

114.3 CMR 54.00 RATES FOR ACQUIRED BRAIN INJURY WAIVER AND RELATED SERVICES

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54.01: General Provisions

(1) Scope. 114.3 CMR 54.00 establishes the payment rates effective October 1, 2010 for Acquired Brain Injury Waiver Services, including Adult Companion Services, Chore Services, Day Services, Home Accessibility Adaptation Services, Homemaker Services, Individual Support and Community Habilitation Services, Personal Care Services, Residential Habilitation Services, Respite Services, Supported Employment, and Transitional Assistance Services and the payment rates effective October 1, 2010 for Residential Habilitation Room and Board.

(b) Services and Rates Covered by other Regulations. Payment rates for the following services are governed by other regulations promulgated by the Division:

<i>Service</i>	<i>Regulation - Agency Rate</i>	<i>Regulation - Self-Employed Provider Rate</i>
Occupational Therapy	114.3 CMR 50.00	114.3 CMR 39.00 (\$60.00 per visit)
Physical Therapy	114.3 CMR 50.00	114.3 CMR 39.00 (\$60.00 per visit)
Specialized Medical Equipment	114.3 CMR 22.00	N/A
Speech Therapy	114.3 CMR 50.00	114.3 CMR 39.00 (\$60.00 per visit)
Community-Based Substance Abuse Treatment	114.3 CMR 46.00	N/A
Transportation	114.3 CMR 27.00	N/A

(3) Disclaimer of Authorization of Services. 114.3 CMR 54.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 114.3 CMR 54.00. Governmental units that purchase Acquired Brain Injury Waiver Services are responsible for the definition, authorization, and approval of services provided to Participants.

(4) Administrative Bulletins. The Division may issue administrative bulletins to clarify its policy on substantive provisions of 114.3 CMR 54.00.

(5) Authority. 114.3 CMR 54.00 is adopted pursuant to M.G.L. c. 118G.

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54.02: Definitions

Meaning of Terms. As used in 114.3 CMR 54.00, unless the context requires otherwise, terms shall have the meanings ascribed in 114.3 CMR 54.02.

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

Activities of Daily Living (ADLs). Activities related to personal care including bathing or showering, dressing, getting in or out of a bed or chair, walking, using the toilet and eating.

Adult Companion Services. Non-medical care, supervision and socialization services provided to a Participant. Companions may assist or supervise the Participant with such light household tasks as meal preparation, laundry, and shopping.

Agency Rate. The fee for services performed by a person whose wage is paid by a corporation or partnership that is a MassHealth provider.

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

Community-Based Substance Abuse Treatment. Individually designed strategies and approaches provided via 24-hour support and supervision in a residential rehabilitation substance abuse treatment and education program for adults, that promote independence and integration to decrease the Participant's substance abuse and/or alcohol abuse behaviors that interfere with his or her ability to remain in the community.

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

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

Division. The Division of Health Care Finance and Policy established under M.G.L. c. 118G.

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

Home Accessibility Adaptations. Physical modifications to the Participant's home that are necessary to ensure the health, welfare, and safety of the Participant or that enable the Participant to function with greater independence in the home.

Homemaker. A person who performs light housekeeping duties (for example, cooking, cleaning, laundry, and shopping) for the purpose of maintaining a household.

Individual Consideration (I.C.). Payment rates for certain services are designated as Individual Consideration (I.C.). Where I.C. rates are designated, the purchasing governmental unit will determine the appropriate payment rate in accordance with the following standards and criteria:

- (a) the amount of time required to complete the service or item;
- (b) the degree of skill required to complete the service or item;
- (c) the severity or complexity of the service or item;
- (d) the lowest price charged or accepted from any payer for the same or similar service or item, including, but not limited to any shelf price, sale price, or advertised price; and
- (e) the established rates, policies, procedures, and practices of any other purchasing governmental unit in purchasing the same or similar services or items.

Individual Support and Community Habilitation. Regular or intermittent services designed to develop, maintain, and/or maximize the participant's independent functioning in self-care, physical and emotional growth, socialization, communication, and vocational skills, to achieve objectives of improved health and welfare and to support the ability of the participant to establish and maintain a residence and live in the community.

Occupational Therapy. Therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of functions that affect the activities of daily living that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Occupational therapy programs are designed to improve quality of life by recovering competence and preventing further injury or disability, and to improve the individual's ability to perform tasks required for independent functioning, so that the individual can engage in activities of daily living.

Participant. A MassHealth member who is enrolled in one of the two Acquired Brain Injury Waivers (ABI-RH or ABI-N) and who receives Acquired Brain Injury Waiver services purchased by a governmental unit.

Personal Care. A range of assistance that is appropriate and necessary for the participant's health and well-being to enable the participant to accomplish fundamental activities of daily living, including, but not limited to, eating, toileting, dressing, bathing, transferring, and ambulation.

Physical Therapy. Therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions

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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.

Provider. Any individual, group, partnership, trust, corporation or other legal entity that offers services for purchase by a Governmental Unit and that meets the conditions of purchase or licensure that have been or may be adopted by a purchasing Governmental Unit.

Reporting Year. The Provider's fiscal year for which costs incurred are reported to the Operational Services Division on the Uniform Financial Statements and Independent Auditor's Report (UFR).

Residential Habilitation. Ongoing services and supports provided to a participant in a provider-operated residential setting that are designed to assist Participants in acquiring, maintaining, or improving the skills necessary to live in a community setting. Residential habilitation provides Participants with daily staff intervention with care, supervision, and skills training in activities of daily living, home management, and community integration in a qualified residential setting with 24-hour staffing. This service may include the provision of medical and health-care services that are integral to meeting the daily needs of Participants.

Residential Habilitation Room and Board. The amount paid by a governmental unit purchasing Residential Habilitation services for the costs of building, maintenance, upkeep, improvements, and meals, which are not covered as part of the Residential Habilitation Waiver service.

Respite Services. Services provided to individuals unable to care for themselves; furnished on a short-term basis because of the absence or need for relief of those persons normally providing the care.

Self-employed Provider Rate. The fee for services performed by a person that is a Provider and is not paid a wage by another person or entity for services performed.

Service Level 1. Residential Habilitation Services delivered to a Participant who requires protective oversight and supervision and assistance with ADLs.

Service Level 2. Residential Habilitation Services delivered to a Participant who requires protective oversight and supervision and assistance with ADLs, and who also requires medical and health care services that are integral to meeting daily personal needs.

Specialized Medical Equipment and Supplies. Devices, controls, or appliances to increase abilities in activities of daily living, or to control or communicate with the environment.

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.

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Speech and language disorders are those that affect articulation of speech, sounds, fluency, voice, swallowing (regardless of presence of a communication disability), and those that impair comprehension, spoken, written, or other symbol systems used for communication.

Supported Employment. Regularly scheduled services that enable Participants, through training and support, to work in integrated work settings in which individuals are working toward compensated work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals.

Transitional Assistance. Nonrecurring residential set-up expenses for Participants who are transitioning from a nursing facility or hospital to a community living arrangement where the Participant is directly responsible for his or her own set-up expenses. Allowable expenses are those that are necessary to enable a person to establish a basic household and do not constitute room and board.

Transportation Service. Conveyance of Participants by vehicle from their residence to and from the site of ABI waiver services and other community services, activities and resources, including physical assistance to Participants while entering and exiting the vehicle.

54.03: Rate Provisions

(1) Services included in the Rate. The approved rate shall include payment for all care and services that are part of the program of services of a Provider, as explicitly set forth in the terms of the purchase agreement between the Provider and the purchasing governmental unit(s).

(2) Reimbursement as Full Payment. Each Provider shall, as a condition of acceptance of payment made by any purchasing governmental units for services rendered, accept the approved program rate as full payment and discharge of all obligations for the services rendered. Payment for services included in the scope of this regulation from any other source shall be used to offset the amount of the purchasing governmental unit's obligation for services rendered to the Participant.

(3) Payment Limitations. No purchasing governmental unit may pay less than or more than the approved program rate, except that a Participant contribution may be applied towards the Residential Habilitation Room and Board payment in accordance with policies and procedures established by the purchasing governmental unit.

(4) Approved Rates. The approved rate shall be the lowest of the Provider's charge or amount accepted as payment from another payer or the rate listed below:

<i>Service</i>	<i>Unit</i>	<i>Agency Rate</i>	<i>Self-employed Provider Rate</i>
Adult Companion	15 minutes	\$5.07	\$4.55
Chore Services	15 minutes	\$7.04	N/A
Day Services	Per diem	\$102.90	N/A

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<i>Service</i>	<i>Unit</i>	<i>Agency Rate</i>	<i>Self-employed Provider Rate</i>
Home Accessibility Adaptations	Various	I.C.	N/A
Homemaker	15 minutes	\$5.07	N/A
Individual Support and Community Habilitation	15 minutes	\$10.30	\$5.83
Personal Care	15 minutes	\$5.07	N/A
Respite Services	Per Diem	I.C.	N/A
Supported Employment	15 minutes	\$8.56	N/A
Transitional Assistance	Various	I.C.	N/A

<i>Residential Habilitation Services</i>	<i>Per Diem Rate</i>
Level 1	\$309.49
Level 2	\$428.09
Residential Habilitation Room and Board	\$63.52

54.04: Filing and Reporting Requirements

- (1) Required Reports. Each Provider must file:
  - (a) an annual Uniform Financial Statement and Independent Auditor's report completed in accordance with the filing requirements of Division of Purchased Services Regulation 808 CMR 1.00;
  - (b) any Cost Report supplemental schedule as issued by the Division; and
  - (c) any additional information requested by the Division within 21 days of a written request.
  
- (2) All reports, schedules, additional information, books, and records that are filed or made available to the Division 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.
  
- (3) Each Provider shall make available to the Division or purchasing Governmental Unit upon request all records relating to its reported costs, including costs of any entity related by common ownership or control.
  
- (4) Penalties. The Division 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. The Division 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 Division.

54.05: Severability of the Provisions of 114.3 CMR 54.00

The provisions of 114.3 CMR 54.00 are severable. If any provision of 114.3 CMR 54.00 or application of such provision to any eligible Provider or fiscal intermediary is held invalid or

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unconstitutional, such determination will not affect the validity or constitutionality of any remaining provisions of 114.3 CMR 54.00 or application of such provisions to eligible Providers or fiscal intermediaries in circumstances other than those held invalid.