

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 101 CMR 361.00: *Rates for Continuous Skilled Nursing Agency and Independent Nursing Services*. The proposed effective date of the amended regulation is for dates of service on or after August 16, 2024.

Background

Regulation 101 CMR 361.00 establishes rates for continuous skilled nursing (CSN) services, which are defined as skilled nursing care provided in a home-based setting by a licensed nurse to MassHealth members who require more than two continuous hours of nursing services per day.

Description of Proposed Amendments

The proposed amendments to 101 CMR 361.00 include updated rates for CSN services. The methodology for developing the weekday single patient rates for both agency and independent registered nurse (RN) and licensed practical nurse (LPN) services entails a multistep analysis, as described below. Using weekday single patient rates as the base rates, the remaining corresponding rates for night, holiday, overtime, and multipatient services are calculated using the percent differences in the respective current rates. This is explained in greater detail later in the testimony.

Develop Weekday Single Patient Rates:

1. Rebase wage component to Massachusetts 2022 Bureau of Labor Statistics wages:

EOHHS proposes to rebase all CSN RN and LPN weekday single patient rates to the average of the Massachusetts 2022 Bureau of Labor Statistics (BLS) 50th and 75th percentile wages. These averages for RNs and LPNs are representative of RN and LPN wages throughout the nursing workforce.

However, the average for LPNs would also result in a rate lower than the current LPN weekday single patient rate established in 101 CMR 361.00. To account for the high level of skills required for LPNs providing CSN services, EOHHS proposes to add a further 15% increase to the calculated average of the 2022 BLS 50th and 75th percentile LPN wages.

2. Increase base wages to align with recent hospital nurse bargaining agreement:

EOHHS proposes to further increase the calculated RN and LPN base wages by 13% to align with the hospital nursing salary increases recently negotiated in a bargaining unit agreement, which became effective at the end of calendar year 2023.

3. Apply a fringe benefit markup:

EOHHS proposes to add a fringe benefit markup of 14.94% to the agency rates calculated in step 2. This markup is calculated by dividing the sum of fringe benefits by direct care staff expenses as reported on the FY2022 Nursing Services Cost Report (NSR) for each individual agency and determining the median quotient across all agencies.

4. Apply administrative markups:

EOHHS proposes to add administrative markups of 26.74% and 20.06% to the CSN agency rates and independent nurse rates, respectively, calculated in step 3. The agency administrative markup was calculated by dividing indirect care expenses by total direct and indirect care expenses reported on the FY2022 NSR for each individual agency and finding the median quotient across all agencies. The independent nurse markup of 20.06% was calculated by taking 75% of the agency markup.

5. Apply a prospective cost adjustment factor:

EOHHS proposes to further apply a prospective cost adjustment factor (CAF) of 2.73%. The CAF is calculated with a base period of quarter 2 of calendar year 2024 and a prospective two-year rate period of quarter 3 of calendar year 2024 through quarter 2 of calendar year 2026 using the Spring 2023 Massachusetts Consumer Price Index (CPI) optimistic forecast provided by IHS Markit Economics.

Establish Rates for Night, Holiday, Overtime, and Multipatient Services:

The steps and components outlined above describe the methodology for calculating the weekday single patient rates for both agency and independent RN and LPN services. Using these as the base rates, all other corresponding remaining rates for night, holiday, overtime, and multipatient services are calculated using the percent differences in the respective current rates. The differentials are specific as to whether the service is

provided by an RN or LPN and whether that provider is an independent nurse or is employed or contracted by a CSN agency. For example, the proposed agency weekday rate for two-patient services provided by an RN is calculated by increasing the proposed agency weekday single patient rate for RNs by the percent difference in the current rates for the two service types. The same methodology is applied to develop the proposed weekday rates for three patients and overtime services for LPN and independent nurses, relative to the proposed agency weekday single patient rate for RN.

Similarly, the proposed agency night rate for single-patient services provided by an RN is developed by calculating the median percent difference between the current agency weekday single patient RN rate and agency night single patient RN rate across single, two, three, and overtime patients and increasing the proposed agency weekday single patient rate for the RN by the median percent difference. The proposed holiday rate for single-patient services provided by an RN is developed using the same calculations, but using the current holiday rates for the service categories. The same methodology is applied to develop the proposed night and holiday rates for all other service types.

The rate for the 60-day supervisory RN visit, code T1002 with modifier U5, is proposed to be set at the same proposed rate as the agency single patient RN weekday visit. The rate for complex care assistant visit services, code T1004, is proposed to remain at its current level.

Establish a “High-Tech” Add-On:

In addition, EOHHS proposes to establish an add-on rate of \$2 per 15 minutes, or \$8 per hour, for nurses who render CSN services to certain eligible members requiring high technology (“high-tech”) nursing interventions related to medically necessary tracheotomy, ventilator, and/or central line care. The add-on rate was determined by reviewing recently collected data on Massachusetts hospital nurse salaries to ensure that the proposed add-on would allow agencies to pay eligible nurses a salary that is more closely aligned with hospital nurse salaries. The proposed add-on rate will be added to the applicable agency and independent nurse base rates, and providers will need to apply an appropriate modifier to the parent code when billing, as specified in 101 CMR 361.00 and Subchapter 6: *Service Codes and Descriptions* within the *CSN Agency Manual*.

Testimony on Amendments to 101 CMR 361.00
Rates for Continuous Skilled Nursing Services
Effective date: August 16, 2024
March 8, 2024

The proposed amendments presented above are in accordance with M.G.L. Chapter 118E, Section 13C, which requires that rates established by EOHHS for health care services be “adequate to meet the costs incurred by efficiently and economically operated facilities providing care and services in conformity with applicable state and federal laws and regulations and quality and safety standards and which are within the financial capacity of the commonwealth.”

Fiscal Impact

The estimated aggregate annual fiscal impact of the proposed amendments is \$38.8 million, which is a 32.2% increase over FY2023 base spending of \$120.5 million.

This concludes my testimony.

Thank you.