

101 CMR 324.00: NONPUBLIC AMBULANCE SERVICE REIMBURSEMENT TRUST FUND ASSESSMENT AND FUNDING

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324.01: General Provisions

- (1) Scope and Purpose. 101 CMR 324.00 governs the Nonpublic Ambulance Service Reimbursement Trust Fund assessment and funding.
- (2) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on and understanding of substantive provisions of 101 CMR 324.00.
- (3) Applicable Assessment Period. Assessment described in 101 CMR 324.00 is applicable for periods on or after July 1, 2021.

324.02: General Definitions

As used in 101 CMR 324.00, terms have the meanings set forth in 101 CMR 324.02, except where the context clearly indicates otherwise.

Ambulance Service. Ambulance service as defined in M.G.L. c. 111C, § 1.

Ambulance Service Cost Report. The Ambulance Service Report of Costs, Revenues, and Statistics reported to the Center pursuant to 957 CMR 6.00: *Cost Reporting Requirements*.

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

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

Gross Patient Service Revenue (GPSR). The total dollar amount of nonpublic ambulance charges for services rendered in a provider's fiscal year.

Nonpublic Ambulance Provider. Ambulance provider licensed pursuant to M.G.L. c. 111C, § 6 that is not a city or town, county, district, or other governmental body.

Nonpublic Emergency Ambulance Assessed Charges. Massachusetts gross patient service revenue earned from all patients attributable to emergency ground ambulance service, less bad debt, charity care, or payer discounts. For each provider's fiscal year, assessed charges are determined using data reported in an ambulance provider's Cost Report for that fiscal year, or if that Cost Report is not submitted, using any alternative data available to EOHHS. EOHHS may reasonably calculate the portion of revenue attributable to emergency ground ambulance service, the allocation of bad debt, or any other element of the Nonpublic Emergency Ambulance Assessed Charges based on the data submitted by providers or other data possessed by EOHHS.

Trust Fund. The Nonpublic Ambulance Service Reimbursement Trust Fund established under M.G.L. c. 29, § 2KKKKK, to provide money to be expended for Medicaid payments to nonpublic ambulance providers, as specified in 101 CMR 327.00: *Rates of Payment for Ambulance and Wheelchair Services*. The Secretary of EOHHS, as trustee, will administer the fund and will make expenditures from the fund consistent with M.G.L. c. 29, § 2KKKKK.

Uniform Assessment. The percentage of nonpublic emergency ambulance assessed charges set by EOHHS as described in 101 CMR 324.04(1).

324.03: Sources and Uses of Fund

- (1) General. The Trust Fund includes
 - (a) an amount equal to all revenues generated from the funds collected pursuant to 101 CMR 324.00;
 - (b) an amount equal to any federal financial participation revenues claimed and received by the Commonwealth for eligible expenditures made from the Trust Fund;
 - (c) any revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the Trust Fund; and
 - (d) interest earned on any money in the Trust Fund.
- (2) Payment to Nonpublic Ambulance Providers. Each quarter, EOHHS will, to the extent possible, expend all funding in the Trust Fund for Medicaid payments to nonpublic ambulance providers pursuant to 101 CMR 327.05: *Nonpublic Ambulance Supplemental Payment Provisions*. No expenditure will be made from the Trust Fund that will cause the Trust Fund to be in deficit at the close of a fiscal year.
- (3) Administrative Costs. \$500,000 annually will be transferred to the EOHHS for its administrative costs.

324.04: Nonpublic Ambulance Provider's Liability and Payment to the Nonpublic Ambulance Service Reimbursement Trust Fund

- (1) Uniform Assessment. EOHHS will annually set the uniform assessment at a percentage not less than 0.25% lower than the maximum limit for a provider assessment pursuant to 42 CFR 433.68(f), inclusive of an annual amount of \$500,000; provided, that the annual amount of \$500,000 will be for administrative costs of EOHHS as described in 101 CMR 324.03(3). This percentage will be listed before October 1st of each year and will be set as a percentage of the nonpublic emergency ambulance assessed charges of each such nonpublic ambulance provider for its most recently completed fiscal year (unless EOHHS determines that the most recent fiscal year does not accurately represent typical total operating revenue for the nonpublic ambulance provider because of exceptional circumstances, in which case EOHHS may use nonpublic emergency ambulance assessed charges from an earlier completed fiscal year). Such uniform assessment will not be implemented unless and until EOHHS receives notice of approval from the Centers for Medicare & Medicaid Services of federal financial participation for expenditures related to the assessment. Upon receiving such approval, EOHHS may implement the assessment for the quarter beginning July 1, 2021, and later as described in 101 CMR 324.04(4)(c), and require payment within 45 days (or such additional period designated by EOHHS by administrative bulletin or other written guidance) of such approval or the end of the relevant quarter, whichever comes later.
- (2) Applicability of Assessment. All nonpublic ambulance providers, regardless of payment model, are subject to the uniform assessment including, but not limited to, those nonpublic ambulance providers in fee-for-service and managed care arrangements. A nonpublic ambulance provider's liability to the fund will, in the case of a transfer of ownership or other change in control, be assumed by the successor in interest to the nonpublic ambulance provider or any provider under common interest.
- (3) Reporting of Nonpublic Emergency Ambulance Assessed Charges.
 - (a) Each nonpublic ambulance provider is required to report its nonpublic emergency ambulance assessed charges each year. Such reporting will be completed through the filing of the Ambulance Cost Report with the Center, subject to all requirements under 957 CMR 6.00: *Cost Reporting Requirements* and using the total operating revenue for basic life and advanced life service of Schedule E of the Ambulance Cost Reports, or through an alternative reporting method designated by EOHHS *via* administrative bulletin or other written issuance.
 - (b) If a nonpublic ambulance provider fails to report nonpublic emergency ambulance assessed charges, or, if in the determination of EOHHS, the nonpublic ambulance provider has improperly reported its nonpublic emergency ambulance assessed charges or the assessed charges do not accurately represent typical total operating revenue for the nonpublic ambulance provider because of exceptional circumstances, EOHHS may calculate such amounts based on data within its possession or audit the nonpublic ambulance provider. If

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EOHHS determines through its review that a nonpublic ambulance assessed charges were materially different than reported, EOHHS may require a payment adjustment. Payment adjustments are subject to interest penalties and late fees, pursuant to 101 CMR 324.06(1), from the date the original payment was owed to the Trust Fund.

(4) Nonpublic Ambulance Provider Liability Calculation.

(a) Each nonpublic ambulance provider's gross liability to the Trust Fund is equal to the product of

1. the amount of nonpublic emergency ambulance assessed charges in the nonpublic ambulance provider's most recent fiscal year as reported on the Ambulance Service Cost Report, or as otherwise determined by EOHHS as described in 101 CMR 324.04(1) and (3); and
2. the uniform assessment.

(b) For each provider who has submitted its revenue to the Center or EOHHS by September 20th of each year, EOHHS will notify the nonpublic ambulance provider of its gross liability to the Trust Fund by September 30th, split into quarterly payments. EOHHS will update each nonpublic ambulance service's liability to the Trust Fund as updated information becomes available.

(c) Liability will begin for the quarter beginning July 1, 2021.

(5) Payment. Upon implementation of the uniform assessment consistent with the requirements of 101 CMR 324.04(1), each nonpublic ambulance provider must pay its quarterly gross liability to the Trust Fund within 45 days (or such additional period designated by EOHHS by administrative bulletin or other written guidance) of the end of each calendar quarter, starting with the quarter beginning July 1, 2021. The nonpublic ambulance provider may adjust the amount owed for any over- or under-payments in a previous period.

324.05: Filing and Reporting Requirements

(1) Accurate Data. All reports, schedules, additional information, books, and records that are filed or made available to EOHHS must be certified under pains and penalties of perjury as true, correct, and accurate by the chief executive officer, president, or chief financial officer of the eligible nonpublic ambulance provider.

(2) Examination of Records. Each eligible nonpublic ambulance provider must make available all records relating to its operation and all records relating to a holding company or any entity in which there may be a common ownership or interrelated directorate upon request of EOHHS for examination.

(3) Field Audits. EOHHS or its designee may conduct field audits of eligible nonpublic ambulance providers to verify compliance with any aspect of 101 CMR 324.00.

324.06: Noncompliance

(1) Penalty for Nonpayment. If a nonpublic ambulance provider does not pay the amount required pursuant to 101 CMR 324.04, or a specified portion thereof, by the due date established by EOHHS, EOHHS may assess up to a 3% penalty on the outstanding balance. EOHHS will calculate the penalty on the outstanding balance as of the due date. EOHHS may assess up to an additional 3% penalty against the outstanding balance and prior penalties for each month that a nonpublic ambulance provider remains delinquent. EOHHS will credit partial payments from delinquent nonpublic ambulance providers to the current outstanding liability. If any amount remains from the partial payment, EOHHS will then credit such amount to the penalty amount.

(2) Penalty for Failure to Report Nonpublic Emergency Ambulance Assessed Charges. If a nonpublic ambulance provider fails to report nonpublic emergency ambulance assessed charges as required under 101 CMR 324.04(3)(a), EOHHS may assess penalties consistent with 101 CMR 327.06: *Reporting and Registration Requirements.*

(3) Penalty Amount Determination. In determining the penalty amount, EOHHS may consider factors including, but not be limited to, the nonpublic ambulance provider's payment history, financial situation, and relative share of the payments.

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(4) Reduction in Payment. EOHHS may deny, reduce, or withhold payments that would otherwise be made to an eligible nonpublic ambulance provider pursuant to 101 CMR 327.00: *Rates of Payment for Ambulance and Wheelchair Van Services* if that nonpublic ambulance provider fails to make full payment under 101 CMR 324.04 or is assessed penalties under 101 CMR 324.06(1). EOHHS will notify the nonpublic ambulance provider of its intention to deny, reduce, or withhold payment.

(5) Successors in Interests or Providers under Common Control. EOHHS may apply all penalties and reductions in payments to successor in interest to the nonpublic ambulance provider or any provider under common interest.

324.07: Severability

The provisions of 101 CMR 324.00 are severable. If any provision of 101 CMR 324.00 or the application of such provision of 101 CMR 324.00 is held invalid or unconstitutional, such determination will not be construed to affect the validity or constitutionality of any other provision of 101 CMR 324.00 or the application of any other provision.

REGULATORY AUTHORITY

101 CMR 324.00: M.G.L. c. 29, § 2KKKKK; M.G.L. c. 118E, § 67A.