

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 428.00: RATES FOR CERTAIN INDEPENDENT LIVING COMMUNITIES  
AND SERVICES

Section

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428.01: General Provisions

- (1) Scope. 101 CMR 428.00 governs the payment rates for certain independent living communities and services purchased by a governmental unit including, but not limited to, the Department of Mental Health (DMH), the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH), and the Massachusetts Rehabilitation Commission (MRC).
- (2) Applicable Dates of Service. Rates contained in 101 CMR 428.00 apply for dates of service provided on or after July 1, 2023.
- (3) Disclaimer of Authorization of Services. 101 CMR 428.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 428.00. Governmental units that purchase the services described in 101 CMR 428.00 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 428.00 and to update the initial payment percentages provided in 101 CMR 428.03(3)(c).

428.02: Definitions

As used in 101 CMR 428.00, unless the context requires otherwise, terms have the meanings in 101 CMR 428.02.

Client. An individual that receives certain independent living community 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.

Deaf and Hard of Hearing Independent Living Services (DHILS). This service provides person-specific supports to deaf and hard of hearing individuals across the Commonwealth. The goal of this program is to ensure that deaf and hard of hearing individuals have access to information, services, education, economic self-sufficiency, and opportunities equal to those of individuals who are not deaf or hard of hearing.

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

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

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.

Recovery Learning Community (RLC). A peer support service provided to individuals identifying as having mental illness. Peer services are designed to offer person-specific supports, connection to a variety of community resources, support services, training, and education as needed. Recovery Learning Communities also support peers through training and consultation and provide a forum for community education aimed at reducing the stigmas around mental illness and assist communities to engage and coordinate efforts to improve service delivery for people experiencing mental illness.

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).

Vocational Rehabilitation Independent Living Services. A service comprised of various components, as described in 101 CMR 428.03(4), which provide person-specific vocational/independent living training and supports to individuals seeking employment. The goal of the program is to ensure individuals seeking employment have adequate environmental conditions to support their search for and maintenance of employment.

428.03: 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) Service Component Payment Methods.
  - (a) General. Purchasing governmental units will pay providers a total payment per completed service component as defined in 101 CMR 428.03(4).
  - (b) Standard Progress Documentation. Providers must use a standard form to document initiation and completion of a service component for each client. Providers must submit all progress documentation, billing, and performance reporting through the Enterprise Invoice Management Service.
  - (c) Initial Payment. The purchasing governmental unit pays the provider an initial payment based on a specified percentage of the total payment at the initiation of a service component for a client.

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For assessment, the purchasing governmental unit makes an initial payment equal to 20% of the service component payment in 101 CMR 428.03(4). For all other service components, except ongoing and interim supports, the purchasing agency makes an initial payment equal to 40% of the service component payment in 101 CMR 428.03(4). EOHHS may revise these percentages by administrative bulletin.

(d) Final Payment. The purchasing governmental unit pays the difference between the initial payment and the total service component payment upon completion of the service component and submission of required documentation pursuant to 101 CMR 428.03(3)(b).

- (4) Service Components. Payment is based on the following five separate service components.
- (a) Assessment. This service component requires the client to articulate initial goals, commit to a service plan, and engage in services. Provider activities included in this service component include, but are not limited to, solicitation of client referrals; review of applications; initial client screening; interview of applicants; assessment of client abilities, interests, skills, and needs; performance of a situational assessment; identification of recommended support services; and completion of a comprehensive service plan.
  - (b) Independent Living Skills Training. This service component is designed to ensure that the client has sufficient independent living, pre-employment, and skills training. Specific provider activities include, but are not limited to, depending on client skills and learning style: vocational English language training; “fast-track,” HiSET testing; short-term “soft” or “technical” job skills training; and work adjustment, job search, and interviewing skills.
  - (c) Community Resource Access. This service component is designed to assist the client to be able to access community services in order to assist them with their ability to live and work independently in their community.
  - (d) Plan of Achieving Self-support (PASS Plan). This service component is designed to assist the consumer with completing Social Security Administration (SSA) paperwork. Additional supports assist the consumer to set aside resources in order to obtain a product or a service; and to assist them to work or live independently in the community.
  - (e) Single Service Purchase. This service component is designed to assist the client to work and live in the community successfully.

(5) Payment Limitations. No purchasing governmental unit may pay less than or more than the approved program rate.

(6) Administrative Adjustment for Extraordinary Circumstances. A method whereby, subject to availability of funds, a purchasing governmental unit may provide additional resource allocations to a qualified provider in response to unusual and unforeseen circumstances that substantially increase the cost of service delivery in ways not contemplated in the development of current rates. It must be demonstrated 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.

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(7) Approved Rates. 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 428.03.

Program	Rate	Unit
Deaf and Hard of Hearing Independent Living Services		
Region 1	\$49,256	Monthly
Region 2	\$44,538	Monthly
Region 3	\$40,028	Monthly
Region 4	\$36,842	Monthly
Region 5	\$23,490	Monthly
Region 6	\$20,782	Monthly
Region 7	\$12,757	Monthly
Region 8	\$8,181	Monthly
ASL Interpreter Add-on		
.25 FTE	\$1,398	Monthly
.5 FTE	\$2,796	Monthly
.75 FTE	\$4,194	Monthly
1.0 FTE	\$5,591	Monthly
Recovery Learning Communities	\$84,032	Monthly
Vocational Rehabilitation Independent Living Services		
Assessment	\$558	Per Component
Independent Living Skills Training	\$2,094	Per Component
Community Resource Access	\$2,094	Per Component
PASS Plan	\$2,094	Per Component
Single Service Purchase	\$977	Per Component
Service Add-on	\$140	Per Hour
Group Training Add-on	\$50.20	Per Client per Class

428.04: 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 the purchasing governmental unit upon request all records relating to its reported costs, including costs of any entity related by common ownership or control.

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- (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 428.04(3).

428.05: Severability

The provisions of 101 CMR 428.00 are severable. If any provision of 101 CMR 428.00 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 428.00 or application of such provisions to eligible providers or fiscal intermediaries in circumstances other than those held invalid.

REGULATORY AUTHORITY

101 CMR 428.00: M.G.L. c. 118E.