101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 423.00: RATES FOR CERTAIN IN-HOME BASIC LIVING SUPPORTS

Section

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423.01: General Provisions

(1) Scope. 101 CMR 423.00 governs the payment rates for certain in-home basic living support services that are purchased by a governmental unit including, but not limited to, the Department of Developmental Services (DDS), Massachusetts Commission for the Blind (MCB), and the Massachusetts Rehabilitation Commission (MRC).

(2) Applicable Dates of Service. Rates contained in 101 CMR 423.00 apply for dates of service on or after July 1, 2022.

(3) Disclaimer of Authorization of Services. 101 CMR 423.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 423.00. Governmental units that purchase the services described in 101 CMR 423.00 are responsible for the definition, authorization, and approval of services extended to clients.

(4) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 423.00.

423.02: Definitions

As used in 101 CMR 423.00, unless the context requires otherwise, terms have the meanings in 101 CMR 423.02.

Client. An individual that receives in-home basic living support services purchased by a governmental unit.

Cost Report. The document used to report costs and other financial and statistical data. The Uniform Financial Statements and Independent Auditor's Report (UFR) is used when required.

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

Governmental Unit. The Commonwealth, any board, commission, department, division, or agency of the Commonwealth and any political subdivision of the Commonwealth.

In-home Basic Living Supports. A broad range of service levels that assist clients in living as independently as possible within the community, encompassing support services customized to their specific needs in a variety of life activities on a regular or intermittent basis, and determined as necessary to prevent institutionalization. These services provide the assistance and supervision necessary for clients to establish, live in, and maintain, on an on-going basis, a household of their

choosing in a personal home or the family home, to meet their habilitative needs. These services may include teaching and fostering the acquisition, retention, or improvement of skills related to personal finance, health, shopping, use of community resources, community safety, and other social and adaptive skills to live in the community. They may also include training and education in self-determination and self-advocacy, enabling clients to acquire skills to exercise control and responsibility over the services and supports they receive and to become more independent, integrated, and productive in their communities. In-home basic living support services do not include room and board, the cost of facility upkeep and maintenance, and are not provided to clients living in 24-hour licensed group home settings.

Provider. Any individual, group, partnership, trust, corporation, or other legal entity that offers services for purchase by a governmental unit and that meets the conditions of purchase or licensure that have been adopted by a purchasing governmental unit.

Reporting Year. The provider's fiscal year for which costs incurred are reported to the Operational Services Division on the Uniform Financial Statements and Independent Auditor's Report (UFR).

423.03: Rate Provisions

(1) Services Included in the Rate. The approved rate includes payment for all care and services that are part of the program of services of an eligible provider, as explicitly set forth in the terms of the purchase agreement between the eligible provider and the purchasing governmental unit(s).

(2) Reimbursement as Full Payment. Each eligible provider must, as a condition of acceptance of payment made by any purchasing governmental units for services rendered, accept the approved program rate as full payment and discharge of all obligations for the services rendered. Payment from any other source will be used to offset the amount of the purchasing governmental unit's obligation for services rendered to the publicly assisted client.

(3) Payment Limitations. Except as provided in 101 CMR 423.03(2) and (4), each purchasing governmental unit pays for services at the rates established in 101 CMR 423.03(5).

(4) Administrative Adjustment for Extraordinary Circumstances. A provider may petition the purchasing governmental unit for an administrative adjustment to reflect increases in operating costs due to unusual and unforeseen circumstances or extraordinary client service requirements not considered in the development of the current rates. Unusual and unforeseen circumstances are events of catastrophic nature (*e.g.*, fire, flood, or earthquake) that are not covered by insurance that the prudent provider would carry. The provider must demonstrate that such cost increases gravely threaten the stability of service provision such that client or consumer access to necessary services is at risk. The purchasing governmental unit will evaluate the need for the administrative adjustment, determine whether funding is available, and convey that information to EOHHS for review to determine the amount of any adjustment.

(5) Approved Rates. The rate for a particular service is based on the level (A - K) assigned by the purchasing agency, and is based on the intensity of identified needs and characteristics of the client receiving the service. The approved rate is the lower of the provider’s charge or amount accepted as payment from another payer or the rate listed in 101 CMR 423.03(5).

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Level	Rate	Unit
A	$7.28	15 minutes
B	$8.20	15 minutes
C	$9.09	15 minutes
D	$9.54	15 minutes
E	$10.43	15 minutes
F	$11.50	15 minutes
G	$12.80	15 minutes
H	$13.79	15 minutes
I	$15.93	15 minutes
J	$18.88	15 minutes
K	$20.50	15 minutes

423.04: Filing and Reporting Requirements

(1) General Provisions.
(a) Accurate Data. All reports, schedules, additional information, books, and records that are filed or made available to EOHHS must be certified under pains and penalties of perjury as true, correct, and accurate by the executive director or chief financial officer of the provider.
(b) Examination of Records. Each provider must make available to EOHHS or purchasing governmental unit upon request all records relating to its reported costs, including costs of any entity related by common ownership or control.

(2) Required Reports. Each provider must file
(a) an annual Uniform Financial Statements and Independent Auditor's Report completed in accordance with the filing requirements of 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*;
(b) any cost report supplemental schedule as issued by EOHHS; and
(c) any additional information requested by EOHHS within 21 days of a written request.

(3) 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. The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 423.04(3).

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423.05: Severability

The provisions of 101 CMR 423.00 are severable. If any provision of 101 CMR 423.00 or application of such provision to any eligible provider or fiscal intermediary is held invalid or unconstitutional, such determination will not affect the validity or constitutionality of any remaining provisions of 101 CMR 423.00 or application of such provisions to eligible providers or fiscal intermediaries in circumstances other than those held invalid.

REGULATORY AUTHORITY

101 CMR 423.00: M.G.L. c 118E.