutants in the unsaturated zone, and the pollutant attenuation mechanisms in this zone;
2. Attenuation mechanisms that may remove potential pollutants passing through the soil;
3. The relative thickness of the unsaturated zone;
4. Attenuation of pollutant concentrations with distance, that may occur in the saturated zone as a result of the attenuation process occurring below the water table; and
5. Information from the approved Hydrogeological Report, including but not limited to, information on ground water levels, ground water flows, and soils information.

(d) Tests or Analytical Determinations. Tests and analytical determinations to establish compliance with standards, limitations and criteria shall be conducted in accordance with methods approved by the Department for that purpose.

(7) Schedule of Compliance.

(a) A permit may, when appropriate, specify a schedule leading to compliance with M.G.L. c. 21, §§ 26 through 53 and 314 CMR 5.00. Any such schedule shall require compliance as soon as possible. Each schedule shall set forth dates to accomplish interim requirements leading toward compliance. Beginning with the date of permit issuance, the time between interim dates shall not exceed one year. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(b) The first permit issued for a discharge which commences shall not contain a schedule of compliance. No new or recommencing discharge shall commence operations or discharge prior to installation and operation of all treatment works necessary to comply with the effluent limitations established in the permit.

(8) Other Conditions. In addition to the conditions established under 314 CMR 5.10(1) through (7), a permit may include special conditions as follows:

(a) Requirements for POTWs to comply with pretreatment provisions under 314 CMR 12.00: *Operation, Maintenance and Pretreatment Standards for Wastewater Treatment Works and Direct Dischargers*, including:

1. The identification, in terms of character and volume of pollutants, of any significant indirect discharge into the POTW subject to the prohibitions and standards of 314 CMR 12.08: *Prohibitions and Standards for Discharges to POTWs*;
2. The establishment of a POTW pretreatment program in accordance with 314 CMR 12.09: *POTW Pretreatment Programs*, including any necessary schedule of compliance for adoption of the program;
3. The incorporation of an approved POTW pretreatment program in the permit; and
4. The submittal by a POTW of the reports required by 314 CMR 12.09(3): *POTW Reporting*.



## 5.10: continued

- (b) A permit may impose similar pretreatment requirements on a PWTf that treats industrial wastewater if it determines such requirements are necessary to ensure that the discharge will not:
1. interfere with the use of the ground water as an actual or potential source of potable water;
  2. cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*; or
  3. pose a threat to the public health, safety, welfare, or the environment.
- (c) Requirements applicable to the management of hazardous wastes for treatment works subject to the provisions of 314 CMR 8.00: *Supplemental Requirements for Hazardous Waste Management Facilities*.
- (d) Requirements to control or abate the discharge of pollutants through the application of best management practices when:
1. Authorized under § 304(e) of the Federal Act, 33 U.S.C. § 1314(e), for the control of toxic pollutants and hazardous substances from ancillary and industrial activities;
  2. Numerical effluent limitations are infeasible; or
  3. The practices are reasonably necessary to achieve effluent limitations and standards, or to carry out the purposes and intent of Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53.
- (e) Requirements to monitor, record, and report the quality of water at upgradient and downgradient monitoring wells to determine that the discharge does not impair the use of the ground water as an actual or potential source of potable water and will not cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*.
- (f) Requirements to prepare and submit monthly operating reports under 314 CMR 12.07: *Recordkeeping and Reporting*.
- (g) Requirements imposed in grants or loans made by EPA or the Department to POTW's under the Federal Act or M.G.L. c. 29C which are reasonably necessary for the achievement of effluent limitations and compliance with all the terms and conditions of the permit or 314 CMR 5.00.
- (h) Requirements governing the disposal of sludge from treatment works.
- (i) Requirements for the periodic submission of reports regarding the condition and capacity of a treatment works, including any portion of a sewer system.
- (j) Requirements for the operation, maintenance, and staffing of treatment works, including but not limited to, the following:
1. Submission of an Operation and Maintenance and Staffing Plan (the "Operations and Maintenance Plan") to the Department for its review and approval at least 90 days before the facility commences operation or at least 45 days before the permit takes effect, whichever last occurs. The plan will be presumed approved if the Department does not issue a written approval, conditional approval, denial or request for further information within 90 days after submittal. The Operation and Maintenance Plan shall document how the permittee intends to operate, maintain and staff the facility in accordance with all applicable requirements in the permit, 314 CMR 5.00, 257 CMR 2.00: *Certification of Operators of Wastewater Treatment Facilities*, and 314 CMR 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*. The Operation and Maintenance Plan shall include a preventative maintenance program to ensure that all equipment is kept in a reliable condition. The Operation and Maintenance Plan shall include a plan to staff the facility in accordance with all applicable regulations, including without limitation, 257 CMR 2.00. If the permit authorizes the use of some or all of the effluent as reclaimed water in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards* the Operation and Maintenance Plan shall also include an emergency contingency plan that establishes standard operating procedures that must be followed when the reclaimed water does not meet the applicable effluent limitations.
  2. Operation of the facility in accordance with the Operation and Maintenance Plan approved by the Department, 314 CMR 5.00 and 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*.

## 5.10: continued

3. Submission of a revised Operation and Maintenance Plan whenever there are proposed modifications to the facility, the standard operating procedures for the facility, or the staffing of the facility. The plan will be presumed approved if the Department does not issue a written approval, conditional approval, denial or request for further information within 90 days after submittal.

4. Except as otherwise determined by the Department, implementation of proposed changes only after the revised Operation and Maintenance Plan is approved by the Department.

5. the permittee intends to enter into a contract with a third party (the “contract operator”) for the operation and maintenance of the facility, at least 90 days prior to the date the contract operator intends to commence operation of the facility, the permittee shall submit a draft unsigned contract to the Department for its review and approval. The contract will be presumed approved if the Department does not issue a written approval, conditional approval, denial or request for further information within ninety days after submittal. The contract shall provide that the contract operator shall operate and maintain the facility in accordance with the approved Operation and Maintenance Plan, 314 CMR 20.00: *Reclaimed Water Permit Program and Standards*, 314 CMR 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*, and 257 CMR 2.00: *Certification of Operators of Wastewater Treatment Facilities*. The permittee shall not execute the contract and authorize the contract operator to operate the facility unless and until the Department has approved the contract. The permittee shall notify the department in writing within seven days of any change in contract operators.

(k) Use of Effluent as Reclaimed Water in Accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards*. A permit issued under 314 CMR 5.00 may authorize the use, sale or distribution of some or all of the effluent from the permitted facility as reclaimed water, in accordance with 314 CMR 20.00, provided that the facility is a reclaimed water system as defined in 314 CMR 5.02. Any such permit shall contain the conditions governing the operation and maintenance of a reclaimed water system and the treatment, use, sale and distribution of reclaimed water set forth in 314 CMR 20.00.

(l) Conditions for Privately Owned Wastewater Treatment Facilities That Treat at Least Some Sewage from Residential Uses, Hospitals, Nursing or Personal Care Facilities, Residential Care Facilities And/or Assisted Living Facilities.

1. A permit for a Privately Owned Wastewater Treatment Facility (PWTF) that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, and/or assisted living facilities shall contain the following additional conditions:

- a. The permittee shall establish, fund and maintain a financial assurance mechanism that provides for the continued availability of an immediate repair and replacement account to be used by the permittee solely for the immediate repair and replacement of any failing components of the PWTF. To create an immediate repair and replacement account, the permittee shall deposit at least 25% of the estimated construction cost of the PWTF into an interest bearing escrow account in accordance with the financial assurance mechanism and 314 CMR 5.15. The escrow agent for the immediate repair and replacement account shall be a third-party acting in a fiduciary capacity. On or before January 31<sup>st</sup> of each year, the permittee shall submit an annual financial report identifying the initial and current balances in the immediate repair and replacement account, and confirming the continuing availability of funds in the account for the purposes specified in the permit and 314 CMR 5.15. The report shall be prepared in accordance with generally accepted accounting principles.
- b. The permittee shall meet the obligation to establish all required financial assurance mechanisms by using Department approved form documents, and shall submit the documents to the Department for its review and approval.
- c. The permittee shall maintain the current form documents evidencing all required financial assurance mechanisms approved by the Department. The permittee shall perform all its obligations under the required financial assurance mechanisms as approved by the Department.

## 5.10: continued

d. For purpose of the financial assurance mechanism requirement, the estimated construction cost of the wastewater treatment facility shall include the cost of constructing the wastewater treatment plant, collection system, associated mechanical equipment, but shall not include the land and disposal area.

2. A permit for a PWTF that does not treat any sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities may include the conditions set forth in 314 CMR 5.10(8)(k)1. that require the permittee to establish, fund and maintain a financial assurance mechanism providing for an immediate repair and replacement account in accordance with 314 CMR 5.15(4) and (5) if, at the time of permit renewal or any other time, the Department determines that establishment and maintenance of a financial assurance mechanism is necessary to ensure that the PWTF operates in compliance with its permit or 314 CMR 5.00, or to protect the public health, safety, welfare, or the environment. In making this determination, the Department shall consider the compliance history of the PWTF and the risk the PWTF poses to the public health, safety, welfare or the environment, including without limitation, actual and potential sources of potable water for a public water system and downgradient, hydrologically connected surface waters.

(9) Special Effluent Limitations. A permit may establish special effluent limitations less stringent than the water quality based effluent limitations set forth in 314 CMR 5.10(3) and the technology based limitations set forth in 314 CMR 5.10(4), as provided in 314 CMR 5.10(9)(a) through (h), if and only if, it is demonstrated to the satisfaction of the Department that the special effluent limitations are sufficient to protect the use of the ground water as an actual or potential source of potable water, and to protect the use of surface waters for the designated uses set forth in 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*. The Department shall not issue a permit with special effluent limitations as provided in 314 CMR 5.10(9)(a) through (h), unless it determines, based on a Total Maximum Daily Load or otherwise, that the discharge will not cause or contribute to a violation of 314 CMR 4.00.

(a) A permit may establish special effluent limitations less stringent than the water quality based effluent limitations listed in 314 CMR 5.10(3)(a) and (b) and the technology based effluent limitations set forth in 314 CMR 5.10(4)(a), where it is demonstrated to the satisfaction of the Department that the permitted facility is a treatment works designed, constructed, operated and maintained for the purpose of restoring a contaminated ground water and the discharge from such facility will not cause the ground waters receiving the discharge or any hydrologically connected downgradient surface waters of the Commonwealth to be further degraded.

(b) A permit may specify effluent limitations less stringent than the water quality based effluent limitations listed in 314 CMR 5.10(3)(a) and (b) where it is demonstrated to the satisfaction of the Department that natural background conditions preclude the ground water receiving the discharge from meeting the water quality based effluent limitations listed in 314 CMR 5.10(3)(a) and (b).

(c) An individual permit for a discharge of an effluent resulting from the treatment of sewage by a treatment works may specify effluent limitations less stringent than the water quality based effluent limitations listed in 314 CMR 5.10(3)(a) and (b) and the technology based effluent limitations specified in 314 CMR 5.10(4)(a), where it is demonstrated to the satisfaction of the Department that all the following conditions are met:

1. The ground water is not an underground source of drinking water because it does not currently serve as a source of drinking water and it cannot serve as a source of public drinking water now or in the future because:

- a. it is used to produce mineral, hydrocarbon or geothermal energy,
- b. it is so contaminated or is located at a depth or location that it would be economically or technologically infeasible, or
- c. it is not fit for human consumption.

2. The proposed discharge will not present an actual or potential public health hazard.

3. The proposed discharge will not cause the water quality of any public or private water supply to violate the maximum contaminant limits set forth in 310 CMR 22.00: *Drinking Water*.

## 5.10: continued

- (d) In determining whether an applicant has made the demonstration required by 314 CMR 5.10(9)(c), the Department shall, at a minimum, consider the following factors:
1. the volume and physical, chemical, and biological characteristics of the waste in the proposed discharge;
  2. the nature and extent of the area that may be affected by the potential movement of the contaminant plume that may result from the proposed discharge (the potentially impacted area);
  3. the hydrological characteristics of the potentially impacted area and its connection to hydrologically connected downgradient ground waters and surface waters;
  4. the existing quantity and quality of ground water and surface water in the impacted area; and
  5. the proximity of the proposed discharge to surface waters and to ground water withdrawals including without limitation wells for public water systems and private water supply wells.
- (e) An individual permit for the discharge of a liquid effluent resulting from the treatment of sewage at a treatment works may require the discharge to meet the water quality based limitation for nitrate nitrogen and total nitrogen of 10 milligrams per liter at selected monitoring wells located along the downgradient property boundary instead of at the point of discharge, if the discharger completes a nitrogen analysis in accordance with Department guidelines and demonstrates to the satisfaction of the Department that:
1. The water quality based limitation for nitrate nitrogen and total nitrogen of 10 milligrams per liter will be met at all points at which the discharge will reach any ground water source of potable water for a public water system, or any private water supply well; and
  2. The discharge is not within a Zone I, Zone II, Interim Wellhead Protection Area, Private Water Supply Area, Zone A, sole source aquifer, potentially productive aquifer, or any nitrogen sensitive area designated by the Department in accordance with 310 CMR 15.215: *Designation of Nitrogen Sensitive Areas*.
  3. The discharge complies with the requirements of the Water Resource Bureau's Interim Policy entitled *Nutrient Loading Approach to Wastewater Permitting and Disposal*, dated August 20, 1999. Notwithstanding the foregoing, the Department may modify any ground water discharge permit that has requirements based on the Interim Policy to include additional conditions or more stringent requirements when the ground water discharge permit is renewed, or at any other time that the Department determines such additional conditions are necessary for the protection of the public health, safety, welfare or the environment.
- (f) An individual permit for a discharge of a liquid effluent resulting from the treatment of sewage at a treatment works may require the discharge to meet effluent limitations for nitrate nitrogen and total nitrogen of five mg/l at selected monitoring wells located along the down gradient property boundary in lieu of meeting the applicable effluent limitation for nitrate nitrogen and total nitrogen set forth in 314 CMR 5.10(3), (4)(a)1. and (4A) at the point of discharge, if the discharger completes a nitrogen analysis in accordance with Department guidelines and demonstrates to the satisfaction of the Department that:
1. The discharge is located within a Zone II, Interim Wellhead Protection Area, Private Water Supply Area, Zone A, a sole source aquifer, a potentially productive aquifer, or a nitrogen sensitive area designated by the Department in accordance with 310 CMR 15.215: *Designation of Nitrogen Sensitive Areas*;
  2. The applicable water quality based limitations and the technology based limitations for nitrate nitrogen and total nitrogen set forth in 314 CMR 5.10(3), (4)(a)1. and 5.10(4A) will be met at all points at which the discharge will reach any ground water source of potable water for a public water system or any private water supply well;
  3. The treatment works was in existence and permitted prior to March 20, 2009.
  4. There is no increase in the volume of the discharge or amount of pollutants discharged above that authorized by the permit issued prior to March 20, 2009; and

## 5.10: continued

5. The discharge complies with the requirements of the Water Resource Bureau's Interim Policy entitled *Nutrient Loading Approach to Wastewater Permitting and Disposal*, dated August 20, 1999. Notwithstanding the foregoing, the Department may modify any ground water discharge permit that has requirements based on the Interim Policy to include additional conditions or more stringent requirements when the ground water discharge permit is renewed, or at any other time that the Department determines such additional conditions are necessary for the protection of the public health, safety, welfare or the environment.

(g) A permit issued pursuant to 314 CMR 5.10(9)(e) or (f) may impose additional effluent limitations and require the implementation of additional measures to protect the ground water as an actual or potential source of potable water and surface waters for their existing and designated uses. Such additional effluent limitations and measures include, but are not limited to, limitations on the total pounds of nitrate nitrogen and/or total nitrogen discharged to the site over a calendar year, limitations on parameters in addition to nitrate nitrogen and total nitrogen, monitoring of parameters in addition to nitrate nitrogen and total nitrogen at the point of discharge and/or at selected monitoring wells along the property line, land use controls, best management practices, and household hazardous waste collection. If a permit is issued pursuant to 314 CMR 5.10(9)(e) or (f) for a discharge from a treatment works in existence prior to March 20, 2009, there shall be no reduction in the level of treatment from that provided prior to March 20, 2009.

(h) An individual permit for the discharge of an effluent resulting from the treatment of sewage at a seasonal wastewater treatment facility in existence as of March 20, 2009, that is not located within a Zone II, Interim Wellhead Protection Area, Private Water Supply Area, or nitrogen sensitive area designated by the Department in accordance with 310 CMR 15.215: *Designation of Nitrogen Sensitive Areas*, may establish special effluent limitations as follows. The special effluent limitations shall restrict the total pounds of biochemical oxygen demand, total suspended solids, nitrate nitrogen and total nitrogen discharged to the ground from the treatment works over a calendar year to the total pounds of the aforementioned pollutants that would have been discharged during such calendar year, if the discharge occurred throughout the year in compliance with the more stringent of the water quality based effluent limitations and the technology based limitations set forth in 314 CMR 5.10(3) and (4)(a), provided that it is demonstrated to the Department's satisfaction that the water quality based limitations set forth in 314 CMR 5.10(3)(a) and (b) will be met at all points where the discharge will reach any source for a public water system or any private water supply well.

5.11: Ground Water Standards

(1) Except as otherwise provided in 314 CMR 5.11(2), or unless the Department determines that the ground water is not an underground source of drinking water as provided in 314 CMR 5.10(9)(c), all ground waters of the Commonwealth are designated as a source of potable water supply and the minimum criteria applicable to all ground waters of the Commonwealth shall be the effluent limitations set forth in 314 CMR 5.10(3)(a) and (b).

(2) The ground waters classified as Class III Ground Waters prior to March 20, 2009 are designated for uses other than a source of potable water supply. At a minimum, the most sensitive use of these ground waters shall be as a source of non-potable water which may come in contact with, but is not ingested by humans. The minimum criteria applicable to such ground waters shall be the effluent limitations set forth in 314 CMR 5.10(3)(a) and (b) as modified by 314 CMR 5.10(3)(c).

(3) To prevent the ground waters classified as Class III Ground Waters prior to March 20, 2009 from being further degraded, the Department may require that any discharge to such ground waters not authorized by a permit issued by the Department prior to March 20, 2009, and any increase in the volume or amount of pollutants above that authorized by a permit issued by the Department prior to March 20, 2009 to such waters, meet the more stringent of the water quality based effluent limitations and the technology based effluent limitations set forth in 314 CMR 5.10(3)(a) and (b), and (4). Alternatively, the Department may require the discharge to meet the special effluent limitations set forth in 314 CMR 5.10(9), if the permittee requests such limitations and makes the required demonstrations.

5.12: Modification, Suspension, Revocation, Renewal, and Transfer of Permits

(1) As provided in M.G.L. c. 21, § 43(10), the Department may modify, suspend or revoke any outstanding individual permit, or coverage under a general permit, in whole or in part, for cause including, but not limited to, violation of any permit term, obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts or any changes in or discovery of conditions that call for the reduction or discontinuance of the authorized discharge or activity. The modification, suspension, revocation, or renewal other than an administrative renewal, of an individual permit or coverage under a general permit shall be processed in accordance with 314 CMR 2.10: *Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage*. In processing a renewal other than an administrative renewal, the Department may revise or withdraw a draft permit renewal, either on its own or in response to comments, prior to the effective date of the permit renewal as determined in accordance with 314 CMR 2.08: *Issuance and Effective Date of Permit, General Permit Coverage, or Other Determination and Requests for Adjudicatory Hearings*. In a case where the department withdraws a draft permit renewal, the existing permit will remain in effect in accordance with 314 CMR 5.08.

(2) The Department may modify or terminate an individual permit or coverage under a general permit at the request of the permittee upon a showing satisfactory to the Department that the requested modification or termination is appropriate in view of circumstances for which the permittee is not at fault.

(a) Except as otherwise provided in 314 CMR 5.12(3), the modification or termination of an individual permit or coverage under a general permit shall be processed in accordance with the provisions of 314 CMR 2.10: *Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage*.

(b) An individual permit or coverage under a general permit may be transferred by the permittee to a new permittee only if the individual permit or coverage under the general permit has been modified or revoked and reissued in accordance with 314 CMR 2.10: *Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage*, or a minor modification is made in accordance with 314 CMR 5.12(3) and (4), or an automatic transfer takes place in accordance with 314 CMR 5.12(5).

(c) Any permit which authorizes the operation of a RCRA facility subject to the requirements of 314 CMR 8.07: *Standards for all other RCRA Facilities* shall be valid only for the person to whom it is issued and may not be transferred. Operation of a RCRA facility by an owner or operator who is not named in the permit shall be a violation of 314 CMR 5.00 and a basis for revocation of the permit, or other enforcement action.

(3) Minor Modifications of Individual Permits. Upon the request or consent of the permittee, the Department may modify an individual permit to make the following minor modifications without following the procedures of 314 CMR 2.00: *Permit Procedures*:

- (a) correction of typographical errors;
- (b) requirements for more frequent monitoring or reporting by the permittee;
- (c) requirements for the monitoring of additional parameter(s);
- (d) requirements for the replacement of damaged monitoring well(s) at a nearby location or for the installation of additional monitoring wells;
- (e) deletion of an outfall when the discharge from that outfall is terminated and does not result in the discharge of pollutants from other outfalls, except in accordance with permit limits; or
- (f) changes to an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement.

(4) Transfer of Individual Permits or Coverage Under a General Permit. Upon the request or consent of the permittee, the Department may transfer an individual permit or coverage under a general permit to a new permittee without following the procedures set forth in 314 CMR 2.00: *Permit Procedures* if the following conditions are satisfied:

- (a) The Department receives written notice of the transfer at least 30 days in advance of the proposed transfer date from the current permittee;

## 5.12: continued

(b) The notice includes a written agreement between the existing and new permittee, which includes a specific date for transfer of the permit and the proposed new transferee's assumption of responsibility for compliance with all the terms and conditions of the permit. The notice shall include sufficient documentation to demonstrate that the proposed new transferee meets all the requirements of 314 CMR 5.15, and the written agreement shall provide for the allocation of liability and financial responsibility for all required financial assurance mechanisms; and

(c) The Department approves the transfer in writing. The transfer shall take effect on the date the transfer is approved by the Department.

If the proposed new transferee will operate a PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities or that has been required to establish financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), the Department shall not approve the transfer unless the notice submitted pursuant to 314 CMR 5.12(4)(a) contains sufficient information to demonstrate to the satisfaction of the Department that:

1. the proposed new transferee is in compliance with the financial assurance mechanism requirements of 314 CMR 5.15(4) and (5); and
2. all required funds have been placed in the immediate repair and replacement account.

(5) Automatic Transfers. As an alternative to transfers under 314 CMR 5.12(4), a permit may be automatically transferred to a new permittee, and become effective on the proposed transfer date if:

- (a) The facility authorized by the permit is not a PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, or that has been required to establish financial assurance mechanism(s) pursuant to 314 CMR 5.15(6);
- (b) The facility is not an RCRA facility subject to the requirements of 314 CMR 8.07: *Standards for all other RCRA Facilities*;
- (c) The facility is not a reclaimed water system;
- (d) The current permittee notifies the Department in writing of the proposed transfer at least 30 days in advance of the proposed transfer date;
- (e) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- (f) The Department does not notify the existing permittee and proposed new permittee prior to the proposed transfer date that it requires additional information or intends to modify or revoke and reissue the permit.

(6) Time to Apply for Renewal of an Individual Permit. Any person with a currently effective individual permit shall submit an application to renew the permit in accordance with 314 CMR 5.12 at least 180 days before the expiration of the existing permit, unless permission for a later date has been granted by the Department in writing.

(7) Additional Requirements for Renewal of Individual Permits for POTWs or PWTFs that Discharge Effluent Resulting from the Treatment of Sewage. Unless otherwise determined by the Department, a permittee responsible for the operation of a POTW or a PWTF that discharges an effluent resulting from the treatment of sewage only shall, when applying for renewal of an individual permit for a facility that has been in operation for more than 14 but less than 19 years, submit to the Department for its review and approval an engineering report prepared by a Massachusetts Registered Professional Engineer with a concentration in civil, sanitary or environmental engineering. The engineering report shall outline in sufficient detail what facility modifications or other changes, if any, are needed to ensure that the facility is capable of complying with the permit through the next five-year permit term and beyond. Along with the engineering report, the permittee shall submit a financial plan containing cost estimates for implementing the proposed facility modifications and other changes identified in the engineering report, and demonstrate how the permittee will finance the needed facility modifications or other changes on or before the date 20 years from the date that the facility commenced operation. The permittee shall implement the modifications and other changes identified in the engineering report as approved by the Department in accordance with a schedule approved by the Department.

## 5.12: continued

(8) The Department may require submission of the engineering report and financial plan described in 314 CMR 5.12(7) when a permittee operating a POTW or a PWTF that discharges an effluent resulting from the treatment of sewage only, that has been in operation for more than 19 years, applies for renewal of an individual permit, if the permittee did not submit said report and plan with its last application for permit renewal, or if the Department determines that submission of said report and financial plan is necessary to ensure that the facility remains capable of operating in compliance with 314 CMR 5.00 or the permit, or in a manner that adequately protects the public health, welfare, safety, or the environment.

(9) Administrative Renewal of Permits. The Department may administratively renew an individual permit for an additional five years provided that all the following conditions are met:

- (a) The permittee submits a timely application for administrative renewal in accordance with 314 CMR 5.12(6);
- (b) The permittee does not seek to modify the treatment works or any best management practices authorized by the existing permit, and the Department has not determined that any modifications are necessary;
- (c) The permittee has operated and is operating all treatment works and best management practices authorized by the permit in accordance with the approved Operation and Maintenance Plan, the permit, 314 CMR 5.00, and 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*, and has submitted documentation evidencing implementation of the Operation and Maintenance Plan, the permit, 314 CMR 5.00, and 314 CMR 12.00;
- (d) A Massachusetts Registered Professional Engineer with a concentration in civil, sanitary or environmental engineering has inspected the treatment works and any best management practices required by the permit and, based on that inspection, has certified to the Department in writing that there are no deficiencies in the treatment works or best management practices that prevent or would prevent the discharge from meeting all the terms and conditions of the permit, including but not limited to, the effluent limitations set forth in 314 CMR 5.00;
- (e) The Department has determined that more stringent effluent limitations or requirements in addition to those set forth in the existing permit are not necessary to protect the ground water as an actual or potential source of potable water, to prevent the discharge from causing or contributing to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*, or to bring the permittee into compliance with the permit, 314 CMR 5.00, and 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*;
- (f) If the facility is a PWTF that treats sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities or assisted living facilities, or the permittee is required to establish financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), the permittee is in compliance with all applicable financial assurance mechanism requirements in accordance with 314 CMR 5.10(8)(l) and 5.15;
- (g) The facility is not a PWTF that treats industrial wastewater;
- (h) The permittee is not required to submit an engineering report in accordance with 314 CMR 5.12(7) or (8); and
- (i) The application is signed by a person identified in 314 CMR 5.14 and includes the certification set forth in 314 CMR 5.14.

(9A) The requirements for public notice and comment at 314 CMR 2.06: *Public Notice and Comment* do not apply to administrative renewals.

(10) Applications for Renewals of Individual Permits That Are Not Eligible for Administrative Renewal. As provided in 314 CMR 5.12(9), a permittee that has filed an application for administrative renewal of an individual permit and has received notice that the permittee has not met the conditions for administrative renewal shall, on or before the deadline established by the Department in the notice, submit a complete application for renewal in accordance with 314 CMR 5.12(11) and (12), unless otherwise directed by the Department in said notice.



## 5.12: continued

(11) If the permittee seeks to modify the treatment works, a complete application for permit renewal shall include the following:

- (a) a report by a Massachusetts Registered Professional Engineer with a concentration in sanitary, civil or environmental engineering describing the proposed modification; and
- (b) a certification by the Engineer that the treatment works with the proposed modification is designed to operate in compliance with all the terms and conditions of 314 CMR 5.00 and the permit including without limitation the effluent limitations set forth in 314 CMR 5.00.

(12) If the permittee is not eligible for administrative renewal of the existing permit because of deficiencies in the design, construction, operation, or maintenance of the treatment works that may prevent the discharge from complying with all the terms and conditions of 314 CMR 5.00 and the permit, the application for permit renewal shall include a corrective action plan and schedule. The corrective action plan and schedule shall detail all changes needed to address, correct or prevent any violations during the next five years, and include an implementation schedule. Changes set forth in the corrective action plan may include without limitation modifications to the treatment works authorized in the permit or changes to the approved Operation and Maintenance Plan.

5.13: General Permits

(1) The Department may issue general permits that authorize one or more types of discharges and the construction, operation, and maintenance of associated treatment works by multiple dischargers who have properly applied for and obtained coverage under the appropriate general permit. General permits may require discharges to also employ best management practices.

(a) The Department may issue general permits to one or more categories or subcategories of dischargers whose discharges warrant similar control measures because the Department has determined that they: involve the same or similar types of operations; discharge the same types of wastes; require the same effluent limitations or operating conditions; require the same or similar monitoring requirements; and are more appropriately controlled under a general permit than under individual permits.

(b) Based on the factors set forth in 314 CMR 5.13(1)(a), the Department may issue general permits for the construction, installation, modification, operation, and maintenance of certain PWTs and POTWs that discharge less than 50,000 gallons per day of sewage. The Department may also issue general permits for additional discharges including, without limitation, the following: reject water from reverse osmosis facilities; boiler blowdown with chemical additives approved by the Department; carwashes; laundromats; wastewater from water purification plants and water treatment plant lagoons; and point source agricultural discharges

(2) The Department may limit the scope of a general permit to discharges within a particular geographic area, or exclude discharges in a specified geographic area from coverage under a general permit.

(3) The Department may issue, modify or revoke a general permit in accordance with applicable provisions of 314 CMR 2.00: *Permit Process* and 5.00. The Department may make a minor modification of a general permit without following the procedures set forth in 314 CMR 2.00 to correct typographical errors.

(4) Dischargers who previously obtained an individual permit and seek to be covered by a general permit in *lieu* of an individual permit, and proposed dischargers who seek to be covered by a general permit, shall submit to the Department a notice of intent requesting coverage under the general permit in accordance with the requirements of the appropriate general permit, 314 CMR 2.00: *Permit Process* and 5.00. A discharger who fails to submit a notice of intent in accordance with the terms of the general permit, 314 CMR 2.00 and 5.00, is not authorized to discharge under the general permit. In general, the filing of a complete and timely notice of intent fulfills the requirements for permit applications for purposes of 314 CMR 5.09A.

## 5.13: continued

- (5) The Department will specify the contents of the notice of intent in the general permit and require the submission of information deemed necessary for the Department to adequately implement and oversee compliance with the general permit, including, at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharge, and the location of the discharge.
- (6) The Department will specify in the general permit the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the general permit.
- (7) The Department will specify in the general permit whether a discharger that has submitted a complete and timely notice of intent, and is eligible for coverage under the general permit, is authorized to discharge in accordance with the general permit either: upon the receipt of the notice of intent by the Department; after a waiting period specified in the general permit; on a date specified in the general permit; or upon receipt of notification by the Department.
- (8) The Department may require any person seeking coverage under a general permit, or authorized to discharge under a general permit, to apply for and obtain an individual permit or an alternative general permit. Circumstances in which the Department may require an individual permit or an alternative general permit include, but are not limited to, the following:
- (a) The discharger is not in compliance with the terms and conditions of the general permit, or has not met the eligibility requirements for coverage under the general permit;
  - (b) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the discharges covered by the general permit;
  - (c) More specific effluent limitations are established for discharges covered by the general permit;
  - (d) The Department, based on a Total Maximum Daily Load developed by the Department or otherwise, determines that:
    - 1. The discharger is not appropriately or adequately controlled under the general permit; or
    - 2. More stringent limits than those set forth in the general permit are necessary to protect the public health, safety, welfare or the environment, to achieve or maintain compliance with 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*, or protect the ground water as an actual or potential source of potable water.
  - (e) The discharger covered by the general permit is a significant contributor of pollutants to waters of the Commonwealth based on the location or quantity of the discharge or type of pollutants discharged;
  - (f) The entity seeking coverage under the general permit has failed to provide sufficient information for the Department to determine that coverage under the general permit will adequately protect the public health, safety, welfare, and the environment; or
  - (g) The Department determines that the treatment works authorized to discharge under the general permit:
    - 1. No longer involves the same or substantially similar types of operations as the permittees granted coverage under the general permit;
    - 2. No longer discharges the same types of wastes as the permittees granted coverage under the general permit;
    - 3. No longer requires the same effluent limitations or operating conditions as the permittees granted coverage under the general permit;
    - 4. No longer requires the same or similar monitoring as the permittees granted coverage under the general permit; or
    - 5. Is more appropriately controlled under an individual permit.

## 5.13: continued

(9) In lieu of requiring a discharger covered or seeking coverage under a general permit to obtain an individual permit, the Department may direct such discharger to undertake additional control measures, best management practices or other actions to ensure compliance with the general permit, achieve or maintain compliance with 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*, protect the use of the ground water as an actual or potential source of potable water, or protect the public health, safety, welfare, or the environment. The Department may also require the discharger to replace damaged monitoring wells, install additional monitoring to monitor for additional parameters, or perform more frequent monitoring if it determines that such requirements are necessary to protect the public health, safety, welfare, or the environment. The Department may exercise its authority to require the discharger to take the above actions by requiring the discharger to request coverage under an alternative general permit, by taking an enforcement action against the discharger, or by other means.

(10) Where the Department requires a discharger covered or seeking coverage under a general permit to apply for an individual permit or request coverage under an alternative general permit, the Department shall notify the permittee in writing that an individual permit or alternative general permit application is required as applicable. The Department's notification will include a brief statement of the reasons for the Department's action, the applicable form, a statement setting a deadline for the permittee to file the application for an individual permit or submit the notice of intent requesting coverage under the alternative general permit, and a statement that on the effective date of issuance or denial of the individual permit or alternative general permit as it applies to the particular permittee, coverage under the general permit shall automatically cease. The Department may grant additional time to submit the application or notice of intent upon request of the applicant. If a permittee fails to submit an individual permit application or a notice of intent requesting coverage under a general permit within the deadline set forth in its notification, the effectiveness of the general permit as applied to the discharger may be terminated as follows:

- (a) For a permittee seeking renewal of coverage under a general permit the effectiveness of the general permit as applied to the discharger is automatically terminated at the end of general permit term; or
- (b) To terminate coverage prior to the end of the permit term, the Department may revoke the general permit coverage in accordance with 314 CMR 2.10: *Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage*.

(11) At least 180 days prior to the expiration of a general permit, a permittee covered by a general permit shall file a notice of intent requesting continued coverage under the general permit, or file an application for an individual permit. If the facility is a POTW or a PWTF that discharges effluent as the result of the treatment of sewage only that has been in operation for 14 years or more, the Department may require the permittee to submit an engineering report that meets the requirements of 314 CMR 5.12(7) at least 180 days prior to the expiration of the permit so that the Department may determine whether the discharge may be adequately controlled under the general permit, or whether an individual permit or alternative general permit is required.

(12) In the event that the Department does not reissue a general permit prior to its expiration date, the general permit will be administratively continued and remain in full force and effect as to any particular permittee as follows. The Department may grant coverage under the general permit to any person who submitted a notice of intent requesting coverage under the general permit prior to the expiration date of the permit. The Department may also grant coverage under a general permit to a person who submitted a notice of intent after the expiration of the permit while the permit is administratively continued, if that person meets all other terms and conditions of the permit. Any permittee who was granted coverage prior to the expiration date, or as provided in 314 CMR 5.13(12), will automatically remain covered by the continued permit until the earlier of:

- (a) Reissuance of the general permit at which time the permittee shall comply with the conditions of the new permit to maintain its authorization to discharge;
- (b) The permittee's submittal of a written request to terminate general permit coverage to the Department, and the Department's approval of the request;

## 5.13: continued

- (c) The Department's issuance of an individual permit or an alternative general permit for the permittee's discharge; or
- (d) A formal permit decision by the Department not to reissue the general permit, at which time, the permittee shall seek coverage under an alternative general permit or apply for an individual permit.

(13) Any person who has been granted coverage under a general permit who thereafter seeks to use, sell, distribute or offer for use, sale, or distribution some or all of the effluent from the covered facility as reclaimed water in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards* shall apply for an individual permit at least 180 days prior to the date that the use, sale, distribution or offering for sale, use or distribution of the effluent as reclaimed water is proposed to commence. The Department will not authorize the use, sale or distribution of the effluent from a treatment works as reclaimed water under a general permit.

5.14: Signatories to Permit Applications, Notices of Intent and Reports

(1) Applications. All permit applications for an individual permit and all notices of intent requesting coverage under a general permit, including without limitation applications for PWTFS submitted in accordance with 314 CMR 5.15, shall be signed as follows:

- (a) For a corporation or limited liability corporation: by a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function and duly authorized by the Board of Directors, or any other person who performs similar policy or decision-making functions for the corporation, or to whom authority to sign documents has been assigned or delegated in accordance with corporate procedures;
- (b) For a partnership or limited partnership: by a general partner;
- (c) For a sole proprietorship: by the proprietor;
- (d) For a trust: by the trustee; or
- (e) For a municipality, local government unit or political subdivision of the State or Federal government: by a principal executive officer, ranking elected official, or other person with legal authority to sign such documents.

(2) Reports. All reports or other information required by permits or 314 CMR 5.00 and other information requested by the Department shall be signed by a person described in 314 CMR 5.14(1), or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (a) The authorization is made in writing by a person described in 314 CMR 5.14(1);
- (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or a position of equivalent responsibility; and
- (c) The written authorization is submitted to the Department.

(3) Certification. Any person signing a document under 314 CMR 5.14(1) or (2) shall make the following certification:

- (a) "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my diligent inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- (b) "I am aware that submitting a false or misleading certification could lead to modification, suspension, or revocation of any permit granted pursuant to this application or report, as set forth in 314 CMR 5.12."

5.15: Requirements for Privately Owned Wastewater Treatment Facilities

(1) A person owning, operating, or proposing to own or operate, a Privately Owned Wastewater Treatment Facility (PWTF) who applies for an individual permit or general permit coverage under 314 CMR 5.00 to construct, install, modify, operate or maintain a PWTF shall demonstrate to the Department's satisfaction compliance with the requirements of 314 CMR 5.15(1)(a) through (c) by signing and submitting with the permit application a Certification for PWTFs, and a Supplemental Certification for PWTFs (when applicable), in accordance with 314 CMR 5.15(7), in addition to the Certification required by 314 CMR 5.14(3).

(a) A single entity (the single responsible entity) shall be the permittee responsible for the operation of the facility, including reporting, monitoring, maintenance, repair and replacement of the PWTF.

(b) Except as otherwise provided in 314 CMR 5.12(5), the single responsible entity shall not change its organizational arrangements, nor sell, assign, or transfer the PWTF without the prior written approval of the Department.

(c) The single responsible entity shall own or control the land on which the PWTF is located, and shall own or control land, or obtain easements that provide access to:

1. the land on which the PWTF is located;
2. the wastewater collection system and any associated appurtenances;
3. all land within ten feet of any component of the collection system; and
4. the land area surrounding the disposal system that is essential to system operation and maintenance.

(2) If the privately owned wastewater treatment facility treats wastewater generated by activities that are owned or controlled by persons other than the single responsible entity, the applicant shall also demonstrate to the Department's satisfaction compliance with the requirements of 314 CMR 5.15(2)(a) and (b) by signing and submitting with the permit application a Certification for PWTFs, and a Supplemental Certification for PWTFs (when applicable), in accordance with 314 CMR 5.15(7), in addition to the Certification required by 314 CMR 5.14(3).

(a) All stakeholders shall share the financial and operational responsibilities for the PWTF required by 314 CMR 5.00.

(b) The single responsible entity shall have the authority to institute a user charge system sufficient to generate adequate revenue, and to enforce such assessments against users in a manner equivalent to a municipal fee, tax or betterment assessment.

(c) For purpose of 314 CMR 5.15(2), stakeholders shall include the persons who own or control or will own or control any activities that result in the discharge of pollutants. If the PWTF treats sewage so that it may be used as reclaimed water in accordance with 314 CMR 20.00: *Reclaimed Water Permit Program and Standards*, stakeholder may also include any persons who own or control the activities that are involved in the use, sale, distribution, or offering for use, sale or distribution of the effluent from the PWTF as reclaimed water in accordance with 314 CMR 20.00.

(d) If the PWTF treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, the obligation of all stakeholders to share in the financial and operational responsibilities for the PWTF shall include, without limitation, the obligation to establish, fund and maintain a financial assurance mechanism that provides for an immediate repair and replacement account. Notwithstanding the foregoing, persons who agree to have their wastewater treated at a PWTF instead of an on-site subsurface sewage disposal system permitted by 310 CMR 15.000: *The State Environmental Code, 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* as part of a plan to mitigate the environmental impacts of the PWTF or ensure that effluent from the PWTF will not cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards* are not stakeholders as defined in 314 CMR 5.15(2). Such persons are not required to share all the financial and operational responsibilities for the PWTF including, if applicable, the obligation to establish, fund and maintain financial assurance mechanisms that provide for an immediate repair and replacement account.

## 5.15: continued

(3) If the PWTF does not treat any sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, and is not required to establish a financial assurance mechanism pursuant to 314 CMR 5.15(6), the applicant may, in lieu of making the demonstration required by 314 CMR 5.15(1), submit to the Department, together with the Certification for PWTFs and, when applicable, the Supplementary Certification for PWTFs, a signed statement identifying all persons who own, control or have a substantial interest in the treatment works, an activity resulting in the discharge of pollutants, and the land on which the treatment works is located. In that event, the Department may require that any party who owns or controls the treatment works, an activity resulting in the discharge of pollutants, or the land on which the treatment works is located, shall be a permittee who is jointly and severally responsible for the operation of the treatment works in compliance with the permit, if the Department determines that including said person as a permittee is a necessary or appropriate means of protecting the public health, safety, welfare, or the environment, or to ensure that the treatment works and the discharge complies with the permit or 314 CMR 5.00.

(4) A permittee responsible for the operation of a PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities shall establish, fund and maintain financial assurance mechanisms to insure the Department that the permittee is capable of operating the facility in accordance with 314 CMR 5.00 and the permit. The permittee shall meet this obligation by completing the appropriate Department-approved form documents to establish the financial assurance mechanisms and shall file with the Department and maintain the current Department-approved form documents constituting or evidencing compliance with this obligation. The Department shall not authorize the permittee to operate a PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, and the permittee shall not operate said facility, unless and until: the Department has approved all required financial assurance mechanisms; the required financial assurance mechanisms are in full force and effect; and the permittee has made all financial contributions required by the financial assurance mechanisms. The permittee shall perform all its obligations under the required financial assurance mechanisms approved by the Department.

(5) A permittee responsible for the operation of a PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities shall establish, fund and maintain a financial assurance mechanism in the form of an escrow agreement developed by the Department for such purpose that provides for an immediate repair and replacement account in accordance with 314 CMR 5.15(5)(a).

(a) Immediate Repair and Replacement Account. The immediate repair and replacement account shall contain adequate funds to correct any unanticipated problem immediately so that any disruption of operation is minimized, and a violation of the terms and conditions contained in the permit does not occur. Prior to conducting the clear water test for a new PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, the permittee shall place in the immediate repair and replacement account an amount equal to at least 25% of the estimated construction cost of the PWTF. At least 30 days prior to renewal or transfer of a permit for an existing PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, sufficient funds shall be placed in the immediate repair and replacement account so that the total amount in the account equals at least 25% of the estimated construction cost of the PWTF. All permittees responsible for the operation of a PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities shall keep an amount equal to at least 25% of the estimated construction cost of the PWTF in the immediate repair and replacement account and shall replenish the account within 90 days of any disbursement. An applicant or permittee may obtain additional time to establish or replenish the account, if a request is submitted to the Department providing sufficient justification for the extension and if the Department approves the request in writing.

(b) The estimated construction cost of the wastewater treatment facility shall include the cost of constructing the wastewater treatment plant, the collection system and all mechanical equipment associated with the wastewater treatment plant and collection system, but shall not include the cost of the land or disposal area.

## 5.15: continued

(6) The Department may require a PWTf that does not treat any sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities to establish, fund and maintain a financial assurance mechanism that provides for an immediate repair and replacement account in accordance with 314 CMR 5.15(4) and (5) if, at the time of permit renewal or any other time, the Department determines that establishment, funding and maintenance of a financial assurance mechanism is necessary to ensure that the PWTf operates in compliance with its permit, or 314 CMR 5.00, or to protect the public health, safety, welfare or the environment. In making this determination, the Department shall consider the compliance history of the PWTf, the risk the PWTf poses to the public health, safety, welfare, or the environment including without limitation actual and potential sources of potable water for public water systems, private water supply wells, and downgradient hydrologically connected surface waters.

(7) A Certification for PWTfs and, if applicable, a Supplemental Certification for PWTfs, as described in 314 CMR 5.15(1) and (2), shall be submitted on forms provided by the Department with the appropriate permit applications. If applicable, a signed statement as described in 314 CMR 5.15(3) shall also be submitted with the appropriate permit applications. These documents shall be signed and dated by the applicant in accordance with 314 CMR 5.14(1).

(a) By signing these documents, the applicant acknowledges it is their responsibility to:

1. understand and comply with the requirements for PWTfs set forth in 314 CMR 5.15(1) through (3), and in related provisions of 314 CMR 5.00;
2. ensure that all pertinent documents, instruments, records, and information have been compiled, evaluated, and or established in order to provide the certifications; and
3. consult with legal, technical and other qualified professionals, as needed, to understand and comply with the requirements of 314 CMR 5.15, and to provide the certifications.

(b) At the time of completing the Certification for PWTfs, the applicant shall certify that they have fully and completely satisfied and complied with all requirements set forth in 314 CMR 5.15(1) through (3), as applicable, or that they will be able to satisfy those requirements in the future. If the applicant chooses future certification, they shall also submit a Supplemental Certification for PWTfs no later than 60 days from the date of the application, unless they request in writing and the Department agrees to a later date that precedes the issuance of a notice of a draft permit under 314 CMR 2.06: *Public Notice and Comment*.

(c) The Department, in its sole discretion, may require the applicant to submit additional information in support of the Certification required by 314 CMR 5.14(3), the Certification for PWTfs, or the Supplemental Certification for PWTfs, in order to demonstrate to the Department's satisfaction that the applicant has complied with the requirements of 314 CMR 5.15(1) through (3).

(d) The applicant shall maintain a copy of all records, regardless of form (*e.g.*, printed, electronic) upon which they rely in making the certification(s) that the applicable requirements of 314 CMR 5.15(1) through (3) have been met. Such records shall include without limitation all documents, instruments, records and information necessary, and any supporting documentation provided to the applicant by, or relied upon by, such qualified legal, technical or other professionals the applicant consults with to certify compliance with 314 CMR 5.15(1) through (3).

5.16: General Conditions

The following conditions apply to all individual and general permits:

(1) No discharge authorized in the permit shall cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*. Upon promulgation of any amended standard, the permit may be modified to comply with such standard in accordance with the procedures in 314 CMR 2.10: *Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage* and 314 CMR 5.12. Except as otherwise provided in 314 CMR 5.10(3)(c), 310 CMR 5.10(4)(a)2. and 314 CMR 5.10(9), no discharge authorized in the permit shall impair the ability of the ground water to serve as an actual or potential source of potable

## 5.16: continued

water. Evidence that a discharge impairs the ability of the ground water to serve as an actual or potential source of potable water includes, without limitation, analysis of samples taken in a downgradient well that demonstrates one or more exceedances of the applicable water quality based effluent limitations set forth in 314 CMR 5.10. In those cases where it is shown that a measured parameter exceeds the applicable water quality based effluent limitations set forth in 314 CMR 5.10 at the upgradient monitoring well, evidence that a discharge impairs the ability of the ground water to serve as an actual or potential source of potable water is deemed to exist if a measured parameter in any downgradient well exceeds the level of that same measured parameter in the upgradient well for the same sampling period. A statistical procedure approved by the Department shall be used to determine when a measured parameter exceeds the allowable level.

(2) Duty to Comply. The permittee shall comply at all times with the terms and conditions of the permit, 314 CMR 5.00, M.G.L. c. 21, §§ 26 through 53, and all applicable state and federal statutes and regulations.

(3) Standards and Prohibitions for Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established by § 307(a) of the Federal Act, 33 U.S.C § 1317(a), for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

(4) Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and equipment installed or used to achieve compliance with the terms and conditions of the permit, 314 CMR 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges*, and 257 CMR 2.00: *Certification of Operators of Wastewater Treatment Facilities*. All equipment shall be maintained in an acceptable condition for its intended use.

(5) Duty to Halt or Reduce Activity. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production, discharges, or both, until the facility is restored or an alternative method of treatment is provided. A permittee may not raise as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(6) Power Failure. In order to maintain compliance with the effluent limitations and prohibitions of the permit, the permittee shall either:

- (a) provide an alternative power source sufficient to operate the wastewater control facilities; or
- (b) halt, reduce or otherwise control production or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

(7) Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any adverse impact on human health or the environment resulting from non-compliance with the permit. Additionally, the permittee shall take all necessary steps to prevent an operational upset of the PWTW or POTW.

(8) Duty to Provide Information. The permittee and any operator of the permitted facility shall furnish to the Department within a reasonable time as specified by the Department any information which the Department may request to determine whether cause exists for modifying, suspending, revoking and reissuing, or terminating the permit, or to determine whether the permittee is complying with the terms and conditions of the permit.

(9) Inspection and Entry. The permittee shall allow the Department or its authorized representatives to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records required by the permit are kept;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;



## 5.16: continued

- (c) Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and
- (d) Sample or monitor at reasonable times for the purpose of determining compliance with the terms and conditions of the permit.

(9A) The permittee shall physically secure the treatment works and monitoring wells and limit access to the treatment works and monitoring wells only to those personnel required to operate, inspect and maintain the treatment works and to collect samples.

(9B) The permittee shall identify each monitoring well by permanently affixing to the steel protective casing of the well a tag with the identification number listed in the permit.

(10) Monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures are specified in the permit.

(11) Recordkeeping. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and all records of all data used to complete the application for the permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time. Records of monitoring information shall include without limitation:

- (a) The date, exact place, and time of sampling or measurements;
- (b) The individual(s) who performed the sampling or measurement;
- (c) The date(s) analyses were performed;
- (d) The individual(s) who performed the analyses;
- (e) The analytical techniques or methods used; and
- (f) The results of such analyses.

(12) Prohibition of Bypassing. Except as provided in 314 CMR 5.16(13), bypassing is prohibited, and the Department may take enforcement action against a permittee for bypassing unless:

- (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (c) The permittee submitted notice of the bypass to the Department:
  1. In the event of an anticipated bypass, at least ten days in advance, if possible; or
  2. In the event of an unanticipated bypass, as soon as the permittee has knowledge of the bypass and no later than 24 hours after its first occurrence.

(13) Bypass not Exceeding Limitations. The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if necessary for the performance of essential maintenance or to assure efficient operation of treatment facilities.

(14) Permit Actions. The permit may be modified, suspended, or revoked for cause. The filing of a request by the permittee for a permit modification, reissuance, or termination, or a notification of planned changes or anticipated non-compliance does not stay any permit condition.

(15) Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit. The permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department in writing.

## 5.16: continued

(16) Property Rights. The permit does not convey any property rights of any sort or any exclusive privilege.

(17) Other Laws. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, or local law, or regulation.

(18) Oil and Hazardous Substance Liability. Nothing in the permit shall be construed to preclude the institution of any legal action or relieve the permittee of any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Federal Act, 33 U.S.C. § 1321, and M.G.L. c. 21E.

(19) Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed in a manner consistent with applicable Federal and State laws and regulations including, but not limited to, the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 and the Federal Act, 33 U.S.C. § 1251 *et seq.*, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, 310 CMR 19.000: *Solid Waste Management* and 310 CMR 30.000: *Hazardous Waste*.

(20) Reporting Requirements.

(a) Monitoring Reports. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) at the intervals specified in the permit. If a permittee monitors any pollutant more frequently than required by the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Beginning on December 2, 2017, a permittee shall submit all DMRs electronically, using the electronic reporting system designated by the Department. A permittee may seek a waiver of this requirement by submitting a written request for the Department's approval.

(b) Compliance Schedules. Reports of compliance or non-compliance with, or any progress reports on interim and final requirements contained in any compliance schedule in the permit shall be submitted no later than 14 days following each schedule date.

(c) Planned Changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility or activity which could significantly change the nature or increase the quantity of pollutants discharged. Unless and until the permit is modified, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.

(d) Anticipated Non-compliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in non-compliance with permit requirements.

(e) 24 Hour Reporting. The permittee shall report any non-compliance which may endanger health or the environment. Any information shall be communicated orally within 24 hours of the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance. The following shall be included as information which must be reported within 24 hours:

1. Any unanticipated bypass which exceeds any effluent limitation in the permit; and
2. Any violation of a maximum daily discharge limitation for any of the pollutants required by the permit to be reported within 24 hours.

(f) Other Non-compliance. The permittee shall report all instances of non-compliance not reported under 314 CMR 5.16(20)(a), (b), or (e) at the time monitoring reports are submitted. The reports shall contain the information listed in 314 CMR 5.16(20)(e).

(g) Toxics. All manufacturing, commercial, mining, or silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

## 5.16: continued

1. That any activity has occurred, or will occur, that would result in the discharge of any toxic pollutant listed in 314 CMR 3.17: *Appendix B - Toxic Pollutants* not limited by the permit, if that discharge will exceed the highest of the following notification levels:
    - a. 100 micrograms per liter (100 ug/l);
    - b. 200 micrograms per liter (200 ug/l) for acrolein and acrylonitrile, 500 micrograms per liter (500 ug/l) for 2,4-dinitrophenol, and for 2-methyl-4,6dinitrophenol, and one milligram per liter (1 mg/l) for antimony;
    - c. Five times the maximum concentration value reported for that pollutant in the permit application; or
  2. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.
- (h) Indirect Dischargers. All Publicly Owned Treatment Works shall provide adequate notice to the Department of the following:
1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to § 301 or § 306 of the Federal Act, 33 U.S.C. § 1311 or 1316, if it were directly discharging those pollutants; and
  2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (i) Information. Where a permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit the relevant facts or correct information.
- (j) The permittee shall notify the department in writing within seven days of any change in contract operators.
- (21) Signatory Requirement. All applications, reports, or information submitted to the Department shall be signed and certified in accordance with 314 CMR 3.15: *Signatories to Permit Applications and Reports* and 5.14.
- (22) Severability. The provisions of the permit are severable. If any provision of the permit, or the application of any provision of the permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the permit, shall not be affected thereby.
- (23) Reopener Clause. The Department reserves the right to make appropriate revisions to the permit to establish any appropriate effluent limitations, schedules of compliance, or other provisions, as authorized by the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53, or the Federal Act, 33 U.S.C. § 1251 *et seq.*, to bring all discharges into compliance with these statutes.
- (24) Approval of Treatment Works. All discharges and associated treatment works authorized in 314 CMR 5.00 shall remain in compliance with the terms and conditions of the permit. Any modification of the approved treatment works shall require written approval of the Department prior to the construction of the modification.
- (25) Transfer of Permits.
- (a) RCRA Facilities. Any permit which authorizes the operation of a RCRA facility subject to the requirements of 314 CMR 8.07: *Standards for all other RCRA Facilities* shall be valid only for the person to whom it is issued and may not be transferred.
  - (b) Transfers by Modification. Except as provided in 314 CMR 5.16(25)(a) and (c), a permit may be transferred by the permittee to a new permittee if the permit has been modified or revoked and reissued in accordance with 314 CMR 5.12(2), or a minor modification is made to identify the new permittee in accordance with 314 CMR 5.12(3) and (4).

## 5.16: continued

(c) Automatic Transfers. For facilities other than Privately Owned Wastewater Treatment Facilities (PWTFs) that treat at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, PWTFs that have been required to establish, fund and maintain financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), and RCRA facilities subject to the requirements of 314 CMR 8.07: *Standards for all other RCRA Facilities*, a permit may be automatically transferred in accordance with 314 CMR 5.12(5).

(26) Permit Compliance Fees and Inspection Information. Except as otherwise provided, any permittee required to obtain a ground water discharge permit pursuant to M.G.L. c. 21, § 43, and 314 CMR 5.00 shall submit the annual compliance assurance fee established in accordance with M.G.L. c. 21A, § 18 and 310 CMR 4.00: *Timely Action Schedule and Fee Provisions*, as provided in 314 CMR 2.12: *Applications, Fees and Inspection Information*. The requirement to submit the annual compliance fee does not apply to any local government unit other than an authority. Any permittee required to obtain a ground water discharge permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 5.00, may be required to submit inspection information annually, as provided in 314 CMR 2.12.

5.17: Orders, Violations and Penalties

(1) Orders. The Department may issue orders as necessary to aid in the implementation and enforcement of M.G.L. c. 21, §§ 26 through 53. Such orders may include, but shall not be limited to, orders requiring persons to cease any activity which is in violation of M.G.L. c. 21, §§ 26 through 53, or 314 CMR 5.00 or to carry out activities necessary to bring such person into compliance. The Department may also require any person to submit such information as the Department may reasonably require to evaluate whether that person is subject to, or in violation of, M.G.L. c. 21, §§ 26 through 53, or 314 CMR 5.00.

(2) Violations. Without limitation, it shall be a violation of M.G.L. c. 21, §§ 26 through 53, and 314 CMR 5.00 to:

- (a) fail to comply with any order of the Department;
- (b) make a discharge or engage in any other activity that is contrary to the terms and conditions of M.G.L. c. 21, §§ 26 through 53, or 314 CMR 5.00, or of any permit, approval or order issued pursuant to M.G.L. c. 21, §§ 26 through 53, and 314 CMR 5.00;
- (c) fail to submit a timely application for a permit or a permit renewal for an activity that requires a permit pursuant to 314 CMR 5.00;
- (d) make any false, inaccurate, incomplete or misleading statement in any document submitted to the Department or required to be kept by M.G.L. c. 21, §§ 26 through 53, or 314 CMR 5.00;
- (e) make any false, inaccurate, incomplete or misleading statement in any record, report, plan, file, log, register or other document which the person submits to the Department or is required to be kept by the terms of a permit, approval or order issued pursuant to 314 CMR 5.00;
- (f) fail to provide any information requested by the Department pursuant to 314 CMR 5.00 or a permit, approval or order issued pursuant to 314 CMR 5.00.

(3) Penalties. Any person violating M.G.L. c. 21, §§ 26 through 53, or 314 CMR 5.00 shall be subject to the full range of legal actions authorized by M.G.L. c. 21, §§ 26 through 53, c. 21A, § 16, 310 CMR 5.00: *Administrative Penalty*, and any other applicable law or regulation including, without limitation, criminal files, imprisonment, and civil and administrative orders and penalties.

## REGULATORY AUTHORITY

314 CMR 5.00: M.G.L. c. 21, §§ 26 through 53.



THE COMMONWEALTH OF MASSACHUSETTS  
William Francis Galvin  
Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*

---

CHAPTER NUMBER: 314 CMR 8.00

CHAPTER TITLE: Supplemental Requirements for Hazardous Waste Management Facilities

AGENCY: Division of Water Pollution Control

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*  
**They establish a program to regulate wastewater treatment works exempted from the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, which treat, store or dispose of hazardous wastes generated on the same site to ensure that such activities are conducted in a manner that protects public health, safety and the environment.**

REGULATORY AUTHORITY: M.G.L. c. 21, §§ 26 - 53

AGENCY CONTACT: Marybeth Chubb PHONE: 617 556-1029

ADDRESS: One Winter Street, 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.*

**MA Dept. Public Health; Dept. of Housing and Community Development; MA Municipal Association; MA Historical Commission; MA Office of the Secretary of State; MA Dept. Public Utilities; Executive Office of Energy and Environmental Affairs; Division of Local Mandates; MA Energy Facilities Siting Board;**

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: 10/3/16

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: \_\_\_\_\_

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: 11/17/16

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:*

**Update references to obsolete departments and positions, align definitions with other Department regulations, and update cross-references to other Department regulations and forms**

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: Nov 18 2016

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

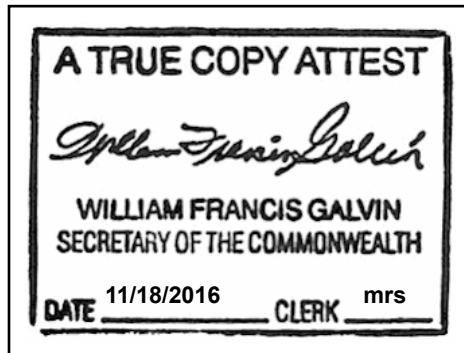
EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* \_\_\_\_\_ *Insert these pages:* \_\_\_\_\_

227 - 236

227 - 234



314 CMR: DIVISION OF WATER POLLUTION CONTROL

314 CMR 8.00: SUPPLEMENTAL REQUIREMENTS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Section

- 8.01: Purpose and Authority
- 8.02: Definitions
- 8.03: RCRA Facilities Subject to 314 CMR 8.00
- 8.04: Additional Standards and Requirements for RCRA Facilities
- 8.05: Standards for Wastewater Treatment Units Permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program*
- 8.06: Standards for All Other RCRA Facilities
- 8.07: Supplemental Application and Permit Requirements
- 8.08: Interim Status Standards for RCRA Facilities

8.01: Purpose and Authority

314 CMR 8.00 establishes the program whereby wastewater treatment works exempted from M.G.L. c. 21C, which treat, store, or dispose of hazardous wastes generated at the same site are regulated pursuant to M.G.L. c. 21, § 43, to ensure that such activities are conducted in a manner which protects public health and safety and the environment.

Whenever provisions of 310 CMR 7.00: *Air Pollution Control* or 30.000: *Hazardous Waste* are cited or cross-referenced in 314 CMR 8.00, the provisions cited shall be those published in the Massachusetts Register on or before November 9, 1984.

8.02: Definitions

As used in 314 CMR 8.00, the following words have the following meanings:

Accumulation - the short term containment of hazardous waste on the premises of the person who generated such waste in a manner which does not constitute disposal, provided that if such containment is not as provided for in 310 CMR 30.340: *Large Quantity Generators* or 30.351: *Small Quantity Generators*, such containment is "storage" and not "accumulation" of hazardous waste.

Closure - the act or process of deactivating an active portion of a treatment, storage, or disposal facility in compliance with the approved facility closure plan and all applicable closure requirements.

Constituent or Hazardous Waste Constituent - a constituent that caused the Department to list the waste as a hazardous waste in 310 CMR 30.131 through 30.136 (*see* 310 CMR 30.160: *Hazardous Constituents* which lists these constituents) or a constituent listed in 310 CMR 30.125: *Toxicity Characteristic (TC)*.

Container - any portable device in which a hazardous waste is stored, transported, treated, disposed of, or otherwise handled.

Contingency Plan - a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten public health, safety, or welfare, or the environment.

Department - the Massachusetts Department of Environmental Protection.

Discharge or Discharge of Pollutants - any addition of any pollutant or combination of pollutants to waters of the Commonwealth from any source, including, but not limited to, discharges from surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a POTW; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

8.02: continued

Disposal of Hazardous Waste - the discharge, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Environmental Protection Agency or EPA - the United States Environmental Protection Agency.

Existing RCRA Facility - a RCRA facility which was in operation, or for which construction had commenced, on or before November 19, 1980, and whose owner or operator has complied with the provisions of 40 CFR 270.10(e) and (g), 270.13, 270.70, 270.71(a), and (b), and 270.72, by having submitted the required notifications and applications to EPA.

Facility - a site or works for the storage, treatment, dewatering, refining, incineration, reclamation, stabilization, solidification, disposal, or other processes where a hazardous waste is or will be stored, treated, disposed of or used.

Federal Act - the federal Clean Water Act, 33 U.S.C. § 1251 *et seq.*

Generation of Hazardous Waste - the act or process of producing a hazardous waste, or an act which first causes a hazardous waste to become subject to regulation.

Hazardous Waste - a hazardous waste pursuant to 310 CMR 30.000: *Hazardous Waste*.

Incineration - controlled combustion in an enclosed device, the primary purpose of which is to thermally break down hazardous waste.

Land Treatment Facility - a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface in a controlled manner in order to alter the physical, chemical or biological state of the waste via biological degradation, chemical reaction or physical processes in the soil so as to render such wastes non-hazardous.

Landfill - a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, or a waste pile.

New RCRA Facility - a RCRA facility other than an existing RCRA facility.

Oil - petroleum in any form including crude oil, fuel oil, petroleum derived synthetic oil and refined oil products other than petrochemicals. It does not mean animal or vegetable oils.

Permit - an authorization issued pursuant to M.G.L. c. 21, § 43, and 314 CMR 2.00: *Permit Procedures*, 3.00: *Surface Water Discharge Program*, 5.00: *Groundwater Discharge Permit Program*, or 7.00: *Sewer System Extension and Connection Permit Program*, to implement the requirements of the State and Federal Acts and regulations adopted thereunder.

Person - any agency or political subdivision of the Commonwealth, the Federal government, public or private corporation or authority, individual, partnership or association, or other entity, including any officer of a public or private agency or organization.

Pile - any non-containerized aggregation of solid, nonflowing hazardous waste that is being treated or stored.

Pollutant - any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, in whatever form and whether originating at a point or major non-point source, which is or may be discharged, drained or otherwise introduced into any sewerage system, treatment works or waters of the Commonwealth.

Post-closure - the period after the time closure has been completed and approved by the Department.



## 8.02: continued

Public Entity - any city, town, special district or other existing governmental unit eligible to receive a grant for the construction of treatment works from the United States Environmental Protection Agency pursuant to Title II of the Federal Act.

Publicly Owned Treatment Works or POTW - any device or system used in the treatment (including recycling and reclamation) and disposal of municipal sewage or industrial wastewater which is owned by a public entity. A POTW includes any sewers, pipes, pump stations or other conveyances only if they convey wastewater to a POTW providing treatment, or to the location where the treated wastewater is discharged.

RCRA - the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*

RCRA Facility - a hazardous waste management facility as defined in 314 CMR 8.03.

Recycle - to process hazardous wastes in order to produce raw materials or products.

Site - the same or geographically contiguous property in single ownership which may be divided by a public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which that person controls, and to which the public does not have access, are considered on-site property.

State Act - the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53.

Storage - the containment of hazardous waste for a temporary period in a manner which does not constitute disposal, at the end of which period the hazardous waste will be used, treated, disposed of, or stored elsewhere.

Surface Impoundment or Impoundment - a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials which is designed to or does hold an aggregation of liquid hazardous waste or waste containing free liquid, and which is not an injection well. Surface Impoundment or Impoundment includes, without limitation, any depression, excavation, or diked area lined with man-made material without the strength to contain the liquid in the absence of earthen materials. Examples of surface impoundments are: holding, storage, settling, and aeration pits, ponds, and lagoons.

Tank - a stationary device used to store or to contain an accumulation of hazardous waste and which is constructed primarily of non-earthen materials (*e.g.*, wood, concrete, steel, plastic) which provide structural support.

Treatment Works - any and all devices, processes, and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of waterborne pollutants. Treatment Works does not include any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal.

Wastewater Treatment Unit - a tank that treats an influent wastewater which is a hazardous waste, or treats or accumulates, as part of the treatment process, a wastewater treatment sludge which is a hazardous waste, but not including a tank used solely for accumulation or storage of such wastewater or sludge prior to transportation off site or disposal on site.

8.03: RCRA Facilities Subject to 314 CMR 8.00

(1) What is a RCRA Facility. A "RCRA facility" for purposes of 314 CMR 8.00 and 314 CMR 2.00: *Permit Procedures*, 3.00: *Surface Water Discharge Permit Program*, and 5.00: *Groundwater Discharge Permit Program*, is a wastewater treatment works which treats, stores or disposes of hazardous waste generated at the same site by the same owner or operator and which has a wastewater discharge permitted pursuant to M.G.L. c. 21, § 43, and 314 CMR 3.00 or 5.00;

## 8.03: continued

(2) RCRA Facilities Shall Include:

- (a) A wastewater treatment unit.
- (b) A surface impoundment that treats an influent wastewater which is a hazardous waste, or treats or accumulates, as part of the treatment process, a wastewater treatment sludge which is a hazardous waste, but not including any surface impoundment used solely for accumulation or storage of such wastewater or sludge prior to disposal.
- (c) A POTW that generates, accumulates, treats, stores, recycles, or disposes of a hazardous waste.

(3) A RCRA Facility Does Not Include:

- (a) Any facility identified in 314 CMR 8.03(2) which does not have a valid permit for its wastewater discharge under M.G.L. c. 21, § 43, and 314 CMR 3.00: *Surface Water Discharge Permit Program* or 5.00: *Groundwater Discharge Permit Program* including any facility exempted from permit requirements under 314 CMR 3.05: *Exemptions* or 5.05: *Activities Not Requiring a Permit*;
- (b) Any facility which receives hazardous waste from off the site of the facility;
- (c) Any facility or portion of a facility used to conduct hazardous waste management activities other than those identified in 314 CMR 8.03(2) including, but not limited to:
  - 1. For non-POTWs, the generation of hazardous wastes; the accumulation and storage of hazardous waste prior to transportation off site or disposal on site, except where such accumulation is part of the treatment process; the recycling or reuse of hazardous waste; or the disposal of hazardous waste by landfill, land treatment or incineration; and
  - 2. The off site transportation of hazardous waste, or the transfer of custody or possession of hazardous waste for transportation off site.

Facilities or portions of facilities engaged in such activities are subject to the provisions of 310 CMR 30.000: *Hazardous Waste* and not 314 CMR 8.00.

- (d) Any "treatment which is an integral part of the manufacturing process" as defined in 314 CMR 8.03(d).

"Treatment which is an integral part of the manufacturing process" means any treatment method or technique which is at the site of generation of the waste and:

- 1. If the treatment method or technique is not primarily for the purpose of recycling hazardous waste, the treatment unit shall be:
  - a. Directly connected via pipes or the equivalent from an industrial production process (*i.e.*, a process which produces a product, produces an intermediate, produces a by-product, renders a service (*e.g.*, dry cleaning), or produces a material which is used back in the production process); and
  - b. Totally enclosed so that it is designed, constructed and operated to prevent spills, leaks or emissions of hazardous materials to the environment. A treatment unit may be deemed "totally enclosed" if it is completely contained on all sides (*i.e.*, an open-topped tank or treatment vessel shall not be deemed totally enclosed). If a treatment unit is vented, it may be deemed "totally enclosed" only if such vent(s) is designed to prevent overflow of liquid and emissions of gases, vapors or aerosols where such events might occur through normal operation, equipment failure or process upsets. This shall be accomplished with the use of suitable traps, recycle lines, sorption units or the equivalent. If the effluent from the treatment unit discharges to surface water, ground water or a sewer, the treatment unit may be deemed "totally enclosed" only if all discharges are in compliance with all applicable Federal, State and local laws, regulations and permits. If one unit operation in a series of unit operations is not totally enclosed or connected by pipe to the unit immediately upstream from that unit, then only unit operations upstream from that unit may be deemed "treatment which is an integral part of the manufacturing process"; or

## 8.03: continued

2. If the treatment method or technique is primarily for the purpose of recycling the hazardous waste and hazardous waste constituents for reintroduction into the industrial production process, the treatment unit shall be totally enclosed as specified in 314 CMR 8.03(3)(d)1.b. Such a unit need not be directly connected from an industrial production process as specified in 314 CMR 8.03(3)(d)1.a. in order to be deemed a "treatment process which is an integral part of the manufacturing process" provided that, prior to recycling, the hazardous waste is accumulated in tanks or containers in compliance with 310 CMR 30.340: *Large Quantity Generators* or stored in compliance with 310 CMR 30.000: *Hazardous Waste*.

(e) Any facility at the site of generation of waste oil which separates waste oil from non-hazardous wastes, provided that the separation process shall be conducted in equipment which is constructed of sturdy, leak-proof material and is designed, constructed, operated and maintained so as to prevent waste oil from being spilled or leaked into or on land or water.

8.04: Additional Standards and Requirements for RCRA Facilities

(1) No person shall operate a RCRA facility, as defined in 314 CMR 8.00, except in accordance with the applicable standards of 314 CMR 8.04 and the terms and conditions of a permit issued under 314 CMR 3.00: *Surface Water Discharge Permit Program* or 5.00: *Groundwater Discharge Permit Program*.

(2) Except for wastewater treatment units permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* and existing RCRA facilities operating under the interim status provisions of RCRA, no person shall construct, operate, or maintain a RCRA facility unless the construction, operation and maintenance of said RCRA facility is specifically authorized in a permit issued under 314 CMR 3.00: *Surface Water Discharge Permit Program* and 5.00: *Groundwater Discharge Permit Program*.

(3) No person operating an existing RCRA facility, other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program*, shall continue such operation after the conclusion of a permit proceeding under 314 CMR 8.07 and 2.00: *Permit Procedures* unless authorized to do so by a permit resulting from that proceeding.

(4) From October 15, 1983, until the applicable date specified in 314 CMR 8.04(6), any person who owns or operates an existing RCRA facility other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* shall comply with the interim status standards of 314 CMR 8.08.

(5) Any person who owns or operates a RCRA facility that is a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* shall comply with the standards of 314 CMR 8.05.

(6) Any person who owns or operates an existing RCRA facility other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* shall:

- (a) comply with the application requirements of 314 CMR 8.07; and
- (b) comply with the standards of 314 CMR 8.06 beginning on the date specified in a discharge permit issued under 314 CMR 2.00: *Permit Procedures* and 3.00: *Surface Water Discharge Permit Program* or 5.00: *Groundwater Discharge Permit Program*.

(7) The requirements of 314 CMR 8.04 are in addition to any requirements established pursuant to 314 CMR 3.00: *Surface Water Discharge Permit Program* or 5.00: *Groundwater Discharge Permit Program*.

(8) The failure of a permittee or permit applicant to comply with the requirements of 314 CMR 8.04 constitutes grounds for revocation or denial of a wastewater discharge permit pursuant to 314 CMR 2.10: *Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage*.

8.05: Standards for Wastewater Treatment Units Permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program*

- (1) Applicability. These standards apply to owners and operators of wastewater treatment units permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program*.
- (2) Management and Technical Standards. The owner and operator of any facility subject to 314 CMR 8.05 shall comply with the provisions of 310 CMR 30.605(2) through (6).
- (3) Operation and Maintenance Manual. The owner and operator of any facility subject to 314 CMR 8.05 shall prepare and submit to the Department by April 16, 1984, an operation and maintenance manual meeting the requirements of 314 CMR 12.04(1).

8.06: Standards for All Other RCRA Facilities

- (1) Applicability. These standards apply to owners and operators of RCRA facilities except those subject to interim status standards under 314 CMR 8.04 and except those facilities which are wastewater treatment units subject to the standards of 314 CMR 8.05.
- (2) All owners and operators of RCRA facilities subject to 314 CMR 8.06 shall comply with:
  - (a) The management standards of 310 CMR 30.500: *Management Standards for All Hazardous Waste Facilities*, including: general waste analysis; security; general inspection; personnel training; contingency plan; emergency procedures, preparedness and prevention; recordkeeping and reporting; general requirements for ignitable, reactive, or incompatible wastes; closure; and, where applicable, post-closure.
  - (b) The technical standards of 310 CMR 30.600: *Technical Standards for All Hazardous Waste Facilities*, including general requirements for all facilities; preparation of waste for disposal; injection wells, leaching fields, and seepage pits; and, if applicable, the standards for surface impoundments, landfills, waste piles, land treatment, ground water protection, use and management of containers, and storage and treatment in tanks.
  - (c) The location standards of 310 CMR 30.700: *Facility Location Standards*.
  - (d) The financial responsibility requirements of 310 CMR 30.900: *Financial Responsibility Requirements for Treatment, Storage, and Disposal Facilities*.
  - (e) In the case of POTWs, the standards for generators in 310 CMR 30.300: *Requirements for Generators of Hazardous Wastes* and the requirements for incineration in 310 CMR 7.08(4): *Hazardous Waste Incinerators*, as applicable.
- (3) Any references to a license shall be interpreted to mean a permit issued under 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Groundwater Discharge Permit Program*, or 7.00: *Sewer System Extension and Connection Permit Program*.

8.07: Supplemental Application and Permit Requirements

- (1) Duty to apply. Any person who owns or operates a RCRA facility other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* shall complete and submit The Supplemental Application Form HW and shall submit all attachments required by said form, in accordance with the applicable provisions of 314 CMR 8.07(1)(a) or (b):
  - (a) Any person required to obtain a permit pursuant to 314 CMR 3.00: *Surface Water Discharge Permit Program* or 5.00: *Groundwater Discharge Permit Program*, and who does not have a currently effective permit, or any person who requires modification of a permit under 314 CMR 3.00 or 5.00 in order to operate a proposed new RCRA facility, shall submit Form HW along with the forms specified in 314 CMR 3.10(1): *Duty to Apply and to Provide Information Requested by the Department in the Application* or 5.09A(1): *Application for a Permit* at least 180 days before the date on which the discharge is to commence or the date on which operation of the RCRA facility is to commence, as applicable, unless permission for a later date has been granted by the Department. Persons proposing new discharges or new RCRA facilities are encouraged to submit their applications well in advance of the 180 day requirement to avoid delay.

8.07: continued

(b) Any person with a currently effective permit who owns or operates an existing RCRA facility shall submit the Supplemental Application Form HW at the earlier of the following times:

1. Within 180 days of receipt of a request from the Department to submit said form; or
2. At the time of submittal of an application for permit renewal under 314 CMR 3.10(3)(b) or 5.09A(3)(b) except that item 3 and the attachments required in items 5 through 14 of the Supplemental Application Form HW need not be submitted unless requested by the Department. These items shall be completed and submitted within 180 days of the Department's request.

(2) The Department shall not issue a permit authorizing operation of a RCRA facility unless the applicant demonstrates compliance with the standards of 314 CMR 8.07 through submittal of the Supplemental Application Form HW and all attachments thereto, and any other information as may be required by the Department on a case-by-case basis to determine conformance with applicable requirements.

(3) Any permit authorizing the operation of a RCRA facility shall be allowed to remain in effect only to the extent, and only while, the Department is persuaded that the permittee is in compliance, and will be in compliance routinely and on a continuing basis, with all standards and requirements set forth in 314 CMR 8.00 and M.G.L. c. 21, §§ 26 through 53.

(4) The owner and operator of a RCRA facility shall comply with all management plans approved by the Department required by 314 CMR 8.06(2).

(5) Any permit authorizing the operation of a RCRA facility may include additional conditions established by the Department on a case-by-case basis to assure compliance with 314 CMR 8.00 and M.G.L. c. 21, §§ 26 through 53.

8.08: Interim Status Standards for RCRA Facilities

On and after October 15, 1983, any person who owns or operates an existing RCRA facility, other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program*, which is subject to 314 CMR 8.00 shall comply with 310 CMR 30.064: *Change of Hazardous Waste Handled* and 30.099: *Interim Status Facilities* until such time as the requirements imposed pursuant to 314 CMR 8.06 become applicable to the facility. All reports required to be submitted to the Department pursuant to 310 CMR 30.064 and 30.099 shall be submitted to the Department.

REGULATORY AUTHORITY

314 CMR 8.00: M.G.L. c. 21, §§ 27(12), 34 and 43.

314 CMR: DIVISION OF WATER POLLUTION CONTROL

(PAGES 235 AND 236 ARE RESERVED FOR FUTURE USE.)



**THE COMMONWEALTH OF MASSACHUSETTS**

**William Francis Galvin**  
Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*

---

CHAPTER NUMBER: 330 CMR 12.00

CHAPTER TITLE: LICENSING AND OPERATION OF PET SHOPS

AGENCY: Department of Agricultural Resources

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

**330 CMR 12.00 is being amended solely for the purpose of making typographical corrections and updating the name of the agency and bureau or division that may be listed in order to conform to the current organization of the agency. The name of the agency was changed from the Department of Food and Agriculture to the Department of Agricultural Resources by Chapter 41 of the Acts of 2003. No other changes are proposed.**

REGULATORY AUTHORITY: 330 CMR 12.00: M.G.L. c. 129, §§ 2, 7, 9 and 39A.

AGENCY CONTACT: Michael Cahill PHONE: 617-626-1794

ADDRESS: 251 Causeway Street, Suite 500, 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.*

**ANF approved 330 CMR 12.00: Licensing and Operation of Pet Shops on 6/9/16. Notice of Public Hearing and accompanying documentation was sent to DHCD AND MMA/MIA on 9/12/2016.**

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: October 27, 2016

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: None

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: 11/10/2016

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Updating the name of the agency and bureau or division that may be listed in order to conform to the current organization of the agency.**

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:*

**Technical Amendment to 330 CMR 12.00**

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: Nov 15 2016

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
1 & 2 79 - 82.2	1 & 2 79 - 82.2

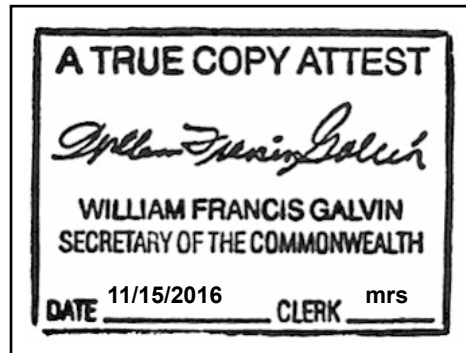




Table of Contents

	<u>Page</u>
(330 CMR 1.00 AND 2.00: RESERVED)	7
330 CMR 3.00: SHIPMENT OF DOGS INTO THE COMMONWEALTH	15
Section 3.01: Definitions	15
Section 3.02: Shipment In	15
Section 3.03: Violation	15
Section 3.04: Quarantine	15
Section 3.05: USDA	16
330 CMR 4.00: CATTLE	17
Section 4.01: Definitions	17
Section 4.02: General	18
Section 4.03: Dealing and Transportation of Cattle	18
Section 4.04: Importation of Cattle into the Commonwealth of Massachusetts	18
Section 4.05: Tuberculin Testing of Cattle by the Department	19
Section 4.06: Management of Tuberculosis Reactors	19
Section 4.07: Promulgation	20
330 CMR 5.00: POULTRY	29
Section 5.01: Definitions	29
Section 5.02: Pullorum-typhoid	29
Section 5.03: Quality Grades for Eggs Sold	30
Section 5.04: Dealing in and Transporting Poultry	32
330 CMR 6.00: SEEDS, APPLES AND POTATOES	39
Section 6.01: Purpose	39
Section 6.02: Definitions	39
Section 6.03: Requirements for Seeds Sold or Offered for Sale within the Commonwealth of Massachusetts	39
Section 6.04: Apples	41
Section 6.05: Potatoes	42
(330 CMR 7.00: RESERVED)	61
330 CMR 8.00: APIARY INSPECTION REGULATIONS	65
Section 8.01: Definitons	65
Section 8.02: Disease	66
Section 8.03: Maintenance of Apiaries	66
Section 8.04: Inspection, Marking and Introduction of Colonies	67
Section 8.05: Quarantines	67
Section 8.06: Interstate Permits	67
Section 8.07: Treatment	68
330 CMR 9.00: PLANT QUARANTINES	69
Section 9.01: Purpose	69
Section 9.02: Black Currant Quarantine	69
Section 9.03: Currant and Gooseberry Quarantine	69
Section 9.04: Revocation of Licenses or Certificates	70

Table of Contents

	<u>Page</u>
330 CMR 10.00: PREVENTION OF THE SPREAD OF RABIES	75
Section 10.01: Definitions	75
Section 10.02: Rabies Vaccinations Required for Dogs, Cats and Ferrets	76
Section 10.03: Vaccination Certificates	76
Section 10.04: Reporting Exposures	76.1
Section 10.05: Requirements for Any Domestic Animal which Bites a Human or Another Domestic Animal	76.1
Section 10.06: Requirements for Any Domestic Animals which are Exposed	76.1
Section 10.07: Expense of Quarantines and Testing	76.2
Section 10.08: Inspections	76.2
Section 10.09: Collection of Samples	76.2
Section 10.10: Record Keeping	76.2
330 CMR 11.00: SWINE	77
Section 11.01: Definitions	77
Section 11.02: General	78
Section 11.03: Dealing and Transportation of Swine	78
Section 11.04: Importation of Swine into the Commonwealth of Massachusetts	78
Section 11.05: Garbage Feeding	78.1
Section 11.06: Promulgation	78.2
330 CMR 12.00: LICENSING AND OPERATION OF PET SHOPS	79
Section 12.01: Definitions	79
Section 12.02: Licenses	79
Section 12.03: Facilities	80
Section 12.04: General Care of Animals	81
Section 12.05: Restriction on Sale	81
Section 12.06: Quarantine	82
Section 12.07: Isolation	82
Section 12.08: Inspection	82
Section 12.09: Records	82.1
330 CMR 13.00: PET FOOD	83
Section 13.01: Definitions	83
Section 13.02: Registration	83
Section 13.03: Label Format and Labeling	83
Section 13.04: Brand and Product Names	85
Section 13.05: Expression of Guarantees	86
Section 13.06: Ingredients	87
Section 13.07: Drugs and Pet Food Additives	87
Section 13.08: Statements of Calorie Content	88
330 CMR 14.00: MANUFACTURE, SALE AND DISTRIBUTION OF COMMERCIAL FEED - OTHER THAN PET FOOD	89
Section 14.01: Definition and Terms	89
Section 14.02: Registration	89
Section 14.03: Labeling	89
Section 14.04: Brand and Product Names	91
Section 14.05: Expression of Guarantees	91
Section 14.06: Ingredients	93
Section 14.07: Directions for Use and Precautionary Statements	94
Section 14.08: Non-Protein Nitrogen	94
Section 14.09: Drug and Feed Additives	94
Section 14.10: Adulterants	95
Section 14.11: Good Manufacturing Practices	95

330 CMR 12.00: LICENSING AND OPERATION OF PET SHOPS

Section

- 12.01: Definitions
- 12.02: Licenses
- 12.03: Facilities
- 12.04: General Care of Animals
- 12.05: Restriction on Sale
- 12.06: Quarantine
- 12.07: Isolation
- 12.08: Inspection
- 12.09: Records

12.01: Definitions.

For the purposes of 330 CMR 12.00, the following terms shall have the following meanings:

Department. The Department of Agricultural Resources.

Impervious. A non-porous, impermeable surface through which a liquid will not be allowed to pass but upon which water will bead.

Person. Any individual, corporation, partnership, association or other business organization.

Pet Shop. Any place or premise where birds, mammals, or reptiles are kept for the purpose of either wholesale or retail sale, import, export, barter, exchange or gift.

Taxonomic Derivation. The Latin nomenclature for the genus and species.

12.02: Licenses

- (1) No Person shall operate a Pet Shop within the Commonwealth of Massachusetts without a license issued by the Department.
- (2) A complete application for a license or renewal of license shall be submitted to the Department and shall be accompanied by the required fee.
- (3) Upon receipt of an application, the Department shall inspect the applicant's facilities. If the Department finds the facilities in compliance with 330 CMR 12.03, the Department shall approve the application and issue a license. Each license shall expire on December 31<sup>st</sup> of that year.
- (4) The license shall be promptly posted on the premises in a place prominently visible to the public.
- (5) The Department may deny a license to any applicant whose facilities fail to comply with 330 CMR 12.03. An applicant whose license has been denied may submit a written request for a hearing within 21 business days following notification of the Department's decision to deny the license.
- (6) The Department may revoke or suspend a license after a full or fair hearing, and upon finding that the licensee has:
  - (a) Violated any provision of M.G.L. c. 129, § 9 or 39A, or any regulation promulgated thereunder or convicted of a violation of M.G.L. c. 272, § 77;
  - (b) Made a material misstatement in the application for a license or in a renewal application;
  - (c) Assisted another in the violation of M.G.L. c. 129, § 39A or 330 CMR 12.00;

## 12.02: continued

- (d) Made a misrepresentation or false promise through advertisements in connection with the pet shop's operation;
- (e) Dispensed prescription medication to accompany an animal at the time of sale; or
- (f) Violated a quarantine order.

12.03: Facilities.

- (1) General Facilities. All licensees shall:
- (a) Maintain all buildings and premises in good repair and in a sanitary condition;
  - (b) Maintain and use equipment in a manner which ensures the proper storage or disposal of wastes or disease-contaminated material for the purpose of controlling vermin, insects, the spread of disease and obnoxious odors;
  - (c) Take effective control measures to prevent infestation of animals and premises with external parasites and vermin; and
  - (d) Provide and maintain artificial illumination in all areas and rooms in which animals are kept. The artificial illumination shall be well distributed and adequate to provide efficient inspection and cleaning of facilities, enclosures, cages and animals. All cages and enclosures in use shall be placed in a manner which protects the animals contained from excessive or stressful illumination.
- (2) Quarantine/Isolation Rooms. All licensees shall:
- (a) Provide a room to be used for the purposes of quarantining sick or diseased animals as required by 330 CMR 12.06(2) and (3) or isolating newly acquired dogs and cats as required by 330 CMR 12.07;
  - (b) Ensure that quarantined sick or diseased animals and isolated newly acquired dogs and cats are not maintained in the quarantine/isolation room simultaneously;
  - (c) Ensure that quarantine/isolation rooms in addition to complying with the requirements of 330 CMR 12.03(1) and (3) are:
    1. Physically separated from rooms used to maintain other animals;
    2. Completely enclosed by walls that extend from floor to ceiling;
    3. Equipped with an exhaust fan that serves to efficiently remove air from the room to an area outside the building;
    4. Equipped with a sink having hot and cold running water used exclusively for the cleaning and maintenance of the quarantine/isolation room, all equipment and utensils used therein, and animals housed within the room;
    5. Not used to house or maintain other animals;
    6. Thoroughly cleaned and disinfected after quarantined or isolated animals have been removed and prior to the placement of additional animals into the room; and
    7. Not used for storage of food, containers, bowls, dishes, cages or other equipment that come in contact with other animals.
  - (d) Ensure that any Person who feeds, waters, cleans, treats or handles quarantined or isolated animals or disease-contaminated equipment or material shall, before handling healthy animals or uncontaminated equipment or materials, thoroughly wash their hands with a disinfectant detergent. Contaminated outerwear shall be removed prior to handling healthy animals or uncontaminated equipment or material; and
  - (e) Ensure that any employee restroom or public access area is not used as a quarantine\ isolation room.
- (3) Animal Facilities. Any area where an animal is housed or maintained shall be:
- (a) Cleaned and disinfected daily or more often if necessary to maintain a sanitary condition;
  - (b) Of adequate size and space to permit:
    1. The animal(s) housed therein to stand, sit, lie down, turn around and make other normal postural adjustments without obstruction, interference or impediment by the presence of food and water bowls or cage mates; and
    2. The bird(s) within to fly, hop or otherwise move about, individually spread their wings and simultaneously and freely from obstruction perch in a normal position.
  - (c) Appropriate to provide the ambient temperature required for the animal considering its species, health, and age;
  - (d) Constructed in accordance with the provisions in 330 CMR 12.03(3)(d)1. through 4.:

## 12.03: continued

1. Any wall shall be impervious to moisture from the floor to a height of four feet;
  2. The floor shall be impervious to moisture;
  3. Any material used shall be resistant to rusting; and
  4. If the cage or enclosure has a wire floor, then the wire used shall be of adequate gauge to prevent sagging or injury to an animal's feet, and the mesh shall be small enough to prevent an animal's feet from falling through the bottom.
- (e) Designed to permit the unimpeded access of the animal(s) to clean, fresh food and water.

12.04: General Care of Animals

All licensees shall ensure that:

- (1) Sufficient fresh food of a type consistent with the dietary requirements and age of the species is offered to each animal daily, or at intervals commonly appropriate to a species and age of the animal(s);
- (2) Sufficient fresh and clean water is available to each animal at all times;
- (3) Bowls, dishes and other containers used for the feeding and watering of animals are cleaned daily or more often if necessary to maintain them free from contamination of excrement or urine;
- (4) The licensee or agent is present for general care and maintenance of the animals at least once daily;
- (5) If animals are group housed, they are maintained in compatible groups without overcrowding;
- (6) No female dog, cat or rabbit in season is maintained in a cage, run, pen or other enclosure with any male dog or cat, other than for breeding purposes;
- (7) Food and water containers for birds are designed to permit easy access to the contents. These containers shall be either designed or located within the cage in a manner that serves to minimize their contamination from excrement; and
- (8) The animals are kept clean and dry unless species-specific requirements dictate an aquatic or semiaquatic environment. Animals that fall within either of the latter two classifications shall be maintained in an environment that contains both aquatic and terrestrial features. Each feature shall be of sufficient size and space to permit the animal the option of submerging or soaking in clean water or remaining completely dry.

12.05: Restriction on Sale

- (1) No licensee shall display, offer for sale, sell or give away any animal with obvious signs of any of the following conditions:
  - (a) Infectious diseases such as distemper, hepatitis, leptospirosis, rabies or other similar infectious diseases, but not including any incubating diseases;
  - (b) Nutritional diseases including but not limited to, rickets, emaciation, and hypovitaminosis;
  - (c) Obvious signs of severe parasitism which is impacting the general health of the animal;
  - (d) Fractures, lameness or congenital abnormalities affecting the general health of animal;
  - (e) Metabolic disease including, but not limited to, kidney disease and diabetes;
- (2) No licensee shall:
  - (a) Display any reptile, amphibian or invertebrate for sale without posting its Taxonomic derivation, or display any dog under six months of age for sale without posting, in a place readily visible to the consumer where dogs are available for sale, a sign which states the following in black lettering not less than thirty-eight point size upon a white background: "THE FOLLOWING INFORMATION IS ALWAYS AVAILABLE ON ALL OF OUR PUPPIES: THE PUPPY'S DATE OF BIRTH, CITY/TOWN AND STATE OF BIRTH, THE DATE [name of Pet Shop or 'THIS PET SHOP'] RECEIVED THE PUPPY, THE PUPPY'S COMPLETE VACCINATION, WORMING, MEDICATION AND TREATMENT RECORDS, AND THE PUPPY'S 14-DAY WARRANTY";

## 12.05: continued

- (b) Acquire, display, offer for sale, sell or give away any dog or cat which is younger than eight weeks old;
  - (c) Sell or give away any dog or cat:
    1. unless the licensee is in possession of a health certificate issued by a licensed veterinarian dated not more than seven calendar days previous to the sale or give away; or
    2. which has been returned to the licensee due to its failure to pass a veterinary examination after its sale to a purchaser, unless a new licensed veterinarian's health certificate, dated after the date of the return, has been issued to the licensee; or
    3. which is under a quarantine order, issued under the authority of M.G.L. c. 129, §§ 11, 21 and 22.
- (3) All licensees shall provide a substitution or a full refund of the purchase price of any dog or cat to any purchaser who:
- (a) within 14 calendar days of sale has the dog or cat examined by a licensed veterinarian of his or her choice, and the examination indicates the dog or cat is diseased or has a congenital disorder; and
  - (b) presents the dog or cat, a veterinarian's written statement that the dog or cat is diseased or has a congenital disorder, and proof of sale within two business days of the date of the examination.

12.06: Quarantine

- (1) The Department may order a quarantine be placed on the entire premises of a licensee, on a specific species, on a special group of animals or an individual animal for any of the following:
- (a) Excessive parasitism;
  - (b) General malnutrition;
  - (c) Presence of contagious disease on premises;
  - (d) The importation of any dog or cat into Massachusetts in violation of M.G.L. c. 140, § 138A, or 330 CMR 4.06: *Management of Tuberculosis Reactors*.
- (2) Any animal which the Department has ordered quarantined shall be maintained in a facility meeting the requirements of 330 CMR 12.03(2).
- (3) Any animal inflicted with any of the conditions of 330 CMR 12.05(1) shall be kept in a facility meeting the requirements of 330 CMR 12.03(2).

12.07: Isolation

All licensees shall:

- (1) Isolate all dogs and cats received from sources within or outside of the Commonwealth of Massachusetts in a room meeting the requirements of 330 CMR 12.03(2) for a minimum period of 48 hours prior to being offered for sale, barter, gift or other exchange;
- (2) Introduce no new dogs or cats into this room during the 48-hour isolation period; and
- (3) Have each dog or cat checked by a licensed veterinarian after the 48-hour isolation period is complete and prior to offer for sale, barter, gift or other exchange.

12.08: Inspection

Animal records and premises shall be open for inspection by duly authorized agents of the Department, the M.S.P.C.A. and the Animal Rescue League of Boston during reasonable hours. Copies of these records shall be maintained and be available at the premise where the animals are sold.

12.09: Records

(1) All licensees shall retain records of each retail or wholesale purchase, sale or give away of any dog, cat or psittacine bird for a period of 12 months after the date of purchase, sale or give away of the dog, cat or psittacine bird. Records shall include the following:

- (a) Identity of each dog, cat or psittacine bird entering the premises;
- (b) Name and address of Person(s) from whom each dog, cat or psittacine bird was obtained, date obtained, and city/town and state where each dog under six months of age was born;
- (c) Name and address of Person(s) to whom each dog, cat or psittacine bird was sold or given to and the date of sale or give away;
- (d) Type and date of any vaccination or treatment given by a veterinarian to each animal; and
- (e) Mortality and cause, if known, including euthanasia.

(2) A copy of an animal's complete vaccination, prophylactic medication and treatment records, maintained by the licensee as required pursuant to 330 CMR 12.09(1)(d), shall be given to the purchaser or adopter at the time of sale or give away, along with a notice of the 14-day warranty, and the purchaser or adopter shall sign a statement acknowledging receipt of these materials, to be kept as part of the licensee's record of sale or give away.

REGULATORY AUTHORITY

330 CMR 12.00: M.G.L. c. 129, §§ 2, 7, 9 and 39A.

NON-TEXT PAGE





**THE COMMONWEALTH OF MASSACHUSETTS**

**William Francis Galvin**  
Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*

---

CHAPTER NUMBER: 453 CMR 7.00

CHAPTER TITLE: Apprentice Training

AGENCY: Department of Labor and Workforce Development

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

**This Regulation establishes standards, procedures, and record-keeping requirements for registration as an apprentice program. Regulation will be rescinded and was already reissued under a different title and chapter, 454 CMR 26.00.**

REGULATORY AUTHORITY: M.G.L. c. 23, § 1, 11E through W

AGENCY CONTACT: William McKinney PHONE: (617) 626-6973

ADDRESS: 19 Staniford Street, 2nd 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.*

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

**Notice to the Department of Housing and Community Development and Massachusetts Municipal Association, mailed on August 26, 2016**

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: October 3, 2016

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:   x   \_\_\_\_\_

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:   November 10, 2016  

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Eligibility and Procedure for Apprentice Program Registration; Standards for Apprentice Programs; Registration for Pre-Apprentice and Apprentice Agreements; Program performance standards; Probation and Cancellation of Apprentice Agreements; Suspension of Apprentice Programs; Deregistration of a registered program; Recordkeeping**

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:*

**Repeal of 453 CMR 7.00**

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:   Nov 16 2016  

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER:   1327   DATE:   12/02/2016  

EFFECTIVE DATE:   12/02/2016  

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
1 & 2 87 - 96	1 & 2 87 & 88

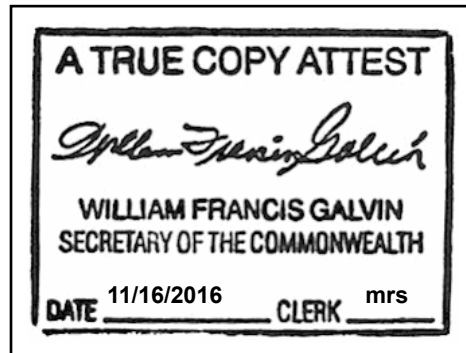


Table of Contents

	<u>Page</u>
(453 CMR 1.00 AND 2.00: RESERVED)	3
453 CMR 3.00: EMPLOYMENT OF ALIENS	9
Section 3.01: Purpose and Application of Regulations	9
Section 3.02: Definitions	9
Section 3.03: Determination of Status	9
Section 3.04: Severability	9
(453 CMR 4.00 AND 5.00: RESERVED)	11
453 CMR 6.00: THE REMOVAL, CONTAINMENT OR ENCAPSULATION OF ASBESTOS	41
Section 6.01: Authority, Purpose and Scope	41
Section 6.02: Definitions	42
Section 6.03: General Requirements	47
Section 6.04: Administrative License and Certification Actions/Denial, Revocation, Suspension or Refusal to Renew a License or Certificate	49
Section 6.05: Licensure of Asbestos Contractors	50
Section 6.06: Certification of Asbestos Workers and Asbestos Supervisors	51
Section 6.07: Certification of Consultants	52
Section 6.08: Certification and Other Requirements for Asbestos Analytical Services	54
Section 6.09: Certification and Other Requirements for Training Providers	57
Section 6.10: Training Requirements	58
Section 6.11: Recordkeeping	61
Section 6.12: Notification of Asbestos Projects	63
Section 6.13: Work Practices and other Requirements for Small-Scale Asbestos Projects, Asbestos-Associated Projects, and Work Operations Involving Non-Friable ACBM	63
Section 6.14: Work Practices and Other Requirements for Asbestos Response Actions	64
Section 6.15: Worker Protection Requirements	70
Section 6.16: Cease and Desist Orders	71
Section 6.17: Responsibility for Compliance; Penalties	71
Section 6.18: Severability	72
Section 6.19: The Removal, Containment or Encapsulation of Asbestos Appendix I	72
Section 6.20: The Removal, Containment or Encapsulation of Asbestos Appendix II	73
(453 CMR 7.00 AND 8.00: RESERVED)	87
453 CMR 9.00: CIVIL ADMINISTRATIVE PENALTIES	101
Section 9.01: Authority, Purpose, Scope and Severability	101
Section 9.02: Definitions	101
Section 9.03: Issuance of Written Warnings	102
Section 9.04: Civil Citations	102
Section 9.05: Temporary Restraining Orders and Preliminary and Permanent Injunctions for Certain Asbestos and Lead Violations	104
Section 9.06: Service of Written Warnings and Civil Citations	105

NON-TEXT PAGE

(453 CMR 7.00 AND 8.00: RESERVED)

(PAGES 89 THROUGH 100 ARE RESERVED FOR FUTURE USE.)



THE COMMONWEALTH OF MASSACHUSETTS  
William Francis Galvin  
Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*

---

CHAPTER NUMBER: 651 CMR 15.00

CHAPTER TITLE: Prescription Advantage Program

AGENCY: Executive Office of Elder Affairs

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

**The regulation establishes an operational framework for a procription drug benefit program for elders and younger persons with disabilities as established by statute**

REGULATORY AUTHORITY: MGL c 19A s. 39

AGENCY CONTACT: Siobhan Coyle PHONE: 617-222-7562

ADDRESS: 1 ashburton place, 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.*

**Local Government Advisory Committee - May 26, 2016**

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 13, 2016

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:   x   \_\_\_\_\_

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:   November 16, 2016  

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

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 amends language in 651 CMR 15.000**

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:   Nov 17 2016  

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER:   1327   DATE:   12/02/2016  

EFFECTIVE DATE:   12/02/2016  

CODE OF MASSACHUSETTS REGULATIONS

<i>Remove these pages:</i>	<i>Insert these pages:</i>
4.1 & 1.2 179 - 194	4.1 & 4.2 179 - 192

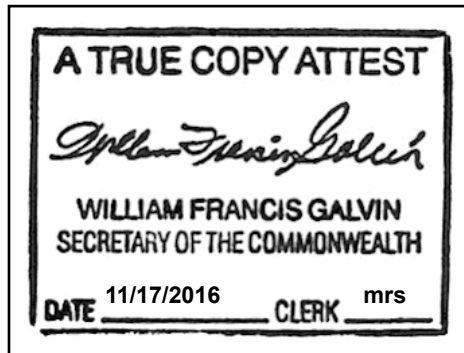




Table of Contents

	<u>Page</u>
651 CMR 13.00: STATEWIDE ASSISTED LIVING OMBUDSMAN PROGRAM	159
Section 13.01: Scope and Purpose	159
Section 13.02: Definitions	159
Section 13.03: Functions and Responsibilities of EOEA in the Administration of the Statewide Assisted Living Ombudsman Program	161
Section 13.04: Functions and Responsibilities of the Local Assisted Living Ombudsman Programs	162
Section 13.05: Contracting with Local Assisted Living Ombudsman Program	162
Section 13.06: Termination of Local Assisted Living Ombudsman Program Contract	163
Section 13.07: Certification of Local Assisted Living Ombudsman Program Directors and Local Ombudsmen	163
Section 13.08: Access to Assisted Living Residences and Residents by the State Assisted Living Ombudsman, his/her Designee(s), or Local Ombudsmen	164
Section 13.09: Complaint and Problem Resolution Procedures for the Statewide Assisted Living Ombudsman Program	165
Section 13.10: Notice to Residences of Actions and Findings of Ombudsman	168
Section 13.11: Financial and Administrative Responsibilities of Local Assisted Living Ombudsman Programs	168
Section 13.12: Training Requirements for Ombudsmen	168
Section 13.13: Privacy and Confidentiality Requirements	169
Section 13.14: Waivers	170
651 CMR 14.00: AGING SERVICES ACCESS POINTS	171
Section 14.01: Purpose and Scope	171
Section 14.02: Functions and Responsibilities of the Executive Office of Elder Affairs in the Designation of ASAPs	174
Section 14.03: Organizational Structure, Functions and Responsibilities of Designated ASAPs	175
Section 14.04: Financial and Administrative Responsibilities of ASAPs	176
Section 14.05: General Provisions	177
651 CMR 15.00: PRESCRIPTION ADVANTAGE PROGRAM	179
Section 15.01: Scope and Purpose	179
Section 15.02: Definitions	179
Section 15.03: Covered Benefits	182
Section 15.04: Eligibility	183
Section 15.05: Enrollment	183
Section 15.06: Enrollment Process	184
Section 15.07: Payment	186
Section 15.08: Formulary	186
Section 15.09: Coordination of Benefits	187
Section 15.10: Mail Service	187
Section 15.11: Applicant and Member Responsibility	187
Section 15.12: Re-determination	188
Section 15.13: Termination	189
Section 15.14: Notification	189
Section 15.15: Review	190
Section 15.16: Fraud	191
Section 15.17: Recovery	192

NON-TEXT PAGE

## 651 CMR 15.00: PRESCRIPTION ADVANTAGE PROGRAM

## Section

- 15.01: Scope and Purpose
- 15.02: Definitions
- 15.03: Covered Benefits
- 15.04: Eligibility
- 15.05: Enrollment
- 15.06: Enrollment Process
- 15.07: Payment
- 15.08: Formulary
- 15.09: Coordination of Benefits
- 15.10: Mail Service
- 15.11: Applicant and Member Responsibility
- 15.12: Re-determination
- 15.13: Termination
- 15.14: Notification
- 15.15: Review
- 15.16: Fraud
- 15.17: Recovery

15.01: Scope and Purpose

651 CMR 15.00 establishes a voluntary catastrophic prescription drug program to be administered by Elder Affairs. The name of the prescription drug program is Prescription Advantage (the Plan). The Plan is subject to appropriation. St. 2005, c. 45, § 27 directs that, for Members in the Plan who qualify for Medicare Part D and who are at specified levels of income, the Plan shall provide supplemental assistance for premiums, Deductibles, payments and co-payments required by the Member's Medicare Part D Plan.

15.02: Definitions

Administrative Review. The final level of review upon the timely request of a Member or Applicant, or his or her designee, of decisions made by the Plan to deny or terminate Enrollment, Plan determinations of a Member's Gross Annual Household Income, or decisions by the Plan to deny or limit Covered Benefits, including Supplemental Assistance.

Administrative Review Officer. An employee or agent of Elder Affairs who conducts Administrative Reviews.

Applicant. An individual who has completed and submitted an application that has been received by the Plan, and who is awaiting a determination of eligibility.

Authorized Representative. An individual designated by an Applicant or Member to:

- (a) make decisions regarding the Plan on behalf of the Applicant or Member; and
- (b) receive all Plan correspondence, which may include the Protected Health Information of an Applicant or Member.

Brand-name Drug. A Prescription Drug that receives patent protection for its name, chemical formulation and/or manufacturing process, and is approved by the Food and Drug Administration (FDA).

Business Day. A day during which Elder Affairs is open to the public during regular business hours. If the last day of a time period set forth in 651 CMR 15.00 falls on a day during which Elder Affairs is closed to the public, the next Business Day during which Elder Affairs is open shall be deemed to be the last day of the time period.

Co-insurance. The amount of money that a Member pays to a Participating Pharmacy or approved mail order facility, based on a percentage of the cost of a Prescription Drug as determined by the Member's Medicare Prescription Drug Plan.

15.02: continued

CommonHealth. A MassHealth program administered by the Office of Medicaid to furnish and pay for medical benefits to eligible individuals pursuant to M.G.L. c. 118E, §§ 9A, 16 and 16A.

Commonwealth. The Commonwealth of Massachusetts.

Co-payment. The applicable point of purchase contribution established by the Plan and paid by a Member to a Participating Pharmacy or approved mail service facility for each Prescription Drug dispensed.

Covered Benefits. Items listed on the Plan Formulary. Covered Benefits include Prescription Drugs that are on the Plan Formulary, are dispensed by a retail pharmacy (including mail service) and can be self-administered. Covered benefits do not include any Prescription Drugs that are administered in an inpatient setting. For any Member who is enrolled in a Medicare Part D Plan or Creditable Coverage Plan, covered benefits are only those products that are covered by the Member's Part D Plan or Creditable Coverage Plan and benzodiazepines.

Creditable Coverage Plan. A plan which provides creditable prescription drug coverage as defined by Section 104 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and which provides coverage for the cost of prescription drugs actuarially equal to or better than that provided by Medicare Part D.

Deductible. The amount of money paid by a Member toward Covered Benefit costs prior to gaining access to Covered Benefits at the applicable Co-payment rates.

Effective Date of Coverage. The date on which a Member is eligible to receive Covered Benefits.

Elder Affairs. The Massachusetts Executive Office of Elder Affairs (also called the Department of Elder Affairs).

Enrollment. The process during which the Plan accepts applications for the purpose of review, determination of eligibility, and approval of Applicants to receive Covered Benefits.

Enrollment Fee. An annual fee a member may be required to pay to receive Covered Benefits or Supplemental Assistance under the Plan.

Federal Poverty Level. The national poverty income guidelines applicable to Massachusetts. Said guidelines are issued annually in the Federal Register by the Secretary of the Department of Health and Human Services to account for changes in the cost of living as measured by the change in the average annual value of the Consumer Price Index.

Fiscal Year. The annual accounting period employed by the Commonwealth, beginning on July 1<sup>st</sup> and ending on June 30<sup>th</sup> each year.

Generic Drug. A Prescription Drug that is: approved by the Food and Drug Administration (FDA); bio-equivalent to a Brand-name Drug; produced by one or more drug companies under its generic name; and available on the Plan Formulary at the lowest Co-payment level.

Gross Annual Household Income. The amount of total income as reported on federal income tax returns and any additional Social Security income as reported on form(s) SSA-1099 for the Applicant or Member and, if they live together in the same housing unit, the Applicant's or Member's Spouse. For Applicants or Members not required to file a federal income tax return, Gross Annual Household Income includes the total amount of money, earned or unearned, from any source, including, but not limited to, wages, salaries, rents, pensions, dividends and interest received by each Applicant or Member and his or her Spouse.

Household. A single adult or married couple, and any other relatives who depend on that adult or couple to provide at least one half of their financial support, and who live together in the same housing unit.

15.02: continued

Low-income Subsidy. Financial assistance provided by Medicare pursuant to the MMA Subpart P to Members who qualify for payment of Medicare Part D premiums and other cost sharing associated with drug coverage, as defined in 42 CFR 423.780 and 423.782.

Maintenance Drug. A Prescription Drug prescribed to an individual for a chronic condition, the use of which is medically necessary for a period of 90 consecutive calendar days or longer.

MassHealth. The medical assistance or benefit program administered by the Office of Medicaid pursuant to Title XIX of the Social Security Act (42 U.S.C. §1396), Title XXI of the Social Security Act (42 U.S.C. §1397), M.G.L. c. 118E, and other applicable laws and waivers.

Medicare Advantage Prescription Drug Plan (MA-PD). A Medicare Advantage plan that provides qualified prescription drug coverage.

Medicare Part D. The Medicare prescription drug program available to Medicare beneficiaries beginning January 1, 2006.

Medicare Part D Covered Drug. Prescription drugs, biological products, insulin and medical supplies associated with the injection of insulin, and vaccines licensed under section 351 of the Public Health Service Act that meet the definition of a covered part D drug as set forth in the MMA.

Medicare Part D Plan. A Medicare-approved Prescription Drug Plan, a Medicare Advantage Prescription Drug Plan, and, where the context requires, a Creditable Coverage Plan.

Medicare Part D Plan Formulary. A list of Prescription Drugs covered by an individual Medicare Part D Plan, and the applicable co-payment levels.

Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). The federal law enacted to provide a prescription drug benefit to Medicare-eligible citizens.

Medicare Prescription Drug Plan (PDP). A prescription drug plan that provides prescription drug coverage through a PDP sponsor that is under contract with CMS, and offered under a policy, contract, or plan that has been approved under 42 CFR § 423.272.

Member. An Applicant who is determined eligible to receive Covered Benefits or Supplemental Assistance under the Plan.

Membership Categories. Categories established by the Plan, based on Members' Medicare Part D coverage, coverage under a Creditable Coverage Plan, Gross Annual Household Income, and eligibility for the Medicare Low-income Subsidy. Specific benefit levels will apply to members in each category, including Enrollment Fees, Co-payments, Deductibles, Supplemental Assistance, and Annual Out-of-pocket Spending Limits.

Non-preferred Drug (Level 3 Drug). A Brand Name Drug available on the Plan Formulary at the highest Co-payment level. For Members who are eligible for Medicare Part D, each Medicare Part D Plan will establish its own co-payment levels.

Out-of-pocket Expenditures. The total amount paid by a member to satisfy his or her applicable Plan Co-payments and Deductibles, not including Premiums. For members of a Medicare Part D Plan, out-of-pocket expenditures include the total amount paid by a Member to satisfy his or her Medicare Part D Co-payments, Co-insurance, and Deductibles pursuant to the Medicare Part D Plan, but do not include Premiums.

Out-of-pocket Spending Limit. A cap on the amount that a Member must pay to satisfy his or her own applicable Plan Co-payments, Co-insurance, and Deductibles. The Plan shall establish this limit on an annual basis.

## 15.02: continued

Participating Pharmacy. Any registered pharmacy that has agreed to comply with the requirements, reimbursement methods and rates established by the Plan.

Plan Formulary. A list of Prescription Drugs, including insulin and disposable insulin syringes with needles issued by Prescription, covered by the Plan. For Members enrolled in a Medicare Part D Plan, each Medicare Part D Plan will have its own list of Prescription Drugs, biological products, insulin, and medical supplies covered by that Medicare Part D Plan, define whether they are classified as generic or brand name drugs.

Plan Year. The annual period of Plan operations beginning on July 1<sup>st</sup> and ending on June 30<sup>th</sup> each year. As of January 1, 2006, the Plan Year will be the annual period of Plan operations beginning on January 1<sup>st</sup> and ending on December 31<sup>st</sup>. To enable this change, the period July 1, 2005 through December 31, 2005 will be considered a separate Plan Year.

Preferred Drug (Level 2 Drug). A Brand Name Drug available on the Plan Formulary at a copayment level between a Generic Drug and a Non-preferred Drug. Each Medicare Part D Plan will establish its own co-payment levels.

Prescription. An order for a drug, either written, given orally or otherwise transmitted to a registered pharmacy by a licensed practitioner with prescriptive privileges granted by an appropriate licensing authority, or his or her expressly authorized agent.

Prescription Advantage (the Plan). The catastrophic Prescription Drug program created by St. 2000, c. 159, § 46, which is administered by Elder Affairs and carried out by entities under agreement with Elder Affairs.

Prescription Drug. Any and all outpatient drugs approved by the Food and Drug Administration (FDA) which, under federal law, are required, prior to being dispensed or delivered, to be labeled with the statement "Caution, Federal law prohibits dispensing without prescription" or a drug which is required by any applicable federal or state law or regulation to be dispensed only by Prescription.

Prior Authorization. The process by which the Plan requires additional information to determine if certain Prescription Drugs are Covered Benefits. For Members enrolled in a Medicare Part D Plan, the Member's Medicare Part D Plan will define any Prior Authorization process.

Reconsideration. The process by which a designated Plan representative evaluates decisions made by the Plan upon the timely request of an Applicant or Member or their designee.

Resident. A person who lives in the Commonwealth with the intent to remain permanently or for an indefinite period of time and, whenever absent, intends to return to the Commonwealth.

Review. The appeal process of the Plan, as set forth in 651 CMR 15.15, that consists of Reconsideration and Administrative Review.

Secretary. The Secretary of the Executive Office of Elder Affairs

Supplemental Assistance. Financial assistance provided by Prescription Advantage for premiums, Deductibles, payments, co-payments and co-insurance required by a Member's Medicare Part D Plan; or for Deductibles, payments, co-payments and co-insurance required by a Member's Creditable Coverage Plan.

Therapeutically Equivalent Prescription Drug. A Prescription Drug that is of the same pharmacological or therapeutic class as another Prescription Drug and can be expected to have a similar therapeutic effect when administered in therapeutically equivalent dosages.

15.03: Covered Benefits

(1) Plan Members are eligible to receive Covered Benefits subject to their compliance with the payment specifications under 651 CMR 15.07.

## 15.03: continued

(2) Covered Benefits include Prescription Drugs that are on the Plan Formulary, are dispensed by a retail pharmacy (including mail service) and can be self-administered. Covered Benefits do not include any Prescription Drugs that are administered in an inpatient setting. For Members enrolled in Medicare, Covered Benefits are only those products that are covered by the Medicare Part D Plan or Creditable Coverage Plan in which the Member is enrolled and benzodiazepines.

(3) Access to Covered Benefits shall not commence until the Effective Date of Coverage. No Prescription Drug procured by a Member prior to the Effective Date of Coverage shall be considered a Covered Benefit.

(4) Covered Benefits include items not on the Plan Formulary only when approved for coverage pursuant to Review procedures set forth in 651 CMR 15.15.

(5) To ensure appropriate use of Covered Benefits, the Plan may require Prior Authorization and may use benefit management tools, including quantity limitations for certain Prescription Drugs.

15.04: Eligibility

(1) A Member of the Plan must be a Resident of the Commonwealth who is not eligible for MassHealth and:

- (a) 1. is 65 years of age or older and is not eligible for Medicare; or
- 2. is 65 years of age or older and is eligible for Medicare and has Gross Household Income less than or equal to 500% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services; or
- (b) has a Gross Annual Household Income less than or equal to 188% of the Federal Poverty Level, does not work more than 40 hours per month and meets:
  - 1. the disability requirement of the CommonHealth program as referenced under M.G.L. c. 118E, § 9A(2)(h), notwithstanding the income eligibility requirements under M.G.L. c. 118E, § 9A(2)(h); or
  - 2. the disability requirements of the CommonHealth program as referenced under M.G.L. c. 118E, § 16, notwithstanding the income eligibility requirement under M.G.L. c. 118E, §9A(2)(h); or
  - 3. the disability requirements of the CommonHealth program as referenced under M.G.L. c. 118E, § 16A.

(2) The Plan may require verification or re-verification of any eligibility requirement at any time.

(3) Beginning January 1, 2006, in order to be eligible for the Plan, individuals who are eligible for Medicare must be enrolled in a Medicare Part D Plan.

15.05: Enrollment

(1) The Secretary may establish a period of Enrollment. Such Enrollment period may be continuous.

(2) Enrollment in the Plan is voluntary and available to all persons eligible under 651 CMR 15.04, unless a determination is made by the Secretary to close Enrollment.

(3) The Secretary shall close Enrollment after making a written determination that Plan expenditures are projected to exceed the amount appropriated for the Plan. Such determination may also be made if, based on not less than nine months of claims and Enrollment data for the current Fiscal Year, expenditures in the subsequent Fiscal Year are clearly projected to annualize beyond the expenditures projected by the Secretary in the subsequent Fiscal Year.

(4) Persons eligible under 651 CMR 15.04(1)(b) may join or re-join the Plan at any time during which Enrollment is open.

15.06: Enrollment Process(1) Applications.

- (a) Applications shall be made available through the Plan, through Elder Affairs and at locations frequented by potential Applicants.
- (b) A toll-free telephone number shall be available to provide Enrollment assistance and to take requests for applications, and the telephone number shall conspicuously appear on applications and other written materials regarding the Plan.
- (c) The Plan shall publicize that assistance with the application process is available to Applicants with limited English proficiency.
- (d) The Applicant or the Applicant's designee must complete the application and attest that all information submitted in the application is true to the best of his or her knowledge and belief.
- (e) An application may be submitted by mail or any other acceptable method as determined by the Plan.

(2) Applicant Information.

- (a) The Applicant must furnish his or her name, address and other information as specified by the Plan. The Plan may require verification of any eligibility requirement as deemed reasonable by the Plan.
- (b) Residency.
  - 1. As a condition of eligibility, an Applicant or Member must:
    - a. live in the Commonwealth with the intent to remain permanently or for an indefinite period; and
    - b. whenever absent, intend to return to the Commonwealth.
  - 2. An Applicant must attest on the application to his or her residence in the Commonwealth.
  - 3. Verification of residence may be required if there is conflicting or contradictory information regarding the Applicant's or Member's declared place of residence. In the event such information is required, residency shall be verified by the Applicant or Member by the submission of such documentation as deemed reasonable by the Plan.
- (c) Medicare Eligibility. As a condition of enrollment in the Plan, all Applicants who may qualify for the Low-income Subsidy shall apply for that subsidy or certify to the Plan that they are ineligible because their resources exceed the limit established by the Social Security Administration. If authorized by the Applicant, the Plan may apply for the Low-income subsidy on his or her behalf. To receive covered benefits in the Plan, all Applicants who are eligible for Medicare must be enrolled in a Medicare Part D Plan or Creditable Coverage Plan.

(3) Age and Disability Status.

- (a) An Applicant under 651 CMR 15.04(1)(a) must:
  - 1. have reached his or her 65<sup>th</sup> birthday by the Effective Date of Coverage; and
  - 2. attest to his or her age in the application.
- (b) An Applicant under 651 CMR 15.04(1)(b) younger than 65 years old must:
  - 1. verify disability status by submitting one of the following:
    - a. a current Social Security Administration (SSA) award letter for Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) benefits;
    - b. a copy of the Applicant's Medicare card;
    - c. a certificate of blindness from the Massachusetts Commission for the Blind;
    - d. a copy of the determination of disability from MassHealth or CommonHealth; or
    - e. written verification of SSDI or SSI benefits signed by an authorized Social Security Claims Representative on Social Security letterhead.
  - 2. attest that he or she does not work more than 40 hours per month; and,
  - 3. provide documentation consistent with 651 CMR 15.06(5) to verify that Applicant's Gross Annual Household income is not more than 188% of the Federal Poverty Level.

(4) Membership Categories.

- (a) The Plan will establish Membership Categories based on Members' eligibility for Medicare Part D coverage, Gross Annual Household Income, and eligibility for the Medicare Low-income Subsidy. The Plan will annually define the specific benefit levels available to members in each category, including applicable Enrollment Fees, Co-payments, Deductibles, Supplemental Assistance, and Annual Out-of-pocket Spending Limits. Applicants eligible under 651 CMR 15.04(1)(a) must submit financial information pursuant to 651 CMR 15.06(5).



15.06: continued

(b) Applicants determined to be eligible shall be enrolled into the Plan in the applicable Membership Category.

(c) An Applicant or Member who has been determined by the Plan to be potentially eligible for the Low-income Subsidy, but who has not applied for or cooperated in the submission of an application for the Low-income Subsidy, may be temporarily classified in a Membership Category which offers no supplemental assistance for Premiums, and the lowest supplemental assistance for Co-payments and Deductibles.

(d) A Member may at any time request in writing a Membership Category change by submitting financial information in accordance with 651 CMR 15.06(5). The Plan shall render a determination regarding the category change request after reviewing the Member's submitted financial information. The effective date of an approved category change is the first calendar day of the month following the date such a request is submitted to the Plan. A Member will not receive any refund for, or adjustment to, Premiums billed before a Member's request for a category change is submitted to the Plan.

(5) Income.

(a) All Applicants must submit the following documentation of their income, as must all Applicants and Spouses who live together in the same housing unit:

1. The most recently filed federal income tax return(s) and documentation of current Social Security income; or
2. If the Applicant or his or her Spouse did not file a federal income tax return within the two years prior to application, easily obtainable means of income verification as approved by the Plan and indicated in the Plan's application materials,

(6) Eligibility Determination.

(a) Written notification shall be mailed to each Applicant or his or her authorized representative regarding the Plan's determination of eligibility for enrollment in the Plan, in the applicable Membership Category, and the Applicant's Effective Date of Coverage, if applicable.

(b) The Plan shall only consider completed applications. The Plan shall approve and enroll new Members on the first calendar day of each month.

(c) An Applicant shall be notified in writing by the Plan regarding the determination of eligibility within 40 Business Days after receipt of a completed application.

(d) Application Review.

1. Eligible Applicants.

a. The Plan shall determine whether an Applicant meets eligibility criteria and shall enroll new Members in the Plan at the appropriate Membership Category according to his or her Gross Annual Household Income.

b. The Plan shall mail written notice to each Applicant or his or her authorized representative regarding the Plan's determination of eligibility for enrollment in the Plan, the Effective Date of Coverage, the Applicable Membership Category, any applicable Enrollment Fee, Co-payments, and Deductibles.

2. Ineligible Applicants. The Plan shall mail written notice to all Applicants or their authorized representatives determined to be ineligible for the Plan, including a summary of the determination, the reasons for the determination and the regulatory and/or legal citations supporting the determination.

3. Incomplete Applications.

a. If an Applicant fails to provide information necessary for the determination of eligibility, the Plan shall mail written notification to the Applicant or his or her authorized representative within 15 Business Days from the receipt of the application regarding all outstanding information and/or documents that must be submitted in order to determine eligibility and be given the opportunity to complete or amend the application.

b. If an Applicant fails to provide all outstanding information and/or documents necessary for the determination of eligibility within 60 days of a written notification as set forth in 651 CMR 15.06(6)(d)3.a., the Applicant shall be determined to be ineligible for the Plan.

## 15.06: continued

c. In the event that the Secretary closes Enrollment, the Plan may suspend all processing of incomplete applications and/or modify timelines for notification or action on incomplete applications until the Secretary has made a determination to re-open Enrollment.

15.07: Payment(1) Membership Category Contribution Schedule.

(a) Contribution Schedules for applicable Enrollment Fees, Co-payments, Deductibles, and Out-of-pocket spending limits shall be established by the Plan and supplied to all Applicants and may be made available to other interested parties upon request.

(b) Each Member or his or her authorized representative shall be notified in writing of any applicable Enrollment Fee, Co-payments and Deductibles.

(c) The Plan shall establish Enrollment Fee, Co-payment and Deductible schedules annually. Written notification regarding changes to Members' Enrollment Fee, Co-payment and Deductible rates shall be mailed by the Plan to all affected Members or their authorized representatives at least 30 calendar days before the effective date of the change.

(d) The Secretary shall modify Enrollment Fee, Co-payment and Deductible schedules and income eligibility levels after making a written determination that Plan expenditures are projected to exceed the amount appropriated for the Plan or, based on not less than nine months of claims and enrollment data for the current Fiscal Year, expenditures in the subsequent Fiscal Year are clearly projected to annualize beyond the expenditures projected by Elder Affairs in the subsequent Fiscal Year.

(2) Deductibles. When acquiring Covered Benefits, Members are responsible for the payment of the Deductible applicable to the Member. For Members enrolled in a Medicare Part D Plan, supplemental assistance may be provided for the Deductible required by the Medicare Part D Plan.

(3) Co-payments. After a Member meets his or her applicable Deductible amount, he or she shall pay his or her Co-payment for each purchase of a Covered Benefit from a Participating Pharmacy or approved mail service facility until the Deductible is re-calculated or until the Annual Out-of-pocket Spending Limit is met.

(4) Limitation on Member Out-of-pocket Expenditures (Annual Out-of-pocket Spending Limit).

(a) Once a Member's Annual Out-of-pocket Spending Limit is reached, the Plan will cover the entire cost of Covered Benefits for that Member for the remainder of the Plan Year.

(b) The following are excluded from any calculation to determine a Member's Annual Out-of-pocket Spending Limit:

1. Plan contributions as set forth in 651 CMR 15.06(4);
2. Enrollment Fees (if applicable);
3. Non-covered costs paid by a Member, including, but not limited to:
  - a. expenses paid by a Member for Prescription Drugs prior to the Member's Effective Date of Coverage;
  - b. expenses paid by a Member for Prescription Drugs not covered by the Plan and/or;
  - c. Co-payments, Deductibles, and coinsurance paid by a Member for Prescription Drugs acquired through any plan other than a Medicare Part D Plan or Creditable Coverage Plan. For Members of a Medicare Part D Plan, Co-payments, Deductibles and co-insurance paid pursuant to the Medicare Part D Plan will be included in a calculation to determine the Member's Annual Out-of-pocket Spending Limit.

15.08: Formulary

651 CMR 15.08 applies only to the Formulary developed and maintained by the Plan. Members of a Medicare Part D Plan shall refer to their Medicare Part D Plan Formulary to determine its rules and the included Prescription Drugs.

## 15.08: continued

- (1) The Plan will develop and maintain a Plan Formulary consisting of a list of Prescription Drugs. The Plan Formulary shall include insulin and disposable insulin syringes and needles. The Plan shall maintain a toll-free telephone number during business hours through which an Applicant or Member or his or her authorized representative may determine whether a particular Prescription Drug is included on the Plan Formulary.
- (2) The Plan shall review the Plan Formulary and modify it as appropriate.
- (3) The Plan shall not exclude any Prescription Drug from the Plan Formulary unless a Therapeutically Equivalent Prescription Drug is included on the Plan Formulary; however, the Secretary may exclude certain outpatient Prescription Drugs or classes of outpatient Prescription Drugs upon a written determination pursuant to M.G.L. 19A, § 39(r) that the exclusion is necessary to maintain the fiscal viability of the program.
- (4) Excluded from the Plan Formulary are Prescription Drugs labeled "Caution - limited by federal law to investigational use" or experimental drugs.
- (5) To ensure appropriate use of Covered Benefits, the Plan may require Prior Authorization and/or implement benefit management tools, including quantity limitations for certain Prescription Drugs.
- (6) Members shall have the right to seek a Review of the following:
  - (a) a Member's request to obtain a Non-preferred drug at the Co-payment level of a Preferred Drug;
  - (b) a Member's request to add to the Plan Formulary a Prescription Drug excluded from the Plan Formulary; or
  - (c) a Member's request to gain access to a Prescription Drug excluded from the Plan Formulary at Plan Formulary rates.

15.09: Coordination of Benefits

A Member shall have access to Covered Benefits under the Plan only after said Member has exhausted all other prescription drug coverage, including all coverage available under the Member's Medicare Part D Plan or Creditable Coverage Plan.

- (1) For Members with coverage under a Medicare Part D Plan or Creditable Coverage Plan, the Plan shall coordinate benefits by providing Supplemental Assistance as established for the applicable Membership Category.
- (2) For Members who are not eligible for Medicare Part D coverage, but have another form of Prescription Drug Coverage, if a Prescription Drug is not a Covered Benefit under the other Prescription Drug coverage, but is a Covered Benefit under the Plan, the Plan will be the primary payor for that Prescription Drug.

15.10: Mail Service

- (1) The Plan may administer Mail Service distribution of Maintenance Drugs.
- (2) Any such mail service shall dispense Maintenance Drugs by an approved delivery service upon the Member's submission of a Prescription and applicable payment to the Plan's mail service facility.
- (3) For Members of a Medicare Part D Plan, the availability of mail service will be determined by the Medicare Part D Plan.

15.11: Applicant and Member Responsibility

- (1) Applicants and Members, or their authorized representatives, must provide the Plan with the information necessary to establish or maintain enrollment.

## 15.11: continued

- (2) A Member or his or her authorized representative must report in writing to the Plan within 15 Business Days any changes that may affect eligibility or a Membership Category determination. These changes include, but are not limited to, changes in residence, marital status, disability status, Medicare eligibility, eligibility for the Low-income Subsidy, income, Prescription Drug coverage, and MassHealth coverage, including CommonHealth.
- (3) If the Plan determines that a Member may qualify for the Low-income Subsidy, the Member must apply for that subsidy and provide the Plan with any documentation the Plan may reasonably request to verify the application.
- (4) Beginning January 1, 2006, a Member who receives the Low-income Subsidy, must annually re-apply for that subsidy as required by the Social Security Administration, and must provide the Plan with any documentation the Plan may reasonably request to verify the reapplication.
- (5) If the Member's file is selected for audit and/or review, he or she must cooperate with the Plan to carry out the purpose of the audit and/or review.
- (6) Failure of an Applicant or Member to fulfill any of their responsibilities set forth in 651 CMR 15.11 may result in the denial or termination of enrollment, or, for Applicants or Members who may be eligible for the Low-income Subsidy but fail to notify the Plan that they have applied for it, classification in a Membership Category that offers no supplemental assistance for premiums, and the lowest supplemental assistance for Co-payments and Deductibles.

15.12: Re-determination

- (1) The Plan shall periodically conduct Member re-determination for the purpose of confirming a Member's eligibility and/or changing a Member's Membership Category and applicable Enrollment Fees, Co-payments and Deductibles.
  - (a) The Plan shall place a reminder telephone call and mail a written notice to each Member or his or her authorized representative informing him or her of the re-determination requirement.
  - (b) Each Member or his or her authorized representative is required to complete the redetermination process defined by the Plan and submit any required documentation to the Plan within 30 Business Days from receipt of the re-determination notice. If a Member or his or her authorized representative fails to complete the re-determination process and submit the required documentation within 30 Business Days of receipt of the notice, the Plan may terminate the Member's enrollment as of the first day of the following month.
  - (c) If a Member or his or her authorized representative fails to complete the redetermination process defined by the Plan and submit any required documentation within 20 Business Days from receipt of the re-determination notice, the Plan shall mail a reminder informing the Member or his or her authorized representative that the required information must be submitted to the Plan.
  - (d) Beginning January 1, 2006, if a Member who has been determined to be eligible for the Low-income Subsidy, but fails to re-apply for that subsidy as required by the Social Security Administration or fails to provide the Plan with verification of his or her reapplication for that subsidy, the Plan shall mail a written Notice informing the Member or his or her authorized representative that the required information must be submitted to the plan within 30 Business Days of receipt of the notification. In the event a Member or his or her authorized representative fails to submit a documentation of the re-application for the Low-income Subsidy within 20 Business Days from receipt of the first, the Plan shall mail a reminder informing the Member or his or her authorized representative that the required information must be submitted to the plan.
  - (e) If a Member or his or her authorized representative fails to submit required documentation of the Member's reapplication for the Low-income Subsidy within 30 Business Days of receipt of the Notice, the Plan may, prior to terminating the Member, reclassify the Member, as of the first day of the following month, in a Membership Category which offers the lowest supplemental assistance for Co-payments and Deductibles. Members or their authorized representatives shall have the right to seek Review of a termination of enrollment due to a failure to submit a complete re-determination form.

## 15.12: continued

(2) The Plan shall evaluate the information submitted by a Member or his or her authorized representative to confirm a Member's eligibility and/or adjust a Member's applicable Enrollment Fee, Co-payment levels, Deductibles, and Annual Out-of-pocket Spending Limit.

(3) The Plan will notify the Member in writing of the re-determination decision and the Member's Enrollment Fee (if applicable), Co-payments, Deductibles, and Annual Out-of-pocket Spending Limit.

15.13: Termination

(1) Voluntary Termination of Enrollment. A Member or his or her authorized representative may request in writing at any time that his or her enrollment in the Plan be terminated. Such termination shall be effective as of the first calendar day of the month following receipt by the Plan of the written request. The Plan shall mail written confirmation to the Member or his or her authorized representative regarding such termination from the Plan.

(2) Involuntary Termination of Enrollment. The Plan may terminate the enrollment of a Member and render a written determination which sets forth the legal, regulatory and/or policy basis for such determination, for any of the following reasons:

- (a) a determination that a Member no longer meets the eligibility standards set forth in 651 CMR 15.04;
- (b) non-payment of Enrollment Fees pursuant to 651 CMR 15.07(2), if applicable;
- (c) failure to comply with requirements under 651 CMR 15.11;
- (d) failure to submit re-determination information under 651 CMR 15.12;
- (e) a finding that a Member has committed fraud under 651 CMR 15.16 (such Member is prohibited from re-enrolling into the Plan);
- (f) mail sent to a Member or his or her authorized representative is returned as undeliverable with no forwarding address and other reasonable attempts to locate the Member have failed.

15.14: Notification

(1) All notifications issued by the Plan shall include information regarding an Applicant's or Member's rights to Review. Unless otherwise provided in these regulations, notice will be issued at least ten business days in advance of the action to be taken by the Plan.

(2) Written notification shall be mailed by the Plan to an Applicant or Member or their authorized representative regarding the following:

- (a) an Applicant's submission of an incomplete application;
- (b) the determination of a Member's Membership Category and applicable Enrollment Fee, Co-payments and Deductibles; Effective Date of Coverage; or continued enrollment in the Plan;
- (c) the voluntary or involuntary termination of a Member's enrollment;
- (d) a Member's failure to make a timely an Enrollment Fee, if applicable;
- (e) the denial of Prior Authorization for Covered Benefits;
- (f) any Plan change regarding Membership Category and applicable Enrollment Fees, Co-payments or Deductibles;
- (g) the Re-determination process and confirmation of a Member's status;
- (h) a Reconsideration determination made by the Plan; and
- (i) an Administrative Review determination made by the Plan.

(3) Any written notification rendered by the Plan pursuant to 651 CMR 15.00 shall be deemed received three Business Days after deposit in the U.S. mail, first class mail, postage pre-paid.

(4) Any written notification required by 651 CMR 15.14 shall comply with applicable federal and state law regarding communication accessibility.

(5) At the written request of an Applicant or Member, all written material mailed by the Plan shall be sent to the Applicant's or Member's authorized representative.

15.15: Review

An Applicant or Member, or his or her designee, may seek Review of a Plan decision. An Applicant or Member may be assisted by his or her designee. Prescription Advantage will not provide review of any determination made by a Medicare Part D Plan, and members of those plans must seek review through those plans. Review consists of the following:

(1) Customer Service. The Plan shall maintain a customer service center accessible toll-free by telephone (including TTY services) to assist Applicants and Members to resolve any issue regarding the Plan. Said customer service center shall comply with applicable federal and state law regarding communication accessibility. Contacting Customer Service is not a required step in seeking review of a Plan decision.

(2) Reconsideration.

(a) An Applicant or Member, or his or her designee, may request Reconsideration of a decision made by the Plan to deny or terminate enrollment, the Plan's determination of a Member's Gross Annual Household Income, or a decision by the Plan to deny or limit Covered Benefits. A request for Reconsideration is the first step in the review process. Such requests must be made in writing to the Plan.

(b) When an Applicant or Member, or his or her designee, requests Reconsideration of a decision made by the Plan to deny enrollment in the Plan pursuant to 651 CMR 15.06(6), or to terminate enrollment in the Plan pursuant to 651 CMR 15.13, such request must be made in writing and be received by the Plan within 15 Business Days after the Applicant's or Member's receipt of such decisions rendered by the Plan.

(c) Upon receipt of an Applicant's or a Member's request for Reconsideration pursuant to 651 CMR 15.15(2)(a) or (b), a designated Plan representative shall review the Applicant's or Member's enrollment file and attempt to resolve any outstanding issues.

(d) The designated Plan representative shall make a determination regarding an Applicant's or Member's request for Reconsideration according to applicable statutes, regulations and/or Plan policies.

(e) Within 15 Business Days after receiving a request for Reconsideration, the Plan shall mail to the Applicant or Member, or his or her designee, a written notice setting forth the Reconsideration determination, including the regulatory and/or legal citations and policy basis supporting the determination and a Member's right to an Administrative Review, if applicable.

(3) Administrative Review.

(a) Overview.

1. A Member, an Applicant, or his or her designee, may seek an Administrative Review of an adverse Reconsideration determination. Such determinations include, but are not limited to:

- a. a denial of a Member's request to obtain a Non-preferred Drug at the Copayment level of a Preferred Drug;
- b. a denial of a Member's request to add to the Plan Formulary a Prescription Drug excluded from the Plan Formulary;
- c. a denial of a Member's request to gain access to a Prescription Drug excluded from the Plan Formulary at Plan Formulary rates.

2. A Member, an Applicant, or his or her designee, may seek an Administrative Review only after pursuing Reconsideration pursuant to 651 CMR 15.15(2).

3. To preserve the right to an Administrative Review, a Member or Applicant, or his or her designee, must respond to the Plan in writing within 15 Business Days after the Plan's written notification of its Reconsideration finding is received by the Member.

4. The Administrative Review shall be conducted by an Administrative Review Officer. An Administrative Review Officer shall:

- a. have no prior involvement in any matter related to the Member's or Applicant's issue under Administrative Review; and
- b. have no direct or indirect financial interest, personal involvement or bias in any matter related to the Member's or Applicant's issue under Administrative Review.

## 15.15: continued

(b) Administrative Review Process.

1. Unless a Member or Applicant requests that a determination be made on the written record as submitted, the Administrative Review Officer shall schedule an Administrative Review meeting. The Member or Applicant, or his or her designee, may attend the Administrative Review meeting in person or by telephone. The Member or Applicant, or his or her designee, may present any oral or written information to support his or her request. The Plan shall also be permitted to appear at the meeting in person or by telephone and present any oral and written information in support of its decision.

2. An Administrative Review meeting ordinarily will be scheduled no later than 30 Business Days after receipt of a request for an Administrative Review.

3. Information.

a. The Plan and Members or Applicants must submit to the Administrative Review Officer all materials supporting their position no later than the conclusion of the scheduled Administrative Review.

b. In the case of a request for Administrative Review according to 651 CMR 15.15(3)(a)1.a., such information must include, but not be limited to:

i. written certification issued by the Member's physician that the Non-preferred Drug is medically necessary and that there is no therapeutically equivalent Preferred Drug or Generic Drug available to the Member on the Plan Formulary; and,

ii. documentation satisfactory to the Administrative Review Officer exhibiting that the Co-payment for the Non-preferred Drug would create a financial hardship to the Member.

c. In the case of a request for Administrative Review according to 651 CMR 15.15(3)(a)1.b. or c., such information must include, but not be limited to:

i. a written certification issued by the Member's physician that the Prescription Drug excluded from the Plan Formulary is medically necessary and that there is no therapeutically equivalent Prescription Drug available to the Member on the Plan Formulary; and,

ii. documentation satisfactory to the Administrative Review Officer exhibiting that payment for such drug would create a financial hardship to the Member.

d. The Administrative Review Officer may, in his or her discretion, find that additional information is required prior to rendering a determination, including but not limited to written and verbal information. In such cases, the Administrative Review Officer shall inform the Plan and/or the Member or Applicant, or his or her designee, that they have no more than ten Business Days to submit applicable written information to the Administrative Review Officer. The Administrative Review Officer shall forward such additional information to the non-submitting party and allow five Business Days for that party to respond.

e. Members or Applicants who fail to comply with the information requirements of 651 CMR 15.15(3)(b)3. in a timely manner may be subject to an adverse determination.

4. Determination.

a. The Administrative Review Officer shall examine the information provided during the Administrative Review process and render a final written determination. Said determination shall be made in accordance with applicable statutes, regulations, and policies governing the Plan. The written determination shall set forth the legal, regulatory and/or policy basis for such determination, and the action, if any, to be taken by the Plan.

b. The Administrative Review Officer shall mail the written determination, to the Member or Applicant, or his or her designee, and the Plan within 20 Business Days of the receipt of the last submitted information from the Member or Applicant or the Plan.

15.16: Fraud

Any person who obtains coverage by knowingly and deliberately making false statements, suppressing facts, withholding information or making misrepresentations, commits fraud and is subject to recovery of the amount that the Plan has paid on that person's behalf and any other penalties permitted or prescribed by law. Those found to have committed fraud forfeit the right to re-join the Plan.

15.17: Recovery

The Plan may recover the cost of Covered Benefits that a Member was not entitled to receive, or for which a Member was not eligible, regardless of who was responsible for the overpayment and whether or not there was any fraudulent intent.

REGULATORY AUTHORITY

651 CMR 15.00: M.G.L. c. 19A, § 39.





THE COMMONWEALTH OF MASSACHUSETTS  
William Francis Galvin  
Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*

---

CHAPTER NUMBER: 801 CMR 4.00

CHAPTER TITLE: Rates

AGENCY: Executive Office for Administration and Finance

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*  
**The regulation lists various charges and fees that may be imposed by the Department of Conservation and Recreation (DCR) for a variety of licenses, permits, and services the agency administers and/or provides. Fees for non-Massachusetts residents for camping and parking will be increased.**

REGULATORY AUTHORITY: M.G.L. c. 92, ss.33, 37; M.G.L. c. 132A, s. 7

AGENCY CONTACT: Tori T. Kim, Deputy General Counsel PHONE: 617.727.2040 x.35455

ADDRESS: ANF, State House, Room 373, Boston, MA 02133

**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 LGAC 7/14/2016. Approval granted by Exec. Office of Energy and Environmental Affairs on 10/31/2016. Approval granted by Exec. Office for Administration and Finance on 11/3/2016.**

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

Date of public hearing or comment period: Public comment period: 8/1/16 - 8/30/16. public hearing held 8/23/16.

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

For the first and second year: \$300,000 additional annual revenue

For the first five years: \$300,000 additional annual revenue

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: 11/14/2016

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Fees; Camping; Recreation; Parking**

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:*

**Amend 801 CMR 4.02 [302 Department of Conservation and Recreation]**

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: Nov 17 2016

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1327 DATE: 12/02/2016

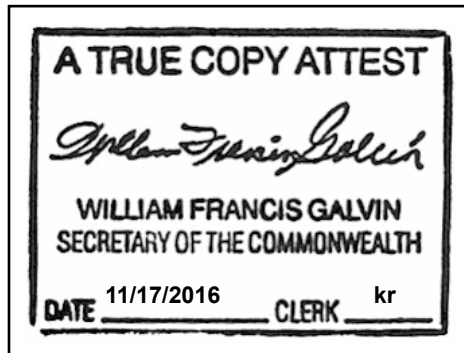
EFFECTIVE DATE: 12/02/2016

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* \_\_\_\_\_ *Insert these pages:* \_\_\_\_\_

57 & 58

57 & 58



4.02: continued

302 Department of Conservation and Recreation

(1) Harvesting of Timber	
(a) Massachusetts residents	\$15 annual
(b) Non-residents of Massachusetts	30 annual
(2) Forester Licensing Fee	
(a) Initial application fee	100
(b) Annual renewal fee	50
(3) Dam Safety	
(a) First time dam registration	75
(b) Dam registration after transfer to new dam owner after real estate transaction	50
(c) Chapter 253 Dam Safety Permits	
1. Application to construct, materially alter, perform major repairs, breach, or remove dam	50
2. Review and issuance of permit for dam construction project with total engineer and construction costs up to \$100,000	250
3. Review and issuance of permit for dam construction project with total engineer and construction costs of \$100,001 through \$500,000	500
4. Review and issuance of permit for dam construction project with total engineer and construction costs of \$500,001 through \$1,000,000	750
5. Review and issuance of permit for dam construction project with total engineer and construction costs of over \$1,000,000	1000
(d) Dam safety emergency inspection and inspections of unsafe non-compliant dams	up to \$1000
[Exclusions: The Commonwealth, its agencies, authorities and political sub-divisions, including municipalities, are exempt from the payment of fees in this sub-section (d).]	
(4) Camping Fees (all rates are per site or service, unless otherwise noted)	
(a) Coastal campsite, non-resident	35 per day
(b) Coastal campsite, MA resident	22 per day
(c) Inland campsite, non-resident	27 per day
(d) Inland campsite, MA resident	17 per day
(e) Limited service campsite, non-resident	20 per day
(f) Limited service campsite, MA resident	14 per day
(g) Primitive campsite, non-resident	10 per day
(h) Primitive campsite, MA resident	8 per day
(i) Bike in/hike in campsite	8 per day
(j) Electric utility hook-up	6 per day
(k) Water utility hook-up	4 per day
(l) Sewer utility hook-up	5 per day
(m) Group campsites, MA resident	35 per day for 1-25 persons; more than 25 persons, \$1 per person per day
(n) Group campsites, non-resident	50 per day for 1-25 persons; more than 25 persons, \$1 per person per day
(o) Safari field camping	20 per unit per day
(p) Cabin - one-room, non-resident	65 per day
(q) Cabin - one-room, MA resident	50 per day
(r) Cabin - two-room, non-resident	75 per day
(s) Cabin - two-room, MA resident	60 per day
(t) Cabin - three-room, non-resident	85 per day
(u) Cabin - three-room, MA resident	75 per day
(v) Yurt - small, non-resident	60 per day
(w) Yurt - small, MA resident	45 per day
(x) Yurt - large, non-resident	70 per day

4.02: continued

(y) Yurt - large, MA resident	\$55	per day
(z) Yurt/Cabin - group, non-resident	115	per day
(aa) Yurt/Cabin - group, MA resident	90	per day
(bb) Day visitor parking	8	per vehicle per day
(cc) Dump station use (non-campers)	20	per day
(dd) Firewood		up to \$7 per bundle
(ee) Reservation cancellation/transfer	10	
(ff) Coin-operated shower		.25 per three minutes
(5) Parking - Day Use		
(a) Car - ocean beaches, non-resident		up to \$20 per day
(b) Car - ocean beaches, MA resident		up to \$12 per day
(c) Car - inland beaches, non-resident	15	per day
(d) Car - inland beaches, MA resident	8	per day
(e) Car - scenic and historic areas, non-resident		up to \$10 per day
(f) Car - scenic and historic areas, MA resident		up to \$5 per day
(g) Bus - ocean beaches	50	per day
(h) Bus - inland beaches, scenic and historic areas	35	per day
(i) Youth group bus pass - single visit	20	
(j) Youth group bus pass - ten visits	120	
(k) Season pass, non-resident	120	per season
(l) Season pass, MA resident	60	per season
(m) Season pass - second vehicle	25	per season
(n) Commuter parking (designated locations)		up to \$10 per day
(o) Hourly parking rate		\$1.25 per hour
(p) Special Rates:		
1. <u>Senior Citizens.</u> Day Use Parking fees shall be waived for all Massachusetts senior citizens displaying a current and valid Massachusetts State Parks and Recreation Senior Citizen Pass. Passes shall be provided for a one-time fee of \$10 per pass. Senior Citizen passes shall be issued at DCR forests, parks, and reservations where parking fees are collected and at DCR regional offices. All Massachusetts residents 62 years of age or older are eligible to receive the Massachusetts State Parks and Recreation Senior Citizen Pass upon presentation of a duly issued Massachusetts driver's license or other suitable documentation of age and residence.		
2. <u>Handicapped Person or Disabled Veteran.</u> A disabled veteran or a handicapped person whose vehicle bears the distinctive type number plate or designated handicapped hang tag authorized by M.G.L. c. 90 shall not be required to pay the day use parking fees imposed under 801 CMR 4.02[302](5)(a), (b), (c), (d), (e) and/or (f).		
(6) Special Services and Facilities		
(a) Small picnic pavilion	65	per day
(b) Large picnic pavilion	175	per day
(c) Group picnic area	50	per day
(d) Meeting or function room; recreational building	50	per 4 hour period
(e) Swimming pool rental	50	per hour
(f) Cass Recreation Center:		
1. Half arena	25	per hour (\$100 per day max)
2. Full arena	50	per hour (\$200 per day max)
3. Entire facility	100	per hour (\$500 per day max)
(g) Athletic fields		
[Rental periods: 9:00 A.M.-12:00 P.M.; 12:00 P.M.-3:00 P.M.; 3:00 P.M.-5:00 P.M.; 5:00 P.M.-7:00 P.M.; 7:00 P.M.-9:00 P.M.; 9:00 P.M.-11:00 P.M. (late evening field use may only be scheduled on lighted fields and when neighborhood disturbance is not a concern)]		
1. Daily rental	40	per rental period
2. Electrical surcharge	50	per hour electrical charge is added for use of field lights (for daily and seasonal rentals)

