



**Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Office of Medicaid**  
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**MassHealth**  
**Nursing Facility Bulletin 164**  
**May 2021**

**TO:** Nursing Facilities Participating in MassHealth  
**FROM:** Daniel Tsai, Assistant Secretary for MassHealth  
**RE:** **Updated COVID-19 Ongoing Surveillance Testing Requirements for Nursing Facilities**

## Background

In light of the continued risks of 2019 novel coronavirus (COVID-19) in long-term care facilities, MassHealth is continuing to implement measures to protect nursing facility staff and residents against the spread of COVID-19. Specifically, MassHealth is issuing this bulletin, which supersedes [MassHealth Nursing Facility Bulletin 162](#), to align with and incorporate the testing requirements established by the Department of Public Health, including the [DPH Updates to Long-Term Care Surveillance Testing Guidance](#), the testing components of the [DPH Update to Caring for Long Term Care Residents During the COVID-19 Emergency](#) (DPH Caring for LTC Residents Guidance), and any subsequent or superseding testing guidance that may be issued by DPH (collectively, DPH LTC Testing Guidance). The requirements of this bulletin will be effective and will supersede MassHealth Nursing Facility Bulletin 162 beginning June 3, 2021.

To demonstrate compliance with the testing requirements of this bulletin, which incorporates the requirements of the DPH LTC Testing Guidance, a nursing facility must meet the reporting requirements described herein and must comply with any audits or requests for additional documentation with respect to the requirements of this bulletin.

This bulletin is being issued pursuant to 101 CMR 206.10(4)(d): *Additional Guidance* and applies to all nursing facilities that are enrolled as MassHealth providers effective June 3, 2021.

## Payment Provisions

Staff surveillance testing conducted in accordance with this bulletin, which incorporates the requirements of the DPH LTC Testing Guidance, and with 101 CMR 206.10(4)(a): *Completed Qualifying COVID-19 Staff Tests*, will be eligible for the COVID-19 staff surveillance testing supplemental payments calculated under 101 CMR 206.10(4)(b): *Calculation of Supplemental Payments*.

Nursing facilities that fail to comply with the testing and reporting requirements of this bulletin are ineligible for COVID-19 support supplemental payments under 101 CMR 206.10(5): *Supplemental Support Payments for Nursing Facilities during the COVID-19 Public Health Emergency*.

Staff surveillance testing conducted in accordance with 101 CMR 206.10(4) is eligible for payment as of October 1, 2020.

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Beginning June 3, 2021, the payment used to calculate facilities' monthly supplemental payment for surveillance testing will be \$60 per test, the market rate for the first quarter of calendar year 2021, as determined by EOHHS in accordance with 101 CMR 206.10(4)(b)2. EOHHS will reevaluate the market rate and update the per test payment amount, as necessary, on a quarterly basis.

### **Testing Requirements**

Nursing facilities must comply with the requirements of the most recent DPH LTC Testing Guidance which may be updated from time to time in response to further recommendations from DPH, CMS, or the Centers for Disease Control and Prevention (CDC). The DPH LTC Testing Guidance and all of its requirements are incorporated into this bulletin by reference. In accordance with the DPH LTC Testing Guidance, nursing facilities must ensure that at least 90% of staff, as defined in the DPH LTC Testing Guidance, **who are not fully vaccinated against COVID-19 are tested every week**. This testing requirement applies regardless of the positivity rate of the county in which the facility is located.

For the purposes of this bulletin, the term "week" means Thursday at 7:00 a.m. through the following Thursday at 6:59 a.m. The start of each week will be the start of a new week-long testing period. For reference, the first week-long testing period of this updated surveillance testing regimen will run from Thursday, June 3, 2021, at 7:00 a.m. through Thursday, June 10, at 6:59 a.m. and is required to continue each week. Facilities must report all information requested via the CHIA online survey on a weekly basis.

Additionally, facilities must follow the outbreak testing protocols outlined in the DPH LTC Testing Guidance and, specifically, the DPH Caring for LTC Residents Guidance or any subsequent or superseding guidance. In the event that a facility identifies a COVID-19-positive staff member or resident, it must ensure that all staff and residents regardless of vaccination status are tested, in accordance with the DPH LTC Testing Guidance, specifically at the time of this bulletin's publication, as described in section B of the DPH LTC Testing Guidance and the DPH Caring for LTC Residents Guidance.

For the purposes of this surveillance testing program, facilities must follow DPH LTC Testing Guidance when determining if recovered staff or residents who have previously tested positive should be re-tested for COVID-19.

### **Requirement for Nursing Facilities to Facilitate Tests**

A nursing facility must secure or facilitate all COVID-19 staff testing required by this bulletin, and must ensure that the testing is conducted at no cost to the staff members who must be tested. Nursing facilities may not require or encourage staff members to obtain testing on their own time or at their own cost. However, staff members may choose to facilitate and obtain their own testing under certain circumstances (such as through their own primary care practitioner or a rapid testing site due to possible COVID-19 exposure or symptoms). In such circumstances, the nursing facility may count those staff members who were tested elsewhere toward the number of total staff tested in any given testing period in which they also worked at the nursing facility, provided that the nursing facility has a copy of the original laboratory report or other documented evidence from the testing

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laboratory that supports the completion of the reported COVID-19 testing in that testing period, and provided that each individual staff member is counted only once in any given testing period.

Each nursing facility must provide written notice to all staff that: 1) they are required to participate in surveillance COVID-19 testing if they are not fully vaccinated against COVID-19, as required under the DPH LTC Testing Guidance; and 2) the facility is prohibited from encouraging, requesting, requiring, or pressuring the staff to obtain such testing on their own time or at their own cost. A high rate of staff tests obtained elsewhere may trigger an audit to ensure that facilities are not pressuring staff to obtain tests elsewhere and have provided adequate notice, as required and as attested to through Appendix A of this bulletin.

Nursing facilities may secure or facilitate testing for its staff using any available method that includes the collection of specimens sufficient for diagnostic testing, the processing of a COVID-19 diagnostic test by an FDA-approved method, and the furnishing of results to all appropriate parties in accordance with DPH and CDC guidance. Except in instances where other testing methods are permitted (such as antigen testing through BinaxNOW) in accordance with the DPH LTC Testing Guidance and, specifically, the DPH Caring for LTC Residents Guidance or any subsequent or superseding guidance, the test used must be able to detect SARS-CoV-2 virus, with a polymerase chain reaction (PCR) of greater than 95% sensitivity and greater than 90% specificity, within 48 hours of conducting the test, as required in the DPH LTC Testing Guidance.

Only such PCR tests for staff will be used to calculate the supplemental payments calculated under 101 CMR 206.10(4)(b): *Calculation of Supplemental Payments*. Nursing facilities may partner or contract with entities including, but not limited to, hospitals, community health centers, ambulance/emergency medical services providers, clinical laboratories, or other entities able to provide COVID-19 testing services. Nursing facilities may, but are not required to, partner with other MassHealth-enrolled providers.

### **Reporting Requirements and Attestation Requirements**

Nursing facilities must complete the attestation and reporting requirements of this provider bulletin, as further described below.

An administrator or other appropriate representative from each nursing facility must submit a signed and scanned copy of the executed attestation, attached to this nursing facility bulletin as Appendix A, as well as a report, including all of the information described below, using the prescribed reporting form, via CHIA's online [COVID-19 LTC Surveillance Testing](#) survey, **by 12:00 p.m. every Friday**. The reporting form will require facilities to submit testing information for each testing period, consisting of the week immediately preceding the submission date. **The first such submission due in accordance with this bulletin is due Friday, June 11, 2021, and will apply to the testing period running from June 3, 2021, through June 10, 2021.** A login is not required to access the online survey. With reasonable notice to all nursing facilities, EOHHS may change the format and manner in which nursing facilities are required to submit reporting.

Facilities should report no more than one test result per person per week-long testing period. If a person was tested multiple times in a week, the facility should report the most recent test result.

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Specifically, the nursing facility must provide all information requested on the online survey, which may include the following.

1. The number of total staff who worked during each week-long testing period covered by the submission, and the number of such staff who
  - a. are fully vaccinated against COVID-19;
  - b. are not fully vaccinated against COVID-19;
  - c. tested positive for COVID-19;
  - d. tested negative for COVID-19;
  - e. had inconclusive results;
  - f. have previously tested positive for COVID-19 and were not required to be retested under the DPH LTC Testing Guidance;
  - g. were identified as exposed to a staff person or resident who tested positive for COVID-19, and required to be tested under the DPH LTC Testing Guidance;
  - h. were not tested and haven't previously tested positive for COVID-19;
  - i. were tested through a method that was secured, facilitated, or funded by the nursing facility; and
  - j. were tested through a method that was not secured, facilitated, or funded by the nursing facility.
2. All partner providers or entities involved in any of the completed testing secured, facilitated, or funded by the nursing facility.
3. Confirmation that the nursing facility has provided notice to all staff that, at a minimum, informed them that they may be required to receive COVID-19 testing and that the facility may not encourage, request, require, or pressure staff to obtain testing at their own cost or on their own time.
4. Such other information as required and requested by EOHHS through the online survey submission tool.

Nursing facilities that have not received complete test results by the relevant reporting deadline must still submit the report by the reporting deadline, report as pending any test results that they are still waiting to receive, and resubmit the report with the required testing results through the online survey within two business days of receipt of the completed results.

### **Applicable Sanctions and Enforcement**

All information included in the reports is subject to verification and audit by MassHealth. If MassHealth determines that a nursing facility provider has made false or misleading representations through the submissions required by this bulletin, MassHealth may pursue sanctions against such provider under 130 CMR 450.238: *Sanctions: General*. Additionally, in accordance with 130 CMR 450.235: *Overpayments*, MassHealth may recoup as an overpayment any

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payments made under 101 CMR 206.10(4), if it determines that payments were made for tests that did not occur or could not be verified.

Further, in accordance with 101 CMR 206.10(6): *Disallowance of COVID-19-Related Payments*:

- MassHealth will disallow any further payments under 101 CMR 206.10(3): *COVID-19 Isolation Space Supplemental Payment* for any non-compliance with the staff surveillance testing threshold requirements or the reporting requirements of this bulletin.
- MassHealth will disallow any further payments under 101 CMR 206.10(4): *COVID-19 Staff Testing Supplemental Payment* or 101 CMR 206.10(5): *Supplemental Support Payments for Nursing Facilities during the COVID-19 Public Health Emergency* if the facility is out of compliance with the staff surveillance testing threshold requirements or the reporting requirements of this bulletin for three or more testing periods within a 60-day time period.

For the purposes of determining non-compliance triggering such disallowance of further payments, MassHealth will consider only staff testing threshold compliance and complete and timely reporting compliance. Compliance with testing requirements for residents or staff that have had an exposure or are determined close contacts, and compliance with outbreak testing pursuant to DPH LTC Testing Guidance will not be considered when determining eligibility or disallowance of the supplemental payments described in this section. The disallowance of payments in accordance with 101 CMR 206.10(6) is effective for testing periods on and after October 15, 2020.

MassHealth reserves the right to request and review documentation, conduct onsite audits, or use any information available to it to determine if a facility is in compliance with its submissions under this bulletin.

MassHealth will refer providers to the Medicaid Fraud Division in the Attorney General's Office, as appropriate.

### **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 questions about the information in this bulletin, please email your inquiry to [CHIANursingFacilityData@massmail.state.ma.us](mailto:CHIANursingFacilityData@massmail.state.ma.us).

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**Appendix A  
Nursing Facility Provider Attestation to  
COVID-19 Testing Policies**

I, \_\_\_\_\_, hereby certify under the pains and penalties of perjury that I am the administrator or other duly authorized officer or representative of \_\_\_\_\_, located at \_\_\_\_\_ (hereinafter “nursing facility”), and that the information provided in this attestation is a true and accurate representation of the COVID-19 testing procedure implemented and COVID-19 testing results at such nursing facility. Specifically, I represent and warrant that:

The nursing facility completed the required testing for COVID-19 for the nursing facility’s staff that worked during the relevant weekly testing period, beginning \_\_\_\_\_, in accordance with all applicable requirements of MassHealth Nursing Facility Bulletin 164.

The nursing facility completed the required testing for COVID-19 for residents of the nursing facility that were symptomatic or exposed to staff or other residents that were identified as COVID-19 positive during the relevant weekly testing period, beginning \_\_\_\_\_, in accordance with all applicable requirements of MassHealth Nursing Facility Bulletin 164.

The report accompanying this attestation and submitted to MassHealth via the Center for Health Information and Analysis (CHIA) submissions portal online survey to demonstrate compliance with the requirements of MassHealth Nursing Facility Bulletin 164 is complete and accurate.

**Under the pains and penalties of perjury, I hereby certify that the above information is true and correct.**

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

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Please submit a scanned copy of the executed attestation via the online [COVID-19 LTC Surveillance Testing](https://survey.alchemer.com/s3/6242598/COVID-Surveillance-Testing-v2) survey (<https://survey.alchemer.com/s3/6242598/COVID-Surveillance-Testing-v2>), as well as the accompanying report, by the surveillance testing and reporting deadlines established in MassHealth Nursing Facility Bulletin 164.

The nursing facility should maintain the original executed copy of each submitted attestation, along with the accompanying documentation, receipts, invoices, and report, in its files.