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450.101 : Definitions

A number of common words and expressions are specifically defined here. Whenever one of them is used in 130 CMR 450.000, or in a provider contract, it will have the meaning given in the definition, unless the context clearly requires a different meaning. When appropriate, definitions may include a reference to federal and state laws and regulations.

Accountable Care Organization (ACO) – an entity that enters into a population-based payment model contract with EOHHS as an accountable care organization, wherein the entity is held financially accountable for the cost and quality of care for an attributed or enrolled member population. ACOs include Accountable Care Partnership Plans, Primary Care ACOs, and MCO-administered ACOs.

Accountable Care Partnership Plan – a type of ACO with which the MassHealth agency contracts under its ACO program to provide, arrange for, and coordinate care and certain other medical services to members on a capitated basis and is approved by the Massachusetts Division of Insurance as a health-maintenance organization (HMO) and is organized primarily for the purpose of providing health care services.

Administrative Action — a measure taken by the MassHealth agency to correct or prevent the recurrence of an unacceptable course of action by a provider, including but not limited to the imposition of an administrative fine or other sanction.

Applicant — a person who completes and submits an application for MassHealth, and is awaiting the decision of eligibility.

Audit — an examination by the MassHealth agency of a provider's practices by means of an on-site visit, a review of the MassHealth agency's claim and payment records, a review of a provider's financial, medical, and other records such as prior authorizations, invoices, and cost reports. The MassHealth agency conducts audits to ensure provider and member compliance with laws and regulations governing MassHealth.

Behavioral Health Contractor – the entity contracted with EOHHS to provide, arrange for, and coordinate behavioral health care and other services to members on a capitated basis.

Behavioral Health Services — mental health and substance use disorder services.

Billing Agent — any individual or entity that contracts with a provider to act as the provider's representative for the preparation and submission of claims.

Board of Hearings (BOH) — the designated hearing unit within the Executive Office of Health and Human Services Office of Medicaid.

Claim — a request by a provider for payment for a medical service or product, identified in a format approved by the MassHealth agency, that contains information including member and provider information, date of service, and description of service provided.

Coverage Type — a scope of medical services, other benefits, or both that are available to members who meet specific eligibility criteria.

Day — a calendar day unless a business day is specified.

Duals Demonstration Dual Eligible Individual — for purposes of the Duals Demonstration, a MassHealth member who meets all of the following criteria:

(1) is 21 through 64 years of age at the time of enrollment in the Duals Demonstration;
(2) is eligible for MassHealth Standard as defined in 130 CMR 450.105(A) or MassHealth CommonHealth as defined in 130 CMR 450.105(E);
(3) is enrolled in Medicare Parts A and B, is eligible for Medicare Part D, and has no other health insurance that meets the basic-benefit level as defined in 130 CMR 501.001: *Definition of Terms*; and
(4) lives in a designated service area of an integrated care organization (ICO).

Duals Demonstration— the MassHealth state Demonstration to Integrate Care for Dual Eligible Individuals, also known as One Care.

Eligibility Verification System (EVS) — the member eligibility verification system accessible to providers. EVS also may be referred to as the Recipient Eligibility Verification System (REVS).

Emergency Aid to the Elderly, Disabled and Children Program (EAEDC) — a cash assistance program administered by the Department of Transitional Assistance for certain residents of Massachusetts that also covers certain medical services. The medical services component of the program is administered by the MassHealth agency.

Emergency Medical Condition — a medical condition, whether physical or mental, manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of prompt medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine, to result in placing the health of the member or another person in serious jeopardy, serious impairment to body function, or serious dysfunction of any body organ or part, or, with respect to a pregnant woman, as further defined in section 1867(e)(1)(B) of the Social Security Act, 42 U.S.C. 1395dd(e)(1)(B).

Emergency Services — medical services that are provided by a provider that is qualified to provide such services, and are needed to evaluate or stabilize an emergency medical condition.

Final Disposition — a written response by a health insurer to a request for payment, such as a rejection notice, an explanation of benefits (EOB), or a similar letter, form, or other notice, by which the insurer either denies coverage, or acknowledges coverage and indicates the amount that the health insurer will pay.

Group Practice — a legal entity that employs or contracts with individual practitioners who have arranged for the joint use of facilities, and for payment into a common account of proceeds from the delivery of medical services by individual practitioners within the group. A sole proprietorship is not a group practice. An entity that qualifies under the MassHealth agency's program regulations as another discreet provider type, such as a community health center, is not a group practice. A "participant" in a group practice is any owner, employee, contractor, or provider delivering services through the group practice.

Health Insurer — a private or public entity (including Medicare) that has issued a health insurance plan or policy under which it has agreed to pay for medical services provided to a member.

Individual Practitioners — physicians, dentists, psychologists, certified nurse practitioners, certified nurse midwives, physician assistants, certified registered nurse anesthetists, psychiatric clinical nurse specialists, clinical nurse specialists, and certain other licensed, registered, or certified medical practitioners.

Integrated Care Organization (ICO, also known as a One Care plan) — an organization with a comprehensive network of medical, behavioral health care, and long-term services and supports providers that integrates all components of care, either directly or through subcontracts, and has contracted with the Executive Office of Health and Human Services (EOHHS) and the Centers for Medicare & Medicaid Services (CMS) and been designated as an ICO to provide services to dual eligible individuals under M.G.L. c. 118E. ICOs are responsible for providing enrolled members with the full continuum of Medicare- and MassHealth-covered services.

Managed Care — a system of primary care and other medical services that are provided and coordinated by a MassHealth managed care provider, a SCO, and ICO, or the behavioral health contractor in accordance with the provisions of 130 CMR 450.117 and 130 CMR 508.000: *MassHealth: Managed Care Requirements*.

Managed Care Organization (MCO) — any entity with which the MassHealth agency contracts under its MCO program to provide, arrange for, and coordinate care and certain other medical services to members on a capitated basis, and is approved by the Massachusetts Division of Insurance as a health maintenance organization (HMO), and is organized primarily for the purpose of providing health care services.

MassHealth — the medical assistance and benefit programs administered by the MassHealth agency pursuant to Title XIX of the Social Security Act (42 U.S.C. 1396a *et seq*.), Title XXI of the Social Security Act (42 U.S.C. 1397aa *et seq.*), M.G.L. c. 118E, and other applicable laws and waivers to provide and pay for medical services to eligible members.

MassHealth Agency — the Executive Office of Health and Human Services in accordance with the provisions of M.G.L. c. 118E.

MassHealth Enrollment Center (MEC) — a regional office of the MassHealth agency that determines MassHealth eligibility of individuals and families who do not receive cash assistance (TAFDC, EAEDC, SSI).

MassHealth Managed Care Provider — an MCO, Accountable Care Partnership Plan, Primary Care ACO, or the Primary Care Clinician Plan.

MCO-Administered ACO – a type of ACO with which the MassHealth agency contracts under its ACO program and which is administered through an MCO.

Medicaid — see "MassHealth."

Medical Services — medical care or related goods and services, including behavioral health services and long-term services and supports (LTSS) provided to members, paid or payable by the MassHealth agency.

Medicare — a federally administered health insurance program for persons eligible under the Health Insurance for the Aged Act, Title XVIII of the Social Security Act.

Member — a person determined by the MassHealth agency to be eligible for MassHealth.

One Care – see "Integrated Care Organization."

Overpayment — a payment made by the MassHealth agency to or for the use of a provider to which the provider was not entitled under applicable federal or state law or regulation.

Over-the-counter Drug — any drug for which no prescription is required by federal or state law. These drugs are sometimes referred to as nonlegend drugs.

Party in Interest — a person with an ownership or control interest.

Peer Review — an evaluation of the quality, necessity, and appropriateness of medical services provided by a provider, to determine compliance with professionally recognized standards of health care or compliance with laws, rules, and regulations under which MassHealth is administered.

Prescription Drug — any drug for which a prescription is required by applicable federal or state law or regulation, other than MassHealth regulations. These drugs are sometimes referred to as legend drugs.

Primary Care — the provision of coordinated, comprehensive medical services, on both a first-contact and a continuous basis, to members enrolled in managed care. Services include an initial medical history intake, medical diagnosis and treatment, communication of information about illness prevention, health maintenance, and referral services.

Primary Care ACO – a type of ACO with which the MassHealth agency contracts under its ACO program.

Primary Care Clinician (PCC) Plan — a managed care option administered by the MassHealth agency through which enrolled members receive primary care and certain other medical services.

Provider — an individual, group, facility, agency, institution, organization, or business that furnishes medical services and participates in MassHealth under a provider contract with the MassHealth agency. For purposes of applying 130 CMR 450.235 through 450.240, the term "provider" includes formerly participating providers.

Provider Contract (Also Referred to as "Provider Agreement") — a contract for medical services between the MassHealth agency and a provider.

Provider Service Restrictions – sanctions placed by the MassHealth agency on a provider that include, but are not limited to, restrictions on services for which a provider may submit claims to and receive payment from the MassHealth agency, and restrictions on the number or particular members to whom a provider may provide services.

Provider Type — a provider classification specifying and limiting the kinds of medical services for which the provider may be paid by the MassHealth agency.

Provider under Common Ownership — two or more providers in which a person or corporation has or had, at any time, an ownership or control interest, whether concurrently, sequentially, or otherwise. (*See* 130 CMR 450.221(A)(9)(a) and (b).)

Sanction — an administrative penalty imposed by the MassHealth agency pursuant to M.G.L. c. 118E, § 37 against a provider found to have violated MassHealth laws, regulations, or contract requirements. Sanctions include, but are not limited to, administrative fines, provider service restrictions, suspension, and termination from participation in MassHealth.

Senior Care Organization (SCO) — a managed care organization that participates in MassHealth under a contract with the MassHealth agency to provide coordinated care and medical services through a comprehensive network to eligible members 65 years of age or older. SCOs are responsible for providing enrolled members with the full continuum of MassHealth-covered services, and for dual eligible members, the full continuum of MassHealth and Medicare covered services.

Statutory Prerequisite — any license, certificate, permit, or other requirement imposed by state or federal law or regulation as a precondition to the practice of any profession or to the operation of any business or institution in or by which medical services are provided. Statutory prerequisites include, but are not limited to, licenses required by the Massachusetts Department of Public Health or the Massachusetts Department of Mental Health, licenses and certificates issued by the Massachusetts boards of registration, and certificates required by the Massachusetts Department of Public Safety.

Third Party — any individual, entity, or program other than the MassHealth agency that is or may be liable to pay for the provision of medical services in whole or in part.

Transitional Aid to Families with Dependent Children (TAFDC) — a federally funded program administered by the Massachusetts Department of Transitional Assistance that provides cash assistance to certain low-income families.

Urgent Care — medical services that are not primary care, and are needed to treat a medical condition that is not an emergency medical condition.

450.102 : Purpose of 130 CMR 400.000 through 499.000

130 CMR 400.000 through 499.000 contain the MassHealth agency's regulations specific to provider participation in, and the medical services and benefits available under, MassHealth and the Emergency Aid to the Elderly, Disabled and Children Program. 130 CMR 450.000 applies to all MassHealth providers and services. The MassHealth agency also promulgates other regulations, and publishes other documents affecting these programs, including other chapters in 130 CMR, statements of policy and procedure, conditions of participation, guidelines, billing and claims submission instructions, provider bulletins, and other documents referenced in 130 CMR. In addition, the regulations in 130 CMR frequently refer to federal regulations, to regulations of the Massachusetts Department of Public Health and other agencies, and to rates and fee schedules established by the Massachusetts Executive Office of Health and Human Services.

450.103 : Promulgation of Regulations

(A) All regulations of the MassHealth agency are promulgated in accordance with M.G.L. c. 30A. In the event of any conflict between the MassHealth agency's regulations and applicable federal laws and regulations, the MassHealth agency's regulations will be construed so far as possible to make them consistent with such federal laws and regulations.

(B) Without limiting the generality of 130 CMR 450.103(A), the MassHealth agency's regulations will be construed so far as possible to make them consistent with the federal Health Insurance Portability and Accountability Act (HIPAA), including federal regulations promulgated thereunder. To implement and comply with HIPAA, the MassHealth agency may issue billing and claims submission instructions, provider bulletins, companion guides, or other materials, which will be effective and controlling notwithstanding any MassHealth agency regulations to the contrary.

(130 CMR 450.104 Reserved)

450.105 : Coverage Types

A member is eligible for services and benefits according to the member's coverage type. Each coverage type is described below. Payment for the covered services listed in 130 CMR 450.105 is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment. See individual program regulations for information on covered services and specific service limitations, including age restrictions applicable to certain services.

(A) MassHealth Standard.

(1) Covered Services. The following services are covered for MassHealth Standard members (*see* 130 CMR 505.002: *MassHealth Standard* and 519.002: *MassHealth Standard*):

(a) abortion services;
(b) adult day health services;
(c) adult foster care services;
(d) ambulance services;
(e) ambulatory surgery services;
(f) audiologist services;
(g) behavioral health services;
(h) certified nurse midwife services;
(i) certified nurse practitioner services;
(j) certified registered nurse anesthetist services;
(k) Chapter 766: home assessments and participation in team meetings;
(l) chiropractor services;
(m) clinical nurse specialist services;
(n) community health center services;
(o) day habilitation services;
(p) dental services;
(q) durable medical equipment and supplies;
(r) early intervention services;
(s) family planning services;
(t) hearing aid services;
(u) home health services;
(v) hospice services;
(w) independent nurse (private duty nursing) services;
(x) inpatient hospital services;
(y) laboratory services;
(z) nursing facility services;
(aa) orthotic services;
(bb) outpatient hospital services;
(cc) oxygen and respiratory therapy equipment;
(dd) personal care services;
(ee) pharmacy services;
(ff) physician services;
(gg) physician assistant services;

(hh) podiatrist services;
(ii) prosthetic services;
(jj) psychiatric clinical nurse specialist services;
(kk) rehabilitation services;
(ll) renal dialysis services;
(mm) speech and hearing services;
(nn) therapy services: physical, occupational, and speech/language;
(oo) transportation services;
(pp) vision care; and
(qq) X-ray/radiology services.

(2) Managed Care Member Participation. MassHealth Standard members must enroll with a MassHealth managed care provider unless excluded from enrollment with a MassHealth managed care provider. (*See* 130 CMR 450.117 and 508.000: *MassHealth: Managed Care Requirements*.) MassHealth members who are enrolled in the Kaileigh Mulligan Program, described in 130 CMR 519.007(A): *The Kaileigh Mulligan Program*, or who are enrolled in a home- and community-based services waiver may choose to enroll in the PCC Plan or a MassHealth-contracted MCO. Such members who do not choose to enroll in the PCC Plan or a MassHealth-contracted MCO are enrolled with the MassHealth behavioral health contractor. Such members may choose to receive all services on a fee-for-service basis.

(3) MCOs, Accountable Care Partnership Plans, SCOs, and ICOs. For MassHealth Standard members who are enrolled in an MCO, Accountable Care Partnership Plan, SCO, or ICO, 130 CMR 450.105(A)(3)(a) and (b) apply.

(a) The MassHealth agency does not pay a provider other than the MCO, Accountable Care Partnership Plan, SCO, or ICO for any services that are covered by the MassHealth agency's contract with the MCO, Accountable Care Partnership Plan, SCO, or ICO except for family planning services that were not provided or arranged for by the MCO, Accountable Care Partnership Plan, SCO, or ICO. It is the responsibility of the provider to verify the scope of services covered by the MassHealth agency's contract with the MCO, Accountable Care Partnership Plan, SCO, or ICO.

(b) The MassHealth agency pays providers other than the MCO, Accountable Care Partnership Plan, SCO, or ICO for those services listed in 130 CMR 450.105(A)(1) that are not covered by the MassHealth agency's contract with the MCO, Accountable Care Partnership Plan, SCO, or ICO. Such payment is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment.

(4) Behavioral Health Services.

(a) MassHealth Standard members enrolled in the PCC Plan or a Primary Care ACO receive behavioral health services only through the MassHealth behavioral health contractor. (*See* 130 CMR 450.124.)

(b) MassHealth Standard members enrolled in an MCO, Accountable Care Partnership Plan, SCO, or ICO receive behavioral health services only through the MCO, Accountable Care Partnership Plan, SCO, or ICO. (*See* 130 CMR 450.117.)

(c) MassHealth Standard members who are not enrolled in an MCO, Accountable Care Partnership Plan, SCO, ICO, or with the behavioral health contractor may receive behavioral health services from any participating MassHealth provider of such services.

(d) MassHealth Standard members who are younger than 21 years old and who are excluded from participating with a MassHealth managed care provider under 130 CMR 508.002(A)(1) or (2) must enroll with the MassHealth behavioral health contractor.

(e) MassHealth members who are enrolled in the Kaileigh Mulligan Program, described in 130 CMR 519.007(A): *The Kaileigh Mulligan Program* may choose to enroll with a MassHealth managed care provider. Such members who do not choose to enroll with a MassHealth managed care provider are enrolled with the MassHealth behavioral health contractor. Such members may choose to receive all services on a fee-for-service basis.

(f) MassHealth members who are receiving services from the Department of Children and Families (DCF) or the Department of Youth Services (DYS) may choose to enroll with a MassHealth managed care provider. Such members who do not choose to enroll with a MassHealth managed care provider must enroll with the MassHealth behavioral health contractor.

(g) MassHealth members who receive Title IV-E adoption assistance described in 130 CMR 522.003: *Adoption Assistance and Foster Care Maintenance* may choose to enroll with a MassHealth managed care provider. Such members who do not choose to enroll with a MassHealth managed care provider are enrolled with the MassHealth behavioral health contractor. Such members may choose to receive all services on a fee-for-service basis.

(h) MassHealth members who participate in one of the Money Follows the Person home- and community-based services waivers who are not enrolled with a MassHealth managed care provider or not otherwise enrolled with the behavioral health contractor must enroll with the behavioral health contractor.

(5) Purchase of Health Insurance. The MassHealth agency may purchase third-party health insurance for MassHealth Standard members, with the exception of members described at 130 CMR 505.002(F): *Individuals with Breast or Cervical Cancer*, if the MassHealth agency determines such premium payment is cost effective. Under such circumstances, the MassHealth agency pays a provider only for those services listed in 130 CMR 450.105(A)(1) that are not available through the member's third-party health insurer.

(6) Senior Care Organizations. MassHealth Standard members 65 years of age or older may voluntarily enroll in a senior care organization (SCO) in accordance with the requirements under 130 CMR 508.008: *Senior Care Organizations*. The MassHealth agency does not pay a provider other than a SCO for any services that are provided to the MassHealth member while the member is enrolled in a SCO.

(7) Integrated Care Organizations. MassHealth Standard members 21 through 64 years of age who are enrolled in Medicare Parts A and B, are eligible for Medicare Part D, and have no other health insurance that meets the basic-benefit level defined in 130 CMR 501.001: *Definition of Terms* may voluntarily enroll in integrated care organization (ICO) in accordance with the requirements at 130 CMR 508.007: *Integrated Care Organizations*. While enrolled in an ICO, MassHealth members who turn 65 years of age and are eligible for MassHealth Standard may remain in an ICO after 65 years of age. The MassHealth agency does not pay a provider other than the ICO for any services that are provided by an ICO while the member is enrolled in the ICO, except for family planning services that were not provided or arranged for by the ICO. It is the responsibility of the provider of services to determine if a MassHealth member is enrolled in an ICO. Upon request, the ICO must inform providers and enrolled members of ICO-covered benefits. ICOs are responsible for providing enrolled members with the full continuum of Medicare- and MassHealth-covered services.

(B) MassHealth CarePlus.

(1) Covered Services. The following services are covered for MassHealth CarePlus members (*see* 130 CMR 505.008: *MassHealth CarePlus*):

(a) abortion services;
(b) ambulance services;
(c) ambulatory surgery services;
(d) audiologist services;
(e) behavioral health services;
(f) certified nurse midwife services;
(g) certified nurse practitioner services;
(h) certified registered nurse anesthetist services;
(i) chiropractor services;
(j) clinical nurse specialist services;
(k) community health center services;
(l) dental services;
(m) durable medical equipment and supplies;
(n) family planning services;
(o) hearing aid services;
(p) home health services;
(q) hospice services;
(r) inpatient hospital services;
(s) laboratory services;
(t) nursing facility services;
(u) orthotic services;
(v) outpatient hospital services;
(w) oxygen and respiratory therapy equipment;
(x) pharmacy services;
(y) physician services;
(z) physician assistant services;
(aa) podiatrist services;
(bb) prosthetic services;

(cc) psychiatric clinical nurse specialist services;
(dd) rehabilitation services;
(ee) renal dialysis services;
(ff) speech and hearing services;
(gg) therapy services: physical, occupational, and speech/language;
(hh) transportation services;
(ii) vision care; and
(jj) X-ray/radiology services.

(2) Managed Care Member Participation. MassHealth CarePlus members must enroll with a MassHealth managed care provider in accordance with 130 CMR 508.001: *MassHealth Member Participation in Managed Care*. (*See* also 130 CMR 450.117.)

(3) MCOs and Accountable Care Partnership Plans. For MassHealth CarePlus members who are enrolled in an MCO or Accountable Care Partnership Plan, the following rules apply.

(a) The MassHealth agency does not pay a provider other than the MCO or Accountable Care Partnership Plan for any services that are covered by the MassHealth agency's contract with the MCO or Accountable Care Partnership Plan, except for family planning services that were not provided or arranged for by the MCO or Accountable Care Partnership Plan. It is the responsibility of the provider to verify the scope of services covered by the MassHealth agency's contract with the MCO or Accountable Care Partnership Plan.

(b) The MassHealth agency pays providers other than the MCO or Accountable Care Partnership Plan for those services listed in 130 CMR 450.105(B)(1) that are not covered by the MassHealth agency's contract with the MCO or Accountable Care Partnership Plan. Such payment is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment.

(4) Behavioral Health Services.

(a) MassHealth CarePlus members enrolled in the PCC Plan or Primary Care ACO receive behavioral health services only through the MassHealth behavioral health contractor (See 130 CMR 450.124).

(b) MassHealth CarePlus members enrolled in an MCO or Accountable Care Partnership Plan receive behavioral health services only through the MCO or Accountable Care Partnership Plan. (*See* 130 CMR 450.117.)

(c) MassHealth CarePlus members who are not enrolled in an MCO, Accountable Care Partnership Plan, or with the behavioral health contractor may receive behavioral health services from any participating MassHealth provider of such services.

(5) Purchase of Health Insurance. The MassHealth agency may purchase third-party health insurance for MassHealth CarePlus members, with the exception of members described at 130 CMR 505.002(F): *Individuals with Breast or Cervical Cancer*, if the MassHealth agency determines such premium payment is cost effective. Under such circumstances, the MassHealth agency pays a provider only for those services listed in 130 CMR 450.105(B)(1) that are not available through the member's third-party health insurer.

(C) MassHealth Buy-In.

(1) For a MassHealth Buy-In member who is 65 years of age or older or is institutionalized (*see* 130 CMR 519.011: *MassHealth Buy-In*), the MassHealth agency pays all of the member's Medicare Part B premium. The MassHealth agency does not pay for any other benefit for these members.

(2) MassHealth Buy-In members are responsible for payment of copayments, coinsurance, and deductibles. MassHealth Buy-In members are also responsible for payment for any services that are not covered by the member's insurance.

(3) The MassHealth agency does not pay providers directly for any services provided to any MassHealth Buy-In member, and therefore does not issue a MassHealth card to MassHealth Buy-In members.

(4) MassHealth Buy-In members are excluded from participation with any MassHealth managed care provider pursuant to 130 CMR 508.002: *MassHealth Members Excluded from Participation in Managed Care*.

(D) MassHealth Senior Buy-In.

(1) Covered Services. For MassHealth Senior Buy-In members (*see* 130 CMR 519.010: *MassHealth Senior Buy-In*), the MassHealth agency pays the member's Medicare Part B premiums, and where applicable, Medicare Part A premiums. The MassHealth agency also pays for coinsurance and deductibles under Medicare Parts A and B.

(2) Managed Care Member Participation. MassHealth Senior Buy-In members are excluded from participation with a MassHealth managed care provider pursuant to 130 CMR 508.002: *MassHealth Members Excluded from Participation in Managed Care*.

(E) MassHealth CommonHealth.

(1) Covered Services. The following services are covered for MassHealth CommonHealth members (*see* 130 CMR 505.004: *MassHealth CommonHealth* and 519.012: *MassHealth CommonHealth*):

(a) abortion services;
(b) adult day health services;
(c) adult foster care services;
(d) ambulance services;
(e) ambulatory surgery services;
(f) audiologist services;
(g) behavioral health services;
(h) certified nurse midwife services;
(i) certified nurse practitioner services;
(j) certified registered nurse anesthetist services;
(k) Chapter 766: home assessments and participation in team meetings;
(l) chiropractor services;
(m) clinical nurse specialist services;
(n) community health center services;
(o) day habilitation services;
(p) dental services;
(q) durable medical equipment and supplies;
(r) early intervention services;

(s) family planning services;
(t) hearing aid services;
(u) home health services;
(v) hospice services;
(w) independent nurse (private duty nursing) services;
(x) inpatient hospital services;
(y) laboratory services;
(z) nursing facility services;
(aa) orthotic services;
(bb) outpatient hospital services;
(cc) oxygen and respiratory therapy equipment;
(dd) personal care services;
(ee) pharmacy services;
(ff) physician services;
(gg) physician assistant services;
(hh) podiatrist services;
(ii) prosthetic services;
(jj) psychiatric clinical nurse specialist services;
(kk) rehabilitation services;
(ll) renal dialysis services;
(mm) speech and hearing services;
(nn) therapy services: physical, occupational, and speech/language;
(oo) transportation services;
(pp) vision care; and
(qq) X-ray/radiology services.

(2) Managed Care Member Participation. MassHealth CommonHealth members must enroll with a MassHealth managed care provider or ICO unless excluded from participation in a MassHealth managed care provider. (*See* 130 CMR 450.117 and 508.000: *Managed Care Requirements*.)

(3) MCOs, Accountable Care Partnership Plans, and ICOs. For MassHealth CommonHealth members who are enrolled in an MCO, Accountable Care Partnership Plan, or ICO, 130 CMR 450.05(E)(3)(a) and (b) apply.

(a) The MassHealth agency does not pay a provider other than the MCO, Accountable Care Partnership Plan, or ICO for any services that are covered by the MassHealth agency's contract with the MCO, Accountable Care Partnership Plan, or ICO, except for family planning services that were not provided or arranged for by the MCO, Accountable Care Partnership Plan, or ICO. It is the responsibility of the provider to verify the scope of services covered by the MassHealth agency's contract with the MCO, Accountable Care Partnership Plan, or ICO.

(b) The MassHealth agency pays providers other than the MCO, Accountable Care Partnership Plan, or ICO for those services listed in 130 CMR 450.105(E)(1) that are not covered by the MassHealth agency's contract with the MCO, Accountable Care Partnership Plan, or ICO. Such payment is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment.

(4) Behavioral Health Services.

(a) MassHealth CommonHealth members enrolled in the PCC Plan or a Primary Care ACO receive behavioral health services only through the MassHealth behavioral health contractor. (*See* 130 CMR 450.124.)

(b) MassHealth CommonHealth members enrolled in an MCO, Accountable Care Partnership Plan, or ICO receive behavioral health services only through the MCO, Accountable Care Partnership Plan, or ICO. (*See* 130 CMR 450.117.)

(c) MassHealth CommonHealth members who are not enrolled in an MCO, Accountable Care Partnership Plan, or ICO, or with the behavioral health contractor may receive behavioral health services from any participating MassHealth provider of such services.

(d) MassHealth CommonHealth members who are younger than 21 years of age and who are excluded from participation in a MassHealth managed care provider or ICO under 130 CMR 508.002(A)(1) or (2) must enroll with the MassHealth behavioral health contractor.

(5) Purchase of Health Insurance. The MassHealth agency may purchase third-party health insurance for any MassHealth CommonHealth member if the MassHealth agency determines such premium payment is cost effective. Under such circumstances, the MassHealth agency pays a provider only for those services listed in 130 CMR 450.105(E)(1) that are not available through the member's third-party health insurer.

(6) Integrated Care Organizations. MassHealth CommonHealth members 21 through 64 years of age who are enrolled in Medicare Parts A and B, are eligible for Medicare Part D, and have no other health insurance that meets the basic-benefit level defined in 130 CMR 501.001: *Definition of Terms* may voluntarily enroll in an integrated care organization (ICO) in accordance with the requirements at 130 CMR 508.007: *Integrated Care Organizations*. The MassHealth agency does not pay a provider other than the ICO for any services that are provided by an ICO while the member is enrolled in the ICO, except for family planning services that were not provided or arranged for by the ICO. It is the responsibility of the provider of services to determine if a MassHealth member is enrolled in an ICO. Upon request, the ICO must inform providers and enrolled members of ICO-covered benefits. ICOs are responsible for providing enrolled members with the full continuum of Medicare- and MassHealth-covered services.

(F) MassHealth Limited.

(1) Covered Services. For MassHealth Limited members (*see* 130 CMR 505.006: *MassHealth Limited* and 519.009: *MassHealth Limited*), the MassHealth agency pays only for the treatment of a medical condition (including labor and delivery) that manifests itself by acute symptoms of sufficient severity that the absence of immediate medical attention reasonably could be expected to result in

(a) placing the member's health in serious jeopardy;

(b) serious impairment to bodily functions; or

(c) serious dysfunction of any bodily organ or part.

(2) Organ Transplants. Pursuant to 42 U.S.C. 1396b(v)(2), the MassHealth agency does not pay for an organ-transplant procedure, or for care and services related to that procedure, for MassHealth Limited members, regardless of whether such procedure would otherwise meet the requirements of 130 CMR 450.105(F)(1).

(3) Managed Care Member Participation. MassHealth Limited members are excluded from participation in managed care pursuant to 130 CMR 508.002: *MassHealth Members Excluded from Participation in Managed Care*.

(G) MassHealth Family Assistance.

(1) Premium Assistance. The MassHealth agency provides benefits for MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B), (C), or (D).

(a) For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B) and (C), the only benefit the MassHealth agency provides is partial payment of the member's employer-sponsored health insurance, except as provided in 130 CMR 450.105(H).

(b) For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B): *Eligibility Requirements for Children with Modified Adjusted Gross Income of the MassHealth MAGI Household greater than 150 and less than or equal to 300% of the Federal Poverty Level*, the MassHealth agency provides dental services as described in 130 CMR 420.000: *Dental Services*.

(c) For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(D): *Eligibility Requirements for Adults and Young Adults Aged 19 and 20 Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household at or below 300% of the Federal Poverty Level*, the MassHealth agency issues a MassHealth card and provides

1. full payment of the member's private health-insurance premium; and
2. coverage of any services listed in 130 CMR 450.105(H) not covered by the member's private health insurance. Coverage includes payment of copayments, coinsurance, and deductibles required by the member's private health insurance.

(2) Payment of Copayments, Coinsurance, and Deductibles for Certain Children who Receive Premium Assistance.

(a) For children who meet the requirements of 130 CMR 505.005(B): *Eligibility Requirements for Children with Modified Adjusted Gross Income of the MassHealth MAGI Household greater than 150 and less than or equal to 300% of the Federal Poverty Level*, the MassHealth agency pays providers directly, or reimburses the member, for

1. copayments, coinsurance, and deductibles relating to well-baby and well-child care; and
2. copayments, coinsurance, and deductibles for services covered under the member’s employer-sponsored health insurance once the member’s family has incurred and paid copayments, coinsurance, and deductibles for eligible members that equal or exceed 5% of the family group’s annual gross income.

(b) Providers should check the Eligibility Verification System (EVS) to determine whether the MassHealth agency will pay a provider directly for a copayment, coinsurance, or deductible for a specific MassHealth Family Assistance member.

(3) Covered Services for Members who are not Receiving Premium Assistance. For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B), (E), (F), or (G), the following services are covered:

(a) abortion services;
(b) ambulance services (emergency only);
(c) ambulatory surgery services;
(d) audiologist services;
(e) behavioral health services;
(f) certified nurse midwife services;
(g) certified nurse practitioner services;
(h) certified registered nurse anesthetist services;
(i) Chapter 766: home assessments and participation in team meetings;
(j) chiropractor services;
(k) clinical nurse specialist services;
(l) community health center services;
(m) dental services;
(n) durable medical equipment and supplies;
(o) early intervention services;
(p) family planning services;
(q) hearing aid services;
(r) home health services;
(s) hospice services;
(t) inpatient hospital services;
(u) laboratory services;
(v) nurse midwife services;
(w) nurse practitioner services;
(x) orthotic services;
(y) outpatient hospital services;
(z) oxygen and respiratory therapy equipment;
(aa) pharmacy services;
(bb) physician services;
(cc) physician assistant services;
(dd) podiatrist services;
(ee) prosthetic services;
(ff) psychiatric clinical nurse specialist services;
(gg) rehabilitation services;
(hh) renal dialysis services;
(ii) speech and hearing services;
(jj) therapy services: physical, occupational, and speech/language;
(kk) vision care; and
(ll) X-ray/radiology services.

(4) Managed Care Participation.

(a) MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(E): *Eligibility Requirement for HIV-Positive Individuals Who Are Citizens or Qualified Noncitizens with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 133 and Less than or equal to 200% of the Federal Poverty Level*, must enroll with a MassHealth managed care provider. (*See* 130 CMR 450.117.)

(b) MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(F): *Eligibility Requirement for Disabled Adults Who Are Qualified Noncitizens Barred, Nonqualified Individuals Lawfully Present, and Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth Disabled Adult Household at or below 100% of the Federal Poverty Level*, must enroll with the PCC Plan (*see* 130 CMR 450.118).

(5) MCOs and Accountable Care Partnership Plans. For MassHealth Family Assistance members who are enrolled in an MCO or Accountable Care Partnership Plan, the following rules apply.

(a) The MassHealth agency does not pay a provider other than the MCO or Accountable Care Partnership Plan for any services that are covered by the MassHealth agency's contract with the MCO or Accountable Care Partnership Plan, except for family planning services that were not provided or arranged for by the MCO or Accountable Care Partnership Plan. It is the responsibility of the provider to verify the scope of services covered by the MassHealth agency's contract with the MCO or Accountable Care Partnership Plan.

(b) The MassHealth agency pays providers other than the MCO or Accountable Care Partnership Plan for those services listed in 130 CMR 450.105(H) that are not covered by the MassHealth agency's contract with the MCO or Accountable Care Partnership Plan. Such payment is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment.

(6) Behavioral Health Services.

(a) MassHealth Family Assistance members enrolled in the PCC Plan or a Primary Care ACO receive behavioral health services only through the MassHealth behavioral health contractor. (*See* 130 CMR 450.124.)

(b) MassHealth Family Assistance members enrolled in an MCO or Accountable Care Partnership Plan receive behavioral health services only through the MCO or Accountable Care Partnership Plan. (*See* 130 CMR 450.117.)

(c) MassHealth Family Assistance members who are not receiving premium assistance, and are not enrolled in an MCO, Accountable Care Partnership Plan, or with the MassHealth behavioral health contractor may receive behavioral health services from any participating MassHealth provider of such services.

(H) Children's Medical Security Plan. Children determined to be eligible for the Children's Medical Security Plan (CMSP) receive benefits described in 130 CMR 522.004(G): *Benefits Provided*.

450.106 : Emergency Aid to the Elderly, Disabled and Children Program

(A) Covered Services. The following services are covered for EAEDC recipients:
(1) physician services specified in 130 CMR 433.000: *Physician Services*;
(2) community health center services specified in 130 CMR 405.000: *Community Health Center Services*;
(3) prescription drugs (those drugs that require a prescription under federal or state law) specified in 130 CMR 406.000: *Pharmacy Services*;
(4) insulins (the only over-the-counter drugs that are covered) and diabetic supplies;
(5) infusion (intravenous) therapy, including chemotherapy, pain management, antibiotics, chelation, and cardiac management;
(6) oxygen and respiratory therapy services specified in 130 CMR 427.000: *Oxygen and Respiratory Therapy Equipment*;
(7) substance use disorder treatment services as specified in 130 CMR 418.000: *Substance Abuse Treatment Services* if provided in public detoxification and outpatient substance use disorder treatment centers; and
(8) diagnostics and testing (such as laboratory, radiology, magnetic resonance imaging, or psychological testing) necessary for the determination or redetermination of eligibility for the EAEDC Program, upon referral from a physician or a community health center.

(B) Responsibilities of Acute Hospitals. Acute outpatient and inpatient hospitals are obligated under M.G.L. c. 118E, §13H to provide medically necessary services to recipients of the EAEDC Program. EAEDC recipients are entitled to receive the services described in 130 CMR 410.000: *Outpatient Hospital Services* and 415.000: *Acute Inpatient Hospital Services* to the same extent that such services are provided to MassHealth members under M.G.L. c. 118E.

(C) Prior Authorization. Any covered services that require prior authorization in the MassHealth regulations (130 CMR 400.000 through 499.000) require prior authorization for the EAEDC Program.

450.107 : Eligible Members and the MassHealth Card

(A) Eligibility Determination. MassHealth eligibility is determined in accordance with 130 CMR 501.000: *MassHealth: General Policies* through 130 CMR 522.000: *MassHealth: Other Division Programs*. Eligibility for the EAEDC Program is determined pursuant to 106 CMR 320.000 through 321.000, 701.000 through 701.600, 705.000 through 705.950, and 706.000 through 706.710.

(B) Eligibility Verification System. The MassHealth agency uses the Eligibility Verification System (EVS) for day-specific eligibility verification, and to communicate a member's MassHealth eligibility, coverage type, managed care status, restrictions, and other insurance information to health-care providers.

(C) MassHealth Card. The MassHealth agency issues a plastic identification card for most MassHealth members. The MassHealth card contains information necessary to access EVS. Members for whom the MassHealth agency pays health insurance premiums only may not have a MassHealth card.

(D) Temporary MassHealth Eligibility Card. When necessary, the MassHealth agency or the Department of Transitional Assistance will issue a temporary MassHealth card to the cardholder for use until a plastic MassHealth card is issued. The temporary MassHealth card shows dates of eligibility, service restrictions, and other insurance information. If a discrepancy occurs between information given on a temporary MassHealth card and by EVS, the information on the temporary card prevails. To be paid for a covered service that was provided based on information given on a temporary card, a provider must produce a copy of the temporary card, and have otherwise met all other prerequisites for payment.

(E) Provisional Eligibility. The MassHealth agency will provide eligibility while the applicant provides to the MassHealth agency any outstanding verification, in accordance with 130 CMR 502.003: *Verification of Eligibility Factors*.

450.108 : Selective Contracting

(A) Use of Selective Contracts. The MassHealth agency may provide some services through selective contracts where such contracts are permitted by federal and state law.

(B) Termination of Provider Contracts. The MassHealth agency may terminate, in whole or in part, existing provider contracts where selective contracts are in effect. In the event of any such termination, the MassHealth agency notifies the affected providers in writing, at least 30 days prior to termination. Such termination does not affect payments to providers for services provided prior to the date of termination.

450.109 : Out-of-state Services

(A) MassHealth covers services provided in another state to a MassHealth member, subject to all applicable limitations, including service coverage, prior authorization, and provider enrollment, only in the following circumstances:

(1) medical services are needed because of a medical emergency;
(2) medical services are needed and the member's health would be endangered if the member were required to travel to Massachusetts;
(3) it is the general practice for members in a particular locality to use medical resources in another state; or
(4) the MassHealth agency determines on the basis of medical advice that the needed medical services, or necessary supplementary resources, are more readily available in the other state.

(B) MassHealth does not cover services provided outside the United States and its territories.

450.110 : Hospital-determined Presumptive Eligibility

(A) The MassHealth agency provides coverage for certain individuals for a limited period of time, in accordance with 130 CMR 502.003(H): *Hospital-determined Presumptive Eligibility* if, on the basis of attested information, a qualified hospital determines that the individual is presumptively eligible. Coverage for members with time-limited presumptive eligibility begins on the date on which a qualified hospital makes a determination regarding presumptive eligibility and continues until

(1) the end of the month following the month in which the hospital determined presumptive eligibility, if the individual has not submitted a complete application as described in 130 CMR 502.001: *Application for Benefits* by that date, or

(2) an eligibility determination is made based upon the individual's submission of a complete application as described in 130 CMR 502.001: *Application for Benefits* if the complete application was submitted prior to the end of the month following the month of the hospital presumptive eligibility determination.

(B) A qualified hospital, for purposes of 130 CMR 450.110, is a hospital that satisfies the following requirements, as more fully described in provider bulletins and other guidance that may be issued by the MassHealth agency:

(1) participates as a MassHealth provider;

(2) notifies the MassHealth agency of its election to make presumptive eligibility determinations;

(3) agrees to make presumptive eligibility determinations consistent with MassHealth policies and procedures;

(4) has Certified Application Counselors on site and available to assist individuals with the application process, including submitting the full application and understanding any documentation requirements; and

(5) has not been disqualified from making presumptive eligibility determinations.

(130 CMR 450.111 Reserved)

450.112 : Advance Directives

(A) Provider Participation. All hospitals, nursing facilities, MCOs, Accountable Care Partnership Plans, SCOs, ICOs, home health agencies, personal care agencies, hospices, and the MassHealth behavioral health contractor must

(1) provide to all adults 18 years of age or older, who are receiving medical care from the provider, the following written information concerning their rights, which information must reflect changes in state law as soon as possible, but no later than 90 days after the effective date of the change to

(a) make decisions concerning their medical care;

(b) accept or refuse medical or surgical treatment; and

(c) formulate advance directives (for example, living wills or durable powers of attorney for health care, or health-care proxy designations);

(2) provide written information to all adults about the provider's policies concerning implementation of these rights;

(3) document in the patient's medical record whether the patient has executed an advance directive;

(4) not condition the provision of care or otherwise discriminate against a patient based on whether that patient has executed an advance directive;

(5) ensure compliance with requirements of state law concerning advance directives; and

(6) educate staff and the community on advance directives.

(B) When Providers Must Give Written Information to Adults.

(1) A hospital must give written information at the time of the person's admission as an inpatient.

(2) A nursing facility must give information at the time of the person's admission as a resident.

(3) A provider of home health care or personal care services must give information to the person before services are provided.

(4) A hospice program must give information to the person before services are provided.

(5) An MCO, Accountable Care Partnership Plan, SCO, or ICO must give information at the time the person enrolls or reenrolls with the MCO, Accountable Care Partnership Plan, SCO, or ICO.

(C) Incapacitated Persons. If a person is admitted to a facility in an incapacitated state and is unable to receive information or articulate whether he or she has executed an advance directive, the facility must include materials about advance directives in the information to the families or to the legal representatives, surrogates, or other concerned persons of the incapacitated patient to the extent it does so in accordance with state law. This does not relieve the facility of its obligation to provide this information to the patient once the patient is no longer incapacitated.

(D) Previously Executed Advance Directives. When the patient or a relative, surrogate, or other concerned or related person presents the provider with a copy of the person's advance directive, the provider must comply with the advance directive, including recognition of the power of attorney, to the extent allowed under state law. Unless contrary to state law, if no one comes forward with a previously executed advance directive and the patient is incapacitated or otherwise unable to receive information or articulate whether he or she has executed an advance directive, the provider must note in the medical record that the person was not able to receive information and was unable to communicate whether an advance directive existed.

(E) Religious Objections. No private provider will be required to implement an advance directive if such action is contrary to the formally adopted policy of such provider that is expressly based on religious beliefs, provided

(1) the provider has informed the person or, if the person is incapacitated at the time of admission and unable to receive information due to the incapacitated condition or mental disorder, the person's family or surrogate, of such policy prior to or upon admission, if reasonably possible; and

(2) the person is transferred to another equivalent facility that is reasonably accessible to the person's family and willing to honor the advance directive. If the provider or the health care agent is unable to arrange such a transfer, the provider must seek judicial guidance or honor the advance directive.

(130 CMR 450.113 through 450.116 Reserved)

450.117 : Managed Care

(A) MassHealth members participate in managed care pursuant to 130 CMR 508.001, *MassHealth Member Participation in Managed Care*. MassHealth members may be excluded from participating in managed care pursuant to 130 CMR 508.002: *MassHealth Members Excluded from Participation in Managed Care*.

(B) MassHealth managed care provides for the management of medical care, including primary care, behavioral health services, and other medical services. MassHealth members who participate in managed care obtain services as follows:

(1) Members who enroll with an MCO obtain services in accordance with 130 CMR 508.004(B): *Obtaining Services when Enrolled in an MCO*.

(2) Members who enroll with the PCC Plan obtain services in accordance with 130 CMR 508.005(B): *Obtaining Services when Enrolled with the PCC Plan*.

(3) Members who enroll with an Accountable Care Partnership Plan obtain services in accordance with 130 CMR 508.006(A)(2): *Obtaining Services when Enrolled in an Accountable Care Partnership Plan*.

(4) Members who enroll with a Primary Care ACO obtain services in accordance with 130 CMR 508.006(B)(2): *Obtaining Services when Enrolled in a Primary Care ACO* .

(5) Members who enroll with an ICO obtain services in accordance with 130 CMR 508.007(C): *Obtaining Services when Enrolled in an ICO*. Members who enroll in the Duals Demonstration Program may continue to receive services from their current providers who accept current Medicare or Medicaid fee-for-service provider rates during a continuity-of-care period. A continuity-of-care period is a period beginning on the date of enrollment into the Duals Demonstration Program and extends to either of the following:

(a) up to 90 days, unless the comprehensive assessment and the individualized-care plan are completed sooner and the enrollee agrees to the shorter time period; or

(b) until the comprehensive assessment and the individualized-care plan are complete.

(6) Members who enroll with a SCO obtain services in accordance with 130 CMR 508.008(C): *Obtaining Services when Enrolled in a SCO*.

(7) Members who are Native Americans (within the meaning of "Indians" as defined at 42 U.S.C. 1396u-2) or Alaska Natives and who participate in managed care may choose to receive covered services from an Indian health-care provider. All participating MCOs, Accountable Care Partnership Plans, SCOs and ICOs must provide payment for such covered services in accordance with the provisions of 42U.S.C. 1396u-2(h) and comply with all other provisions of 42 U.S.C. 1396u-2(h). For the purposes of this section, the term Indian health-care provider means a health care program, including contracted health services, operated by the Indian Health Service or by an Indian tribe, Tribal Organization, or Urban Indian Organization as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

(C) Members who participate in managed care are identified on EVS (*see* 130 CMR 450.107). For members who participate in managed care, this system will give the name and telephone number of the MassHealth managed care provider, the behavioral health contractor, the SCO, or the ICO, as applicable. The MassHealth agency pays for services provided to MassHealth members who participate in managed care as described in 130 CMR 450.105 and 450.118.

(D) The MassHealth agency may impose sanctions on MassHealth managed care providers, the behavioral health contractor, SCOs, and ICOs pursuant to the terms of the MassHealth agency's contracts with those entities. If EOHHS is required to provide a pre-termination hearing pursuant to 42 CFR Part 438, EOHHS shall provide the contractor with such hearing in accordance with 42 CFR 438.710 and 130 CMR 450.241 through 247.

450.118 : Primary Care Clinician (PCC) Plan

(A) Role of Primary Care Clinician. The PCC is the principal source of care for members who are enrolled in the PCC Plan. All services for which such a member is eligible, except those listed in 130 CMR 450.118(J), are payable only when provided by the member's PCC, or when the PCC has referred the member to another MassHealth provider.

(B) Provider Eligibility. Providers who wish to enroll as PCCs must be participating providers in MassHealth, or physician assistants participating pursuant to 130 CMR 433.434, must complete a PCC provider application, which is subject to approval by the MassHealth agency, and must meet the requirements of the PCC provider contract. The following provider types may apply to the MassHealth agency to become PCCs:

(1) individual physicians who have current admitting privileges to at least one MassHealth-participating Massachusetts acute hospital that participates in MassHealth or who meet 130 CMR 450.118(F)(1), and who are board-eligible or board-certified in family practice, pediatrics, internal medicine, obstetrics, gynecology, or obstetrics/gynecology, or who meet 130 CMR 450.118(F)(2); A physician specialist must agree to provide primary care services to PCC Plan enrollees;

(2) independent certified nurse practitioners who specialize in family practice, pediatrics, internal medicine, obstetrics, gynecology or obstetrics/gynecology, and have an arrangement with a MassHealth-participating physician for purposes of hospitals admissions and as needed to satisfy scope of practice requirements. Such physician must meet the criteria of 130 CMR 450.118(B)(1). An independent certified nurse practitioner specialist must agree to provide primary care services to PCC Plan enrollees;

(3) community health centers (freestanding or hospital-licensed) with at least one physician on staff who meets the criteria of 130 CMR 450.118(B)(1);

(4) acute hospital outpatient departments with at least one physician on staff who meets the criteria of 130 CMR 450.118(B)(1); and

(5) group practices with at least one physician or independent certified nurse practitioner who

(a) is enrolled and approved by the MassHealth agency as a participating provider in that group in accordance with 130 CMR 450.212(A)(8);

(b) meets the requirements of 130 CMR 450.118(B)(1) or (2); and

(c) has signed the PCC contract.

(6) Physician assistants employed by a group practice, if the group practice also employs at least one physician who supervises the physician assistant and meets the requirements of 130 CMR 450.118(B)(5). The supervisory arrangement must comply with 130 CMR 433.434(D) and 263 CMR 5.00.

(C) Community Health Center Participation. When a community health center participates as a PCC, it must assign each enrolled member to an individual practitioner who meets the requirements of 130 CMR 450.118(B)(1) or (2), or to a physician assistant who is supervised by a physician who meets the requirements of 130 CMR 450.118(B)(1).

(D) Hospital Outpatient Department Participation. When a hospital outpatient department participates as a PCC, it must assign each enrolled member to an attending physician who meets the requirements of 130 CMR 450.118(B)(1) or (2).

(E) Group Practice Participation. When a group practice participates as a PCC, the group practice

(1) may claim an enhanced fee only for services provided by those individual practitioners within the group who meet the requirements of 130 CMR 450.118(B)(1) or (2); and

(2) must assign each enrolled member to an individual practitioner who meets the criteria under 130 CMR 450.118(B)(1), (2), or (6).

(F) Waiver of Eligibility Requirements. The MassHealth agency may, if necessary to ensure adequate member access to services, and under the following circumstances, allow an individual physician to enroll as a PCC or as a physician in a group practice PCC notwithstanding the physician's inability to meet certain eligibility requirements set forth in 130 CMR 450.118(B)(1).

(1) Upon written request from a physician, the MassHealth agency may waive the requirement that an individual physician or a physician in a group practice have admitting privileges to at least one MassHealth-participating Massachusetts acute hospital, if the physician demonstrates to the MassHealth agency's satisfaction that the physician:

(a) practices in an area that is too distant to adequately respond to emergencies at the nearest acute hospital or where lack of admitting privileges is common for physicians practicing in that area;

(b) admits exclusively to acute hospitals that employ one or more physicians to care for their inpatient census, provided that the hospital's medical director agrees to admit and care for the physician's patients through the use of such physicians employed by the hospital; or

(c) establishes a collaborative relationship with a physician participating in MassHealth who has admitting privileges at the acute hospital closest to the requesting physician's office and who will assume responsibility for admitting the requesting physician's managed care members to that hospital when necessary.

(2) Upon written request from a physician, the MassHealth agency may waive the requirement that the individual physician or physician in a group practice is board-eligible or board-certified in family practice, pediatrics, internal medicine, obstetrics, gynecology, or obstetrics/gynecology, if the physician is board-eligible or board-certified in another medical specialty, and otherwise meets the requirements of 130 CMR 450.118.

(G) PCC Provider Qualifications Grandfathering Provision. Notwithstanding the generality of the provisions of 130 CMR 450.118, any provider who is continuously enrolled as a PCC before April 1, 2003, is subject to the PCC provider eligibility requirements in effect on and before March 31, 2003.

(H) Rate of Payment. The MassHealth agency pays PCCs an enhanced fee for primary care services, in accordance with the terms of the PCC provider contract.

(I) Termination.

(1) If the MassHealth agency determines that a PCC fails to fulfill any of the obligations stated in the MassHealth agency's regulations or PCC contract, the MassHealth agency may terminate the PCC contract in accordance with its terms. To the extent required by law, a pretermination hearing will be held in substantial conformity with the procedures set forth in 130 CMR 450.238 through 450.248.

(2) If the MassHealth agency determines that an individual practitioner within a PCC group practice fails to fulfill any of the obligations stated in the MassHealth agency's regulations or the PCC contract, the MassHealth agency may terminate the PCC contract pursuant to 130 CMR 450.118(I)(1), or require the group practice to stop assigning enrolled members to such practitioner and to reassign existing enrolled members to other practitioners in the group who meet the requirements of 130 CMR 450.118(B)(1) or (2).

(J) Referral for Services.

(1) Referral Requirement. All services provided by a clinician or provider other than the PCC Plan member's PCC require referral from the member's PCC in order to be payable, unless the service is exempted under 130 CMR 450.118(J)(5). In order to make a referral, PCCs must follow the processes described in the PCC provider contract and must include the individual National Provider Indentifier (NPI) number of an individual practitioner who meets the criteria of 130 CMR 450.118(B)(1), (2), or (6). Please refer to 130 CMR 450.231, *General Conditions of Payments* for additional requirements regarding referrals.

(2) Time Frames for Referral. Whenever possible, the PCC should make the referral before the member's receipt of the service. However, the PCC may issue a referral retroactively if the PCC determines that the service was medically necessary at the time of receipt.

(3) Payment for Services Requiring Referral. The MassHealth agency pays a provider other than the member's PCC for services that require a PCC referral only when a referral has been submitted by the member's PCC and includes the individual National Provider Identifier (NPI) number of an individual practitioner who meets the criteria of 130 CMR 450.118(B)(1), (2), or (6).

(4) Services Requiring Referrals. See 130 CMR 450.105 for a list of the services covered for each MassHealth coverage type and applicable program regulations for descriptions of covered services and specific service limitations. Prior-authorization requirements are described in 130 CMR 450.303, 450.144(A)(2), and applicable program regulations and subregulatory publications. Payment for services is subject to all conditions and restrictions of MassHealth, including but not limited to, the scope of covered services for a member's coverage type, service limitations, and prior-authorization requirements.

(5) Exceptions to Services Requiring Referrals. Notwithstanding 130 CMR 450.118(J)(4), the following services provided by a provider other than the member's PCC do not require a referral from the member's PCC in order to be payable:

(a) abortion services;
(b) annual gynecological exams;
(c) clinical laboratory services;
(d) diabetic supplies;
(e) durable medical equipment (items, supplies, and equipment) described in 130 CMR 409.000: *Durable Medical Equipment Services*;
(f) fiscal intermediary services as described in 130 CMR 422.419(B): *The Fiscal Intermediary;*
(g) fluoride varnish administered by a physician or other qualified medical professional;
(h) functional skills training provided by a MassHealth personal care management agency as described in 130 CMR 422.421(B): *Functional Skills Training*;
(i) HIV pre- and post-test counseling services;
(j) HIV testing;
(k) hospitalization

1. Elective Admissions. All elective admissions. are exempt from the PCC referral requirement and are subject to the MassHealth agency's admission screening requirements at 130 CMR 450.208(A). The hospital must notify the member's PCC within 48 hours following an elective admission;
2. Nonelective Admissions. Nonelective admissions are exempt from the PCC referral requirement. The hospital must notify the member's PCC within 48 hours following a nonelective admission;

(l) obstetric services for pregnant and postpartum members provided up to the end of the month in which the 60-day period following the termination of pregnancy ends;
(m) oxygen and respiratory therapy equipment;
(n) pharmacy services (prescription and over-the-counter drugs);
(o) radiology and other imaging services with the exception of magnetic resonance imaging (MRI) computed tomography (CT) scans, and positron emission tomography (PET) scans, and imaging services conducted at an independent diagnostic testing facility (IDTF), which do require a referral;
(p) services delivered by a behavioral health provider (including inpatient and outpatient psychiatric services);
(q) services delivered by a dentist;
(r) services delivered by a family planning service provider, for members of child-bearing age;
(s) services delivered by a hospice provider;
(t) services delivered by a limited service clinic;
(u) services delivered in a nursing facility;
(v) services delivered by an anesthesiologist or a certified registered nurse anesthetist;
(w) services delivered in an intermediate care facility for individuals with intellectual disabilities (ICF/ID);

(x) services delivered to a homeless member outside of the PCC office pursuant to 130 CMR 450.118(K);
(y) services delivered to diagnose and treat sexually transmitted diseases;
(z) services delivered to treat an emergency condition;
(aa) services provided under a home- and community-based waiver;
(bb) sterilization services when performed for family planning services;
(cc) surgical pathology services;
(dd) tobacco-cessation counseling services;
(ee) transportation to covered care;
(ff) vision care in the following categories (*see* Subchapter 6 of the *Vision Care Manual*): visual analysis frames, single-vision prescriptions, bifocal prescriptions, and repairs; and
(gg) additional services provided to members whose PCC participates in an Accountable Care Organization (ACO) subject to bulletins and other issuances more particularly describing applicable referral requirements.

(K) Services to Homeless Members. To provide services to homeless members according to 130 CMR 450.118(J)(5)(x), the provider must furnish written evidence of demonstrated experience in delivering medical care in a nonmedical setting, and request, in writing, designation from the MassHealth agency that the PCC is approved to provide services to homeless members. The MassHealth agency retains the right to approve or disapprove such a request or revoke an approval of such a request at any time.

(L) Recordkeeping and Reporting.
(1) PCC Recordkeeping Requirement. The PCC must document all referrals in the member's medical record by recording the following:
(a) the date of the referral;
(b) the name of the provider to whom the member was referred;
(c) the reason for the referral;
(d) number of visits authorized; and
(e) copies of the reports required by 130 CMR 450.118(L)(2).
(2) Reporting Requirements. The PCC who made the referral must obtain from the provider who furnished the service the results of the referred visit by telephone and in writing whenever legally possible.

(M) Other Program Requirements. Payment for services provided to members enrolled with a MassHealth managed care provider is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment.

(N) PCC Contracts. Providers that are PCCs are bound by and liable for compliance with the terms of the most recent PCC contract issued by the MassHealth agency, including amendments to the contract, as of the effective date specified in the PCC contract or amendment.

450.119 : Primary Care ACOs

(A) (1) Role of Primary Care ACO. Each Primary Care ACO is contracted with the MassHealth agency to coordinate and manage care for enrolled members.

(2) Role of Primary Care ACO's participating Primary Care Provider (participating PCP). The participating PCPs are the principal source of care for members who are enrolled in a Primary Care ACO. All services for which such a member is eligible, except those listed in 130 CMR 450.119(I), are payable only when provided by the member's participating PCP, or when the participating PCP has referred the member to another MassHealth provider.

(3) Role of Primary Care ACO's Referral Circle. Each Primary Care ACO may establish a referral circle of providers pursuant to its contract with the MassHealth agency.

(B) Provider Eligibility. Providers who wish to enroll as participating PCPs must be participating providers in MassHealth, must complete a participating PCP application, which is subject to approval by the MassHealth agency, and must meet the requirements of the participating PCP contract. The following provider types may apply to the MassHealth agency to become participating PCPs:

(1) individual physicians who have current admitting privileges to at least one MassHealth• participating Massachusetts acute hospital that participates in MassHealth or who meet 130 CMR 450.119(F)(1), and who are board-eligible or board- certified in family practice, pediatrics, internal medicine, obstetrics, gynecology, or obstetrics/gynecology, or who meet 130 CMR 450.119(F)(2);

(2) independent nurse practitioners who have a collaborative arrangement with a MassHealth-participating physician who meets the criteria of 130 CMR 450.119(B)(1);

(3) community health centers (freestanding or hospital-licensed) with at least one physician on staff who meets the criteria of 130 CMR 450.119(B)(1);

(4) acute hospital outpatient departments with at least one physician on staff who meets the criteria of 130 CMR 450.119(B)(1);

(5) group practices with at least one physician or nurse practitioner who

(a) is enrolled and approved by the MassHealth agency as a participating provider in that group;

(b) meets the requirements of 130 CMR 450.119(B)(1) or (2); and

(c) has signed the participating PCC contract; and

(6) providers who are enrolled as PCCs pursuant to 130 CMR 450.118(G).

(C) Community Health Center Participation. When a community health center is a participating PCP, it must assign each enrollee to an individual practitioner who meets the requirements of 130 CMR 450.119(B)(1) or (2).

(D) Hospital Outpatient Department Participation. When a hospital outpatient department is a participating PCP, it must assign each enrollee to an attending physician who meets the requirements of 130 CMR 450.119(B)(1) or (2).

(E) Group Practice Participation. When a group practice participates as a PCC, the group practice

(1) may claim an enhanced fee only for services provided by those individual practitioners within the group who meet the requirements of 130 CMR 450.119(B)(1) or (2); and

(2) must assign each enrollee to an individual practitioner who meets the criteria under 130 CMR 450.119(B)(1) or (2).

(F) Waiver of Eligibility Requirements. The MassHealth agency may, if necessary to ensure adequate member access to services, and under the following circumstances, allow an individual physician to enroll as a participating PCP or as a physician in a group practice participating PCP notwithstanding the physician's inability to meet certain eligibility requirements set forth in 130 CMR 450.119(B)(1).

(1) Upon written request from a physician, the MassHealth agency may waive the requirement that an individual physician or a physician in a group practice have admitting privileges to at least one MassHealth-participating Massachusetts acute hospital, if the physician demonstrates to the MassHealth agency's satisfaction that the physician:

(a) practices in an area that is too distant to adequately respond to emergencies at the nearest acute hospital or where lack of admitting privileges is common for physicians practicing in that area;

(b) admits exclusively to acute hospitals that employ one or more physicians to care for their inpatient census, provided that the hospital's medical director agrees to admit and care for the physician's patients through the use of such physicians employed by the hospital; or

(c) establishes a collaborative relationship with a physician participating in MassHealth who has admitting privileges at the acute hospital closest to the requesting physician's office and who will assume responsibility for admitting the requesting physician's managed care members to that hospital when necessary.

(2) Upon written request from a physician, the MassHealth agency may waive the requirement that the individual physician or physician in a group practice is board-eligible or board-certified in family practice, pediatrics, internal medicine, obstetrics, gynecology, or obstetrics/ gynecology, if the physician is board-eligible or board-certified in another medical specialty, and otherwise meets the requirements of 130 CMR 450.119.

(G) Rate of Payment. The MassHealth agency pays participating PCPs an enhanced fee for primary care services, in accordance with the terms of the participating PCP contract.

(H) Termination.

(1) If the MassHealth agency determines that a participating PCP fails to fulfill any of the obligations stated in the MassHealth agency's regulations or participating PCP contract, the MassHealth agency may terminate the participating PCP contract in accordance with its terms. To the extent required by law, a pretermination hearing will be held in substantial conformity with the procedures set forth in 130 CMR 450.238 through 450.248.

(2) If the MassHealth agency determines that an individual practitioner within a participating PCP group practice fails to fulfill any of the obligations stated in the MassHealth agency's regulations or the participating PCP contract, the MassHealth agency may terminate the participating PCP contract pursuant to 130 CMR 450.119(H)(1), or require the group practice to stop assigning enrollees to such practitioner and to reassign existing enrollees to other practitioners in the group who meet the requirements of 130 CMR 450.119(B)(1) or (2).

(I) Referral for Services.

(1) Referral Requirement. All services provided by a clinician or provider other than the Primary Care ACO member's participating PCP require referral from the member's participating PCP in order to be payable, unless the service is exempted under 130 CMR 450.119(I)(5). This referral requirement also applies to services delivered by individual practitioners who are part of a group practice participating PCP `and who have not been identified by the group practice as providers who may be assigned Primary Care ACO members under 130 CMR 450.119(E). In order to make a referral, participating PCPs must follow the processes described in the participating PCP contract.

(2) Time Frames for Referral. Whenever possible, the participating PCP should make the referral before the member's receipt of the service. However, the participating PCP may issue a referral retroactively if the participating PCP determines that the service was medically necessary at the time of receipt.

(3) Payment for Services Requiring Referral. The MassHealth agency pays a provider other than the member's participating PCP for services that require a participating PCP referral only when a referral has been submitted by the member's participating PCP.

(4) Services Requiring Referrals. *See* 130 CMR 450.105 for a list of the services covered for each MassHealth coverage type and applicable program regulations for descriptions of covered services and specific service limitations. Prior-authorization requirements are described in 130 CMR 450.303, 450.144(A)(2), and applicable program regulations and subregulatory publications. Payment for services is subject to all conditions and restrictions of MassHealth, including but not limited to, the scope of covered services for a member's coverage type, service limitations, and prior-authorization requirements.

(5) Exceptions to Services Requiring Referrals. Notwithstanding 130 CMR 450.119(I)(4), the following services provided by a clinician or other provider other than the member's participating PCP do not require a referral from the member's participating PCP in order to be payable:

(a) abortion services;
(b) annual gynecological exams;
(c) clinical laboratory services;
(d) diabetic supplies;
(e) durable medical equipment (items, supplies, and equipment) described in 130 CMR 409.000: *Durable Medical Equipment Services*;
(f) fiscal intermediary services as described in 130 CMR 422.419(B): *The Fiscal Intermediary*;
(g) fluoride varnish administered by a physician or other qualified medical professional;

(h) functional skills training provided by a MassHealth personal care management agency as described in 130 CMR 422.421(B): *Functional Skills Training*;
(i) HIV pre- and post-test counseling services;
(j) HIV testing;
(k) hospitalization
1. Elective Admissions. All elective admissions are exempt from the PCC referral requirement and are subject to the MassHealth agency's admission screening requirements at 130 CMR 450.208(A). The hospital must notify the member's PCC within 48 hours following an elective admission;
2. Nonelective Admissions. Nonelective admissions are exempt from the PCC referral requirement. The hospital must notify the member's PCC within 48 hours following a nonelective admission;
(l) obstetric services for pregnant and postpartum members provided up to the end of the month in which the 60-day period following the termination of pregnancy ends;
(m) oxygen and respiratory therapy equipment;
(n) pharmacy services (prescription and over-the-counter drugs);
(o) radiology and other imaging services with the exception of magnetic resonance imaging (MRI) computed tomography (CT) scans, positron emission tomography (PET) scans, and imaging services conducted at an independent diagnostic testing facility (IDTF), which do require a referral;
(p) services delivered by a behavioral health (mental health and substance abuse) provider (including inpatient and outpatient psychiatric services);
(q) services delivered by a dentist;
(r) services delivered by a family planning service provider, for members of child-bearing age;
(s) services delivered by a hospice provider;
(t) services delivered by a limited service clinic;
(u) services delivered in a nursing facility;
(v) services delivered by an anesthesiologist;
(w) services delivered in an intermediate care facility for individuals with intellectual disabilities (ICF/ID);
(x) services delivered to a homeless member outside of the participating PCC office pursuant to 130 CMR 450.118(K);
(y) services delivered to diagnose and treat sexually transmitted diseases;
(z) services delivered to treat an emergency condition;
(aa) services provided under a home- and community-based waiver;
(bb) sterilization services when performed for family planning services;
(cc) surgical pathology services;
(dd) tobacco-cessation counseling services;
(ee) transportation to covered care;
(ff) vision care in the following categories (*see* Subchapter 6 of the *Vision Care Manual*): visual analysis frames, single-vision prescriptions, bifocal prescriptions, and repairs; and
(gg) additional services provided to members by providers in the member's Primary Care ACO's referral circle pursuant to the MassHealth agency's contract with the Primacy Care ACO.

(J) Services to Homeless Members. To provide services to homeless members according to 130 CMR 450.119(I)(5)(x), the provider must furnish written evidence of demonstrated experience in delivering medical care in a nonmedical setting, and request, in writing, designation from the MassHealth agency that the participating PCP is approved to provide services to homeless members. The MassHealth agency retains the right to approve or disapprove such a request or revoke an approval of such a request at any time.

(K) Recordkeeping and Reporting.

(1) Participating PCP Recordkeeping Requirement. The participating PCP must document all referrals in the member's medical record by recording the following:

(a) the date of the referral;
(b) the name of the provider to whom the member was referred;
(c) the reason for the referral;
(d) number of visits authorized; and
(e) copies of the reports required by 130 CMR 450.119(K)(2).

(2) Reporting Requirements. The participating PCP who made the referral must obtain from the provider who furnished the service the results of the referred visit by telephone and in writing whenever legally possible.

(L) Other Program Requirements. Payment for services provided to members enrolled with a MassHealth managed care provider is subject to all conditions and restrictions of MassHealth, including all applicable prerequisites for payment.

(M) Participating PCP Contracts. Providers that are participating PCPs are bound by and liable for compliance with the terms of the most recent participating PCP contract issued by the MassHealth agency, including amendments to the contract, as of the effective date specified in the participating PCP contract or amendment.

(130 CMR 450.120 through 450.122 Reserved)

450.123 : Managed Care Compliance with Mental Health Parity

(A) MCOs, Accountable Care Partnership Plans, SCOs, and ICOs, and their behavioral health subcontractors or third party administrators, if any, must comply with and implement relevant provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (the Federal Mental Health Parity Law), and implementing regulations and federal guidance, which requires parity between mental health or substance use disorder benefits and medical/surgical benefits with respect to financial requirements and treatment limitations.

(B) Annual Certification of Compliance with Federal Mental Health Parity Law. Each MCO, Accountable Care Partnership Plan, SCO, and ICO must annually review its administrative and other practices, including the administrative and other practices of any behavioral health subcontractors or third party administrators, for compliance with the relevant provisions Federal Mental Health Parity Law, regulations, and guidance.

(1) Each MCO, Accountable Care Partnership Plan, SCO, and ICO must submit a certification signed by the chief executive officer and chief medical officer stating that the entity has completed a comprehensive review of the administrative practices of the entity for compliance with the necessary provisions of State Mental Health Parity Laws and Federal Mental Health Parity Law.

(2) If the MCO, Accountable Care Partnership Plan, SCO, or ICO determines that all administrative and other practices were in compliance with relevant requirements of the Federal Mental Health Parity Law, the annual certification will affirmatively state that all relevant administrative and other practices were in compliance with Federal Mental Health Parity Law.

(3) If the MCO, Accountable Care Partnership Plan, SCO, or ICO determines that any administrative or other practices were not in compliance with relevant requirements of the Federal Mental Health Parity Law, the annual certification will state that not all practices were in compliance with Federal Mental Health Parity Law, and will include a list of the practices not in compliance, and the steps the entity has taken to bring these practices into compliance.

(C) A member enrolled in an MCO, Accountable Care Partnership Plan, SCO, or ICO may file a grievance with MassHealth if the member believes that services are provided in a way that is not consistent with applicable Federal Mental Health Parity laws, regulations, or federal guidance. Member grievances may be communicated for resolution verbally or in writing to MassHealth's customer service contractor.

450.124 : Behavioral Health Services

(A) Behavioral Health Contractor. Except as provided in 130 CMR 450.124(B) and (C), all behavioral health services covered by the MassHealth agency's contract with the behavioral health contractor (the Contractor) are authorized, provided, and paid solely by the Contractor. Payment for such services is subject to the terms of the Contractor's provider contracts including, but not limited to, provisions governing service authorization and billing requirements. Any provider seeking a contract with the Contractor should contact the Contractor directly.

(B) Emergency Services. Members may obtain emergency behavioral health services from any qualified participating MassHealth provider as well as any provider that has entered into an agreement with the Contractor. Providers should refer to MassHealth bulletins for information and guidance on submission of claims for emergency department behavioral health visits.

(C) Services to Exempt Members. Services provided to the following MassHealth members are not subject to 130 CMR 450.124:

(1) members who are enrolled in an MCO, Accountable Care Partnership Plan, SCO, or ICO; and

(2) members who are excluded from participating in managed care under 130 CMR 508.002: *MassHealth Members Excluded from Participation in Managed Care* unless such member is enrolled with the behavioral health contractor pursuant to 130 CMR 508.001(E).

(130 CMR 450.125 through 450.129 Reserved)

450.130 : Copayments Required by the MassHealth Agency

(A) Copayment Requirement. The MassHealth agency requires its members to make the copayments described in 130 CMR 450.130(B) up to the calendar-year maximum described in 130 CMR 450.130(C), except as excluded in 130 CMR 450.130(D) and (E). Providers may collect copayments only in the amounts and for the services listed in 130 CMR 450.130(B). If the payment rate for the service is less than the copayment amount, the member must pay the payment rate for the service. Members who are enrolled in MCOs, Accountable Care Partnership Plans, SCOs, and ICOs must make copayments in accordance with the such entity's copayment policy. Those copayment policies must

(1) be approved by the MassHealth agency;
(2) exclude the persons and services listed in 130 CMR 450.130(D) and (E);
(3) not exceed the MassHealth copayment amounts set forth in 130 CMR 450.130(B); and
(4) not exceed the calendar-year or quarterly maximums set forth in 130 CMR 450.130(C). (*See* also 130 CMR 506.011 through 506.019, 508.004(C), 508.005(C), 508.006(A)(3), 508.007(G), 508.008(G), and 520.036 through 520.040.)

(B) Services Subject to Copayments. MassHealth members are responsible for making the following copayments unless excluded in 130 CMR 450.130(D) or (E).

(1) Pharmacy Services. The copayment for pharmacy services is
(a) $1 for each prescription and refill for each generic drug and over-the-counter drug covered by MassHealth in the following drug classes: antihyperglycemics, antihypertensives, and antihyperlipidemics; and
(b) $3.65 for each prescription and refill for all other generic and over-the-counter drugs, and all brand-name drugs covered by MassHealth.
(2) Nonpharmacy Services. The copayment for nonpharmacy services is $3 for an acute inpatient hospital stay.

(C) Maximum Cost Sharing. Members are responsible for the MassHealth copayments described in 130 CMR 450.130(B), up to the following maximums:

(1) $250 for pharmacy services per calendar year;
(2) $36 for nonpharmacy services per calendar year; and
(3) 5% of the member's MAGI income of the MassHealth MAGI household or the MassHealth Disabled Adult household, as applicable, in a given calendar quarter, including both copayments and any applicable premium payments.

(D) Excluded Individuals.

(1) The following individuals do not have to pay the copayments described in 130 CMR 450.130(B):
(a) members younger than 21 years old;
(b) members who are pregnant or in the postpartum period that extends through the last day of the second calendar month following the month in which their pregnancy ends (for example, if the woman gave birth May 15th, she is exempt from the copayment requirement until August 1st);

(c) MassHealth Limited members;
(d) MassHealth Senior Buy-In members or MassHealth Standard members for drugs covered under Medicare Parts A and B only, when provided by a Medicare-certified provider;
(e) members who are inpatients in nursing facilities, chronic-disease or rehabilitation hospitals, or intermediate-care facilities for individuals with intellectual disabilities or who are admitted to a hospital from such a facility or hospital;
(f) members receiving hospice services;
(g) persons receiving medical services through the EAEDC Program pursuant to 130 CMR 450.106, if they do not receive MassHealth CarePlus or MassHealth Standard; and
(h) members who are American Indians or Alaska Natives who are currently receiving or have ever received an item or service furnished by the Indian Health Service, an Indian tribe, a tribal organization, or an urban Indian organization, or through referral, in accordance with federal law.

(2) Members who have accumulated copayment charges totaling the calendar-year maximum of $250 on pharmacy services do not have to pay further MassHealth copayments on pharmacy services during the calendar year in which the member reached the MassHealth copayment maximum for pharmacy services.
(3) Members who have accumulated copayment charges totaling the calendar-year maximum of $36 on non-pharmacy services do not have to pay further MassHealth copayments on nonpharmacy services during the calendar year in which the member reached the MassHealth copayment maximum for nonpharmacy services.
(4) Members who have accumulated premium and copayment charges totaling an amount equal to 5% of the member's MAGI Income of the MassHealth MAGI household or the MassHealth Disabled Adult household, or the member's Countable Income as applicable, in a given calendar quarter do not have to pay further MassHealth copayments during the quarter in which the member reached the 5% cap.
(5) Members who have other comprehensive medical insurance, including Medicare, do not have to pay MassHealth copayments on nonpharmacy services.
(6) Members who are inpatients in a hospital do not have to pay a separate copayment for pharmacy services provided as part of the hospital stay.

(E) Excluded Services. The following services are excluded from the copayment requirement described in 130 CMR 450.130(B):
(1) family-planning services and supplies such as oral contraceptives, contraceptive devices such as diaphragms and condoms, and contraceptive jellies, creams, foams, and suppositories;
(2) nonpharmacy behavioral health services; and
(3) emergency services.

(F) Notice to Members about Exclusions from the Copayment Requirement. Pharmacies and hospitals must post a notice about MassHealth copayments in areas where copayments are collected. The notice must be visible to the public and easily readable and must specify the exclusions from the copayment requirement listed in 130 CMR 450.130(D) and (E), and instruct members to inform providers if members believe they are excluded from the copayment requirement.

(G) Collecting Copayments.

(1) A member must pay the copayment described in 130 CMR 450.130(B) at the time the service is provided unless the member is exempt under 130 CMR 450.130(D) or (E), claims that he or she is exempt from the copayment, or claims that he or she is unable to make the copayment at the time the service is provided. The member's inability to make the copayment at the time service is provided does not eliminate the member's liability for the copayment, and providers may bill the member for the copayment amount.

(2) The MassHealth agency will deduct the amount of the copayment from the amount paid to the provider, whether or not the provider collects the copayment from the member, unless the member or service is exempt according to 130 CMR 450.130(D) or (E). Providers must not deduct the copayment amount from the amount claimed. Providers may not refuse services to any members who are unable to pay the copayment at the time service is provided.

(H) Receipt. The provider must give the member a receipt identifying the provider, service, date of service, member, and amount paid.

(I) Recordkeeping. Providers must keep all records necessary to determine if a copayment was collected from a member for a service on a specific date.

(130 CMR 450.131 through 450.139 Reserved)

450.140 : Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services: Introduction

(A) Legal Basis.

(1) In accordance with federal law at 42 U.S.C. 1396d(a)(4)(b) and 1396d(r), and 42 CFR 441.50, and notwithstanding any limitations implied or expressed elsewhere in MassHealth regulations or other publications, the MassHealth agency has established a program of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) for MassHealth Standard and MassHealth CommonHealth members younger than 21 years old, including those who are parents.

(2) Any qualified MassHealth provider may deliver EPSDT services. However, in delivering well-child care, providers must follow the EPSDT Medical Protocol and Periodicity Schedule.

(3) EPSDT screening services include among other things, health, vision, dental, hearing, behavioral health, developmental and immunization status screening services.

(4) The regulations governing the EPSDT program are set forth in 130 CMR 450.140 through 450.149.

(B) Program Objectives. The objectives of the EPSDT program are

(1) to provide comprehensive and continuous health care designed to prevent illness and disability;

(2) to foster early detection and prompt treatment of health problems before they become chronic or cause irreversible damage;

(3) to create an awareness of the availability and value of preventive well-child care services; and

(4) to create an awareness of the services available under the EPSDT program, and where and how to obtain those services.

450.141 : EPSDT Services: Definitions

Dental Care — dental services customarily furnished by or through dental providers as defined in 130 CMR 420.000: *Dental Services*, to the extent the furnishing of those services is authorized by the MassHealth agency.

EPSDT Dental Protocol and Periodicity Schedule (the Dental Schedule) — a schedule (*see* Appendix W: *EPSDT Services: Medical and Dental Protocols and Periodicity Schedules* of all MassHealth provider manuals) developed and periodically updated by the MassHealth agency in consultation with recognized medical and dental organizations involved in child health care. The Dental Schedule consists of screening and treatment procedures arranged according to the intervals or age levels at which each procedure is to be provided.

EPSDT Medical Protocol and Periodicity Schedule (the Medical Schedule) — a schedule (*see* Appendix W: *EPSDT Services: Medical and Dental Protocols and Periodicity Schedules* of all MassHealth provider manuals) developed and periodically updated by the MassHealth agency in consultation with recognized medical and dental organizations involved in child health care. The Medical Schedule consists of screening procedures arranged according to the intervals or age levels at which each procedure is to be provided.

Interperiodic Visit — the provision of screening procedures or treatment services at an age other than those indicated on the Medical or the Dental Schedule. Interperiodic visits may be:

(1) screenings that are medically necessary to determine the existence of a suspected illness or condition, or a change in or complication of a preexisting condition;

(2) the provision of the full-range of EPSDT screening or treatment services delivered at an age other than one listed on the Medical or Dental Schedule to update the member's care according to the Medical or Dental Schedule; or

(3) additional screening or treatment services provided to a member whose care is already up to date according to the Medical or Dental Schedule.

Periodic Visit — the provision of screening procedures appropriate to the member's age and medical history, as prescribed by the Medical Schedule or the Dental Schedule.

Primary Care — health care services customarily furnished by or through a general practitioner, family physician, internal medicine physician, obstetrician/gynecologist, pediatrician, certified nurse practitioner, or certified nurse midwife, or physician assistant to the extent the furnishing of those services is legally authorized in the Commonwealth. Primary care does not include emergency or post stabilization services provided in a hospital or other setting.

Primary Care Providers — a general practitioner, family physician, internal medicine physician, obstetrician/gynecologist, pediatrician, certified nurse practitioner, certified nurse midwife, or physician assistant.

450.142 : EPSDT Services: Medical Protocol and Periodicity Schedule and Dental Protocol and Periodicity Schedule

(A) Providers of Periodic and Interperiodic Visits.

(1) Primary care providers must offer to conduct periodic and medically necessary interperiodic visits to screen all members younger than 21 years of age (except members enrolled in MassHealth Limited) in accordance with the Medical Schedule, and must provide or refer such members to assessment, diagnosis, and treatment services.

(2) Hospitals and community health centers that provide primary care services must offer to conduct periodic and medically necessary interperiodic visits to screen all members younger than 21 years of age (except members enrolled in MassHealth Limited) in accordance with the Medical Schedule, and must provide or refer such members to assessment, diagnosis, and treatment services.

(3) The health assessments described in the Medical Schedule are payable when provided by a physician, certified nurse practitioner, certified nurse midwife, hospital, community health center, or physician assistant.

(B) Providers of Dental Services.

(1) Dental care providers must offer to provide services listed in Appendix W: *EPSDT Services: Medical and Dental Protocols and Periodicity Schedules* of all MassHealth provider manuals to all members younger than 21 years of age (except members enrolled in MassHealth Limited) in accordance with the Dental Schedule, and must provide or refer such members to assessment, diagnosis, and treatment services.

(2) The dental services described in the Dental Schedule are payable when provided by dental providers as described in 130 CMR 420.000: *Dental Services*.

(C Explanation of Procedures.

(1) The Medical Schedule outlines the procedures for comprehensive preventive care that help to identify members who may require further diagnosis of suspected or actual health problems, treatment of these problems, or both.

(2) The Medical Schedule explains procedures that must be documented in the medical record.

(3) The Dental Schedule is a tool to help dental providers identify members with suspected or actual dental problems that may require additional investigations, diagnosis, or treatment.

450.143 : EPSDT Services: Description of Medical Protocol and Periodicity Schedule Visits (EPSDT Visits)

(A) Initial EPSDT Visit.

(1) An initial EPSDT visit must be provided for every

(a) new member;

(b) member previously seen only for sick care; and

(c) newborn previously seen only in the hospital.

(2) An initial EPSDT visit includes the recording of

(a) family, medical, behavioral health, developmental, and immunization history;

(b) a review of all systems;

(c) a comprehensive physical examination; and

(d) all exams, assessments, screening, and laboratory work indicated on the Medical Schedule as appropriate for the member's age.

(B) EPSDT Periodic Visit.

(1) An EPSDT periodic visit consists of all exams, assessments, screenings, and laboratory work indicated on the Medical Schedule as appropriate for the member's age.

(2) A provider may claim payment for an EPSDT periodic visit only when all the screening procedures on the Medical Schedule that correspond to the member's age have been delivered to the member.

(a) While the screening procedures are based upon a presumption of regular contact with health-care providers, many members will need additional screening procedures to bring them up to date.

(b) It is the provider's responsibility to provide those additional screening procedures necessary to bring the member up to date with his or her preventive health care according to the Medical Schedule.

(3) If the provider is unequipped to perform a test (for example, if he or she does not have an audiometer and an audiometric test is required), the provider must make a screening referral to another provider. However, in every case, for the referring provider to claim payment for an EPSDT periodic visit

(a) all required screening procedures must be performed; and

(b) the referring provider must receive and document all results in the member's medical record.

(C) EPSDT Interperiodic Visit. An EPSDT interperiodic visit is any visit not indicated on the Medical Schedule. Such visits may be either

(1) preventive health-care visits provided at an age or age interval not indicated on the Medical Schedule; or

(2) a screening that is medically necessary to determine the existence of a suspected illness or condition, or a change in or complication of a preexisting condition.

450.144 : EPSDT Services: Diagnosis and Treatment

(A) (1) EPSDT diagnosis and treatment services consist of all medically necessary services listed in 1905(a) of the Social Security Act (42 U.S.C. 1396d(a) and (r)) that are

(a) needed to correct or ameliorate physical or mental illnesses and conditions discovered by a screening, whether or not such services are covered under the State Plan; and

(b) payable for MassHealth Standard and MassHealth CommonHealth members younger than 21 years of age, if the service is determined by the MassHealth agency to be medically necessary.

(2) To receive payment for any service described in 130 CMR 450.144(A)(1) that is not specifically included as a covered service under any MassHealth regulation, service code list, or contract, the requester must submit a request for prior authorization in accordance with 130 CMR 450.303. This request must include, without limitation, a letter and supporting documentation from a MassHealth-enrolled physician, physician assistant, certified nurse practitioner, certified nurse midwife, or certified clinical nurse specialist documenting the medical need for the requested service. If the MassHealth agency approves such a request for service for which there is no established payment rate, the MassHealth agency will establish the appropriate payment rate for such service on an individual-consideration basis in accordance with 130 CMR 450.271. If the request is for a member who is enrolled in an MCO or Accountable Care Partnership Plan, as defined in 130 CMR 450.000, the requestor must submit the request to the MCO or Accountable Care Partnership Plan according to the MCO's or Accountable Care Partnership Plan's prior-authorization process. If the request is for a behavioral health service for a member who is enrolled with MassHealth's behavioral health contractor, as defined in 130 CMR 508.000, the requestor must submit the request to the behavioral health contractor according to the behavioral health contractor's prior authorization process.

(B) For any condition that requires further assessment, diagnosis, or treatment after the periodic or interperiodic visit, the provider must inform the member how and where to obtain further assessment, diagnosis, or treatment, and must either

(1) request that the member return for another appointment as soon as possible; or

(2) make a referral to another provider who can provide the appropriate assessment, diagnosis, or treatment as soon as the referring provider determines that a referral is needed.

(C) When making a referral to another provider, the referring provider must give the name and address of an appropriate provider to the member or to the member's parent or guardian.

(D) The referring provider must obtain a report of the results of assessment, diagnosis, and treatment from the provider of the referred service and document this information in the member's medical record.

450.145 : EPSDT Services: Claims for Visits

(A) Initial EPSDT Visit. A provider may bill for only one initial EPSDT visit per member.

(B) Periodic Visits.

(1) For each member from birth through two years of age, a provider may bill for only one periodic visit per age level listed in the Medical Schedule.

(2) For each member aged two years through 20 years, a provider may bill for only one periodic visit every year.

(C) Interperiodic Visits. There is no limit on the number of medically necessary interperiodic visits that may be billed. Only interperiodic visits, at which the full range of EPSDT screening services are delivered, are payable as EPSDT periodic visits, subject to the limitations in 130 CMR 450.145(B). Any other interperiodic visit is payable according to the visit service codes and descriptions in Subchapter 6 of the screening provider's MassHealth provider manual.

(D) Newborn Visits. (Physician, physician assistant, certified nurse practitioner, certified nurse midwife, and community health center providers only)

(1) To be paid for an EPSDT periodic visit of a newborn, the provider must have visited the newborn at least twice before the newborn leaves the hospital.

(a) The first visit, for an initial history and physical examination, is payable as newborn care and not as an EPSDT periodic visit.

(b) The second visit, for a discharge history, physical examination, and all other screens required for the newborn, is payable as an EPSDT periodic visit.

(2) Additional hospital visits for ill newborns are payable according to the service codes and descriptions for hospital visits.

(3) The newborn EPSDT periodic visit may occur at the provider's office if the infant's length of stay in the hospital is not long enough for the provider to visit the infant twice before the infant is discharged from the hospital.

(E) Reporting Requirement. To claim payment for an EPSDT initial, periodic, or interperiodic visit, a provider must submit a completed claim according to the MassHealth agency's billing and claims submission requirements.

450.146 : EPSDT Services: Claims for Laboratory Services, Audiometric Hearing Tests, Vision Tests, and Behavioral Health Screening (Physician, Physician Assistant, Certified Nurse Practitioner, Certified Nurse Midwife, Certified Clinical Nurse Specialist, and Community Health Center Providers Only)

(A) Laboratory Services. The laboratory services that are listed in Appendix Z: *EPSDT/PPHSD Screening Services Codes* of all MassHealth provider manuals and included in the Medical Schedule are payable, in addition to the initial, periodic, or interperiodic visit, when they are performed and interpreted in the office of the provider who performed the initial, periodic, or interperiodic visit.

(B) Audiometric Hearing and Vision Tests. Payments for the audiometric hearing tests and the bilateral quantitative screening test of visual acuity that are listed in Appendix Z of all MassHealth provider manuals and included in the Medical Schedule, is not included in the fee for an initial, periodic, or interperiodic visit. Payment for these tests may be claimed separately.

(C) Behavioral Health Screening. Payment for the administration and scoring of one of the standardized behavioral health screening tools that is listed in Appendix Z of all MassHealth provider manuals and set forth in the Medical Schedule is not included in the fee for an initial, periodic, or interperiodic visit.

(130 CMR 450.147 Reserved)

450.148 : EPSDT Services: Payment for Transportation

Transportation may be available to members accessing EPSDT services. Providers must ask members if they need transportation assistance, and refer those members who do to MassHealth Customer Service for additional information about transportation.

450.149 : EPSDT Services: Recordkeeping Requirements

(A) Medical Records.

(1) A provider must create and maintain a record for every member receiving EPSDT services, in accordance with MassHealth regulations governing medical records at 130 CMR 450.205.

(2) In addition, the medical record for each member receiving EPSDT services must contain documentation of the screening procedures listed in Appendix W: *EPSDT Services: Medical and Dental Protocols and Periodicity Schedules* as well as the following:

(a) the results of all laboratory tests;

(b) the name of each referral provider; and

(c) the results of any component of the Medical Schedule that was delivered by another provider.

(B) Determination of Compliance with Medical Standards. The MassHealth agency may review the medical records of members receiving EPSDT services to determine the necessity and quality of the medical services provided. Any such determinations will be made in accordance with 130 CMR 450.204 and 130 CMR 450.206.

450.150 : Preventive Pediatric Health-care Screening and Diagnosis (PPHSD) Services for Certain MassHealth Members

(A) MassHealth has established a program of preventive pediatric health-care screening and diagnosis services for MassHealth members younger than 21 years old who are enrolled in MassHealth Family Assistance. MassHealth Standard and MassHealth CommonHealth members are entitled to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services pursuant to 130 CMR 450.140.

(B) Any qualified MassHealth provider may deliver preventive pediatric health-care screening and diagnosis services.

(1) In delivering preventive pediatric health-care screening and diagnosis services, providers must

(a) follow the procedures listed in the Medical Schedule; and

(b) comply with the regulations at 130 CMR 450.140 through 450.150.

(2) Preventive pediatric health-care screening and diagnosis services include health, vision, dental, hearing, behavioral health, developmental, and immunization status screening services.

(3) To interpret the applicable EPSDT regulations for children enrolled in MassHealth Family Assistance, providers should substitute the term, preventive pediatric health-care diagnosis and treatment services, for the term, Early and Periodic Screening, Diagnosis and Treatment Services, wherever it appears.

(C) Providers delivering preventive pediatric health-care screening and diagnosis services should provide members with, or refer members for, additional diagnosis and treatment services according to 130 CMR 450.105.

(130 CMR 450.151 through 450.199 Reserved)

450.200 : Conflict between Regulations and Contracts

If the MassHealth regulations about payment methods and conditions of provider participation conflict with a provider or managed care contract, such contract supersedes the regulation, unless the contract expressly states otherwise.

450.201 : Choice of Provider

Pursuant to federal regulations set forth in 42 CFR 431.51, members have the right to choose providers from whom they may obtain medical services with certain exceptions that are specified in the MassHealth regulations, including, but not limited to, 130 CMR 450.117(B) and 450.316. However, a member's right to choose a provider does not permit or require payment by the MassHealth agency to any person or institution not eligible for such payment under the MassHealth regulations in effect at the time a medical service is provided.

450.202 : Nondiscrimination

(A) M.G.L. c. 151B, § 4, clause 10 prohibits discrimination against any individual who is a recipient of federal, state, or local public assistance, including MassHealth, because the individual is such a recipient or because of any requirement of such an assistance program. Accordingly, except as specifically permitted or required by law, no provider may deny any medical service to a member eligible for such service unless the provider would, at the same time and under similar circumstances, deny the same service to a patient who is not a MassHealth member (for example, no new patients are being accepted, or the provider does not provide the desired service to any patient). A provider may not specify a particular setting for the provision of services to a member that is not also specified for nonmembers in similar circumstances.

(B) No provider may engage in any practice, with respect to any member, that constitutes unlawful discrimination under any other state or federal law or regulation, including, but not limited to, practices that violate the provisions of Section 1557 of the Affordable Care Act prohibiting discrimination on the basis of race, color, national origin, sex (including pregnancy, gender identity and sex stereotyping), age, or disability; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

(C) Pursuant to 42 U.S.C. 1396u-2 and 42 CFR 438.3(d), MCOs, Accountable Care Partnership Plans, Primary Care ACO's participating primary care providers (participating PCPs), PCCs, the behavioral health contractor, SCOs, and ICOs may not unlawfully discriminate and will not use any policy or practice that has the effect of unlawfully discriminating against a MassHealth member eligible to enroll in the contractor's MassHealth plan on the basis of health status, need for health-care services, race, color, national origin, sex, sexual orientation, gender identity, or disability. MCOs, Accountable Care Partnership Plans, Primary Care ACO's participating primary care providers (participating PCPs), PCCs, the behavioral health contractor, SCOs, and ICOs will accept for enrollment and reenrollment all members referred by the MassHealth agency in the order in which they are referred without restriction, provided that PCCs and participating PCPs will accept members for enrollment and reenrollment up to the limits for PCC panel capacity set under the contract between EOHHS and PCCs and the limits for participating PCP panel capacity set under the contract between EOHHS and participating PCPs.

(D) Violations of 130 CMR 450.202(A), (B), and (C) may result in administrative action, referral to the Massachusetts Commission Against Discrimination, or referral to the U.S. Department of Health and Human Services, or any combination of these.

450.203 : Payment in Full

(A) Federal and state laws require that participation in MassHealth be limited to providers who agree to accept, as payment in full, the amounts paid in accordance with the applicable fees and rates or amounts established under a provider contract or regulations applicable to MassHealth payment. (*See* 42 CFR 447.15 and M.G.L. c. 118E, § 36.) No provider may solicit, charge, receive, or accept any money, gift, or other consideration from a member, or from any other person, for any item or medical service for which payment is available under MassHealth, in addition to, instead of, or as an advance or deposit against the amounts paid or payable by the MassHealth agency for such item or service, except to the extent that the MassHealth regulations specifically require or permit contribution or supplementation by the member or by a health insurer.

(B) If the provider receives payment from a member for any service payable under MassHealth without knowing that the member was a MassHealth member at the time the service was provided, the provider must, upon learning that the individual is a MassHealth member, immediately return all sums solicited, charged, received, or accepted with respect to such service.

450.204 : Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(A) A service is medically necessary if
(1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
(2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request. (*See* 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(E) Any regulatory or contractual exclusion from payment of experimental or unproven services refers to any service for which there is insufficient authoritative evidence that such service is reasonably calculated to have the effect described in 130 CMR 450.204(A)(1).

450.205 : Recordkeeping and Disclosure

(A) The MassHealth agency will not pay a provider for services if the provider does not have adequate documentation to substantiate the provision of services payable under MassHealth. All providers must keep such records, including medical records, as are necessary to disclose fully the extent and medical necessity of services provided to, or prescribed for, members and must provide to the MassHealth agency and the Attorney General's Medicaid Fraud Division, the State Auditor and the United States Department of Health and Human Services on request such information and any other information about payments claimed by the provider for providing services or otherwise described in 130 CMR 450.205. (*See* e.g., 42 U.S.C. 1396a(a)(27) and the regulations thereunder). All providers must also disclose such records and information to any other state and federal agency to which disclosure is required by law.

(B) All providers must maintain complete patient account records. Patient account records must include complete documentation of charges, indicate the date and amount of all debit and credit transactions, and support the appropriateness of the amounts billed and paid. Institutional providers must, in addition, provide on request all records maintained by or within the institution about services provided to members by other providers. Pharmacy providers must, in addition, keep photocopies of the temporary MassHealth cards referenced when filling prescriptions, if applicable, and must produce a copy of the card on request.

(C) A provider must maintain and disclose any and all financial, statistical, and other information as may be required by the MassHealth agency, the Center for Health Information and Analysis, or any other agency described in 130 CMR 450.205(A). The required information must include, but is not limited to, ownership and licensure information, cost reports, charge books, audited financial statements, financial records, federal and state tax returns, invoices, general ledgers, trial balances, remittance advices, and explanations of benefits from health insurers and managed care organizations. Such records and documents must be provided within the time period specified by the requesting agency.

(D) All records, including but not limited to those containing signatures of medical professionals authorizing services, such as prescriptions, must, at a minimum, be legible and comply with generally accepted standards for recordkeeping within the applicable provider type as they may be found in laws, rules, and regulations of the relevant board of registration, professional treatises, and guidelines and other information published, adopted, or promulgated by state or national professional organizations and societies. All accounting records must be maintained in accordance with generally accepted accounting principles. In those instances where MassHealth regulations identify specific recordkeeping requirements for particular types of providers, such regulations constitute an additional standard against which the adequacy of records will be measured for the purposes of 130 CMR 450.205. In no instance will the completion of the appropriate MassHealth claim, the maintenance of a copy of such claim, or the simple notation of service codes constitute sufficient documentation for the purpose of 130 CMR 450.205.

(E) Except as provided in 130 CMR 450.205(F), the records and information required to be maintained or disclosed under 130 CMR 450.000 include only those that relate in any manner to services provided to or prescribed for members, provided, however, that disclosure may not be refused on the ground that such records are commingled with records related to persons who are not members. Such records and information must be made available to the MassHealth agency and any other agency described in 130 CMR 450.205(A) for examination or copying during reasonable office hours at the provider's place of business or record depository. Alternatively, the requesting agency may require that the provider submit copies of such records and information.

(F) (1) Providers subject to the federal requirements for employee education about false claims laws under 42 U.S.C. 1396a(a)(68) must:

(a) provide written certification, on or before June 30th of each year, or such other date as specified by the MassHealth agency, signed under the pains and penalties of perjury, of compliance with the federal requirements;

(b) make available to the MassHealth agency, upon request, a copy of all written policies implemented in accordance with 42 U.S.C. 1396a(a)(68), any employee handbook, and other information as the MassHealth agency may deem necessary to determine compliance; and

(c) initiate corrective actions necessary to comply with such federal requirements.

(2) The MassHealth agency may recover as overpayments any payments made to a provider that the MassHealth agency determines failed to comply with the requirements of 130 CMR 450.205(F)(1) or 42 U.S.C. 1396a(a)(68), and impose sanctions against a provider in accordance with the provisions of 130 CMR 450.000.

(G) Notwithstanding any regulatory or contractual provisions that may provide for a shorter retention period, all records described in 130 CMR 450.204 and 450.205 must be kept for at least six years after the date of medical services for which claims are made or the date services were prescribed, or for such length of time as may be dictated by the generally accepted standards for recordkeeping within the applicable provider type, whichever period is longer. Providers must retain records to substantiate costs listed on a cost report for at least six years following the date of filing of the cost report or for such length of time as may be required by regulations of the Centers for Health Information and Analysis or other governing agency, whichever period is longer. In no event may any provider destroy any records while any review, audit, or administrative or judicial action involving such records is pending.

(H) In cases where audits or other reviews reveal provider noncompliance with 130 CMR 450.204 or 450.205, the MassHealth agency may seek to pursue recovery of overpayments and to impose sanctions in accordance with the provisions of 130 CMR 450.000.

(I) (1) The provider, as holder of personal data under M.G.L. c. 66A, must comply with all regulatory and statutory requirements applicable to such a holder, including those set forth in M.G.L. c. 66A, and must inform each of its employees having access to such personal data of such requirements and ensure compliance by each employee with such requirements.

(2) The provider must take reasonable steps to ensure the physical security of personal data under its control including, but not limited to:

(a) fire protection;

(b) protection against smoke and water damage;

(c) alarm systems;

(d) locked files, guards, or other devices reasonably expected to prevent loss or unauthorized removal of manually held data;

(e) passwords, access logs, badges, or other methods reasonably expected to prevent loss or unauthorized access to electronically or mechanically held data by ensuring limited terminal access; and

(f) limited access to input and output documents.

450.206 : Determination of Compliance with Medical Standards

Violations of 130 CMR 450.204 may be determined by peer review. Except as otherwise required by law, the MassHealth agency will decide the level and manner of peer review in each instance. Such peer review may be conducted by a qualified MassHealth agency employee or consultant or by one or more qualified persons provided by health-care foundations, professional societies, or such other professional organizations as the MassHealth agency may select. In appropriate cases, the MassHealth agency may rely in part or in whole upon reviews conducted by a utilization and quality-control review organization or a board of registration. In the event that the MassHealth agency decides to pursue any sanction or recovery of overpayment as a result of a peer-review recommendation, the provisions of 130 CMR 450.235 through 450.260 apply.

450.207 : Utilization Management Program for Acute Inpatient Hospitals

(A) Introduction. 130 CMR 450.207 through 450.209 describes the Utilization Management Program for acute inpatient hospitals. The purpose of this program is to ensure that certain medical services for which the MassHealth agency pays are medically necessary and provided in the appropriate setting. To this end, the MassHealth agency conducts reviews before elective admissions (admission screening) and after discharge but before payment (prepayment review). The MassHealth agency also conducts utilization reviews of inpatient admissions and outpatient services on a postpayment basis pursuant to 130 CMR 450.237. The term “admitting provider” as used in 130 CMR 450.207 through 130 CMR 450.209 refers to the provider (for example, physician or dentist) who admits the member to the facility and who assumes primary responsibility for the member's care and the admitting provider's designee, where appropriate. The requirements of the Utilization Management Program detailed in 130 CMR 450.207 through 450.209 apply to both in-state and out-of-state hospitals.

(B) General Provisions.

(1) Appendix. The MassHealth agency has issued an appendix to the provider manual for each facility and admitting provider affected by the Utilization Management Program. This appendix contains a list of information the admitting provider must provide for each review, and the name, address, and telephone number of the MassHealth agency's agent for the Utilization Management Program.

(2) Stipulations. The Utilization Management Program does not waive or replace any other MassHealth agency requirements, such as prior-authorization or consent-form requirements.

(3) Payment Restrictions.

(a) The MassHealth agency will pay the acute inpatient hospital for services subject to the Utilization Management Program only if the admitting provider has complied with the requirements in 130 CMR 450.207 through 450.209 and the service is medically or administratively necessary.

(b) Payments are subject to all general conditions and restrictions of the MassHealth agency.

(c) A provider may not bill the member for any medical care for which the MassHealth agency has denied payment due to the provider's failure to comply with the requirements of the Utilization Management Program.

(4) Exceptions. Proposed admissions of the following members, are exempt from the requirements of the Utilization Management Program, regardless of admitting diagnosis:

(a) members whose hospitalization is court-ordered;

(b) recipients of the EAEDC Program; and

(c) members for whom MassHealth is not the primary payer of the acute inpatient admission, including but not limited to members covered by an MCO, Accountable Care Partnership Plan, SCO, ICO, commercial insurance, or Medicare. However, if the primary payer denies coverage before the member is admitted or if the member has Medicare Part B only, the admission of the member is not exempt from the requirements of the Utilization Management Program.

450.208 : Utilization Management: Admission Screening for Acute Inpatient Hospitals

(A) Requirements.

(1) The MassHealth agency conducts admission screening on elective admissions only. The admitting provider must telephone or fax the MassHealth agency at least seven calendar days before a proposed elective admission and provide the information specified in the appendix described in 130 CMR 450.207(B). When the admitting provider cannot notify the MassHealth agency within seven calendar days, the admitting provider must notify the MassHealth agency prior to the elective admission, and no later than 5:00 p.m. on the first day after the decision to admit. The provider must explain to the MassHealth agency why the seven-calendar-day notice requirement was not met. If the MassHealth agency cannot complete the admission-screening process before the scheduled elective admission, when neither the admitting provider nor the acute inpatient hospital has informed the MassHealth agency at least seven calendar days before the admission was scheduled, the provider may be required to reschedule the admission.

(2) Providers must notify the MassHealth agency of any changes in an approved elective admission as soon as those changes are known, but in any event, before the admission occurs. The MassHealth agency will deny payment if a service or procedure that is provided is not what was proposed and approved, and such procedure, service, or admission is not medically necessary.

(3) For postponed admissions, the admitting provider must contact the MassHealth agency and provide updated information no later than 5:00 p.m. on the second business day following the originally planned admission date.

(B) Notice of Admission Screening Decisions. The MassHealth agency sends written notice of its decisions to the admitting provider, PCC (if applicable), acute inpatient hospital, and member.

(C) Appeal of Admission Screening Decisions.

(1) If the MassHealth agency determines that an acute inpatient hospital admission is not medically necessary, the admitting provider or the PCC may request a review of the determination. Such a request must be made in writing and received by the MassHealth agency within seven calendar days after the date of the determination notice. This written request must include all documentation that the provider believes is pertinent for a second review.

(2) Providers or members may appeal the MassHealth agency's decision to deny an elective admission by requesting a hearing before the MassHealth agency's Board of Hearings. Provider hearings are governed by the MassHealth agency's regulations at 130 CMR 450.241 through 450.248. Member hearings are governed by the MassHealth agency's regulations at 130 CMR 610.000: *MassHealth Fair Hearing Rules*. Neither providers nor members are required to exhaust any other appeal rights before requesting a hearing on an admission screening decision; however, providers and members do not have a right to judicial review of an admission screening decision if they fail to exhaust their administrative remedies.

(D) Requesting Reconsideration. If the MassHealth agency denies payment for a claim because the admitting provider did not comply with the requirements of 130 CMR 450.208(A), the admitting provider or hospital may request reconsideration of the MassHealth agency's decision by contacting the MassHealth agency in writing within 30 calendar days after the date of the remittance advice on which the claim is denied. The MassHealth agency will process the claim only if the admitting provider or acute inpatient hospital demonstrates that

(1) the admission was exempt for one of the reasons described in 130 CMR 450.207(B)(4);

(2) the admitting provider, despite reasonable, good-faith efforts to identify all third-party payment sources, was unaware that the patient was a MassHealth member; or

(3) the admitting provider complied with all requirements of 130 CMR 450.208(A).

450.209: Utilization Management: Prepayment Review for Acute Inpatient Hospitals

(A) Introduction.

(1) The MassHealth agency conducts prepayment reviews to evaluate acute inpatient hospital admissions for

(a) medical necessity, including, but not limited to, the appropriateness of the inpatient admission and any services;

(b) the stability of the member at the time of discharge;

(c) the quality of care provided; and

(d) compliance with the MassHealth agency's billing procedures and requirements.

(2) The MassHealth agency will identify each admission to be reviewed by mailing to the acute inpatient hospital a request for selected medical records.

(B) Submission Requirements and Time Frames.

(1) The acute inpatient hospital must submit the requested medical records to the MassHealth agency. Such medical records must be received by the MassHealth agency within 17 calendar days of the date appearing on the request. If the hospital fails to timely submit the records, the MassHealth agency will deny payment for the admission.

(2) If the MassHealth agency concludes that the records submitted are incomplete, it will inform the acute inpatient hospital in writing. The hospital must submit the documents that were missing from the medical record or records to the MassHealth agency. Such documents must be received by the MassHealth agency within 17 calendar days of the date appearing on the MassHealth agency's notice requesting such information. If the hospital fails to timely submit the documents to complete the medical record, the MassHealth agency will deny payment for the admission.

(3) The acute inpatient hospital may request reconsideration of any denials issued in accordance with 130 CMR 450.209(B)(1) or (2). Such a request must be made in writing and received by the MassHealth agency within 33 calendar days of the date appearing on the denial notice, and must include the complete medical record or records. If the hospital requests reconsideration pursuant to 130 CMR 450.209(B)(3), the MassHealth agency will review the medical record or records and notify the hospital of the determination. If the hospital does not timely request reconsideration, the denial issued pursuant to 130 CMR 450.209(B)(1) or (2) constitutes the MassHealth agency's final action, and the hospital will have no right to an adjudicatory hearing pursuant to 130 CMR 450.209(C)(3), because of its failure to exhaust its administrative remedies.

(C) Determination of Noncompliance.

(1) MassHealth Agency's Determination. If, based on its review of the information submitted in accordance with 130 CMR 450.209(B), the MassHealth agency determines that an acute hospital inpatient admission was not medically necessary, the MassHealth agency will deny payment for the admission. The hospital may rebill for medically necessary services as an outpatient claim pursuant to 130 CMR 415.414: *Utilization Review*. If, based on its review, the MassHealth agency determines that the admission was medically necessary but the hospital has failed to comply with the MassHealth agency's billing procedures and requirements, the MassHealth agency will deny the claim. In such a case, the hospital may rebill the claim pursuant to the proper billing requirements.

(2) Requesting Reconsideration.

(a) The acute inpatient hospital must request reconsideration of any denial issued in accordance with 130 CMR 450.209(C)(1) in order to be entitled to file a claim for an adjudicatory hearing pursuant to 130 CMR 450.241. Such reconsideration request must be made in writing and received by the MassHealth agency within 33 calendar days of the date appearing on the denial notice, and must include the following:

1. a written statement from a physician explaining why the MassHealth agency's denial was in error. Such explanation must specifically address all clinical issues cited in the MassHealth agency's denial and must not consist solely of the resubmission of previously submitted documents;
2. a certification from the acute inpatient hospital's Utilization Review Department (URD) that it has reviewed the medical record or records and believes that both the treatment delivered and the inpatient admission were in compliance with all MassHealth agency regulations about the medical or administrative necessity of the admission, treatment, and continued stay of that patient; and
3. if the MassHealth agency's denial indicates that any service should have been delivered as an outpatient service, the physician statement and URD certification must explain why this would have been contrary to accepted standards of medical practice.

(b) If the hospital does not submit a request for reconsideration, the denial issued pursuant to 130 CMR 450.209(C)(1) constitutes the MassHealth agency's final action. If the hospital requests reconsideration but fails to timely comply with the requirements of 130 CMR 450.209(C)(2)(a), the reconsideration request will be summarily denied. In either case, the MassHealth agency's denial constitutes the MassHealth agency's final action, and the hospital has no right to an adjudicatory hearing pursuant to 130 CMR 450.209(C)(3) or judicial review because of its failure to exhaust its administrative remedies.

(3) MassHealth Agency's Final Determination. The MassHealth agency will review a request for reconsideration and accompanying material submitted in compliance with the requirements of 130 CMR 450.209(C)(2) and will issue a final determination based on such review. The determination will be in writing, state the reasons for the determination, and inform the acute inpatient hospital of its right to file a claim for an adjudicatory hearing in accordance with 130 CMR 450.241. The claim will be decided by the Office of Medicaid's Board of Hearings in accordance with 130 CMR 450.241 through 450.248.

(D) Resubmission of Claim after Denial or Pending Review. If the acute inpatient hospital resubmits an inpatient claim for payment that, pursuant to 130 CMR 450.209, has either been denied or is pending review, and if that resubmitted claim is paid by the MassHealth agency, the MassHealth agency will void the payment of the claim when it becomes aware of the resubmission. The hospital may file a claim for an adjudicatory hearing pursuant to 130 CMR 450.241 and 450.243 through 450.248 to contest the voiding of the payment.

450.210 : Pay-for-performance Payments: MassHealth Agency Review

(A) Applicability. The provisions set forth in 130 CMR 450.210 establish the MassHealth agency's review process for provider disputes concerning MassHealth pay-for-performance payment amounts for acute hospitals, MCOs, SCOs, ICOs, and the behavioral health contractor. For purposes of 130 CMR 450.210, "pay for performance" means a value-based purchasing program implemented by the MassHealth agency to pay providers to perform activities related to improving the quality of care delivered to MassHealth members.

(B) MassHealth Pay-for-performance Payment Notice. The MassHealth agency will notify the provider in writing of the agency's determination of the provider's pay-for-performance payment amount for the time period specified in the notice. The notice will identify the aggregate pay-for-performance payment amount calculated for the provider, and may separately identify the amount calculated for components of such payment amount. The MassHealth agency will notify the provider by letter, report, computer printout, electronic transmission, or other format; this notification is the "MassHealth Pay-for-Performance Payment Notice" referred to in 130 CMR 450.210.

(C) Requesting MassHealth Agency Review of Pay-for-performance Amounts.

(1) To preserve its right to an adjudicatory hearing and judicial review, a provider must request MassHealth agency review of the provider's pay-for-performance payment amounts specified in the MassHealth Pay-for-Performance Payment Notice. The request for agency review must be made in writing and be received by the MassHealth agency within 30 calendar days of the date appearing on the MassHealth Pay-for-Performance Payment Notice. Only those payment amounts specifically identified as in dispute by the provider in its request for agency review are subject to review.

(2) Any request for agency review submitted pursuant to 130 CMR 450.210(C)(1) must

(a) identify with specificity all payment amounts and components of such payment amounts in dispute;

(b) specify in sufficient detail the basis of the provider's disagreement with those amounts as calculated;

(c) identify and address all issues in the MassHealth Pay-for-Performance Payment Notice with which the provider disagrees; and

(d) include any documentary evidence and information it wants the MassHealth agency to consider.

(D) MassHealth Agency's Final Determination.

(1) The MassHealth agency will review a provider's request for agency review only if it is submitted in compliance with the requirements of 130 CMR 450.210(C)(1) and (2). The MassHealth agency is not obligated to consider any information or documents that the provider failed to timely submit under time deadlines previously imposed by the MassHealth agency. The MassHealth agency will issue a final written determination of contested payment amounts based on its review, which will state the reasons for the determination, and inform the provider of the provider's right to file a claim for an adjudicatory hearing in accordance with 130 CMR 450.241.

(2) Payment amounts and components of payment amounts specified in the MassHealth Pay-for-Performance Payment Notice that are not specifically identified as in dispute in a provider's request for agency review will, without further notice, constitute the MassHealth agency's final determination of those amounts. The provider has no right to an adjudicatory hearing pursuant to 130 CMR 450.241 or judicial review of such amounts because of the failure to exhaust its administrative remedies.

(3) If the provider does not submit a request for agency review, the MassHealth Pay-for-Performance Payment Notice constitutes the MassHealth agency's final determination of the provider's pay-for-performance payment amounts. If a provider requests agency review but fails to timely comply with the requirements of 130 CMR 450.210(C)(1) and (2), the request for agency review may be denied. In either case, the MassHealth Pay-for-Performance Payment Notice constitutes the MassHealth agency's final determination, and the provider has no right to an adjudicatory hearing pursuant to 130 CMR 450.241 or judicial review because of the failure to exhaust its administrative remedies.

450.211 : Medicaid Electronic Health Records Incentive Payment Program: Reconsideration and Appeals Process

(A) Applicability. The provisions set forth in 130 CMR 450.211 establish the MassHealth agency's review process for provider disputes concerning the Medicaid Electronic Health Records Incentive Payment Program established pursuant to § 4201 of the American Recovery and Reinvestment Act of 2009, P.L. 111-5 and 42 CFR Part 495.

(B) Medicaid Electronic Health Records Incentive Payment Program Notice. The MassHealth agency will notify the provider in writing of the agency's determination of the provider's Medicaid Electronic Health Records Incentive Payment Program eligibility and payment amount. The notice will identify the provider's eligibility, determination of payment amount, and right to review. The MassHealth agency will notify the provider by letter, report, computer printout, electronic transmission, or other format. This notification is the Medicaid Electronic Health Records Incentive Payment Program Notice referred to in 130 CMR 450.211.

(C) Requesting MassHealth Agency Review of Medicaid Electronic Health Records Incentive Payment Program Determinations.

(1) To preserve its right to an adjudicatory hearing and judicial review, a provider must request MassHealth agency review of the agency's determination specified in the Medicaid Electronic Health Records Incentive Payment Program Notice. A provider's request for review may be based on either an alleged error in the MassHealth agency's determination of the provider's Medicaid Electronic Health Records Incentive Payment Program eligibility and payment amount or on information that was not initially supplied during the application process. The provider's request for review must be made in writing and be received by the MassHealth agency within 30 calendar days of the date appearing on the Medicaid Electronic Health Records Incentive Payment Program Notice. Only those determinations specifically identified in dispute by the provider in its request for an agency review are subject to review.

(2) A provider's request for review may request reconsideration of the following findings:
- (a) the provider's eligibility for incentive payments; and
- (b) incentive payment amounts.

(3) Any request for agency review submitted pursuant to 130 CMR 450.211(C)(1) must
- (a) identify with specificity all determinations with which the provider disagrees;
- (b) specify in sufficient detail the basis for the provider's disagreement with those determinations;

(c) identify and address all issues in the Medicaid Electronic Health Records Incentive Payment Program Notice with which the provider disagrees; and
(d) include any documentary evidence and information that the provider wants the MassHealth agency to consider.

(D) MassHealth Agency's Final Determination.
(1) The MassHealth agency will review a provider's request for agency review only if it is submitted in compliance with the requirements of 130 CMR 450.211(C)(1) through (3). The MassHealth agency is not obligated to consider any information or documents that the provider failed to timely submit under time deadlines previously imposed by the MassHealth agency. The MassHealth agency will issue a final written determination of contested Medicaid Electronic Health Records Incentive Payment Program determinations based on its review, which will state the reasons for the determination, and inform the provider of the provider's right to file a claim for an adjudicatory hearing in accordance with 130 CMR 450.241.
(2) Any findings specified in the Medicaid Electronic Health Records Incentive Payment Program Notice that are not specifically identified as in dispute in a provider's request for agency review will, without further notice, constitute the MassHealth agency's final determination. The provider has no right to an adjudicatory hearing pursuant to 130 CMR 450.241 or judicial review of such findings because of the failure to exhaust its administrative remedies.
(3) If the provider does not submit a request for agency review, the Medicaid Electronic Health Records Incentive Payment Program Notice constitutes the MassHealth agency's final determination. If a provider requests agency review but fails to timely comply with the requirements of 130 CMR 450.211(C)(1) through (3), the request for agency review may be denied. In either case, the Medicaid Electronic Health Records Incentive Payment Program Notice constitutes the MassHealth agency's final determination, and the provider has no right to an adjudicatory hearing pursuant to 130 CMR 450.241 or judicial review because of the failure to exhaust its administrative remedies.

450.212 : Provider Eligibility: Eligibility Criteria

(A) To be eligible to participate in MassHealth as any provider type, a provider must
(1) meet all statutory requirements applicable to such provider type;
(2) meet all conditions of participation applicable to such provider type under Titles XVIII and XIX of the Social Security Act and regulations promulgated thereunder;
(3) meet all conditions of participation applicable to such provider type. Program regulations applicable to specific provider types appear in 130 CMR 400.000 through 499.000. This requirement does not apply to providers participating pursuant to 130 CMR 450.212(D) and (E).;
(4) be fully licensed, certified, or registered as an active practitioner by the agency or board overseeing the specific provider type, and where the regulations define "specialist" credentials or require other credentials, providers must possess those credentials;
(5) be registered with appropriate state and federal agencies to prescribe controlled substances, for any provider type that is legally authorized to write prescriptions for medications and biologicals;

(6) never have been subject and never have had common parties in interest with any provider subject to any disciplinary action, sanction, or other limitation or restriction of any nature imposed with or without the consent of the provider, by any state or federal agency, or board, including MassHealth or any other state's Medicaid program. These include but are not limited to, revocation, suspension, termination, reprimand, censure, admonishment, fine, probation agreement, agreements not to practice or other practice limitation, practice monitoring, or remedial training or other educational or public service activities;

(7) not have purchased or otherwise obtained its practice or business entity from any provider suspended or terminated from MassHealth participation due to violations of applicable laws, rules, or regulations; or from a provider that is currently subject to a withholding of payments for a credible allegation of fraud under 130 CMR 450.249 or who terminates or has its participation terminated while subject to such a withholding of payments;

(8) cooperate with the MassHealth agency during any application, revalidation of enrollment, or other review process, which may include, but not be limited to, permitting and facilitating site visits, as determined by the MassHealth agency. In addition, applicants and providers must, within 30 days upon request from CMS or the MassHealth agency, complete any requisite forms authorizing a criminal offender record check and ensure that the applicant or provider, or any person with a 5% or more direct or indirect ownership interest (as defined under 130 CMR 450.221) in the applicant or provider, submits a set of fingerprints in a form and manner determined by the MassHealth agency. Such applicants, providers, or persons may be required to pay costs associated with fingerprinting;

(9) not be subject to a moratorium on enrollment imposed in accordance with 42 CFR 455.470; and

(10) if the provider is a group practice, ensure that all individual practitioners in the group who provide services to MassHealth members and for whom the group practice bills MassHealth, obtain an individual MassHealth provider number by completing a fully participating application, and meet all the requirements of 130 CMR 450.212(A)(1) through (9). Such practitioners may not enroll as nonbilling providers under 130 CMR 450.212(E). In addition, for a group practice to participate in MassHealth, it must file a group practice provider application with the MassHealth agency, and meet all of the following requirements.

(a) It must be a recognized legal entity (for example, partnership, corporation, or trust). A sole proprietorship may not be a group practice.

(b) It must satisfy at least one of the following:

1. all of the beneficial interest in the group practice must be held by individual practitioners who are members of the group practice serviced by the group practice; or

2. all members of the group practice must be employees or contractors of the group practice.

(c) It must not be currently or have previously been suspended from MassHealth participation due to violations of applicable laws, rules, or regulations or have common parties in interest with any provider that is currently under suspension or has been suspended.

(B) A provider who does not meet the requirements of 130 CMR 450.212(A)(6), (7), (8), (9), or (10)(c) may, at the MassHealth agency's discretion, participate in MassHealth only if, in the judgment of the MassHealth agency, such participation would neither

(1) threaten the health, welfare, or safety of members; nor
(2) compromise the integrity of MassHealth.

(C) A provider who does not meet the requirements of 130 CMR 450.212(A) is not entitled to a hearing on the issue of eligibility.

(D) A Qualified Medicare Beneficiaries (QMB)-only provider is a provider who provides medical services only to MassHealth Senior Buy-In members described in 130 CMR 519.010: *MassHealth Senior Buy-In* and in 130 CMR 505.007: *MassHealth Senior Buy-In and Buy*-In and certain MassHealth Standard members who are eligible for QMB benefits described in 130 CMR 519.002(A)(4)(c) and 130 CMR 505.002(O). QMB-only providers are subject to all regulations pertaining to providers participating in MassHealth except as provided below or as otherwise specified in 130 CMR 450.000. QMB-only providers may bill only for medical services for QMB members and Standard members eligible for QMB benefits, whether or not the associated medical services are specified in 130 CMR 400.000 through 499.000.

(E) A non-billing provider is an individual provider who enrolls with MassHealth because his or her information (*e.g*., National Provider Identifier (NPI) is required on a claim submitted by a billing provider to MassHealth pursuant to state or federal statute, regulation, billing instruction or other subregulatory guidance or is included on a claim because of a billing provider's own billing procedures, or is otherwise required or permitted by state or federal law to enroll with MassHealth for a limited purpose. A nonbilling provider must include his or her individual NPI on all orders, referrals, and prescriptions for services to MassHealth members, and must provide his or her individual NPI to a billing provider upon request in other circumstances in which the billing provider must include the nonbilling provider's NPI on MassHealth claims. *See* also 130 CMR 450.231(F)

(1) Nonbilling providers may enroll through a streamlined application process determined by the MassHealth agency.
(2) Nonbilling providers may not submit claims to or receive payments from the MassHealth agency.
(3) Nonbilling providers are not subject to certain provisions of the provider regulations relating to payments and claims processing. However, nonbilling providers are subject to all other applicable regulations pertaining to MassHealth billing providers including but not limited to those relating to ordering, prescribing, referring, screening, prior authorization, medical necessity, utilization management and recordkeeping and disclosure with respect to services ordered, referred, prescribed or provided to MassHealth members.
(4) An individual who provides services to MassHealth members as part of a group practice, which bills on behalf of the individual, must enroll as a fully participating provider and may not enroll as a nonbilling provider under 130 CMR 450.212(E).

(F) All individual practitioners comprising the group and the group practice entity are jointly and severally liable for any overpayments owed and are subject to sanctions imposed as a result of any violation of any statute or regulation committed by the individual practitioner that provided the service.

450.213 : Provider Eligibility: Termination of Participation for Ineligibility

When a provider fails or ceases to meet any one or more of the eligibility criteria applicable to such provider, the provider's participation in MassHealth may be terminated, subject to 130 CMR 450.212(B) and 450.216. If such termination is based upon a finding, ruling, conviction, decision, order, notification, or statement of any nature (including an agreement with the provider) by any federal, state, or quasi-public board, department (other than the MassHealth agency), or other agency or another state's Medicaid program that revokes, voids, suspends, or denies the issuance, renewal, or extension of a license, certificate, or other statement of qualification that constitutes a statutory prerequisite or other eligibility criterion, or that takes any action of the nature set forth in 130 CMR 450.212(A)(6), the correctness or validity of the action taken by the issuing agency will be presumed, the termination will be effective as of the earliest date on which the provider failed or ceased to meet any of such criteria, and the MassHealth agency will not afford a hearing as to the correctness or validity of such action. If such termination is based solely upon a determination of ineligibility by the MassHealth agency, the provider will be afforded notice and an opportunity for hearing in substantially the manner set forth in 130 CMR 450.241 through 450.248, and any termination will be effective as of the date of receipt of notice thereof.

450.214 : Provider Eligibility: Suspension of Participation Pursuant to United States Department of Health and Human Services Order

When a provider is the subject of a notice by the United States Department of Health and Human Services (HHS) requiring the provider's suspension or the denial, termination, or refusal to renew a provider contract pursuant to §1902(a)(39) (42 U.S.C. 1396a(a)(39)) or any other section of the Social Security Act, the provider's participation in MassHealth will be suspended or its provider contract will be denied, terminated, or not renewed in accordance with the HHS notice, subject, however, to the provisions of 130 CMR 450.216. The MassHealth agency will not afford a hearing to the provider as to the correctness or validity of the action taken by HHS.

450.215 : Provider Eligibility: Notification of Potential Changes in Eligibility

(A) The provider must notify the MassHealth agency in writing, within 14 calendar days of receipt, of any written communication or electronic notification from an issuing federal or state agency, board, quasi-public board department (other than the MassHealth agency) or another state's Medicaid program that expresses an intention, conditionally or otherwise, to alter, revoke, void, suspend, or deny the issuance, renewal, or extension of any license, certificate, or other statement of qualification that constitutes a provider eligibility criterion, or take any action of the nature set forth in 130 CMR 450.212(A)(6).

(B) The provider must notify the MassHealth agency in writing, within 14 calendar days of sending to an issuing agency, of any communication that expresses an intention or desire to register as an inactive practitioner, resign, surrender, terminate, or substantially modify the conditions of any such license, certificate, or other statement of qualification that constitutes a provider eligibility criterion.

(C) Without limiting the generality of 130 CMR 450.215(A), the provider must notify the MassHealth agency in accordance with 130 CMR 450.215(A) and (B) whenever the provider

(1) has received notice of denial of Medicare or Medicaid certification from the Massachusetts Department of Public Health;
(2) has received notice of a denial of an application for renewal of a license;
(3) has filed application with the Department of Public Health to convert from nursing facility to rest home status;
(4) has received an order to show cause from a board of registration;
(5) becomes subject to any action of the nature set forth in 130 CMR 450.212(A)(6); or
(6) has been terminated or suspended from participation in Medicare or another state's Medicaid program.

450.216 : Provider Eligibility: Limitations on Participation

If termination or suspension of a provider's participation in MassHealth has occurred or is imminent, the MassHealth agency will take such action as may be reasonably necessary or appropriate to prevent or to mitigate injury to members or MassHealth or both, resulting from such termination or suspension. Such action may be taken immediately upon notice to the provider notwithstanding the exercise of such rights as the provider may have to secure administrative or judicial review of the action of the issuing agency, or of the U.S. Department of Health and Human Services, or of the MassHealth agency, or any combination of them. With respect to chronic disease and rehabilitation hospitals and other long-term-care facilities, such action may include an order barring further admissions of members pending final resolution of the issues that prompted such action, or an order that the institution will continue to be paid by the MassHealth agency, for a period specified in the order, for services to members admitted to the facility prior to an order barring new admissions, or prior to such termination. Such action will be reasonably calculated to achieve, so far as possible, the following goals:

(A) protecting the health and safety of members, including present and prospective patients of the provider; and

(B) maximizing federal financial participation in the cost of medical assistance.

450.217 : Provider Eligibility: Ineligibility of Suspended Providers

A provider suspended from participation in MassHealth is not eligible to participate during the period of such suspension, cannot receive payments for any services rendered to members during the period of such suspension, and is not eligible to participate until such time as a new application is filed, reviewed, and approved, and the provider contract is effective. If the violations resulted in overpayments, the MassHealth agency may deny the participation of such provider until such time as arrangements satisfactory to the MassHealth agency have been made for the restitution of all overpayments. The MassHealth agency has discretion to deny a new application after review of the any prior for cause suspensions, if in the judgment of the MassHealth agency, such participation would

(A) threaten the health, welfare, or safety of members; or

(B) compromise the integrity of the MassHealth agency.

(130 CMR 450.218 through 450.220 Reserved)

450.221 : Provider Contract: Definitions

(A) Defined Terms. For the purposes of 130 CMR 450.222 through 450.228, the following words and expressions have the indicated definitions. These definitions as they are applied in 130 CMR 450.222 through 450.228 are adopted pursuant to the provisions of 42 U.S.C. §§1320a-3, 1320a-5, 1396a(a)(38), 1396b(i)(2), and regulations at 42 CFR 455.100 *et seq*.

Agent – any person who has been delegated the authority to obligate or act on behalf of a provider.

Convicted – a judgment of conviction has been entered by a federal, state, or local court, regardless of whether an appeal from that judgment is pending.

Disclosing Entity – a provider or fiscal agent.

Other Disclosing Entity – any other disclosing entity and any entity that does not participate in MassHealth, but is required to disclose certain ownership and control information because of participation in any of the programs established under Title V, XVIII, or XX of the Social Security Act. This includes

(1) any hospital, nursing facility, home health agency, independent clinical laboratory, renal disease facility, rural health clinic, or managed care organization that participates in Medicare;
(2) any Medicare intermediary or carrier; and
(3) any entity (other than an individual practitioner or group practice that provides, or arranges for the provision of, health-related services for which it claims payment under any plan or program established under Title V or XX of the Social Security Act).

Fiscal Agent – a contractor that processes or pays for provider claims on behalf of the MassHealth agency.

Indirect Ownership Interest – an ownership interest in an entity that has an ownership interest in the disclosing entity. This term includes an ownership interest in any entity that has an indirect ownership interest in the disclosing entity.

Managing Employee – a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of, an institution, organization, or agency.

Ownership Interest – the possession of equity in the capital, the stock, or the profits of the disclosing entity.

Person with an Ownership or Control Interest – a person or corporation that

(1) has an ownership interest totaling 5% or more in a disclosing entity;
(2) has an indirect ownership interest equal to 5% or more in a disclosing entity;
(3) has a combination of direct and indirect ownership interests equal to 5% or more in a disclosing entity;

(4) owns an interest of 5% or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5% of the value of the property or assets of the disclosing entity;
(5) is an officer or director of a disclosing entity that is organized as a corporation;
(6) is a partner in a disclosing entity that is organized as a partnership; or
(7) owns directly or indirectly an interest of 5% or more in any real property leased to a disclosing entity for use as a nursing facility, rest home, or hospital.
(8) For the purpose of 130 CMR 450.221: *Person with an Ownership or Control Interest*, an individual is deemed to own any beneficial interest owned directly or indirectly by or for his or her minor children or spouse.

Significant Business Transaction – any business transaction or series of transactions that, during any one fiscal year, exceed the lesser of $25,000 or 5% of a provider's total operating expenses.

Secretary – the Secretary of the U.S. Department of Health and Human Services or any successor agency.

Subcontractor –
(1) an individual, agency, or organization to which a disclosing entity has contracted or delegated some of its management functions or responsibilities of providing medical care to its patients; or
(2) an individual, agency, or organization with which a fiscal agent has entered into a contract, agreement, purchase order, or lease (or leases of real property) to obtain space, supplies, equipment, or services provided under the MassHealth agreement.

Supplier – an individual, agency, or organization from which a provider purchases goods and services used in carrying out its responsibilities under MassHealth (for example, a commercial laundry, a manufacturer of hospital beds, or a pharmaceutical firm).

Wholly Owned Supplier – a supplier whose total ownership interest is held by a provider or by a person, persons, or other entity with an ownership or control interest in a provider.

(B) Determination of Ownership or Control Percentages. For the purposes of the definitions in 130 CMR 450.221(A), ownership or control percentages will be determined as follows.
(1) Indirect Ownership Interest. The amount of indirect ownership interest is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10% of the stock in a corporation that owns 80% of the stock of the disclosing entity, A's interest equates to an 8% indirect ownership interest in the disclosing entity and must be reported. Conversely, if B owns 80% of the stock of a corporation that owns 5% of the stock of the disclosing entity, B's interest equates to a 4% indirect ownership interest in the disclosing entity and need not be reported.

(2) Person with an Ownership or Control Interest. In order to determine percentage of ownership, mortgage, deed of trust, note, or other obligation, the percentage of interest owned in the obligation is multiplied by the percentage of the disclosing entity's assets used to secure the obligation. For example, if A owns 10% of a note secured by 60% of the provider's assets, A's interest in the provider's assets equates to 6% and must be reported. Conversely, if B owns 40% of a note secured by 10% of the provider's assets, B's interest in the provider's assets equates to 4% and need not be reported.

450.222 : Provider Contract: Application for Contract

A person or entity may become a participating provider only by submitting an Application for Provider Contract. If approved by the MassHealth agency, the application will be part of any subsequent provider contract between the applicant and the MassHealth agency. Any omission or misstatement in the application will (without limiting any other penalties or sanctions resulting therefrom) render such contract voidable by the MassHealth agency.

450.223 : Provider Contract: Execution of Contract

(A) If the provider applicant has filed a complete and properly executed application and meets all applicable provider eligibility criteria and nothing in the application or any other information in the possession of the MassHealth agency reveals any bar or hindrance to the participation of the provider applicant, the MassHealth agency will prepare and furnish a provider contract. When fully executed by the provider and the MassHealth agency, the contract will take effect as of the date determined by the MassHealth agency.

(B) Each MassHealth provider must notify the MassHealth agency in writing within 14 days of any change in any of the information submitted in the application. Failure to do so constitutes a breach of the provider contract. In no event may a group practice file a claim for services provided by an individual practitioner until the individual practitioner is enrolled and approved by the MassHealth agency as a member of the group. At its discretion, the MassHealth agency may require a provider to recertify, at reasonable intervals, the continued accuracy and completeness of the information contained in the provider's application. Failure to complete such recertification upon request by the MassHealth agency may result in termination of the provider contract.

(C) The following provisions are a part of every provider contract whether or not they are included verbatim or specifically incorporated by reference. By executing any such contract, the provider agrees

(1) to comply with all laws, rules, and regulations governing MassHealth (*see* M.G.L. c. 118E, § 36);

(2) that the submission of any claim by or on behalf of the provider constitutes a certification (whether or not such certification is reproduced on the claim form) that

(a) the medical services for which payment is claimed were provided in accordance with 130 CMR 450.301;

(b) the medical services for which payment is claimed were actually provided to the person identified as the member at the time and in the manner stated;

(c) the payment claimed does not exceed the maximum amount payable in accordance with the applicable fees and rates or amounts established under a provider contract or regulations applicable to MassHealth payment;

(d) the payment claimed will be accepted as full payment for the medical services for which payment is claimed, except to the extent that the regulations specifically require or permit contribution or supplementation by the member;

(e) the information submitted in, with, or in support of the claim is true, accurate, and complete; and

(f) the medical services were provided in compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975;

(3) to keep for such period as may be required by 130 CMR 450.205 such records as are necessary to disclose fully the extent and medical necessity of services provided to or prescribed for members and on request to provide the MassHealth agency or the Attorney General's Medicaid Fraud Division with such information and any other information regarding payments claimed by the provider for providing services (*see* 42 U.S.C. 1396a(a)(27) and the regulations thereunder);

(4) that the contract may be terminated by the MassHealth agency if the provider fails or ceases to satisfy all applicable criteria for eligibility as a participating provider;

(5) to submit, within 35 days after the date of a request by the Secretary or the MassHealth agency, full and complete information about:

(a) the ownership of any subcontractor with whom the provider has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request;

(b) any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractor, during the five-year period ending on the date of the request; and

(c) any information necessary to update fully and accurately any information that the provider has previously delivered to the MassHealth agency or to the Massachusetts Department of Public Health;

(6) that the MassHealth agency may recoup any sums payable by reason of a retroactive rate increase for any period during which the provider owned or operated part or all of a facility against any sums due the MassHealth agency by reason of a retroactive rate decrease for any periods;

(7) to comply with all federal requirements for employee education about false claims laws under 42 U.S.C. 1396a(a)(68) if the provider is an entity that received or made at least $5 million in Medicaid payments during the prior federal fiscal year;

(8) to furnish to the MassHealth agency its national provider identifier (NPI), if eligible for an NPI, and include its NPI on all claims submitted under MassHealth; and

(9) to permit the Centers for Medicare & Medicaid Services (CMS) and the MassHealth agency, and their agents and designated contractors to conduct unannounced on-site inspections of any and all provider locations.

(D) The provider must terminate a provider contract only by written notice to the MassHealth agency and such termination will be effective no earlier than 30 days after the date on which the MassHealth agency actually receives such notice, unless the MassHealth agency explicitly specifies or agrees to an earlier effective date. Any provision allowing for termination upon written notice does not constitute the MassHealth agency's specification of or agreement to an earlier effective date.

450.224 : Provider Contract: Exclusion and Ineligibility of Convicted Parties

The MassHealth agency may terminate, or refuse to enter into or to renew a provider contract if

(A) the provider, any party in interest in such provider, an agent or managing employee of such provider, or in the case of a group practice, any individual practitioner enrolled as a member of the group, has been convicted of a criminal offense relating to that person's involvement in any program established under Title XVIII, XIX, or XXI of the Social Security Act, or of a crime of such a nature that, in the judgment of the MassHealth agency, the participation of such provider will compromise the integrity of MassHealth; or

(B) the provider or an individual practitioner enrolled as a member of a group practice has been a party in interest, a managing employee, or an agent of a provider that has been convicted of a criminal offense relating to that person's involvement in any program established under Title XVIII, XIX, or XXI of the Social Security Act, or of a crime of such a nature that, in the judgment of the MassHealth agency, the participation of such provider will compromise the integrity of MassHealth.

(130 CMR 450.225 Reserved)

450.226 : Provider Contract: Issuance of Provider ID/Service Location Numbers

(A) Upon execution of the provider contract, the MassHealth agency will issue a provider ID/service location number or numbers to be used to identify the provider that is the subject of the contract.

(B) For every case in which a provider is assigned two or more provider ID/service location numbers, the provider must use each provider ID/service location number only in conjunction with the facility or location to which the provider ID/service location number is assigned. The MassHealth agency, however, maintains its right to commence proceedings in accordance with the provisions of 130 CMR 450.235 through 450.248 against any or all of its provider ID/service location numbers, regardless of the location or facility where the violation has been alleged to have occurred or the overpayment received.

450.227 : Provider Contract: Termination or Disapproval

The MassHealth agency may at its discretion disapprove a provider contract, and may terminate an existing contract, if the provider fails to disclose any information in accordance with the provisions of 130 CMR 450.222, 130 CMR 450.223, or 42 CFR §§455.100–106, 42 CMR 455.436, 42 CFR §1002, or as otherwise required by state or federal law.

(130 CMR 450.228 through 450.230 Reserved)

450.231 : General Conditions of Payments

(A) Except to the extent otherwise permitted by state or federal regulations, no provider is entitled to any payment from MassHealth unless on the date of service the provider was a participating provider and the person receiving the services was a member.

(B) The "date of service" is the date on which a medical service is provided to a member or, if the medical service consists principally of custom-made goods such as eyeglasses, dentures, or durable medical equipment, the date on which the goods are delivered to a member. If a provider delivers to a member medical goods that had to be ordered, fitted, or altered for the member, and that member ceases to be eligible for such MassHealth services on a date before the final delivery of the goods, the MassHealth agency will pay the provider for the goods only under the following circumstances:

(1) the member must have been eligible for MassHealth on the date of the member's last visit with the provider before the provider orders or fabricates the goods;
(2) the date on which the provider orders or fabricates the goods occurs no later than seven days after the last visit;
(3) the provider has submitted documentation with the claim to the MassHealth agency that verifies both the date of the member's last visit that occurred before the provider ordered or fabricated the goods and the date on which the goods were actually ordered or fabricated;
(4) the provider must not have accepted any payment from the member for the goods except copayments as provided in 130 CMR 450.130; and
(5) the provider must have attempted to deliver the goods to the member.

(C) For the purposes of 130 CMR 450.231, a provider who directly services the member and who also produces the goods for delivery to the member has "fabricated" an item if the provider has taken the first substantial step necessary to initiate the production process after the conclusion of all necessary member visits.

(D) A provider is responsible for verifying a member's eligibility status on a daily basis, including but not limited to members who are hospitalized or institutionalized. In order to receive MassHealth payment for a covered medical service, the person receiving such service must be eligible for MassHealth coverage on the date of service and the provider must comply with any service authorization requirements and all other conditions of payment. A provider's failure to verify a member's MassHealth status before providing services to the member may result in nonpayment of such services. For payment for services provided before a member's MassHealth eligibility determination, see 130 CMR 450.309(B). For payment to out-of-state providers providing services on an emergency basis, see 130 CMR 450.309(C).

(E) Payments to QMB-only providers as defined in 130 CMR 450.212(D) may be made upon the MassHealth agency's receipt of a claim for payment within the time limitations set forth in provisions, regulations, or rules under Title XVIII of the Social Security Act.

(F) Payment to all providers is made in accordance with the payment methodology applicable to the provider, established by EOHHS, subject to all applicable federal payment limits.

(G) If under state or federal statute, regulation, billing instructions or other subregulatory guidance, a provider's National Provider Identifier (NPI) is required on a claim submitted to MassHealth, that information must be included on the claim, and that provider must participate in MassHealth for the claim to payable. If the NPI of a provider who is not a MassHealth participating provider is included on a claim for any reason or if an NPI is not provided in accordance with state or federal requirements, that claim may not be payable.

(H) When any participating MassHealth provider orders, refers, or prescribes a service for a MassHealth member, that provider must include his or her individual NPI on such orders, referrals, or prescriptions. Such provider must also provide his or her individual NPI to a servicing billing provider upon request in other circumstances in which the servicing billing provider must include the ordering, referring or prescribing provider's NPI on MassHealth claims.

(130 CMR 450.232 Reserved)

450.233 : Rates of Payment to Out-of-state Providers

(A) Except as provided in 130 CMR 450.233(D) and 435.405(B), payment to an out-of-state institutional provider for any medical service payable by the MassHealth agency is the lowest of

(1) the rate of payment established for the medical service under the other state's Medicaid program;
(2) the MassHealth rate of payment established for such medical service or comparable medical service in Massachusetts; or
(3) the MassHealth rate of payment established for a comparable provider in Massachusetts.

(B) An out-of-state institutional provider, other than an acute hospital, must submit to the MassHealth agency a current copy of the applicable rate schedule under its state's Medicaid program.

(C) Payment to an out-of-state noninstitutional provider for any medical service payable by the MassHealth agency is made in accordance with the applicable fee schedule established by EOHHS, subject to any applicable federal payment limit (*see* 42 CFR 447.304).

(D) Payment to an out-of-state acute hospital provider for any medical service payable by the MassHealth agency is made as set forth in 130 CMR 450.233(D)(1) through (3). For purposes of 130 CMR 450.233(D), a "High MassHealth Volume Hospital" means any out-of-state acute hospital provider that had at least 150 MassHealth discharges during the most recent federal fiscal year for which complete data is available as determined by the MassHealth agency at least 90 days prior to the start of each federal fiscal year.

(1) Inpatient Services. Except as provided in 130 CMR 450.233(D)(3), out-of-state acute hospitals are paid for inpatient services as specified in 130 CMR 450.233(D)(1)(a) through (c).

(a) Payment Amount Per Discharge.

1. Out-of-state APAD: Out-of-state acute hospitals are paid an adjudicated payment amount per discharge ("out-of-state APAD") for inpatient services; provided that payment for Long-acting Reversible Contraception (LARC) devices (LARC devices) is as set forth in 130 CMR 450.233(D)(1)(d) and not under 130 CMR 450.233(D)(1)(a). The out-of-state APAD is calculated using the sum of the statewide operating standard per discharge and the statewide capital standard per discharge both as in effect for in-state acute hospitals on the date of admission, which is then multiplied by the MassHealth DRG Weight assigned to the discharge based on the information contained in a properly submitted inpatient acute hospital claim.

a. "MassHealth DRG Weight" for purposes of 130 CMR 450.233(D) is the MassHealth relative weight determined by the MassHealth agency for each unique combination of APR-DRG and Severity of Illness (SOI).
b. "APR-DRG" or "DRG" for purposes of 130 CMR 450.233(D) refers to the All Patient Refined Diagnosis Related Group and Severity of Illness (SOI) assigned to a claim by the 3M APR-DRG Grouper.

2. Out-of-state Outlier Payment: If the calculated cost of the discharge exceeds the discharge-specific outlier threshold, then the out-of-state acute hospital is also paid an outlier payment for that discharge ("out-of-state outlier payment"). The out-of-state outlier payment is equal to the marginal cost factor in effect for in-state acute hospitals on the date of admission multiplied by the difference between the calculated cost of the discharge and the discharge-specific outlier threshold.

a. The "calculated cost of the discharge" for purposes of 130 CMR 450.233(D) will be determined by the MassHealth agency by multiplying the out-of-state acute hospital's allowed charges for the discharge by the following cost-to-charge ratio:

i. For a High MassHealth Volume Hospital, the hospital's inpatient cost-to-charge ratio, for the most recent complete rate year used for in-state acute hospitals, as determined by the MassHealth agency.

ii. For all other out-of-state acute hospitals, the median in-state acute inpatient hospital cost-to-charge ratio in effect on the date of admission based on MassHealth discharge volume, as determined by the MassHealth agency.

b. The "discharge-specific outlier threshold" for purposes of 130 CMR 450.233(D) is equal to the sum of the out-of-state APAD corresponding to the discharge, and the fixed outlier threshold in effect for in-state acute hospitals on the date of admission.

(b) Out-of-state Transfer *Per Diem*. If an out-of-state acute hospital transfers a MassHealth inpatient to another acute hospital, the transferring out-of-state acute hospital is paid for inpatient services provided to that member at a transfer per diem rate ("out-of-state transfer *per diem*"), capped at the sum of the transferring hospital's out-of-state APAD plus, if applicable, any out-of-state outlier payment, that would have otherwise applied for the period that the member was an inpatient at the transferring hospital as calculated by the MassHealth agency. No other payments specified in 130 CMR 450.233(D)(1) apply. The out-of-state transfer *per diem* is equal to the sum of the transferring hospital's out-of-state APAD plus, if applicable, any out-of-state outlier payment, that would have otherwise applied for the period that the member was an inpatient at the transferring hospital as calculated by the MassHealth agency, divided by the mean in-state acute hospital all-payer length of stay for the particular DRG assigned, as determined by the MassHealth agency.

(c) Out-of-state Psychiatric *Per Diem*. If an out-of-state acute hospital admits a MassHealth patient primarily for behavioral health services, including psychiatric and substance use disorder services, the out-of-state acute hospital will be paid an all-inclusive psychiatric *per diem* equal to the psychiatric *per diem* in effect for in-state acute hospitals on the date of service ("out-of-state psychiatric *per diem*"). No other payments specified in 130 CMR 450.233(D)(1) apply.

(d) Payment for Long-acting Reversible Contraception (LARC) Device (LARC device).

1. A LARC device refers specifically to intrauterine devices and contraceptive implants; it does not refer to the LARC procedure, itself.
2. An out-of-state acute inpatient hospital may be paid for a LARC device separate from the out-of-state APAD, if the following conditions are met:

a. the member requests the LARC device while admitted as an inpatient for a labor and delivery stay and, at the time of the procedure, is a clinically appropriate candidate for immediate post-labor and delivery LARC device insertion;

b. the practitioner performing the procedure has been properly trained for immediate postpartum LARC device insertion, and performs the procedure immediately after labor and delivery during the same inpatient hospital stay; and

c. the hospital satisfies all other conditions for such payment that MassHealth may set forth in other written statements of policy.

3. If the out-of-state acute inpatient hospital qualifies for separate payment of a LARC device, the hospital will be reimbursed for the LARC device according to the fee schedule rates for such devices set forth in 101 CMR 317.00: *Medicine*.

4. A hospital's charges for a LARC device are excluded in calculating any out-of-state outlier payment under 130 CMR 450.233(D)(1)(a).2.

(2) Outpatient Services.

(a) Payment for Outpatient Services. Except as provided in 130 CMR 450.233(D)(3), out-of-state acute hospitals are paid for outpatient services utilizing an adjudicated payment per episode of care payment methodology ("out-of-state APEC") as described in 130 CMR 450.233(D)(2)(b), or in accordance with the applicable fee schedule established by EOHHS for outpatient services for which in-state acute hospitals are not paid the APEC. For purposes of 130 CMR 450.233(D), "APEC-covered services" are outpatient services for which in-state acute hospitals are paid an APEC, and "episode" means all APEC-covered services delivered to a MassHealth member on a single calendar day, or if the services extend past midnight in the case of emergency department or observation services, on consecutive days.

(b) Out-of-state APEC. The Out-of-state APEC for each payable episode will equal the sum of the episode-specific total EAPG payment, and the APEC outlier component (*see* 130 CMR 450.233(D)(2)(b)1. and 2.) For proper payment, out-of-state acute hospitals must include on a single claim all of the APEC-covered services that correspond to the episode, and must otherwise submit properly completed outpatient hospital claims.

1. The "episode-specific total EAPG payment" is equal to the sum of all of the episode's claim detail line EAPG payment amounts, where each claim detail line EAPG payment amount is equal to the product of the APEC outpatient statewide standard in effect for in-state acute hospitals on the date of service, and the claim detail line's adjusted EAPG weight. The 3M EAPG Grouper's discounting, consolidation and packaging logic is applied to each of the episode's claim detail line MassHealth EAPG weights to produce the claim detail line's adjusted EAPG weight used for this calculation. For purposes of 130 CMR 450.233(D)

a. EAPG stands for Enhanced Ambulatory Patient Group. EAPG(s) are assigned to claim detail lines containing APEC-covered services based on information contained on a properly submitted outpatient claim by the 3M EAPG Grouper, and refer to a group of outpatient services that have been bundled for purposes of categorizing and measuring casemix.

b. 3M EAPG Grouper refers to the 3M Corporation's EAPG grouper that has been configured for the MassHealth APEC payment methodology.

c. MassHealth EAPG weight refers to the MassHealth relative weight developed by the MassHealth agency for each unique EAPG.

2. The "APEC outlier component" is equal to the marginal cost factor in effect for in-state acute hospitals on the date of service multiplied by the difference between the episode-specific case cost and the episode-specific outlier threshold. If the episode-specific case cost is less than the episode-specific outlier threshold, then the APEC outlier component will be $0.

a. The "episode-specific case cost" for purposes of 130 CMR 450.233(D) shall be determined by the MassHealth agency by multiplying the sum of the allowed charges for all of the claim detail lines with APEC-covered services in the episode that adjudicate to pay, by the following cost-to-charge ratio:

i. For a High MassHealth Volume Hospital, the hospital's outpatient cost-to-charge ratio, for the most recent complete rate year used for in-state acute hospitals, as determined by the MassHealth agency.

ii. For all other out-of-state acute hospitals, the median in-state acute outpatient hospital cost-to-charge ratio in effect on the date of service based on MassHealth episode volume, as determined by the MassHealth agency.

b. The "episode -specific outlier threshold" for purposes of 130 CMR 450.233(D) is equal to the sum of the episode-specific total EAPG payment corresponding to the episode, and the fixed outpatient outlier threshold in effect for in-state acute hospitals on the date of service.

c. In no case is an APEC outlier component payable if the episode-specific total EAPG payment is $0.

(3) Services Not Available in State.

(a) For medical services payable by the MassHealth agency that are not available in-state as determined by the MassHealth agency, an out-of-state acute hospital that is not a High MassHealth Volume Hospital will be paid the rate of payment established for the medical service under the other state's Medicaid program (or equivalent) as determined by the MassHealth agency, or such other rate as the MassHealth agency determines necessary to ensure member access to services.

(b) For an inpatient service that is not available in-state, as determined by the MassHealth agency, payment to the out-of-state acute hospital under 130 CMR 450.233(D)(3)(a) will also include acute hospital outpatient services that the MassHealth agency determines are directly related to the service that is not available in-state.

(c) In order to receive payment under 130 CMR 450.233(D)(3), an out-of-state acute hospital provider must

1. submit to the MassHealth agency a complete list of services that are to be performed, along with their corresponding charges; and

2. coordinate the case with clinical staff designated by the MassHealth agency.

450.234 : Rates of Payment to Chronic Disease, Rehabilitation, or Similar Hospitals with Both Out-of-state Inpatient Facilities and In-state Outpatient Facilities.

Payment to a chronic disease, rehabilitation, or similar hospital with both out-of-state inpatient facilities and in-state outpatient facilities, for any medical service payable by the MassHealth agency is made as follows:

(A) Inpatient Services. For inpatient services, payment is in accordance with 130 CMR 435.405(B).

(B) Outpatient Services.
(1) For outpatient services provided out-of-state, payment is in accordance with 130 CMR 450.233(A) and (B).
(2) For outpatient services provided in-state, payment is the median in-state outpatient hospital cost-to-charge ratio for similar hospitals.

450.235 : Overpayments

(A) Overpayments include, but are not limited to, payments to a provider
(1) for services that were not actually provided or that were provided to a person who was not a member on the date of service;
(2) for services that were not payable under MassHealth on the date of service, including services that were payable only when provided by a different provider type and services that were not medically necessary (as defined in 130 CMR 450.204);
(3) in excess of the maximum amount properly payable for the service provided, to the extent of such excess;
(4) for services for which payment has been or should be received from health insurers, worker's compensation insurers, other third-party payers, or members;
(5) for services for which a provider has failed to make, maintain, or produce such records, prescriptions, and other documentary evidence as required by applicable federal and state laws and regulations and contracts;
(6) for services provided when, as of the date of service, the provider was not a participating provider, or was in any breach or default of the provider contract;
(7) for services billed that result in a duplicate payment; or
(8) in an amount that a federal or state agency (other than the MassHealth agency) has determined to be an overpayment.

(B) A provider must report in writing and return any overpayments to the MassHealth agency within 60 days of the provider identifying such overpayment or, for payments subject to reconciliation based on a cost report, by the date any corresponding cost report is due, whichever is later. A provider must include in such written report the reason for the overpayment and use such form and follow such process that may be prescribed by the MassHealth agency.

450.236 : Overpayments: Calculation by Sampling

In any action or administrative proceeding to determine or recover overpayments, the

MassHealth agency may ascertain the amount of overpayments by reviewing a representative sample drawn from the total number of claims paid to a provider during a given period and extrapolating the results of the review over the entire period. The MassHealth agency employs statistically valid techniques in establishing the size and distribution of the sample to ensure that it is a valid and representative sample.

450.237 : Overpayments: Determination

The existence and amount of overpayment may be determined in an action to recover the overpayment in any court having jurisdiction. The MassHealth agency may also determine the existence and amount of overpayments. The procedures described in 130 CMR 450.236 and 450.237 do not apply to overpayments resulting from rate adjustments, which are governed by methods described in 130 CMR 450.259.

(A) Overpayment Notice. When the MassHealth agency believes that an overpayment has been made, it notifies the provider in writing of the facts upon which the MassHealth agency bases its belief, identifying the amount believed to have been overpaid and the reasons for concluding that such amount constitutes an overpayment. When the overpayment amount is based on a determination by a federal or state agency (other than the MassHealth agency), the MassHealth agency will so inform the provider. The MassHealth agency may notify the provider by letter, draft audit report, computer printout, or other format.

(B) Timely Reply. To preserve its right to an adjudicatory hearing and judicial review, the provider must reply in writing to the MassHealth agency and such reply must be received by the MassHealth agency within 30 calendar days of the date on the overpayment notice. The reply must specifically identify and address all allegations in the overpayment notice with which the provider disagrees. With the reply, the provider may submit additional data and argument to support its claim for payment and must include any documentary evidence it wants the MassHealth agency to consider. If the MassHealth agency states in the overpayment notice that the overpayment amount is based on a determination by a federal or state agency (other than the MassHealth agency), a provider may contest only the factual assertion that the federal or state agency made such a determination. The provider may not contest in any proceeding before or against the MassHealth agency the amount or basis for such determination.

(C) Overpayment Determination. The MassHealth agency considers and reviews only information submitted with a timely reply. If, after reviewing the provider's reply, the MassHealth agency determines that the provider has been overpaid, the MassHealth agency will so notify the provider in writing of its final determination, which will state the amount of overpayment that the MassHealth agency will recover from the provider.

(D) Adjudicatory Hearing. If the provider submits a timely reply, the provider may file a claim for an adjudicatory hearing to appeal the MassHealth agency's final determination, in accordance with 130 CMR 450.241 and 450.243.

(E) Consequences of Failure to Submit a Timely Reply. The provider has no right to an adjudicatory hearing or judicial review if it fails to submit a timely reply. The MassHealth agency will take appropriate action to recover the overpayment.

450.238 : Sanctions: General

(A) Introduction. All providers are subject to the rules, regulations, standards, and laws governing MassHealth. The regulations at 130 CMR 450.238 through 450.240 set forth the MassHealth agency's procedures for imposing sanctions for violations of those rules, regulations, standards, and laws. Such sanctions may include, but are not limited to, administrative fines, provider service restrictions, and suspension or termination from participation in MassHealth. The MassHealth agency determines the amount of any fine and may take into account the particular circumstances of the violation. The MassHealth agency may assess an administrative fine whether or not overpayments have been identified based on the same set of facts.

(B) Instances of Violation. Instances of violation include, but are not limited to
(1) billing a member for services that are payable under MassHealth, except copayments as provided in 130 CMR 450.130;
(2) submitting claims under an individual provider's MassHealth provider number for services for which the provider is entitled to payment from an employer or under a contract or other agreement;
(3) billing the MassHealth agency for services provided by someone other than the provider, unless expressly permitted by the applicable regulations;
(4) billing the MassHealth agency before delivery of service, unless permitted by the applicable regulations;
(5) failing to comply with recordkeeping and disclosure requirements;
(6) overstating or misrepresenting services, including submitting separate claims for services or procedures provided as components of a more comprehensive service for which a single rate of payment is established;
(7) failing to return credit balance funds to the MassHealth agency within 60 days of their receipt;
(8) failing to obtain or provide a physician's order, prescription, or referral when required by the applicable regulations;
(9) failing to comply with MassHealth enrollment, licensure, or certification requirements; and
(10) misapplication or misappropriation of personal needs allowance funds.

450.239 : Sanctions: Calculation of Administrative Fine

(A) The MassHealth agency may assess an administrative fine not to exceed the greater of
(1) $100 for each instance of violation of the rules, regulations, standards, or laws governing MassHealth;
(2) $100 for each day of violation of the rules, regulations, standards, or laws governing MassHealth; or
(3) three times the payable amount of each claim, in accordance with 130 CMR 450.239.

(B) In determining the amount of any administrative fine, the MassHealth agency considers the following factors.

(1) Nature and Circumstances of the Claim. The MassHealth agency considers the circumstances to be mitigating if the violations were of the same type and occurred within a short period of time; there were only a few such instances; there was no history of similar types of violations; and the total monetary value of these instances was less than $1,000. Conversely, the MassHealth agency considers the circumstances to be aggravating if the violations were of a single type or several types and occurred over a lengthy period of time; there were many such instances; there was a history of similar types of violations; and the total monetary value of these instances was $1,000 or more.

(2) Prior Offenses. The MassHealth agency may consider the circumstances to be aggravating if the provider previously had been held liable for criminal, civil, or administrative sanctions relating to MassHealth.

(3) Financial Condition and Member-access Considerations. The MassHealth agency considers the circumstances to be mitigating if the imposition of a full penalty will jeopardize the ability of the provider to continue as a health-care provider and if the provider's inability to continue as a health-care provider would result in a demonstrable access problem for members in the provider's geographic region. The provider has the burden of demonstrating such access problem.

(4) Other Factors. The MassHealth agency will consider other mitigating or aggravating circumstances. If there are substantial mitigating circumstances, the MassHealth agency will decrease the administrative fine to be assessed. Conversely, if there are substantial aggravating circumstances, the MassHealth agency will increase the administrative fine to be assessed.

450.240 : Sanctions: Determination

(A) Sanction Notice. When the MassHealth agency believes that sanctions should be imposed, the MassHealth agency will notify the provider in writing of the alleged violations and the proposed sanctions. The notice will be sufficiently detailed to reasonably inform the provider of the acts that the MassHealth agency alleges constitute such violations.

(B) Suspension, Termination, or Provider Service Restrictions upon Sanction Notice. If the MassHealth agency finds, on the basis of information it has before it, that a provider's continued participation in MassHealth, or in the case of provider restrictions, participation without such restrictions, during the pendency of the administrative process could reasonably be expected to endanger the health, safety, or welfare of its members or compromise the integrity of MassHealth, it may suspend or terminate the provider's MassHealth participation or impose service restrictions on the provider at the same time the sanction notice described in 130 CMR 450.240(A) is sent to the provider. Said suspension, termination, or provider service restriction will remain in effect until either the MassHealth agency, pursuant to 130 CMR 450.240(D), issues a final determination removing or revising said suspension, termination, or provider service restriction, or the Medicaid Director, pursuant to 130 CMR 450.248, issues a final agency decision removing or revising said suspension, termination, or provider service restriction.

(C) Timely Reply. To preserve its right to an adjudicatory hearing and judicial review, the provider must reply in writing to the MassHealth agency and such reply must be received by the MassHealth agency within 30 calendar days of the date on the sanction notice. The reply must specifically identify and address all allegations in the sanction notice with which the provider disagrees and explain any objections to the proposed sanctions. The provider must also include any additional documentary evidence it wants the MassHealth agency to consider.

(D) Sanction Determination. The MassHealth agency will consider and review only information submitted with a timely reply. If, after reviewing the provider's reply, the MassHealth agency determines that sanctions should be imposed because the provider has committed one or more violations of any rule, regulation, standard, or law governing MassHealth, the MassHealth agency will notify the provider in writing of its final determination, which will state any sanctions that the MassHealth agency will impose against the provider.

(E) Adjudicatory Hearing. If the provider submits a timely reply, the provider may claim an adjudicatory hearing to appeal the MassHealth agency's final determination, in accordance with 130 CMR 450.241 and 450.243. The MassHealth agency may amend or supplement the sanction notice at any time before the commencement of an adjudicatory hearing as long as any additional findings have been identified in a notice or amended notice. Once an adjudicatory hearing has commenced, the hearing officer may permit amendment of the sanction determination upon proper motion by the MassHealth agency and will permit amendment, where necessary, to conform the sanction determination to the evidence.

(F) Consequences of Failure to Submit a Timely Reply. The provider has no right to an adjudicatory hearing or judicial review if it fails to submit a timely reply. The MassHealth agency will take appropriate action to implement the proposed sanctions.

450.241 : Hearings: Claim for an Adjudicatory Hearing

A provider may challenge the findings set forth in the MassHealth agency's final determination, issued pursuant to regulations, including but not limited to, 130 CMR 450.208(C)(2), 450.209(C)(3), 450.209(D), 450.210(D)(1), 450.211(D)(1), 450.213 (as to provider termination based solely upon a determination of ineligibility by the MassHealth agency), 450.237(D), or 450.240(E), by filing a claim for an adjudicatory hearing (claim) with the Board of Hearings and the MassHealth agency within 30 calendar days of the date on the final determination. Pursuant to 130 CMR 450.243, in addition to filing the request for an adjudicatory hearing timely, the provider must specifically identify each issue and fact in dispute and state the provider's position, the pertinent facts to be adduced at the hearing, and the reasons supporting that position. A claim is filed on the date actually received by both the Board of Hearings and the MassHealth agency. The failure to either file a timely claim, state the basis of the claim, or file with both the Board of Hearings and the MassHealth agency in compliance with 130 CMR 450.243 will result in implementation of the action identified in the final determination.

450.242 : Hearings: Stay of Suspension or Termination or Provider Service Restriction

A timely claim will stay any suspension or termination or provider service restriction described in the final determination until there has been a final agency action pursuant to 130 CMR 450.243(D) or 450.248; provided, however, that if the MassHealth agency finds on the basis of information it has before it that a provider's continued participation in MassHealth or in the case of provider service restrictions, participation without such restrictions, during the pendency of the administrative appeal could reasonably be expected to endanger the health, safety, or welfare of members or compromise the integrity of MassHealth, the suspension, termination, or provider service restrictions will not be stayed. A timely claim will not stay any withholding of payments under 130 CMR 450.249.

450.243 : Hearings: Consideration of a Claim for an Adjudicatory Hearing

(A) A timely claim must specifically identify each issue and fact in dispute and state the provider's position, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.

(B) If a matter has been referred to or is under investigation by the Attorney General's Medicaid Fraud Division or other criminal investigation agency, or if a question of quality of care has been referred to a professional licensing board for investigation, the Board of Hearings, upon notice from the MassHealth agency, will postpone the hearing until the conclusion of such investigation and the final disposition of any criminal complaint, indictment, or order to show cause that ensues, or until the MassHealth agency notifies the Board to schedule the hearing. A provider may not request a postponement of the hearing under 130 CMR 450.243(B).

(C) The Board of Hearings will grant a hearing only if the claimant demonstrates all of the following.

(1) The claim was filed with the Board of Hearings and the MassHealth agency within the time limits set forth in 130 CMR 450.241.
(2) There is a genuine and material issue of adjudicative fact for resolution.
(3) The factual issues can be resolved by available and specifically identified reliable evidence as set forth in M.G.L. c. 30A, § 11(2). A hearing will not be granted on the basis of general allegations or denials or general descriptions of positions and contentions.
(4) The allegations of the provider, if established, would be sufficient to resolve a factual dispute in the manner urged by the provider. A hearing will not be granted if the provider's submissions are insufficient to justify the factual determination urged, even if accurate.
(5) Resolution of the factual dispute in the way sought by the provider is relevant to and would support the relief sought.

(D) Failure to comply with the conditions set forth in 130 CMR 450.243(C) will result in dismissal of the claim. Dismissal of a claim is a final agency action reviewable pursuant to M.G.L. c. 30A.

(E) Notwithstanding 130 CMR 450.243(C) and (D), if there is no issue of adjudicative fact, but the provider has challenged the MassHealth agency's interpretation or application of regulations or laws, argument concerning such challenges will be presented in memoranda and briefs.

450.244 : Hearings: Authority of the Hearing Officer

The hearing officer does not render a decision about the legality of federal or state laws, including, but not limited to the MassHealth regulations. If the legality of such law or regulation is raised by the provider, the hearing officer renders a decision based on the applicable law as interpreted by the MassHealth agency. Such decision includes a statement that the hearing officer cannot rule on the legality of such law or regulation and is subject to judicial review in accordance with M.G.L. c. 30A.

450.245 : Hearings: Burden of Proof

The provider has the burden of establishing by a preponderance of the evidence that the provider has complied with the MassHealth requirements cited in the MassHealth agency's final determination or otherwise has correctly received, or is entitled to receive, any amounts in dispute.

450.246 : Hearings: Procedure

The hearing is conducted in accordance with M.G.L. c. 30A, §§ 9, 10, and 11, and the formal rules of the Standard Rules of Practice and Procedure found at 801 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*, 1.01: *Purpose, Application and Authority*, and 1.03: *General Provisions*, as modified or supplemented by 130 CMR 450.000.

450.247 : Hearings: Hearing Officer's Decision

The hearing officer's decision is in the form of a proposed decision to the Medicaid director. The proposed decision may affirm, modify, or overturn the actions proposed in the MassHealth agency's final determination. The proposed decision includes a determination of the amount of overpayments, if overpayments have been alleged, and a statement of reasons for the decision, including determination of each issue of fact or law necessary to the decision. If the provider makes a written request for the proposed decision prior to its issuance, the Board of Hearings notifies the provider by mail of the proposed decision. The decision of the hearing officer is effective when and to the extent it is adopted by the Medicaid director.

450.248 : Medicaid Director's Decision

If the provider has made a written request for a copy of the proposed decision prior to its issuance, the provider has seven calendar days from its receipt of the proposed decision to file written objections with the Medicaid director. The Medicaid director may adopt or modify the proposed decision, or return the matter to the hearing officer for further consideration, based on evidence already in the record or, if necessary, additional evidence to be included in the reopened record. The hearing officer will resubmit the proposed decision to the Medicaid director, as modified pursuant to 130 CMR 450.247 and 450.248. The provider is notified of the Medicaid director's action. When the Medicaid director has adopted or modified the proposed decision, the Medicaid director's decision is a final agency action reviewable pursuant to M.G.L. c. 30A.

450.249 : Withholding of Payments

(A) Introduction. The term "withholding of payments" or "withholding payments" as used in 130 CMR 450.249 means the withholding of all or a portion of payments payable to a provider. While withholding payments, the MassHealth agency continues to process the provider's claims. To avoid rejection of otherwise proper claims because of late submission, a provider whose payments are being withheld must continue to submit timely claims.

(B) Withholding Payments from Providers for Overpayments or Other Violations. Upon written notice to the provider, the MassHealth agency may withhold payments to a provider, or any provider under common ownership (defined the same as "provider under common ownership" in 130 CMR 450.101), if the MassHealth agency believes that the provider has received any overpayments or committed any violations. The notice states the effective date of the withholding, the amount being withheld, and the reason for the withholding. A provider subject to a withhold may submit written evidence for consideration by the MassHealth agency as to why payments in whole or in part should not be withheld. The withholding of payments expires 90 calendar days after the date withholding begins unless the MassHealth agency has sent the provider an overpayment or sanction notice pursuant to 130 CMR 450.237 or 450.240. The withholding of payments continues until the entitlement to the withheld funds and the amount of overpayment or administrative fines has been finally adjudicated and all due amounts have been recovered.

(C) Withholding Payments for Credible Allegation of Fraud. Upon written notice to the provider, or without notice as provided for under 42 CFR 455.23(b), the MassHealth agency may withhold payments to a provider, or to any provider under common ownership (defined the same as "provider under common ownership" in 130 CMR 450.101), where there is a credible allegation of fraud under 42 CFR 455.23. The notice complies with 42 CFR 455.23(b) and informs the provider of the right to submit written evidence for consideration by the MassHealth agency as to why payments in whole or in part should not be withheld. The withholding of payments continues until such time as any investigation and associated enforcement proceedings are completed, and all due amounts have been recovered. If the Attorney General's Medicaid Fraud Division or other law enforcement agency declines to accept any fraud referral, any payments withheld under 130 CMR 450.249(C) are released and no further payments are withheld, unless within ten business days of the MassHealth agency receiving such notice from the Attorney General's Medicaid Fraud Division or other law enforcement agency, the MassHealth agency sends written notice to the provider in accordance with 130 CMR 450.249(B) that the MassHealth agency believes that the provider has received any overpayments or committed any violations.

(D) Withholding Payments to Providers Withdrawing from MassHealth.

(1) The MassHealth agency may withhold payments to a provider, or to any providers under common ownership, at any time following receipt by the MassHealth agency of notification of the provider's intention to close or to withdraw from MassHealth. The MassHealth agency may withhold such payments whenever the MassHealth agency reasonably believes that there may be an outstanding issue, claim, or adjustment in connection with or incident to any payment to the provider. Such payment may be withheld regardless of whether the outstanding issue, claim, or adjustment is related to that payment. Circumstances in which there may be an outstanding issue, claim, or adjustment include, without limitation:

(a) an outstanding provider cost report;
(b) an anticipated or pending audit or utilization review;
(c) a rate decrease or other payment adjustment; or
(d) an outstanding or incomplete payment reconciliation.

(2) The MassHealth agency notifies the provider in writing of the date of the withholding, the amount withheld, and the reason for the withholding. The withholding of payments under 130 CMR 450.249(D) continues until the provider's entitlement to the withheld funds, and all outstanding issues, claims, or adjustments in connection with or incident to the payments to the provider, have been finally adjudicated or otherwise finally resolved. During the period the MassHealth agency withholds payments under 130 CMR 450.249(D), the MassHealth agency may recoup or offset all or part of the withheld funds for repayment by the provider of any liability incurred due to a rate decrease, any recoupment account balance owed, or any other debt, liability, or account balance owed by the provider.

(E) Federal Orders to Withhold Payments. If the MassHealth agency receives notice from the U.S. Department of Health and Human Services of an order for suspension of payments to a provider under 42 U.S.C. 1396m or any other section of the Social Security Act, the MassHealth agency withholds payments otherwise due the provider in accordance with the terms of the notice. The MassHealth agency promptly notifies the provider of such action and the reason for it. The MassHealth agency takes such other action as may be necessary or appropriate to ameliorate the effect of actions taken under 130 CMR 450.249(E) on members and on MassHealth, including action similar to that described in 130 CMR 450.216. The withholding of payments continues until the underlying Department of Health and Human Services order is rescinded, or becomes final and unappealable, at which time apportionment of the withheld amounts between the MassHealth agency and the provider are made.

(F) Continued Provider Participation in the MassHealth Program.
(1) A provider subject to a withhold under 130 CMR 450.249(B), (C), and (E) must continue to provide services to MassHealth members as long as the provider continues to participate in MassHealth. Any provider terminating its participation in MassHealth must do so in accordance with 130 CMR 450.223(D) and such other statutory, regulatory, or contractual requirements as may be applicable to the particular provider or provider type.
(2) Any provider that terminates or otherwise discontinues its business operations will be deemed to be terminating its participation in MassHealth and accordingly must comply with the requirements stated in 130 CMR 450.249(F)(1).(3) Notwithstanding subsection (1), the MassHealth agency may suspend or terminate the participation of or impose a service restriction on a provider subject to a withholding of payments.

(130 CMR 450.250 through 450.258 Reserved)

450.259 : Overpayments Attributable to Rate Adjustments

(A) Whenever an overpayment occurs due to a rate adjustment that is established by the MassHealth agency in accordance with applicable law, the MassHealth agency notifies the provider in writing by issuing a remittance advice identifying the impact of the rate adjustment on all previously paid claims and stating the amount of the overpayment.

(B) A provider must pay to the MassHealth agency the full amount of any overpayment attributable to a rate adjustment. The applicable recoupment account will be systematically established against all future payments until the full amount is repaid, unless the provider enters into a payment arrangement with the MassHealth agency under 130 CMR 450.260(H).

(C) If a provider disputes the MassHealth agency's computation of an overpayment attributable to a rate adjustment, the provider must submit proposed corrections, including a detailed explanation, in writing to the MassHealth agency within 30 calendar days after the date of issuance of the remittance advice under 130 CMR 450.259(A). The fact that any rate adjustment is under appeal is not considered a factor in determining the amount of liability. The fact that a provider has submitted proposed corrections to the MassHealth agency does not delay or suspend the provider's payment obligations set forth under 130 CMR 450.259(B).

(D) If proposed corrections are timely submitted in accordance with 130 CMR 450.259(C), the MassHealth agency reviews the proposed corrections and notifies the provider of its decision within 30 calendar days of receipt of the provider's corrections. If the MassHealth agency determines that corrections are required, the MassHealth agency makes any appropriate payment adjustments reflecting the corrections.

(E) A provider must pay the MassHealth agency the full amount of the overpayment stated in a remittance advice under 130 CMR 450.259(A), regardless of any pending appeal, action, or other proceeding contesting the overpayment, including but not limited to, any appeal, action, or other proceeding contesting any rate on which the overpayment is computed. If required by a final disposition of any such appeal, action, or proceeding, the MassHealth agency issues a revised remittance advice and makes any appropriate payment adjustments to effect the final disposition.

450.260 : Monies Owed by Providers

(A) Provider Liability. A provider is liable for the prompt payment to the MassHealth agency of the full amount of any overpayments, or other monies owed under 130 CMR 450.000, including but not limited to 130 CMR 450.235(B), or under any other applicable law or regulation. A provider that is a group practice is liable for any overpayments owed and subject to sanctions imposed as a result of any violation of any statute or regulation committed by the individual practitioner that provided the service.

(B) Ownership Liability. Any owner of an institutional provider is liable for the monetary liability of the institutional provider under 130 CMR 450.260(A) to the extent of the owner's ownership interest. For purposes of 130 CMR 450.260, an "owner" is a person or entity having an ownership interest in an institutional provider, as such interest is defined in 130 CMR 450.221(A)(9)(a), (b), (c), or (f). An "institutional provider" is any provider that provides nursing facility services, or acute, chronic, or rehabilitation hospital services.

(C) Common Ownership Liability. Any two or more providers who are or were, at any time, wholly or partly owned by the same person or entity, whether concurrently, sequentially, or otherwise, are jointly and severally liable for each of their obligations to pay the full amount of any monies owed under 130 CMR 450.260(A).

(D) Successor Liability. Any successor owner of a provider is liable for the obligation of any prior owner to pay the full amount of any monies owed by the prior owner under 130 CMR 450.260(A). For purposes of 130 CMR 450.260, a "successor owner" is any successor owner, operator, or holder of any right to operate all or a part of the prior owner's health-care business, which includes, but is not limited to, the business management, personnel, physical location, assets, or general business operations. A successor owner of a nursing facility or hospital includes any successor owner or holder of a license to operate all or some of the beds of a nursing facility or hospital.

(E) Group Practice Liability. The individual practitioner who provided the service and the group practice will be jointly and severally liable for each of their obligations to pay the full amount of any monies owed under 130 CMR 450.260.

(F) Recoupment. If a provider fails to pay the full amount of any monies owed under 130 CMR 450.260(A), the MassHealth agency may recoup up to 100% of any and all payments to the provider, without further notice or demand, until such time as the full amount of any monies owed under 130 CMR 450.260(A) is paid in full.

(G) Set-off. The MassHealth agency may apply a set-off against payments to a provider in the following circumstances.

(1) Providers Under Common Ownership. Whenever any monies are owed by a provider under 130 CMR 450.260(A), the MassHealth agency may set off up to 100% of any and all payments to any providers who are or were, at any time, wholly or partly owned by the same person or entity, whether concurrently, sequentially, or otherwise, without further notice or demand, until such time as the full amount of the monies owed under 130 CMR 450.260(A) is repaid in full.

(2) Successors. Upon the sale or transfer of all or part of a provider, the MassHealth agency may set off up to 100% of any and all payments to any successor owner, without further notice or demand, until such time as the full amount of any monies owed by any prior owner under 130 CMR 450.260(A) is repaid in full.

(3) Group Practices. Whenever monies are owed by a group practice under 130 CMR 450.260(A), the MassHealth agency may set off up to 100% of any and all payments to the individual practitioner who provided the service, without further notice or demand, until such time as the full amount of any monies owed by the group practice under 130 CMR 450.260(A) is repaid in full. Whenever monies are owed by an individual practitioner who is a member of a group practice under 130 CMR 450.260(A), the MassHealth agency may set off up to 100% of any and all payments to the group practice, without further notice or demand, until such time as the full amount of any monies owed by the individual practitioner under 130 CMR 450.260(A) is repaid in full.

(H) Payment Arrangements. If the recoupment or set-off would cause a financial hardship for a provider, the provider may submit a request in writing, with appropriate documentation, to the MassHealth agency for a payment arrangement. At its discretion, the MassHealth agency may enter into a written arrangement with a provider, its owner, any provider under common ownership, or any successor owner to establish a schedule to pay to the MassHealth agency the full amount of any monies owed, on such terms as are acceptable to the MassHealth agency. The arrangement may provide for such guarantees or collateral as may be acceptable to the MassHealth agency to secure the payment schedule.

(I) Court Action. The MassHealth agency may recover the full amount of any monies owed to the MassHealth agency under 130 CMR 450.260(A) by commencing an action in any court of competent jurisdiction. Such action may be commenced against any parties described under 130 CMR 450.260.

(J) Joint and Several Obligations. All obligations of any parties described under 130 CMR 450.260 are joint and several.

450.261 : Member and Provider Fraud

All members and providers must comply with all federal and state laws and regulations prohibiting fraudulent acts and false reporting, specifically including but not limited to 42 U.S.C. 1320a-7b. Providers shall also promptly notify the MassHealth agency if it suspects a member is not eligible to receive MassHealth or someone other than the member is using the member's MassHealth card to receive or attempt to receive services or if any provider may be engaging in Medicaid fraud. The provider shall cooperate with and provide all information requested by the MassHealth agency, the Attorney General's Medicaid Fraud Division, the State Auditor's Office, or any other law enforcement entity investigating such fraud.

(130 CMR 450.262 through 450.270 Reserved)

450.271 : Individual Consideration

(A) The MassHealth agency may identify certain services as requiring individual consideration (I.C.) in program regulations, associated lists of service codes and service descriptions, billing instructions, provider bulletins, and other written issuances from the MassHealth agency. For services requiring individual consideration, the MassHealth agency establishes the appropriate amount of payment based on the standards and criteria set forth in 130 CMR 450.271(B). Providers claiming payment for any I.C.-designated service must submit with such claim a report that includes a detailed description of the service, and is accompanied by supporting documentation that must minimally include where applicable, but is not limited to, an operative report, pathology report, or in the case of a purchase, a copy of the supplier's invoice. The MassHealth agency does not pay claims for "I.C." services unless it is satisfied that the report and documentation submitted by the provider are adequate to support the claim.

(B) The MassHealth agency determines the appropriate payment for an I.C. service in accordance with the following standards and criteria:

(1) the amount of time required to perform the service;
(2) the degree of skill required to perform the service;
(3) the severity and complexity of the member's disease, disorder, or disability;
(4) any applicable relative-value studies; and
(5) any complications or other circumstances that the MassHealth agency deems relevant.

(130 CMR 450.272 through 450.274 Reserved)

450.275 : Teaching Physicians: Documentation Requirements

In order to be paid for physician services provided in a teaching setting, physicians must comply with the following documentation requirements.

(A) Definitions. Whenever one of the following terms is used in 130 CMR 450.275, it has the meaning given in the definition, unless the context clearly requires a different meaning.

(1) Resident — an individual who participates in an approved Graduate Medical Education (GME) program, including interns and fellows. A medical student is never considered a resident.

(2) Teaching Physician — a physician (not a resident) who involves residents in the care of his or her patients. Where applicable and appropriate, the use of the phrase "teaching physician" will be construed to include teaching podiatrists and teaching dentists.

(3) Teaching Setting — a setting in which there is an approved GME residency program in medicine, osteopathy, dentistry, or podiatry.

(B) General Requirements.

(1) Under MassHealth, the MassHealth agency pays for physician services (which are otherwise payable) furnished in teaching settings only if documentation in the patient's medical record clearly substantiates that the key portions of the services are personally provided by a teaching physician, or the key portions of the services, which include decision-making processes, are provided jointly by a teaching physician and resident, or by a resident in the presence of a teaching physician. (The teaching physician must determine which portions of the service or procedure are to be considered key and require his or her presence.) Any contribution of a medical student to the performance of a service or procedure must be performed in the physical presence of a teaching physician, or jointly with a resident.

(2) The teaching physician may not bill for the supervision of residents.

(3) The teaching physician may not bill for services provided solely by residents.

(C) Documentation.

(1) The teaching physician and resident are each responsible for documenting in the medical record his or her own level of involvement in the services. Documentation by the resident alone is not acceptable. In all cases, the teaching physician must personally document his or her presence and participation in the services in the medical record. This documentation by the teaching physician may either be in writing or via a dictated note, and may include references to notes entered by the resident.

(2) If the teaching physician would be repeating key elements of the service components previously documented by the resident (for example, the patient's complete history and physical examination), the teaching physician need not repeat the documentation of these components in detail. In these circumstances, the teaching physician's documentation may be brief, summary comments that reflect the resident's entry and that confirm or revise the key elements identified.

(D) Covered Services. The MassHealth agency pays for medical services (including, but not limited to, evaluation and management services, surgery services, anesthesia services, and radiology services) performed in a teaching setting if the following requirements are met, in addition to the general requirements in 130 CMR 450.275(A) through (C):

(1) Exceptions to Physical-presence Requirement. For certain services (general/internal medicine, pediatric, obstetric/gynecologic, and psychiatric), the teaching physician does not have to be physically present for the key portions of the service. (Refer to Appendix K: *Teaching Physicians* of the *Physician Manual* for a listing of the service codes for which this exception to the physical presence requirement applies.)

(2) Services Paid on the Basis of Time. For services paid on the basis of time (excluding anesthesia and those psychiatric services listed in Appendix K: *Teaching Physicians* of the *Physician Manual*), the teaching physician must be present for the period of time for which the claim is made. Time spent by the resident in the absence of the teaching physician may not be added to time spent by the resident and teaching physician with the member, or time spent by the teaching physician alone with the member. For example, the MassHealth agency will pay for a code that specifically describes a service of from 20 to 30 minutes only if the teaching physician is present for 20 to 30 minutes.

(3) Medical Services. For medical services (including, but not limited to, evaluation and management services), the teaching physician may supervise up to four residents at any given time, and he or she must direct the care from such proximity as to constitute immediate physical availability.

(4) Surgery Services. For surgery services, the teaching physician is responsible for the preoperative, intra-operative, and postoperative care of the member. The teaching physician must be scrubbed and physically present during the key portion of the surgical procedure. During the intra-operative period in which the teaching physician is not physically present, he or she must remain immediately available to return to the procedure, if necessary. He or she must not be involved in another procedure from which he or she cannot return. If the teaching physician leaves the operating room after the key portion(s) of the surgical procedure or during the closing of the surgical site to become involved in another surgical procedure, he or she must arrange for another teaching physician to be immediately available to intervene as needed. The designee must be a physician (excluding a resident) who is not involved in or immediately available for any other surgical procedure. The following guidelines apply to specific types of surgery and related services:

(a) Concurrent Surgeries. To be paid for concurrent surgeries, the teaching physician must be present during the key portions of both operations. Therefore, the key portions must not occur simultaneously. When all of the key portions of the first procedure have been completed, the teaching physician may initiate his or her involvement in a second procedure. The teaching physician must personally document the key portions of both procedures in his or her notes to demonstrate that he or she was immediately available to return to either procedure as needed.

(b) Straightforward or Low-complexity Procedures. The teaching physician must be present for the decision-making portions of straightforward or low-complexity procedures.

(c) Endoscopy Procedures. For procedures performed through an endoscope (other than endoscopic operations, when the endoscopy performed is not the key portion of the surgical procedure), the teaching physician must be present during the entire viewing. The entire viewing includes the period of insertion through removal of the device. Viewing of the entire procedure through a monitor in another room does not meet the teaching-physician-presence requirement.

(d) Obstetrics. To be paid for the procedure, the teaching physician must be present for the delivery. In situations in which the teaching physician's only involvement was at the time of delivery, he or she may bill for the delivery only. To be paid for the global procedures, the teaching physician must be physically present, in accordance with the general requirements above and applicable program requirements.

(5) Anesthesia Services. If a teaching anesthesiologist is involved in a procedure with a resident, or with a resident and a non-physician anesthetist, the teaching physician must be present for induction and emergence. For any other portion of the anesthesia service, the teaching physician must be immediately, physically available to return to the procedure, as needed. The documentation in the medical records must indicate the teaching anesthesiologist's presence and participation in the administration of the anesthesia.

(6) Radiology Services. The interpretation of diagnostic tests must be performed or reviewed by a teaching physician. If the teaching physician's signature is the only signature on the interpretation, this indicates that he or she personally performed the interpretation. If a resident prepares and signs the interpretation, the teaching physician must indicate that he or she has personally reviewed both the image and the resident's interpretation and either agrees with or edits the findings. The teaching physician's countersignature alone is not acceptable documentation.

(130 CMR 450.276 through 450.299 Reserved)

This page is reserved.

450.301 : Claims

(A) Except as provided in other program regulations, a claim for a medical service may be submitted only by the provider that provided the service. In the absence of a specific exception or qualification, 130 CMR 450.301(A) and (B) apply.

(1) An individual practitioner may not claim payment under his or her own name and provider ID/service location number for services actually provided by another individual, whether or not the individual who provided the service is also a participating provider, or is an associate, partner, or employee of the individual practitioner.

(2) An individual practitioner may not claim payment under his or her own name and provider ID/service location number for medical services provided by the individual practitioner and for which the practitioner is paid by another entity (for example, hospital, clinic, long-term-care facility, pharmacy, home health agency, health maintenance organization, community health center, psychiatric day treatment program, day habilitation center, and adult day care center). In such cases, payment may be claimed only by the institution or facility.

(B) A provider may submit claims only if

(1) the payment for the services claimed is not otherwise claimed by any other MassHealth provider; and

(2) payment or any other compensation for the delivery of such services is not received by any provider from any other source.

450.302 : Claim Submission

(A)(1) Electronic Claims. All claims submitted to the MassHealth agency for payment must be submitted electronically in a format designated by the MassHealth agency, unless the provider has been approved for an electronic claim submission waiver.

(2) Paper Claims.

(a) Any paper claims submitted by a provider who does not have an approved electronic claim submission waiver, pursuant to 130 CMR 450.302(A)(3), are rejected.

(b) Any paper claims submitted by a provider who has an approved electronic claim submission waiver must be submitted on the claim form designated by the MassHealth agency and according to its administrative and billing instructions.

(3) Waiver Criteria. The MassHealth agency grants a provider an electronic claim submission waiver if any of the following criteria apply.

(a) The provider has submitted an average of fewer than 20 claims per month over the previous 12 months.

(b) The provider is experiencing temporary technical difficulties related to upgrading their current billing system or installing a new one.

(c) The provider is experiencing temporary technical difficulties related to testing or interfacing with the MassHealth agency's claims processing system.

(d) The provider does not have Internet access or a computer.

(e) The provider is experiencing temporary disruption in service, for at least five business days, caused by a natural disaster or utility work.

(f) The provider attests to the MassHealth agency that its staff responsible for claims submission have a disability that prevents the submission of electronic claims that cannot be easily mitigated with reasonable accommodation.

(g) The provider has an extenuating circumstance in which submitting electronic claims would impede the provider's ability to participate in MassHealth.

(4) Waiver Duration. An electronic claim submission waiver is valid for 12 months from the date of issue. Providers who continue to experience circumstances that necessitate a waiver must apply for another waiver at least 30 days before the expiration of their current waiver, in order to avoid a possible interruption in payment.

(5) Waiver Fee. There is no fee for the first electronic claim submission waiver. The MassHealth agency may assess an administrative fee based on paper claim volume for any subsequent electronic claim submission waiver granted to a provider.

(6) Waiver Request Review Process. After review of a provider's request for an electronic claim submission waiver, the MassHealth agency notifies the provider in writing of its decision. If the waiver request is incomplete, the MassHealth agency may request additional information from the provider. If the provider does not submit the requested information to the MassHealth agency within 30 days of the request date, the MassHealth agency denies the waiver request. A provider may reapply for an electronic claim submission waiver with new or additional information.

(B) All claims submitted by a group practice must clearly identify by provider ID/service location number the individual practitioner who actually provided the services being claimed.

(C) A group practice may submit claims only for services provided by individual practitioners who are MassHealth providers and who have been enrolled and approved by the MassHealth agency as a participant in the group.

450.303 : Prior Authorization

In certain instances, the MassHealth agency requires providers to obtain prior authorization to provide medical services. These instances are identified in the billing instructions, program regulations, associated lists of service codes and service descriptions, provider bulletins, and other written issuances from the MassHealth agency. Such information, including but not limited to the MassHealth Drug List, is available on the MassHealth Web site at www.mass.gov/druglist, and copies may be obtained upon request. The provider must submit all prior-authorization requests in accordance with the MassHealth agency's instructions. Prior authorization determines only the medical necessity of the authorized service, and does not establish or waive any other prerequisites for payment, such as member eligibility or resort to health-insurance payment.

(A) The MassHealth agency acts on appropriately completed and submitted requests for prior authorization within the following time periods.

(1) For pharmacy services—by telephone or other telecommunication device within 24 hours of the request for prior authorization. The MassHealth agency will authorize at least a 72-hour supply of a prescription drug to the extent required by federal law. (*See* 42 U.S.C. 1396r-8(d)(5).)

(2) For transportation to medical services—within seven calendar days after a request for service, or the number of days, if less than seven, necessary to avoid any serious and imminent risk to the health or safety of the member that might arise if the MassHealth agency did not act before the full seven days have elapsed.
(3) For independent nurse services—within 14 calendar days after a request for service.
(4) For durable medical equipment—within 15 calendar days after a request for service.
(5) For all other MassHealth services—within 21 calendar days after a request for service.

(B) The following rules apply for prior-authorization requests.
(1) The date of any prior-authorization request is the date the request is received by the MassHealth agency, if the request conforms to all applicable submission requirements, including but not limited to the form, the address to which the request is sent, and required documentation.
(2) If a provider submits a request that does not comply with all submission requirements, the MassHealth agency informs the provider
(a) of the relevant requirements, including any applicable program regulations;
(b) that the MassHealth agency will act on the request within the time limits specified in 130 CMR 450.303 if the required information is received by the MassHealth agency within four calendar days after the request; and
(c) that if the required information is not submitted within four calendar days, the MassHealth agency's decision may be delayed by the time elapsing between the four days and when the MassHealth agency receives the necessary information.
(3) A service is authorized on the date the MassHealth agency sends a notice of its decision to the member or someone acting on the member's behalf.

(C) The MassHealth agency does not act on requests for prior authorization for
(1) covered services that do not require prior authorization; or
(2) noncovered services, except to the extent that MassHealth regulations specifically allow for prior-authorization requests.

450.304 : Claim Submission: Signature Requirement

Every CMS-1500 claim form submitted for payment must be signed by the provider that provided the service or the provider's agent on behalf of the provider that provided the service. A provider that accepts payment of a claim is presumed to have authorized the submission of the claim on his or her behalf.

(130 CMR 450.305 and 450.306 Reserved)

450.307 : Unacceptable Billing Practices

(A) No provider may claim payment in a way that may result in payment that exceeds the maximum allowable amount payable for such service under the applicable payment method.

(B) Without limiting the generality of 130 CMR 450.307(A), the following billing practices are forbidden:

(1) duplicate billing, which includes the submission of multiple claims for the same service, for the same member, by the same provider or multiple providers;

(2) overstating or misrepresenting services, including submitting separate claims for services or procedures provided as components of a more comprehensive service for which a single rate of payment is established; and

(3) submitting claims under an individual practitioner's provider ID/service location number for services for which the practitioner is otherwise entitled to compensation.

(130 CMR 450.308 Reserved)

450.309 : Time Limitation on Submission of Claims: General Requirements

(A) In accordance with M.G.L. c. 118E, § 38, all claims must be received by the MassHealth agency within 90 days from the date of service or the date of the explanation of benefits from another insurer. When a service is provided continuously on consecutive dates, the date from which the 90-day deadline is measured is the latest date of service.

(B) For claims that are not submitted within the 90-day period but that meet one of the exceptions specified below, a provider must request a waiver of the billing deadline (a 90-day waiver) pursuant to the billing instructions provided by the MassHealth agency. The exceptions are as follows:

(1) a medical service was provided to a person who was not a member on the date of service, but was later enrolled as a member for a period that includes the date of service; and

(2) a medical service was provided to a member who failed to inform the provider in a timely fashion of the member's eligibility for MassHealth.

(C) When a medical service was provided to a MassHealth member in another state by a provider that is not enrolled in MassHealth, the MassHealth agency will consider a claim for such service to have been timely submitted if all of the following apply:

(1) the medical service was provided in accordance with 130 CMR 450.109;

(2) the provider submits an application to the MassHealth agency to become a participating provider within 90 days after the date of service and the MassHealth agency approves the application; and

(3) the provider submits the claim for payment within 90 days after the date of the notice from the MassHealth agency approving the provider's application.

(D) All requests for waivers of the billing deadline submitted to the MassHealth agency for review must be submitted electronically in a format designated by the MassHealth agency, unless the provider has been approved for an electronic claim submission waiver as specified in 130 CMR 450.302(A)(3).

(130 CMR 450.310 through 450.312 Reserved)

450.313 : Time Limitation on Submission of Claims: Claims for Members with Health Insurance

If a provider delays submitting a claim in order to bill a member's health insurer (*see* 130 CMR 450.316 through 450.318), the claim will have been timely submitted if it is received:

(A) no later than the 90th day after the date of the notice of final disposition by the health insurer (if more than one insurer is involved, the submission period will be measured from the latest final disposition, and the period for making requests will be measured from the date of the notice of final disposition from the previous insurer); and

(B) no later than 18 months after the date of service.

450.314 : Final Deadline for Submission of Claims

(A) If the MassHealth agency has denied a claim that was initially submitted within the 90-day deadline, the provider may resubmit the claim with appropriate corrections or supporting information.

(B) The MassHealth agency, pursuant to M.G.L. c. 118E, § 38, will not pay any claim submitted or resubmitted for services provided more than 12 months before the date of submission or resubmission, except as provided in 130 CMR 450.313 and 450.323.

(130 CMR 450.315 Reserved)

450.316 : Third-party Liability: Requirements

All resources available to a member, including but not limited to all health and casualty insurance, must be coordinated and applied to the cost of medical services provided by MassHealth. (*See* 42 CFR Part 433, Subpart D.) Except to the extent prohibited by 42 U.S.C. 1396a(a)25(E) or (F), all providers must make diligent efforts to obtain payment first from other resources, including casualty payer payments, so that the MassHealth agency will be the payer of last resort. The MassHealth agency will not pay a provider and will recover any payments to a provider if it determines that, among other things, the provider has not made such diligent efforts. Under no circumstances may a provider bill a member for any amount for a MassHealth-covered service, except as provided by 130 CMR 450.130.

(A) "Diligent efforts" is defined as making every effort to identify and obtain payment from all other liable parties, including insurers. Diligent efforts include, but are not limited to:

(1) determining the existence of health insurance by asking the member if he or she has other insurance and by using insurance databases available to the provider;

(2) verifying the member's other health insurance coverage, currently known to the MassHealth agency through the eligibility verification system (EVS) on each date of service and at the time of billing;

(3) submitting claims to all insurers with the insurer's designated service code for the service provided;

(4) complying with the insurer's billing and authorization requirements;

(5) appealing a denied claim when the service is payable in whole or in part by an insurer; and

(6) returning any payment received from the MassHealth agency after any available third-party resource has been identified. The provider must bill all available third-party resources before resubmitting a claim to the MassHealth agency.

(B) The MassHealth agency will deem that the provider did not exercise diligent efforts pursuant to 130 CMR 450.316(A) if the insurer denies payment due to the provider's

(1) noncompliance with the insurer's billing and authorization requirements, including but not limited to errors in submission, failure to obtain prior authorization, failure to submit appropriate documentation and billing, providing services outside the service network, or untimely billing;

(2) request or provocation of a denial; or

(3) appeal of an insurer's favorable coverage determination.

(C) Failure to comply with the provisions of 130 CMR 450.316(A) may subject a provider to sanctions and liability for overpayments as determined by the MassHealth agency in accordance with 130 CMR 450.235 through 450.240.

(D) Unless otherwise permitted by regulation, a provider is not entitled to receive or retain any MassHealth payment for a service provided to a member, if on that date of service the member had any other health insurance, including Medicare, that may have covered the service, and the provider did not participate in the member's other health insurance plan.

(E) If at any time a provider learns of health insurance not identified by EVS, the provider must copy both sides of the member's insurance card(s), or otherwise record the member's MassHealth identification number, insurance carrier, policy number, group number, and effective date of coverage, then send this information to the MassHealth agency.

(F) If a third-party resource is identified after the provider has already billed and received payment from the MassHealth agency, the provider must promptly return any payment it received from the MassHealth agency. The provider must bill all third-party resources before resubmitting a claim to the MassHealth agency.

(G) If a member is covered by more than one health insurer, the provider must request payment from all of the insurers prior to submitting a claim to the MassHealth agency.

450.317 : Third-party Liability: Payment Limitations on Other Health Insurance Claim Submissions

(A) Subject to compliance with all conditions of payment, for members who have other health insurance in addition to MassHealth, the MassHealth agency's liability is the lesser of:

(1) the member's liability, including coinsurance, deductibles, and copayments, as reported on the explanation of benefits or remittance advice from the insurer; or

(2) the provider's charges or maximum allowable amount payable under the MassHealth agency's payment methodology, whichever is less, minus the insurance payments.

(B) For the purposes of 130 CMR 450.317, if the provider has entered into an agreement with any third party to accept payment for less than the amount of charges, the member's liability will be calculated based on such payment amount.

(C) Unless specifically provided for in law or by contract or interagency service agreement with the MassHealth agency, the MassHealth agency is not liable for payment of a service for which a member is not liable, including, without limitation, services available through an agency of the local, state, or federal government, or through a legally obligated person or entity.

(D) The MassHealth agency will deny a claim for a service payable in whole or in part by one or more other insurers unless the claim is accompanied by a final disposition from each insurer.

450.318 : Third-party Liability: Payment Limitations on Medicare Crossover Claim Submissions

(A) A crossover is defined as a claim for a member who has Medicare in addition to MassHealth, where Medicare has made a payment or has approved an amount that was applied to the member's deductible.

(B) To obtain crossover payment, a provider must
(1) bill the Medicare fiscal intermediary or carrier, as applicable, in accordance with their billing rules, including using the appropriate Medicare claim form and format;
(2) accept assignment according to Medicare instructions; and
(3) follow the MassHealth agency's billing instructions relating to crossover claims.

(C) Unless specifically provided for in law or by contract or interagency service agreement with the MassHealth agency, the MassHealth agency is not liable for payment of a service for which a member is not liable, including, without limitation, services available through an agency of the local, state, or federal government, or through a legally obligated person or entity.

(D) The MassHealth agency's crossover liability will not exceed
(1) the member's liability including coinsurance, deductibles, and copayments as reported on the explanation of benefits or remittance advice from Medicare; or
(2) the maximum allowable amount payable under the MassHealth agency's payment methodology; or
(3) the MassHealth agency's established rate for crossover payment.

(130 CMR 450.319 and 450.320 Reserved)

450.321: Third-party Liability: Waivers

The MassHealth agency may waive any requirements of 130 CMR 450.316 through 450.318, as applied to any provider, to institute information-gathering projects and to evaluate methods of exercising the third-party liability recovery options described in 42 CFR 433.139. The MassHealth agency will grant waivers only for projects that are likely to increase the efficient and economical collection of third-party resources and will state the extent of any waiver in the documents establishing such projects.

(130 CMR 450.322 Reserved)

450.323 : Appeals of Erroneously Denied or Underpaid Claims

Pursuant to M.G.L. c. 118E, § 38, the MassHealth agency has established the following procedures for appealing claims that the provider believes were denied in error or underpaid. The MassHealth agency's Final Deadline Appeals Board has exclusive jurisdiction to review appeals submitted by providers of claims for payment that were, as a result of MassHealth agency error, denied or underpaid, and that cannot otherwise be timely resubmitted.

(A) Criteria for Filing an Appeal. All requests for appeals submitted to the MassHealth agency for review must be submitted electronically in a format designated by the MassHealth agency, unless the provider has been approved for an electronic claim submission waiver as specified in 130 CMR 450.302(A)(3). To file an appeal with the MassHealth agency's Final Deadline Appeals Board, the provider must meet all of the following criteria.

(1) The provider must have submitted the original claim in a timely manner, pursuant to 130 CMR 450.309 through 450.314.
(2) The provider must have exhausted all available corrective actions outlined in the billing instructions provided by the MassHealth agency.
(3) The date of service for which the appeal is submitted must exceed the filing time limit of 12 months, unless third-party insurance is involved, in which case the filing time limit is 18 months (the final billing deadline).
(4) Claims for dates of service more than 36 months after the date of service are not eligible for an appeal.
(5) The provider must file the appeal within 30 days after the date on the remittance advice that first denied the claim for exceeding the final billing deadline.
(6) The provider must demonstrate that the claim was, as a result of MassHealth agency error, denied or underpaid.

(B) Accompanying Documentation. Along with each appeal of a claim, the provider must submit the following information to substantiate the contention that the claim was, because of MassHealth agency error, denied or underpaid:

(1) a standard appeal form prescribed by the MassHealth agency or cover letter describing the nature of the MassHealth agency error that resulted in the denial or underpayment of the claim. The statement must include the provider name, provider ID/service location number, member name, member number, and date of service.
(2) evidence of the claim's original, timely submission and resubmission, if applicable;
(3) a copy of the applicable page from each remittance advice on which the claim was previously processed;
(4) a copy of the remittance advice or electronic response that indicates that the final submission deadline has passed;
(5) an accurately completed electronic claim or a legible and accurately completed paper claim if the provider has received a waiver of the electronic submission requirement; and
(6) any other documentation supporting the appeal.

(C) Procedure for Deciding Appeals. All appeals are decided by the MassHealth agency's Final Deadline Appeals Board based upon written evidence submitted by the provider. The provider has the burden of establishing by a preponderance of the evidence that the claims appealed were denied or underpaid because of MassHealth agency error.

(D) Request for an Adjudicatory Hearing. A provider may submit a request for an adjudicatory hearing with a final deadline appeal if there is a dispute about a genuine issue of material fact. The request must include a statement indicating the specific reasons why a hearing should be conducted. The request must include the following information:

(1) a statement identifying the material facts in dispute;

(2) a summary of the evidence that the provider would offer at the hearing to support his or her contentions; and

(3) a statement explaining why the evidence could only be presented at a hearing.

(E) Notification of Approval or Denial of Request for an Adjudicatory Hearing.

(1) If the Final Deadline Appeals Board determines that a hearing is justified, the MassHealth agency notifies the provider of:

(a) the issues of fact for which a hearing has been justified; and

(b) the identity of the person or entity designated by the MassHealth agency to conduct the hearing.

(2) Any hearing hereunder, whether conducted by the Final Deadline Appeals Board or its designee, is conducted in accordance with the provisions of 130 CMR 450.244 through 450.248.

(3) If the Final Deadline Appeals Board determines that a hearing is not justified, the MassHealth agency notifies the provider of the reasons why it decided not to hold a hearing.

(F) Decisions of the Final Deadline Appeals Board. The Final Deadline Appeals Board reviews each appeal that is properly submitted and notifies the provider in writing of its decision. The notification includes a brief statement of the reasons for its decision. The decision is a final agency action, reviewable pursuant to M.G.L. c. 30A.

450.324 : Payment of Claims

The MassHealth agency will make electronic payments payable only to the provider, except as required by law or at the MassHealth agency's discretion.

(130 CMR 450.325 through 450.330 Reserved)

450.331 : Billing Agents

(A) The MassHealth agency processes claims that are submitted by a billing agent on behalf of a provider. At the written request of a provider, the MassHealth agency may also mail payments and remittance advices to a billing agent, but such payments are payable to the provider only, and in no event are payable to the billing agent. The MassHealth agency does not make payments to a billing agent.

(B) The MassHealth agency recognizes a billing agent solely and strictly as the provider's agent. A billing agent is not considered a “provider” by the MassHealth agency. A provider’s use of a billing agent does not relieve the provider of any responsibility imposed elsewhere in these regulations for the claims that the provider submits or that are submitted on the provider's behalf. Any provider that engages a billing agent for the preparation and submission of claims to the MassHealth agency is fully responsible to the MassHealth agency for all acts by such billing agent with actual or apparent authority to perform such acts, notwithstanding any contrary provisions in any agreement between the provider and the billing agent. In case of any violations of laws, rules, or regulations, or of the provider contract arising out of the acts of the billing agent, the provider is fully liable as though they were the provider’s own acts.

REGULATORY AUTHORITY

130 CMR 450.000: M.G.L. c. 118E, §§7 and 12.

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