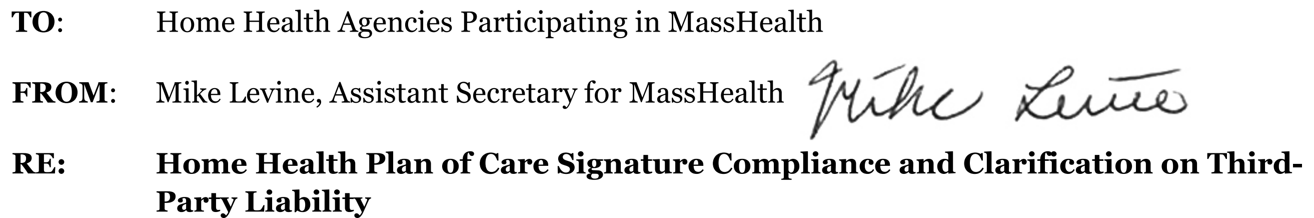
Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
www.mass.gov/masshealth

MassHealth
Home Health Agency Bulletin 85
June 2023



TO: Home Health Agencies Participating in MassHealth

FROM: Mike Levine, Assistant Secretary for MassHealth

RE: Home Health Plan of Care Signature Compliance and Clarification on Third-Party Liability

Introduction

This bulletin issues the following process additions to allow home health agencies time to obtain the member's physician or ordering non-physician's signature on the member's home health plan of care (POC):

1. Adds a new billing procedure service code for home health agencies to use when a member's home health POC does not have a prescribing provider's signature within the timeframe described below.
2. Provides a reminder to home health agencies on how to void payments from the MassHealth agency that would be considered overpayments in accordance with 130 CMR 450.235: *Overpayments*. Providers should follow the described steps below when they need to return or void an overpayment made to them by MassHealth.
3. Issues a clarification about third-party liability requirements.

This bulletin supersedes Home Health Agency Bulletin 80.

Home health providers must meet all requirements in 130 CMR 403.000*: Home Health Agency* and 130 CMR 450.000: *Administrative and Billing Regulations*.

Signature on Plan of Care Requirement per 130 CMR 403.420

MassHealth pays for home health services only if the member's physician or ordering non-physician practitioner certifies the medical necessity for such services and establishes an individual POC in accordance with 130 CMR 403.420: *Plan-of-care Requirements*.

The physician or ordering non-physician practitioner must review, sign and date the POC, and revisit it, as applicable:

a. no less than every 60 days from the start of home health services;
b. more frequently as the member's condition or needs require; and
c. in accordance with verbal order requirements described in 130 CMR 403.420(D): *Verbal Orders*.

As outlined in this bulletin, providers may use modifier EY with the home health service claim when the provider is unable to have a member's home health POC signed either before the first claim submission or within 45 days from the first claim submission, so long as the requirements outlined in 130 CMR 403.420 are met.

Home Health Service Code Modifier EY

Providers who are unable to have a member's POC signed by the physician or ordering non-physician practitioner in accordance with 130 CMR 403.420 may bill the applicable home health service code with modifier EY: *No physician or other licensed health care provider order for this item or service*.

When a provider bills modifier EY with a home health service code, the claim will be denied and the agency will not be reimbursed for the services included on the claim. Providers will have 12 months from the date of service to resubmit the claim without the modifier EY for payment. Please note that claims should only be amended if the home health agency successfully secures a signed POC applicable for the specific date of service(s) on the claim. Home health providers who submit claims without an established, signed POC may be subject to sanction, and those paid claims may be subject to recoupment by MassHealth.

Third Party Liability

According to 130 CMR 450.316: *Third-party Liability*, providers must make diligent efforts to identify and obtain payment from all other liable parties, including other insurers. Providers must also comply with the insurers' billing and authorization requirements.

Noncompliance with the third-party liability requirement may result in sanctions and/or liability for overpayments. In addition, providers that fail to meet the regulation's diligent-effort requirements for a service are prohibited from seeking payment from MassHealth for that service.

Overpayments Received by Home Health Agencies and Voiding Claims

Overpayments

Per 130 CMR 450.235(A)(5), home health agencies must notify MassHealth of any overpayment they may have received and promptly return the money to MassHealth. Agencies that are unable to secure a signed plan of care as described in this bulletin may also void a claim using the method below.

Voiding a Claim

Home health agencies that must void a claim or claim lines should follow the instructions found on the Job Aid mentioned below. The provider must include the reason they are voiding a claim.

Instructions to void a claim are here: https://www.mass.gov/doc/new-mmis-job-aid-void-a-paid-claim/download.

For batch claims, please review the companion guide here: https://www.mass.gov/lists/masshealth-hipaa-companion-guides.

MassHealth Website

This bulletin is available on the MassHealth Provider Bulletins web page.

Sign up to receive email alerts when MassHealth issues new bulletins and transmittal letters.

Questions

If you have any questions about the information in this bulletin, please contact the Long Term Services and Supports (LTSS) Provider Service Center.

Phone: Toll free (844) 368-5184

Email: support@masshealthltss.com

Portal: www.MassHealthLTSS.com

Mail: MassHealth LTSS
P.O. Box 159108
Boston, MA 02215

Fax: (888) 832-3006