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State/Territory Name: Massachusetts

State Plan Amendment (SPA) #: 17-0009

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
JFK Federal Building, Government Center
Room 2275
Boston, Massachusetts 02203



Division of Medicaid and Children's Health Operations / Boston Regional Office

December 5, 2017

Marylou Sudders, Secretary
Executive Office of Health and Human Services
One Ashburton Place, Room 1109
Boston, Massachusetts 02108

Dear Secretary Sudders:

Enclosed is a copy of approved Massachusetts State Plan Amendment (SPA) No. 17-009, with an effective date of July 14, 2017. This amendment was submitted to alter the payment rates for day 1 through 30 and days 31 and beyond for home health intermittent skilled nursing services, which resulted in an overall decrease in payment rates for these services.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a) and 1923 of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C.

Because the proposed SPA would reduce or restructure provider payment rates, Massachusetts was required to demonstrate that the payments are consistent with efficiency, economy and quality of care and sufficient to enlist enough providers so that services under the plan are available to beneficiaries at least to the extent that these services are available to the general population, as established in Section 1902(a)(30)(A) of the Social Security Act and codified in 42 CFR 447.203 and 42 CFR 447.204. Massachusetts demonstrated compliance with 42 CFR 447.203(b)(6) by completing an access review and analysis for the impacted services and establishing procedures to monitor continued access to care following implementation of the rate reductions or restructuring. Massachusetts also met the requirements of 447.203 (b)(1) through 447.203(b)(6) and 447.204(a)(1) providing the initial Access Monitoring Review Plan (AMRP) with the submission of the SPA, which included home health services as required by the rule, and by including data and analysis related specifically to this reduction in payment rates, to be monitored for a three year period. Additionally, the State was required to adhere to the public process requirements set forth in 42 CFR 447.204, which was demonstrated. If access deficiencies are identified, the State will submit a corrective action plan within 90 days of identification.

Based on CMS' review of this information, the State has satisfactorily documented access to care consistent with the requirements of §447.203 and conducted the public process and notice described in §§447.204 and 447.205. CMS will be periodically contacting the State to understand how the State's monitoring activities are progressing.

This letter affirms that the Massachusetts Medicaid State plan amendment 17-009 is approved effective July 14, 2017 as requested by the State.

We are enclosing the CMS-179 and the following amended plan pages.

- Attachment 4.19-B, Page 1a-ii
- Attachment 4.19-B, Page 2a-1
- Attachment 4.19-B, Page 2a-2
- Attachment 4.19-B, Page 2a-3
- Attachment 4.19-B, Page 2a-6
- Attachment 4.19-B, Page 2a-6i
- Attachment 4.19-B, Page 2a-7

If you have any questions regarding this matter you may contact Julie McCarthy at 617-565-1244 or by email at Julie.McCarthy@cms.hhs.gov.

Sincerely,

/s/

Richard McGreal
Associate Regional Administrator

Enclosure/s

cc: Daniel Tsai, Assistant Secretary for MassHealth, Medicaid Director
Kaela Konefal, Federal Authority Policy Analyst/State Plan Coordinator

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER 1 7 - 0 0 9	2. STATE MA
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE 07/14/17	

5. TYPE OF PLAN MATERIAL (Check One)

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION 42 CFR Part 447	7. FEDERAL BUDGET IMPACT a. FFY 2017 \$ (1,517,000) b. FFY 2018 \$ (6,067,000)
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 4.19-B page 01aii Attachment 4.19-B pages 2a-01, 2a-02, 2a-03, 2a-06-07 page 2a-06i (new)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 4.19-B page 01aii Attachment 4.19-B pages 2a-01, 2a-02, 2a-03, 2a-06-07

10. SUBJECT OF AMENDMENT
Home Health Rates

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED *Not required under 42 CFR 430.12(b)(2)(I)*
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL <i>/s/</i>	16. RETURN TO Kaela Konefal State Plan Coordinator Executive Office of Health and Human Services Office of Medicaid One Ashburton Place, 11th Floor Boston, MA 02108
13. TYPED NAME Marylou Sudders	
14. TITLE Secretary	
15. DATE SUBMITTED 09/29/17	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED 09/29/2017	18. DATE APPROVED 12/05/2017
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL 07/14/2017	20. SIGNATURE OF REGIONAL OFFICIAL <i>/s/</i>
21. TYPED NAME Richard R. McGreal	22. TITLE Associate Regional Administrator, Division of Medicaid & Children's Health Operations, Boston, MA

23. REMARKS CMS and MA agreed to pen&ink changes to add new page number to Box #8

State Plan under Title XIX of the Social Security Act
State: Massachusetts

Methods and Standards for Establishing Payment Rates – Other Types of Care

- g. The fee-for-service rates for private duty nursing services are effective for services provided on or after July 14, 2017. All rates are published on www.mass.gov/eohhs/docs/eohhs/eohhs-regs/101-cmr-350.pdf. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

State Plan under Title XIX of the Social Security Act
State: Massachusetts
Methods and Standards for Establishing Payment Rates – Other Types of Care

I. Definitions

The following definitions are used in defining and calculating home health agency rates.

Complex-Care Member A MassHealth member, whose medical needs, as determined by the Division or its designee, are such that he or she requires a nurse encounter typically of more than two continuous hours of nursing services to remain in the community.

Eligible Provider Any organization certified as a provider of services under the Medicare Health Insurance Program for the Aged (Title XVIII) and meeting the Medicare and Medicaid Conditions of Participation for home health agencies in Massachusetts, or other requirements set forth by EOHHS.

Home Health Agency An agency that provides health services in a home setting. These services include nursing, physical therapy, occupational therapy, speech therapy, and home health aide services.

Home Health Aide Service The provision of personal care in the home, under the supervision of a registered nurse or, if appropriate, a physical, speech, or occupational therapist. Home Health Aide Services are performed by trained personnel who assist clients in following physicians' instructions and established plans of care. Additional services include, assisting the patient with activities of daily living, exercising, taking medications ordered by a physician which are ordinarily self-administered, assisting the patient with necessary self-help skills, and reporting to the professional supervisor any changes in the patient's condition or family situation.

Home Health Aide Units Fifteen minute increments.

Home Visit A morbidity visit rendered in the home by a qualified employee such as a licensed nurse, a licensed physical therapist or supervised licensed physical therapy assistant a licensed occupational therapist or a supervised licensed certified occupational therapy assistant a licensed speech therapist, or home health aide.

Household Place of residence where two or more people are living: (A) in a group home, a residential care home, or other group living situation; (B) at the same street address if it is a single-family house that is not divided into apartments or units; or (C) at the same apartment number or unit number if the members live in a building that is divided into apartments or units.

**Methods Used to Determine Rates of Payment
for Services Provided by Home Health Agencies** (cont.)

Interpreter Costs. The necessary costs associated with providing translation services to non-English-speaking patients.

Medication Administration. A skilled nursing service solely for the purpose for administration of medications when the member is unable to perform the task due to impaired physical, cognitive, behavioral and/or emotional issues, no able caregiver is present, the member has a history of failed medication compliance resulting in a documented exacerbation of the member's condition, and/or the task including the route of administration or medication requires a licensed nurse to provide the service. A medication administration visit may include administration of oral, intramuscular, and/or subcutaneous medication or administration of medications other than oral, intramuscular and/or subcutaneous medication, but does not include intravenous administration.

Minor Medical Supplies. Items which are either frequently furnished to patients or are utilized individually in small quantities. Such items would not be expected to be specifically identified in the physician's plan of treatment and no separate charge is made for them. Examples of minor medical supplies include cotton balls, alcohol prep, bandages, and surgical sponges. Documentation for the cost of these supplies must be maintained separately from billable supplies.

Non-Reimbursable Costs. Costs associated with programs not covered for reimbursement under the Medicare Health Insurance Program for the Aged (Title XVIII) and Title XIX of the Social Security Act or under other agreements by the purchasing agency. These services may be reimbursable by other programs.

Normal Work Day. The number of hours in the average home health agency employees' normal work week reported on the most recent cost report divided by five work days. (This is necessary because each agency has a different number of hours in its workday).

Nursing Service. Service provided to a patient by a professional registered nurse, licensed practical nurse, or a nursing student under the supervision of a registered nurse, including: evaluating nursing care needs; developing and implementing a nursing care plan; providing services that require specialized skills; observing signs and symptoms, reporting to the physician; initiating nursing procedures; giving treatments and medications ordered by the physician; teaching the patient and family.

Occupational Therapy. Service provided by a registered occupational therapist (OTR), a certified occupational therapy assistant (COTA) or an occupational therapy student supervised by a registered occupational therapist, including; evaluating patient's level of function; applying diagnostic and prognostic procedures; teaching activities of daily living; observing and reporting to the physician; instructing the patient, family and health team personnel.

Office Visit. A health promotion or therapeutic visit rendered in the home health agency's office.

**Methods Used to Determine Rates of Payment
for Services Provided by Home Health Agencies** (cont.)

Physical Therapy. Service provided by a licensed physical therapist, a physical therapy assistant (PTA) or a physical therapy student supervised by a licensed physical therapist, including: evaluating patient care needs; treating patient with active and passive exercises; using specialized equipment such as packs, vibrators, etc.; observing signs and reporting symptoms to the physician; instructing patient, family and health team personnel in the use of braces, other equipment and modalities.

Prudent Buyer Concept. The assumption that any amount paid by a provider above the market price for a supply or service is an unreasonable cost and shall be excluded from reimbursable costs.

Reasonable Costs. Those reasonable and necessary reimbursable costs incurred by an eligible provider in provision of home health services to publicly aided individuals subject to efficiency measures, staffing requirement, and the costs of providing comparable service.

Speech Therapy. Service provided by a qualified speech therapist, a speech therapy assistant or a speech therapy student supervised by a qualified speech therapist including: evaluating patient care needs; providing rehabilitating services for speech and language disorder; observing and reporting to the physician; instructing patient, family and health care team personnel.

Security/Escorts. The necessary costs of providing security services to ensure the safety of direct care personnel in the performance of a reimbursable home health service to a client in his/her residence.

Therapeutic or Morbidity Home Visit. A home visit rendered by an eligible provider to an individual and/or family for the purpose of treating one or more diagnosed illnesses or disabilities.

Total Home Health Aide Hours. Total number of hours spent in therapeutic and morbidity home visits by all home health aides, but not including visits associated with nonreimbursable costs and visits termed "not home, not found."

Total Nursing Visits. All therapeutic and morbidity home visits provided by all nurses, licensed practical nurses, and nursing students but not including visits associated with nonreimbursable costs, visits termed "not home, not found," supervisory observation in the home, and office visits.

State Plan under Title XIX of the Social Security Act
State: Massachusetts

Methods and Standards for Establishing Payment Rates – Other Types of Care

2. Examination of Records. Upon request, each participating home health agency shall make available all records relating to its operation for audit by EOHHS or its designee.

III. Class Rate Methodology

A. Cost Components

Statewide class rates are set for these home health services: skilled nursing visits, medication administration visits, continuous skilled nursing services, home health aide services, speech therapy visits, physical therapy visits, and occupational therapy visits. Current rates are determined as the sum of direct and indirect components, using data derived from annual cost report submissions with an adjustment for inflation and benchmarked to the rates paid to other community providers. A skilled nursing service, typically less than two hours in duration, and physical, occupational and speech therapy services are paid on a per visit basis. Continuous skilled nursing services are paid in 15 minute increments. Payments for these services are in accordance to the fee schedules that are determined based on cost elements described below. All private and governmental providers are reimbursed according to the same fee schedule.

1. Direct: The direct portion is the compensation paid by the agency to the nurse, aide or therapist.
2. Indirect: The indirect portion includes agency overhead expenses, such as administrative and general expenses, compensation of support staff, occupancy expenses, taxes, interest and depreciation, and outside services.
3. Nursing Services Provided for Multiple Members: When two or more members in the same household are receiving nursing services during the same time period, the rates for subsequent member or members is paid at a lower rate per visit/unit to reflect lower indirect costs incurred.
4. Skilled Nursing Services (excluding visits for Medication Administration) Provided on or after 31 Consecutive Calendar Days of Home Health Services: When skilled nursing services are provided to a member on or after the 31st calendar day of the member's first home health service, even if some or all of those services were provided by a different home health agency or paid by a third-party insurer other than MassHealth, skilled nursing services are paid at a lower rate per visit/unit than the standard per visit/unit rate for nursing services. If a member receives home health services after a discharge from an inpatient hospitalization of at least one night or nursing facility stay of at least three nights, admission to a crisis stabilization unit of at least one overnight, or after a break in home health services of 60 days or more, then nursing services provided during the 30 consecutive calendar days following discharge are paid at the higher rate per visit/unit applicable to services for 1-30 calendar days for skilled nursing services, and only after 30 days of skilled nursing services have been provided are skilled nursing services again paid at the reduced rate per visit/unit applicable to skilled nursing services provided on or after 31 days of skilled nursing services.

State Plan under Title XIX of the Social Security Act
State: Massachusetts

Methods and Standards for Establishing Payment Rates – Other Types of Care

5. **Nursing Services Provided for Medication Administration:** When home health skilled nursing services are provided to a member solely for medication administration, such skilled nursing services are paid at a lower rate per visit/unit than the standard per visit/unit rate for nursing services.

6. **Administrative Add-on:** Providers that incur interpreter or security escort costs receive an add-on to their rates to reimburse for these expenses. These adjustments are made upon request and rates are set using cost report data and are paid through the normal claims process. EOHHS calculates the administrative per visit rate for interpreter/ or security escort services as reported on the individual home health agency cost report and adds that per visit calculation to the rate paid to the requesting provider.

State Plan under Title XIX of the Social Security Act
State: MassachusettsMethods and Standards for Establishing Payment Rates – Other Types of Care

7. The fee schedule is subject to a public notice and hearing process and published at <http://www.mass.gov/eohhs/docs/eohhs/eohhs-regs/101-cmr-350.pdf>. The agency's rates were set as of July 14, 2017 and are effective for services on or after that date.

B. Alternative Prospective Payment System

In accordance with Chapter 236 of the Act of 2000, which authorizes the Division of Medical Assistance (the Division) to enter into contracts with certain home health agencies to provide prospective payments for services. The payment structure is a 30-day episodic all-inclusive fee for all home health services provided to an eligible MassHealth member, which includes skilled nursing, home health aide, physical therapy, occupational therapy and speech/language therapy. The rate per episode is based on applicable class rates applied to the provider's average course of treatment provided to members over the course of 30-day initial and subsequent episodes. EOHHS, having subsumed the Division's authority, will pay providers under this alternative system if:

1. they are organized as a not-for-profit entity;
2. in fiscal year 1999, they delivered more than 10% of all Massachusetts Medicaid reimbursed skilled nursing visits and more than 15% of all such home health aide services; and
3. in the determination of EOHHS, provide services that are essential to ensure access to home health services for medical assistance recipients.