130 CMR 410.000: OUTPATIENT HOSPITAL SERVICES

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410.401: Introduction

130 CMR 410.000 establishes the requirements for the provision of services by hospital outpatient departments and hospital-licensed health centers under MassHealth. For the purposes of 130 CMR 410.000, "hospital outpatient department" refers to both hospital outpatient departments and hospital-licensed health centers. MassHealth pays for outpatient visits and ancillary services (such as radiographic views, laboratory tests, medical supplies, and pharmacy items) that are medically necessary and appropriately provided, as defined at 130 CMR 450.204: *Medical Necessity*. The quality of such services must meet professionally recognized standards of care.

410.402: Definitions

The following terms used in 130 CMR 410.000 have the meanings given in 130 CMR 410.402 unless the context clearly requires a different meaning. The reimbursability of services defined in 130 CMR 410.402 is not determined by these definitions, but by application of regulations elsewhere in 130 CMR 410.000, and in 130 CMR 415.000: *Acute Inpatient Hospital Services* and 450.000: *Administrative and Billing Regulations*.

340B-covered Entities – facilities and programs eligible to purchase discounted drugs through a program established by Section 340B of Public Health Law 102-585, the Veterans Health Act of 1992.

340B Drug-pricing Program – a program established by Section 340B of Public Health Law 102-585, the Veterans Health Act of 1992, permitting certain grantees of federal agencies access to reduced cost drugs for their patients.

Acupuncture - the insertion of metal needles through the skin at certain points on the body, with or without the use of herbs, with or without the application of an electric current, and with or without the application of heat to the needles, skin, or both.

Acute Inpatient Hospital -- a facility that is licensed as a hospital by the Massachusetts Department of Public Health and that provides diagnosis and treatment for patients who have any of a variety of medical conditions requiring daily physician intervention as well as full-time availability of physician services; however, this does not include any facility that is licensed as a chronic disease and rehabilitation hospital, any hospital that is licensed primarily to provide mental health services, or any unit of a facility that is licensed as a nursing facility, a chronic disease unit, or a rehabilitation unit.

Cosmetic Surgery -- a surgical procedure that is performed for the exclusive purpose of altering appearance and is unrelated to disease or physical defect, or traumatic injury.

Drug — a substance containing one or more active ingredients in a specified dosage form and strength. Each dosage form and strength is a separate drug.

Emergency -- the unexpected onset of symptoms or a condition requiring immediate medical or surgical care, including, but not limited to, accidents and illnesses such as heart attack, stroke, poisoning, convulsions, loss of consciousness, and cessation of breathing.

Family Planning -- any medically approved means, including diagnosis, treatment, and related counseling, that assists individuals of childbearing age, including sexually active minors, in

determining the number and spacing of their children.

Functional Level -- the degree to which an individual can function in the community. Progressive levels of impaired functioning are evaluated using a MassHealth-approved scale that has specific criteria for emotional stability, vocational/educational productivity, social relations, and self-care.

Functional Maintenance Program -- a planned combination of social, vocational, and recreational services designed for individuals disabled by a chronic mental illness who need continuing services to maintain skills that allow them to function within the community but who do not require the more intensive care of inpatient or day treatment programs.

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Hospital -- a facility that is licensed or operated as a hospital by the Massachusetts Department of Public Health or the Massachusetts Department of Mental Health and that provides diagnosis and treatment on an outpatient basis for patients who have any of a variety of medical conditions.

Hospital-licensed Health Center -- a facility not physically attached to a hospital that operates under the hospital's license, falls under the fiscal, administrative, and clinical management of the hospital, and provides services to patients on an outpatient basis.

Hospital Outpatient Department -- a department or unit within the physical framework of the hospital that operates under the hospital's license and provides services to members on an outpatient basis. Hospital outpatient departments include day-surgery units, primary-care clinics, specialty clinics, and emergency departments.

Inpatient Services -- medical services provided to a member admitted to an acute inpatient hospital.

Institutionalized Individual -- an individual who is either:

(1) involuntarily confined or detained, under a civil or criminal statute, in a correctional or rehabilitative facility, including a psychiatric hospital or other facility for the treatment of mental illness; or

(2) confined under a voluntary commitment in a psychiatric hospital or other facility for the care and treatment of mental illness.

Maintenance Program -- repetitive services, required to maintain or prevent the worsening of function, that do not require the judgment and skill of a licensed therapist for safety and effectiveness.

Mental Illness -- mental and emotional disorders as defined in the current *International Classification of Diseases, Clinical Modification* or the American Psychiatric Association's *Diagnostic and Statistical Manual* and manifested by impaired functioning in one or more of the following: emotional stability, vocational/educational productivity, social relations, and self-care.

Mentally Incompetent Individual -- an individual who has been declared mentally incompetent by a federal, state, or local court of competent jurisdiction for any purpose, unless the individual has been declared competent for purposes that include the ability to consent to sterilization.

Observation Services -- outpatient hospital services provided anywhere in an acute inpatient hospital, to evaluate a member's condition and determine the need for admission to an acute inpatient hospital. Observation services are provided under the order of a physician, consist of the use of a bed and intermittent monitoring by professional licensed clinical staff, and may be provided for more than 24 hours.

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, 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.

Outpatient Hospital Services -- medical services provided to a member in a hospital outpatient department. Such services include, but are not limited to, emergency services, primary-care services, observation services, ancillary services, and day-surgery services.

Outpatient Services -- medical services provided to a member in an outpatient setting including but not limited to hospital outpatient departments, hospital-licensed health centers or other hospital satellite clinics, physicians' offices, nurse practitioners' offices, freestanding ambulatory surgery centers, day treatment centers, or the member's home.

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Outpatient Visit -- an in-person encounter between an eligible member and a licensed practitioner (such as a physician, optician, optometrist, dentist, or therapist) or other medical professional under the direction of a licensed practitioner for the provision of outpatient services as defined in 130 CMR 410.402.

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.

Reconstructive Surgery -- a surgical procedure that is performed to correct, repair, or ameliorate the physical effects of disease or physical defect (for example, correction of a cleft palate), or traumatic injury.

Satellite Clinic -- a facility that operates under a hospital's license, is subject to the fiscal, administrative, and clinical management of the hospital, provides services to members solely on an outpatient basis, is not located at the same site as the hospital's inpatient facility, and demonstrates to the MassHealth agency's satisfaction that it has the Centers for Medicare and Medicaid Services (CMS) provider-based status in accordance with 42 CFR 413.65.

Sheltered Workshop -- a program of vocational counseling and training in which the participants receive paid work experience or other supervised employment.

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 the presence of a communication disability), and those that impair comprehension, or spoken, written, or other symbol systems used for communication.

Sterilization -- any medical procedure, treatment, or operation for the purpose of rendering an individual permanently incapable of reproducing.

Vocational Rehabilitative Services -- services such as vocational assessments, job training, career counseling, and job placement.

410.403: Eligible Members

(A) (1) MassHealth Members. MassHealth covers outpatient hospital services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in MassHealth regulations. 130 CMR 450.105: *Coverage Types* specifically states, for each MassHealth coverage type, which services are covered and which members are eligible to receive those services.

(2) Recipients of the Emergency Aid to the Elderly, Disabled and Children Program. For information on covered services for recipients of the Emergency Aid to the Elderly, Disabled

and Children Program, see 130 CMR 450.106: *Emergency Aid to the Elderly, Disabled and Children Program*.

(B) For information on verifying member eligibility and coverage type, *see* 130 CMR 450.107.

410.404: Provider Eligibility

Payment for the services described in 130 CMR 410.000 is made only to hospital outpatient departments participating in MassHealth on the date of service.

(A) In State.

(1) To participate in MassHealth, acute hospital outpatient departments and hospital-licensed health centers located in Massachusetts must

(a) operate under a hospital license issued by the Massachusetts Department of Public Health;

(b) have a signed provider agreement that specifies a payment methodology with the MassHealth agency; and

(c) participate in the Medicare program.

(2) To participate in MassHealth, nonacute hospital outpatient departments located in Massachusetts must

(a) operate under a hospital license issued by the Massachusetts Department of Public Health or the Massachusetts Department of Mental Health;

(b) have a signed provider agreement for participation in MassHealth; and

(c) participate in the Medicare program.

(B) Out of State.

(1) Out-of-state hospital outpatient and hospital-licensed health center services provided to an eligible MassHealth member are covered in the following instances:

(a) emergency care hospital outpatient services provided to a member;

(b) hospital outpatient services provided to a member whose health would be endangered if the member were required to travel to Massachusetts;

(c) hospital outpatient services provided to a member when MassHealth determines on the basis of medical advice, that the medical service is more readily available in the other state;

(d) it is general practice for members in a particular locality to use medical resources in another state;

(e) hospital outpatient services provided to a member who is authorized to reside or who is placed out of state by the Massachusetts Department of Social Services or by a Chapter 766 core team evaluation;

(f) hospital outpatient services provided to a member who has been authorized by the MassHealth agency to reside in an out-of-state nursing facility; or

(g) when prior authorization has been obtained from the MassHealth agency for nonemergency services provided to a member by an out-of-state hospital outpatient department that is more than 50 miles from the Massachusetts border.

(2) To participate in MassHealth, an out-of-state hospital outpatient department or hospital-licensed health center must obtain a MassHealth provider number and meet the following criteria:

(a) it operates under a hospital license from or is approved as a hospital by the governing or licensing agency in its state;

(b) it participates in the Medicare program; and

(c) it participates in that state's Medicaid program (or the equivalent).

(3) Payment for out-of-state hospital outpatient and hospital-licensed health center services is made in accordance with 130 CMR 450.233: *Rates of Payment to Out-of-state Providers*.

(C) Chronic Disease, Rehabilitation, or Similar Hospitals with Both Out-of-state Inpatient Facilities and In-state Outpatient Facilities.

(1) To participate in MassHealth, chronic disease, rehabilitation, or similar hospitals with both out-of-state inpatient facilities and in-state outpatient facilities must meet the following criteria.

(a) Out-of-state Outpatient Facilities. The hospital's out-of-state outpatient facilities must comply with 130 CMR 410.404(B).

(b) In-state Outpatient Facilities. The hospital's in-state outpatient facilities must

(i) be appropriately licensed by the Massachusetts Department of Public Health;

(ii) have a signed provider agreement for participation in MassHealth; and

(iii) participate in Medicare as a provider-based satellite of the out-of-state hospital.

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(2) Payment for outpatient services at chronic disease, rehabilitation, or similar hospitals with both out-of-state inpatient facilities and in-state outpatient facilities is made in accordance with 130 CMR 450.234(B): *Outpatient Services*.

410.405: Noncovered Services

(A) The MassHealth agency does not pay for any of the following services:
(1) nonmedical services, such as social, educational, and vocational services;
(2) cosmetic surgery;
(3) canceled or missed appointments;
(4) telephone conversations and consultations;
(5) court testimony;
(6) research or the provision of experimental, unproven, or otherwise medically unnecessary procedures or treatments, specifically including, but not limited to, sex-reassignment surgery, thyroid cartilage reduction and any other related surgeries and treatments, including pre- and post-sex-reassignment surgery hormone therapy. Notwithstanding the preceding sentence, the MassHealth agency will continue to pay for post-sex-reassignment surgery hormone therapy for which it had been paying immediately prior to May 15, 1993;
(7) the provision of whole blood; however, administrative and processing costs associated with the provision of blood and its derivatives are covered; and
(8) the treatment of male or female infertility (including, but not limited to, laboratory tests, drugs, and procedures associated with such treatment); however, MassHealth does pay for the diagnosis of infertility.

(B) The MassHealth agency does not pay for mental health services such as, but not limited to, the following (*see* 130 CMR 410.472):
(1) vocational rehabilitation services;
(2) sheltered workshops;
(3) recreational services;
(4) life-enrichment services; and
(5) alcohol or drug drop-in centers.

(C) The MassHealth agency does not pay for pharmacy services such as, but not limited to, the following (*see* 130 CMR 410.462 through 410.465):
(1) any drug used for the treatment of obesity;
(2) cough and cold preparations;
(3) less-than-effective drugs;
(4) hormone therapy related to sex-reassignment surgery; and
(5) drugs related to the treatment of male or female infertility.

(D) The MassHealth agency does not pay for vision care services such as, but not limited to, the following (*see* 130 CMR 410.481 through 410.489):
(1) absorptive lenses of greater than 25% absorption;
(2) photochromatic lenses, sunglasses, or fashion tints;
(3) treatment of congenital dyslexia;
(4) extended-wear contact lenses;
(5) invisible bifocals; and
(6) the Welsh 4-Drop Lens.

(E) The MassHealth agency does not pay an independent practitioner for services provided to members in an outpatient department except when that practitioner has an active provider number issued by the MassHealth agency and meets one of the following criteria.

(1) The practitioner serves in an attending, visiting, or supervisory role at the hospital where the services are provided, is legally responsible for the management of the member's care, is physically present and actively involved in the treatment for which payment is claimed, and provides a service for which the MassHealth agency pays an independent practitioner when provided in an outpatient hospital setting. Supervisory surgeons must be scrubbed and physically present during the major portion of an operation.

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(2) The independent practitioner, if serving as a salaried intern, resident, fellow, or house officer, provides services during off-duty hours at an institution that does not pay his or her salary.

(3) The independent practitioner receives a salary from an institution for administrative or teaching services, but not for delivery of care, and provides direct medical care to a member that meets the conditions set forth in 130 CMR 410.405(E)(1).

410.406: Payment

(A) Acute hospital outpatient departments and hospital-licensed health centers in Massachusetts are paid for services provided to eligible members according to the rate for services established in the signed MassHealth provider agreement, subject to the limitations set forth in 130 CMR 410.406.

(B) For purposes of making payments to acute hospital outpatient departments and hospital-licensed health centers in Massachusetts, the following limitations apply.

(1) The MassHealth agency does not pay for outpatient services provided to a member who is an inpatient at the same or a different hospital on the same day.

(2) The MassHealth agency pays only for emergency outpatient services provided to a member on the day that the member is discharged from the hospital, whether from the same or a different facility.

(3) If a member receives outpatient services at one facility and, later on the same day, is admitted as an inpatient to another facility, the MassHealth agency pays both hospitals for services.

(4) When a member is admitted to inpatient status through the emergency department or outpatient department, the hospital must bill for only the inpatient stay. The MassHealth agency does not pay for services furnished in the emergency department or outpatient department on the admitting day.

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(C) Nonacute hospital outpatient departments in Massachusetts are paid for services provided to eligible members according to the rate of payment established for each hospital in the signed MassHealth provider agreement, subject to the limitations set forth in 130 CMR 410.406(C)(1) and (2).

(1) Charges.

(a) The MassHealth agency pays only those charges contained in the charge book that the hospital has currently filed with DHCFP and no more than those charges.

(b) For changes in charges, the appropriate DHCFP regulations apply.

(c) In those cases where a specific rate has been established by DHCFP for a specific service or program (such as for adult day health services), the MassHealth agency pays no more than that rate.

(2) Payments. For purposes of making payments to nonacute outpatient hospitals, the following limitations apply.

(a) The MassHealth agency does not pay for outpatient services provided to a member who is an inpatient at the same or a different hospital on the same day.

(b) The MassHealth agency pays only for emergency outpatient services provided to a member on the day that he or she is discharged from the hospital, whether from the same or a different facility.

(c) If a member receives outpatient services at one facility and, later on the same day, is admitted as an inpatient to another facility, the MassHealth agency pays both hospitals for services.

(d) When a member is admitted to inpatient status through the emergency department or outpatient department, the hospital must bill for only the all-inclusive *per diem* rate for that day. The MassHealth agency does not pay for services furnished in the emergency department or outpatient department on the admitting day.

(D) The MassHealth agency pays for laboratory services in accordance with 130 CMR 410.456.

410.407: Certification

(A) Hospital outpatient departments must receive certification from the MassHealth agency before providing the following services:

(1) adult day health services (for requirements, see 130 CMR 410.443);

(2) adult foster care services (for requirements, see 130 CMR 410.444); and

(3) psychiatric day treatment program services (for requirements, see 130 CMR 410.445).

(B) Hospital-based home health agencies must be certified by the Medicare program and must provide to the MassHealth agency, upon its request, documentation of that certification.

410.408: Prior Authorization

(A) For certain outpatient services described in 130 CMR 410.000, the MassHealth agency requires that the hospital outpatient department obtain prior authorization. No payment is made for outpatient services whenever a hospital is required, but fails, to obtain prior authorization from the MassHealth agency or its designee. It is the responsibility of the hospital to obtain the necessary prior authorization.

(B) Prior authorization determines only the medical necessity of the authorized service and does not establish or waive any other prerequisites for payment, such as member eligibility or resort

to health insurance payment.

(C) All requests for prior authorization must be submitted in accordance with the instructions in Subchapter 5 of the *Outpatient Hospital Manual*.

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(D) Time requirements for response from the MassHealth agency and rules that apply in determining the period within which the MassHealth agency acts on specific requests for prior authorization are set forth in the MassHealth administrative and billing regulations in 130 CMR 450.000. A service is authorized on the date the MassHealth agency transmits its decision about the request for prior authorization to the provider.

(E) Written notification of the prior-authorization decision is sent to the provider and indicates approval, deferral because additional information is necessary, modification, or denial. In the case of a modification or denial, the member is also notified. Notification of denial includes the reason for the decision. The member or the provider has the right to resubmit a request and provide additional information. The member may appeal the modification or denial of a prior-authorization request within 30 days after the date of receipt of the notice of denial. Procedures for such an appeal are set forth in 130 CMR 610.000.

(F) Members enrolled with a MassHealth managed care provider require service authorization before certain behavioral health services are provided. For more information, see 130 CMR 450.124.

(G) The hospital must obtain prior authorization for the following outpatient therapy services:
(1) more than 20 occupational-therapy visits or 20 physical-therapy visits, including group-therapy visits, for a member within a 12-month period; and
(2) more than 35 speech/language therapy visits, including group-therapy visits, for a member within a 12-month period.

410.409: Recordkeeping (Medical Records) Requirements

(A) Payment for any outpatient service covered by MassHealth is conditioned upon its full and complete documentation in the member's medical record. If the information in the member's record is not sufficient to document the service for which payment is claimed by the provider, the MassHealth agency will not pay for the service or, if payment has been made, will consider such payment to be an overpayment subject to recovery as defined in the MassHealth administrative and billing regulations in 130 CMR 450.000. Medical record requirements as set forth in 130 CMR 410.000 constitute the standard against which the adequacy of records is measured, as set forth in 130 CMR 450.000.

(B) The MassHealth agency may request, and the hospital outpatient department must provide, any and all medical records (or clear photocopies of such records) corresponding to or documenting the services claimed, in accordance with M.G.L. c. 118E, § 38, and 130 CMR 450.000. All components of a member's complete medical record (such as lab slips and X rays) do not need to be maintained in one file as long as all components are accessible to the MassHealth agency upon its request.

(C) The medical record must contain sufficient data to document fully the nature, extent, quality, and necessity of the care provided to a member for each date of service claimed for payment, as well as any data that will update the member's medical course. The data maintained in the member's medical record must also be sufficient to justify any further diagnostic procedures, treatments, recommendations for return visits, and referrals.

(D) Although basic data collected during previous visits (such as identifying data, chief

complaint, or history) need not be repeated in the member's medical record for subsequent visits, the medical records for hospital outpatient services provided to members must include at least the following information:

(1) the member's name and date of birth;
(2) the date of each service;
(3) the reason for the visit;
(4) the name and title of the person who performed the service;
(5) the member's medical history;
(6) the diagnosis or chief complaint;

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(7) a clear indication of all findings, whether positive or negative, on examination;
(8) any tests administered and their results;
(9) a description of any treatment given;
(10) any medications administered or prescribed, including strength, dosage, regimen, and duration of use;
(11) any anesthetic agent administered;
(12) any medical goods or supplies dispensed or supplied;
(13) recommendations and referrals for additional treatments or consultations, when applicable;
(14) the federally required consent form for sterilization or hysterectomy, when applicable; and
(15) such other information as is applicable for the specific service provided, or as is otherwise required in 130 CMR 410.000.

(E) When a member is referred from a private physician to a hospital outpatient department exclusively for the purpose of a diagnostic test, the following information, at a minimum, must be included in the member's medical record:
(1) the member's name and date of birth;
(2) the signed referral from the private physician authorizing the procedure;
(3) the date of service;
(4) the name and title of the person who performed the service; and
(5) a clear indication of all findings, whether positive or negative.

(F) For therapist services, in addition to the applicable information required in 130 CMR 410.409(D), the member's medical record must include at least the following (see 130 CMR 410.453);
(1) a licensed physician's written referral for evaluation, referral for treatment, and renewal of referral (if applicable) every 60 days (see 130 CMR 410.451(B));
(2) the written comprehensive evaluation report (see 130 CMR 410.451(C));
(3) the name, address, and telephone number of the member's primary physician;
(4) a treatment notation for each date on which therapy was provided that includes at least the following:
(a) the specific therapeutic procedures and methods used;
(b) the amount of time spent in treatment; and
(c) the signature and title of the person who provided the service;
(5) at least weekly documentation of the following:
(a) the member's response to treatment;
(b) any changes in the member's condition;
(c) the problems encountered or changes in the treatment plan or goals, if any;
(d) the location where the service was provided if different from that in the evaluation report; and
(e) the signature and title of the therapist; and
(6) a discharge summary, when applicable.

(G)(1) For mental health services, in addition to the applicable information required in 130 CMR 410.409(D), the member's medical record must include at least the following (see 130 CMR 410.478):
(a) the member's case number, address, telephone number, sex, age, marital status, next of kin, and school or employment status (or both);

(b) the date of initial contact and, if applicable, the referral source;
(c) a report of a physical examination performed within six months (if such an examination has not been performed in that period, one must be given within 30 days after the member's request for services or, if the member refuses to be examined, the record must document the reasons for the exam postponement);
(d) the name and address of the member's primary physician or medical clinic (a physician or medical clinic must be recommended if there is not one currently attending the member);
(e) a description of the nature of the member's condition;
(f) the relevant medical, social, educational, and vocational history;
(g) a comprehensive functional assessment of the member;

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(h) the clinical impression of the member and a diagnostic formulation, including a specific diagnosis using ICD-9-CM or DSM III diagnosis codes;
(i) the member's treatment plan, updated as necessary, including long-range goals, short-term objectives, and the proposed schedule of therapeutic activities;
(j) a schedule of dates for utilization review to determine the member's progress in accomplishing goals and objectives;
(k) the name, qualifications, and discipline of the primary therapist;
(l) a written record of utilization reviews by the primary therapist;
(m) documentation of each visit, including the member's response to treatment, written and signed by the person providing the service, and including the therapist's discipline and degree;
(n) all information and correspondence about the member, including appropriately signed and dated consent forms;
(o) a medication-use profile; and
(p) when the member is discharged, a discharge summary.

(2) A brief history is acceptable for emergency or walk-in visits when the treatment plan does not call for extended care.

(H) Hospital pharmacies must maintain a record for each member of the drug and amount dispensed, the date, and the original prescription (see 130 CMR 410.467).

(I) For vision care services, in addition to the applicable information required in 130 CMR 410.409(D), the record must fully disclose all pertinent information about the services provided, including the date of service, the dates on which materials were ordered and dispensed, and a description of materials (including the frame style and the manufacturer's name) ordered and dispensed (see 130 CMR 410.483).

(1) All health care findings resulting from a visual analysis, whether they are normal or abnormal, must be recorded. When extenuating circumstances prevent the use of one or more procedures normally done in a visual analysis, the record must contain the reasons that the tests were not performed.

(2) For comprehensive eye examinations and diagnoses, the record must contain the following information or test results:
(a) case history;
(b) visual acuity testing;
(c) ophthalmoscopy and external eye health examination;
(d) ocular mobility testing, heterophoria testing, and fusion testing;
(e) pupillary reflex testing;
(f) refraction (retinoscopy, subjective refraction, and keratometry);
(g) confrontation fields or other screening tests;
(h) tonometry, when medically indicated;
(i) case analysis and disposition; and
(j) biomicroscopy, when medically indicated.

(3) All consultation services must be fully documented in the record. A record for a consultation must contain the following information:
(a) the member's complaints and symptoms;
(b) the condition of the eye; and
(c) if applicable, the name of the person to whom a referral was made.

(4) All screening services must be fully documented in the record. A record for a screening service must note the chief complaint and must contain all findings of two or more of the

following tests:

(a) visual acuity;
(b) distance vision and near vision;
(c) cover test;
(d) visual skills;
(e) tonometry; and
(f) biomicroscopy.

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(J) For laboratory services, in addition to the applicable information required in 130 CMR 410.409(D), the member's medical record must contain a suitable record of each specimen and laboratory test result for at least six years from the date on which the results were reported to the prescriber (see 130 CMR 410.458):

(1) the name and any other means of identification of the person from whom the specimen was taken;

(2) the name of the prescriber or laboratory that submitted the specimen;

(3) the authorized requisition or order, or both;

(4) the location where the specimen was taken, if other than the hospital outpatient department;

(5) the date on which the specimen was collected by the prescriber or laboratory;

(6) the date on which the specimen was received in the laboratory;

(7) the condition of unsatisfactory specimens when received (for example, broken, leaked, hemolyzed, turbid, or insufficient sample size);

(8) the date on which the test was performed;

(9) the test name and the results of the test, or the cross-reference to results and the date of reporting; and

(10) the name and address of the laboratory to which the specimen was referred, if applicable.

410.410: Assurance of Member Rights

No provider shall use any form of coercion in the provision of any services (for example, abortion, sterilization, and family planning). Neither the MassHealth agency nor any provider, nor any agent or employee of a provider, shall mislead any member into believing that a decision to receive any services reimbursable under 130 CMR 410.000 will adversely affect the member's entitlement to benefits or services for which the member would otherwise be eligible. The MassHealth agency has strict requirements for the confidentiality of patient records for all medical services reimbursable under MassHealth.

410.411: Emergency Services

(A) The MassHealth agency pays for emergency services provided in a hospital emergency room only when such services are medically necessary and the necessity is fully documented in the member's medical record.

(B) For services provided in the emergency department, handwritten or time-stamped documentation of the length of the member's stay in the emergency room must be kept in the member's record or on an easily accessible hospital log.

410.412: Utilization Management Program and Mental Health and Substance Abuse Admission Screening Requirements

(A) Utilization Management Program. The MassHealth agency pays for procedures and hospital stays that are subject to the Utilization Management Program only if the applicable requirements of the program as described in 130 CMR 450.207 through 450.211 are satisfied. Appendix H of the *Acute Outpatient Hospital Manual* contains the name, address, and telephone number of the contact organization for the Utilization Management Program and describes the information that must be provided during the review process.

410.412: continued

(B) Mental Health and Substance Abuse Admissions. The MassHealth agency will pay for mental health and substance abuse services provided in an acute or nonacute inpatient setting only if the admitting provider has satisfied the screening requirements at 130 CMR 450.125.

410.413: Medical Services Required on Site at a Hospital-Licensed Health Center

In order to be reimbursed at the rates established for hospital-licensed health centers (HLHCs), an HLHC must provide on site the medical services specified in 130 CMR 410.413(D), (E), and (F), and at least two of the medical services described in 130 CMR 410.413(A), (B), and (C). It is not necessary that all of these services be available during all hours of the HLHC's operation, but all services must be available to members on a regularly scheduled basis with sufficient frequency to ensure access to care and continuity of care.

(A) Pediatric Services. The HLHC must provide pediatric services.

(B) Internal Medicine. The HLHC must provide internal medicine services.

(C) Obstetrics/Gynecology. The HLHC must provide obstetrical and gynecological services. When a family practitioner is employed in place of a medical specialist in obstetrics/gynecology, the family practitioner must have admitting privileges to a hospital for delivery and obstetrical and gynecological backup.

(D) Health Education. The HLHC must provide health education designed to prepare members for their participation in and reaction to specific medical procedures, and to instruct members in self-management of medical problems and in disease prevention. Health education may be provided by any health practitioner or by any other individual approved by the HLHC's professional services director as possessing the qualifications and training necessary to provide health education to members.

(E) Medical Social Services. The HLHC must provide medical social services designed to assist members in their adjustment to and management of social problems resulting from medical treatment, specific disease episodes, or chronic illness. Medical social services must be provided by a clinical social worker who is licensed by the Massachusetts Board of Registration. This individual must be on site sufficient hours and with sufficient frequency to provide medical social services to members.

(F) Nutrition Services. The HLHC must provide counseling in the purchase, preparation, and consumption of proper nutrients to members who have been determined to require such counseling because of their health problems or because they have a high potential for developing health problems that might be avoided or made less severe through proper nutrition. Each HLHC must employ either a nutrition professional with a bachelor's or master's degree in public health nutrition, community nutrition, or human nutrition, or a dietitian who is currently registered by the American Dietetic Association. This individual is responsible for planning, directing, and evaluating the nutrition services provided at the HLHC; for educating the HLHC's staff about nutrition; for supervising any nutrition aides; for consulting with practitioners and other staff members of the HLHC; and for counseling members referred for nutrition information. The nutrition professional or registered dietitian must be on site at least one day per calendar month.

410.414: Observation Services

(A) Reimbursable Services. MassHealth covers medically necessary observation services provided by acute inpatient hospitals. Reimbursable observation services may exceed 24 hours, and do not need to be provided in a distinct observation unit. To qualify for reimbursement of observation services, the medical record must specifically document when those services began and ended, the purpose of observation, and the name of the physician who ordered it. Acute inpatient hospitals will be reimbursed for these observation services on an outpatient basis in accordance with the signed provider agreement with the MassHealth agency.

410.414: continued

(B) Nonreimbursable Services.

(1) Nonreimbursable observation services include but are not limited to:

(a) services that are not reasonable or necessary for the diagnosis or treatment of the member; and

(b) routine preparation and recovery services associated with diagnostic testing or outpatient surgery.

(2) The following services are not reimbursable as a separate service:

(a) postoperative monitoring during a standard recovery period that should be characterized as recovery-room services; and

(b) observation services provided concurrently with therapeutic services such as chemotherapy.

410.415: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary acute outpatient hospital services for EPSDT-eligible members in accordance with 130 CMR 450.140 *et seq.*, without regard to service limitations described in 130 CMR 410.000, and with prior authorization.

410.420: Tobacco Cessation Services

(A) Introduction. MassHealth members are eligible to receive tobacco cessation counseling services described in 130 CMR 410.420(B) and pharmacotherapy treatment, including nicotine replacement therapy (NRT), in accordance with 130 CMR 406.000.

(B) Tobacco Cessation Counseling Services.

(1) MassHealth covers a total of 16 group and individual counseling sessions per member per 12-month cycle, without prior authorization. These sessions may be any combination of group and individual counseling. All individual counseling sessions must be at least 30 minutes, except for intake sessions, which must be at least 45 minutes. Intake sessions are limited to two per member per 12-month cycle, without prior authorization.

(a) Individual counseling consists of face-to-face tobacco cessation counseling services provided to an individual member by a MassHealth-qualified provider of tobacco cessation services as set forth in 130 CMR 410.420(B) and (C).

(b) Group tobacco treatment counseling consists of a scheduled professional counseling session with a minimum of three and a maximum of 12 members and has a duration of at least 60 to 90 minutes.

(c) Individual and group counseling also includes collaboration with and facilitating referrals to other health care providers to coordinate the appropriate use of medications, especially in the presence of medical or psychiatric comorbidities.

(2) The individual and group tobacco cessation counseling services must include the following:

(a) education on proven methods for stopping the use of tobacco, including a:

1. a review of the health consequences of tobacco use and the benefits of quitting;

2. a description of how tobacco dependence develops and an explanation of the biological, psychological, and social causes of tobacco dependence; and

3. a review of evidence-based treatment strategies and the advantages and disadvantages of each strategy;

(b) collaborative development of a treatment plan that uses evidence-based strategies to assist the member to attempt to quit, to continue to abstain from tobacco, and to

prevent relapse, including:

1. identification of personal risk factors for relapse and incorporation into the treatment plan;
2. strategies and coping skills to reduce relapse risk; and
3. a plan for continued aftercare following initial treatment; and

(c) information and advice on the benefits of nicotine replacement therapy or other proven pharmaceutical or behavioral adjuncts to quitting smoking, including:

1. the correct use, efficacy, adverse events, contraindications, known side effects, and exclusions for all tobacco dependence medications; and
2. the possible adverse reactions and complications related to the use of pharmacotherapy for tobacco dependence.

410.420: continued

(C) Provider Qualifications for Tobacco Cessation Counseling Services.

(1) Qualified Providers.

(a) Physicians, registered nurses, nurse practitioners, nurse midwives, and physician assistants may provide tobacco cessation counseling services without additional experience or training in tobacco cessation counseling services.

(b) All other providers of tobacco cessation counseling services must be under the supervision of a physician, and must complete a course of training in tobacco cessation counseling by a degree granting institute of higher education with a minimum of eight hours of instruction.

(2) Supervision of Tobacco Cessation Counseling Services. A physician must supervise all non-physician providers of tobacco cessation counseling services.

(D) Tobacco Cessation Services: Claims Submission. An acute outpatient hospital may submit claims for tobacco cessation counseling services that are provided by physicians, or by mid-level providers under the supervision of a physician (*i.e.* nurse practitioner, registered nurse, nurse midwife, physician assistant, and MassHealth-qualified tobacco cessation counselor), according to 130 CMR 410.420(B) and (C). Acute outpatient hospital departments cannot bill separately for services provided by mid-level providers. *See* Subchapter 6 of the *Acute Outpatient Hospital Manual* for service codes and descriptions.

410.431: Sterilization Services: Introduction

(A) Covered Services. The MassHealth agency pays for sterilization services performed by a licensed physician in an acute hospital outpatient department for a member only if all of the following conditions are met.

(1) The member has voluntarily given informed consent for the sterilization procedure in the manner and at the time described in 130 CMR 410.432, and such consent is documented in the manner described in 130 CMR 410.433.

(2) The member is at least 18 years of age at the time consent is obtained.

(3) The member is not a mentally incompetent individual or an institutionalized individual.

(B) Assurance of Member Rights. A provider must not use any form of coercion in the provision of sterilization services. The MassHealth agency, any provider, or any agent or employee of a provider, must not mislead any member into believing that a decision to have or not have a sterilization will adversely affect the member's entitlement to benefits or services for which the member would otherwise be eligible. The MassHealth agency has strict requirements for confidentiality of member records for sterilization services as well as for all other medical services covered by MassHealth.

(C) Retroactive Eligibility. The MassHealth agency does not pay for a sterilization performed during the period of a member's retroactive eligibility unless all conditions for payment listed in 130 CMR 410.431(A) are met.

410.432: Sterilization Services: Informed Consent

A member's consent for sterilization will be considered informed and voluntary only if such consent is obtained in accordance with the requirements specified in 130 CMR 410.432(A) and (B), and such consent is documented as specified in 130 CMR 410.433.

(A) Informed Consent Requirements.

(1) The person who obtains consent (a physician, nurse, or counselor, for example) must orally provide all of the following information and advice to the member requesting sterilization:

(a) advice that the member is free to withhold or withdraw consent for the procedure at any time before the sterilization without affecting the right to future care or treatment and without loss of any federal- or state-funded program benefits to which the member otherwise might be entitled;

(b) a description of available alternative methods of family planning and birth control;

(c) advice that the sterilization procedure is considered irreversible;

(d) a thorough explanation of the specific sterilization procedure to be performed;

(e) a full description of the discomforts and risks that may accompany or follow the procedure, including an explanation of the type and possible effects of any anesthetic to be used;

(f) a full description of the benefits or advantages that may be expected as a result of the sterilization; and

(g) advice that the sterilization will not be performed for at least 30 days, except under the circumstances specified in 130 CMR 410.432(B)(1).

(2) The person who obtains consent must also:

(a) offer to answer any questions the member may have about the sterilization procedure;

(b) give the member a copy of the consent form;

(c) make suitable arrangements to ensure that the information and advice required by 130 CMR 410.432(A)(1) are effectively communicated to any member who is blind, deaf, or otherwise handicapped;
(d) provide an interpreter if the member does not understand the language used on the consent form or the language used by the person obtaining consent; and
(e) allow the member to have a witness of the member's choice present when consent is obtained.

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(B) When Informed Consent Must Be Obtained.

(1) A member's consent for sterilization will be considered informed and voluntary only if such consent is obtained at least 30 days, but not more than 180 days, before the date of the sterilization procedure, except in the case of premature delivery or emergency abdominal surgery. A member may consent to be sterilized at the time of a premature delivery or emergency abdominal surgery if at least 72 hours have passed since the member gave informed consent for the sterilization in the manner specified in 130 CMR 410.432. In the case of premature delivery, the informed consent must have been given at least 30 days before the expected date of delivery.

(2) A member's consent for sterilization will not be considered informed or voluntary if such consent is obtained or given while the member requesting sterilization is:

(a) in labor or childbirth;

(b) seeking to obtain or obtaining an abortion; or

(c) under the influence of alcohol or other substances that affect the individual's state of awareness.

(3) Shortly before the performance of the sterilization procedure, the physician performing the procedure must orally inform the member of all of the information and advice specified in 130 CMR 410.432(A)(1).

410.433: Sterilization Services: Consent Form Requirements

Informed consent for sterilization must be documented by the completion of the MassHealth agency's Consent for Sterilization form in accordance with the following requirements. (Instructions for obtaining the Consent for Sterilization forms are located in Subchapter 5 of the *Outpatient Hospital Manual*.)

(A) Required Consent Form.

(1) One of the following Consent for Sterilization forms must be used:

(a) CS-18 — for members 18 through 20 years of age; or

(b) CS-21 — for members 21 years of age or older.

(2) Under no circumstances will the MassHealth agency accept any other consent for sterilization form.

(B) Required Signatures. The member, the interpreter (if one was required), and the person who obtained the consent for sterilization must all sign and date the Consent for Sterilization form (CS-18 or CS-21) at the time of consent. After performing the sterilization procedure, the physician must sign and date the form.

(C) Required Distribution of the Consent Form. The Consent for Sterilization form (CS-18 or CS-21) must be completed and distributed as follows:

(1) the original must be given to the member at the time of consent; and

(2) a copy must be included in the member's permanent medical record at the site where the sterilization is performed.

(D) Provider Billing and Required Submissions.

(1) All providers must bill with the appropriate sterilization diagnosis and services codes, and must attach a copy of the completed Consent for Sterilization form (CS-18 or CS-21) to each claim made to the MassHealth agency for sterilization services. This provision applies to any medical procedure, treatment, or operation for the purpose of rendering an individual

permanently incapable of reproducing. When more than one provider is billing the MassHealth agency (for example, the physician and the hospital), each provider must submit a copy of the completed sterilization form with the claim.

(2) A provider does not need to submit a Consent for Sterilization form (CS-18 or CS-21) with a claim for a medical procedure, treatment, or operation that is not for the purpose of rendering an individual permanently incapable of reproducing. If the appropriate service code used to bill for such a medical procedure, treatment, or operation may also be used to bill for a sterilization, the claim will be denied unless at least one of the following justifications is present and documented on an attachment signed by the physician and attached to the claim:

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(a) the medical procedure, treatment, or operation was a unilateral procedure and did not result in sterilization;

(b) the medical procedure, treatment, or operation was unilateral or bilateral, but the patient was previously sterile as indicated in the operative notes;

(c) the medical procedure, treatment, or operation was medically necessary for treatment of an existing illness or injury and was not performed for the purpose of sterilization; or

(d) the medical procedure, treatment, or operation was medically necessary for treatment of a life-threatening emergency situation and was not performed for the purpose of sterilization, and it was not possible to inform the member in advance that it would or could result in sterilization. Include the nature and date of the life-threatening emergency.

(3) In the circumstances set forth in 130 CMR 410.433(D)(2)(a) and (c), the medical records must also document that the member consented to the medical procedure, treatment, or operation after being informed that it would or could result in sterilization.

(4) When more than one provider is billing the MassHealth agency under the circumstances specified in 130 CMR 410.433(D)(2) (for example, the physician and hospital), each provider must submit a copy of the signed attachment along with the claim.

410.434: Abortion Services: Reimbursable Services

The MassHealth agency pays for abortion services performed by a licensed physician in a hospital outpatient department only when all of the following conditions are met:

(A) the abortion is performed in accordance with law;

(B) the abortion is medically necessary--that is, according to the medical judgment of a licensed physician, necessary in light of all factors affecting the woman's health; and

(C) the abortion service is claimed according to the requirements in 130 CMR 410.435.

410.435: Abortion Services: Certification for Payable Abortion Form

All physicians and hospital outpatient departments must complete a Certification for Payable Abortion (CPA-2) form and retain the form in the member's record. (Instructions for obtaining the Certification for Payable Abortion form are in Subchapter 5 of the *Outpatient Hospital Manual*.) To identify those abortions that meet federal requirements standards specified in 42 CFR, the Division must secure on the CPA-2 form the certifications described in 130 CMR 410.435(A) through (C), when applicable. For all medically necessary abortions not included in 130 CMR 410.435(A) through (C), the certification described in 130 CMR 410.435(D) is required on the CPA-2 form. The physician must indicate on the CPA-2 form which of the following circumstances is applicable, and must complete that portion of the form with the appropriate signatures.

(A) Life of the Woman Would Be Endangered. The attending physician must certify that, in his or her professional judgment, the life of the woman would be endangered if the pregnancy were carried to term.

(B) Severe and Long-Lasting Damage to the Woman's Physical Health. The attending physician and another physician must each certify that, in his or her professional judgment, severe and long-lasting damage to the woman's physical health would result if the pregnancy were carried to term. At least one of the physicians must also certify that he or she is not an "interested physician," defined herein as one whose income is directly or indirectly affected by the fee paid for the performance of the abortion; or who is the spouse of, or another relative who lives with, a physician whose income is directly or indirectly affected by the fee paid for the performance of the abortion.

(C) Victim of Rape or Incest. The physician is responsible for retaining signed documentation from a law enforcement agency or public health service certifying that the woman upon whom the procedure was performed was a victim of rape or incest that was reported to the agency or service within 60 days of the incident. (A public health service is defined as either an agency of the federal, state, or local government that provides health or medical services, or a rural health clinic, provided that the agency's principal function is not the performance of abortions.) The documentation must include the date of the incident, the date the report was made, the name and address of the victim and of the person who made the report (if different from the victim), and a statement that the report included the signature of the person who made the report.

(D) Other Medically Necessary Abortions. The attending physician must certify that, in his or her medical judgment, for reasons other than those described in 130 CMR 410.435(A) through (C), the abortion performed was necessary in light of all factors affecting the woman's health.

410.436: Abortion Services: Out-of-state Abortions

The Division will pay for an abortion performed in an out-of-state facility only if the abortion meets the conditions specified in 130 CMR 410.434 and if prior authorization is requested and received from the Division.

(A) The recipient, the referring physician, the hospital outpatient department, or a referral agency may request prior authorization from the Division in writing. The request must be made in accordance with the instructions for requesting prior authorization for abortion services in Subchapter 5 of the *Outpatient Hospital Manual*.

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(B) If the Division authorizes the abortion, it will issue a prior authorization slip directly to the out-of-state facility. The facility must attach the prior authorization slip to the claim form when requesting payment from the Division.

(C) Out-of-state abortion services will be authorized only when such services are not available in a Massachusetts facility.

(D) Prior authorization is not required for abortion services provided in the situations described in 130 CMR 410.404(B)(1).

410.437: Family Planning Services

(A) Reimbursable Services. The Division will pay for hospital outpatient services related to the timing and spacing of children. These services may include but are not limited to the following:

(1) nonpermanent contraceptive care;
(2) comprehensive medical examination;
(3) diagnosis and treatment of medical problems specific to reproduction as well as diagnosis of and appropriate referral for other medical problems;
(4) venereal disease testing and treatment;
(5) cervical cancer screening (Pap smear);
(6) breast examination;

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(7) laboratory services related to family planning (for example, Pap smear, gonorrhea culture, vaginal culture and smear, blood test for venereal disease, hematocrit, complete blood count, urinalysis, and pregnancy testing); and

(8) family planning counseling, including discussions about family planning, human reproduction, and methods of contraception.

(B) The Norplant System of Contraception.

(1) Eligible Providers. The Division will pay outpatient departments for the insertion, reinsertion, and removal of the Norplant System of Contraception (Norplant) when the services are provided by a salaried physician, nurse practitioner, nurse midwife, or physician assistant. In order for the hospital to claim payment for Norplant services, the clinician performing the procedure must be trained by either the manufacturer of Norplant or another clinician who has been trained by the manufacturer.

(2) Patient Selection, Counseling Prior to Insertion, and Follow-up.

(a) In order to prevent premature removal of Norplant, the Division requires careful patient selection and counseling prior to insertion. Counseling must be in accordance with the manufacturer's guidelines, and must include a detailed discussion of potential side effects, contraindications, benefits and risks, and other contraceptive options.

(b) A visit following insertion is also required as a condition of reimbursement. The visit must include an examination of the insertion site for complications, a review of potential side effects, and follow-up instructions. If more than one follow-up visit is necessary, the provider should bill each as a separate visit.

(c) The provider must make every effort possible to ensure that the recipient returns for the follow-up visit. This shall include, but not be limited to, scheduling the follow-up appointment on the day of insertion, recording the day of the follow-up appointment in the recipient's chart, mailing a reminder notice to the recipient, and reminding the recipient by telephone during the week of the scheduled appointment. The provider must document in the medical record the efforts made to ensure that the recipient returns for the follow-up visit. In order to ensure payment for the procedure, the provider must also document if the recipient fails to return for the follow-up visit.

(3) Service Limitations.

(a) The Division will pay for the insertion and reinsertion of Norplant for female recipients of childbearing age with menstrual histories. The Department will pay for the removal of Norplant for female recipients of all ages.

(b) The Division will pay for the insertion or reinsertion of Norplant only once per recipient per five-year period.

(c) If the recipient has a Norplant device implanted, no other form of contraception should be prescribed, with the exception of condoms. If the Norplant device is removed for any reason, however, the Division will pay for alternative types of contraception.

410.438: Acupuncture

(A) Introduction. MassHealth members are eligible to receive acupuncture for the treatment of pain as described in 130 CMR 410.438(C), for use as an anesthetic as described in 130 CMR 433.454(C): *Acupuncture as an Anesthetic*, and for use for detoxification as described in 130 CMR 418.406(C)(3): *Acupuncture Detoxification*.

(B) General. 130 CMR 410.438 applies specifically to acupuncture services rendered in a hospital by physicians and licensed practitioners of acupuncture.

(C) Acupuncture for the Treatment of Pain. MassHealth provides a total of 20 sessions of acupuncture for the treatment of pain per member per year without prior authorization. If the member's condition, treatment, or diagnosis changes, the member may receive more sessions of medically-necessary acupuncture treatment with prior authorization.

(D) Provider Qualifications for Acupuncture.

(1) Qualified Providers.

(a) Physicians;

(b) Other practitioners who are licensed in acupuncture by the Massachusetts Board of Registration in Medicine under 243 CMR 5.00: *The Practice of Acupuncture*.

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(2) Supervising Physicians. Supervising physicians must ensure that acupuncture practitioners for whom the physician will submit claims, possess the appropriate training, credentials, and licensure.

(E) Conditions of Payment. The MassHealth agency pays the hospital for services of an acupuncturist (in accordance with 130 CMR 410.438(F)) when the:

(1) services are limited to the scope of practice authorized by state law or regulation (including but not limited to 243 CMR 5.00: *The Practice of Acupuncture*);

(2) the acupuncturist has a current license or certificate of registration from the Massachusetts Board of Registration in Medicine; and

(3) services are provided pursuant to a supervisory arrangement with a physician.

(F) Acupuncture Claims Submissions.

(1) Hospitals may submit claims for on-site acupuncture services when physicians provide those services to MassHealth members or as an exception to 130 CMR 450.301(A) when a licensed practitioner under the supervision of a physician provides those services directly to MassHealth members. *See* Subchapter 6 of the *Acute Outpatient Manual* for service code descriptions and billing requirements.

(2) For MassHealth members receiving services under any of the acupuncture codes on the same date of service as a visit, the hospital may bill for both the visit and the acupuncture services performed or supervised by a hospital-based physician.

410.441: Early Intervention Program Services

(A) An early intervention program provides services such as therapy and social, medical, educational, and developmental services for children aged three years or younger who are at biological, environmental, or established risk, and for their families.

(B) The MassHealth agency pays for services provided as part of an organized early intervention program by hospital outpatient departments. These services must be furnished in compliance with the MassHealth regulations governing early intervention program services in 130 CMR 440.000. (*See* Subchapter 5 of the *Outpatient Hospital Manual* for instructions about obtaining the *Early Intervention Program Manual*, which contains the necessary regulations.)

(C) Acute and nonacute hospital-based early intervention programs are paid according to the regulations governing early intervention services in 130 CMR 440.000: *Early Intervention Program Services*.

410.442: Home Health Agency Services

(A) A home health agency is a public or private agency or organization, or a subdivision of such an agency or organization, that is primarily engaged in furnishing part-time skilled nursing and other therapeutic services to patients in their homes.

(B) The MassHealth agency pays for home health services provided by hospital-based home health agencies. These services must be furnished in compliance with the MassHealth regulations governing home health agency services in 130 CMR 403.000: *Home Health Agency*. (See Subchapter 5 of the *Outpatient Hospital Manual* for information about obtaining the *Home Health Agency Manual*, which contains the necessary regulations.)

(C) Acute hospital-based home health agencies will be paid according to the outpatient payment methodology established by the signed MassHealth provider agreement.

(D) Nonacute hospital-based home health agencies are paid according to the regulations governing home health services in 130 CMR 403.000: *Home Health Agency*.

410.443: Adult Day Health Program Services

(A) An adult day health program is an organized program of health care and supervision, restorative services, and social activities whose general goal is to provide an alternative to long-term institutional care.

(B) The MassHealth agency pays for services provided as part of an organized adult day health program by a hospital outpatient department. These services must be furnished in accordance with the MassHealth regulations governing adult day health programs in 130 CMR 404.000: *Adult Day Health Services*. (*See* Subchapter 5 of the *Outpatient Hospital Manual* for information about obtaining the *Adult Day Health Manual*, which contains the necessary regulations.)

(C) Acute hospital-based adult day health programs will be paid according to the outpatient payment methodology established by the signed MassHealth provider agreement.

(D) Nonacute hospital-based adult day health programs will be paid according to the regulations governing adult day health services in 130 CMR 404.000: *Adult Day Health Services*.

410.444: Adult Foster Care Services

(A) An adult foster care program provides room, board, and personal care services in a family-like setting to elderly or disabled individuals who are at imminent risk of institutional placement.

(B) The MassHealth agency pays for services provided by hospital-based adult foster care programs. These services must be furnished in compliance with the "Adult Foster Care Guidelines" issued by the MassHealth agency. (*See* Subchapter 5 of the *Outpatient Hospital Manual* for information about obtaining the "Guidelines" and the *Adult Foster Care Manual*.)

(C) Acute hospital-based adult foster care programs will be paid according to the outpatient payment methodology established by the signed MassHealth provider agreement.

(D) Nonacute hospital-based adult foster care programs will be paid according to the payment methodology established by the Office of Purchased Services in the Executive Office of Administration and Finance.

410.445: Psychiatric Day Treatment Program Services

(A) A psychiatric day treatment program is a planned combination of diagnostic, treatment, and rehabilitative services provided to mentally or emotionally disturbed persons who need more active or inclusive treatment than is typically available through a weekly visit for outpatient mental health services, but who do not need full-time hospitalization or institutionalization. Such a program uses multiple, intensive, and focused activities in a supportive environment to enable these individuals to acquire more realistic and appropriate behavior patterns, attitudes, and skills for eventual independent functioning in the community.

(B) The MassHealth agency pays for services provided as part of an organized psychiatric day treatment program by hospital outpatient departments that are enrolled with MassHealth as psychiatric day treatment programs. These services must be provided in compliance with the MassHealth regulations governing psychiatric day treatment program services in 130 CMR 417.000. (See Subchapter 5 of the *Outpatient Hospital Manual* for instructions about obtaining the *Psychiatric Day Treatment Program Manual*, which contains the necessary regulations.)

(C) Acute hospital-based psychiatric day treatment programs are paid according to the outpatient payment methodology established by the signed MassHealth provider agreement.

(D) Nonacute hospital-based psychiatric day treatment programs are paid according to the regulations governing psychiatric day treatment services in 130 CMR 417.000.

410.446: Dental Services

(A) The MassHealth agency pays for dental services provided by hospital outpatient departments. These services must be provided in compliance with the MassHealth regulations governing dental services in 130 CMR 420.000. (*See* Subchapter 5 of the *Outpatient Hospital Manual* for information about obtaining the *Dental Manual*, which contains the necessary regulations.)

(B) Acute hospital-based providers of dental services are paid according to the outpatient payment methodology established by the signed MassHealth provider agreement.

(C) Nonacute hospital-based providers of dental services are paid according to the regulations governing dental services in 130 CMR 420.000.

410.451: Therapist Services: Covered Services

(A) The MassHealth agency pays for occupational, physical, and speech/language therapy provided in hospital outpatient departments by or under the supervision of licensed therapists. Therapist services include the following:

(1) individual treatment;
(2) comprehensive evaluation;
(3) group therapy; and
(4) design and fitting of an adaptive device.

(B) All therapy must be provided subsequent to a written referral from a licensed physician or licensed nurse practitioner. The MassHealth agency pays for continuing physical, occupational, or speech/language therapy only when the referral is renewed in writing every 60 days, subject to the prior-authorization requirements described in 130 CMR 410.408(G).

(C) Before therapy is initiated, a comprehensive evaluation of the member's medical condition, disability, and level of functioning must be performed to determine the need for treatment and, when treatment is indicated, to develop a treatment plan. A comprehensive evaluation must include preparation of a written report for the member's medical record that contains at least the following information:

(1) the member's name and address;

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(2) the name of the referring physician or nurse practitioner;
(3) objective evaluation findings;
(4) a detailed treatment plan prescribing the type, amount, estimated frequency, and duration of therapy and indicating the diagnosis and anticipated goals, or the reason treatment is not indicated;
(5) a description of any conferences with the member, the member's family or clinician, or other interested persons;
(6) other health care evaluations, as indicated;
(7) a description of the member's psychosocial and health status that includes:
(a) the present effects of the disability on both member and family;
(b) a brief history, the date of onset, and any past treatment of the disability;
(c) the member's level of functioning, both current and before onset of the disability, if applicable; and
(d) any other significant physical or mental disability that may affect therapy;
(8) for speech/language therapy only:
(a) assessments of articulation, stimulability, voice, fluency, and receptive and expressive language;
(b) a description of the member's cognitive functioning; and
(c) a description of the member's communication needs and motivation for treatment;
(9) for physical or occupational therapy only: a description of the member's physical limitations; and
(10) the therapist's signature and the date of the evaluation.

(D) The hospital must obtain prior authorization as a prerequisite to payment for certain outpatient therapy services pursuant to 130 CMR 410.408(G).

410.452: Therapist Services: Service Limitations

(A) The MassHealth agency pays for the establishment of a maintenance program and the training of the member, member’s family, or other persons to carry it out, as part of a regular treatment visit, not as a separate service. The MassHealth agency does not pay for performance of a maintenance program, except as provided in 130 CMR 410.452(B).

(B) 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 member’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 medical necessity for performance of such services by a licensed therapist, rather than a non-therapist, must be documented in the medical record.

(C) For each type of therapy, the MassHealth agency pays for no more than one individual visit and one group therapy session for a member per day.

410.453: Therapist Services: Recordkeeping Requirements

In addition to the information required in 130 CMR 410.409, the member's record must include the following:

(A) a licensed physician's or licensed nurse practitioner’s written referral for evaluation, referral

for treatment, and renewal of referral (if applicable) every 60 days (*see* 130 CMR 410.451(B));

(B) the written comprehensive evaluation report (*see* 130 CMR 410.451(C));

(C) the name, address, and telephone number of the member's primary physician;

(D) a treatment notation for each date on which therapy was provided that includes at least the following:

(1) the specific therapeutic procedures and methods used;
(2) the amount of time spent in treatment; and
(3) the signature and title of the person who provided the service;

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(E) at least weekly documentation of the following:
(1) the member's response to treatment;
(2) any changes in the member's condition;
(3) the problems encountered or changes in the treatment plan or goals, if any;
(4) the location where the service was provided if different from that in the evaluation report; and
(5) the signature and title of the therapist; and

(F) a discharge summary, when applicable.

410.455: Laboratory Services: Introduction

(A) 130 CMR 410.455 through 410.459 establish the requirements and procedures for clinical laboratory services provided by hospital outpatient departments. A clinical laboratory service includes the following types of services: microbiological, serological, chemistry, hematological, radioimmunoassay, cytological, immunological, pathological, or other examinations of materials derived from the human body to provide information for the assessment of a medical condition or for the diagnosis, prevention, or treatment of any disease.

(B) The MassHealth agency does not pay separately for routine specimen collection and preparation for the purpose of clinical laboratory analysis (for example, venipuncture; urine, fecal, and sputum samples; Pap smears; cultures; and swabbing and scraping for removal of tissue.) Specimen collection and preparation is considered part of the laboratory service.

410.456: Laboratory Services: Payment

(A) Maximum Allowable Fee. The maximum allowable payment for an acute or nonacute hospital outpatient department or hospital-licensed health center laboratory service is the lowest of the following:
(1) the amount in effect for the date of service in the DHCFP Clinical Laboratory Services fee schedule at 114.3 CMR 20.00 and 114.3 CMR 16.00;
(2) the amount that would be recognized under 42 U.S.C. 1395l(h) for tests performed for a person with Medicare Part B benefits; or
(3) the usual and customary fee.

(B) Usual and Customary Fee. The term usual and customary means the lowest fee charged by a hospital outpatient department laboratory for any laboratory service (including both individual and profile tests) specified in the hospital outpatient department's charge book or by such hospital, with the exception of a fee offered for a bulk purchase. (A bulk purchase is a single purchase of a laboratory service (one or more tests) to be uniformly and concurrently performed on a minimum of 40 specimens of the same type. A single purchase of various, non-uniform laboratory services, such as by a physician, is not considered a bulk purchase, regardless of the number of specimens presented by such a purchaser to the hospital outpatient department laboratory.)

(C) Profile or Panel Tests.
(1) A profile or panel test is any group of tests, whether performed manually, automatedly, or semiautomatedly, that is ordered for a specified recipient on a specified day and has at least one of the following characteristics.

(a) The group of tests is designated as a profile or panel by the hospital outpatient department laboratory performing the tests.

(b) The group of tests is performed by the hospital outpatient department laboratory at a usual and customary fee that is lower than the sum of that hospital outpatient department laboratory's usual and customary fees for the individual tests in that group.

(2) In no event shall a hospital outpatient department laboratory bill or be paid separately for each of the tests included in a profile test when a profile test has either been performed by that hospital outpatient department laboratory or requested by an authorized person.

410.457: Laboratory Services: Request for Services

The hospital outpatient department must have either a written requisition or a written order for the laboratory service signed by an authorized prescriber (that is, a licensed physician or dentist, or a registered nurse practitioner) before performing the service. A written requisition signed only by an unauthorized prescriber is not acceptable. Any failure or inability to make the authorized requisition or order available to the Division for review will be sufficient reason to deny or recover payment for all services based on that requisition or order. The hospital outpatient department may send disclosures concerning the test only to the prescriber, to the referring laboratory, if applicable, to the Division, and, at the written request of the prescriber, to the recipient.

410.458: Laboratory Services: Recordkeeping Requirements

In addition to meeting the record keeping requirements specified in 130 CMR 410.409, the hospital outpatient department must keep a suitable record of each specimen and laboratory test result for at least six years from the date on which the results were reported to the prescriber. Such a record must contain the following information:

(A) the name and any other means of identification of the person from whom the specimen was taken;

(B) the name of the prescriber or laboratory that submitted the specimen;

(C) the authorized requisition or order, or both;

(D) the location where the specimen was taken, if other than the hospital outpatient department;

(E) the date on which the specimen was collected by the prescriber or laboratory;

(F) the date on which the specimen was received in the laboratory;

(G) the condition of unsatisfactory specimens when received (for example, broken, leaked, hemolyzed, turbid, or insufficient sample size);

(H) the date on which the test was performed;

(I) the test name and the results of the test, or the cross-reference to results and the date of reporting; and

(J) the name and address of the laboratory to which the specimen was referred, if applicable.

410.459: Laboratory Services: Specimen Referral

A hospital outpatient department may refer a specimen to an independent laboratory that is eligible to participate in the Medical Assistance Program, or to another hospital laboratory that is eligible to participate in the Medical Assistance Program. To be eligible, a hospital laboratory must be in a hospital that is licensed by the Massachusetts Department of Public Health and that is an approved Medicare provider. The referring hospital outpatient department laboratory must inform the prescriber of the name and address of the testing laboratory. The testing laboratory must inform the referring hospital outpatient department laboratory of the results of the test.

Only the referring laboratory is authorized to bill the Division.

410.461: Pharmacy Services: Drugs Dispensed in Pharmacies Including but not Limited to Hospital-based Pharmacies

(A) Coverage of drugs and medical supplies dispensed to MassHealth members by MassHealth pharmacy providers, and related prescription requirements for prescribing clinicians, are governed by 130 CMR 406.000: *Pharmacy Services* and 130 CMR 410.468

(B) 130 CMR 410.468 refers to prescription drugs dispensed in pharmacies, not to drugs administered in the office (Physician-Administered Drugs) and is only applicable to 340B-covered Entities.

410.468: Participation in the 340B Drug-pricing Program for Pharmacy Services

(A) Notification of Participation. A hospital outpatient department or a hospital-licensed health center that is a 340B-covered entity may provide drugs to MassHealth members through the 340B drug-pricing program provided that it notifies the MassHealth agency that the 340B-covered entity is registered and approved by the federal Office of Pharmacy Affairs (OPA).

(B) Subcontracting for 340B Outpatient Pharmacy Services.

(1) A hospital outpatient department or hospital-licensed health center that is a 340B-covered entity may contract with a MassHealth pharmacy provider to dispense 340B drugs for the 340B-covered entity's MassHealth patients. All such subcontracts between the 340B-covered entity and a pharmacy provider must be in writing, ensure continuity of care, specify that the hospital pays the pharmacy, specify that such payment constitutes payment in full for 340B drugs provided to MassHealth members, be consistent with all applicable provisions of 130 CMR 406.000: *Pharmacy Services*, and are subject to MassHealth agency approval.

(2) The hospital is legally responsible to MassHealth for the performance of any subcontractor. The hospital must ensure that every pharmacy subcontractor is licensed by the Massachusetts Board of Registration in Pharmacy and is a MassHealth pharmacy provider, and that services are furnished in accordance with 130 CMR 406.000: *Pharmacy Services* and all other applicable MassHealth requirements, including but not limited to, those set forth in 130 CMR 450.000: *Administrative and Billing Regulations*.

(C) Termination or Changes in 340B Drug-pricing Program Participation. A hospital outpatient department or hospital-licensed health center must provide the MassHealth agency 30 days' advance written notice of its intent to discontinue, or change in any way material to the MassHealth agency, the manner in which it provides 340B outpatient drugs for its MassHealth patients.

(D) Payment for 340B Outpatient Pharmacy Services. The MassHealth agency pays the 340B-covered entity for outpatient hospital pharmacy services, whether provided and billed directly or through a subcontractor, at the rates established in 101 CMR 331.000: *Prescribed Drugs*.

410.471: Mental Health Services: Introduction

A mental health program is a comprehensive group of diagnostic and treatment services, as outlined in 130 CMR 410.474, furnished to mentally or emotionally disabled persons and their families under the direction of a licensed psychiatrist. The MassHealth agency pays for mental health services provided in hospital outpatient departments subject to the restrictions and limitations in 130 CMR 410.472 through 410.479.

410.472: Mental Health Services: Noncovered Services

(A) Nonmedical Services. The MassHealth agency does not pay for nonmedical mental health services. These services include, but are not limited to, the following:

(1) vocational rehabilitation services;
(2) sheltered workshops;
(3) educational services;
(4) recreational services (play therapy, the use of play activities with a child in an identified treatment setting as an alternative to strictly verbal expression of conflicts and feelings, is not considered a recreational service and is covered);
(5) life-enrichment services (ego-enhancing services such as workshops or educational courses provided to functioning persons); and
(6) telephone conversations.

(B) Nonmedical Programs. The MassHealth agency does not pay for diagnostic and treatment services that are provided as an integral part of a planned and comprehensive program that is organized to provide primarily nonmedical or other noncovered services. Such programs include alcohol or drug drop-in centers.

410.474: Mental Health Services: Definitions

The following terms used in 130 CMR 410.471 through 410.479 will have the meanings given in 130 CMR 410.474 unless the context clearly requires a different meaning. When provided in a hospital outpatient department, services that are defined below must conform to the definitions given.

(A) Case Consultation – a preplanned meeting of at least one-half hour's duration concerning a member who is either

(1) a client of the hospital outpatient department to whom it is the primary provider of therapeutic services; or
(2) one for whom evaluation and assessment have been requested by another agency or program involved in treatment or management of the member.

(B) Child and Adolescent Needs and Strengths (CANS) – a tool that provides a standardized way to organize information gathered during behavioral-health clinical assessments. A Massachusetts version of the tool has been developed and is intended to be used as a treatment tool for behavioral-health providers serving MassHealth members under the age of 21.

(C) Couple Therapy – therapeutic services provided to a couple whose primary complaint is the disruption of their marriage, family, or relationship.

(D) Crisis Intervention/Emergency Services – immediate mental health evaluation, diagnosis, hospital prescreening, treatment, and arrangements for further care and assistance as required,

provided during all hours to clients showing sudden, incapacitating emotional stress. The MassHealth agency will pay only for face-to-face contact; telephone contacts are not reimbursable.

(E) Diagnostic Services – the examination and determination of a patient's physical, psychological, social, economic, educational, and vocational assets and disabilities for the purpose of designing a treatment plan.

(F) Family Consultation – a preplanned meeting with the parent or parents of a child who is being treated, when the parent or parents are not clients.

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(G) Family Therapy – the treatment of more than one member of a family simultaneously in the same session.

(H) Group Therapy – the application of psychotherapeutic or counseling techniques to a group of persons, most of whom are not related by blood, marriage, or legal guardianship.

(I) Home Visit – crisis intervention, individual, group, or family therapy, and medication provided in the member's residence (excluding a medical institution), when the member is unable to be served at the hospital outpatient department.

(J) Individual Therapy – therapeutic services provided to an individual.

(K) Long-term Therapy – a combination of diagnostics and individual, couple, family, and group therapy planned to last more than 17 sessions.

(L) Medication Visit – a member visit specifically for prescription, review, and monitoring of medication by a psychiatrist or administration of prescribed intramuscular medication by qualified personnel.

(M) Psychological Testing – the use of standardized test instruments to evaluate aspects of an individual's functioning, including aptitudes, educational achievements, cognitive processes, emotional conflicts, and type and degree of psychopathology, subject to the limitations of 130 CMR 410.479(H).

(N) Short-term Therapy – a combination of diagnostics and individual, couple, family, and group therapy planned to end within 17 sessions.

410.475: Mental Health Services: Staffing Requirements

(A) Provider Responsibilities.

(1) The hospital outpatient department must employ a balanced interdisciplinary staff to furnish mental health services under the direction of a licensed psychiatrist.

(2) The hospital outpatient department must designate a professional staff member as director of clinical services and a licensed psychiatrist as medical director.

(3) A licensed psychiatrist must be on call during all hours of operation.

(4) Although the MassHealth agency does not require that the hospital outpatient department employ mental health professionals from all the disciplines listed in 130 CMR 410.475(B), staff members who provide services to members must be qualified as set forth in 130 CMR 410.475(B) for their respective disciplines.

(B) Staff Qualifications.

(1) Psychiatrist. At least one staff psychiatrist must be either currently certified by the American Board of Psychiatry and Neurology or eligible for such certification. Any additional psychiatrists must be, at the minimum, licensed physicians in their second year of a psychiatric residency program accredited by the Council on Medical Education of the American Medical Association. Such physicians must be under the direct supervision of a licensed psychiatrist. Any psychiatrist or psychiatric resident who provides individual, group, or family therapy to members under the age of 21 must be certified every two years to administer the CANS, according to the process established by the Executive Office of

Health and Human Services (EOHHS).
(2) Psychologist. At least one staff psychologist must be licensed by the Massachusetts Board of Registration of Psychologists with a specialization listed in clinical or counseling psychology or a closely related specialty. Additional staff members trained in the field of clinical or counseling psychology or a closely related specialty must

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(a) have a minimum of a master's degree or the equivalent graduate study in clinical or counseling psychology or a closely related specialty from an accredited educational institution;
(b) be currently enrolled in or have completed a doctoral program in clinical or counseling psychology or a closely related specialty;
(c) have had two years of full-time supervised clinical experience subsequent to obtaining a master's degree in a multi-disciplinary mental health setting (one year of supervised clinical work in an organized graduate internship program may be substituted for each year of experience); and
(d) for any psychologist who provides individual, group, or family therapy to members under the age of 21, be certified every two years to administer the CANS, according to the process established by the Executive Office of Health and Human Services (EOHHS).

(3) Social Worker.
(a) At least one staff social worker must be licensed or have applied for and have a license pending as an independent clinical social worker by the Massachusetts Board of Registration of Social Workers.
(b) Any additional social workers on the staff must provide services under the direct and continuous supervision of an independent clinical social worker. Such additional social workers must be licensed or applying for licensure as certified social workers by the Massachusetts Board of Registration of Social Workers and have received a master's degree in social work and completed two years of full-time supervised clinical work in an organized graduate internship program.
(c) Any social worker who provides individual, group, or family therapy to members under the age of 21 must be certified every two years to administer the CANS, according to the process established by the Executive Office of Health and Human Services (EOHHS).

(4) Psychiatric Nurse. At least one psychiatric nurse must be currently registered by the Massachusetts Board of Registration in Nursing and must have a master's degree in nursing from an accredited National League of Nursing graduate school with two years of full-time supervised clinical experience in a multi-disciplinary mental health setting and be eligible for certification as a clinical specialist in psychiatric/mental health nursing by the American Nursing Association. Any other nurses must have a bachelor's degree from an educational institution accredited by the National League of Nursing and two years of full-time supervised skilled experience in a multi-disciplinary mental health setting subsequent to that degree, or a master's degree in psychiatric nursing. Any psychiatric nurse mental-health clinical specialist who provides individual, group, or family therapy to members under the age of 21 must be certified every two years to administer the CANS, according to the process established by the Executive Office of Health and Human Services (EOHHS). Nurses who are not psychiatric nurse mental-health clinical specialists are not eligible to administer the CANS.

(5) Counselor. A counselor must have a master's degree in counseling education, counseling psychology, or rehabilitation counseling from an accredited educational institution and two years of full-time supervised clinical experience in a multi-disciplinary mental health setting subsequent to obtaining the master's degree (one year of supervised clinical work in an organized graduate internship program may be substituted for each year of full-time experience). Any counselor who provides individual, group, or family therapy to members under the age of 21 must be certified every two years to administer the CANS,

according to the process established by the Executive Office of Health and Human Services (EOHHS).

(6) Occupational Therapist. An occupational therapist must be currently licensed by the Massachusetts Division of Registration of Allied Health Professions and registered by the American Occupational Therapy Association and must have either

(a) a master's degree in occupational therapy from an accredited program in occupational therapy; or

(b) a bachelor's degree in occupational therapy from an accredited program in occupational therapy and a master's degree in a related field such as psychology, social work, or counseling.

410.476: Mental Health Services: Treatment Procedures

(A) A professional staff member must conduct a comprehensive evaluation of each member prior to initiation of therapy. For members under the age of 21, a CANS must be completed during the initial behavioral-health assessment before initiation of therapy and be updated at least every 90 days thereafter by a CANS-certified provider, as described in 130 CMR 410.475(B). The CANS is not required during an assessment that is conducted as part of the emergency department screening.

(B) The hospital outpatient department must accept for treatment, refer for treatment elsewhere, or both, any member for whom the intake evaluation substantiates a mental or emotional disorder.

(C) The hospital outpatient department will ensure that one professional staff member (the primary therapist) assumes primary responsibility for each member. This responsibility will include

(1) within four client visits, preparation of a comprehensive written treatment plan that is based on the initial evaluation, incorporates short- and long-term treatment goals, and establishes criteria for determining when termination of treatment is appropriate;

(2) ongoing utilization review;

(3) review of each case at termination of treatment and preparation of a termination summary that describes the course of treatment and any aftercare program or resources in which the member is expected to participate; and

(4) ensuring that a CANS-certified provider, as described in 130 CMR 410.475(B), completes the CANS in accordance with 130 CMR 410.476(A).

(D) The hospital outpatient department will make provisions for responding to persons needing services on a walk-in basis.

(E) The hospital outpatient department will take appropriate steps to facilitate uninterrupted and coordinated member care whenever it refers a member elsewhere for concurrent or subsequent treatment.

(F) Before referring a member elsewhere, the hospital outpatient department will, with the member's consent, send a summary of or the actual record of the member to that referral provider.

410.477: Mental Health Services: Utilization Review Plan

A mental health program must have a utilization review plan that is acceptable to the MassHealth agency and that meets the following conditions.

(A) A utilization review committee will be formed, composed of the clinical director (or a designee), a psychiatrist, and one other professional staff member from each core discipline represented who meets all the qualifications for the discipline, as outlined in 130 CMR 410.475.

(B) The utilization review committee will review a representative sample of cases at least in the following circumstances:

(1) within 90 days after initial contact;

(2) when a member has required more than 50 visits every 12 months and has not required hospitalization or extensive crisis intervention during that period; and

(3) following termination.

(C) The utilization review committee will verify for a representative sample of cases that:

(1) the diagnosis has been adequately documented;

(2) the treatment plan is appropriate and specifies the methods and duration of the projected treatment program;

(3) the treatment plan is being or has been carried out;

(4) the treatment plan is being or has been modified as indicated by the member's changing status;

(5) there is adequate follow-up when a member misses appointments or drops out of treatment;

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(6) there is progress toward achievement of short- and long-term goals; and
(7) for members under the age of 21, the CANS has been completed at the initial behavioral-health assessment and updated at least every 90 days thereafter as part of the treatment plan review.

(D) No staff member will participate in the utilization review committee's deliberations about any member that staff member is treating directly.

(E) The program will maintain minutes that are sufficiently detailed to show the decisions of each review and the basis on which any decisions are made so that the MassHealth agency may conduct such audits as it deems necessary.

(F) Based on the utilization review, the director of clinical services or a designee will determine whether continuation, modification, or termination of treatment is necessary and promptly communicate this decision to the primary therapist.

410.478: Mental Health Services: Recordkeeping Requirements

(A) The hospital outpatient department must obtain, upon the initiation of treatment, written authorization from each member or the member's legal guardian to release information obtained by the provider to hospital staff, federal and state regulatory agencies, and, when applicable, referral providers, to the extent necessary to carry out the purposes of the program and to meet regulatory requirements, including provider audits.

(B) In addition to the information required in 130 CMR 410.409, each member’s record must include the following information:
(1) the member's case number, address, telephone number, sex, age, marital status, next of kin, and school or employment status (or both);
(2) the date of initial contact and, if applicable, the referral source;
(3) a report of a physical examination performed within six months (if such an examination has not been performed in that period, one must be given within 30 days after the member's request for services or, if the member refuses to be examined, the record must document the reasons for the exam postponement);
(4) the name and address of the member's primary physician or medical clinic (a physician or medical clinic must be recommended if there is not one currently attending the member);
(5) a description of the nature of the member's condition;
(6) the relevant medical, social, educational, and vocational history;
(7) a comprehensive functional assessment of the member;
(8) the clinical impression of the member and a diagnostic formulation, including a specific diagnosis using ICD-9-CM or DSM III diagnosis codes;
(9) the member's treatment plan, updated as necessary, including long-range goals, short-term objectives, and the proposed schedule of therapeutic activities;
(10) a schedule of dates for utilization review to determine the member's progress in accomplishing goals and objectives;
(11) the name, qualifications, and discipline of the primary therapist;
(12) a written record of utilization reviews by the primary therapist;
(13) documentation of each visit, including the member's response to treatment, written and signed by the person providing the service, and including the therapist's discipline and degree;

(14) all information and correspondence regarding the member, including appropriately signed and dated consent forms;
(15) a medication-use profile;
(16) when the member is discharged, a discharge summary; and
(17) for members under the age of 21, a CANS completed during the initial behavioral-health assessment and updated at least every 90 days thereafter.

(C) A brief history is acceptable for emergency or walk-in visits when the treatment plan does not call for extended care.

410.479: Mental Health Services: Service Limitations

(A) Length and Frequency of Sessions.

(1) The MassHealth agency will pay for diagnostic and treatment services only when a professional staff member personally provides these services to the member or the member's family, or personally consults with a professional outside of the hospital outpatient department. The services must be provided to the member on an individual basis.

(2) The MassHealth agency will pay for only one session of the types of services listed in 130 CMR 410.479(C) through (H) provided to an individual member on one date of service. Return visits on the same date of service are not reimbursable.

(B) Diagnostic Services. Payment for diagnostic services provided to a member is limited to a maximum of four hours or eight units.

(C) Individual Therapy. Payment for individual therapy is limited to a maximum of one hour per session per day.

(D) Family Therapy.

(1) Payment for family therapy is limited to a maximum of one-and-one-half hours per session per day.

(2) Payment shall also be limited to one payment per family therapy visit, regardless of the number of staff members or members who are present.

(E) Case Consultation.

(1) The Division will pay only for case consultation that lasts at least 30 minutes and involves a personal meeting with a professional of another agency. Payment is limited to a maximum of one hour per session.

(2) The Division will pay for case consultation only when telephone contact, written communication, and other nonreimbursable forms of communication clearly will not suffice. Such circumstances must be documented in the member's record and also in the prior authorization request, if applicable. Such circumstances are limited to situations in which both the hospital outpatient department and the other party are actively involved in treatment or management programs with the member (or family members) and where a lack of face-to-face communication would impede a coordinated treatment program.

(3) The Division will not pay for court testimony.

(F) Family Consultation. The Division will pay for consultation with the natural or foster parent or legal guardian of a member less than 21 years of age who lives with the child, is responsible for the child's care, and is not an eligible member, when such consultation is integral to the treatment of the member.

(G) Group Therapy.

(1) The Division will pay only for a group therapy session that has a minimum duration of 1 ½ hours and a maximum duration of two hours.

(2) Payment is limited to one fee per group member with a maximum of ten members per group regardless of the number of staff members present.

(3) The Division will not pay for group therapy when it is performed as an integral part of a psychiatric day treatment program.

(H) Psychological Testing. The Division will pay for psychological testing only when the following conditions are met.

(1) A psychologist who is licensed by the Massachusetts Board of Registration of Psychologists with a specialization listed in clinical or counseling psychology or a closely related specialty either personally administers the testing or personally supervises such testing during its administration by an unlicensed psychologist.

(2) A battery of tests is performed. These tests must meet the following standards:

(a) the tests are published, valid, and in general use, as evidenced by their presence in the current edition of the *Mental Measurement Yearbook* or by their conformity to the *Standards for Educational and Psychological Tests* of the American Psychological Association;

(b) a personality evaluation contains the findings of at least two of the following test types or their age-appropriate equivalents: Rorschach, TAT (Thematic Apperception Test), TED (Tasks of Emotional Development), or MMPI (Minnesota Multiphasic Personality Inventory), and one or more of the following test types: figure drawing, Bender-Gestalt, or word association;

(c) intelligence testing includes either a full Wechsler or Stanford-Binet instrument or an equivalent; and

(d) assessment of brain damage contains at least the findings of a Wechsler Intelligence Scale and tests of recent memory, visual-space perception, and other functions commonly associated with brain damage.

(3) Except as explained below, the Division will not pay for:

(a) self-rating forms and other paper-and-pencil instruments, unless administered as part of a comprehensive battery of tests;

(b) group forms of intelligence tests;

(c) an intelligence test performed at the same time as a brain assessment;

(d) short-form, abbreviated, or "quick" intelligence tests administered at the same time as the Wechsler or Stanford-Binet tests; otherwise, such tests are reimbursable only at a lower rate than standard intelligence tests on an individual consideration basis; or

(e) a repetition of any psychological test or tests provided to the same member within the preceding six months, unless accompanied by documentation demonstrating that the purpose of the repeated testing is to ascertain changes following such special forms of treatment or intervention as electroshock therapy or psychiatric hospitalization (periodic testing to measure the member's response to psychotherapy is not reimbursable); or relating to suicidal, homicidal, toxic, traumatic, or neurological conditions. Submission of such documentation with the claim for payment is sufficient when the psychological test or tests are to be performed on the same member a second time within a six-month period. Further repetitions will be paid for by the Division only if this documentation is submitted and prior authorization granted by the Division prior to the testing (*see* 130 CMR 410.473).

(4) Testing of a member requested by responsible parties, such as but not limited to physicians, clinics, hospitals, schools, courts, group homes, or state agencies, must be documented in the member's record. Such documentation must include the referral source and the reason for the referral.

(I) Medication Visits. The MassHealth agency will not pay for a medication visit as a separate service when it is performed as part of another treatment service (for example, a diagnostic assessment or individual or group therapy performed by a psychiatrist).

(J) Home Visits.

(1) The MassHealth agency will pay for intermittent home visits. Payment will also be made for home visits made for diagnostic purposes.

(2) Home visits are reimbursable on the same basis as comparable services provided at the hospital outpatient department. Travel time to and from the member's home is not reimbursable.

(3) A report of the home visit must be entered into the member's record.

(K) Multiple Therapies. The MassHealth agency will pay for more than one mode of therapy used for a member during one week only if clinically justified; that is, when any single approach has been shown to be necessary but insufficient. The need for additional modes of treatment

should be documented in the member's record.

(L) Outreach Services Provided in Nursing Facilities. The MassHealth agency will pay for diagnostic and treatment services provided in a nursing facility to a member who resides in that nursing facility only in the following circumstances:

(1) the nursing facility specifically requests treatment and the member's record at the nursing facility documents this request;

(2) the treatment provided does not duplicate services usually provided in the nursing facility;

(3) such services are generally available through the hospital outpatient department to members not residing in that nursing facility; and

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(4) the member either cannot leave the nursing facility or is sufficiently mentally or physically incapacitated to be unable to come to the hospital outpatient department alone.

410.480: Mental Health Services: Child and Adolescent Needs and Strengths (CANS) Data Reporting

For each Child and Adolescent Needs and Strengths (CANS) conducted, the hospital must report data collected during the assessment to the MassHealth agency, in the manner and format specified by the MassHealth agency.

410.481: Vision Care Services: General Requirements

(A) Introduction.

(1) 130 CMR 410.481 through 410.489 establishes the requirements and procedures for vision care services provided by hospital outpatient departments. Vision care services are the professional care of the eyes for purposes of diagnosing and correcting refractive errors, analyzing muscular anomalies, and determining pathological conditions. They include eye examinations, vision training, and the prescription and dispensing of ophthalmic materials. Professional and technical services will be provided in accordance with the established standards of quality and health care necessity recognized by the vision care industry and licensing agencies in Massachusetts.

(2) MassHealth covers the following services only when provided to eligible MassHealth members under age 21: ophthalmic materials, specifically including, but not limited to, complete eyeglasses or eyeglass parts; the dispensing of ophthalmic materials; contact lenses; and other visual aids, except that this age limitation does not apply to visual magnifying aids for use by members who are both diabetic and legally blind. Visual magnifying aids do not include eyeglasses or contact lenses.

(B) Definitions. The following terms used in 130 CMR 410.481 through 410.489 will have the meanings given in 130 CMR 410.481 unless the context clearly requires a different meaning.

Dispensing Practitioner -- any optician, optometrist, ophthalmologist, or other participating provider authorized by the MassHealth agency to dispense eyeglass frames, lenses, and other vision care materials to members.

Optical Supplier -- the optical laboratory contracted by the MassHealth agency to supply the following ophthalmic materials and services:

(1) eyeglass frames;
(2) eyeglass lenses;
(3) frame cases;
(4) tints, coatings, ground-on prisms, and prisms by decentration; and
(5) repair parts.

Order -- the process by which a dispensing practitioner requests ophthalmic materials (completed eyeglasses, repair parts, and other services) from the optical supplier.

Order Form -- the form used by the dispensing practitioner to request ophthalmic materials (completed eyeglasses, repair parts, and other services) from the optical supplier. The required form is specified in the billing instructions in Subchapter 5 of the *Outpatient Hospital Manual*.

Prescriber -- any optometrist, ophthalmologist, or other practitioner licensed and authorized to write prescriptions for eyeglass frames, lenses, and other vision care services.

(C) Nonreimbursable Circumstances. Vision care services are not reimbursable to a vision care provider when the services were furnished in a state institution, in an inpatient hospital, or in a hospital-affiliated teaching institution, and when the services are among those for which the provider is compensated by the state or institution.

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(D) Prior Authorization.

(1) For certain vision care services specified in 130 CMR 410.484 through 410.487, the MassHealth agency requires the provider to obtain prior authorization as a prerequisite to payment.

(2) All prior authorization requests must be submitted in accordance with the instructions in Subchapter 5 of the *Outpatient Hospital Manual*.

410.482: Vision Care Services: Prescription and Dispensing Requirements

(A) Eyeglasses and other visual aids may be dispensed only upon a written and dated prescription. The prescription must be based upon the results of a vision examination performed by the prescriber. The prescription must include all information that is necessary to enable a dispensing practitioner to order the prescription.

(B) The prescriber must provide the member with a signed copy of the prescription without extra charge. The date or dates on which the prescription is filled or refilled must be recorded on the member's copy of the prescription.

(C) The prescriber may order the prescription or may refer the member to another vision care provider.

(D) For a dispensing practitioner to be paid for dispensing a prescription involving ophthalmic materials and services available through the optical supplier, all such materials and services must be ordered from the optical supplier. These ophthalmic materials include a specific selection of eyeglass frames for men, women, and children. When eyeglasses are being ordered, members must choose from this selection of frames. Information describing all of the ophthalmic materials and services furnished by the optical supplier is published by the optical supplier under the title "Vision Care Materials" and is distributed to vision care providers by the Division.

(E) To receive payment for dispensing an item, the dispensing practitioner must take all necessary measurements, verify lens characteristics, and adjust the completed appliance to the individual. At no additional charge, the dispensing practitioner must continue to make necessary adjustments to the completed appliance for six months after the dispensing date.

(F) The optical supplier will replace free of charge any lens containing any defect or error caused by the optical supplier. Such defects or errors include lenses that are broken, scratched, or chipped at the time of receipt by the dispensing practitioner, or lenses that deviate from the dispensing practitioner's prescription beyond the deviation standards permitted in the American National Standards Institute Z80 rulings. This provision will be effective only if the defective or incorrect lens is received by the optical supplier from the dispensing practitioner within seven working days after the date on which the optical supplier sent the completed order to the dispensing practitioner, and only if it is accompanied by a copy of the original order form containing a notation of the defect or error. In the event of a dispute between the optical supplier and a dispensing practitioner regarding lens deviation, the Division will determine whether the lens in dispute exceeds deviation standards.

(G) Although contractual arrangements are in effect between the Division and the optical supplier, all regulations regarding reimbursable and nonreimbursable services, including prior authorization requirements, are applicable to all dispensing practitioners.

(H) An order to the optical supplier for prescribed items shall constitute a representation by the dispensing practitioner that the person for whom the prescribed item is ordered is an eligible member as of the date of the order. Payment to the optical supplier for items provided pursuant to an order from the dispensing practitioner shall be chargeable to the dispensing practitioner when the practitioner failed to ascertain member eligibility in accordance with 130 CMR 450.000 and with the service limitations in 130 CMR 410.484 through 410.487.

410.483: Vision Care Services: Recordkeeping Requirements

(A) A vision care provider must maintain a suitable health care record for each member. The record must fully disclose all pertinent information regarding the services furnished, including the date of service, the dates on which materials were ordered and dispensed, and a description of materials (including the frame style and the manufacturer's name) ordered and dispensed. All health care findings resulting from a visual analysis, whether they are normal or abnormal, must be recorded. When extenuating circumstances prevent the use of one or more procedures normally done in a visual analysis, the record must contain the reasons that the tests were not performed.

(B) For comprehensive eye examinations and diagnoses, the record must contain the following information or test results:

(1) case history;
(2) visual acuity testing;
(3) ophthalmoscopy and external eye health examination;
(4) ocular mobility testing, heterophoria testing, and fusion testing;
(5) pupillary reflex testing;
(6) refraction (retinoscopy, subjective refraction, and keratometry);
(7) confrontation fields or other screening tests;
(8) tonometry, when medically indicated;
(9) case analysis and disposition; and
(10) biomicroscopy, when medically indicated.

(C) All consultation services must be fully documented in the record. A record for a consultation must contain the following information:

(1) the member's complaints and symptoms;
(2) the condition of the eye; and
(3) if applicable, the name of the person to whom a referral was made.

(D) All screening services must be fully documented in the record. A record for a screening service must note the chief complaint and must contain all findings of two or more of the following tests:

(1) visual acuity;
(2) distance vision and near vision;
(3) cover test;
(4) visual skills;
(5) tonometry; and
(6) biomicroscopy.

410.484: Vision Care Service Limitations: Visual Analysis

(A) The Division will not pay for a comprehensive eye examination or a visual analysis if either has been furnished:

(1) within the preceding 12 months, for a member under the age of 21; or
(2) within the preceding 24 months, for a member aged 21 or older.

However, these restrictions do not apply if there is a referral from the member's physician or if one of the following complaints or conditions is documented in the member's record: blurred vision, evidence of headaches, diabetes, or cataracts.

(B) The Division will pay for a consultation service only if it is provided independently of a

comprehensive eye examination.

(C) The Division will not pay for a screening service if two screening services have been furnished to the member within the preceding 12 months.

(D) A comprehensive eye examination includes a screening service. If the provider performs both a screening service and a comprehensive eye examination for the same member, the Division will pay for only the latter.

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(E) The Division will not pay for a tonometry as a separate service when it is performed as part of a comprehensive eye examination, a consultation, or a screening service. However, a tonometry is reimbursable when performed as a separate service to monitor a member who has glaucoma.

410.485: Vision Care Service Limitations: Dispensing Eyeglasses

(A) Time and Power Restrictions.

(1) The Division will pay for only one initial pair of eyeglasses and only if there is a corrective power of at least ± .75D sphere or ± .50D cylinder. (See 130 CMR 410.487(B) for an exception permitting two pairs of eyeglasses instead of bifocals.)

(2) The Division will pay for the replacement of a pair of lost or stolen eyeglasses only if there is a corrective power of at least ± .75D sphere or ± .50D cylinder, and only if the lost or stolen eyeglasses were not dispensed within the preceding 18 months.

(3) The Division will pay for a subsequent pair of eyeglasses only if there is a change from the current prescription of at least ± .50D sphere or cylinder; or an axis change of at least 3° for a ± 1.00D cylinder or over, 5° for a ± .75D cylinder, or 10° for a ± .50D cylinder.

(B) Broken Eyeglasses. The Division will pay for the repair of broken eyeglasses, including the replacement of broken parts, subject to the following limitations.

(1) No serviceable parts of eyeglass frames supplied by the optical supplier shall be replaced.

(2) Except for members under the age of 21, the Division will not pay for the replacement of broken frames and lenses if a repair of either broken frames or lenses was furnished within the preceding 18 months.

(3) Dispensing practitioners must order replacement eyeglass frames, lenses, and repair parts from the optical supplier. Dispensing practitioners must use the order form to obtain replacement parts.

(4) When there is damage to eyeglass frames or lenses that were not fabricated by the optical supplier, dispensing practitioners must adhere to the following procedure:

(a) the member must be instructed to choose a new frame from the selection available through the Medical Assistance Program; and

(b) using the new frame that has been selected and the member's lens prescription, the dispensing practitioner shall order a completely new pair of eyeglasses from the optical supplier.

410.486: Vision Care Service Limitations: Lenses

(A) Tinted Lenses.

(1) The Division will pay for "pink 1" and "pink 2" colored lenses, up to 25% absorption or equal-density tint, if at least one of the following conditions applies:

(a) the member has a pathological or other abnormal condition such as aphakia; or

(b) the member has habitually worn tinted lenses of this nature, and the prescriber concludes that the member should continue to wear them. The Division will not pay for tinted lenses prescribed only because the member complains of photophobia.

(2) Any condition that warrants the use of tinted lenses must be fully documented in the member's health care record.

(3) In some situations, other tints (available for plastic lenses only) may be medically justified. Any condition that warrants the use of tinted lenses of this nature must be fully

documented in the member's health care record, and may be ordered from the optical supplier only after the provider has received prior authorization from the Division.

(B) Coated Lenses. The Division will pay for coated lenses only when they are needed to give equal-density tint or, using clear coatings only, to prevent excessive reflective glare. Any condition that warrants the use of coated lenses must be fully documented in the member's health care record.

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(C) Cataract Lenses. The Division will not pay for glass cataract lenses. All aphakic prescriptions for members requiring cataract lenses must specify plastic lenticular aspheric lenses only. Any condition that warrants the use of cataract lenses must be fully documented in the member's health care record.

(D) Contact Lenses.

(1) The Division will pay for hard, soft, or gas-permeable contact lenses if one or more of the following conditions exists:

(a) postoperative cataract extraction;
(b) kerataconus;
(c) anisometropia of more than 3.00D; or
(d) more than 7.00D of myopia.

(2) Any condition that warrants the use of hard, soft, or gas-permeable contact lenses must be fully documented in the member's health care record.

410.487: Vision Care Service Limitations: Other Restrictions

(A) Extra or Spare Eyeglasses. The Division will pay for an extra or spare pair of eyeglasses on a prior authorization basis only. Any condition that warrants the use of an extra or spare pair of eyeglasses must be fully documented in the member's health care record. The Division will grant a prior authorization request for extra or spare eyeglasses only if one or more of the following conditions exists:

(1) aphakia;
(2) more than 7.00D of myopia; or
(3) more than 3.00D of astigmia.

(B) Two Pairs of Eyeglasses Instead of Bifocals. The Division will pay for two pairs of eyeglasses instead of bifocals if one or more of the following conditions exists. Any condition listed below that warrants the use of two pairs of eyeglasses instead of bifocals must be fully documented in the member's health care record.

(1) The member's prescription cannot be satisfactorily made into bifocal lenses.
(2) The member has shown an inability to adjust to bifocals.
(3) The member has a physical disability (for example, severe arthritis) that would preclude or impede adjustment to bifocals.
(4) The member's advanced age would make adjustment to bifocals unduly difficult.
(5) The member's occupation would make bifocals hazardous.
(6) The member has a marked facial asymmetry.

410.488: Vision Care Service Exclusions

(A) The Division will not pay for any of the following services or materials:

(1) absorptive lenses of greater than 25% absorption;
(2) photochromatic lenses, sunglasses, or fashion tints;
(3) prisms obtained by decentration;
(4) treatment of congenital dyslexia (the Massachusetts Department of Education may offer resources for the treatment of this condition);
(5) routine adjustments or follow-up visits to check visual acuity and ocular comfort (payment for such visits is included in the dispensing fee for six months after the date on which the eyeglasses were dispensed);

(6) extended-wear contact lenses;
(7) invisible bifocals;
(8) the Welsh 4-Drop Lens; and
(9) substitutions.

(B) If a member desires a substitute for or a modification of a reimbursable item, such as photochromatic lenses or designer frames, the member must pay for the entire cost of the eyeglasses, including dispensing fees. The Division will not pay for a portion of the cost of the eyeglasses. In all such instances, the provider must inform the member of the availability of reimbursable items before dispensing nonreimbursable items.

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(C) It is unlawful (M.G.L. c. 6A, § 35) for a provider to accept any payment from a member for a service or item for which payment is available under the Medical Assistance Program. If a member claims that he was misinformed about the availability of reimbursable items, it will be the responsibility of the provider to prove that the member was offered a reimbursable item, refused it, and chose instead to accept and pay for a nonreimbursable item.

REGULATORY AUTHORITY

130 CMR 410.000: M.G.L. c. 118E, §§ 7 and 12.