




Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
www.mass.gov/masshealth



MassHealth
Transmittal Letter HHA-52
August 2016

TO: Home Health Agencies Participating in MassHealth

FROM: Daniel Tsai, Assistant Secretary for MassHealth 

RE: *Home Health Agency Manual* (Final Changes to Revised Regulations)

This letter transmits final revisions to the home health agency program regulations in Subchapter 4 of the *Home Health Agency Manual*. These final regulations are effective for dates of service on or after August 12, 2016.

On February 26, 2016, MassHealth promulgated revisions to 130 CMR 403.000 via the emergency regulation process with an effective date of March 1, 2016. These revisions, which were described in Transmittal Letter HHA-51, were re-filed on May 20, 2016, and are now proposed to be finally promulgated, with additional changes as described below.

- Revised and re-alphabetized the title of the definition of “Skilled or Intermittent Skilled Nursing Visits” to “Intermittent Skilled Nursing Visits” for clarity and internal consistency.
- Clarified that MassHealth pays for home health aide services provided by and supervised by nurses or therapists who are employed by the same home health agency that is providing skilled nursing or therapy services pursuant to a plan of care established by the home health agency staff.

These final regulations are effective August 12, 2016.

MassHealth Website

This transmittal letter and attached pages are available on the MassHealth website at 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, or fax your inquiry to 617-988-8974.

NEW MATERIAL

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

Home Health Agency Manual

Pages 4-1 through 4-4, 4-15, and 4-16

OBSOLETE MATERIAL

(The pages listed here are no longer in effect.)

Home Health Agency Manual

Pages 4-1 through 4-4, 4-15, and 4-16 — transmitted by Transmittal Letter HHA-51

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403.401: Introduction

All home health agencies participating in MassHealth must comply with MassHealth regulations, including, but not limited to 130 CMR 403.000 and 450.000: *Administrative and Billing Regulations*.

403.402: Definitions

The following terms used in 130 CMR 403.000 have the meanings given in 130 CMR 403.402, unless the context clearly requires a different meaning. The reimbursability of services defined in 130 CMR 403.402 is not determined by these definitions, but by the application of regulations elsewhere in 130 CMR 403.000 and 450.000: *Administrative and Billing Regulations*.

Branch Office – a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent home health agency. The branch office is located sufficiently close to the parent agency so that it shares administration, supervision, and services with the parent home health agency on a daily basis.

Calendar Week – seven consecutive days beginning Sunday at midnight and ending Saturday at 11:59 p.m.

Care Management – a function performed by the MassHealth agency or its designee that assesses and reassesses the medical needs of complex-care members and authorizes or coordinates long term services and supports (LTSS) that are medically necessary for such members to remain safely in the community.

Certification Period – a period of no more than 60 days in which the member's physician has certified that the plan of care is medically appropriate and necessary.

Clinical Manager – a registered nurse employed by the MassHealth agency or its designee, who performs the in-person assessment of a member for MassHealth coverage of continuous skilled nursing (CSN) services and, if it is determined that CSN services are medically necessary, coordinates the authorization of medically necessary long term services and supports (LTSS) services for the member.

Complex-care Member – a MassHealth member whose medical needs, as determined by the MassHealth agency or its designee, are such that he or she requires a nurse visit of more than two continuous hours of nursing services to remain in the community.

Continuous Skilled Nursing (CSN) Services – a nurse visit of more than two continuous hours of nursing services.

Co-vending – an arrangement through which a member's CSN services are provided by one or more home health agencies or independent nurses, with each provider possessing its own MassHealth prior authorization to provide nursing services to the member.

Home Health Agency – a public or private organization that provides nursing and other therapeutic services to individuals whose place of residence conforms to the requirements of 42 CFR 440.70(c). Home health agency providers are governed by MassHealth regulations at 130 CMR 403.000.

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Home Health Aide – a person who is employed by a MassHealth-approved home health agency and certified as a Home Health Aide to perform certain personal-care and other health-related services as described in 130 CMR 403.421(B).

Homemaker – a person who performs light housekeeping duties (for example, cooking, cleaning, laundry, shopping) for the purpose of maintaining a household.

Household – place of residence where two or more people are living that is in a group home, a residential care home, or other group living situation; at the same street address if it is a single family house that is not divided into apartments or units; or at the same apartment number or unit number if members live in a building that is divided into apartments or units.

Independent Nurse – a licensed nurse who independently enrolls as a provider in MassHealth to provide CSN services. Independent nurse providers are governed by MassHealth regulations at 130 CMR 414.000: *Independent Nurse Services*.

Intermittent Skilled Nursing Visits – nursing services that are necessary to provide targeted skilled nursing assessment for a specific member medical need, and/or discrete procedures and/or treatments, are for less than two consecutive hours, and are limited to the time required to perform those duties.

Long Term Services and Supports (LTSS) – certain MassHealth-covered services intended to enable a member to remain safely in the community. Such services include, but are not limited to, home health, durable medical equipment, oxygen and respiratory equipment, personal-care attendant, and other health-related services as determined by the MassHealth agency or its designee.

Maintenance Program – repetitive services, required to maintain or prevent the worsening of function, that do not require the judgment and skill of a licensed therapist for safety and effectiveness.

Medical History – a component of the member’s medical record that provides a summary of all health-related information about the member. A history includes, but is not limited to, medical and nursing care histories as well as summaries of certifying physician physical examination and nursing-assessment results.

Medical Record – documentation, maintained by the home health agency, that includes medical history, nursing progress notes, the member’s plan of care, and other information related to the member in accordance with 130 CMR 403.426.

Medical Records Release Form – a signed authorization from the member or the member’s parent or legal guardian, if the member is a minor, that allows the designated releasee to access the member’s confidential health information from other health-care providers.

Nurse – a person licensed as a registered nurse or a licensed practical nurse by a state’s board of registration in nursing.

Nursing Services – the assessment, planning, intervention, and evaluation of goal-oriented nursing care that requires specialized knowledge and skills acquired under the established curriculum of a school of nursing approved by a board of registration in nursing. Such services include only those services that require the skills of a nurse.

Occupational Therapist – a person who is licensed as an occupational therapist by the Massachusetts Board of Registration in Allied Health Professionals.

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Occupational Therapy – therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of functions that affect the activities of daily living that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Occupational therapy programs are designed to improve quality of life by recovering competence and preventing further injury or disability, and to improve the individual’s ability to perform tasks required for independent functioning, so that the individual can engage in activities of daily living.

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant by the Massachusetts Board of Registration in Allied Health Professionals.

Physical Therapist – a person who is licensed as a physical therapist by the Massachusetts Board of Registration in Allied Health Professionals.

Physical Therapy – therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Physical therapy emphasizes a form of rehabilitation focused on treatment of dysfunctions involving neuromuscular, musculoskeletal, cardiovascular/pulmonary, or integumentary systems through the use of therapeutic interventions to optimize functioning levels.

Physical Therapy Assistant – a person who is licensed as a physical therapy assistant by the Massachusetts Board of Registration in Allied Health Professionals.

Primary Caregiver – the individual, other than the nurse or home health aide, who is primarily responsible for providing ongoing care to the member.

Request and Justification for Skilled Nursing and Home Health Aide Services Form – the form describing the skilled nursing and home health aide needs of a member that a home health agency is required to submit to the MassHealth agency or its designee, when requesting prior authorization for intermittent skilled nursing services.

Request and Justification for Therapy Services and Home Health Aide Services Form – the form describing the therapy and home health aide needs of a member that a home health agency is required to submit to the MassHealth agency or its designee, when requesting prior authorization for therapy services.

Respite Services – a range of services provided on a short-term or intermittent basis in response to the need for relief of those persons who normally provide this care.

Speech/Language Therapist (Speech/Language Pathologist) – a person who is licensed by the Massachusetts Board of Registration in Speech/Language Pathology and Audiology and who has a current Certificate of Clinical Competence from the American Speech/Language-Hearing Association (ASHA).

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Speech/Language Therapy – therapy services, including diagnostic evaluation and therapeutic intervention, that are designed to improve, develop, correct, rehabilitate, or prevent the worsening of speech, language, cognitive-communication, and swallowing abilities that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Speech and language disorders are those that affect articulation of speech, sounds, fluency, voice, swallowing (regardless of presence of a communication disability), and those that impair comprehension, spoken, written, or other symbol systems used for communication.

Subunit Office – a semi-autonomous location or site that serves members in a geographic area different from that of the parent home health agency and that is too far from the parent home health agency to share administration, supervision, and services on a daily basis.

Visit – a personal contact in the member’s home, for the purpose of providing a covered service by a registered or licensed nurse, home health aide, or physical, occupational, or speech/language therapist employed by, or contracting with, the home health agency.

403.403: Home Health Services

The MassHealth agency pays for the following home health services for eligible MassHealth members, subject to the restrictions and limitations described in 130 CMR 403.000 and 450.000: *Administrative and Billing Regulations*:

- (A) nursing;
- (B) home health aide; and
- (C) physical, occupational, and speech/language therapy.

403.404: Eligible Members

(A) (1) MassHealth Members. MassHealth covers home health services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in 130 CMR 403.000 and 450.000: *Administrative and Billing Regulations*. 130 CMR 450.105: *Coverage Types* specifically states, for each MassHealth coverage type, which services are covered and which members are eligible to receive those services.

(2) Recipients of the Emergency Aid to the Elderly, Disabled and Children Program. For information on covered services for recipients of the Emergency Aid to the Elderly, Disabled and Children Program, *see* 130 CMR 450.106: *Emergency Aid to the Elderly, Disabled and Children Program*.

(B) For information on verifying member eligibility and coverage type, *see* 130 CMR 450.107: *Eligible Members and the MassHealth Card*.

403.405: Provider Eligibility: In State

To participate in MassHealth, a Massachusetts home health agency must

- (A) be certified as a provider of home health services under the Medicare program by the Massachusetts Department of Public Health including any branch or subunit office located in Massachusetts;
- (B) obtain a MassHealth provider number before providing home health services; and

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(4) Nursing services for the management and evaluation of a plan of care are medically necessary when only a registered nurse or licensed practical nurse can ensure that essential care is effectively promoting the member's recovery, promoting medical safety, or avoiding deterioration.

(5) Medical necessity of services is based on the condition of the patient at the time the services were ordered and what was, at that time, expected to be appropriate treatment throughout the certification period.

(6) A member's need for nursing care is based solely on his or her unique condition and individual needs, whether the illness or injury is acute, chronic, terminal, stable, or expected to extend over a long period.

(C) Service Limitations for MassHealth CarePlus Members. Nursing visits provided by a home health agency are covered for a MassHealth CarePlus member only when the following conditions and all other requirements of 130 CMR 403.000 are met:

- (1) such care is provided following an overnight hospital or skilled nursing facility stay;
- (2) such care is intended to help resolve an identified skilled-nursing need directly related to the member's hospital or skilled nursing facility stay; and
- (3) for members other than those enrolled in an MCE, the home health agency obtains prior authorization as a prerequisite to payment for nursing visits following a referral from the hospital or skilled nursing facility. *See* 130 CMR 403.413(F) for prior authorization for MassHealth CarePlus members, other than those enrolled in an MCE.

403.421: Home Health Aide Services

(A) Conditions of Payment. Home health aide services are payable only if all of the following conditions are met:

- (1) the member has a medically predictable recurring need for nursing services or therapy services;
- (2) the frequency and duration of the home health aide services must be ordered by the physician and must be included in the physician's plan of care for the member;
- (3) the services are medically necessary to provide personal care to the member, to maintain the member's health, or to facilitate treatment of the member's injury or illness;
- (4) prior authorization, where applicable, has been obtained where required in compliance with 130 CMR 403.413; and
- (5) the home health aide is supervised by a nurse or therapist for skilled nursing services or therapy services, respectively, employed by the same home health agency as the home health aide.

(B) Payable Home Health Aide Services. Payable home health aide services include, but are not limited to

- (1) personal-care services;
- (2) simple dressing changes that do not require the skills of a registered or licensed nurse;
- (3) assistance with medications that are ordinarily self-administered and that do not require the skills of a registered or licensed nurse;
- (4) assistance with activities that are directly supportive of skilled therapy services; and
- (5) routine care of prosthetic and orthotic devices.

(C) Nonpayable Home Health Aide Services. The MassHealth agency does not pay for homemaker, respite, or chore services provided to any MassHealth member.

(D) Incidental Services. When a home health aide visits a member to provide a health-related service, the home health aide may also perform some incidental services that do not meet the

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definition of a home health aide service (for example, light cleaning, preparing a meal, removing trash, or shopping). However, the purpose of a home health aide visit must not be to provide these incidental services, since they are not health-related services.

403.422: Intermittent or Part-Time Requirement

The MassHealth agency pays for nursing visits and home health aide services only on an intermittent or part-time basis, and only as described in 130 CMR 403.422(A), except as provided in 130 CMR 403.422(B). The time limits are maximum thresholds.

(A) Intermittent and Part-Time Services.

- (1) Services are intermittent if up to eight hours per day of medically necessary nursing visits and home health aide services, combined, are provided seven days per calendar week for temporary periods of up to 21 days.
- (2) Services are part-time if the combination of medically necessary nursing visits and home health aide services does not exceed 35 hours per calendar week, and those services are provided on a less-than-daily basis.
- (3) To receive intermittent or part-time nursing care, the member must have a medically predictable recurring need for skilled nursing services at least once every 60 days, or the member must meet the conditions in 130 CMR 403.422(A)(4).
- (4) In certain circumstances, the member needs infrequent, yet intermittent, nursing services. The following are nonexclusive examples of such services, which are payable.
 - (a) The member has an indwelling silicone catheter and generally needs a catheter change only at 90-day intervals.
 - (b) The member experiences a fecal impaction due to the normal aging process (that is, loss of bowel tone, restrictive mobility, and a breakdown in good health habits) and must be manually disimpacted. Although these impactions are likely to recur, it is not possible to predict a specific time frame.
 - (c) The member is diabetic and visually impaired. He or she self-injects insulin, and has a medically predictable recurring need for a nursing visit at least every 90 days. These nursing visits, which supplement the physician's contacts with the member, are necessary to observe and determine the need for changes in the level and type of care that have been prescribed.
 - (d) The need for intermittent or part-time nursing is medically predictable, but a situation arises after the first nursing visit that makes additional visits unnecessary (for example, the member becomes institutionalized or dies, or a primary caregiver has been trained to provide care). In this situation, the one nursing visit is payable.

(B) Exceptions. Nursing visits and home health aide services in excess of the intermittent or part-time limit, as described in 130 CMR 403.422(A), may be provided to members under any of the following conditions:

- (1) the physician has documented that the death of the member is imminent, and the physician has recommended that the member be permitted to die at home;
- (2) the home health agency has documented that the services are no more costly than medically comparable care in an appropriate institution (for example, long-term care or chronic disease and rehabilitation hospital care) and the least-costly form of comparable care available in the community, and the member prefers to remain at home;
- (3) the home health agency has documented that it is seeking appropriate alternative modes of care, but has not yet found them;
- (4) the physician has documented that the need for care in excess of 21 days or in excess of 35 hours per calendar week is medically necessary in accordance with 130 CMR 403.410(C); or
- (5) the member qualifies for CSN services.