

130 CMR 630: ACQUIRED BRAIN INJURY HOME- AND COMMUNITY-BASED SERVICES WAIVER SERVICES

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630.401: Introduction

130 CMR 630.000 governs the provision of services under the MassHealth acquired brain injury home- and community-based services waivers (ABI waivers). All providers of services under the ABI waivers must comply with MassHealth regulations set forth in 130 CMR 630.000 and 450.000.

## 630.402: Definitions

The following terms used in 130 CMR 630.000 have the meanings given in 130 CMR 630.402 unless the context clearly requires a different meaning.

Acquired Brain Injury (ABI) – all forms of brain injury that occur after age 22, including without limitation brain injuries caused by external force, but not including Alzheimer’s disease and similar neurodegenerative diseases of which the primary manifestation is dementia.

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 & 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.

ABI Waiver Provider – a qualified individual or organization that meets the requirements of 130 CMR 630.000, provides ABI waiver services to participants, and has signed a provider agreement with the MassHealth agency.

ABI Waiver Services – home- and community-based services that are covered in accordance with the requirements of 130 CMR 630.000 for participants enrolled under an ABI waiver.

Adult Companion Service – nonmedical care, supervision, and socialization provided to a participant. Companions may assist or supervise the participant with such light household tasks as meal preparation, laundry, and shopping.

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 and/or alcohol abuse behaviors that interfere with his or her ability to remain in the community.

Coverage Type – a scope of services that are available to MassHealth members who meet specific eligibility criteria.

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.

Family Member – a spouse or any legally responsible relative of the participant.

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 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 the support the ability of the participant to establish and maintain a residence and live in the community.

Legally Responsible Individual – any person who has a duty under state law to care for another person and includes a legal guardian or a spouse of a participant.

Massachusetts Rehabilitation Commission – the state agency within the Executive Office of Health and Human Services that is responsible for coordinating the expenditure of available public funds for the rehabilitation, employment, and independent living needs of disabled persons.

Occupational Therapist – a person who is licensed by the Massachusetts Division of Registration in Allied Health Professions and registered by the American Occupational Therapy Association (AOTA) or is a graduate of a program in occupational therapy approved by the Committee on Allied Health Education and Accreditation of the American Medical Association and engaged in the supplemental clinical experience required before registration by AOTA.

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 determined by the MassHealth agency to be eligible for enrollment in one of the ABI waivers, who chooses to receive ABI waiver services, and for whom a service plan has been developed that includes one or more ABI waiver services.

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 Therapist – a person licensed by the Massachusetts Division of Registration in Allied Health Professions to provide physical therapy.

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.

Provider Agreement – the contract between the MassHealth agency and a person or organization under which the provider agrees to furnish services to MassHealth members in compliance with state and federal Title XIX requirements. Federal regulations concerning provider agreements are located in 42 CFR § 431.107.

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 including 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.

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.

Room and Board – The term “room” means shelter-type expenses, including all property-related costs, such as rental or purchase of real estate and furnishings, maintenance, utilities, and related administrative services. The term “board” means up to three meals a day or any other full nutritional regimen.

Service Plan – a written document that specifies the waiver and other services (regardless of funding source) along with any informal supports that are furnished to meet the needs of and to assist a participant in remaining in the community. The service plan is also known as the individual service plan or waiver plan of care.

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 Therapist – a person who is licensed by the Massachusetts Division of Registration in Speech-Language Pathology and Audiology and has either a Certificate of Clinical Competence from the American Speech-Language-Hearing Association (ASHA) or a statement from ASHA of certification equivalency.

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 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.

Visit – a personal contact with the participant for the purpose of providing an ABI waiver service.

#### 630.403: Eligible Members

(A) MassHealth pays for services under the MassHealth acquired brain injury home- and community- based services waivers only when provided to eligible MassHealth members who are enrolled as participants under one of the ABI waivers in accordance with 130 CMR 519.007(G), subject to the restrictions and limitations described in 130 CMR 630.000 and 450.000. 130 CMR 630.405 specifically states, for each ABI waiver, which ABI waiver services are covered and which ABI waiver participants are eligible to receive those services.

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

630.404: Provider Eligibility

- (A) Requirements for Participation. An individual or organization seeking to participate as a provider of services under an ABI waiver must
- (1) be duly authorized to conduct a business in Massachusetts that delivers health or human services to elderly or disabled adult populations with acquired brain injuries;
  - (2) comply with all standards, requirements, policies, and procedures established by the Massachusetts Rehabilitation Commission for the provision of services to persons with acquired brain injuries;
  - (3) comply with all standards, requirements, policies, and procedures established by the MassHealth agency for the participation of providers in MassHealth, including all provider participation requirements described in 130 CMR 630.000 and 450.000; and
  - (4) accept MassHealth payment as payment in full for all ABI waiver services.
- (B) Required Documentation. All required MassHealth application documentation will be specified by the MassHealth agency. In order to participate as an ABI waiver provider, an applicant must submit all required documentation, and the MassHealth agency must approve it.
- (C) Periodic Inspections. The MassHealth agency or its designee may conduct periodic inspections of ABI waiver providers to ensure compliance with all provider participation requirements described in 130 CMR 630.000 and 450.000. An ABI waiver provider must cooperate with any inspection and furnish any requested records.
- (D) Provider Eligibility Requirements by ABI Waiver Service Type.
- (1) Adult Companion. In order to participate as a provider of adult companion services under the ABI waiver, a provider must be a health or human service organization or an individual with experience providing nonmedical care, supervision, and socialization for persons with acquired brain injuries in accordance with all standards, requirements, policies, and procedures established by the Massachusetts Rehabilitation Commission for the provision of such services.
  - (2) Chore Service. In order to participate as a provider of chore services under the ABI waiver, a provider must be a health or human service organization or an individual with experience providing services needed to maintain the home in a clean, sanitary, and safe condition, in accordance with all standards, requirements, policies, and procedures established by the Massachusetts Rehabilitation Commission for the provision of such services.
  - (3) Community-Based Substance Abuse Treatment. In order to participate as a provider of community-based substance abuse treatment under the ABI waiver, a provider must be licensed as a residential rehabilitation substance abuse treatment and education program for adults that meets the requirements of the Massachusetts Department of Public Health in accordance with 105 CMR 164.400 through 164.424. Community-based substance abuse treatment may be provided only by private organizations that operate freestanding residential rehabilitation substance abuse treatment and education programs for adults. These services may not be provided in any unit that is licensed as a hospital, nursing facility, or similar medical facility.
  - (4) Day Services. In order to participate as a provider of day services under the ABI waiver, a provider must be a health or human service organization with experience providing day services to persons with acquired brain injuries in accordance with all standards, requirements, policies, and procedures established by the Massachusetts Rehabilitation Commission for the provision of day services to persons with acquired

- brain injuries. Day services must be provided at a provider-operated site in the community and not in a participant's residence. A provider of day services must meet the location requirements of 130 CMR 630.426.
- (5) Home Accessibility Adaptations. In order to participate as a provider of home accessibility adaptations under the ABI waiver, a provider must be qualified to perform environmental and minor home adaptations in accordance with applicable state and local building codes and comply with any applicable registration or licensure requirements.
- (6) Homemaker. In order to participate as a provider of homemaker services, a provider must be an organization engaged in the business of homemaker services that employs homemakers with at least one of the following qualifications:
- (a) certificate of home health aide training;
  - (b) certificate of nurse's aide training; or
  - (c) certificate of 40-hour homemaker training.
- (7) Individual Support and Community Habilitation. In order to participate as a provider of individual support and community habilitation under the ABI waiver, a provider must be a health or human service organization or an individual with experience providing services that are designed to develop, maintain, or maximize independent functioning in self-care, physical and emotional growth, socialization, communication, and vocational skills for persons with acquired brain injuries in accordance with all standards, requirements, policies, and procedures established by the Massachusetts Rehabilitation Commission for the provision of such services.
- (8) Personal Care Services. In order to participate as a provider of personal care services, a provider must be an organization engaged in the business of
- (a) providing assistance with the performance of activities of daily living to persons with disabilities in accordance with all standards, requirements, policies, and procedures established by the Massachusetts Rehabilitation Commission for the provision of such service; and
  - (b) providing personal care services through personal care workers with at least one of the following qualifications:
    - (i) certificate of home health aide training;
    - (ii) certificate of nurse's aide training; or
    - (iii) certificate of 60-hour personal care training.
- (9) Residential Habilitation. Residential habilitation under the ABI waiver must be provided by organizations under contract with the Massachusetts Rehabilitation Commission in accordance with its standards, requirements, policies, and procedures for the provision of residential habilitation services to persons with acquired brain injuries.
- (10) Respite. In order to participate as a provider of respite services under the ABI waiver, a respite provider must
- (a) be licensed as a hospital by the Massachusetts Department of Public Health under 105 CMR 130.00;
  - (b) be certified as an assisted living residence by the Executive Office of Elder Affairs under 651 CMR 12.00;
  - (c) be licensed as a nursing facility by the Massachusetts Department of Public Health under 105 CMR 153.00;
  - (d) meet site-based respite requirements established by the Massachusetts Department of Developmental Services under 115 CMR 7.00; or
  - (e) be enrolled in MassHealth as a participating adult foster care provider under 130 CMR 408.000.

(11) Specialized Medical Equipment. In order to participate as a provider of specialized medical equipment and supplies under the ABI waiver, a provider must be an individual or entity engaged in the business of furnishing durable medical equipment, medical/surgical supplies, or customized equipment, or a provider participating in MassHealth under 130 CMR 409.000 or a pharmacy participating in MassHealth under 130 CMR 406.000.

(12) Supported Employment. In order to participate as a provider of supported employment services under the ABI waiver, a provider must be a human service organization with experience providing supported employment programs in accordance with all standards, requirements, policies, and procedures established by the Massachusetts Rehabilitation Commission for the provision of supported employment to persons with acquired brain injuries.

(13) Therapy Services.

(a) Occupational Therapy. In order to participate as a provider of occupational therapy under the ABI waiver, a provider must be an occupational therapist participating in the MassHealth program under 130 CMR 432.000 or a home health agency participating in MassHealth under 130 CMR 403.000.

(b) Physical Therapy. In order to participate as a provider of physical therapy under the ABI waiver, a provider must be a physical therapist participating in the MassHealth program under 130 CMR 432.000 or a home health agency participating in the MassHealth program under 130 CMR 403.000.

(c) Speech Therapy. In order to participate as a provider of speech therapy under the ABI waiver, a provider must be a speech/language therapist participating in MassHealth under 130 CMR 432.000, a speech and hearing center participating in MassHealth under 130 CMR 413.000, or a home health agency participating in MassHealth under 130 CMR 403.000.

(14) Transitional Assistance. Transitional assistance under the ABI waiver must be provided by organizations under contract with the Massachusetts Rehabilitation Commission in accordance with its standards, requirements, policies, and procedures for the provision of transitional assistance services to persons with acquired brain injuries.

(15) Transportation. In order to participate as a provider of transportation under the ABI waiver, a provider must be an organization engaged in the business of transporting persons with disabilities in accordance with all standards, requirements, policies, and procedures established by the Massachusetts Rehabilitation Commission for the provision of such services.

#### 630.405: ABI Waiver Coverage Types

A participant is eligible for ABI waiver services according to the applicable ABI waiver under which the participant is enrolled. See 130 CMR 519.007(G). Each ABI waiver coverage type is described below. Payment for the covered services listed in 130 CMR 630.000 is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment.

(A) Acquired Brain Injury with Residential Rehabilitation (ABI-RH) Waiver. The following ABI waiver services are covered for eligible MassHealth members who are enrolled as participants under the ABI-RH Waiver:

- (1) residential habilitation;
- (2) supported employment;
- (3) community-based substance abuse treatment;

- (4) day services;
- (5) occupational therapy;
- (6) physical therapy;
- (7) specialized medical equipment;
- (8) speech therapy;
- (9) transitional assistance; and
- (10) transportation.

(B) Acquired Brain Injury Non-Residential Habilitation (ABI-N) Waiver. The following ABI waiver services are covered for eligible MassHealth members who are enrolled as participants under the ABI-N Waiver:

- (1) homemaker;
- (2) personal care;
- (3) respite;
- (4) supported employment;
- (5) adult companion;
- (6) chore;
- (7) community-based substance abuse treatment;
- (8) day services;
- (9) home accessibility adaptations;
- (10) individual support and community habilitation;
- (11) occupational therapy;
- (12) physical therapy;
- (13) specialized medical equipment;
- (14) speech therapy;
- (15) transitional assistance; and
- (16) transportation.

630.406: ABI Waiver Conditions for Payment

(A) The MassHealth agency pays an ABI waiver provider for ABI waiver services in accordance with the applicable payment methodology and rate schedule established by the Division of Health Care Finance and Policy or by the MassHealth agency.

(B) Payment for services is subject to the conditions, exclusions, and limitations set forth in 130 CMR 630.000 and 450.000.

(C) The MassHealth agency pays an ABI waiver provider for an ABI waiver service only if

- (1) the member was enrolled as a participant under one of the ABI waivers on the date of service;
- (2) the service billed was appropriate and necessary;
- (3) the service billed was authorized and included in the service plan for the participant pursuant to 130 CMR 630.409(A); and
- (4) the ABI waiver services were provided by an ABI waiver provider in accordance with the requirements of 130 CMR 630.000 and 450.000.

(D) Additional conditions of payment for ABI waiver services by service type are located as applicable in 130 CMR 630.411 through 630.425.

630.407: ABI Waiver Coverage Requirements

(A) Limitations on Covered Services. The MassHealth agency pays for ABI waiver services to a participant who resides in a home or community-based setting, which may include, without limitation, a temporary residence. With the exception of respite services, as described in 130 CMR 630.420, and transitional assistance, as described in 130 CMR 630.424, the MassHealth agency does not pay for ABI waiver services provided to a participant who is a resident or inpatient of a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other medical facility subject to state licensure or certification.

(B) Least Costly Form of Care. The MassHealth agency pays for ABI waiver services only when services are the least costly form of comparable care available in the community.

630.408: Nonpayable Services

(A) The MassHealth agency does not pay for any ABI waiver services that are furnished before the development of the service plan or that are not included in a participant's service plan pursuant to 130 CMR 630.409(A).

(B) The MassHealth agency does not pay for ABI waiver services that are provided to any individual other than the participant who is eligible to receive such services and for whom such services are approved in the service plan.

(C) The MassHealth agency does not pay an ABI waiver provider for

(1) any service that is not listed as a covered service for the participant under 630.405;

(2) any service that is not authorized in the service plan;

(3) any service to a person who is a resident or inpatient of a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other medical facility subject to state licensure or certification, except for respite services, in accordance with 130 CMR 630.420, and transitional assistance, in accordance with 130 CMR 630.424;

(4) any service to a participant who is receiving a service from another home- and community-based waiver program;

(5) the cost of room and board, unless provided as part of respite care in accordance with 130 CMR 630.420;

(6) the cost of maintenance, upkeep, an improvement, or home accessibility adaptations to a residential habilitation site, group home, or other residential facility; and

(7) the cost of maintenance, upkeep, or an improvement to a participant's place of residence, except for home accessibility adaptations in accordance with 130 CMR 630.415, and transitional assistance in accordance with 130 CMR 630.424.

(D) The MassHealth agency does not pay for ABI waiver services furnished by legally responsible individuals as defined in 130 CMR 630.402.

(E) The MassHealth agency does not pay for ABI waiver services that are unsafe, inappropriate, or unnecessary for a participant. Each ABI waiver provider is responsible

for ensuring that the ABI waiver services it provides are safe, appropriate, and necessary for the participant.

(F) The MassHealth agency does not pay for ABI waiver services in excess of the units identified and authorized in the participant's service plan.

(G) The MassHealth agency does not pay for ABI waiver services that duplicate care provided by another payment source or by a family member or legally responsible individual as defined in 130 CMR 630.402.

(H) Additional information about nonpayable services by service type is located as applicable in 130 CMR 630.411 through 630.425.

630.409: Service Plan and Notice of Approval or Denial of ABI Waiver Services

(A) Service Plan. The MassHealth agency assigns a case manager to each participant under the ABI waiver. The case manager develops the service plan in consultation with the participant, his or her authorized representative, if any, and other appropriate professionals. The service plan must contain, at a minimum, the types of ABI waiver services to be furnished, the amount, frequency, and duration of each service, and the type of provider to furnish each service. The service plan may not be backdated.

(B) Notice of Approval. For all ABI waiver services authorized and included in a service plan, the MassHealth agency or its designee will provide a copy of the service plan to the participant. The service plan must contain, at a minimum, the types of ABI waiver services to be furnished, the amount, frequency, and duration of each service, and the effective date of the authorization.

(C) Notice of Denial or Modification and Right of Appeal.

(1) A participant and the participant's authorized representative, as applicable, will receive a written notification from the MassHealth agency or its designee whenever a service plan contains a denial or modification of a requested ABI waiver service requested by a participant. The notification will describe the reason for the denial or modification and provide information to the participant about the participant's right to appeal and the appeal procedure.

(2) A participant may request a fair hearing whenever the MassHealth agency or its designee denies or modifies the participant's request for an ABI waiver service. As used in 130 CMR 630.409, a denial or modification includes the MassHealth agency's denial, suspension, reduction, or termination of a requested ABI waiver service as well as the agency's failure to act on the participant's request for an ABI waiver service within 30 days of receiving such request. The participant must request a fair hearing in writing within the time limits set forth in 130 CMR 610.015(B)(1) or (2), as applicable. The Office of Medicaid Board of Hearings conducts the hearing in accordance with 130 CMR 610.000.

(D) Information for ABI Waiver Providers. The MassHealth agency or its designee will furnish applicable information from each service plan to an ABI waiver provider that provides an ABI waiver service to a participant. Applicable information will include the amount, frequency, duration, and effective date of the ABI waiver service that is authorized in the service plan. The information will be provided in a manner and format specified by the MassHealth agency or its designee.

#### 630.411: Adult Companion

(A) Conditions of Payment. Adult companion services must be provided in accordance with a therapeutic goal in the service plan. Adult companion services are covered where the adult companion enables the participant to function with greater independence within the participant's home or community.

(B) Nonpayable Services. Adult companion services are not covered where the services are purely recreational or diversional in nature.

#### 630.412: Chore Services

(A) Conditions of Payment. Chore services are covered under the ABI waiver only on a one-time-only or infrequent basis and only when an unusual household task is required to be performed to maintain a participant's home in a clean, sanitary, and safe condition.

(B) Nonpayable Services. Chore services are not covered under the ABI waiver when the participant or someone else in the household is capable of performing the tasks or when a relative, caregiver, landlord, community/volunteer agency, or third-party payer is capable of or responsible for provision of the tasks. In the case of rental property, the responsibility of the landlord, pursuant to a lease agreement, is examined before authorizing any chore services in a service plan.

#### 630.413: Community-Based Substance Abuse Treatment

(A) Conditions of Payment. Community-based substance abuse treatment is covered under the ABI waiver when a participant is determined to need substance abuse treatment services in a community setting and is able to appropriately take part in a residential rehabilitation substance abuse treatment and education program for adults, as identified and authorized in the participant's service plan.

(B) Nonpayable Services. Pursuant to 130 CMR 630.404(D)(3), community-based substance abuse treatment may be provided only by private organizations that operate freestanding residential rehabilitation substance abuse treatment and education programs for adults. These services may not be provided in any unit that is licensed as a hospital, nursing facility, or similar medical facility.

#### 630.414: Day Services

(A) Conditions of Payment. Day services are covered for participants who need a structured day activity program and who are not interested in employment, not ready to join the general workforce, or not appropriate for sheltered workshops.

(B) Recordkeeping. In addition to the requirements of 130 CMR 630.431, the provider must maintain records that include detailed descriptions of day services provided and documentation of all units of services.

### 630.415: Home Accessibility Adaptations

(A) Conditions of Payment.

- (1) Home accessibility adaptations are covered under the ABI waiver only when the participant would be unable to reside in the participant's home without the accessibility adaptations and the adaptations would enable the participant to function with greater independence within the participant's home.
- (2) All home accessibility adaptations must be provided in accordance with applicable state and local building codes.

(B) Nonpayable Services. Home accessibility adaptations are not covered when the adaptations

- (1) bring a substandard dwelling up to minimum standards or to make improvements to a residence that are of general utility (for example, new carpeting, roof repairs, or central air conditioning) and are not of direct medical or remedial benefit to the participant;
  - (2) are required by law to be made by a landlord or other third party;
  - (3) are made to a residential habilitation site, group home, or other residential facility;
- or
- (4) add to the total square footage of the home, except when necessary to complete an adaptation (for example, in order to improve entrance and egress to a residence or to configure a bathroom to accommodate a wheelchair).

### 630.416: Homemaker

(A) Conditions of Payment. Homemaker services are covered under the ABI waiver on a short-term or periodic basis when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for the participant.

(B) Nonpayable Services. Homemaker services are not covered when the participant or someone else in the household is capable of performing the tasks or when a relative, caregiver, landlord, community/volunteer agency, or third party payer is capable of or responsible for homemaking tasks.

### 630.417: Individual Support and Community Habilitation

(A) Conditions of Payment.

- (1) Individual support and community habilitation is covered under the ABI waiver when a participant needs assistance to develop, maintain, or maximize independent functioning in self-care, physical and emotional growth, socialization, communication, and vocational skills. This service includes training and education in self-determination and self-advocacy to enable the participant to acquire skills to exercise control and responsibility over the services and supports they receive, and to become more independent, integrated, and productive in the community.
- (2) Individual support and community habilitation may be provided regularly or intermittently. These services may not be provided on a 24-hour basis, and must be determined necessary for the participant to remain in the community, as documented in the participant's service plan.

(B) Recordkeeping. In addition to the requirements of 130 CMR 630.431, the provider must maintain records that include detailed descriptions of individual support and community habilitation services provided and documentation of all units of services.

#### 630.418: Personal Care Services

(A) Conditions of Payment. Personal care services are covered under the ABI waiver when the participant requires a range of assistance with activities related to independent living in order to accomplish tasks that the participant would do unaided if the participant did not have an acquired brain injury and when the personal care enables the participant to function with greater independence within the participant's home.

(B) Recordkeeping. In addition to the requirements of 130 CMR 630.431, the provider must maintain records that include detailed descriptions of personal care services provided and documentation of all units of services.

#### 630.419: Residential Habilitation

(A) Conditions of Payment. Residential habilitation is covered solely under the Acquired Brain Injury with Residential Habilitation (ABI-RH) Waiver when authorized in the service plan. Residential habilitation is covered when a participant requires ongoing services and supports delivered to a participant in a provider-operated 24-hour staffed residential setting.

(B) Nonpayable Services. Residential habilitation is not covered for participants who live with their immediate family unless the immediate family (for example, grandparent, parent, sibling, or spouse) is also eligible for residential habilitation and, if applicable, has received prior authorization from the MassHealth agency or its designee for residential habilitation.

(C) Payer for Residential Habilitation. The Massachusetts Rehabilitation Commission pays providers for residential habilitation.

#### 630.420: Respite

(A) Conditions of Payment. Respite care is covered under the ABI waiver solely to provide temporary relief to non-paid caregivers when the participant requires assistance with activities related to independent living.

(B) Nonpayable Services.

(1) Respite care is not covered for the purpose of compensating relief or substitute staff for a paid service provider.

(2) Respite care is not covered for any time period during which other assistance with activities related to independent living is available to a participant.

## 630.421: Specialized Medical Equipment

- (A) Payable Services. Covered specialized medical equipment includes
- (1) devices, controls, or appliances that enable a participant to increase his or her ability to perform daily living activities or to perceive, control, or communicate with the environment or to perceive or communicate with other people;
  - (2) medical equipment necessary to address physical conditions or participant functional limitations; and
  - (3) ancillary supplies and equipment necessary for the proper functioning of specialized items.
- (B) Conditions of Payment. Specialized medical equipment must
- (1) not be covered under 130 CMR 406.000 or 409.000;
  - (2) meet applicable standards of manufacture, design, and installation; and
  - (3) have been examined or tested by Underwriters Laboratories (or other appropriate organization), and comply with FCC regulations, as appropriate.
- (C) Nonpayable Services. Items that are not of direct medical or remedial benefit to a participant are not covered.

## 630.422: Supported Employment

- (A) Service Limitations. When supported employment services are provided at a work site where persons without disabilities are employed, payment is made only for the adaptations, supervision, and training required by participants as a result of their disabilities.
- (B) Nonpayable Services.
- (1) Payment for supported employment does not include incentive payments, subsidies, or unrelated vocational training expenses, including but not limited to the following exclusions:
    - (a) incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;
    - (b) payments that are passed through to users of supported employment programs; or
    - (c) payments for training that is not directly related to a participant's supported employment needs.
  - (2) Supervisory activities performed as a normal part of the business setting are not covered.
- (C) Recordkeeping. In addition to the requirements of 130 CMR 630.431, each provider of supported employment services must maintain documentation in the file of each participant receiving this service that the service is not available under a program funded under section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.).

(A) Occupational Therapy.

(1) Conditions of Payment. To be covered under the ABI waiver, occupational therapy must:

- (a) be authorized and included in the participant's service plan;
- (b) be appropriate and necessary for the participant 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; or required to maintain or prevent the worsening of function;
- (c) be of such a level of complexity and sophistication that the judgment, knowledge, and skills of a licensed occupational therapist are required;
- (d) be performed by a licensed occupational therapist, or by a licensed occupational therapy assistant under the supervision of a licensed occupational therapist; and
- (e) not be covered under 130 CMR 403.000 or 432.000.

(2) Nonpayable Services. Services that are not of direct medical or remedial benefit to a participant are not covered by MassHealth.

(B) Physical Therapy.

(1) Conditions of Payment. To be covered under the ABI waiver, physical therapy must

- (a) be authorized and included in the participant's service plan;
- (b) be appropriate and necessary for the participant 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; or required to maintain or prevent the worsening of function;
- (c) be of such a level of complexity and sophistication that the judgment, knowledge, and skills of a licensed physical therapist are required;
- (d) be performed by a licensed physical therapist, or by a licensed physical therapy assistant under the supervision of a licensed physical therapist; and
- (e) not be covered under 130 CMR 403.000 or 432.000.

(2) Nonpayable Services. Services that are not of direct medical or remedial benefit to a participant are not covered by MassHealth.

(C) Speech Therapy.

(1) Conditions of Payment. To be covered under the ABI waiver, speech therapy must

- (a) be authorized and included in the participant's service plan;
- (b) be appropriate and necessary for the participant 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; or required to maintain or prevent the worsening of function;
- (c) be of such a level of complexity and sophistication that the judgment, knowledge, and skills of a licensed speech/language therapist are required;
- (d) be performed by a licensed speech/language therapist; and
- (e) not be covered under 130 CMR 403.000, 413.000, or 432.000.

(2) Nonpayable Services. Services that are not of direct medical or remedial benefit to a participant are not covered by MassHealth.

(D) Maintenance Program.

(1) The MassHealth agency pays for the establishment of a maintenance program and for the training of the participant, the participant's family, or other persons to carry it out, as part of a regular treatment visit, not as a separate service.

(2) 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 participant'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 appropriateness and necessity for performance of such services by a licensed therapist, rather than a non-therapist, must be documented in the manner and format designated by the MassHealth agency or its designee.

630.424: Transitional Assistance

(A) Services and Expenses Included Under Transitional Assistance. Transitional assistance consists of the following items, when appropriate and necessary for the participant's discharge from a nursing facility or hospital and safe transition to the community:

- (1) security deposits that are required to obtain a lease on an apartment or home;
- (2) essential household furnishings and moving expense required to occupy and use a community domicile, including furniture, window coverings, food preparation items, and bed/bath linens;
- (3) set-up fees or deposits for utility or service access, including telephone, electricity, heating, and water;
- (4) household services necessary for the individual's health and safety, such as pest eradication and one-time cleaning prior to occupancy;
- (5) moving expenses; and
- (6) home accessibility adaptations needed for discharge from a hospital or nursing facility.

(B) Conditions of Payment. To qualify for payment as transitional assistance under the ABI waiver, expenses must be

- (1) authorized and included in the participant's service plan;
- (2) incurred within 60 days before a participant's discharge from a nursing facility or hospital or another provider-operated living arrangement; and
- (3) necessary for the participant's safe transition to the community.

(C) Nonpayable Services and Expenses. Transitional assistance does not include expenses

- (1) for monthly rental or mortgage expense; food, regular utility charges; and/or household appliances or items that are intended for pure diversion or recreational purposes;
- (2) for residential facilities that are owned or leased by an ABI waiver provider; or
- (3) that are not necessary for the participant's safe transition to the community.

(D) Payer for Transitional Assistance. The Massachusetts Rehabilitation Commission pays providers for transitional assistance services.

## 630.425: Transportation

### (A) Driver and Vehicle Requirements.

- (1) All driver's must have a valid driver's license, appropriate for the type and class of vehicle used to transport ABI waiver participants.
- (2) All vehicles must be insured and documentation of vehicle and liability insurance must be provided.
- (3) Transportation providers must provide written certification of
  - (a) vehicle maintenance;
  - (b) age of vehicles; and
  - (c) passenger capacity of vehicles.
- (4) Transportation providers must be duly registered with the Massachusetts Registry of Motor Vehicles and must meet all safety and inspection requirements of the Registry.
- (5) All accessible vehicles specifically equipped to carry one or more persons who are mobility-impaired or using a wheelchair must be equipped with applicable safety equipment to secure a wheelchair and all drivers must be trained in the use of vehicle lifts and safety equipment.
- (6) All vehicles must be maintained in such a manner as to ensure the safety and comfort of the passengers being transported. Such vehicles must be clean, sanitary, vermin free, and protected against motor-exhaust fumes. The vehicle must carry no more than the number of passengers for which it was designed, in accordance with local town or city licensing regulations.

(B) Conditions of Payment. Transportation services are covered under the ABI waiver only to the extent that they enable a waiver participant to gain access to waiver and other community services, activities, and resources, as specified in the participant's service plan.

## 630.426: Location Requirements for ABI Waiver Providers

(A) Any location that is owned or operated by an ABI waiver provider where ABI waiver services are provided must meet all applicable building, sanitary, health, safety, and zoning requirements.

- (1) All ABI waiver providers must ensure that the location in which ABI waiver services are provided is clean, environmentally safe, free of vermin and obvious fire and chemical hazards, maintained in accordance with common fire safety practices, and of sufficient size to accommodate comfortably the number of individuals and staff it serves. Any objects or conditions that represent a fire hazard greater than that which could be expected of ordinary household furnishings is not permitted.
- (2) All ABI waiver providers must ensure that the location in which ABI waiver services are provided is a barrier-free environment in those areas used by persons with substantial mobility impairment, to the extent necessary to permit access to the supports, services, personal, and common areas. A location is deemed barrier free, in whole or part, if it meets the applicable standards of the Architectural Access Board (521 CMR) as adopted in the Massachusetts State Building Code (780 CMR).

(B) A location where day services are provided must meet the site requirements of 130 CMR 404.000 or 419.000 or the licensure/certification standards of an EOHHS agency for day services (such as Department of Developmental Services requirements at 115 CMR 7.00 and 8.00 or Department of Mental Health requirements at 104 CMR 28.00 Subpart B)

or the site requirements established by the Massachusetts Rehabilitation Commission for the provision of day services to persons with acquired brain injuries.

630.429: Personnel Requirements and Responsibilities of ABI Waiver Providers

(A) Personnel Hiring Requirements. The requirements in 130 CMR 630.429 apply to ABI waiver providers who hire volunteers, contractors, or employees to provide ABI waiver services to participants. Each ABI waiver provider that uses volunteers or employs or independently contracts with hired personnel must

- (1) check the candidate's references and job history and ensure that the candidate meets all of the required experience, education, and qualifications before hiring;
- (2) conduct a Criminal Offender Records Information (CORI) check and determine whether any offender records may disqualify any personnel from direct contact with the participant;
- (3) ensure that each person who will have direct contact with participants has satisfactorily completed a pre-hiring physical examination and received a tuberculosis screening within the previous 12 months;
- (4) ensure that all personnel who will have direct contact with participants receive tuberculosis screening every two years;
- (5) ensure that all personnel are appropriately trained and managed;
- (6) have available at all times a sufficient number of educated, experienced, trained, and competent personnel to provide services to persons with acquired brain injuries;
- (7) evaluate personnel annually using standardized evaluation measures; and
- (8) maintain a record of each performance evaluation in a separate personnel file for each person.

(B) Personnel Training Requirements. Each ABI waiver provider that uses volunteers or employs or independently contracts with hired personnel must

- (1) provide initial and periodic training to all personnel who are responsible for the care and services to a participant. Records of completed training must be kept on file and updated regularly;
- (2) hold an orientation for new personnel within one month of hire. This orientation must include the following topics for all personnel who will have direct contact with participants:
  - (a) delivery of ABI waiver services;
  - (b) written policies and procedures of the ABI waiver provider;
  - (c) the requirements of 130 CMR 630.000;
  - (d) the roles and responsibilities of provider personnel;
  - (e) behavioral interventions, behavior acceptance, and accommodations;
  - (f) cardiopulmonary resuscitation (CPR) and first aid;
  - (g) infection control and safety practices;
  - (h) information about local health, fire, safety, and building codes;
  - (i) privacy and confidentiality;
  - (j) communication skills;
  - (k) abuse identification and reporting;
  - (l) good body mechanics;
  - (m) cultural sensitivity;
  - (n) universal precautions; and
  - (o) emergency procedures, including the provider's fire, safety, and disaster plans.

(C) Direct Service Delivery. Each individual who is responsible for delivery of ABI waiver services to a participant must

- (1) be a responsible person who is at least 18 years of age, with the ability to make mature and accurate judgments and with no mental, physical, or other impairments that would interfere with the adequate performance of the duties and responsibilities of an ABI waiver provider;
- (2) not abuse alcohol or drugs;
- (3) be able to devote appropriate time necessary to provide needed services to the participant to ensure the participant's safety and well-being at all times during which the service is delivered; and
- (4) meet all other requirements established by the Massachusetts Rehabilitation Commission for care and services to persons with acquired brain injuries.

630.430: Withdrawal by an ABI Waiver Provider from MassHealth

An ABI waiver provider that intends to withdraw from MassHealth must satisfy all of the requirements set forth in 130 CMR 630.430.

(1) MassHealth Agency Notification.

(a) An ABI waiver provider electing to withdraw from participation in MassHealth must give written notice of its intention to withdraw to the MassHealth agency. The ABI waiver provider must send the withdrawal notice by certified or registered mail (return receipt requested) to the MassHealth agency. The notice must be received by the MassHealth agency no less than 90 days before the effective date of withdrawal.

(b) If such withdrawal results from a situation beyond the control of the ABI waiver provider, such as fire or natural or unnatural disaster, the ABI waiver provider must notify the MassHealth agency or its designee immediately by phone and follow up in writing within three calendar days. The burden of proof to demonstrate an emergency is the responsibility of the ABI waiver provider.

(2) Notification to Participant and Family.

(a) The ABI waiver provider must notify all participants, guardians, emergency contacts, and other funding sources in writing of the intended closing date no less than 90 days before the intended closing date and specify the assistance to be provided to each participant in identifying alternative services.

(b) On the same date on which the ABI waiver provider sends a withdrawal notice to the MassHealth agency, the provider must give notice, in hand, to the participants it serves and their authorized representatives. The notice must advise any participant that on the effective date of the withdrawal, the participant must locate another ABI waiver provider participating in MassHealth to ensure continuation of ABI waiver services.

(c) The notice must also state that the ABI waiver provider will work promptly and diligently to arrange for the transfer of participants to other MassHealth-participating ABI waiver providers or, if appropriate, to alternative community-service providers.

(3) Coordination. The ABI waiver provider must cooperate and coordinate with the case manager and assist in transferring participants to other programs.

## 630.431: Recordkeeping Requirements

In addition to the recordkeeping requirements set forth in 130 CMR 450.205, all ABI waiver providers must maintain a record for each participant receiving care and services that includes the following information:

- (A) the member's name, member identification number, address, sex, age, and next of kin;
- (B) the care plan for the specific service being provided, including information about coordination with other services, as appropriate;
- (C) complete documentation of all services provided and events that occurred while providing ABI waiver services;
- (D) for products and materials, a copy of the original invoice showing the cost to the ABI waiver provider, copies of written warranties, and any discounts;
- (E) for transportation, the originating location, destination, and mileage of all trips; and
- (F) other documentation as may be specified by EOHHS or MRC.

### REGULATORY AUTHORITY

130 CMR 630.000: M.G.L. c. 118E, §§ 7 and 12.