

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 514.00: HOSPITAL ASSESSMENT

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514.01: General Provisions

101 CMR 514.00 governs the collection of the hospital assessment established under M.G.L. c. 118E, § 67.

514.02: Definitions

As used in 101 CMR 514.00, unless the context requires otherwise, terms have the following meanings.

Acute Hospital. A hospital licensed under M.G.L. c. 111, § 51 that contains a majority of medical-surgical, pediatric, obstetric, and maternity beds, as defined by the Department of Public Health.

Assessed Charges. Gross patient service revenue attributable to all patients less gross patient service revenue attributable to programs administered pursuant to Titles XVIII, XIX, and XXI of the Social Security Act in each hospital's fiscal year 2019.

Assessment. The total payment due by each hospital each month or quarter, as set forth in 101 CMR 514.00.

Centers for Medicare & Medicaid Services (CMS). The federal agency under the U.S. Department of Health and Human Services that is responsible for administering the Medicare and Medicaid programs.

Department of Public Health (DPH). An agency of the Commonwealth of Massachusetts, established under M.G.L. c. 17, § 1.

Executive Office of Health and Human Services (EOHHS). The executive department of the Commonwealth of Massachusetts established under M.G.L. c. 6A, § 2 that, through the Department of Elder Affairs and other agencies within EOHHS, as appropriate, operates and administers the programs of medical assistance and medical benefits under M.G.L. c. 118E and that serves as the single state agency under section 1902(a)(5) of the Social Security Act.

Fiscal Year (FY). The 12-month period that hospitals use for financial reporting and budgeting.

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Gross Patient Service Revenue. The total dollar amount of a hospital's charges for services rendered in a hospital's fiscal year, as reported to the Center for Health Information and Analysis (CHIA) through Hospital Cost Reports in 2019.

Health Safety Net. The payment program established and administered in accordance with M.G.L. c. 118E, §§ 8A, and 64 through 69 and regulations promulgated thereunder, and other applicable legislation.

Health Safety Net Office. The office within the Office of Medicaid established under M.G.L. c. 118E, § 65.

Health Safety Net Trust Fund. The fund established under M.G.L. c. 118E, § 66.

Hospital Cost Report. The Massachusetts Hospital Statement of Costs, Revenues, and Statistics required to be reported to CHIA pursuant to 957 CMR 9.00.

Licensee. Any natural person, corporation, partnership, trust, estate, or other legal entity holding a license to operate a nonpublic acute or non-acute hospital in Massachusetts; and, in the case of a licensee that is not a natural person, includes

- (1) any shareholder owning not less than five percent, any officer, and any director of any corporate licensee;
- (2) any limited partner owning not less than five percent and any general partner of a partnership licensee;
- (3) any trustee of any trust licensee;
- (4) any sole proprietor of any licensee that is a sole proprietorship; or
- (5) any mortgagee in possession and any executor or administrator of any licensee that is an estate.

MassHealth Program (MassHealth). The medical assistance benefits plans operated and administered by EOHHS pursuant to M.G.L. c. 118E, § 1 *et seq.* and 42 U.S.C. § 1396 *et seq.*, Title XXI of the Social Security Act (42 U.S.C. 1397), and other applicable laws and waivers to provide and pay for medical services to eligible members (Medicaid).

Medicare. The federal health insurance program for people who are 65 years of age or older, certain younger people with disabilities, and people with end-stage renal disease (permanent kidney failure requiring dialysis or a transplant, sometimes called ESRD) established by Title XVIII of the Social Security Act.

Non-public Gross Patient Service Revenue. Total gross patient service revenues (as defined in Gross Patient Service Revenue) minus gross patient service revenues attributable to Medicare, Medicaid, and Out-of-state Medicaid, as determined by EOHHS.

Non-acute Hospital. A nonpublic hospital that is

- (1) licensed by the Department of Public Health under M.G.L. c. 111, § 51 but not defined as an acute-care hospital under M.G.L. c. 111, s. 25B; or
- (2) licensed as an inpatient facility by the Department of Mental Health (DMH) under M.G.L. c. 19, § 19 and regulations promulgated thereunder, but not categorized as Class VII licensees under the regulations.

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Rate Year (RY). The 12 months from October 1<sup>st</sup> through September 30<sup>th</sup>.

Total Assessment Amount. A fixed amount equal to \$880,000,000, plus 50% of the estimated cost, as determined by the Secretary of Administration and Finance, of administering the Health Safety Net and related assessments in accordance with M.G.L. c. 118E, §§ 65 to 69.

514.03: Hospital Groups

(1) Hospital Assessment Liability. Hospital assessment liability will vary by hospital group and by inpatient versus outpatient revenues. The five groups of hospitals for purposes of 101 CMR 514.00 are defined as follows.

- (a) Group I: Any acute hospital identified as a safety net hospital in the MassHealth demonstration waiver approved under subsection (a) of section 1115 of Title XI of the federal Social Security Act and in effect as of October 1, 2022.
- (b) Group II: Any acute hospital that is an academic medical center, teaching hospital, or specialty hospital, as determined by CHIA as of September 30, 2019, but excluding any hospital included in Group I.
- (c) Group III: Any private acute hospital operating as of September 30, 2019, but excluding any hospital included in Group I or Group II.
- (d) Group IV: The Commonwealth's only non-state-owned public hospital, operating as of September 30, 2019.
- (e) Group V: Any nonpublic non-acute hospital operating as of September 30, 2019.

(2) Consistent Application of Assessment. Hospitals will remain in the group they are in as of October 1, 2022, and will be subject to the same assessment rate established for their group, except as follows.

- (a) New Acute Hospitals. New acute hospitals that come into operation subsequent to October 1, 2022, or for whom there is no FY 2019 hospital-specific gross patient service revenue data (as reported by CHIA based on the annual collection of cost report data), or acute hospitals otherwise not included in the approved waiver application, will be considered Group III hospitals, under 101 CMR 514.03(1), until EOHHS determines the hospital's group eligibility.
- (b) New Non-acute Hospitals. New non-acute hospitals that come into operation subsequent to October 1, 2022, or for whom there is no FY 2019 hospital-specific gross patient service revenue data (as reported by CHIA based on the annual collection of cost report data), or non-acute hospitals otherwise not included in the approved waiver application, will be considered Group V hospitals, under 101 CMR 514.03(1), until EOHHS determines the hospital's group eligibility.
- (c) Hospital Closures. If a hospital subject to the assessment closes, with no successor in interest or assignee as determined by EOHHS consistent with the criteria described in 101 CMR 514.03(2)(d), the former hospital will no longer be subject to the assessment, provided that the hospital is subject to the assessment up to and included its date of closure. No changes will be made to the assessment rates for remaining assessed hospitals as a result of a hospital's closure when there is no successor in interest or assignee.

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(d) **Mergers and Acquisitions.** The assessment obligation of any hospital is applied to and an obligation of any successor in interest or assignee of such hospital, as determined by EOHHS. A successor in interest may include, but is not limited to, any purchaser of the assets or stock, any new licensee of an existing acute or non-acute hospital, any surviving entity resulting from merger or liquidation, or any receiver or any trustee of the original hospital. The assessment obligation of the successor in interest or assignee with respect to the acquired or merged hospital(s) will be equal to the assessment obligation of the affected hospitals prior to the merger or acquisition. The assessment will be applied to hospitals that merge, or hospitals that acquire another or are acquired, as if no such merger or acquisition occurred.

514.04: Calculation of Hospital Assessment

(1) To determine each hospital's annual assessment liability, the assessment rates established in 101 CMR 514.04(3) are applied to a static fiscal year 2019 dataset of non-public gross patient service revenues, except as described in 101 CMR 514.04(2).

(2) For new acute hospitals described in 101 CMR 514.03(2)(a) and new non-acute hospitals described in 101 CMR 514.03(2)(b), the assessment rates established in 101 CMR 514.04(3) are applied to an annual projection of non-public gross patient service revenues, provided by the hospital in accordance with 101 CMR 514.06(2), until such time as CHIA includes the new hospital in their release of fiscal year cost report data.

(a) For new acute hospitals, beginning with the first complete calendar month following the date of the new acute hospital's inclusion in CHIA's fiscal year cost report data, the assessment rates established in 101 CMR 514.04(3) are applied to the static data included in such fiscal year cost report data.

(b) For new non-acute hospitals, beginning with the first complete calendar quarter following the date of the new non-acute hospital's inclusion in CHIA's fiscal year cost report data, the assessment rates established in 101 CMR 514.04(3) are applied to the static data included in such fiscal year cost report data.

(3) Effective October 1, 2022, the assessment will be applied as follows.

<b>Assessment Group</b>	<b>Hospital Group Description</b>	<b>Inpatient Assessment Rate</b>	<b>Outpatient Assessment Rate</b>
Group I	Safety Net	16.05430%	1.19950%
Group II	Academic Medical Center, Teaching, Specialty	4.66730%	0.74400%
Group III	Other Private Acute	8.58690%	0.89340%
Group IV	Non-state Owned Public	1.61490%	0.55320%
Group V	Non-Acute	1.35000%	1.35000%

(4) EOHHS will provide each hospital its total annual assessment liability, and its required monthly or quarterly assessment amounts, as applicable, prior to the due date of the first payment.

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514.05: Payment of Hospital Assessment

- (1) Acute Hospital Monthly Assessment. Beginning October 1, 2022, each acute hospital must pay a monthly assessment to EOHHS in a form and manner specified by the Health Safety Net Office, equal to one twelfth of its total annual assessment.
- (2) Non-acute Hospital Quarterly Assessment. Beginning October 1, 2022, each non-acute hospital must pay a quarterly assessment to EOHHS in a form and manner specified by the Health Safety Net Office, equal to one fourth of its total annual assessment.
- (3) Due Date.
  - (a) Acute hospital assessment payments are due on a monthly basis, with each assessment payment due on the last day of each month.
  - (b) Non-acute hospital assessment payments are due on a quarterly basis, with each quarterly assessment payment due on the last day of each calendar quarter.
  - (c) If a hospital closes, it must pay any outstanding hospital assessment obligations within 30 days of the date of closure. If a hospital is acquired by or merges with another hospital, any outstanding hospital assessments owed by the hospital being acquired or merging must be paid within 30 days of the date of the acquisition or merger.
- (4) Administration. EOHHS may provide updates and further details, by administrative bulletin or other written issuance, regarding procedures for the payment and collection of the hospital assessment.
- (5) Interest and Late Fees.
  - (a) EOHHS may assess interest and late fees on unpaid liabilities. If a hospital fails to remit an assessment by the due date, EOHHS may assess interest at up to 3% per month on the outstanding balance and calculate the interest from the due date. EOHHS will calculate the interest on the outstanding balance as of the due date.
  - (b) EOHHS may assess up to an additional 3% penalty against the outstanding balance and prior penalties for each month that a hospital remains delinquent. EOHHS will credit partial payments from delinquent hospitals to the current outstanding liability. If any amount remains from the partial payment, EOHHS will then credit such amount to the penalty amount.
  - (c) In determining the penalty amount, EOHHS may consider factors including, but not limited to, the hospital's payment history, financial situation, and relative share of the payments.
- (6) Assessment Revenue. An amount equal to the total amount of assessments collected, plus any penalties and interest, will be credited to the Health Safety Net Trust Fund.

514.06: Reporting Requirements

- (1) General. Each hospital must file or make available information that EOHHS deems reasonably necessary for calculating and collecting the hospital assessment.

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(2) Required Reporting for Hospitals with Change of Status. Any new hospital, merging hospital, acquiring or acquired hospital, or closing hospital, as described in 101 CMR 514.03(2)(a) through (c), must inform EOHHS of its change in status at least 14 days prior to such change in status. Any new acute or non-acute hospital, as described in 101 CMR 514.03(2)(a) and (b), must provide projected annual revenue information, and any additional supporting documentation as requested by EOHHS, in the form and format requested by EOHHS within 30 days of beginning operations.

(3) Additional Documentation. Each hospital must submit any additional documentation requested by EOHHS or its designee to verify the accuracy of the data submitted.

(4) Audit. EOHHS or its designee may inspect and copy the records of a hospital for purposes of auditing its calculation of the assessment. If EOHHS or its designee determines that a hospital has either overpaid or underpaid the assessment, it will notify the hospital of the amount due or refund the overpayment.

(5) Penalties. EOHHS may impose a *per diem* penalty of \$100 per day if a hospital fails to furnish documentation required or requested under 101 CMR 514.06 within the timeframes specified in 101 CMR 514.05(3) or as specified by EOHHS upon request, or in administrative bulletins or other written issuances.

514.07: Other Provisions

(1) Severability. The provisions of 101 CMR 514.00 are severable. If any provision or the application of any provision is held to be invalid or unconstitutional, such invalidity will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 514.00 or the application of such provisions.

(2) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify policies, update administrative requirements, and specify information and documentation necessary to comply with 101 CMR 514.00.

## REGULATORY AUTHORITY

101 CMR 514.00: M.G.L. c. 118E.