

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 348:00 DAY HABILITATION PROGRAM SERVICES

Section

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348.01: General Provisions

- (1) Scope, Purpose and Effective Date. 101 CMR 348.00 governs the payment rates for day habilitation services rendered to publicly aided individuals effective February 1, 2014. The rates set forth in 101 CMR 348.00 also apply to day habilitation services governed by 130 CMR 419.000 and other comparable programs.
- (2) Coverage. The payment rates in 101 CMR 348.00 shall constitute full compensation for day habilitation services provided to publicly aided individuals as well as full compensation for any administration and professional supervision associated with providing the services.
- (3) Coding Updates and Corrections. EOHHS may publish procedure code updates and corrections in the form of an Administrative Bulletin. The publication of such updates and corrections will list:
 - (a) codes for which only the code numbers change, with the corresponding cross references between existing and new codes;
 - (b) codes for which the code number remains the same but the description has changed
 - (c) deleted codes for which there are no corresponding new codes; and
 - (d) codes for entirely new services that require pricing. EOHHS will list these codes and apply individual consideration (I.C.) reimbursement for these new codes until appropriate rates can be developed.
- (4) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on and understanding of substantive provisions of 101 CMR 348.00.

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(5) Disclaimer of Authorization of Services. 101 CMR 348.00 is neither authorization for nor approval of the substantive programs for which rates are determined pursuant to 101 CMR 348.00. Governmental Units that purchase care are responsible for the definition, authorization, and approval of care and services extended to publicly aided individuals. Information about substantive program requirements must be obtained from purchasing Governmental Units.

348.02: General Definitions

Meaning of Terms. Terms used in 101 CMR 348.00, unless the context requires otherwise, shall have the meanings ascribed in 101 CMR 348.02.

Approved Rates. The rates of payment that have been certified by EOHHS and filed with the Secretary of the Commonwealth. These rates govern payment for services under 101 CMR 348.00.

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

Client Severity Profile. A form measuring functional level that is used to determine the applicable MassHealth payment rate category for a day habilitation client. The client is rated as low, moderate, or high need based on his or her score on the Client Severity Profile form. .

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

Day Habilitation Program. A structured, goal-oriented active treatment program of medically oriented, therapeutic, and habilitation services to raise recipients' levels of functioning and facilitate independent living and self-management in their communities.

Department of Developmental Services. (DDS).

Eligible Provider. Any individual, group, partnership trust, corporation or other legal entity that offers services for purchase by a Governmental Unit and that meets the conditions of purchase or licensure established under 130 CMR 419.000.

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

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

Operating Agency. An individual, group partnership, corporation, trust or other legal entity that operates a day habilitation program.

Operational Capacity. A program's maximum number of service units for which there is adequate planned and budgeted space, equipment, and staff.

Publicly Aided Individual. A person who receives medical care and services for which a Governmental Unit is in whole or in part liable under a statutory program of public assistance.

Related Party. A person or organization that is associated or affiliated with, has control of, or is controlled by the operating agency or any director, stockholder, partner, or administrator of the operating agency by common ownership or control or in a manner specified in sections 267(b) and (c) of the Internal Revenue Code of 1954 as amended, provided, however, that 10% shall be the operative factor as set out in sections 267(b)(2) and (3) and provided further that the definition of "family members" found in section 267(c)(4) of said code shall include for the purpose of 101 CMR 348.00:

- (1) husband and wife,
- (2) natural parent, child and sibling,
- (3) adopted child and adoptive parent,
- (4) stepparent and stepchild,
- (5) father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, and daughter-in-law, and
- (6) grandparent and grandchild.

Reporting Year. The operating agency's fiscal year for which costs incurred are reported to the Division of Purchased Services on the Uniform Financial Statements and Independent Auditor's Report, normally July 1st through June 30th.

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Service Unit. The measurable unit of program care and treatment determined by the purchasing Governmental Unit. The service unit for a day habilitation program is a minimum of a six hour day.

Utilization. The total number of service units actually delivered, regardless of payment received.

348.03: General Rate Provisions

(1) Rate as Full Payment. Each eligible provider shall, as a condition of receipt of payment from one or more purchasing Governmental Units for services rendered, accept the approved rates as full payment and discharge of all obligations for the services rendered, subject only to appellate rights as set forth in M.G.L. 118E. There will be no duplication or supplementation of payment from sources other than those expressly recognized or anticipated in the computation of the rate. Any client resources or third party payments received on behalf of a publicly assisted client shall reduce, by that amount, the amount of the purchasing Governmental Unit's obligation for services rendered to the publicly assisted client.

(2) Approved Day Habilitation Program Rates. For services provided in day habilitation programs in the community, the approved rates include payment for all care and services that are customarily part of the program of services of an eligible provider, subject only to the terms of the purchase agreement between the eligible provider and the purchasing Governmental Unit(s). The rate of payment for authorized services is the lower of the established charge or the rate listed in 101 CMR 348.03(6).

(3) Supplemental Service Included in Individual Aide Rates. Certain clients may need supplemental services in the form of additional staff assistance to enable their participation in the day habilitation program. For these qualifying clients, the approved individual aide rates include salary, payroll taxes and fringe benefits for an individual aide for a specific client. The supplemental rate applies only when one of the following conditions exists:

- (a) The purchasing agency determines that the specific client could not participate in a day habilitation program without supplemental one-to-one care.
- (b) The need for supplemental services must be documented in the client's individual service plan or similar plan of care.
- (c) Approved supplemental services rates are as follows:

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1. Program Aide. Direct Care services provided by the equivalent of a Direct Care/ Program Staff I as defined in the Uniform Financial Statement and Independent Auditor’s Report Preparation Manual:

Staff	Hourly Rate
Program Aide (Direct Care/Program Staff I)	\$15.54

2. Paraprofessional and Other Credentialed Aides or Those Requiring Experience Beyond that of a Direct Care/Program Staff I. This includes but is not limited to Physical Therapy Aides, Certified Occupational Therapy Aides, or behavioral specialists.

Paraprofessionals and Other Staff	Hourly Rate
Direct Care/Program Staff II	\$17.42
Licensed Practical Nurse (LPN)	See 114.3 CMR 50.00 Home Health Services (continuous skilled nursing care, individual practitioner, weekday)
Registered Nurse (RN)	

3. Other Supplemental Services. Reimbursement of eligible providers for other supplemental services governed by any other chapter of 101 CMR is in accordance with the rates contained in the relevant regulation for that service.

(4) Day Habilitation Services in Nursing Facilities. Certain residents of nursing facilities who qualify for day habilitation services may be unable to participate in these services in community settings. These individuals may qualify for day habilitation services to be provided at the nursing facility in which they reside. In order to be eligible for these nursing facility services, the individual must meet criteria established by the MassHealth Agency. The approved rates cover all care and services associated with the provision of day habilitation services in a nursing facility.

(a) Serving One, Two, or Three Individuals in a Nursing Facility. In situations where no more than three residents receive day habilitation services in the nursing facility, the rates do not vary by client need. The rates of payment for authorized services, including transportation, shall be the lower of the established charge or the rate listed in 101 CMR 348.03(6).

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(b) Serving Four or More Individuals in a Nursing Facility. For a staffing level of one to four or more, refer to approved community day habilitation program rates, along with the transportation rate listed in 101 CMR 348.03(6). A maximum of two transportation units can be billed for at most one person for any given nursing facility visit, in accordance with purchasers' specifications.

(5) Supplemental Staffing for Nursing Facility Residents in Community Day Habilitation Programs. Certain qualifying individuals in nursing facilities may need supplemental services in the form of additional staff assistance to enable them to leave their nursing facility to participate in day habilitation services in the community. These services do not apply to nursing facilities residents who receive day habilitation services at the nursing facility. The MassHealth Agency will pay a supplemental rate to augment staffing ratios when an individual needs assistance for all or part of the time that an individual participates in a community day habilitation program and meets criteria established by the MassHealth Agency. The approved supplemental rate, which includes salary, payroll taxes, and fringe benefits, is listed in 101 CMR 348.03(6).

(6) Allowable Fees. The rates of payment for authorized day habilitation program services, unless otherwise noted above, shall be the lower of the established charge or the rate listed below. Refer to purchasers' manuals for special coding instructions and limitations on number of units.

Code	Rate	Description
H2014	\$2.87	Skills training and development, per 15 minutes (community program, low need)
H2014-TF	\$3.24	Skills training and development per 15 minutes, intermediate level of care (community program, moderate need)
H2014-TG	\$4.24	Skills training and development, per 15 minutes, complex/high tech level of care (community program, high need)
H2014-U2	\$7.43	Skills training and development, per 15 minutes (nursing facility, one to one staffing level)
H2014-U1	\$4.12	Skills training and development per 15 minutes (nursing facility, one to two or one to three staffing level)
T2003	\$3.65	Non-emergency transportation; encounter/trip (used only when serving four or more individuals in a nursing facility)

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H2014-22	\$3.41	Skills training and development, per 15 minutes, unusual procedural service, when the service(s) provided is greater than that usually listed for the listed procedure (supplemental staffing for nursing facility residents in community day habilitation)
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348.04: Filing and Reporting Requirements

(1) General Provisions.

- (a) Accurate Data. All reports, schedules, additional information, books, and records that are filed or made available to the Center pursuant to M.G.L. c. 12C § 22, shall be certified under pains and penalties of perjury as true, correct, and accurate by the Executive Director or Chief Financial Officer of the provider.
- (b) Examination of Records. Each provider must make available to the Center or purchasing Governmental Unit upon request all records relating to its reported costs, including costs of any entity related by common ownership or control.

(2) Required Reports. Each provider must file:

- (a) an annual Uniform Financial Statement and Independent Auditor's Report, completed in accordance with the filing requirements and instructions of the Division of Purchased Services contained in 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*;
- (b) any cost report supplemental schedule as issued by the Center; and
- (c) any additional information requested by the Center within 21 days of a written request.

(3) Penalties. EOHHS may reduce the payment rates by 15% for any provider that fails to submit required information, subject to the approval of the purchasing Governmental Unit. EOHHS will notify the provider in advance of its intention to impose a rate reduction. The rate reduction will remain in effect until the required information is submitted to the Center.

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348.05: Severability

The provisions of 101 CMR 348.00 are severable, and, if any provision of 101 CMR 348.00 or application of such provision to any Operating Agency or fiscal intermediary of any circumstances is held invalid or unconstitutional, this determination will not affect the validity or constitutionality of any remaining provisions of 101 CMR 348.00 or application of such provisions to Operating Agencies or fiscal intermediaries or circumstances other than thus held invalid.

REGULATORY AUTHORITY

101 CMR 348.00: M.G.L. c. 118E, M.G.L. c. 12C.