

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 309.00: RATES FOR CERTAIN SERVICES FOR THE PERSONAL CARE ATTENDANT PROGRAM

Section

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309.01: General Provisions

(1) Scope and Purpose. 101 CMR 309.00 governs the rates of payment to be used by all governmental units for the personal care attendant (PCA) program. 101 CMR 309.00 also governs payments for PCA services provided to individuals covered by M.G.L. c. 152 (the Worker's Compensation Act). Rates for transitional living program services are approved under 114.5 CMR 4.00: *Rates for Certain Social, Rehabilitation and Health Care Services*.

(2) Applicable Dates of Service. Rates contained in 101 CMR 309.00 apply for dates of service described in 101 CMR 309.03.

(3) Coverage. The payment rates established by 101 CMR 309.00 apply to certain services for the PCA program provided by eligible PCA providers and personal care management (PCM) agencies to enable publicly aided persons with permanent or chronic disabilities to live independently in the community. The payment rates established by 101 CMR 309.00 are full compensation for services rendered and for certain related administrative or supervisory duties rendered in the provision of services.

(4) Disclaimer of Authorization of Services. 101 CMR 309.00 is not authorization for or approval of the services for which rates are established by 101 CMR 309.00. Governmental units that purchase PCA services are responsible for the definition, authorization, and approval of care and services extended to publicly aided individuals.

(5) Coding Updates and Corrections. EOHHS may publish service code updates and corrections by administrative bulletin. Updates may reference coding systems including, but not limited to, the American Medical Association's *Current Procedural Terminology* (CPT) and the Healthcare Common Procedure Coding System (HCPCS) maintained by the Centers for Medicare & Medicaid Services (CMS). The publication of such updates and corrections will list

- (a) codes for which only the code numbers change, with the corresponding cross-references between existing and new codes;
- (b) deleted codes for which there are no corresponding new codes; and
- (c) codes for entirely new services that require pricing. These codes will be paid on an individual consideration basis until rates are established.

(6) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify the substantive provisions of 101 CMR 309.00 and to notify interested parties of payment updates pursuant to 101 CMR 309.01(5).

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309.02: Definitions

As used in 101 CMR 309.00, unless the context requires otherwise, terms have the meanings in 101 CMR 309.02.

Activities of Daily Living (ADLs). Those specific activities described in 130 CMR 422.410(A): *Activities of Daily Living (ADLs)*. Such activities are performed by a PCA to physically assist a member with mobility, taking medications, bathing or grooming, dressing, passive range of motion exercises, eating, and toileting.

Activity Form. The timesheet designated by the MassHealth agency to be used by the member for recording all PCA activity time for each pay period. The member or the member's surrogate submits completed activity forms to the fiscal intermediary.

Activity Time. The actual amount of time spent by a PCA physically assisting the member with ADLs and instrumental activities of daily living (IADLs). Activity time is reported on the activity form.

Consumer. A MassHealth member who is receiving PCA services. The consumer is the employer of the PCA.

Employer Expense Component. The portion of the PCA rate designated as reimbursement to members for their mandated employer's share of Social Security, federal and state taxes, unemployment insurance taxes, Medicare, and worker's compensation premiums.

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

Evaluation. An initial determination by the PCM agency of the scope and type of PCA services to be provided to a member who meets the qualifications of 130 CMR 422.403: *Eligible Members*. The evaluation is conducted by a registered nurse or licensed practical nurse and an occupational therapist in accordance with 130 CMR 422.422(C): *Evaluation to Initiate PCA Services* or 130 CMR 422.438(B): *Evaluation*.

Fiscal Intermediary. An entity contracting with MassHealth to perform employer-required tasks and related administrative tasks including, but not limited to, tasks described in 130 CMR 422.419(B): *The Fiscal Intermediary*.

Functional Skills Training. Training provided by a PCM agency in accordance with 130 CMR 422.421(B): *Functional Skills Training* to assist members who have obtained prior authorization (PA) for PCA services and their surrogates or administrative proxies, if necessary, in developing the skills and resources to maximize the member's management of the PCA program including, but not limited to, personal health care, PCA services, activities of daily living, and activities related to the fiscal intermediary.

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

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Individual Consideration. The method to determine payment for services for service codes for which no rate has been established. The governmental unit or purchaser analyzes the eligible provider's report of services rendered and charges submitted under the appropriate unlisted services or procedures category. The purchaser determines an appropriate payment for individual consideration procedures in accordance with the following standards and criteria:

- (a) time required to perform the procedure;
- (b) degree of skill required in care rendered;
- (c) severity or complexity of the patient's disease, disorder, or disability;
- (d) policies, procedures, and practices of other third-party purchasers of care, governmental and private; and
- (e) applicable relative value studies.

Instrumental Activities of Daily Living (IADLs). Those specific activities described in 130 CMR 422.410(B): *Instrumental Activities of Daily Living (IADLs)* that are instrumental to the care of the member's health and are performed by a PCA, such as meal preparation and cleanup, laundry, shopping, housekeeping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive PCA services.

Intake and Orientation. Functions performed by a PCM agency for a member who is seeking PCA services, but for whom the MassHealth agency has not yet granted PA for PCA services. These functions include, but are not limited to, instruction and orientation in the rules, policies, and procedures of the PCA program; instruction in the member's rights and responsibilities when using PCA services; instruction in the role of the PCM agency and the fiscal intermediary, including the use of activity forms; and instruction in the skills and tasks necessary to manage PCA services.

MassHealth. The medical assistance program administered by the Executive Office of Health and Human Services pursuant to M.G.L. c. 118E and in accordance with Titles XIX and XXI of the federal Social Security Act and a § 1115 Demonstration Waiver.

MassHealth Program Regulations. Regulations governing the PCA program are contained in 130 CMR 422.000: *Personal Care Attendant Services* and 130 CMR 450.000: *Administrative and Billing Regulations*.

PCA Services. Physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the member's authorized evaluation or reevaluation, service agreement, and 130 CMR 422.410: *Activities of Daily Living and Instrumental Activities of Daily Living*.

PCA Wage Component. The portion of the PCA rate that is designated as the PCA's gross hourly wage.

Personal Care Attendant (PCA). A person who meets the requirements of 130 CMR 422.404(A)(1): *Personal Care Attendants* and who is hired by the member or surrogate to provide PCA services. In addition, for the sole purpose of M.G.L. c. 118E, §§ 70 through 75, a PCA is a person who is hired by the member or surrogate to provide PCA services through a senior care organization (SCO) contracting with the MassHealth agency pursuant to M.G.L. c. 118E, § 9D, or a person who is hired by the member or surrogate to provide PCA services

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through an integrated care organization (ICO) contracting with the MassHealth agency pursuant to M.G.L. c. 118E, § 9F. Unless explicitly stated in 130 CMR 422.000: *Personal Care Attendant Services*, in the SCO's MassHealth contract, or in the ICO's MassHealth contract, no other provisions of 130 CMR 422.000 apply to any SCO, ICO, or PCA hired by any eligible MassHealth member through a SCO or ICO.

Personal Care Management (PCM) Agency. A public or private agency or entity under contract with MassHealth to provide PCM functions to eligible members in accordance with 130 CMR 422.000: *Personal Care Attendant Services* and the PCM functions contract.

Personal Care Management (PCM) Functions. Administrative functions provided by a PCM agency to a member in accordance with a contract with EOHHS including, but not limited to, those services identified in the PCM contract and 130 CMR 422.419(A): *The PCM Agency*.

Prior Authorization (PA). An approval, modification, deferral, or denial for PCA services to the consumer by the MassHealth agency in accordance with 130 CMR 422.416: *PCA Program: Prior Authorization for PCA Services* and 130 CMR 422.418: *PCA Program: Special Payments*.

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. This includes a consumer.

Reevaluation. A determination of the scope and type of PCA services to be provided to a member who has requested a continuation of PCA services because the current authorization is expiring. The reevaluation is conducted in accordance with 130 CMR 422.422(D): *Reevaluation*.

Service Agreement. A written plan of services, consistent with the requirements of 130 CMR 422.423: *PCA Program: Service Agreement* and the PCM functions contract, that is developed jointly by the PCM agency; the member; and the member's surrogate, if any. The service agreement describes the responsibilities of the PCA, the member, the surrogate, the fiscal intermediary, and the PCM agency. If the member does not require a surrogate, the service agreement must state that the member is solely responsible for the management tasks, including hiring, firing, scheduling, training, supervising, and otherwise directing the PCA. The service agreement must also describe the type and frequency of functional skills training that the member and the surrogate, if appropriate, require from the PCM agency to manage the PCA program successfully.

Uniform Financial Statement and Independent Auditor's Report (UFR). An annual fiscal filing requirement of revenue and expense activity for programs funded fully or in part by contracts with the Commonwealth. The Operational Services Division issues instructions for UFR preparation and compliance under 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*.

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309.03: General Rate Provisions

(1) Services or Functions Included in the Rate. The approved rate includes payment for care and services or functions listed in 101 CMR 309.03(4) that are part of the PCA program under 130 CMR 422.401 through 130 CMR 422.423 subject only to the terms of the purchase agreement between the eligible provider and the purchasing governmental unit.

(2) Reimbursement as Full Payment. Each eligible provider must, as a condition of acceptance of payment made by the purchasing governmental unit for services rendered, accept the approved program rate as full payment and discharge of all obligations for services rendered. Any third-party payments received on behalf of a publicly aided consumer will reduce, by that amount, the amount of the purchasing governmental unit's obligation for services rendered to the consumer.

(3) Payment Limitation. Except as provided in 101 CMR 309.03(2), no purchasing governmental unit may pay less than, or more than, the approved program rate.

(4) Rates of Payment for PCM Functions Effective July 1, 2023.

Code	Modifier	Rate	Unit	Description
99456		\$265.41	Per Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report (initial evaluation of a member to determine the need, and extent of the need, for PCA services) (per evaluation).
99456	TS	\$152.54	Per Session	Work related or medical disability examination by other than the treating physician that includes: completion of a medical history commensurate with the patient's condition; performance of an examination commensurate with the patient's condition; formulation of a diagnosis, assessment of capabilities and stability, and calculation of impairment; development of future medical treatment plan; and completion of necessary documentation/certificates and report (code with modifier for reevaluations).

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Code	Modifier	Rate	Unit	Description
T1023		\$120.92	Per Session	Screening to determine the appropriateness of consideration of an individual for participation in a specified program, project, or treatment protocol, per encounter (per session charge for intake and orientation services provided to a member who does not yet have PA for PCA services) (maximum three sessions).
T2022		\$58.99	Per Member per Month	Case management per month. (Current PA for PCA services required for each member.) Use this code to bill administrative (per member per month). Bill code on the first of month. During a transfer, both PCM agencies may bill for the month the transfer took place (one-month limit).
T2022	U1	\$0	Per Session	Case management per month. (Current PA for PCA services required for each member.) Use to bill for required quarterly comprehensive (in person) functional skills training (FST) visits during the first year of approved PCA services. (Bill on the date FST was delivered.) (Bill code once in each calendar year quarter only.) Cannot be billed on the same date as T2022 U2, U3, U4, U5, or another unit of T2022 U1 was billed.
T2022	U2	\$0	Per Session	Case management per month. (Current PA for PCA services required for each member.) Use to bill for required annual comprehensive (in person) FST (limit one per year). (Bill on date FST was delivered.) Cannot be billed on the same date as T2022 U3, U4, U5, or another unit of T2022 U2 was billed.
T2022	U5	\$0	Per Session	Case management per month. (Current PA for PCA services required for each member.) Use to bill for FST (in person) within ten days of identifying a new surrogate. (Bill on date FST was delivered.) Cannot be billed on same date as T2022 U1, U2, U3, U4, or another unit of T2022 U5 was billed. May bill only once during a calendar year, regardless of multiple surrogate changes. This code does not apply to administrative proxy changes.
T2022	U3	\$0	Per Session	Case management per month. (Current PA for PCA services required for each member.) Use to bill for issue-focused (in person) FST. (Bill on date FST was delivered.) Cannot be billed on same date as T2022 U1, U2, U5, or another unit of T2022 U3 was billed.
T2022	U4	\$0	Per Session	Case management per month. (Current PA for PCA services required for each member.) Use to bill for issue-focused (telephone contact with FST delivery) FST. (Bill on date FST was delivered.) Cannot be billed on same date as T2022 U1, U2, or U5 was billed.

(5) PCA Rates. The rates for PCA services consist of the employer expense component and the PCA wage component.

(a) Rates. The rates of payment for PCA services are established in accordance with the provisions of any collective bargaining agreement under M.G.L. c. 150E and as authorized by

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the MassHealth program regulations at 130 CMR 422.413: *Payment for PCA Services*.

(b) PCA Wage Component. Beginning on the effective date of a collective bargaining agreement, the PCA wage component is based on amounts established by the collective bargaining agreement.

(c) Employer Expense Component. The employer expense component is the sum of the employer mandated contribution for each statutorily required tax and benefit. Each mandated contribution amount is calculated by multiplying the PCA wage component by the percentage required by statute, regulation, or other official document. EOHHS issues specific rates in an administrative bulletin that lists rates in time increments that conform to the definitions of the procedure codes authorized for payment by the MassHealth agency. The employer expense component for mandated employer expenses is subject to audit and may be adjusted in accordance with provisions of the fiscal intermediary contract with the purchasing agency.

309.04: Filing and Reporting Requirements

(1) Cost Reporting Requirements. All providers must comply with the requirements of 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. The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 309.04(2).

309.05: Severability

The provisions of 101 CMR 309.00 are severable. If any provision of 101 CMR 309.00 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 309.00 or application of those provisions to applicable individuals, entities, or circumstances.

REGULATORY AUTHORITY

101 CMR 309.00: M.G.L. c. 118E.