

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 309.00: INDEPENDENT LIVING SERVICES FOR THE PERSONAL CARE ATTENDANT PROGRAM

Section

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309.01: General Provisions

(1) Scope and Purpose. 101 CMR 309.00 governs the rates of payment to be used by all governmental units for the personal care attendant program. 101 CMR 309.00 also governs payments for personal care attendant (PCA) services provided to individuals covered by the Worker's Compensation Act, M.G.L. c. 152. Rates for transitional living services are approved under 114.5 CMR 4.00: *Rates for Certain Social, Rehabilitation and Health Care Services.*

(2) Coverage. The payment rates established by 101 CMR 309.00 apply to personal care services provided by eligible providers to enable publicly aided persons with permanent or chronic disabilities to live independently in the community. The payment rates established by 101 CMR 309.00 are full compensation for services rendered and for certain related administrative or supervisory duties rendered in the provision of services.

(3) Disclaimer of Authorization of Services. 101 CMR 309.00 is not authorization for or approval of the services for which rates are established by 101 CMR 309.00. Governmental units that purchase personal care attendant services are responsible for the definition, authorization, and approval of care and services extended to publicly aided individuals.

(4) Coding Updates and Corrections. EOHHS may publish service code updates and corrections by Administrative Bulletin. Updates may reference coding systems including but not limited to the American Medical Association's Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) maintained by the Centers for Medicare and Medicaid Services (CMS). The publication of such updates and corrections will list

- (a) codes for which only the code numbers change, with the corresponding cross references between existing and new codes;
- (b) deleted codes for which there are no corresponding new codes; and
- (c) codes for entirely new services that require pricing. These codes will be paid on an individual consideration basis until rates are established.

(5) Administrative Bulletins. EOHHS may issue Administrative Bulletins to clarify the substantive provisions of 101 CMR 309.00 and to notify interested parties of payment updates pursuant to 101 CMR 309.01(4).

309.02: Definitions

Terms used in 101 CMR 309.00, unless stated otherwise, have the meanings described in 101 CMR 309.02.

Activities of Daily Living (ADLs). Those specific activities described in 130 CMR 422.410(A): *Activities of Daily Living (ADLs)* and in the Contract for Personal Care Management (PCM) Services. Such activities performed by a PCA to physically assist a member to transfer, take medications, bathe or groom, dress and undress, engage in passive range of motion exercises, eat, and toilet.

Activity Form. The timesheet developed and distributed by the fiscal intermediary to the member for recording all PCA activity time for each pay period. The member or the member's surrogate submits the activity form to the fiscal intermediary.

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Activity Time. The actual amount of time spent by a PCA physically assisting the member with ADLs and IADLs. Activity time is reported on the activity form.

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

Consumer. A MassHealth member who is receiving PCA services. The consumer is the employer of the PCA.

Employer Expense Component. The portion of the PCA rate designated as reimbursement to members for their mandated employer's share of social security, federal and state taxes, unemployment insurance taxes, Medicare, and worker's compensation insurance premiums.

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

Evaluation. An initial determination by the personal care agency of the scope and type of personal care services to be provided to a member who meets the qualifications of 130 CMR 422.403: *Eligible Members*. The evaluation is conducted by a registered nurse and an occupational therapist in accordance with 130 CMR 422.422(C): *Personal Care Agency: Evaluation to Initiate PCA Services* or 422.438(B): *Evaluation*.

Fiscal Intermediary. An entity contracting with MassHealth to perform employer-required tasks and related administrative tasks including, but not limited to, tasks described in 130 CMR 422.419(B): *The Fiscal Intermediary*.

Functional Skills Training. Instructional services provided by a personal care agency in accordance with 130 CMR 422.421(B): *Functional Skills Training* to assist members who have obtained prior authorization for PCA services and their surrogates, if necessary, in developing the skills and resources to maximize the member's management of personal health care, personal care services, ADLs, and activities related to the fiscal intermediary.

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

Holidays. January 1st, July 4th, Thanksgiving Day, December 25th, and any other holiday authorized pursuant to a collective bargaining agreement under M.G.L. c. 150F.

Individual Consideration. Individual consideration is the method to determine payment for services for service codes for which no rate has been established. The governmental unit or purchaser analyzes the eligible provider's report of services rendered and charges submitted under the appropriate unlisted services or procedures category. The purchaser determines an appropriate payment for individual consideration procedures in accordance with the following standards and criteria:

- (a) time required to perform the procedure;
- (b) degree of skill required in care rendered;
- (c) severity or complexity of the patient's disease, disorder, or disability;
- (d) policies, procedures, and practices of other third party purchasers of care, governmental and private; and
- (e) applicable relative value studies.

Instrumental Activities of Daily Living (IADLs). Those specific activities described in 130 CMR 422.410(B): *Instrumental Activities of Daily Living (IADLs)* that are instrumental to the care of the member's health and are performed by a PCA, such as meal preparation and clean-up, laundry, shopping, housekeeping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive personal care services.

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Intake and Orientation Services. Services provided to a member who has been referred to a personal care agency for such services but for whom the MassHealth agency has not yet granted a prior authorization for PCA services. These services include, but are not limited to, determination of eligibility for PCA services; instruction and orientation in the rules, policies, and procedures of the PCA Program; instruction in the member's rights and responsibilities when using PCA services; and instruction in the role of the personal care agency and fiscal intermediary, including the use of activity forms.

MassHealth. The medical assistance program administered by the Executive Office of Health and Human Services pursuant to M.G.L. c. 118E and in accordance with Titles XIX and XXI of the federal Social Security Act, and a § 1115 Demonstration Waiver.

MassHealth Program Regulations. Regulations governing the MassHealth Personal Care Attendant Program are contained in 130 CMR 422.000: *Personal Care Services* and 130 CMR 450.000: *Administrative and Billing Regulations*.

PCA Services. Physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the member's evaluation or reevaluation, service agreement, and 130 CMR 422.410: *Activities of Daily Living and Instrumental Activities of Daily Living*.

PCA Wage Component. The portion of the PCA rate that is designated as the PCA's gross hourly wage.

Personal Care Agency. A public or private agency or entity under contract with MassHealth to provide PCM services to eligible members in accordance with 130 CMR 422.000: *Personal Care Services* and the PCM services contract; or a public or private agency or entity that has been approved by EOHHS to provide transitional living services covered under 130 CMR 422.431 through 422.441.

Personal Care Attendant (PCA). A person who meets the requirements of 130 CMR 422.111(A)(1) and who is hired by the member or surrogate to provide PCA services. In addition, for the sole purpose of M.G.L. c. 118E, §§ 70 through 75, a PCA is a person who is hired by the member or surrogate to provide PCA services through a senior care organization (SCO) contracting with the MassHealth agency pursuant to M.G.L. c. 118E, § 9D or a person who is hired by the member or surrogate to provide PCA services through an integrated care organization (ICO) contracting with the MassHealth agency pursuant to M.G.L. c. 118E, § 9F. Unless explicitly stated in 130 CMR 422.000: *Medical Assistance Program: Personal Care Services*, in the SCO's MassHealth contract, or in the ICO's MassHealth contract, no other provisions of 130 CMR 422.000 apply to any SCO, ICO, or PCA hired by any eligible MassHealth member through a SCO or ICO.

Personal Care Management (PCM) Services. Services provided by a personal care management agency to a member in accordance with a contract with EOHHS, including, but not limited to, those services identified in the PCM contract and 130 CMR 422.419(A): *The Personal Care Agency*. PCM services include intake and orientation and functional skills training.

Prior Authorization (PA). An approval, modification, deferral, or denial for PCA services to the consumer by MassHealth in accordance with 130 CMR 422.416: *PCA Program: Prior Authorization* and 422.418: *PCA Program: Special Payments*.

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

Reevaluation. A determination of the scope and type of PCA services provided to a consumer who has requested a continuation of PCA services, because the current authorization is expiring. The reevaluation is conducted in accordance with 130 CMR 422.422(C): *Personal Care Agency: Evaluation to Initiate PCA Services*.

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Service Agreement (Previously Known as the Personal Care Services Plan). A written plan of services, consistent with the requirements of 130 CMR 422.423: *PCA Program: Service Agreement* and the PCM services contract, that is developed jointly by the personal care agency, the member, and the member's surrogate, if any, which describes the responsibilities of the PCA, the member, the surrogate, the fiscal intermediary, and the personal care agency. If the member does not require a surrogate, the service agreement must state that the member is solely responsible for the management tasks, including hiring, firing, scheduling, training, supervising, and otherwise directing the PCA. The service agreement must also describe the type and frequency of functional skills training that the member and the surrogate, if appropriate, require from the personal care agency to manage the PCA program successfully.

Transitional Living Services. A program of services in accordance with 130 CMR 422.431: *Transitional Living Program: Prior Authorization* through 422.441: *Transitional Living Program: Emergency Procedures* that may be offered by a PCA agency in a structured group living environment for consumers who demonstrate an aptitude for independent living, but who may benefit from a supervised living community.

The Uniform Financial Statements and Independent Auditor's Report (UFR). An annual fiscal filing requirement of revenue and expense activity for programs funded fully or in part by contracts with the Commonwealth. The Operational Services Division issues instructions for UFR preparation and compliance under the provisions of 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services.*

309.03: General Rate Provisions

(1) Services Included in the Rate. The approved rate includes payment for care and services listed in 101 CMR 309.03(4) that are part of the personal care attendant program under 130 CMR 422.401: *Introduction* through 422.423: *PCA Program: Service Agreement* subject only to the terms of the purchase agreement between the eligible provider and the purchasing governmental unit.

(2) Reimbursement as Full Payment. Each eligible provider must, as a condition of acceptance of payment made by the purchasing governmental unit for services rendered, accept the approved program rate as full payment and discharge of all obligations for services rendered. Any third party payments received on behalf of a publicly aided consumer will reduce, by that amount, the amount of the purchasing governmental unit's obligation for services rendered to the consumer.

(3) Payment Limitation. Except as provided in 101 CMR 309.03(2), no purchasing governmental unit may pay less than, or more than, the approved program rate.

(4) Rates of Payment for PCM Services.

(a) Rates of Payment Effective January 1, 2016. The rates of payment for authorized PCM services are the rates listed in 101 CMR 309.03(4)(a).

Code	Modifier	Rate	Unit	Description
99456		\$225.99	Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report. (initial evaluation of a member to determine the need and extent of the need for personal care services) (per evaluation)

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Code	Modifier	Rate	Unit	Description
99456	-TS	\$129.88	Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report. (code with modifier for reevaluations)
T1023		\$102.97	Per Member Per Month	Screening to determine the appropriateness of consideration of an individual for participation in a specified program, project, or treatment protocol, per encounter (per member per month charge for intake and orientation services provided to a member who does not yet have PA for PCA services) (maximum 3 months)
T2022		\$50.23	Per Member Per Month	Case management, per month (current PA for PCA services required for each member) (per member per month charge for functional skills training)

(b) Rates of Payment Effective January 1, 2017. The rates of payment for authorized PCM services are the rates listed in 101 CMR 309.03(4)(b).

Code	Modifier	Rate	Unit	Description
99456		\$227.83	Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report (initial evaluation of a member to determine the need and extent of the need for personal care services) (per evaluation).
99456	-TS	\$130.94	Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report (code with modifier for reevaluations).
T1023		\$103.80	Per Member Per Month	Screening to determine the appropriateness of consideration of an individual for participation in a specified program, project, or treatment protocol, per encounter (per member per month charge for intake and orientation services provided to a member who does not yet have PA for PCA services) (maximum three months)
T2022		\$ 50.64	Per Member Per Month	Case management, per month (current PA for PCA services required for each member) (per member per month charge for functional skills training)

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(5) PCA Rates. The rates for PCA services consist of two components: the employer expense component and the PCA wage component.

(a) Rates Effective July 1, 2015. The PCA rates for services provided on or after July 1, 2015, will remain effective until or unless superseded by the provisions of any collective bargaining agreement under M.G.L. c. 150E. The rates in 101 CMR 309.03(5) are payment for the following categories as defined in 101 CMR 309.03(5)(a):

1. PCA Rate. This is the rate of payment for authorized activity time performed by the PCA.

2. Premium Pay Rate for Overtime. This is the rate of payment in addition to the regular PCA rate made to the PCA in excess of 40 hours per week (160 15-minute units) for one member subject to PA from the MassHealth agency. The premium pay rate for overtime is an extra payment paid to the PCA who has worked over 40 activity-time hours per week for one member and who is authorized by MassHealth to be paid premium pay in accordance with 130 CMR 422.418(A): *Premium Pay for Overtime*.

3. Holiday Rate. This is the rate of payment in addition to the regular PCA rate for authorized activity time performed by the PCA on holidays between the hours of 6:00 A.M. and 12:00 A.M.

4. Juror Service Rate. Payment for juror services performed by a PCA during regularly scheduled work hours are reimbursed at the PCA rate up to a maximum of three days in accordance with 130 CMR 422.418(B): *Juror Service Performed by a Personal Care Attendant*.

PCA Wage Component and Employer Expense Component Effective July 1, 2015

Code	Modifier	Rate	Unit	Description
T1019		\$ 3.88	15 minutes	Personal care services, per 15 minutes, not for an inpatient or resident of a hospital, nursing facility, ICF/MR or IMD, part of the individualized plan of treatment (code may not be used to identify services provided by home health aide or certified nurse assistant) (P.A.) (Use this code to bill for PCA services provided during day or night.)
T1019	TU	\$ 1.94	15 minutes	Personal care services, per 15 minutes, not for an inpatient or resident of a hospital, nursing facility, ICF/MR or IMD, part of the individualized plan of treatment (code may not be used to identify services provided by home health aide or certified nurse assistant) Special payment rate, overtime (P.A.) (Use this code and modifier to bill for premium pay for overtime.)
T1019	TV	\$ 1.94	15 minutes	Personal care services, per 15 minutes, not for an inpatient or resident of a hospital, nursing facility, ICF/MR, or IMD, part of the individualized plan of treatment (code may not be used to identify services provided by home health aide or certified nurse assistant) Special payment rate, holidays (PA) (Use this code and modifier to bill for premium pay for holidays.)
99509	U1	\$3.88	15 minutes	Home visit for assistance with activities of daily living and personal care (per 15 minutes) (Use to bill for PCA earned sick time.) (Current PA for PCA services required for each member.)
99509	U3	\$46.56	<i>Per diem</i>	Home visit for assistance with activities of daily living and personal care (Use to bill for PCA new hire orientation, per diem, per eligible PCA.)

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Explanation of PCA Rates Effective July 1, 2015

Wage Component	PCA Rate (Hourly)	Premium Pay Rate for Overtime and Premium Holiday Rate (Hourly)
PCA Wage Component	\$13.68	\$20.52
Employer Expense Component	\$1.84	\$2.76
Total Class Rate	\$15.52	\$23.28

(b) PCA Wage Component. Beginning on the effective date of a collective bargaining agreement, the PCA wage component is based on amounts established by the collective bargaining agreement.

(c) Employer Expense Component. The employer expense component is the sum of the employer mandated contribution for each statutorily required tax and benefit. Each mandated contribution amount is calculated by multiplying the PCA wage component by the percentage required by statute, regulation, or other official document. EOHHS issues specific rates in an Administrative Bulletin that lists rates in time increments that conform to the definitions of the procedure codes authorized for payment by MassHealth. The employer expense component for mandated employer expenses is subject to audit and may be adjusted in accordance with provisions of the fiscal intermediary contract with the purchasing agency.

309.04: Filing and Reporting Requirements

(1) Reporting for Annual Review. Unless exempted by the Operational Services Division, each operating agency must, on or before the 15th day of the fifth month after the end of its fiscal year, submit its Uniform Financial Statement and Independent Auditor's Report (UFR) to the Division of Purchased Services, Executive Office for Administration and Finance, completed in accordance with electronic filing requirements.

(a) If the personal care management agency is also a fiscal intermediary, the UFR filing must report as separate programs the fiscal intermediary function and the remaining personal care services.

(b) When an agency is exempted from filing its UFR by the Operational Services Division (OSD), the agency must send a copy of the letter of exemption from OSD to the Center to confirm its exemption with an explanation of reason(s) for its status.

(2) General Provisions.

(a) Accurate Data. All reports, schedules, additional information, books, and records made available to the Center must be certified under pains and penalties of perjury as true, correct, and accurate by the Executive Director or Chief Financial Officer of the operating agency.

(b) Examination of Records. Each operating agency must make available all records relating to its operation and all records relating to a realty service or holding company or any entity in which there may be a common ownership or interrelated directorate upon request of the Center for examination.

(c) Field Audits. The Center may conduct field audits. The Center attempts to schedule audits at a convenient time for both parties.

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

309.05: Severability

The provisions of 101 CMR 309.00 are severable. If any provision of 101 CMR 309.00 or the application of any provision to the personal care attendant program should be held invalid or unconstitutional, such determination will not be construed to affect the validity or constitutionality of any other provision of 101 CMR 309.00 or the application of any other provision.

REGULATORY AUTHORITY

101 CMR 309.00: M.G.L. c. 118E.

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