958 CMR 9.00: ASSESSMENT ON CERTAIN HEALTH CARE PROVIDERS AND SURCHARGE PAYORS

Section

9.01: General Provisions

958 CMR 9.00 governs payments to the Health Policy Commission, for the period commencing October 1, 2016, from Acute Hospitals, Ambulatory Surgical Centers and Surcharge Payors.

9.02: Definitions

All defined terms in 958 CMR 9.00 are capitalized. As used in 958 CMR 9.00, these terms have the following meaning:

Acute Hospital. The teaching hospital of the University of Massachusetts Medical School and any hospital licensed under M.G.L. c. 111, § 51 that contains a majority of medical-surgical, pediatric, obstetric and maternity beds, as defined by the Department of Public Health.

Ambulatory Surgical Center. Any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and meets the U.S. Centers for Medicare and Medicaid (CMS) requirements for participation in the Medicare program.

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

Commission. The Health Policy Commission established under M.G.L. c. 6D.

Commission Expenses. The amount appropriated by the General Court for the expenses of the Commission minus amounts collected from:

(1) filing fees;
(2) fees and charges generated by the Commission; and
(3) federal matching revenues received for these expenses or received retroactively for expenses of predecessor agencies. Commission Expenses shall include an amount equal to the cost of fringe benefits and indirect expenses, as established by the comptroller.

Fiscal Year (FY). The time period of 12 months beginning on October 1st of any calendar year and ending on September 30th of the following calendar year.

Gross Patient Service Revenue (GPSR). The total dollar amount of an Acute Hospital's or an Ambulatory Surgical Center's charges for services rendered in a Fiscal Year.

Payment. A check, draft or other paper instrument, an electronic fund transfer, or any order, instruction, or authorization to a financial institution to debit one account and credit another.

Surcharge Payor. A Surcharge Payor is an individual or entity that pays for or arranges for the purchase of health care services provided by provided by Acute Hospitals and Ambulatory Surgical Centers, including a managed care organization; provided, however, Surcharge Payor shall not include:

(1) Title XVIII and Title XIX programs and their beneficiaries or recipients; and

(2) other governmental programs of public assistance and their beneficiaries or recipients; and

(3) the workers' compensation program established pursuant to M.G.L. c. 152.

9.03: Acute Hospital and Ambulatory Surgical Center Assessment

(1) General. The Commission shall establish an assessment on all Acute Hospitals and Ambulatory Surgical Centers; provided, however, that the Commission shall not assess any Acute Hospital operated by a city or town.

(2) Calculation of the Acute Hospital and Ambulatory Surgical Center Assessment Percentage. Using the best information available as determined by the Commission, the Commission shall calculate an Assessment Percentage for each Acute Hospital and Ambulatory Surgical Center by dividing each entity's individual GPSR for the most recent Fiscal Year for which complete data was reported to the Center pursuant to 957 CMR 3.05: *Reporting Requirements* by the total of all such GPSR reported by all Acute Hospitals and Ambulatory Surgical Centers.

(3) Acute Hospital and Ambulatory Surgical Center Assessment Liability. The assessment liability for each Acute Hospital and Ambulatory Surgical Center is the product of:

(a) the Assessment Percentage as defined in 958 CMR 9.03(2); and

(b) ½ of Commission Expenses.

(4) Payment Process.

(a) Each Acute Hospital and Ambulatory Surgical Center shall make a preliminary payment to the Commission on October 1st of each year in an amount equal to ½ of the Acute Hospital or Ambulatory Surgical Center's previous year's total assessment.

(b) Each Acute Hospital and Ambulatory Surgical Center shall pay the balance of its total assessment within 30 days' notice from the Commission.

(c) The Commission shall, using the best information available as determined by the Commission, adjust the assessment to account for any variation in actual Commission Expenses and any changes in Acute Hospital and/or Ambulatory Surgical Center gross patient service revenues.

(d) All assessment payments must be payable to the Commonwealth of Massachusetts in United States dollars and drawn on a United States bank.

9.04: Surcharge Payor Assessment

(1) General. The Commission shall establish an assessment on all Qualifying Surcharge Payors.

(2) Qualifying Surcharge Payor. A Surcharge Payor is subject to assessment if the Surcharge Payor's Payments Subject to Assessment, as defined in 958 CMR 9.04(3), were at least $1 million during the last 12-month period for which complete data was received by the Center pursuant to 957 CMR 3.05: *Reporting Requirements*. A Surcharge Payor that administers health payments for health care services on behalf of a client plan in exchange for an administrative fee will be deemed to use the client plan's funds to pay for health care services whether the Surcharge Payor pays providers with funds from the client plan, with funds advanced by the Surcharge Payor subject to reimbursement by the client plan, or with funds deposited with the Surcharge Payor by the client plan.

(3) Payments Subject to Assessment. Payments that are made by Surcharge Payors to Acute Hospitals and Ambulatory Surgical Centers pursuant to M.G.L. c. 118E, § 68 are subject to assessment.

(4) Calculation of the Surcharge Payor Assessment Percentage. Using the best information available as determined by the Commission, the Commission shall calculate each Qualifying

Surcharge Payor's Assessment Percentage by dividing an individual Surcharge Payor's Payments Subject to Assessment during the last Fiscal Year for which complete data was received by the Center pursuant to 957 CMR 3.05: *Reporting Requirements* by the total of all such payments by all Qualifying Surcharge Payors.

(5) Surcharge Payor Liability. The assessment liability for each Qualifying Surcharge Payor is the product of:

(a) the Surcharge Payor's Assessment Percentage, as defined in 958 CMR 9.04(4); and

(b) ½ of Commission Expenses.

9.04: continued

(6) Payment Process.

(a) Each Qualifying Surcharge Payor shall make a preliminary payment to the Commission on October 1st of each year in an amount equal to ½ of the Qualifying Surcharge Payor's previous year's total assessment.

(b) Each Qualifying Surcharge Payor shall pay, within 30 days' notice from the Commission, the balance of its total assessment.

(c) The Commission shall, using the best information available as determined by the Commission, adjust the assessment to account for any variation in actual Commission Expenses.

(d) All assessment payments must be payable to the Commonwealth of Massachusetts in United States dollars and drawn on a United States bank.

9.05: Special Provisions

(1) Transfer of Ownership. All liabilities to the Commission by an Acute Hospital, Ambulatory Surgical Center or Surcharge Payor shall, in the case of a transfer of ownership, be assumed by the successor.

(2) Severability. The provisions of 958 CMR 9.00 are severable. If any provision or the application of any provision to any Acute Hospital, Ambulatory Surgical Center or Surcharge Payor is held to be invalid or unconstitutional, any such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 958 CMR 9.00 or the application of such provisions to any Acute Hospital, Ambulatory Surgical Center or Surcharge Payor in circumstances other than those held invalid.

(3) Administrative Bulletins. The Commission may issue administrative bulletins to clarify policies and understanding of substantive provisions of 958 CMR 9.00 and specify information and documentation necessary to implement 958 CMR 9.00.

(4) Debt Collection. If an Acute Hospital, Ambulatory Surgical Center or Surcharge Payor has maintained an outstanding liability to the Commission for a period longer than 120 days, the Commission will pursue all legal remedies available to it, including those available under M.G.L. c. 7A, § 3.

REGULATORY AUTHORITY

958 CMR 9.00: M.G.L. c. 6D.