



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
One Ashburton Place, Room 1109  
Boston, Massachusetts 02108

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

Tel: (617) 573-1600  
Fax: (617) 573-1891  
www.mass.gov/eohhs

## Administrative Bulletin 20-69

### 101 CMR 206.00: Standard Payments to Nursing Facilities

Effective July 1, 2020

### Supplemental Payments for Nursing Facilities to Complete COVID-19 Baseline and Surveillance Testing Requirements

#### Purpose, Scope, and Effective Period

The Executive Office of Health and Human Services (EOHHS) is issuing this administrative bulletin pursuant to the authority of [COVID-19 Order No. 20](#): *Order Authorizing the Executive Office of Health and Human Services to Adjust Essential Provider Rates During the COVID-19 Public Health Emergency* and [Executive Order 591](#): *Declaration of State of Emergency to Respond to COVID-19*. In light of the state of emergency declared in the Commonwealth due to COVID-19, EOHHS, which administers the Massachusetts Medicaid program known as “MassHealth,” is establishing supplemental payments for certain nursing facilities, notwithstanding 101 CMR 206.00: *Standard Payments to Nursing Facilities*, as further described in this administrative bulletin.

This administrative bulletin is effective beginning July 1, 2020. EOHHS intends to promulgate emergency amendments to 101 CMR 206.00 to ensure these supplemental payments established herein will remain effective through October 31, 2020.

Disclaimer: This administrative bulletin is not authorization of a provider’s eligibility for the supplemental payments described herein. Eligibility for qualifying COVID-19 testing supplemental payments made by nursing facilities are pursuant to MassHealth Nursing Facility Bulletin 148.

#### Background

As a result of the COVID-19 public health crisis, nursing facilities are facing high infection rates, high staff turnover, and more severe cases of COVID-19 due to their higher-risk populations. EOHHS recognizes that, consistent with the guidance issued on June 30, 2020, by the Department of Public Health (DPH), titled [Long Term Care Surveillance Testing](#) (the DPH LTC Testing Guidance), additional baseline and surveillance testing must be completed to ensure that appropriate precautions can be taken to contain the virus. Therefore, EOHHS is requiring that nursing facilities complete the Staff and resident testing and reporting requirements of MassHealth Nursing Facility Bulletin 148, which apply through September 30, 2020. EOHHS is establishing supplemental payments to be paid to eligible nursing facilities to facilitate the completion of such testing, as further described in this administrative bulletin.



In order to qualify for a supplemental payment under this administrative bulletin, a nursing facility provider must have arranged for and paid directly for testing for its Staff, must maintain documentation of such payment, must produce such documentation upon EOHHS's request, and must report such Staff testing in accordance with the reporting requirements established in MassHealth Nursing Facility Bulletin 148.

For the purposes of this administrative bulletin, the term "Staff" shall include all persons, paid or unpaid, working or volunteering at the nursing facility's physical location, who have the potential for exposure to residents or to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air. Staff includes, but is not limited to, physicians, nurses, nursing assistants, therapists, technicians, dental personnel, pharmacists, laboratory personnel, autopsy personnel, students and trainees, contractual personnel including those employed by temporary nurse staffing agencies, and persons not directly involved in resident care (such as clerical, dietary, house-keeping, laundry, security, maintenance or billing staff, chaplains, and volunteers) but potentially exposed to infectious agents that can be transmitted to and from Staff and residents. Staff does not include persons who work entirely remotely or off-site, employees on leave or otherwise not working for the entirety of the relevant Testing Period (such as those on paid family medical leave), employees or volunteers who have previously tested positive for COVID-19, or staffing provided at the Commonwealth's expense (such as those provided by EOHHS through a clinical rapid response team or the Massachusetts National Guard). Further, because the DPH LTC Testing Guidance does not recommend that Staff or residents who have previously tested positive for COVID-19 get retested as part of baseline or surveillance testing, Staff shall not include persons who have previously tested positive for COVID-19.

For the purposes of this administrative bulletin, the term "Testing Period" shall mean the period in which a nursing facility must complete baseline, bi-weekly surveillance, or weekly surveillance testing. The baseline Testing Period begins on July 1, 2020, and ends July 19, 2020. For bi-weekly surveillance testing, the Testing Periods shall each last for two weeks, from Thursday at 7:00 a.m. through the second subsequent Thursday at 6:59 a.m., with the first bi-weekly Testing Period running from July 23, 2020, through August 6, 2020. For weekly surveillance testing, the Testing Periods shall each last for one week, from Thursday at 7:00 a.m. through the following Thursday at 6:59 a.m., with the first weekly Testing Period running from July 23, 2020, through July 30, 2020.

### **Calculation and Distribution of Supplemental Payments**

EOHHS will calculate the payment for each eligible nursing facility provider as follows:

1. An eligible nursing facility's supplemental payment will be based on the number of completed qualifying COVID-19 Staff tests, as described in Section 2 of this administrative bulletin.
2. The number of completed qualifying COVID-19 staff tests shall mean the total number of Staff tests that meet all of the following criteria:
  - a. Staff tests that were arranged for and paid directly by the nursing facility, which does not include tests that were completed or facilitated by the Staff member on their own time or at their own cost;
  - b. Staff tests that were conducted for the purposes of meeting the baseline, bi-weekly surveillance, or weekly surveillance testing requirements established in MassHealth Nursing Facility Bulletin 148, provided that nursing facilities may test more than the percentage of Staff members required to be tested in any given Testing Period and such tests will be included in the number of completed qualifying COVID-19 Staff tests;
  - c. Not more than one test per individual Staff member per baseline, bi-weekly, or weekly Testing Period;
  - d. Staff tests that included the collection of specimens sufficient for diagnostic testing, the processing of a COVID-19 diagnostic test by an FDA approved method, and the furnishing of results to all appropriate parties in accordance with DPH and CDC guidance;

- e. Staff tests that are able to detect SARS-CoV-2 virus, with a polymerase chain reaction (PCR) of greater than 95 percent sensitivity and greater than 90 percent specificity, within 48 hours of conducting the test;
  - f. Staff tests that were reported, in accordance with MassHealth Nursing Facility Bulletin 148, as tests administered on the nursing facility's Staff, and such report was attested to in accordance with MassHealth Nursing Facility Bulletin 148; and
  - g. Staff tests for which results were reported by the nursing facility as either positive, negative, or inconclusive; provided that if EOHHS determines that the rate of inconclusive test results is unreasonably high, EOHHS may exclude those inconclusive results from the number of completed qualifying COVID-19 Staff tests.
3. The supplemental payments for each eligible nursing facility will be equal to the number of completed qualifying COVID-19 Staff tests administered in accordance with MassHealth Nursing Facility Bulletin 148, as such number is determined under Section 2 of this administrative bulletin, multiplied by \$100.
  4. The first supplemental payment shall be calculated based on the number of qualifying COVID-19 Staff tests conducted as part of baseline testing, and shall be paid within 10 days of such tests' reporting deadline of July 20, 2020.
  5. The remaining supplemental payments shall be paid on a monthly basis, with each monthly supplemental payment calculated based on the previous months' number of qualifying COVID-19 Staff tests; provided, however, that the first of such monthly supplemental payment, to be paid in August 2020, shall not include tests that were already included in the calculation of the supplemental payment described in Section 4.

#### **Public Comment**

EOHHS will accept comments on the rate methodology established via this administrative bulletin through July 24, 2020. Individuals may submit written comments by emailing [ehs-regulations@state.ma.us](mailto:ehs-regulations@state.ma.us). Please submit written comments as an attached Word document or as text within the body of the email with the name of this administrative bulletin in the subject line. All submissions of comments must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit comments by email may mail written comments to EOHHS, c/o D. Briggs, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171.

EOHHS may adopt a revised version of this administrative bulletin taking into account relevant comments and any other practical alternatives that come to its attention.