

Testimony on Amendments to 130 CMR 438.000
Continuous Skilled Nursing Agency
Effective date: September 15, 2026
April 27, 2026

Introduction

Good morning. My name is Annie Kazarnovksy, and I am the Program Manager of Continuous Skilled Nursing Services, Office of Long Term Services and Supports, at the Executive Office of Health and Human Services (EOHHS). I am here to present staff testimony on the proposed amendments to regulation 130 CMR 438.000: *Continuous Skilled Nursing Agency*. The proposed regulation is planned to go into effect no sooner than September 15, 2026.

Background

Regulation 130 CMR 438.000 governs MassHealth agency providers of continuous skilled nursing (CSN) agency services and provides program requirements and conditions of payment for the provision of CSN agency services to MassHealth members.

Description of Proposed Amendments

The following amendments are proposed for 130 CMR 438.000:

1. Updating the definition for supervision of complex care assistant (CCA) services, to allow licensed practical nurses (LPNs) to supervise CCAs in addition to registered nurses (RNs).
2. Updating provider eligibility requirements under 438.404 to allow agencies to be accredited as providers of home care services by the Community Health Accreditation Partner; requiring agencies to maintain professional liability insurance; and requiring agencies to notify the MassHealth agency, its designee, and MassHealth members 60 days in advance of an agency's scope of business or services changing.
3. Adding requirements for CSN training time under 438.410(H) and 438.419(I).
4. Updating 438.411(F) to allow unused hours of complex care assistant services to be used at any time during the remainder of the prior authorization period.
5. Updating 438.411(I) to allow for temporary increases to CSN services when the primary natural caregiver is required to be away from the MassHealth member for an extended period, at the discretion of the MassHealth agency.
6. Requiring agencies to have policies and procedures for the prevention of workplace fatigue for direct-care nursing staff under 438.415 A(2)(k).
7. Clarifying 438.415(B) to specify that teaching activities are established in the plan of care.
8. Updating references to supervision of CCA services to refer to the CCA supervisor rather than the RN supervisor, under 438.415(C)(5).
9. Amending 438.415(C)(5) to remove the biweekly supervisory visit, no longer require the CCA to be present for the 60-day supervisory visit, and to add requirements for the 12-month evaluation of the CCA.

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10. Updating 438.415(D)(3)(14) to include a discharge summary, if applicable, in the member record.
11. Clarifying that agencies must provide a copy of the medical record free of charge to the person or entity that the member or member's representative designates, under 438.415(D)(5).
12. Updating requirements for verbal orders under 438.416(E) to clarify that for verbal orders, the physician or ordering non-physician practitioner must sign the plan of care either before the claim is submitted or within 60 days after a claim is submitted.
13. Clarifying reasons an agency may discharge a MassHealth member under 438.418(A).
14. Specifying that a CSN agency may not discharge a member under 438.418(C) in violation of any discrimination provisions established in state or federal law.
15. Establishing specific discharge and care coordination requirements when a CSN agency ceases operations under 438.418(A)(4).
16. Adding requirements for agencies that, when discharging a MassHealth member, are unable to transfer the member to another CSN provider under 438.418(B).
17. Establishing requirements for agencies to be reimbursed for CCA intake visits under 438.411(E) and 438.419(H), which were previously made allowable through a provider bulletin.

The proposed regulation is planned to go into effect no sooner than September 15, 2026.

This concludes my testimony.

Thank you.