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Administrative Bulletin 23-29

101 CMR 324.00: Nonpublic Ambulance Service Reimbursement Trust Fund Assessment and Funding, and 101 CMR 327:00 Rates for Ambulance and Wheelchair Van Services

Effective December 18, 2023

End of Administrative Pause to Nonpublic Ambulance Assessment

Introduction

Through [Administrative Bulletin 23-14](#), the Executive Office of Health and Human Services (EOHHS) announced an administrative pause to the nonpublic ambulance assessment. The pause became effective May 19, 2023. EOHHS is now ending that pause.

This bulletin provides information about how the nonpublic ambulance assessment and related supplemental payments will be determined going forward.

Background

The administrative pause was a response to guidance from the Centers for Medicare & Medicaid Services (CMS), which issued an [Informational Bulletin](#) on February 17, 2023, reiterating certain federal requirements that pertain to health care-related taxes such as the nonpublic ambulance assessment, including a prohibition on so-called “hold harmless” arrangements. The Informational Bulletin defined hold harmless arrangements as those in which the “State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.” The Informational Bulletin included specific examples of prohibited hold harmless arrangements, including hold harmless arrangements established entirely by non-state actors.

EOHHS paused the nonpublic ambulance assessment and related supplemental payments while it reviewed compliance with the Informational Bulletin.

End of Administrative Pause

EOHHS has taken steps since the pause began to address provider concern around the payment methodology of nonpublic ambulance supplemental payments and to ensure compliance with federal guidance. Accordingly, it is ending the pause in the nonpublic ambulance assessment.

On September 29, 2023, EOHHS filed [emergency amendments](#) to 101 CMR 327.00: *Rates for Ambulance and Wheelchair Van Services*. These changes adjust the nonpublic ambulance supplemental payment methodology to increase MassHealth members' access to medical services, and to further the sustainability of services provided by nonpublic ambulance providers. In addition, EOHHS has explicit authority to require providers to affirm that they are not parties to hold harmless arrangements as a condition of payment. A public hearing was held on Friday, October 27, 2023.

On September 29, 2023, EOHHS also filed a state plan amendment with CMS seeking federal expenditure authority for the new nonpublic ambulance supplemental payment methodology. CMS approved the state plan amendment.

Year 3

For state fiscal year 2024 (Year 3), EOHHS anticipates assessing nonpublic ambulance providers on their most recently reported Massachusetts emergency ground ambulance net operating revenue, excluding any municipal subsidies. For most providers, this will be their fiscal year 2022 revenue reported to the Center for Health Information and Analysis (CHIA). For providers who have not submitted their fiscal year 2022 revenue, EOHHS may assess based on revenue reported in an earlier year. The assessment will be set at 5.75% of Massachusetts emergency ground ambulance net operating revenue, the minimum amount allowed under the legislation requiring the assessment.

EOHHS will pay nonpublic ambulance providers supplemental payments consistent with the revised methodology described above. EOHHS anticipates notifying providers in December 2023 or January 2024 of the first quarterly amount owed under the nonpublic ambulance assessment, as well as the nonpublic ambulance supplemental payment they will receive. To avoid liquidity issues for providers, EOHHS anticipates paying the nonpublic ambulance supplemental payment before the due date for the ambulance assessment. EOHHS will provide detailed information in individual correspondence to each nonpublic ambulance provider.

As a condition of payment, EOHHS will require providers to certify that they are not parties to hold harmless arrangements on a form that EOHHS will draft and distribute.

Years 1 and 2

For state fiscal years 2022 and 2023 (Years 1 and 2, respectively), one quarterly nonpublic ambulance assessment payment was collected, and one nonpublic ambulance supplemental

payment was paid out. The administrative pause was then implemented before further payments were collected or paid out, leaving seven remaining quarters. With the regulatory changes described above, EOHHS believes that the nonpublic ambulance assessment and nonpublic ambulance supplemental payments are in full compliance with federal law and so is ending the pause for Years 1 and 2 as well.

EOHHS anticipates it will collect assessments and make supplemental payments for Years 1 and 2 in early 2024. EOHHS anticipates paying nonpublic ambulance providers supplemental payments consistent with the revised payment methodology described above. It will notify providers with the specific amounts for supplemental payments and ambulance assessment owed. As with Year 3, EOHHS anticipates paying the nonpublic ambulance supplemental payment before the due date for the ambulance assessment.

Also, as in Year 3, the nonpublic ambulance assessment will be set at 5.75% of Massachusetts emergency ground ambulance net operating revenue for Years 1 and 2, the minimum amount allowed under the legislation requiring the assessment. Similarly, as a condition of payment, EOHHS will require providers to certify that they are not parties to hold harmless arrangements on a form that EOHHS will draft and distribute.