

114.3 CMR 37.00: CHRONIC MAINTENANCE DIALYSIS TREATMENTS AND HOME DIALYSIS SUPPLIES

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37.01: General Provisions

- (1) Scope, Purpose, and Effective Date. 114.3 CMR 37.00 governs the determination of the rates of payment to be used by all governmental purchasers and purchasers under the Worker's Compensation Act, M.G.L. c. 152, § 1 *et seq.* in making payment to providers for chronic maintenance dialysis treatments and home chronic maintenance dialysis supplies provided to publicly-aided and industrial accident patients. Regulation 114.3 CMR 37.00 is effective December 1, 2011.
- (2) Disclaimer of Authorization of Services. 114.3 CMR 37.00 is not authorization for or approval of the services for which rates are determined. The governmental purchasers of these services are responsible for:
 - (a) the definitions and authorization of services for their beneficiaries and
 - (b) providing information as to program policies and benefit limitations.
- (3) Rate as Full Payment. The rates of payment under 114.3 CMR 37.00 are full compensation for all services rendered by the provider in connection with the provision of chronic maintenance dialysis treatments and home chronic maintenance dialysis supplies. Any patient resources or third party payments on behalf of a publicly-aided patient, e.g., Medicare payments, shall reduce the amount of the governmental purchaser's obligation for these services.
- (4) Administrative Bulletins. The Division may issue administrative bulletins to clarify its policy on, and interpretation of, substantive provisions of 114.3 CMR 37.00
- (5) Authority. 114.3 CMR 37.00 is adopted pursuant to M.G.L. c. 118G.

37.02: Definitions

Terms used in 114.3 CMR 37.00 shall have the meanings set forth in 114.3 CMR 37.02.

Centers for Medicare and Medicaid Services (CMS). The federal agency in the Department of Health and Human Services, which is responsible for the determination of reimbursement for the provision of services to Medicare-covered patients.

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Chronic Maintenance Dialysis Treatment. Dialysis treatment provided on an outpatient basis for a stabilized patient. The treatment may take the form of hemodialysis, hemofiltration, intermittent peritoneal dialysis, continuous ambulatory peritoneal dialysis, or continuous cycling peritoneal dialysis and may occur in a facility or at home.

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

EPO. Erythropoietin.

ESRD Program Rate(s). A provider's rate(s) established by the CMS for the end stage renal disease program of Medicare.

Established Charge. The lowest rate paid by any payer for treatment.

Governmental Purchaser. The Commonwealth of Massachusetts and any of its departments, agencies, boards, commissions, and political subdivisions, which purchase dialysis services.

Home Dialysis Supplies. Supplies used in conjunction with home dialysis treatment.

Industrial Accident Patient. A person who receives medical services for which persons, corporations or other entities are in whole or part liable under M.G.L. c. 152.

Net Actual Acquisition Cost. Net actual acquisition cost shall be the cost of the drug from the drug wholesaler or the drug manufacturer less all discounts and rebates.

Provider. Any independent outpatient dialysis facility licensed by the Department of Public Health and certified by the Division of Medical Assistance.

Publicly-aided Patient. A person, who receives medical services for which a governmental purchaser is in whole or part liable under a statutory public program.

Purchaser Under M.G.L. c. 152. An insurance company, self-insurer, or worker's compensation agent of a department of the Commonwealth, county, city or district which purchases medical services subject to M.G.L. c. 152, § 1 *et seq.*

42 CFR §§ 405.2101 and 405.2102. The federal regulation, which defines the medical services purchased by the Medicare program.

37.03: Rate(s) Determination

- (1) Rates paid to dialysis providers will be subject to the following adjustments and limitations:
 - (a) In a case where the established charge(s) is lower than the ESRD program rate(s) and is not based upon an established income-related sliding fee scale for self-payers, the established charge(s) shall be the approved rate(s).
 - (b) If home training is included as part of a provider's ESRD program, governmental purchasers who choose to purchase the service, shall pay the rates plus an add-on listed in section 37.03(3) under the appropriate service code.

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(2) Rates for Chronic Maintenance Dialysis Treatment.

<u>Procedure Code</u>	<u>Description</u>	<u>Allowable Fee</u>
90999	Unlisted dialysis procedure, inpatient or outpatient (all-inclusive service per dialysis treatment per patient)	\$190.74

The all-inclusive bundled payment rate covers all services, supplies and routine laboratory tests as defined in 42 CFR §§ 410.50 and 405.2163 *et seq.*, with the exception of physician's rates.

(3) The following codes and add-ons shall be used when the treatment includes these services:

<u>Procedure Code</u>	<u>Description</u>	<u>Allowable Fee</u>
90989	Dialysis training, patient, including helper where applicable, any mode, completed course	\$20.00
90993	Dialysis training, patient, including helper where applicable, any mode, course not completed, per training session	\$20.00

37.04: Rates for Home Dialysis Supplies

Rates for home dialysis supplies, which a governmental purchaser chooses to purchase separately from other services, are contained in 114.3 CMR 22.00: *Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment*.

37.05: Rates for Laboratory Services

Rates for laboratory services associated with dialysis, which a governmental purchaser chooses to purchase separately from other services, are contained in 114.3 CMR 20.00: *Clinical Laboratory Services*.

37.06: Rates for Prescribed Drugs

Payment for allowed drugs is included in the all-inclusive bundled payment. No separate payment is made for drugs.

37.07: Reporting Requirements

(1) Required Reports. Upon request of the Division, each provider within 90 days following the end of its fiscal year, shall forward to the Division a complete and accurate cost report and certified financial statements. The provider shall also make available within 30 days all records

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and books relating to said operations, including such data, statistics, and records as the Division may from time to time request.

(2) Extension of Filing Date. The Division may grant an extension of time for the submission of cost reports or other information, data or statistics upon written request from the provider demonstrating that good cause exists for such an extension.

(3) Failure to File Timely Reports. The Division may reduce the payment rates by 15% for any Provider that fails to submit required information. The Division will notify the provider in advance of its intention to impose a rate reduction. The rate reduction will remain in effect until the Division receives the required information.

37.08: Bad Debt Settlement

Governmental purchasers and purchasers under M.G.L. c. 152 cannot participate in the Medicare bad debt settlement negotiated between CMS and the provider at the end of the provider's fiscal year.

37.09: Severability of the Provisions of 114.3 CMR 37.00.

The provisions of 114.3 CMR 37.00 are severable, and if any provisions of 114.3 CMR 37.00 or their application to any provider or any circumstances shall be held to be invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions or their application to providers or circumstances other than those held invalid.

REGULATORY AUTHORITY

114.3 CMR 37.00: M.G.L. c. 118G