101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 355.00: RATES FOR FREESTANDING BIRTH CENTER SERVICES

Section

355.01: General Provisions

(1) Scope and Purpose. 101 CMR 355.00 governs the rates of payment to eligible freestanding birth centers to be used by all governmental units for services provided to publicly aided individuals.

(2) Applicable Dates of Service. Rates contained in 101 CMR 355.00 apply for dates of service provided on and after ~~January 19, 2024~~February 1, 2026, unless otherwise indicated.

(3) Coverage. 101 CMR 355.00 and the rates of payment contained in 101 CMR 355.00 are full compensation for the facility component of services furnished in connection with prenatal, labor, delivery, newborn nursery, and postpartum care for low-risk births that can be performed safely in a freestanding birth center under the scope of covered services and that meet the conditions for payment for such services by the governmental purchaser. Payment from any other sources is used to offset the amount of the purchasing governmental unit's obligation for services rendered to the publicly aided individuals. 101 CMR 355.00 does not cover professional services billed separately from the birth center facility component fee by either the facility or ~~by~~ the clinical staff.

(4) Disclaimer of Authorization of Services. 101 CMR 355.00 is not authorization for or approval of the procedures for which rates are determined pursuant to 101 CMR 355.00. Governmental units that purchase care are responsible for the definition, authorization, coverage policies, and approval of care and services provided to publicly aided individuals.

(5) Coding Updates and Corrections. EOHHS may publish service code updates and corrections in the form of an administrative bulletin. Updates may reference coding systems including, but not limited to, the American Medical Association's Current Procedural Terminology® (CPT). The publication of such updates and corrections will list

(a) codes for which the code numbers change, with the corresponding cross~~-~~references between new codes and the codes being replaced. Rates for such new codes are set at the rate of the code that is being replaced;
(b) codes for which the code number remains the same but the description has changed;
(c) deleted codes for which there are no corresponding new codes; and
(d) codes for entirely new services that require pricing. EOHHS will list these codes and apply individual consideration (I~~.~~C~~.~~) payment for these codes until appropriate rates can be developed.

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(6) Administrative Bulletins. EOHHS may issue administrative bulletins to add, delete, or otherwise update codes or modifiers~~,~~; to clarify its policy on and understanding of substantive provisions of 101 CMR 355.00~~,~~; and as otherwise specified in 101 CMR 355.00.

~~-~~355.02: Definitions

~~—~~As used in 101 CMR 355.00, unless the conte~~x~~xt requires otherwise, terms have the meanings in 101 CMR 355.02. The descriptions and five-digit codes included in 101 CMR 355.00 utilize the Healthcare Common Procedure Code System (HCPCS) for Level I and Level II coding. Level ~~1~~ I CPT-4 codes are obtained from the Physicians' 202~~2~~5 Current Procedural Terminology® by the American Medical Association, unless otherwise specified. Level II codes are obtained from 202~~5~~2 HCPCS maintained jointly by the Centers for Medicare & Medicaid Services (CMS), the Blue Cross and Blue Shield Association, and the Health Insurance Association of America. HCPCS is a list~~ing~~ of descriptive terms and identifying codes and modifiers for reporting medical services and procedures performed by physicians and other health care professionals, as well as associated non-physician services. 101 CMR 355.00 includes only HCPCS numeric and alpha~~-~~numeric identifying codes and modifiers for reporting medical services and procedures that were selected by EOHHS. Any use of CPT outside the fee schedule should refer to the Physicians' 202~~2~~5 Current Procedural Terminology®.

Center. The Center for Health Information and Analysis established under M.G.L. c. 12C.

Certified Nurse-midwife (CNM). An advanced practice registered nurse (APRN) who has completed a program of study and clinical experience for nurse~~-~~-midwives, and is licensed by the Board of Registration in Nursing to practice as a certified nurse-midwife, whose eligibility is limited to those procedures specified by the governmental unit purchasing such services, and who also meets such conditions of participation as may ~~have been or may~~ be adopted ~~from time to time~~ by a governmental unit.

Certified Nurse Practitioner (CNP). An APRN who has completed a program of study and clinical experience for nurse practitioners, and is licensed by the Board of Registration in Nursing to practice as a certified nurse practitioner, whose eligibility is limited to those procedures specified by the governmental unit purchasing such services, and who also meets such conditions of participation as may be adopted by a governmental unit.

Clinical Staff. The physician, certified nurse-midwife, certified nurse practitioner, registered nurse, licensed practical nurse, and other licensed health care practitioners appointed by the governing authority to practice within the birthing center and governed by rules approved by the governing body.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Facility Component. Rates of payment for a freestanding birth center's facility component costs. The facility component does not include payment for physician, certified nurse-midwife, or certified nurse practitioner services in performing a procedure or service. The facility component does include payment for the services of other clinical staff, *e.g.*, registered nurses and licensed practical nurses. The facility component also includes payment for the component of a service or

procedure representing the cost of rent, equipment, utilities, supplies, drugs and biologicals, clinical laboratory services, malpractice insurance, administrative and technical salaries and benefits, all related administrative or supervisory duties performed in connection with the provision of the service or procedure, and all other overhead expenses of the service or procedure.

Freestanding. Existing independently or physically separated from another health care facility and administered by separate staff with separate records.

Freestanding Birth Center (FBC). A health facility not operated under a hospital license that is licensed by the Department of Public Health (DPH) as a birth center, pursuant to 105 CMR 140.000: *Licensure of Clinics*.

Governmental Unit. The Commonwealth of Massachusetts or any of its departments, agencies, boards, commissions, or political subdivisions.

Individual Consideration (I-C-). Freestanding birth center services that are authorized but not listed in 101 CMR 355.00, freestanding birth center services performed in unusual circumstances, and services whose fees are designated by the letters "I-C-" are individually considered items. The governmental unit or purchaser analyzes the eligible provider's operative report, which must contain a diagnosis, a pertinent medical history, a description of the services rendered, and the length of time spent with the patient. In making the determination of whether the service is appropriately classified as an individually considered item, the following criteria are used:

(a) policies, procedures, and practices of other third-party purchasers of care, both governmental and private;
(b) the severity and complexity of the patient's disorder or disability;
(c) prevailing provider ethics and accepted practice; and
(d) time, degree of skill, and cost including equipment cost required to perform the procedure(s).

Modifiers. Listed services may be modified under certain circumstances. When applicable, the modifying circumstances must be identified by the addition of the appropriate two-digit number or letters.

Publicly Aided Individual. A person who receives health care and services for which a governmental unit is in whole or in part liable under a statutory program of public assistance.

355.03: General Rate Provisions and Payment

(1) Rate Determination. Rates of payment for the facility component of authorized freestanding birth center facility services to which 101 CMR 355.00 applies are the lowest of

(a) the eligible provider's usual fee to the general public;
(b) the eligible provider's actual charge submitted; and
(c) the schedule of allowable rates set forth in 101 CMR 355.03(5).

(2) Individual Consideration and Non-listed Procedures. Rates of payment for freestanding birth center services that are authorized, but not listed in 101 CMR 355.00, services performed in

unusual circumstances, and services whose fees are designated by the letters "I.C." are determined on an individual consideration basis.

(3) Terminated Procedures. The purchasing governmental unit determines payment on an individual consideration (I.C.) basis for any procedure that has been terminated after the procedure was initiated.

(4) Services and Payments Covered Uunder Other Regulations. Rules and payment rates for professional services of physicians, certified nurse-midwives, and certified nurse practitioners performed in freestanding birth centers are contained in 101 CMR 355.03(4).

Regulation Title	Regulation Number
Rates for Surgery and Anesthesia Services	101 CMR 316.00
Rates for Medicine Services	101 CMR 317.00
Rates for Radiology Services	101 CMR 318.00

(5) Fee Schedule.

HCPCS Code	Fee	Description
59400-TC	$4,589.24	Routine obstetric care including antepartum care, vaginal delivery (with or without episiotomy, and/or forceps) and postpartum care (payment for the mother's birthing person's length of stay for an all-inclusive global facility obstetrical service without use of forceps)
99460-TC	$1,422.31	Initial hospital or birthing center care, per day, for evaluation and management of normal newborn infant (all-inclusive global facility payment for newborn's length of stay)
S4005	I.C.	Interim labor facility global (labor occurring, but not resulting in delivery) (global facility payment for prepartum services when delivery occurs at another facility)

(6) Provider Preventable Conditions. The following modifiers are used to report provider preventable conditions in accordance with 42 CFR 447.26, and result in nonpayment for services.

Modifier	Description
PA	Surgical or other invasive procedure on wrong body part
PB	Surgical or other invasive procedure on wrong patient
PC	Wrong surgery or other invasive procedure on patient

355.04: Reporting Requirements

(1) Required Reports. Reporting requirements are governed by 957 CMR 6.00: *Cost Reporting Requirements*.

(2) Penalty for Noncompliance. The purchasing governmental unit may impose a penalty in the amount of up to 15% of its payments to any provider that fails to submit required information.

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The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 355.04(2).

355.05: Severability

The provisions of 101 CMR 355.00 are severable. If any provision of 101 CMR 355.00 or application of any provision to an applicable individual, entity, or circumstance is held invalid or unconstitutional, that holding will not be construed to affect the validity or constitutionality of any remaining provisions of 101 CMR 355.00 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

101 CMR 355.00: M.G.L. c. 118E.