




MassHealth  
Transmittal Letter AOH-34  
January 2015

**TO:** Acute Outpatient Hospitals Participating in MassHealth  
**FROM:** Kristin L. Thorn, Medicaid Director   
**RE:** *Acute Outpatient Hospitals* (Revisions to Abortion Services Regulations)

MassHealth has revised its Abortion Clinic, Physician, and Acute Outpatient Hospital regulations (at 130 CMR 484.000, 130 CMR 433.000, and 130 CMR 410.000 respectively) to update its abortion services regulations and to promote regulatory simplification. For these reasons, unnecessary limitations on MassHealth payment based on site of service have been eliminated, along with the requirement that a physician must have admitting privileges at a hospital or specialized training and demonstrated ability to perform abortions. Finally, reporting requirements have been updated to reflect MassHealth's current practice concerning the Certification for Payable Abortion (CPA-2) Form.

In accordance with these regulations, MassHealth provides payment for medically necessary abortions in a physician's office, clinic or hospital, subject to site of service limitations imposed by law and all applicable administrative and billing regulations. MassHealth may issue further guidance regarding conditions for MassHealth payment resulting from site of service limitations imposed by law.

This letter transmits the revised Abortion Clinic regulations. See Transmittal Letter PHY-143 and Transmittal Letter ABR-16 for the revisions to the physician and acute outpatient hospital regulations respectively.

These regulations were effective January 2, 2015.

### **MassHealth Website**

This transmittal letter and attached pages are available on the MassHealth website at [www.mass.gov/masshealth](http://www.mass.gov/masshealth).

### **Questions**

If you have any questions about the information in this transmittal letter, please contact the MassHealth Customer Service Center at 1-800-841-2900, e-mail your inquiry to [providersupport@mahealth.net](mailto:providersupport@mahealth.net), or fax your inquiry to 617-988-8974.

### **NEW MATERIAL**

(The pages listed here contain new or revised language.)

Acute Outpatient Hospital Manual  
Pages 4-23 through 4-26

### **OBSOLETE MATERIAL**

(The pages listed here are no longer in effect.)

Acute Outpatient Hospital Manual  
Pages 4-23 through 4-26 — transmitted by Transmittal Letter AOH-33

<b>Commonwealth of Massachusetts MassHealth Provider Manual Series</b>	<b>Subchapter Number and Title</b> 4. Program Regulations (130 CMR 410.000)	<b>Page</b> 4-23
	<b>Transmittal Letter</b> AOH-34	<b>Date</b> 01/02/15
Acute Outpatient Hospital Manual		

(B) When Informed Consent Must Be Obtained.

- (1) A member's consent for sterilization will be considered informed and voluntary only if such consent is obtained at least 30 days, but not more than 180 days, before the date of the sterilization procedure, except in the case of premature delivery or emergency abdominal surgery. A member may consent to be sterilized at the time of a premature delivery or emergency abdominal surgery if at least 72 hours have passed since the member gave informed consent for the sterilization in the manner specified in 130 CMR 410.432. In the case of premature delivery, the informed consent must have been given at least 30 days before the expected date of delivery.
- (2) A member's consent for sterilization will not be considered informed or voluntary if such consent is obtained or given while the member requesting sterilization is
  - (a) in labor or childbirth;
  - (b) seeking to obtain or obtaining an abortion; or
  - (c) under the influence of alcohol or other substances that affect the individual's state of awareness.
- (3) Shortly before the performance of the sterilization procedure, the physician performing the procedure must orally inform the member of all of the information and advice specified in 130 CMR 410.432(A)(1).

410.433: Sterilization Services: Consent Form Requirements

Informed consent for sterilization must be documented by the completion of the MassHealth agency's Consent for Sterilization form in accordance with the following requirements. (Instructions for obtaining the Consent for Sterilization forms are located in Subchapter 5 of the *Outpatient Hospital Manual*.)

(A) Required Consent Form.

- (1) One of the following Consent for Sterilization forms must be used:
  - (a) CS-18 – for members aged 18 through 20; or
  - (b) CS-21 – for members aged 21 and older.
- (2) Under no circumstances will the MassHealth agency accept any other consent for sterilization form.

(B) Required Signatures. The member, the interpreter (if one was required), and the person who obtained the consent for sterilization must all sign and date the Consent for Sterilization form (CS-18 or CS-21) at the time of consent. After performing the sterilization procedure, the physician must sign and date the form.

<b>Commonwealth of Massachusetts MassHealth Provider Manual Series</b>	<b>Subchapter Number and Title</b> 4. Program Regulations (130 CMR 410.000)	<b>Page</b> 4-24
	<b>Transmittal Letter</b> AOH-34	<b>Date</b> 01/02/15
Acute Outpatient Hospital Manual		

(C) Required Distribution of the Consent Form. The Consent for Sterilization form (CS-18 or CS-21) must be completed and distributed as follows:

- (1) the original must be given to the member at the time of consent; and
- (2) a copy must be included in the member's permanent medical record at the site where the sterilization is performed.

(D) Provider Billing and Required Submissions.

- (1) All providers must bill with the appropriate sterilization diagnosis and services codes, and must attach a copy of the completed Consent for Sterilization form (CS-18 or CS-21) to each claim made to the MassHealth agency for sterilization services. This provision applies to any medical procedure, treatment, or operation for the purpose of rendering an individual permanently incapable of reproducing. When more than one provider is billing the MassHealth agency (for example, the physician and the hospital), each provider must submit a copy of the completed sterilization form with the claim.
- (2) A provider does not need to submit a Consent for Sterilization form (CS-18 or CS-21) with a claim for a medical procedure, treatment, or operation that is not for the purpose of rendering an individual permanently incapable of reproducing. If the appropriate service code used to bill for such a medical procedure, treatment, or operation may also be used to bill for a sterilization, the claim will be denied unless at least one of the following justifications is present and documented on an attachment signed by the physician and attached to the claim:
  - (a) the medical procedure, treatment, or operation was a unilateral procedure and did not result in sterilization;
  - (b) the medical procedure, treatment, or operation was unilateral or bilateral, but the patient was previously sterile as indicated in the operative notes;
  - (c) the medical procedure, treatment, or operation was medically necessary for treatment of an existing illness or injury and was not performed for the purpose of sterilization; or
  - (d) the medical procedure, treatment, or operation was medically necessary for treatment of a life-threatening emergency situation and was not performed for the purpose of sterilization, and it was not possible to inform the member in advance that it would or could result in sterilization. Include the nature and date of the life-threatening emergency.
- (3) In the circumstances set forth in 130 CMR 410.433(D)(2)(a) and (c), the medical records must also document that the member consented to the medical procedure, treatment, or operation after being informed that it would or could result in sterilization.
- (4) When more than one provider is billing the MassHealth agency under the circumstances specified in 130 CMR 410.433(D)(2) (for example, the physician and hospital), each provider must submit a copy of the signed attachment along with the claim.

<b>Commonwealth of Massachusetts MassHealth Provider Manual Series</b>  Acute Outpatient Hospital Manual	<b>Subchapter Number and Title</b> 4. Program Regulations (130 CMR 410.000)	<b>Page</b> 4-25
	<b>Transmittal Letter</b> AOH-34	<b>Date</b> 01/02/15

410.434: Abortion Services: Reimbursable Services

The MassHealth agency pays for abortion services performed by a licensed physician in a hospital outpatient department only when all of the following conditions are met:

- (A) the abortion is performed in accordance with law;
- (B) the abortion is medically necessary, that is, according to the medical judgment of a licensed physician, necessary in light of all factors affecting the woman's health; and
- (C) the abortion service is claimed according to the requirements in 130 CMR 410.435.

410.435: Abortion Services: Certification for Payable Abortion Form

All physicians and hospital outpatient departments must complete a Certification for Payable Abortion (CPA-2) form and retain the form in the member's record. (Instructions for obtaining the CPA-2 form are in Subchapter 5 of the *Outpatient Hospital Manual*.) To identify those abortions that meet federal reimbursement standards, the MassHealth agency must secure on the CPA-2 form the certifications described in 130 CMR 410.435(A), (B), and (C), when applicable. For all medically necessary abortions not included in 130 CMR 410.435(A), (B), or (C), the certification described in 130 CMR 410.435(D) is required on the CPA-2 form. The physician must indicate on the CPA-2 form which of the following circumstances is applicable, and must complete that portion of the form with the appropriate signatures.

- (A) Life of the Woman Would Be Endangered. The attending physician must certify that, in his or her professional judgment, the life of the woman would be endangered if the pregnancy were carried to term.
- (B) Severe and Long-Lasting Damage to the Woman's Physical Health. The attending physician and another physician must each certify that, in his or her professional judgment, severe and long-lasting damage to the woman's physical health would result if the pregnancy were carried to term. At least one of the physicians must also certify that he or she is not an "interested physician," defined herein as one whose income is directly or indirectly affected by the fee paid for the performance of the abortion; or who is the spouse of, or another relative who lives with, a physician whose income is directly or indirectly affected by the fee paid for the performance of the abortion.

<b>Commonwealth of Massachusetts MassHealth Provider Manual Series</b>  Acute Outpatient Hospital Manual	<b>Subchapter Number and Title</b> 4. Program Regulations (130 CMR 410.000)	<b>Page</b> 4-26
	<b>Transmittal Letter</b> AOH-34	<b>Date</b> 01/02/15

(C) Victim of Rape or Incest. The physician is responsible for retaining signed documentation from a law enforcement agency or public health service certifying that the woman upon whom the procedure was performed was a victim of rape or incest that was reported to the agency or service within 60 days of the incident. (A public health service is defined as either an agency of the federal, state, or local government that provides health or medical services, or a rural health clinic, provided that the agency's principal function is not the performance of abortions.) The documentation must include the date of the incident, the date the report was made, the name and address of the victim and of the person who made the report (if different from the victim), and a statement that the report included the signature of the person who made the report.

(D) Other Medically Necessary Abortions. The attending physician must certify that, in his or her medical judgment, for reasons other than those described in 130 CMR 410.435(A), (B), and (C), the abortion performed was necessary in light of all factors affecting the woman's health.

410.436: Abortion Services: Out-of-State Abortions

The Division will pay for an abortion performed in an out-of-state facility only if the abortion meets the conditions specified in 130 CMR 410.434 and if prior authorization is requested and received from the Division.

(A) The recipient, the referring physician, the hospital outpatient department, or a referral agency may request prior authorization from the Division in writing. The request must be made in accordance with the instructions for requesting prior authorization for abortion services in Subchapter 5 of the *Outpatient Hospital Manual*.

(B) If the Division authorizes the abortion, it will issue a prior authorization slip directly to the out-of-state facility. The facility must attach the prior authorization slip to the claim form when requesting payment from the Division.

(C) Out-of-state abortion services will be authorized only when such services are not available in a Massachusetts facility.

(D) Prior authorization is not required for abortion services provided in the situations described in 130 CMR 410.404(B)(1).