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Administrative Bulletin 25-23

101 CMR 512.00: *Nursing Facility User Fees*

Effective October 1, 2025

Offset Procedures for Non-Payment of User Fees

Executive Office of Health and Human Services Offset Procedure Clarification

The Executive Office of Health and Human Services (EOHHS) is issuing this administrative bulletin pursuant to 101 CMR 512.00 to clarify EOHHS procedures for collecting the user fee assessment from nursing facilities that are not compliant with the quarterly user fee payment and form submission requirements in 101 CMR 512.05. This administrative bulletin updates and supersedes AB-23-01 and shall apply to all outstanding user fee assessment forms and payments as of October 1, 2025.

Pursuant to 101 CMR 512.05(3), each nursing facility, regardless of group classification, must determine the amount of the assessment owed for each quarter and submit a user fee filing form and full user fee payment on the following schedule.

Assessment period	Payment and form due date
July 1–September 30	November 1
October 1–December 31	February 1
January 1–March 31	May 1
April 1–June 30	August 1

1. If a nursing facility fails to submit a user fee filing form by the due date in 101 CMR 512.05(3), EOHHS will assess a late fee of \$100 per day pursuant to 101 CMR 512.06(4) for each day the filing form is late, starting from the day after the due date.
2. If a nursing facility fails to submit a quarterly user fee payment by the due date in 101 CMR 512.05(3), EOHHS will send the facility a notice stating that the facility has 30 days from the payment due date in 101 CMR 512.05(3) to pay in full, including interest and late fees. To comply with the user fee payment due date, the payment submission must be postmarked on or before the due date. If for any reason a payment is rejected, regardless of when it was postmarked, it will not be considered received. Pursuant to 101 CMR 512.05(5), EOHHS will assess interest of 1.5% per month on the outstanding balance up to the date that payment in full is received or the date of the final notice discussed in Paragraph 4 of this bulletin.
3. If a nursing facility fails to submit a user fee filing form by the date of the initial notice discussed in Paragraph 2 of this bulletin, EOHHS will establish a presumptive assessment amount for the quarter based on the nursing facility's prior quarterly assessments. Until the nursing facility files the user fee filing form and/or EOHHS audits the nursing facility pursuant to 101 CMR 512.06(3), all penalties, interest, and offset payments will be based on this presumptive assessment amount.
4. If a nursing facility fails to pay in full within 30 days after the payment due date, EOHHS will send a final notice to the facility notifying it that in order to satisfy its total unpaid user fee assessment balance, including interest and late fees, MassHealth claim payments will be offset beginning in the next MassHealth payment cycle, pursuant to M.G.L. c. 118E, § 63(f) and 101 CMR 512.05(7)(a). Under 101 CMR 512.05(5), in lieu of continuing to assess interest and late fees during the term of the offset, EOHHS will include in the offset amount a one-time 5% late fee on the total unpaid user fee assessment principal balance as of the date of the final notice.
5. In MassHealth payment cycles beginning on or after January 1, 2023, the offset amount will be the lesser of 25% of a nursing facility's total MassHealth payments for the month or the nursing facility's total unpaid user fee assessment balance, including interest and late fees. MassHealth claim payments will be offset in each MassHealth payment cycle until the total unpaid user fee assessment balance is paid.
6. The offset process described in Paragraphs 4 and 5 of this bulletin will be applied when a nursing facility is not compliant with 101 CMR 512.00.
7. Pursuant to M.G.L. c. 118E, § 63(f), EOHHS may apply the offset process in Paragraphs 4 and 5 of this bulletin against claims for payment by the noncompliant nursing facility and/or against claims for payment by other nursing facilities with a licensee in common with the noncompliant nursing facility, in the amount of the fees owed, including any interest, penalties, or reasonable attorneys' fees.
8. If a nursing facility is not compliant with the quarterly assessment, EOHHS may create, after a demand for payment, a lien in favor of the Commonwealth, pursuant to M.G.L. c.

118E § 63(f) and 101 CMR 512.05(7)(b), encumbering (according to M.G.L. 118E § 63[f]) “the building in which the facility is located, the real property upon which the facility is located, any fixtures, equipment or goods used in the operation of the facility or any real property in which the licensee holds an interest.”

9. Nursing facilities that are not compliant with the quarterly assessment may be referred to the Department of Public Health (DPH) for revocation of licensure pursuant to M.G.L. c. 118E § 63(f) and 101 CMR 512.05(7)(c).
10. Pursuant to 101 CMR 512.05(3)(b), if a nursing facility closes either voluntarily or pursuant to Paragraph 9 of this bulletin, it must pay any outstanding user fees no later than 30 days before the closure date approved by DPH. If a nursing facility fails to pay all outstanding user fee amounts, including interest and late fees, in full by 30 days before the closure date, EOHHS will offset any outstanding MassHealth claim payments by the nursing facility’s total unpaid user fee assessment balance in each MassHealth payment cycle until the total unpaid user fee assessment balance is paid. If a nursing facility is already subject to an offset for unpaid user fee assessments when it submits its notice of intent to close to DPH, EOHHS may increase the nursing facility's offset percentage above 25% so that the total unpaid user fee assessment balance is paid no later than 30 days before the closure date proposed by the nursing facility in its notice of intent to close. If offsets of remaining claims for services rendered before closure are not sufficient to pay the total unpaid user fee assessment, EOHHS may apply any other remedy available to it under M.G.L. c. 118E, § 63(f), 101 CMR 512.05(7), or this bulletin.
11. Pursuant to M.G.L. c. 118E § 63(a) and (f) and 101 CMR 512.05(3)(c), a nursing facility’s assessment obligation is applied to any obligation of any successor in interest or assignee of the noncompliant nursing facility, and/or any successor in interest or assignee of other nursing facilities with a licensee in common with the noncompliant nursing facility. EOHHS will determine which successor or assignee it will attach the debt to. Successors in interest may include, but are not limited to, any purchaser of the assets or stock, any new operator or licensee of an existing nursing facility, any surviving entity resulting from merger or liquidation, or any receiver or trustee of the original nursing facility.