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NOTICE OF AMENDMENT AND REPEAL OF REGULATIONS

SUBJECT: Nursing Facility User Fees

AGENCY: Massachusetts Executive Office of Health and Human Services

Pursuant to M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the Executive Office of Health and Human Services (EOHHS) will hold a public comment period until November 15, 2016, relative to the emergency adoption of:

101 CMR 512.00: Nursing Facility User Fees

and the emergency repeal of:

114.5 CMR 12.00: Nursing Facility User Fees

These actions update the nursing facility user fee regulation to ensure it conforms to federal and state requirements. The amendments update the nursing facility user fee structure, including the criteria used to determine how facilities are grouped for purposes of the user fee assessment, consistent with Chapter 283 of the Acts of 2016 and 42 CFR 433.68. The amendments also increase the per diem user fee applicable to certain user fee groups pursuant to Chapter 133 of the Acts of 2016 (the FY 2017 budget), which increases the aggregate user fee assessment by approximately \$15 million over the required aggregate user fee assessment in FY 2016. The amendments also include several technical changes to reflect updates to EOHHS's regulatory authority pursuant to Chapter 224 of the Acts of 2012, to enhance clarity and consistency, and to eliminate ambiguity.

As a result of the amendments, certain nursing facilities have been assigned to a different user fee group than under the previous user fee structure, resulting in a higher or lower category of per diem assessment amount for those facilities. In addition, the amendments increase the per diem assessment amounts for user fee Groups I-III, from \$18.41 (for Group I) and \$1.84 (for Groups II and III), to \$22.22 and \$2.22, respectively (Group IV remains exempt). These updated per diem assessment amounts include an annualization adjustment to ensure the required increase to the aggregate assessment amount is collected during FY 2017.

The regulation and repeal went into effect as an emergency on October 6, 2016.

All persons desiring to submit data, views, or arguments concerning these proposed actions may submit them in writing to EOHHS, c/o D. Briggs, 100 Hancock Street, 6th Floor, Quincy, MA 02171, or e-mail them to ehs-regulations@state.ma.us. E-mailed comments should contain the sender's name,



mailing address, and organization or affiliation, if any. Comments will be accepted through 5:00 p.m. on Tuesday, November 15, 2016.

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

EOHHS may adopt a final revised version of the regulation taking into account relevant comments and any other practical alternatives that come to EOHHS's attention.

October 25, 2016