

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
AMBULATORY CARE

101 CMR 357.00: RATES FOR MONEY FOLLOWS THE PERSON WAIVER SERVICES

Section

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357.01: General Provisions

(1) Scope. 101 CMR 357.00 governs the payment rates, effective April 1, 2013 for Money Follows the Person (MFP) Waiver services purchased by a Governmental Unit. MFP Waiver Services include Adult Companion, Assisted Living Services, Chore Service, Community Family Training, Day Services, Home Accessibility Adaptations, Homemaker, Home Health Aide, Independent Living Supports, Individual Support and Community Habilitation, Occupational Therapy, Peer Support, Personal Care, Physical Therapy, Prevocational Services, Residential Family Training, Residential Habilitation, Respite, Shared Home Supports, Skilled Nursing, Specialized Medical Equipment, Shared Living-24 hour Supports, Speech Therapy, Supported Employment, Supportive Home Care Aide, Transportation, and Vehicle Modification.

(2) Disclaimer of Authorization of Services. 101 CMR 357.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 357.00. Governmental units that purchase MFP Services are responsible for the definition, authorization, and approval of services extended to Clients.

(3) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 357.00.

(4) Authority. 101 CMR 357.00 is adopted pursuant to M.G.L. c. 118E.

357.02: Definitions

Meaning of Terms. As used in 101 CMR 357.00, unless the context requires otherwise, terms shall have the meanings ascribed in 101 CMR 357.02.

Adult Companion. 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.

Assisted Living Services. Services consist of personal care and supportive services (homemaker, chore, attendant services, meal preparation) that are furnished to participants who reside in an MFP qualified assisted living residence (ALR) that includes 24-hour on-site response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety and security. Services may also include social and recreational programs, and medication assistance (consistent with ALR certification and to the extent permitted under State law). Nursing and skilled therapy services are incidental rather than integral to the provision of Assisted Living Services. Intermittent skilled nursing services and therapy services may be provided to the extent allowed by applicable regulations.

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

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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 Family Training. A service designed to provide training and instruction about the treatment regimes, behavior plans, and the use of specialized equipment that support a participant in the community. Community family training may also include training in family leadership, support of self-advocacy and independence for their family member. The service enhances the skills of the family to assist the waiver participant to function in the community and at home.

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.

Employer Expense Component (EEC). The portion of the Self-Directed Worker rate that is designated for the mandated employer share of FICA, federal and state unemployment taxes, Medicare, and Workers' Compensation premiums.

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

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.

Home Health Aide. A person who performs certain personal care and other health-related services as described in 130 CMR 403.000.

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

Independent Living Supports. A service that ensures 24 hour seven days a week access to supportive services for participants who have intermittent, scheduled and unscheduled needs for various forms of assistance, but who do not require 24-hour supervision. It provides participants with services and supports in a variety of activities such as: ADLs and IADLs, support and companionship, emotional support and socialization. This service is provided by a site-based provider, and is available to participants who choose to reside in locations where a critical mass of individuals reside who require such support and where providers of such supports are available.

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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, advertised price, or other price reasonably obtained by a competitive market for the service or item; 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.

Money Follows the Person Waivers (MFP Waivers). Two Massachusetts Home and Community-Based Services Waivers for persons participating in the MFP Demonstration and approved by the Centers for Medicare and Medicaid Services (CMS) under Section 1915(c) of the Social Security Act. Massachusetts operates two separate MFP Waivers – the Money Follows the Person Residential Supports (MFP-RS) waiver, and the Money Follows the Person Community Living (MFP-CL) waiver – each with different covered services and eligibility requirements.

Non-Agency Provider. An Individual Provider or Self-Directed Provider.

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.

Peer Support. On-going services and supports designed to assist participants to acquire, maintain or improve the skills necessary to live in a community setting. This service provides supports necessary for the participant to develop the skills that enable them to become more independent, integrated into, and productive in their communities. The service enables the participant to retain or improve skills related to personal finance, health, shopping, use of community resources, community safety, and other adaptive skills needed to live in the community.

Personal Care. Services provided to a participant, which may include physical assistance, supervision or cueing of participants, for the purpose of assisting the participant to accomplish activities of daily living (ADLs), 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 that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Physical

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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.

Prevocational Services. A service that consists of a range of learning and experimental type activities that prepares a participant for paid or unpaid employment in an integrated, community setting. Services are not job-task oriented but instead, aimed at a generalized result (e.g. attention span, motor skills). The service may include teaching such concepts as attendance, task completion, problem solving and safety as well social skills training, improving attention span, and developing or improving motor skills. Basic skill-building activities are expected to specifically involve strategies to enhance a participant's employability in integrated, community settings.

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.

Residential Family Training. A service designed to provide training and instruction about treatment regimes, behavior plans, and the use of specialized equipment that supports the participant to participate in the community. Residential family training may also include training in family leadership, support of self-advocacy, and independence for their family member. The service enhances the skill of the family to assist the waiver participant to function in the community and at home when the waiver participant visits his or her family.

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 provided to individuals unable to care for themselves; furnished on a short-term basis because of the absence or need for relief of unpaid caregivers.

Self-Directed Worker. Participants who choose to self-direct waiver services will have the authority and responsibility for recruiting and hiring workers to provide their self-directed services. These workers are referred to as self-directed workers and subject to the standards, requirements, policies and procedures for the hiring of such workers under the participant's Home and Community-Based Services Waiver (HCBS). Participants who self-direct their services will submit timesheets to the fiscal intermediary (FI) for each self-directed worker who provided self-directed services. The FI collects and processes the participant's time-sheets. The FI will deduct the employer expense component from the self-directed waiver rate. The FI will then issue appropriate checks in the name of the worker and mail the check to the participant who will distribute the check to the self-directed worker.

Shared Home Supports. An individually tailored supportive service that assists with the acquisition, retention, or improvement in skills related to living in the community. A participant is matched with a Shared Home Supports caregiver. This arrangement is overseen by a residential support agency. Shared Home Supports does not include

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24-hour care. Shared Home Supports includes such supports as: adaptive skill development, assistance with ADLs and IADLs, adult educational supports, social and leisure skill development, and supervision.

Shared Living -24 Hour Supports. A residential option that matches a participant with a Shared Living caregiver. This arrangement is overseen by a residential support agency. Shared Living is an individually tailored 24 hour/7 day per week, supportive service available to a participant who needs daily structure and supervision. Shared Living includes supportive services that assist with the acquisition, retention, or improvement of skills related to living in the community. This includes such supports as: adaptive skill development, assistance with ADLs and IADLs, adult educational supports, social and leisure skill development, protective oversight and supervision.

Skilled Nursing. The assessment, planning, provision, and evaluation of goal-oriented nursing care that requires specialized knowledge and skills acquired under the established curriculum of a school of nursing approved by a board of registration in nursing. Such services include only those services that require the skills of a nurse. Skilled Nursing Services are provided by a person licensed as a registered nurse or a licensed practical nurse by a state's board of registration in nursing.

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 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.

Supportive Home Care Aide. Services provided to participants with Alzheimer/dementia or behavioral health needs to assist with ADLs and IADLs. These services include personal care, shopping, menu planning, meal preparation including special diets, laundry, light housekeeping, escort, and socialization /emotional support.

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

Vehicle Modification. Necessary adaptations or alterations to an automobile or van that is the waiver participant's primary means of transportation and that is not owned or leased by an entity providing services to the participant. Vehicle Modifications are necessary when they are required to accommodate the special needs of the participant. Examples of vehicle modifications include: van lift, tie downs, ramp, specialized seating equipment and seating/safety restraint.

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357.03: Rate Provisions

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

Service	Unit	Regulation
Adult Companion (Agency)	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Adult Companion (Individual Provider)	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Chore Services (Agency)	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Community Family Training (Agency)	Per 15 min	114.4 CMR 14.00: Rates for Family Stabilization Services (rate divided by 4 to determine rate per 15 minute increments)
Day Services	Per Diem	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Home Health Aide	Per 15 min	114.3 CMR 50.00: Home Health Services
Homemaker (Agency)	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Individual Support & Community Habilitation (Agency)	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Individual Support & Community Habilitation (Individual Provider)	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Occupational Therapy (Agency)	Per Visit	114.3 CMR 50.00: Home Health Services
Occupational Therapy (Individual Provider)	Per Visit	114.3 CMR 39.00: Rehabilitation Center Services, Audiological Services, Restorative Services (\$60.00 per visit)
Peer Support (Agency)	Per 15 min	101 CMR 414.00: Rates for Family Stabilization Services (rate divided by 4 to determine rate per 15 minute increments)
Personal Care (Agency)	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Personal Care (Self-directed Worker)	Per 15 min	114.3 CMR 9.00: Independent Living Services for the Personal Care Attendant Program
Physical Therapy (Agency)	Per Visit	114.3 CMR 50.00: Home Health Services
Physical Therapy (Individual Provider)	Per Visit	114.3 CMR 39.00: Rehabilitation Center Services, Audiological Services, Restorative Services (\$60.00 per visit)
Prevocational Services	Per Diem	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services (same rate as Day Services)
Prevocational Services	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services (same rate as Supported Employment)
Residential Family Training (Agency)	Per 15 min	101 CMR 414.00: Rates for Family Stabilization Services (rate divided by 4 to determine rate per 15 minute increments)

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Service	Unit	Regulation
Residential Habilitation	Per Diem	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Skilled Nursing	Per Visit	114.3 CMR 50.00: Home Health Services
Specialized Medical Equipment (Agency)	Item	114.3 CMR 22.00: Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment
Specialized Medical Equipment (Individual Provider)	Item	114.3 CMR 22.00: Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment
Speech Therapy (Agency)	Per Visit	114.3 CMR 50.00: Home Health Services
Speech Therapy (Individual Provider)	Per Visit	114.3 CMR 39.00: Rehabilitation Center Services, Audiological Services, Restorative Services (\$60.00 per visit)
Supported Employment	Per 15 min	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services
Supportive Home Care Aide	Per 15 min	114.3 CMR 50.00: Home Health Services (Rate for Home Health Aide)
Transportation	One-Way Trip	114.3 CMR 54.00: Rates for Acquired Brain Injury Waiver & Related Services

(2) 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 an eligible provider, as explicitly set forth in the terms of the purchase agreement between the eligible provider and the purchasing governmental unit(s).

(3) Reimbursement as Full Payment. Each eligible 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 from any other source shall be used to offset the amount of the purchasing governmental unit's obligation for services rendered to the publicly assisted client.

(4) Payment Limitations. No purchasing governmental unit may pay less than or more than the approved program rate.

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

Service	Unit	Agency Rate	Non-Agency Rate	
			Individual Provider	Self-Directed Worker
Adult Companion	Per 15 min	See 357.03(1)	See 357.03(1)	\$4.55
Assisted Living Services	Per Diem	\$104.53	N/A	N/A
Chore	Per 15 min	See 357.03(1)	89.75% of Agency Rate	89.75% of Agency Rate

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Service	Unit	Agency Rate	Non-Agency Rate	
			Individual Provider	Self-Directed Worker
Community Family Training	Per 15 min	See 357.03(1)	89.75% of Agency rate	89.75% of Agency rate
Home Accessibility Adaptations	Item	I.C.	N/A	N/A
Homemaker	Per 15 min	See 357.03(1)	89.75% of Agency Rate	89.75% of Agency Rate
Independent Living Supports	Per Diem	\$82.12	N/A	N/A
Individual Support & Community Habilitation	Per 15 min	See 357.03(1)	See 357.03(1)	Same as Individual Provider Rate
Peer Support	Per 15 min	See 357.03(1)	89.75% of Agency Rate	89.75% of Agency Rate
Personal Care	Per 15 min	See 357.03(1)	Same as Self-Directed Worker Rate	See 357.03(1)
Residential Family Training	Per 15 min	See 357.03(1)	89.75% of Agency Rate	89.75% of Agency Rate
Respite- Not In Home	Per Diem	I.C.	N/A	N/A
Shared Home Supports	Per Diem	\$76.39	N/A	N/A
Shared Living - 24 Hour Supports	Per Diem	Level 1: \$158.50 Level 2: \$183.45	N/A	N/A
Vehicle Modification	Item	I.C.	N/A	N/A

(6) Approved rates for Shared Living-24 Hour Supports. Rates for Shared Living-24 Hour Supports will be superseded by the rates for Shared Living provided under 114.4 CMR 11.00: Rates for Certain Placement and Support Services upon its adoption.

(7) Approved Modifiers. For MFP-CL Waiver Services, use modifier U8. For MFP-RS Waiver Services, use modifier U9. Use appropriate code and, if applicable, the additional modifier for each service as described below:

Service	Agency		Individual Provider		Self-Directed Worker	
	Code	Second Position Modifier (If Required)	Code	Second Position Modifier (If Required)	Code	Second Position Modifier (If Required)
Adult Companion	S5135	N/A	S5125	N/A	S5125	UB
Assisted Living Services	T2031	N/A	N/A	N/A	N/A	N/A
Chore Services	S5120	U1	S5120	U2	S5120	UB

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Service	Agency		Individual Provider		Self-Directed Worker	
Community Family Training	S5110	U1	S5110	U2	N/A	N/A
Day Services	S5102	N/A	N/A	N/A	N/A	N/A
Home Accessibility Adaptations	S5165	N/A	S5165	N/A	N/A	N/A
Home Health Aide	G0156	N/A	N/A	N/A	N/A	N/A
Homemaker	S5130	U1	S5130	U2	S5130	UB
Independent Living Supports	H0043	N/A	N/A	N/A	N/A	N/A
Individual Support & Community Habilitation	S5108	N/A	H2014	N/A	H2014	UB
Occupational Therapy	S9129	U1	S9129	U2	N/A	N/A
Peer Support	H0038	U1	H0038	U2	H0038	UB
Personal Care	T1019	U1	T1019	U2	T1019	UB
Physical Therapy	S9131	U1	S9131	U2	N/A	N/A
Prevocational Services (Per Diem Service)	T2018	N/A	N/A	N/A	N/A	N/A
Prevocational Services (Per 15 min Service)	T2019	N/A	N/A	N/A	N/A	N/A
Residential Family Training	S5110	U1	S5110	U2	N/A	N/A
Residential Habilitation	T2016	N/A	N/A	N/A	N/A	N/A
Respite-Not In Home	H0045	N/A	N/A	N/A	N/A	N/A
Shared Home Supports	H2016	N/A	N/A	N/A	N/A	N/A
Shared Living-24 Hour Supports	T2033	N/A	N/A	N/A	N/A	N/A
Skilled Nursing	G0154	N/A	N/A	N/A	N/A	N/A
Specialized Medical Equipment	T2029	N/A	T2029	N/A	N/A	N/A
Speech Therapy	S9128	U1	S9128	U2	N/A	N/A
Supported Employment	H2023	N/A	N/A	N/A	N/A	N/A
Supportive Home Care Aide	T1004	N/A	N/A	N/A	N/A	N/A
Transportation	T2003	N/A	N/A	N/A	N/A	N/A
Vehicle Modification	T2039	N/A	T2039	N/A	N/A	N/A

357.04: 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 shall 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.

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(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 of Division of Purchased Services Regulation 808 CMR 1.00;
- (b) any Cost Report supplemental schedule as issued by the Center;
- (c) any additional information requested by the Center within 21 days of a written request; and
- (d) if the rates are paid pursuant to another regulation, the cost reports and all other information required to be filed under that regulation.

(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.

357.05: Severability of the Provisions of 101CMR 357.00

The provisions of 101 CMR 357.00 are severable. If any provision of 101 CMR 357.00 or application of such provision to any eligible provider or fiscal intermediary is held invalid or unconstitutional, such determination will not affect the validity or constitutionality of any remaining provisions of 101 CMR 357.00 or application of such provisions to eligible providers or fiscal intermediaries in circumstances other than those held invalid.

REGULATORY AUTHORITY

101 CMR 357.00: M.G.L. c. 118E, M.G.L. c. 12C