

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 359.00: RATES FOR HOME AND COMMUNITY-BASED SERVICES WAIVERS

Section

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- 359.02: Definitions
- 359.03: Rate Provisions
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359.01: General Provisions

(1) Scope. 101 CMR 359.00 governs the payment rates, for services in four Home and Community-based Services (HCBS) Waivers purchased by a governmental unit. The four HCBS Waivers are: Acquired Brain Injury Non-residential Habilitation (ABI-N) Waiver, Acquired Brain Injury Residential Habilitation (ABI-RH) Waiver, Moving Forward Plan Community Living (MFP-CL) Waiver, and Moving Forward Plan Residential Supports (MFP-RS) Waiver. Listed in 101 CMR 359.01(1)(a) through (d) are the waiver services available in each waiver.

(a) ABI-N Waiver Services:

1. Adult Companion
2. Assistive Technology
3. Chore Services
4. Community-based Day Supports
5. Community Family Training
6. Community Support & Navigation
7. Day Services
8. Home Accessibility Adaptations
9. Home Delivered Meals
10. Home Health Aide
11. Homemaker
12. Independent Living Supports
13. Individual Support and Community Habilitation
14. Laundry
15. Occupational Therapy
16. Orientation and Mobility Services
17. Peer Support
18. Personal Care
19. Physical Therapy
20. Prevocational Services
21. Respite Services
22. Shared Home Supports
23. Skilled Nursing
24. Specialized Medical Equipment
25. Speech Therapy
26. Supported Employment

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- 27. Supportive Home Care Aide
- 28. Transitional Assistance
- 29. Vehicle Modification
- 30. Transportation

(b) ABI-RH Waiver Services:

- 1. Assisted Living Services
- 2. Assistive Technology
- 3. Community-based Day Supports
- 4. Community Support & Navigation
- 5. Day Services
- 6. Home Accessibility Adaptations (available only in Shared Living – 24-hour Supports)
- 7. Individual Support and Community Habilitation
- 8. Occupational Therapy
- 9. Orientation and Mobility Services
- 10. Peer Support
- 11. Physical Therapy
- 12. Prevocational Services
- 13. Residential Family Training
- 14. Residential Habilitation
- 15. Shared Living – 24-Hour Supports
- 16. Skilled Nursing
- 17. Specialized Medical Equipment
- 18. Speech Therapy
- 19. Supported Employment
- 20. Transitional Assistance
- 21. Transportation

(c) MFP-CL Waiver Services:

- 1. Adult Companion
- 2. Assistive Technology
- 3. Chore Services
- 4. Community-based Day Supports
- 5. Community Family Training
- 6. Community Support and Navigation
- 7. Day Services
- 8. Home Accessibility Adaptations
- 9. Home Delivered Meals
- 10. Home Health Aide
- 11. Homemaker
- 12. Independent Living Supports
- 13. Individual Support and Community Habilitation
- 14. Laundry
- 15. Occupational Therapy

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16. Orientation and Mobility Services
17. Peer Support
18. Personal Care
19. Physical Therapy
20. Prevocational Services
21. Respite Services
22. Shared Home Supports
23. Skilled Nursing
24. Specialized Medical Equipment
25. Speech Therapy
26. Supported Employment
27. Supportive Home Care Aide
28. Transportation
29. Transitional Assistance
30. Vehicle Modification
- (d) MFP-RS Waiver Services:
 1. Assisted Living Services
 2. Assistive Technology
 3. Community-based Day Supports
 4. Community Support and Navigation
 5. Day Services
 6. Home Accessibility Adaptations (available only in Shared Living – 24-hour Supports)
 7. Individual Support and Community Habilitation
 8. Occupational Therapy
 9. Orientation and Mobility Services
 10. Peer Support
 11. Physical Therapy
 12. Prevocational Services
 13. Residential Family Training
 14. Residential Habilitation
 15. Shared Living – 24-hour Supports
 16. Skilled Nursing
 17. Specialized Medical Equipment
 18. Speech Therapy
 19. Supported Employment
 20. Transitional Assistance
 21. Transportation

(2) Applicable Dates of Service. Rates contained in 101 CMR 359.00 apply for dates of service on and after July 1, 2023.

(3) Disclaimer of Authorization of Services. 101 CMR 359.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 359.00. Governmental units that purchase MFP Waiver Services and/or ABI Waiver Services are responsible for the definition, authorization, and approval of services extended to participants.

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(4) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 359.00.

(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 Healthcare Common Procedure Coding System (HCPCS) maintained by the Centers for Medicare and 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.

359.02: Definitions

As used in 101 CMR 359.00, unless the context requires otherwise, terms have the meanings in 101 CMR 359.02.

Acquired Brain Injury Home- and Community-based Service Waiver (ABI Waiver). Two Massachusetts home- and community-based services waivers approved by the Centers for Medicare and Medicaid Services (CMS) under Section 1915(c) of the Social Security Act for persons with acquired brain injury who are transitioning from long-stay facilities. The two separate ABI Waivers each with different covered services and eligibility requirements, are the Acquired Brain Injury with Residential Habilitation (ABI-RH) Waiver and the Acquired Brain Injury Non-residential Habilitation (ABI-N) Waiver.

Activities of Daily Living (ADL). Certain basic tasks required for daily living, including the ability to bathe, dress/undress, eat, toilet, transfer in and out of bed or chair, get around inside the home, and manage incontinence.

Adult Companion Service. Nonmedical care, supervision, and socialization provided to a participant. Companions may assist or supervise the participant with such light household tasks as meal preparation, laundry, and shopping.

Agency Rate. The fee for services performed by a person whose wage is paid by a corporation or partnership that is a MassHealth provider.

Assisted Living Services. Services consist of personal care and supportive services (homemaker, chore, personal care services, meal preparation) that are furnished to participants who reside in a qualified assisted living residence (ALR) that includes 24-hour on-site response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety, and security. Services may also include social and recreational programs, and medication assistance (consistent with ALR certification and to the extent permitted under State law). Nursing and skilled therapy services are incidental rather than integral to the provision of Assisted Living Services.

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Intermittent skilled nursing services and therapy services may be provided to the extent allowed by applicable regulations.

Assistive Technology. This service has two components: Assistive Technology devices and Assistive Technology evaluation and training. These components are defined as follows:

A) Assistive Technology devices – an item, piece of equipment, or product system that is used to develop, increase, maintain, or improve functional capabilities of participants, and to support the participant to achieve goals identified in their Plan of Care.

B) Assistive Technology evaluation and training – the evaluation of the Assistive Technology needs of the participant, i.e. functional evaluation of the impact of the provision of appropriate Assistive Technology devices and services to the participant in the customary environment of the participant; the selection, customization and acquisition of Assistive Technology devices for participants; selection, design, fitting, customization, adaption, maintenance, repair, and/or replacement of Assistive Technology devices; coordination and use of necessary therapies, interventions, or services with Assistive Technology devices that are associated with other services contained in the Plan of Care; training and technical assistance for the participant, and, where appropriate, the family members, guardians, advocates, or authorized representatives of the participant; and training or technical assistance for professionals or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of participants.

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

Chore. An unusual or infrequent household maintenance task that is needed to maintain the participant's home in a clean, sanitary, and safe environment. Chore includes heavy household chores such as washing floors, windows, and walls; tacking down loose rugs and tiles; and moving heavy items of furniture in order to provide safe access and egress.

Community-based Day Supports (CBDS). A service designed to enable an individual to enrich his or her life and enjoy a full range of community activities by providing opportunities for developing, enhancing, and maintaining competency in personal and social interactions and community engagement. Community-based Day Supports uses a small group model to provide a flexible array of individualized supports through activities primarily in non-center-based settings, separate from the participant's private residence or other residential living arrangement. The service may include career exploration, including assessment of interests through volunteer experiences or situational assessments; participant-driven experiences to support fuller participation in community life; development and support of activities of daily living and independent living skills, socialization experiences, and enhancement of interpersonal skills; and pursuit of personal interests and hobbies.

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Community Family Training. A service designed to provide training and instruction about the treatment regimes, behavior plans, and the use of specialized equipment that support a participant in the community. Community family training may also include training in family leadership, support of self-advocacy, and independence for the family member. The service enhances the skills of the family to assist the waiver participant to function in the community and at home.

Community Support and Navigation. A service that provides outreach and support services to enable participants to access and utilize clinical behavioral health treatment services and other supports. These services are staffed by paraprofessionals, supported by clinical supervision, and are designed to be maximally flexible in supporting participants to implement the goals in their plan of care and attain the skills and resources needed to successfully maintain community tenure. Such services may include:

- (a) Fostering empowerment, recovery, and wellness, including developing recovery strategies, identifying and assisting participants in accessing self-help options, and creating crisis prevention plans and relapse prevention plans;
- (b) Assisting participants in improving skills that enhance independence or accessing services to support them in enhancing independence;
- (c) Supporting service exploration and linkage;
- (d) Providing temporary assistance with transportation to essential medical and behavioral health appointments while transitioning to community-based transportation resources (*e.g.*, public transportation resources, PT-1 forms, *etc.*);
- (e) Assisting with connecting the participant to necessary behavioral health and other health care services (including, as applicable, supporting initial engagement with coordination provided by the participant's ACO or MCO);
- (f) Providing linkages to recovery-oriented peer supports and/or self-help supports and services;
- (g) Assisting with self-advocacy skills to improve communication and participation in treatment/service planning discussions and meetings; and
- (h) Collaborating with Emergency Services Programs/Mobile Crisis Intervention (ESP/MCIs) and/or outpatient providers, including working with ESP/MCIs to develop, revise, or utilize participant crisis prevention plans or safety plans.

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

Day Services. A structured, site-based, group program for participants that fosters community integration and offers assistance with the acquisition, retention, or improvement in self-help, socialization, and adaptive skills, and that takes place in a non-residential setting separate from the participant's private residence or other residential living arrangement. Services often include assistance to learn activities of daily living and functional skills; language and communication training; compensatory, cognitive and other strategies; interpersonal skills; prevocational skills; and recreational and socialization skills.

Employer Expense Component (EEC). The portion of the Self-directed Service rate that is designated for the mandated employer share of the Federal Insurance Contributions Act (FICA), federal and state unemployment taxes, Medicare, and Workers' Compensation premiums.

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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.

Home Accessibility Adaptations. Physical modifications to the participant's home that are necessary to ensure the health, welfare, and safety of the participant or that enable the participant to function with greater independence in the home.

Home and Community-based Services (HCBS) Waiver. A federally approved program operated under Section 1915(c) of the Social Security Act that authorizes the U.S. Secretary of Health and Human Services to grant waivers of certain Medicaid statutory requirements so that a state may furnish home and community-based services to certain Medicaid beneficiaries who need a level of care that is provided in a hospital, nursing facility, or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID). For purposes of 101 CMR 359.00, Home and Community-based Service Waiver refers to the two ABI waivers and the two MFP waivers.

Home Delivered Meals. Services to a participant which provides well-balanced meals and maintains optimal nutritional and health status. Home Delivered Meals service includes the preparation, packaging, and delivery of meals by trained and supervised staff.

Home Health Aide. A person who performs certain personal care and other health-related services as described in 130 CMR 403.000: *Home Health Agency*.

Homemaker. A person who performs light housekeeping duties (for example, cooking, cleaning, laundry, and shopping) for the purpose of maintaining a household.

Independent Living Supports. A service that ensures 24-hour seven days per week access to supportive services for participants who have intermittent, scheduled, and unscheduled needs for various forms of assistance, but who do not require 24-hour supervision. It provides participants with services and supports in a variety of activities such as: ADLs and instrumental activities of daily living (IADLs), support and companionship, emotional support, and socialization. This service is provided by a site-based provider, and is available to participants who choose to reside in locations where a critical mass of individuals reside who require such support and where providers of such supports are available.

Individual Consideration (I.C.). Payment rates for certain services are designated as Individual Consideration (I.C.). Where I.C. rates are designated, the purchasing governmental unit will determine the appropriate payment rate in accordance with the following standards and criteria:

- (a) the amount of time required to complete the service or item;
- (b) the degree of skill required to complete the service or item;
- (c) the severity or complexity of the service or item;

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- (d) the lowest price charged or accepted from any payer for the same or similar service or item, including, but not limited to any shelf price, sale price, advertised price, or other price reasonably obtained by a competitive market for the service or item; and
- (e) the established rates, policies, procedures, and practices of any other purchasing governmental unit in purchasing the same or similar services or items.

Individual Provider (Self-employed Provider) Rate. The fee for services performed by a person that is a provider and is not paid a wage by another person or entity for services performed.

Individual Support and Community Habilitation. Regular or intermittent services designed to develop, maintain, and/or maximize the participant's independent functioning in self-care, physical and emotional growth, socialization, communication, and vocational skills, to achieve objectives of improved health and welfare and to support the ability of the participant to establish and maintain a residence and live in the community.

Laundry. Services provided to a participant which includes pick up, washing, drying, folding, wrapping, and returning of laundry.

Moving Forward Plan Waivers (MFP Waivers). Two Massachusetts Home- and Community-based Services Waivers approved by the CMS under Section 1915(c) of the Social Security Act for persons with disabilities who are transitioning from long-stay facilities. Massachusetts operates two separate MFP Waivers – the Moving Forward Plan Residential Supports (MFP-RS) waiver, and the Moving Forward Plan Community Living (MFP-CL) waiver, each with different covered services and eligibility requirements.

Non-agency Rate. The fee for services performed by individual providers (self-employed providers) or self-directed workers.

Occupational Therapy. Therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of functions that affect the activities of daily living that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Occupational therapy programs are designed to improve quality of life by recovering competence and preventing further injury or disability, and to improve the individual's ability to perform tasks required for independent functioning, so that the individual can engage in activities of daily living.

Orientation and Mobility Services. Services that teach an individual with vision impairment or legal blindness how to move or travel safely and independently in his or her home and community, and which includes assessment, training and education provided to participants, environmental evaluations, caregiver/direct care staff training on sensitivity to blindness/low vision, and information resource on community living for persons with vision impairment or legal blindness. Orientation and mobility services are tailored to the individual's need and may extend beyond the home setting to other community settings as well as public transportation systems.

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Participant. A MassHealth member determined by the MassHealth agency to be eligible for enrollment in one of the HCBS waivers, who chooses to receive HCBS waiver services, and for whom a service plan has been developed that includes one or more HCBS waiver services.

Peer Support. Ongoing services and supports designed to assist participants to acquire, maintain, or improve the skills necessary to live in a community setting. This service provides supports necessary for the participant to develop the skills that enable them to become more independent, integrated into, and productive in their communities. The service enables the participant to retain or improve skills related to personal finance, health, shopping, use of community resources, community safety, and other adaptive skills needed to live in the community.

Personal Care. Services provided to a participant, which may include physical assistance, supervision, or cueing of participants, for the purpose of assisting the participant to accomplish activities of daily living (ADLs), including, but not limited to, eating, toileting, dressing, bathing, transferring, and ambulation.

Physical Therapy. Therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Physical therapy emphasizes a form of rehabilitation focused on treatment of dysfunctions involving neuromuscular, musculoskeletal, cardiovascular/pulmonary, or integumentary systems through the use of therapeutic interventions to optimize functioning levels.

Prevocational Services. A service that consists of a range of learning and experimental type activities that prepares a participant for paid or unpaid employment in an integrated, community setting. Services are not job-task oriented but instead, aimed at a generalized result (*e.g.*, attention span, motor skills). The service may include teaching such concepts as attendance, task completion, problem solving, and safety as well as social skills training, improving attention span, and developing or improving motor skills. Basic skill-building activities are expected to specifically involve strategies to enhance a participant's employability in integrated, community 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 or may be adopted by a purchasing governmental unit.

Reporting Year. The provider's fiscal year.

Residential Family Training. A service designed to provide training and instruction about treatment regimes, behavior plans, and the use of specialized equipment that supports the participant to participate in the community. Residential family training may also include training in family leadership, support of self-advocacy, and independence for their family member. The service enhances the skill of the family to assist the waiver participant to function in the community and at home when the waiver participant visits his or her family.

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Residential Habilitation Room and Board. The amount paid by a governmental unit purchasing residential habilitation services for the costs of building, maintenance, upkeep, improvements, and meals, which are not covered as part of the Residential Habilitation Waiver service.

Residential Habilitation Service. Ongoing services and supports provided to a participant in a provider-operated residential setting that are designed to assist participants in acquiring, maintaining, or improving the skills necessary to live in a community setting. Residential habilitation provides participants with daily staff intervention including care, supervision, and skills training in activities of daily living, home management, and community integration in a qualified residential setting with 24-hour staffing. This service may include the provision of medical and health-care services that are integral to meeting the daily needs of participants.

Respite. Services provided to individuals unable to care for themselves; furnished on a short-term basis because of the absence or need for relief of unpaid caregivers.

Self-directed Services. A model of service delivery in which a waiver participant has decision-making authority over certain aspects of the delivery of their care.

Self-directed Worker. Participants who choose to self-direct waiver services have the authority and responsibility for recruiting and hiring workers to provide their self-directed services. These workers are referred to as self-directed workers and are subject to the standards, requirements, policies, and procedures for such workers under the participant's Home and Community-based Services (HCBS) Waiver.

Shared Home Supports. An individually tailored supportive service that assists with the acquisition, retention, or improvement in skills related to living in the community. A participant is matched with a shared home supports caregiver. This arrangement is overseen by a residential support agency. Shared home supports do not include 24-hour care. Shared home supports include such supports as: adaptive skill development, assistance with ADLs and IADLs, adult educational supports, social and leisure skill development, and supervision.

Shared Living - 24-hour Supports. A residential option that matches a participant with a shared living caregiver. This arrangement is overseen by a residential support agency. Shared living is an individually tailored 24 hour/seven day per week, supportive service available to a participant who needs daily structure and supervision. Shared living includes supportive services that assist with the acquisition, retention, or improvement of skills related to living in the community. This includes such supports as: adaptive skill development, assistance with ADLs and IADLs, adult educational supports, social and leisure skill development, protective oversight, and supervision.

Skilled Nursing Services. The assessment, planning, provision, and evaluation of goal-oriented nursing care that requires specialized knowledge and skills acquired under the established curriculum of a school of nursing approved by a board of registration in nursing. Such services include only those services that require the skills of a nurse. Skilled nursing services are provided by a person licensed as a registered nurse or a licensed practical nurse by a state's board of registration in nursing.

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Specialized Medical Equipment and Supplies. Devices, controls, or appliances to increase abilities in activities of daily living, or to control or communicate with the environment.

Speech Therapy. Therapy services, including diagnostic evaluation and therapeutic intervention, that are designed to improve, develop, correct, rehabilitate, or prevent the worsening of speech/language communication and swallowing disorders that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Speech and language disorders are those that affect articulation of speech, sounds, fluency, voice, swallowing (regardless of presence of a communication disability), and those that impair comprehension, spoken, written, or other symbol systems used for communication.

Supported Employment. Regularly scheduled services that enable participants, through training and support, to work in integrated work settings in which individuals are working toward compensated work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals.

Supportive Home Care Aide. Services provided to participants with Alzheimer's/dementia or behavioral health needs to assist with ADLs and IADLs. These services include personal care, shopping, menu planning, meal preparation including special diets, laundry, light housekeeping, escort, and socialization/emotional support.

Transitional Assistance. Nonrecurring residential set-up expenses for participants who are transitioning from a nursing facility or hospital to a community living arrangement where the participant is directly responsible for his or her own set-up expenses. Allowable expenses are those that are necessary to enable a person to establish a basic household and do not constitute room and board.

Transportation Services. Conveyance of participants by vehicle from their residence to and from the site of HCBS waiver services and other community services, activities, and resources, including physical assistance to participants while entering and exiting the vehicle.

Vehicle Modification. Necessary adaptations or alterations to an automobile or van that is the waiver participant's primary means of transportation and that is not owned or leased by an entity providing services to the participant. Vehicle modifications are necessary when they are required to accommodate the special needs of the participant. Examples of vehicle modifications include: van lift, tie downs, ramp, specialized seating equipment, and seating/safety restraint.

Waiver Services. Home and community-based services that are covered in accordance with the requirements of 130 CMR 630.000: *Home and Community-based Services Waivers* for participants enrolled under an ABI or MFP waiver.

359.03: Rate Provisions

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- (1) Services Included in the Rate. The approved rate will include payment for all care and services that are part of the program of services of a provider, as explicitly set forth in the terms of the purchase agreement between the provider and the purchasing governmental unit(s).
- (2) Reimbursement as Full Payment. Each 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 for services included in the scope of 101 CMR 359.00 from any other source must be used to offset the amount of the purchasing governmental unit's obligation for services rendered to the participant.
- (3) Payment Limitations.
 - (a) No purchasing governmental unit may pay less than or more than the approved program rate, except that a participant contribution may be applied toward the residential habilitation room and board payment in accordance with policies and procedures established by the purchasing governmental unit.
 - (b) Where more than one payment rate is available for a covered service, the service is covered at the lowest available payment rate unless a higher rate is approved by the purchasing governmental unit, except as provided in 101 CMR 359.03(3)(c).
 - (c) Notwithstanding the requirement of 101 CMR 359.03(3)(b), payment rates for certain HCBS waiver services will be determined as follows.
 1. Residential Habilitation. Rates will be determined in the following manner.
 - a. Service Model Rate. The purchasing governmental unit will designate the applicable rate from among the basic lower intensity, basic, or intermediate categories, or at medical/clinical level 1, medical/clinical level 2, or medical/clinical level 3, as outlined and defined in 101 CMR 420.00: *Rates for Adult Long-term Residential Services*.
 - b. Room and Board. The purchasing governmental unit will designate the applicable rate for room and board from among the site rates outlined in 101 CMR 420.00: *Rates for Adult Long-term Residential Services*.
 2. Orientation and Mobility. Orientation and mobility rates will be determined based on one-way distance traveled to initiate the service in the following manner:
 - a. Level I: one to 30 miles;
 - b. Level II: 31 to 60 miles; and
 - c. Level III: over 60 miles.
 3. Shared Home Supports. The purchasing governmental unit will designate the applicable stipend rate at level 1, 2, or 3, as outlined and defined in 101 CMR 411.00: *Rates for Certain Placement, Support, and Shared Living Services*.
 4. Shared Living - 24 Hour Supports. Shared living – 24-hour support rates will be determined in the following manner.
 - a. Operational Rate. The purchasing governmental unit will designate the applicable rate from among the available operational rate levels as outlined and defined in 101 CMR 411.00: *Rates for Certain Placement, Support, and Shared Living Services*.
 - b. Stipend Rate. The purchasing governmental unit will designate the applicable rate from among the available stipend levels, corresponding to the designated operational rate level as outlined and defined in 101 CMR 411.00: *Rates for Certain Placement, Support, and Shared Living Services*.

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(4) Approved Rates.

The approved rate will be the lowest of the provider's charge or amount accepted as payment from another payer or the rate listed in 101 CMR 359.03(4).

Service	HCBS Waiver	Units	Agency Rate	Non-agency Rate	
				Individual Provider (Self-employed Provider)	Self-directed Service
Adult Companion	ABI-N, MFP-CL	Per 15 Min.	\$6.50	89.75% of Agency Rate	89.75% of Agency Rate
Assisted Living	ABI-RH, MFP-RS	<i>Per Diem</i>	\$112.02	N/A	N/A
Assistive Technology - devices	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per Device	I.C.	N/A	N/A
Assistive Technology - evaluation and training	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per 15 Min.	<i>See 101 CMR 423.00 Rates for Certain In-Home Basic Living Supports</i>		
Chore	ABI-N, MFP-CL	Per 15 Min.	\$10.13	89.75% of Agency Rate	89.75% of Agency Rate
Community-based Day Supports	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per 15 Min.	<i>See 101 CMR 415.00: Rates for Community-based Day Support Services; Levels A, B, C, & I</i>	N/A	N/A
Community Support and Navigation	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per 15 Min.	<i>See 101 CMR 444.00: Rates for Certain Substance Use Disorder Services: Recovery</i>	N/A	N/A

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Service	HCBS Waiver	Units	Agency Rate	Non-agency Rate	
				Individual Provider (Self-employed Provider)	Self-directed Service
			Support Navigator Service		
Community Family Training	ABI-N, MFP-CL	Per 15 Min.	See 101 CMR 414.00: Rates for Family Stabilization Services (Family Training rate divided by 4 to determine rate per 15-minute increments)	89.75% of Agency Rate	N/A
Day Services	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per Diem	\$115.72	N/A	N/A
Day Services – partial per diem	ABI-N, ABI-RH, MFP-CL, MFP-RS	Partial Per Diem	\$57.86	N/A	N/A
Home Accessibility Adaptations	ABI-N, ABI-RH, MFP-CL, MFP-RS	Item	I.C.	N/A	N/A
Home Delivered Meals	ABI-N, MFP-CL	Meal	\$10	N/A	N/A
Home Health Aide	ABI-N, MFP-CL	Per 15 Min.	See 101 CMR 350.00: Home Health Services	N/A	N/A
Homemaker	ABI-N, MFP-CL	Per 15 Min.	\$8.22	89.75% of Agency Rate	89.75% of Agency Rate
Independent Living Supports	ABI-N, MFP-CL	Per Diem	\$88.02	N/A	N/A

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Service	HCBS Waiver	Units	Agency Rate	Non-agency Rate	
				Individual Provider (Self-employed Provider)	Self-directed Service
Individual Support and Community Habilitation	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per 15 Min.	<i>See 101 CMR 423.00: Rates for Certain In-Home Basic Living Supports; Levels G-H & I</i>	89.69% of Agency Rate	89.69% of Agency Rate
Laundry	ABI-N, MFP-CL	Per Order	\$30.17	N/A	N/A
Occupational Therapy	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per Visit	<i>See 101 CMR 350.00: Home Health Services</i>	<i>See 101 CMR 339.00: Restorative Services (out-of-office visit rate)</i>	N/A
Orientation and Mobility Services	MFP-CL, MFP-RS	Per 15 Min	Level I: \$33.58 Level II: \$37.12 Level III: \$40.66	Level I: \$33.58 Level II: \$37.12 Level III: \$40.66	N/A
Peer Support	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per 15 Min.	<i>See 101 CMR 414.00: Rates for Family Stabilization Services (rate divided by 4 to determine rate per 15-minute increments)</i>	89.75% of Agency Rate	89.75% of Agency Rate
Personal Care	ABI-N, MFP-CL	Per 15 Min.	\$8.22	<i>See 101 CMR 309.00: Rates for Certain Services for the Personal Care Attendant Program</i>	<i>See 101 CMR 309.00: Rates for Certain Services for the Personal Care Attendant Program</i>

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Service	HCBS Waiver	Units	Agency Rate	Non-agency Rate	
				Individual Provider (Self-employed Provider)	Self-directed Service
Physical Therapy	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per Visit	See 101 CMR 350.00: <i>Home Health Services</i>	See 101 CMR 339.00: <i>Restorative Services</i> (out-of-office visit rate)	N/A
Prevocational Services	ABI-N, ABI-RH, MFP-CL, MFP- RS	Per 15 Min.	See 101 CMR 419.00: <i>Rates for Supported Employment Services</i> (rate for Individual Supported Employment)	N/A	N/A
Residential Family Training	ABI-RH, MFP-RS	Per 15 Min.	See 101 CMR 414.00: <i>Rates for Family Stabilization Services</i> (Family Training rate divided by 4 to determine rate per 15-minute increments)	89.75% of Agency Rate	N/A
Residential Habilitation Room and Board	ABI-RH, MFP-RS	<i>Per Diem</i>	See 101 CMR 420.00: <i>Rates for Adult Long-term Residential Services</i> (Site Rates)	N/A	N/A
Residential Habilitation Services	ABI-RH, MFP-RS	<i>Per Diem</i>	See 101 CMR 420.00: <i>Rates for Adult Long-term Residential Services</i> (Basic Lower Intensity, Basic, or Intermediate categories,	N/A	N/A

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Service	HCBS Waiver	Units	Agency Rate	Non-agency Rate	
				Individual Provider (Self-employed Provider)	Self-directed Service
			Medical/Clinical Level 1, Medical/Clinical Level 2, or Medical/Clinical Level 3		
Respite	ABI-N, MFP-CL	<i>Per Diem</i>	I.C.	N/A	N/A
Shared Home Supports	ABI-N, MFP-CL	<i>Per Diem</i>	<i>See 101 CMR 411.00: Rates for Certain Placement, Support, and Shared Living Services (Operational Rate Level A, Stipend Levels 1, 2, or 3)</i>	N/A	N/A
Shared Living – 24 Hour Supports	ABI-RH, MFP-RS	<i>Per Diem</i>	<i>See 101 CMR 411.00: Rates for Certain Placement, Support, and Shared Living Services</i>	N/A	N/A
Skilled Nursing – LPN	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per Visit	<i>See 101 CMR 350.00: Home Health Services (Rates for Skilled Nursing Services)</i>	N/A	N/A
Skilled Nursing – RN	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per Visit	<i>See 101 CMR 350.00: Home Health Services (Rates for Skilled Nursing Services)</i>	N/A	N/A

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Service	HCBS Waiver	Units	Agency Rate	Non-agency Rate	
				Individual Provider (Self-employed Provider)	Self-directed Service
Specialized Medical Equipment	ABI-N, ABI-RH, MFP-CL, MFP-RS	Item	See 101 CMR 322.00: <i>Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment</i>	See 101 CMR 322.00: <i>Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment</i>	N/A
Speech Therapy	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per Visit	See 101 CMR 350.00: <i>Home Health Services</i>	See 101 CMR 339.00: <i>Restorative Services</i> (out-of-office visit rate)	N/A
Supported Employment	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per 15 Min.	See 101 CMR 419.00: <i>Rates for Supported Employment Services</i> (rate for Individual Supported Employment)	N/A	N/A
Supportive Home Care Aide	ABI-N, MFP-CL	Per 15 Min.	See 101 CMR 350.00: <i>Home Health Services</i> (13.12% above the rate for Home Health Aide)	N/A	N/A
Transitional Assistance	ABI-N, ABI-RH, MFP-CL, MFP-RS	Per Episode	I.C.	N/A	N/A
Transportation	ABI-N, ABI-RH, MFP-CL, MFP-RS	One-way Trip	See 101 CMR 327.00: <i>Rates of Payment for Ambulance and</i>	N/A	N/A

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Service	HCBS Waiver	Units	Agency Rate	Non-agency Rate	
				Individual Provider (Self-employed Provider)	Self-directed Service
			<i>Wheelchair Van Services</i>		
Vehicle Modification	ABI-N, MFP-CL	Item	I.C.	N/A	N/A

(5) Self-directed Service Rates.

(a) Employer Expense Component. The rates for self-directed services consist of two components: the self-directed worker rate and the employer expense component (EEC). The list in 101 CMR 359.03(5)(a) identifies the self-directed worker rates and EEC for self-directed service rates.

Service	Unit	Self-directed Worker Rate	Employer Expense Component	Self-directed Service Rate
Adult Companion	Per 15 Min.	\$5.23	\$0.60	\$5.83
Chore	Per 15 Min.	\$8.16	\$0.93	\$9.09
Homemaker	Per 15 Min.	\$6.63	\$0.75	\$7.38
Individual Supports and Community Habilitation: Level G	Per 15 Min.	\$9.32	\$1.06	\$10.38
Individual Supports and Community Habilitation: Level H	Per 15 Min.	\$10.04	\$1.14	\$11.18
Individual Supports and Community Habilitation: Level I	Per 15 Min.	\$12.27	\$1.40	\$13.67

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Service	Unit	Self-directed Worker Rate	Employer Expense Component	Self-directed Service Rate
Peer Support	Per 15 Min.	\$6.32	\$0.72	\$7.04
Personal Care	Per 15 Min.	<i>See 101 CMR 309.00: Rates for Certain Services for the Personal Care Attendant Program (rate divided by four to determine rate per 15-minute increments)</i>		

(b) Overtime Calculation. Overtime payments for self-directed services will be made in accordance with the federal Fair Labor Standards Act. Such payments will be made to self-directed workers at rate of one and a half times that of the rate for the service or services provided. For self-directed workers that provide services paid at different rates, such overtime rate will consist of the blended weighted rate based on the number of hours for which each service was provided during a single work week. For the purposes of 101 CMR 359.03(5)(b), the term overtime will mean self-directed services provided to one or more participants in excess of 40 hours per work week, where work week consists of a seven-day period beginning Sunday at 12:00 A.M. and ending the consecutive Saturday at 11:59 P.M.

(6) Approved Modifiers. The approved modifiers for all four HCBS Waiver programs are as follows.

(a) Modifier Classification. The classification descriptions for modifiers associated with both the ABI and MFP Waivers are as follows.

Modifier	Description
U1	Agency Provider
U2	Individual/ Self-employed Provider
U4	ABI Non-residential Habitation (ABI-N) Waiver
U5	ABI Residential Habitation (ABI-RH) Waiver
U8	MFP Community Living (MFP-CL) Waiver
U9	MFP Residential Supports (MFP-RS) Waiver
UB	Self-directed Service

(b) Service Codes and Modifiers by Service. The list of approved service codes and modifiers for all four ABI and MFP Waivers are as follows.

Service	Agency			Individual Provider (Self-employed Provider)			Self-directed Service		
	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier
Adult Companion	-	-	-	S5125	U4	-	S5125	U4	UB
	-	-	-	S5125	U8	-	S5125	U8	UB

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Service	Agency			Individual Provider (Self-employed Provider)			Self-directed Service		
	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier
	S5135	U4	-	-	-	-	-	-	-
	S5135	U8	-	-	-	-	-	-	-
Assisted Living	T2031	U5	-	-	-	-	-	-	-
	T2031	U9	-	-	-	-	-	-	-
Assistive Technology - devices	T2029	U4		-	-	-	-	-	-
	T2029	U5		-	-	-	-	-	-
	T2029	U8		-	-	-	-	-	-
	T2029	U9		-	-	-	-	-	-
Assistive Technology – evaluation and training	97755	U4							
	97755	U5							
	97755	U8							
	97755	U9							
Chore Services	S5120	U4	U1	S5120	U4	U2	S5120	U4	UB
	S5120	U8	U1	S5120	U8	U2	S5120	U8	UB
Community- based Day Supports	S5100	U4		-	-	-	-	-	-
	S5100	U4	U1	-	-	-	-	-	-
	S5100	U4	U2	-	-	-	-	-	-
	S5100	U4	U3						
	S5100	U5	-	-	-	-	-	-	-
	S5100	U5	U1						
	S5100	U5	U2	-	-	-	-	-	-
	S5100	U5	U3	-	-	-	-	-	-
	S5100	U8	-	-	-	-	-	-	-
	S5100	U8	U1	-	-	-	-	-	-
	S5100	U8	U2	-	-	-	-	-	-
	S5100	U8	U3						
	S5100	U9	-	-	-	-	-	-	-
	S5100	U9	U1						
	S5100	U9	U2	-	-	-	-	-	-
	S5100	U9	U3	-	-	-	-	-	-
Community Support and Navigation	H2015	U4	-	-	-	-	-	-	-
	H2015	U5	-	-	-	-	-	-	-
	H2015	U8	-	-	-	-	-	-	-
	H2015	U9	-	-	-	-	-	-	-

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Service	Agency			Individual Provider (Self-employed Provider)			Self-directed Service		
	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier
Community Family Training	S5110	U4	U1	S5110	U4	U2			
	S5110	U8	U1	S5110	U8	U2	-	-	-
Day Services	S5102	U4		-	-	-	-	-	-
	S5102	U5		-	-	-	-	-	-
	S5102	U8		-	-	-	-	-	-
	S5102	U9		-	-	-	-	-	-
Day Services – partial per diem	S5101	U4							
	S5101	U5							
	S5101	U8							
	S5101	U9							
Home Accessibility Adaptations	S5165	U4	-	-	-	-	-	-	-
	S5165	U5	-	-	-	-	-	-	-
	S5165	U8	-	S5165	U8	-	-	-	-
	S5165	U9	-	S5165	U9	-	-	-	-
Home Delivered Meals	S5170	U4	-	-	-	-	-	-	-
	S5170	U8	-	-	-	-	-	-	-
Homemaker	S5130	U4	U1	S5130	U4	U2	S5130	U4	UB
	S5130	U8	U1	S5130	U8	U2	S5130	U8	UB
Home Health Aide	G0156	U4	-	-	-	-	-	-	-
	G0156	U8	-	-	-	-	-	-	-
Independent Living Supports	H0043	U4	-	-	-	-	-	-	-
	H0043	U8	-	-	-	-	-	-	-
Individual Support and Community Habilitation (Individual Provider/Self- directed Worker)	-	-	-	H2014	U4	U1, U2, U3-	H2014	U4	U1,UB U2, UB U3, UB
	-	-	-	H2014	U8	U1, U2, U3-	H2014	U8	U1, UB U2, UB U3, UB
	-	-	-	H2014	U9	U1, U2, U3-	H2014	U9	U1,UB U2, UB U3,UB
Individual Support &	S5108	U4	U1,U2, U3-	-	-	-	-	-	-

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Service	Agency			Individual Provider (Self-employed Provider)			Self-directed Service		
	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier
Community Habilitation (Agency)	S5108	U8	-U1, U2, U3	-	-	-	-	-	-
	S5108	U9	-U1,U2 U3	-	-	-	-	-	-
Laundry	S5175	U4	-	-	-	-	-	-	-
	S5175	U8	-	-	-	-	-	-	-
Occupational Therapy	S9129	U4	U1	S9129	U4	U2	-	-	-
	S9129	U5	U1	S9129	U5	U2	-	-	-
	S9129	U8	U1	S9129	U8	U2	-	-	-
	S9129	U9	U1	S9129	U9	U2	-	-	-
Orientation and Mobility Services	H2021	U4	U1, U2, U3	H2021	U4	U1, U2, U3			
	H2021	U5	U1, U2, U3	H2021	U5	U1, U2, U3			
	H2021	U8	U1, U2, U3	H2021	U8	U1, U2, U3	-	-	-
	H2021	U9	U1, U2, U3	H2021	U9	U1, U2, U3	-	-	-
Peer Support	H0038	U4	U1	H0038	U4	U2	H0038	U4	UB
	H0038	U5	U1	H0038	U5	U2	H0038	U5	UB
	H0038	U8	U1	H0038	U8	U2	H0038	U8	UB
	H0038	U9	U1	H0038	U9	U2	H0038	U9	UB
Personal Care	T1019	U4	U1	T1019	U4	U2	T1019	U4	-UB
	T1019	U8	U1	T1019	U8	U2	T1019	U8	UB
Physical Therapy	S9131	U4	U1	S9131	U4	U2	-	-	-
	S9131	U5	U1	S9131	U5	U2	-	-	-
	S9131	U8	U1	S9131	U8	U2	-	-	-
	S9131	U9	U1	S9131	U9	U2	-	-	-
Prevocational Services	T2019	U4							
	T2019	U5							
	T2019	U8	-	-	-	-	-	-	-
	T2019	U9	-	-	-	-	-	-	-

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	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier
Residential Family Training	S5110	U5	U1	S5110	U5	U2			
	S5110	U9	U1	S5110	U9	U2	-	-	-
Residential Habilitation	T2016	U5	-	-	-	-	-	-	-
	T2016	U9	-	-	-	-	-	-	-
Respite	H0045	U4	-	-	-	-	-	-	-
	H0045	U8	-	-	-	-	-	-	-
Shared Home Supports	H2016	U4	U1						
	H2016	U4	U2						
	H2016	U4	U3						
	H2016	U8	U1	-	-	-	-	-	-
	H2016	U8	U2	-	-	-	-	-	-
	H2016	U8	U3	-	-	-	-	-	-
Shared Living- 24-Hour Supports	T2033	U5	-	-	-	-	-	-	-
	T2033	U9	-	-	-	-	-	-	-
Skilled Nursing - RN	G0299	U4							
	G0299	U5							
	G0299	U8	-	-	-	-	-	-	-
	G0299	U9	-	-	-	-	-	-	-
Skilled Nursing - LPN	G0300	U4							
	G0300	U5							
	G0300	U8	-	-	-	-	-	-	-
	G0300	U9	-	-	-	-	-	-	-
Specialized Medical Equipment	T2029	U4	-	T2029	U4	-	-	-	-
	T2029	U5	-	T2029	U5	-	-	-	-
	T2029	U8	-	-	-	-	-	-	-
	T2029	U9	-	-	-	-	-	-	-
Speech Therapy	S9128	U4	U1	S9128	U4	U2	-	-	-
	S9128	U5	U1	S9128	U5	U2	-	-	-
	S9128	U8	U1	S9128	U8	U2	-	-	-
	S9128	U9	U1	S9128	U9	U2	-	-	-
	H2023	U4	-	-	-	-	-	-	-

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Service	Agency			Individual Provider (Self-employed Provider)			Self-directed Service		
	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier	Code	1st Position Modifier	2nd Position Modifier
Supported Employment	H2023	U5	-	-	-	-	-	-	-
	H2023	U8	-	-	-	-	-	-	-
	H2023	U9	-	-	-	-	-	-	-
Supportive Home Care Aide	T1004	U4							
	T1004	U8	-	-	-	-	-	-	-
Transportation	T2003	U4	-	-	-	-	-	-	-
	T2003	U5	-	-	-	-	-	-	-
	T2003	U8	-	-	-	-	-	-	-
	T2003	U9	-	-	-	-	-	-	-
Transitional Assistance	T2038	U4	-	-	-	-	-	-	-
	T2038	U5	-	-	-	-	-	-	-
	T2038	U8	-	-	-	-	-	-	-
	T2038	U9	-	-	-	-	-	-	-
Vehicle Modification	T2039	U4							
	T2039	U8	-	-	-	-	-	-	-

359.04: Filing and Reporting Requirements

(1) General Provisions. Providers must satisfy the applicable reporting requirements of 957 CMR 6:00: *Cost Reporting Requirements*, and 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*.

(2) Penalty for Noncompliance. The purchasing governmental unit may impose a penalty in the amount of up to 15% for 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 359.04(2).

359.05: Severability

The provisions of 101 CMR 359.00 are severable. If any provision of 101 CMR 359.00 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 359.00 or application of such provisions to eligible providers or fiscal intermediaries in circumstances other than those held invalid.

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REGULATORY AUTHORITY

101 CMR 359.00: M.G.L. c. 118E.