




Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
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MassHealth
Transmittal Letter PHY-163
January 2022

TO: Physicians Participating in MassHealth

FROM: Amanda Cassel Kraft, Assistant Secretary for MassHealth 

RE: *Physician Manual* (Updates to Policy about Acupuncture Services and Certain Psychiatric Services)

This letter transmits updates to 130 CMR 433.000: *Physician Services* in Subchapter 4 of the *Physician Manual*, effective January 21, 2022. Amendments to 130 CMR 433.000 eliminate the requirement that physicians supervise licensed acupuncturists rendering medically necessary acupuncture services to MassHealth members. These updates allow physicians and appropriately licensed and credentialed midlevel professionals to bill MassHealth for the acupuncture services that they provide.

These amendments correspond to the establishment of new program regulation 130 CMR 447.000: *Acupuncture Services*, which is also effective January 21, 2022.

Additional amendments to 130 CMR 433.000 permit MassHealth to pay a physician or psychiatric clinical nurse specialist (PCNS) for certain psychiatric services, to be designated by MassHealth, provided by a social worker, psychologist, or other nonphysician mental health professional employed or supervised by the physician or PCNS, and update outdated terminology.

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Questions

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NEW MATERIAL

(The pages listed here contain new or revised language.)

Physician Manual

Pages 4-7, 4-8, 4-19, 4-20, 4-29, and 4-30

OBSOLETE MATERIAL

(The pages listed here are no longer in effect.)

Physician Manual

Pages 4-7, 4-8, 4-19, 4-20, 4-29, and 4-30 — transmitted by Transmittal Letter PHY-154

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(C) The MassHealth agency does not pay a physician for the treatment of male or female infertility (including, but not limited to, laboratory tests, drugs, and procedures associated with such treatment); however, MassHealth does pay a physician for the diagnosis of male or female infertility.

(D) The MassHealth agency does not pay a physician for otherwise payable service codes when those codes are used to bill for circumstances that are not payable pursuant to 130 CMR 433.404.

433.405: Maximum Allowable Fees

The MassHealth agency pays for physician services with rates set by the Executive Office of Health and Human Services (EOHHS), subject to the conditions, exclusions, and limitations set forth in 130 CMR 433.000. EOHHS fees for physician services are contained in the following chapters of the Code of Massachusetts Regulations:

- (A) 101 CMR 315.00: *Vision Care Services and Ophthalmic Services*
- (B) 101 CMR 316.00: *Surgery and Anesthesia Services*
- (C) 101 CMR 317.00: *Medicine*
- (D) 101 CMR 318.00: *Radiology*
- (E) 101 CMR 320.00: *Clinical Laboratory Services*

433.406: Individual Consideration

(A) The MassHealth agency has designated certain services in Subchapter 6 of the *Physician Manual* as requiring individual consideration. This means that the MassHealth agency will establish the appropriate rate for these services based on the standards and criteria set forth in 130 CMR 433.406(B). Providers claiming payment for any service requiring individual consideration must submit with such claim a report that includes a detailed description of the service, and is accompanied by supporting documentation that may include, but is not limited to, an operative report, pathology report, or in the case of a purchase, a copy of the supplier's invoice. The MassHealth agency does not pay claims for services requiring individual consideration unless it is satisfied that the report and documentation submitted by the provider are adequate to support the claim. *See* 130 CMR 433.410 for report requirements.

(B) The MassHealth agency determines the appropriate payment for a service requiring individual consideration in accordance with the following standards and criteria:

- (1) the amount of time required to perform the service;
- (2) the degree of skill required to perform the service;
- (3) the severity and complexity of the member's disease, disorder, or disability;
- (4) any applicable relative-value studies;
- (5) any complications or other circumstances that the MassHealth agency deems relevant;
- (6) the policies, procedures, and practices of other third-party insurers;
- (7) the payment rate for drugs as set forth in the MassHealth pharmacy regulations at 130 CMR 406.000: *Pharmacy*; and
- (8) for drugs or supplies, a copy of the invoice from the supplier showing the actual acquisition cost.

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433.407: Service Limitations: Professional and Technical Components of Services and Procedures

Additional limitations are set forth in 130 CMR 433.413 and 433.437.

(A) Definitions.

(1) Professional Component – the component of a service or procedure representing the physician’s work interpreting or performing the service or procedure.

(2) Technical Component – the component of a service or procedure representing the cost of rent, equipment, utilities, supplies, administrative and technical salaries and benefits, and other overhead expenses of the service or procedure, excluding the physician's professional component.

(B) Payment. A physician may bill for the professional component of a service or procedure or, subject to the conditions of payment set forth in 130 CMR 433.407(C), both the professional and technical components of the service or procedure. The MassHealth agency does not pay a physician for providing the technical component only of a service or procedure.

(C) Conditions of Payment for the Provision of Both the Professional and Technical Components of a Service or Procedure. Only the physician providing the professional component of the service or procedure may bill for both the professional and technical components. This constitutes a limited exception to 130 CMR 450.301: *Claims*. A physician may bill for providing both the professional and technical components of a service or procedure in the physician’s office when the physician owns or leases the equipment used to perform the service or procedure, provides the technical component (either directly or by employing a technician), and provides the professional component.

433.408: Prior Authorization, Orders, Referrals, and Prescriptions

(A) Introduction.

(1) Subchapter 6 of the *Physician Manual* lists codes that require prior authorization as a prerequisite for payment. The MassHealth agency does not pay for services if billed under any of these codes, unless the provider has obtained prior authorization from the MassHealth agency before providing the service.

(2) A prior authorization determines only the medical necessity of the authorized service and does not establish or waive any other prerequisites for payment, such as member eligibility or resort to health insurance payment.

(B) Requesting Prior Authorization. All prior-authorization requests must be submitted in accordance with the instructions in Subchapter 5 of the *Physician Manual*.

(C) Physician Services Requiring Prior Authorization. Services requiring prior authorization include, but are not limited to, the following:

- (1) certain surgery services, including reconstructive surgery and gender-affirming surgery;
- (2) nonemergency services provided to a member by an out-of-state physician who practices outside a 50-mile radius of the Massachusetts border;
- (3) certain vision care services; and
- (4) certain behavioral health services.

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(B) Noncovered Services.

(1) Nonphysician and Non-PCNS Services. Except as permitted in Section 603 of Subchapter 6 of the *Physician Manual*, the MassHealth agency does not pay a physician or PCNS for services provided by a social worker, psychologist, or other nonphysician mental health professional employed or supervised by the physician or PCNS.

(2) Research and Experimental Treatment. The MassHealth agency does not pay for research or experimental treatment. This includes, but is not limited to, any method not generally accepted or widely used in the field, or any session conducted for research rather than for a member's clinical need.

(3) Nonmedical Services. The MassHealth agency does not pay a physician or a PCNS for nonmedical services, including, but not limited to, the following:

- (a) vocational rehabilitation services;
- (b) educational services;
- (c) recreational services (play therapy, the use of play activities with a child in an identified treatment setting as an alternative to strictly verbal expression of conflicts and feelings, is not considered a recreational service and is payable);
- (d) street-worker services (information, referral, and advocacy to certain age populations; liaison with other agencies; role modeling; and community organization);
- (e) life-enrichment services (ego-enhancing services such as workshops or educational courses provided to functioning persons); and
- (f) biofeedback.

(4) Nonmedical Programs. The MassHealth agency does not pay for diagnostic and treatment services that are provided as an integral part of a planned and comprehensive program that is organized to provide primarily nonmedical or other noncovered services. Such programs include freestanding alcohol or drug detoxification programs, freestanding methadone maintenance programs, residential programs, day activity programs, drop-in centers, and educational programs.

(5) Psychological Testing. The MassHealth agency does not pay for psychological testing provided by a physician or a PCNS.

(C) Services Provided by a Psychiatric Clinical Nurse Specialist (PCNS).

(1) General. 130 CMR 433.428 and 130 CMR 433.429 apply specifically to physicians and psychiatric clinical nurse specialists. In general however, subject to compliance with state and federal law, the requirements and limitations elsewhere in 130 CMR 433.000 that apply to a physician, also apply to a psychiatric clinical nurse specialist (PCNS), such as service and payment limitations, recordkeeping and reporting requirements, and prior-authorization and other conditions of coverage.

(2) Conditions of Payment. The MassHealth agency pays a PCNS or group practice for PCNS services when

- (a) the services are limited to the scope of practice authorized by state law or regulation (including, but not limited to 244CMR: *Board of Registration in Nursing* or of the state licensing agency of another state in which the services are provided);
- (b) the PCNS or group practice is not an employee of the hospital or other facility in which the PCNS services were performed, or is not otherwise paid by the hospital or facility for the service;
- (c) the PCNS participates in MassHealth pursuant to the requirements of 130 CMR 433.428(C)(3); and
- (d) for an out-of-state PCNS, the requirements of 130 CMR 433.403(C) are met.

(3) PCNS Provider Eligibility. Any PCNS applying to participate as a provider in MassHealth must submit documentation, satisfactory to the MassHealth agency, that he or she

- (a) is licensed to practice as a PCNS by the Massachusetts Board of Registration in Nursing or by the licensing agency of another state in which the PCNS services are provided; and

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(b) is a member of a group practice or is in a solo private practice.

(4) Consultation Between a PCNS and a Physician. The MassHealth agency does not pay for a consultation between a PCNS and a physician as a separate service.

(D) Recordkeeping (Medical Records) Requirements. In addition to the provisions in 130 CMR 433.409, the following specific information must be included in the medical record for each member receiving psychiatric services:

- (1) the condition or reason for which psychiatric services are provided;
- (2) the member's diagnosis;
- (3) the member's medical history;
- (4) the member's social and occupational history;
- (5) the treatment plan;
- (6) the physician's or PCNS's short- and long-range goals for the member;
- (7) the member's response to treatment; and
- (8) if applicable, a copy of the signed consent for electroconvulsive therapy.

433.429: Psychiatric Services: Scope of Services

130 CMR 433.429 describes the services that a physician or a psychiatric clinical nurse specialist (PCNS) may provide, including the limitations imposed on those services by the MassHealth agency. For all psychotherapeutic services, the majority of time must be spent as personal interaction with the member; a minimal amount of time must be spent for the recording of data.

(A) Individual Psychotherapy. The MassHealth agency pays a physician or PCNS for individual psychotherapy provided to a member only when the physician or PCNS treats the member. This service includes diagnostics.

(B) Family and Couple Therapy. The MassHealth agency pays for therapy provided simultaneously in the same session to more than one member of the same family or to a couple whose primary complaint is the disruption of their marriage, family, or relationship. Payment is limited to one fee per session, regardless of the number of family members present or the presence of a cotherapist.

(C) Group Psychotherapy.

- (1) Payment is limited to one fee per group member with a maximum of 12 members per group regardless of the number of staff members present.
- (2) The MassHealth agency does not pay for group therapy when it is performed as an integral part of a psychiatric day treatment program.

(D) Multiple-Family Group Psychotherapy.

- (1) Payment is limited to one fee per group member with a maximum of ten members per group regardless of the number of staff members present.
- (2) The MassHealth agency does not pay for multiple-family group psychotherapy when it is performed as an integral part of a psychiatric day treatment program.

(E) Diagnostic Services. The MassHealth agency pays for the examination and determination of a patient's physical, psychological, social, economic, educational, and vocational assets and disabilities for the purpose of designing a treatment plan. This service includes an initial medication evaluation.

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(2) In no event may a physician bill or be paid separately for each of the tests included in a profile test when a profile test has either been performed by that physician or requested by an authorized person.

(E) Forensic Services. The MassHealth agency does not pay for tests performed for forensic purposes or any purpose other than those described in 130 CMR 433.438, including but not limited to:

- (1) tests performed to establish paternity;
- (2) tests performed pursuant to, or in compliance with, a court order (for example, monitoring for drugs of abuse); and
- (3) post-mortem examinations.

433.440: Acupuncture

(A) Introduction. MassHealth members are eligible to receive acupuncture for the treatment of pain as described in 130 CMR 433.440(C), for use as an anesthetic as described in 130 CMR 433.454(C), and for use for detoxification as described in 130 CMR 418.406(C)(3): *Substance Abuse Treatment: Acupuncture Detoxification*.

(B) General. 130 CMR 433.440 applies specifically to physicians and midlevel practitioners who are licensed practitioners of acupuncture.

(C) Acupuncture for the Treatment of Pain. MassHealth provides a total of 20 sessions of acupuncture for the treatment of pain per member per year without prior authorization. If the member's condition, treatment, or diagnosis changes, the member may receive more sessions of medically-necessary acupuncture treatment with prior authorization.

(D) Provider Qualifications for Acupuncture. MassHealth pays for acupuncture services only when the provider rendering the service is:

- (1) a physician; or
- (2) a midlevel practitioner who is licensed in acupuncture by the Massachusetts Board of Registration in Medicine under 243 CMR 5.00: *The Practice of Acupuncture*.

(E) Conditions of Payment. The MassHealth agency pays providers qualified to render acupuncture services in accordance with 130 CMR 433.440(D) for acupuncture services only when

- (1) the services are limited to the scope of practice authorized by state law or regulation (such as 243 CMR 5.00: *The Practice of Acupuncture*); and
- (2) the provider has a current license or certificate of registration from the Massachusetts Board of Registration in Medicine.

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(F) Acupuncture Claims Submissions.

(1) Providers eligible to render acupuncture services in accordance with 130 CMR 433.440(D) may submit claims for acupuncture services when they provide those services directly to MassHealth members. *See* Subchapter 6 of the *Physician Manual* for service code descriptions and billing requirements.

(2) For MassHealth members receiving services under any of the acupuncture codes on the same date of service as an office visit, the provider may bill for either an office visit or the acupuncture code, but may not bill for both an office visit and the acupuncture code for the same member on the same date when the office visit and the acupuncture services are performed in the same location. This limitation does not apply to a significant, separately identifiable office visit provided by the same provider on the same day of the acupuncture service.

433.441: Pharmacy Services: Drugs Dispensed in Pharmacies

Coverage of drugs and medical supplies dispensed to MassHealth members by MassHealth pharmacy providers, and related prescription requirements for prescribing prescribers, are governed by 130 CMR 406.000: *Pharmacy Services*.

(130 CMR 433.442 through 433.446 Reserved)