

Introduction

Good afternoon. My name is Jimmy Kaduboski, and I am the Director of Special Projects on the MassHealth finance team, at the Executive Office of Health and Human Services (EOHHS). I am here to present staff testimony on the emergency adoption of 101 CMR 515.00: *Managed Care Organization Services Payor Assessment*. This regulation was filed as an emergency and became effective February 26, 2025.

Background

Massachusetts assesses a federally approved healthcare-related tax on all non-Medicare managed care organization services rendered in Massachusetts, pursuant to M.G.L. chapter 118E, section 68, as amended by the fiscal year 2025 budget bill enacted into law as chapter 140 of the Acts of 2024. EOHHS is promulgating regulations at 101 CMR 515.00 to govern this new managed care organization services payor assessment and to set out the assessment rates, assessment base, and assessed groups.

Pursuant to the fiscal year 2025 budget, the statutory changes to M.G.L. chapter 118E, section 68, would take effect if EOHHS obtained the necessary federal approvals from the Centers for Medicare and Medicaid Services (CMS) for the new managed care organization services payor assessment. EOHHS obtained such approval from CMS, effective January 1, 2025. Therefore, EOHHS is implementing the new assessment structure beginning calendar year 2025.

The regulation is being promulgated on an emergency basis to align with the state statutory requirements and the recent federal approval of the managed care organization services payor assessment structure. It will ensure that EOHHS has necessary regulatory basis to implement and enforce the state law enacted through the Massachusetts Fiscal Year 2025 (FY25) Budget.

Proposed Regulation

The proposed emergency regulation does the following.

- The regulation establishes definitions applicable to the implementation of the managed care organization services payor assessment. Terms defined in the proposed regulation

include, but are not limited to, “managed care organization,” “assessed services,” “indemnity plan,” and “total assessment amount.”

- The regulation specifies, in the definition of “assessed services,” that the assessment is applied to all claims paid by managed care organizations for healthcare services rendered in Massachusetts and also delineates specific exclusions from the definition of “assessed services.” The services listed as specific exclusions are not subject to the assessment.
- The regulation creates three assessment groups, including
 - One: Commercial MCO services;
 - Two: Medicaid MCO services rendered by entities with annual revenue less than or equal to \$2M; and
 - Three: Medicaid MCO services rendered by entities with annual revenue greater than \$2M.
- The regulation sets out the initial assessment rates for each group, applicable for calendar year 2025, and establishes the process EOHHS will use to update the rates, as necessary.
 - This process will ensure rates are updated in a manner consistent with federal healthcare-related tax requirements.
 - Rate updates will include annual updates via sub-regulatory written issuance and may also include rate amendments during an assessment year, if EOHHS determines such updates are necessary to adjust for projected over- or under-collections.
- The regulations also specify that managed care organization services payors are subject to certain reporting requirements and provide EOHHS to establish the specific reporting requirements through sub-regulatory written issuance.
- The regulation establishes specific enforcement mechanisms for situations where managed care organization services payors are delinquent in paying the assessment liability. These specific enforcement mechanisms enable EOHHS to:
 - Report the delinquent entity to the Department of Insurance, and such delinquency may be considered in the entity’s next licensure review;
 - Establish a lien on the delinquent entity’s real property; or

- Enforce through any other mechanism permitted by law.
- Finally, the regulation specifies that the statutory change enacted through the FY25 budget repealed certain surcharges previously collected from payors.

The managed care organization services payor assessment is expected to generate approximately \$625,300,000 in revenue for the Commonwealth in calendar year 2025. The annual new revenue will be used to reinvest in MassHealth managed care organizations and fund important public health and safety net initiatives, including childhood vaccine purchases through the Department of Public Health, the Massachusetts Child Psychiatry Access Program, community behavioral health crisis system in Massachusetts, and the Health Safety Net Office. Further, it will fund a portion of the Health Policy Commission's and the Center for Health Information and Analysis's budgets.

The proposed regulation is in accordance with M.G.L. chapter 118E, section 68, as amended by the fiscal year 2025 budget. Further, the assessment rates and assessment group structure has been approved by CMS under 42 CFR 433.68.

Fiscal Impact

As stated earlier, the new managed care organization services payor assessment, implemented through new regulations at 101 CMR 515.00, is expected to generate \$625,300,000 in calendar year 2025. The increased investment in MassHealth, including in MassHealth managed care organization payments enabled by this new revenue will also result in increased federal financial participation for the state.

Comments Received

The public comment period for this proposed emergency regulation opened on March 3, 2025, upon the publication of the Notice of Public Hearing on the Mass.gov webpage for EOHHS public hearings. Since that time, EOHHS has received questions and comments regarding the regulations, some of which were sent directly to staff emails. EOHHS considers these communications to be public comments submitted for consideration in response to the regulation public notice. These comments will be considered as EOHHS completes its summary of

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Managed Care Organization Services Payor Assessment
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testimony and considers all comments prior to finalizing the regulation. The public comment period remains open until 5 p.m. tonight, March 24, 2025.