



**MassHealth**  
**Home Health Agency Bulletin 73**  
**February 2022**

**TO:** Home Health Agencies Participating in MassHealth

**FROM:** Amanda Cassel Kraft, Assistant Secretary for MassHealth

**RE: Requirements for Continuous Skilled Nursing Rate Amendments Effective for Dates of Service on or after January 1, 2022**

### **Introduction**

The Executive Office of Health and Human Services (EOHHS) is amending 101 CMR 361.00: *Rates for Continuous Skilled Nursing Services* for dates of service beginning January 1, 2022. The amendments increase all continuous skilled nursing (CSN) rates by 20% and temporarily allow CSN agencies and home health agencies providing CSN services to access the agency overtime rates already established under 101 CMR 361.00. EOHHS intends to allow agencies to access the CSN overtime rates for approximately six months and for dates of service January 1, 2022 through June 30, 2022.

This bulletin sets spending expectations for the additional 20% rate increase EOHHS is applying to all CSN rates. The intent of the 20% rate increase is to strengthen and support the direct care nursing workforce. Additionally, this bulletin sets forth the requirements for home health or CSN agencies to receive overtime authorization and reimbursement for CSN agency overtime rates.

All CSN services, including those reimbursed at an overtime rate, must be delivered in accordance with all applicable program requirements and regulations as set forth in 130 CMR 438.000: *Continuous Skilled Nursing Agency*.

### **Home Health and CSN Agency Spending Expectations**

The COVID-19 public health emergency has put unprecedented strain on the state's nursing workforce, making it more difficult for home health and CSN agencies to provide CSN services. EOHHS has issued a 20% increase to all CSN rates in order to address this increased cost of employing qualified nurses. Since the primary cost increase for home health and CSN agencies is that of employing nurses, EOHHS expects at least 70% of the 20% rate increases effective for dates of service on or after January 1, 2022 to be directly provided to nursing staff. EOHHS expects that any increase allocated to support staff is not to exceed 30% of the 20% increase.

EOHHS considers the following options as increases to nurse salaries:

- higher hourly wage
- establishing shift differentials or higher wages for shift differentials

Please note, EOHHS does not consider overtime pay an acceptable use of the 20% rate increase for dates of service when MassHealth also allows agencies to bill and be reimbursed for the established CSN agency overtime rates.

### **Employees Eligible for Salary Increases**

EOHHS considers the following employee types as nursing staff who should receive salary increases from the 20% rate increase to all CSN services:

- RNs and LPNs directly providing CSN services
- Nurse and clinical supervisors
- Nursing administrative staff

EOHHS does not consider the following employee types as employees who should receive salary increases from the 20% rate increase to all CSN services:

- Executive management
- Agency owners or other individuals who have financial stake in the agency

### **Reporting Requirements**

In accordance with 130 CMR 438.417 and 130 CMR 403.421, home health and CSN agencies, upon request from the MassHealth agency or its designee, must participate in any quality management and program integrity processes. Accordingly, EOHHS will require home health and CSN agencies to report to MassHealth agency nurse salaries to ensure agencies are compensating their nurse employees according to the spending expectations outlined above. Details on this bulletin's associated reporting requirements are forthcoming.

Failure to submit requested documentation to the MassHealth agency, and in the timeframe requested, may result in administrative sanction, including but not limited to \$100 per employee per day that the requested documentation is delinquent. Please see 130 CMR 450.238.

### **Overtime Authorization Requirements for Agency CSN Overtime Rates**

The MassHealth agency provides overtime rate authorization for CSN services provided by a home health or CSN agency only in the case of a documented emergency and for a short-term basis, not to exceed 90 consecutive calendar days. Overtime authorization applies only to dates of service on or after the date it is obtained. In order to request overtime authorization the agency must:

1. demonstrate that there are no other nurses available and employed by the agency who can adequately provide the CSN services without exceeding 40 hours through the submission of a signed attestation as described below; and
2. ensure that CSN services are provided by the same agency nurse and exceed 40 hours in a given calendar week as defined below.

The MassHealth agency or its designee does not approve requests for overtime authorization as part of a routine submission for authorization for nursing services.

For all approved overtime authorization requests for CSN services, the MassHealth agency or its designee sends written notice to the member and the home health or CSN agency as described under 130 CMR 438.412.

### **Attestation for Use of Agency Overtime Rates**

In order to successfully demonstrate to MassHealth or its designee that there are no other nurses available and employed by the agency that can adequately provide the CSN services without exceeding 40 hours of service, a home health or CSN agency must submit to the MassHealth agency or its designee a signed attestation form that at a minimum shows:

1. The schedule of the nurse(s) who will be performing CSN services at an overtime rate which includes when the nurse(s) schedule will exceed 40 hours and if the overtime request is for weekday, night/weekend, or holidays hours;
2. Narrative discussing the agency's inability to otherwise staff the CSN hours without having a nurse work overtime;
3. Indication of the primary reason(s) the agency is unable to staff the CSN hours without the use of overtime, which may be, but are not limited to, the following reasons:
  - The agency does not employ another nurse who can provide the CSN hours or who could provide the CSN hours without exceeding 40 hours of service;
  - The agency does not employ another nurse who has the competency to fulfill the members plan of care;
  - The agency does not employ another nurse who lives near or is reasonably able to travel to the member's home;
  - The agency does not employ another nurse who meets the personal preferences of the member or their family;
4. Detailed plans the agency is actively implementing to staff the CSN hours without exceeding 40 hours of service per nurse and without using overtime rates

### **Definition of Calendar Week**

For the purposes of this bulletin, a calendar week is defined as seven consecutive days beginning Sunday at midnight and ending Saturday at 11:59 PM.

### **Reimbursement for Continuous Skilled Nursing Overtime Rates**

Overtime authorization for CSN agency overtime rates must be established by MassHealth or its designee before a home health or CSN agency submits for reimbursement to the MassHealth agency.

All reimbursement rules established under the Home Health Agency Manual and the Continuous Skilled Nursing Agency Manual, including service codes and reimbursement rates, apply.

### **MassHealth Website**

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### **Questions**

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The MassHealth LTSS Provider Service Center is also open from 8 a.m. to 6 p.m. ET, Monday through Friday, excluding holidays. LTSS Providers should direct their questions about this letter or other MassHealth LTSS Provider questions to the LTSS Third Party Administrator (TPA) as follows:

**Phone:** Toll free (844) 368-5184  
**Email:** [support@masshealthtss.com](mailto:support@masshealthtss.com)  
**Portal:** [www.MassHealthLTSS.com](http://www.MassHealthLTSS.com)  
**Mail:** MassHealth LTSS  
PO Box 159108  
Boston, MA 02215  
**Fax:** (888) 832-3006