




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

MassHealth
Oxygen and Respiratory Therapy
Equipment Bulletin 26
April 2023

TO: Oxygen and Respiratory Therapy Equipment Providers Participating in MassHealth
FROM: Mike Levine, Assistant Secretary for MassHealth 
RE: **COVID-19 Flexibilities after the End of the Federal Public Health Emergency**

Background

On January 31, 2020, the United States Secretary of Health and Human Services determined that a nationwide public health emergency had existed since January 27, 2020. The Secretary renewed the Federal Public Health Emergency on April 21, 2020; July 23, 2020; October 2, 2020; January 7, 2021; April 15, 2021; and July 19, 2021. On January 30, 2023, the Secretary announced that the FPHE will end on May 11, 2023.

Due to the decision by the Secretary to end the FPHE, MassHealth is issuing this bulletin, effective May 12, 2023. It will replace all prior FPHE-related bulletins, specifically, Oxygen and Respiratory Therapy Equipment Bulletins 19 and 20.

Introduction

This bulletin communicates provider requirements that were suspended during the FPHE and that will be enforced after the FPHE. This bulletin also communicates changes in requirements implemented during the FPHE that will continue past the end of the FPHE.

This bulletin applies to members receiving oxygen services on a fee-for-service basis, including members enrolled in the Primary Care Clinician (PCC) Plan who receive oxygen services.

Flexibilities Ending May 11, 2023

Prior Authorization Extensions

Through May 11, 2023, oxygen and respiratory therapy providers may request to continue an existing prior authorization (PA). The provider must email the extension request to support@masshealthltss.com before the end date of the existing PA. These extension requests must have the following note in the comments field: "COVID-19." MassHealth will approve the extension for up to 90 days.

Beginning May 12, 2023, there will not be a flexibility for PA extensions. MassHealth encourages providers to submit PAs up to 21 days before the expiration of an existing PA to prevent a lapse in the member's services. Please see 130 CMR 427.409. All documentation, recordkeeping, and other applicable provisions of 130 CMR 450.000 and 130 CMR 427.000 apply.

Delivery of Up to a 90-day Supply of Equipment and Supplies

Through May 11, 2023, despite the online tool that prohibits oxygen and respiratory therapy providers from delivering more than a 30-day supply of oxygen and respiratory therapy equipment or supplies, providers may deliver up to a 90-day supply upon the member's documented request.

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Providers must clearly document in the member's chart that the member requested the 60- or 90-day supply and that the delivery was related to COVID-19. Providers must also include the dates of service (DOS) and period covered by each 60- or 90-day delivery in the member's chart with the claims.

Beginning May 12, 2023, there will not be a flexibility for delivery of more than a 30-day supply. Monthly supplies can only be delivered and billed on a monthly basis as instructed in the [MassHealth DME & Oxygen Payment and Coverage Guideline Tool](#).

Continued Delivery of Equipment and Supplies Not Subject to PA with Expired Prescriptions

Through May 11, 2023, for continuity of care, MassHealth is allowing continued delivery of equipment and supplies that do not require PA but have written prescriptions that expire during the COVID-19 emergency. Specifically, providers may continue delivery for 90 days after the prescription expires or until the end of the FPHE, whichever is later. For items and supplies rented or delivered under expired prescriptions, providers must document oral COVID-19 prescription extensions in the member's record and on claim submissions. Providers must also obtain and document a new oral prescription and document it within each 90-day extension.

Beginning May 12, 2023, there will not be a flexibility for delivery of equipment and supplies not subject to PA under an expired prescription.

MassHealth reminds providers that equipment or services described in 130 CMR 427.000 are reimbursable only after the provider has a written prescription, according to 130 CMR 427.408. All documentation, recordkeeping, and other applicable provisions of 130 CMR 450.000 and 130 CMR 427.000 apply.

Member or Member's Designee Signature on Delivery Ticket

Through May 11, 2023, and despite the requirements of 130 CMR 427.430(C)(3), oxygen and respiratory therapy equipment providers do not have to ask the member or the member's designee to sign a delivery slip when delivering equipment or supplies to the member's home. Providers must document the date and include the following on the delivery slip: "Signature not required related to COVID-19."

Beginning May 12, 2023, there will not be a flexibility for delivery ticket signature. Providers must maintain in the member's record a copy of the delivery slip signed by the member or the member's designee accepting the delivery on behalf of the member and dated at the time of delivery. See 130 CMR 427.430 (C)(3). All documentation, recordkeeping, and other applicable provisions of 130 CMR 450.000 and 130 CMR 427.000 apply.

Streamlined PA Requirements for Equipment and Supplies

Through May 11, 2023, MassHealth lifted the requirement in 130 CMR 427.409 that providers obtain PA before delivering oxygen and respiratory therapy equipment and supplies. While PA is not required before delivery during the COVID-19 emergency, providers must continue to submit required documentation for PA requests and obtain PA for all services that require PA. See MassHealth provider regulations at 130 CMR 427.000 and 130 CMR 450.000, and as specified in the online tool at www.mass.gov/info-details/masshealth-payment-and-coverage-guideline-tools. MassHealth will streamline the review for documentation needed for processing PAs (for example, manufacturer invoices) and issue PA approval notices based on provided documentation.

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Instructions for billing

Providers must submit for and obtain PA for all items subject to PA before submitting a claim for payment; otherwise, the claim will be denied. The requested start date on the PA should be on or before the date of delivery. This change was effective for dates of delivery on or after March 31, 2020.

Beginning May 12, 2023, the flexibility for streamlined PA ends. MassHealth will require providers to submit required documentation for PA requests and obtain PA for all services identified as subject to PA under MassHealth provider regulations at 130 CMR 427.000 and 130 CMR 450.000, and as specified in the online tool at www.mass.gov/info-details/masshealth-payment-and-coverage-guideline-tools. All documentation, recordkeeping, and other applicable provisions of 130 CMR 450.000 and 130 CMR 427.000 apply.

Federal Policy Change that will Remain in Effect after May 11, 2023

Providers Qualified to Order Services

According to a change in federal law implemented via the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and codified at 42 CFR 440.70, MassHealth now allows other medical practitioners to prescribe oxygen and respiratory therapy equipment services and write letters of medical necessity. According to the CARES Act and consistent with 42 CFR 440.70, in addition to physicians, nurse practitioners, and physician assistants, clinical nurse specialists may also prescribe oxygen and respiratory therapy equipment services and write letters of medical necessity.

On May 12, 2023, MassHealth will align with the federal CARES Act, as codified at 42 CFR 440.70, and cover oxygen and respiratory therapy equipment services and letters of medical necessity prescribed by the following professionals:

- Clinical Nurse Specialist – a nurse who is in good standing with, and meets the requirements of, the Massachusetts Board of Registration of Nursing for Clinical Nurse Specialists, and all applicable federal and state requirements.
- Non-physician Practitioner – a nurse practitioner or clinical nurse specialist working in collaboration with a physician or a physician assistant, or working under the supervision of a physician, who orders oxygen and respiratory therapy equipment services and writes the prescription for oxygen therapy equipment services according to 130 CMR 427.408.
- Nurse Practitioner – a registered nurse who has successfully completed a formal education program for nurse practitioners as required by the Massachusetts Board of Registration of Nursing (the Board), who is in good standing with the Board, and who is responsible for oversight of the member's health care. A nurse practitioner who prescribes medication must be certified by the federal Drug Enforcement Administration (DEA).
- Ordering Practitioner – a physician or a non-physician practitioner who meets the requirements below and who orders oxygen therapy equipment services and writes the prescription for oxygen therapy equipment services according to 130 CMR 427.408.
- Physician – a medical doctor (MD) or doctor of osteopathic medicine (DO) who is licensed by the Massachusetts Board of Registration in Medicine or by the appropriate board of registration in the state in which the physician practices.

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- Physician Assistant – a mid-level medical practitioner who works under the supervision of a licensed physician or osteopathic physician and who has graduated from an accredited physician assistant program and is certified by and in good standing with the Massachusetts Board of Physician Assistant Registration.

Flexibilities Continuing on May 12, 2023

Telehealth for Oxygen Face-to-face Requirement

Federal regulations require that, for certain oxygen services, physicians or certain authorized nonphysician practitioners, must document a face-to-face meeting with the Medicaid-eligible beneficiary. See 42 CFR 440.70. Through the end of the FPHE, and as described in 42 CFR 440.70(f)(6), any required face-to-face meetings may be delivered via telehealth (including telephone and live video) according to the standards in All Provider Bulletin 314.

This is consistent with Centers for Medicare & Medicaid Services (CMS) Interim Final Rules with Comment Period (CMS-1744-IFC (April 6, 2020) and CMS-5531-IFC (May 8, 2020), which provide that the face-to-face meeting requirement does not apply for oxygen and respiratory equipment for the duration of the COVID-19 emergency, except for power mobility devices (PMDs) with a statutory requirement for a face-to-face meeting. For those PMDs, a telehealth face-to-face meeting may satisfy the requirement. See the CMS [COVID-19 Frequently Asked Questions on Medicare Fee-for-Service Billing](#).

On May 12, 2023, consistent with 42 CFR 440.70, providers may use telehealth for face-to-face meetings. Providers must follow the federal oxygen Face-to-Face Requirements identified in 42 CFR 440.70. Providers must also maintain the required documentation in the member's record. See Oxygen and Respiratory Therapy Equipment Provider Bulletin 17. All documentation, recordkeeping, and other applicable provisions of 130 CMR 450.000 and 130 CMR 427.000 apply.

Oxygen Provider Bulletins 21 through 25 Remain in Effect

After the FPHE, Oxygen Provider Bulletins 21 through 25 will remain in effect. In particular, the absorbent product PA extension described in Oxygen Provider Bulletin 22 is NOT replaced by this bulletin.

MassHealth Website

This bulletin is 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 contact the Long Term Services and Supports (LTSS) Provider Service Center.

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