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Part 1. General Information

433.401: Definitions

The following terms used in 130 CMR 433.000 have the meanings given in 130 CMR 433.401 unless the context clearly requires a different meaning. The reimbursability of services defined in 130 CMR 433.000 is not determined by these definitions, but by application of regulations elsewhere in 130 CMR 433.000 and in 130 CMR 450.000: *Administrative and Billing Regulations*.

Acupuncture – the insertion of metal needles through the skin at certain points on the body, with or without the use of herbs, with or without the application of an electric current, and with or without the application of heat to the needles, skin, or both.

Adult Office Visit – a medical visit by a member 21 years of age or older to a physician's office or to a hospital outpatient department.

Child and Adolescent Needs and Strengths (CANS) – a tool that provides a standardized way to organize information gathered during behavioral-health clinical assessments. A Massachusetts version of the tool has been developed and is intended to be used as a treatment decision support tool for behavioral-health providers serving MassHealth members younger than 21 years old.

Community-Based Physician – any physician, excluding interns, residents, fellows, and house officers, who is not a hospital-based physician.

Consultant – a licensed physician whose practice is limited to a specialty and whose written advice or opinion is requested by another physician or agency in the evaluation or treatment of a member's illness or disability.

Consultation – a visit made at the request of another physician.

Controlled Substance – a drug listed in Schedule II, III, IV, V, or VI of the Massachusetts Controlled Substances Act (M.G.L. c. 94C).

Cosmetic Surgery – a surgical procedure that is performed for the exclusive purpose of altering appearance and is unrelated to disease or physical defect, or traumatic injury.

Couple Therapy – therapeutic services provided to a couple for whom the disruption of their marriage, family, or relationship is the primary reason for seeking treatment.

Diagnostic Radiology Service – a radiology service intended to identify an injury or illness.

Domiciliary – for use in the member's place of residence, including a long-term-care facility.

Drug – a substance containing one or more active ingredients in a specified dosage form and strength. Each dosage form and strength is a separate drug.

Emergency Admission Service – a complete history and physical examination by a physician of a member admitted to a hospital to treat an emergency medical condition, when definitive care of the member is assumed subsequently by another physician on the day of admission.

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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 §1867(e)(1)(B) of the Social Security Act, 42 U.S.C. §1395dd(e)(1)(B).

Emergency Services – medical services that are furnished by a provider that is qualified to furnish such services, and are needed to evaluate or stabilize an emergency medical condition.

Family Planning – any medically approved means, including diagnosis, treatment, and related counseling, that helps individuals of childbearing age, including sexually active minors, to determine the number and spacing of their children.

Family Therapy – a session for simultaneous treatment of two or more members of a family.

Group Therapy – application of psychotherapeutic or counseling techniques to a group of persons, most of whom are not related by blood, marriage, or legal guardianship.

High-Risk Newborn Care – care of a full-term newborn with a critical medical condition or of a premature newborn requiring intensive care.

Home or Nursing Facility Visit – a visit by a physician to a member at a residence, nursing facility, extended care facility, or convalescent or rest home.

Hospital-Based Entity – any entity that contracts with a hospital to provide medical services to members on the same site as the hospital's inpatient facility or hospital-licensed health center.

Hospital-Based Physician – any physician, excluding interns, residents, fellows, and house officers, who contracts with a hospital to provide services to members on the same site as the hospital's inpatient facility or hospital-licensed health center.

Hospital-Licensed Health Center – a facility that

- (1) operates under a hospital's license but is not physically attached to the hospital;
- (2) operates within the fiscal, administrative, and clinical management of the hospital;
- (3) provides services to patients solely on an outpatient basis;
- (4) meets all regulatory requirements for participation in MassHealth as a hospital-licensed health center; and
- (5) is enrolled with the MassHealth agency as a hospital-licensed health center with a separate hospital-licensed health center MassHealth provider number.

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Hospital Visit – a bedside visit by a physician to a hospitalized member, except for routine preoperative and postoperative care.

Hysterectomy – a medical procedure or operation for the purpose of removing the uterus.

Independent Diagnostic Testing Facility (IDTF) – a Medicare-certified diagnostic imaging center, freestanding MRI center, portable X-ray provider, sleep center, or mammography van in a fixed location or mobile entity independent of a hospital or physician’s office, that performs diagnostic tests and meets the requirements of 130 CMR 431.000: *Independent Diagnostic Testing Facility*.

Individual Psychotherapy – private therapeutic services provided to a member to lessen or resolve emotional problems, conflicts, and disturbances.

Institutionalized Individual – an individual who is

- (1) involuntarily confined or detained, under a civil or criminal statute, in a correctional or rehabilitative facility, including a psychiatric hospital or other facility for the care and treatment of mental illness; or
- (2) confined under a voluntary commitment in a psychiatric hospital or other facility for the care and treatment of mental illness.

Intensive Care Services – the services of a physician other than the attending physician, provided for a continuous period of hours (rather than days), required for the treatment of an unusual aspect or complication of an illness, injury, or pregnancy.

Interchangeable Drug Product – a product containing a drug in the same amounts of the same active ingredients in the same dosage form as another product with the same generic or chemical name that has been determined to be therapeutically equivalent (that is, “A-rated”) by the Food and Drug Administration for Drug Evaluation and Research (FDA CDER), or by the Massachusetts Drug Formulary Commission.

Maintenance Program – repetitive services, required to maintain or prevent the worsening of function, that do not require the judgment and skill of a licensed physician or licensed therapist for safety and effectiveness.

MassHealth Drug List – a list of commonly prescribed drugs and therapeutic class tables published by the MassHealth agency. The MassHealth Drug List specifies the drugs that are payable under MassHealth. The list also specifies which drugs require prior authorization. Except for drugs and drug therapies described in 130 CMR 433.443(B), any drug that does not appear on the MassHealth Drug List requires prior authorization, as otherwise set forth in 130 CMR 433.000.

Mentally Incompetent Individual – an individual who has been declared mentally incompetent by a federal, state, or local court of competent jurisdiction for any purpose, unless the individual has been declared competent for purposes that include the ability to consent to sterilization.

Multiple-Source Drug – a drug marketed or sold by two or more manufacturers or labelers, or a drug marketed or sold by the same manufacturer or labeler under two or more different names.

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Non-Drug Product List – a section of the MassHealth Drug List comprised of those products not classified as drugs (i.e., blood testing supplies) that are payable by the MassHealth agency through the Pharmacy Program. Payment for these items is in accordance with rates published in Executive Office of Health and Human Services (EOHHS) regulations at 114.3 CMR 22.00: *Durable Medical Equipment, Oxygen, and Respiratory Therapy Equipment* and 101 CMR 317.00: *Medicine*. The MassHealth Non-Drug Product List also specifies which of the included products require prior authorization.

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. The MassHealth agency requires a prescription for both prescription drugs and over-the-counter drugs (see 130 CMR 433.441(A)).

Not Otherwise Classified – a term used for service codes that should be used when no other service code is appropriate for the service provided.

Occupational Therapy – therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of functions that affect the activities of daily living that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Occupational therapy programs are designed to improve quality of life by recovering competence, and preventing further injury or disability, and to improve the individual’s ability to perform tasks required for independent functioning, so that the individual can engage in activities of daily living.

Oxygen – gaseous or liquid medical-grade oxygen that conforms to United States Pharmacopoeia Standards.

Pediatric Office Visit – a medical visit by a member under 21 years of age to a physician's office or to a hospital outpatient department.

Pharmacy Online Processing System (POPS) – the online, real-time computer network that adjudicates pharmacy claims, incorporating prospective drug utilization review, prior authorization, and member eligibility verification.

Physical Therapy – therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Physical therapy emphasizes a form of rehabilitation focused on treatment of dysfunctions involving neuromuscular, musculoskeletal, cardiovascular/pulmonary, or integumentary systems through the use of therapeutic interventions to optimize functioning levels.

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.

Prolonged Detention – constant attendance to a member in critical condition by the attending physician.

Reconstructive Surgery – a surgical procedure performed to correct, repair, or ameliorate the physical effects of disease or physical defect (for example, correction of cleft palate), or traumatic injury.

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Referral – the transfer of the total or specific care of a member from one physician to another. For the purposes of 130 CMR 433.000, a referral is not a consultation.

Respiratory Therapy Equipment – a product that

- (1) is fabricated primarily and customarily for use in the domiciliary treatment of pulmonary insufficiencies for its therapeutic and remedial effect;
- (2) is of proven quality and dependability; and
- (3) conforms to all applicable federal and state product standards.

Routine Study – a set of X rays of an extremity that includes two or more views taken at one sitting.

Separate Procedure – a procedure that is commonly performed as an integral part of a total service and therefore does not warrant a separate fee, but commands a separate fee when performed as a separate entity not immediately related to other services.

Speech/Language Therapy – therapy services, including diagnostic evaluation and therapeutic intervention, that are designed to improve, develop, correct, rehabilitate, or prevent the worsening of speech/language communication and swallowing disorders that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Speech and language disorders are those that affect articulation of speech, sounds, fluency, voice, swallowing (regardless of presence of a communication disability), and those that impair comprehension, spoken, written, or other symbol systems used for communication.

Sterilization – any medical procedure, treatment, or operation for the purpose of rendering an individual permanently incapable of reproducing.

Therapeutic Radiology Service – a radiology service used to treat an injury or illness.

Therapy Visit – a personal contact provided as an office visit or outpatient visit for the purpose of providing a covered physical or occupational therapy service by a physician or licensed physical or occupational therapist employed by the physician. Additionally, speech therapy services provided by a physician as an office or outpatient visit is considered a therapy visit.

Trimester – one of three three-month terms in a normal pregnancy. If the pregnancy has existed for less than 12 weeks, the pregnancy is in its first trimester. If the pregnancy has existed for 12 or more weeks but less than 24 weeks, the pregnancy is in its second trimester. If the pregnancy has existed for 24 or more weeks, the pregnancy is in its third trimester.

Unit-Dose Distribution System – a means of packaging or distributing drugs, or both, devised by the manufacturer, packager, wholesaler, or retail pharmacist. A unit dose contains an exact dosage of medication and may also indicate the total daily dosage or the times when the medication should be taken.

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433.402: Eligible Members

- (A) (1) MassHealth Members. The MassHealth agency pays for physician services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in the MassHealth regulations. 130 CMR 450.105: *Coverage Types* specifically states, for each MassHealth coverage type, which services are covered and which members are eligible to receive those services.
- (2) Recipients of Emergency Aid to the Elderly, Disabled and Children Program. For information on covered services for recipients of the Emergency Aid to the Elderly, Disabled and Children Program, see 130 CMR 450.106: *Emergency Aid to the Elderly, Disabled and Children Program*.
- (B) Member Eligibility and Coverage Type. For information on verifying member eligibility and coverage type, see 130 CMR 450.107: *Eligible Members and the MassHealth Card*.

433.403: Provider Eligibility

- (A) Participating Providers.
- (1) 130 CMR 433.000 applies to medical, radiology, laboratory, anesthesia, and surgery services provided to members by physicians participating in MassHealth as of the date of service.
- (2) To be eligible for payment, a physician must be physically present and actively involved in the treatment of the member. Time periods specified in the service descriptions refer to the amount of time the physician personally spends with the member, except in the instances noted where the service can be performed under the direct supervision of the physician. For surgery, the physician must be scrubbed and present in the operating room during the major portion of an operation.
- (B) In State. An in-state physician is a physician who is licensed by the Massachusetts Board of Registration in Medicine.
- (C) Out of State. An out-of-state physician must be licensed to practice in his or her state. The MassHealth agency pays an out-of-state physician for providing covered services to a MassHealth member only under the following circumstances.
- (1) The physician practices in a community of Connecticut, Maine, New Hampshire, New York, Rhode Island, or Vermont that is within 50 miles of the Massachusetts border and provides services to a member who resides in a Massachusetts community near the border of that physician's state.
- (2) The physician provides services to a member who is authorized to reside out of state by the Massachusetts Department of Children and Families.
- (3) The physician practices outside a 50-mile radius of the Massachusetts border and provides emergency services to a member.

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(4) The physician practices outside a 50-mile radius of the Massachusetts border and obtains prior authorization from the MassHealth agency before providing a nonemergency service. Prior authorization will be granted only for services that are not available from comparable resources in Massachusetts, that are generally accepted medical practice, and that can be expected to benefit the member significantly. To request prior authorization, the out-of-state physician or the referring physician must send the MassHealth agency a written request detailing the proposed treatment and naming the treatment facility (see the instructions for requesting prior authorization in Subchapter 5 of the *Physician Manual*). The MassHealth agency will notify the member, the physician, and the proposed treatment facility of its decision. If the request is approved, the MassHealth agency will assist in any arrangements needed for transportation.

433.404: Nonpayable Circumstances

(A) The MassHealth agency does not pay a physician for services provided under any of the following circumstances.

- (1) The services were provided by a physician who individually or through a group practice has contractual arrangements with an acute, chronic, or rehabilitation hospital, medical school, or other medical institution that involve a salary, compensation in kind, teaching, research, or payment from any other source, if such payment would result in dual compensation for professional, supervisory, or administrative services related to member care.
- (2) The services were provided by a physician who is an attending, visiting, or supervising physician in an acute, chronic, or rehabilitation hospital but who is not legally responsible for the management of the member's case with respect to medical, surgery, anesthesia, laboratory, or radiology services.
- (3) The services were provided by a physician who is a salaried intern, resident, fellow, or house officer. 130 CMR 433.404 does not apply to a salaried physician when the physician supplements his or her income by providing services during off-duty hours on premises other than those of the institution that pays the physician a salary, or through which the physician rotates as part of his or her training.
- (4) The services were provided in a state institution by a state-employed physician or physician consultant.
- (5) Under comparable circumstances, the physician does not customarily bill private patients who do not have health insurance.

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(B) The MassHealth agency does not pay a physician for performing, administering, or dispensing any experimental, unproven, cosmetic, or otherwise medically unnecessary procedure or treatment.

(C) The MassHealth agency does not pay a physician for the treatment of male or female infertility (including, but not limited to, laboratory tests, drugs, and procedures associated with such treatment); however, MassHealth does pay a physician for the diagnosis of male or female infertility.

(D) The MassHealth agency does not pay a physician for otherwise payable service codes when those codes are used to bill for circumstances that are not payable pursuant to 130 CMR 433.404.

433.405: Maximum Allowable Fees

The MassHealth agency pays for physician services with rates set by the Executive Office of Health and Human Services (EOHHS), subject to the conditions, exclusions, and limitations set forth in 130 CMR 433.000. EOHHS fees for physician services are contained in the following chapters of the Code of Massachusetts Regulations:

- (A) 114.3 CMR 14.00: *Dental Services*
- (B) 101 CMR 315.00: *Vision Care Services and Ophthalmic Services*
- (C) 114.3 CMR 16.00: *Surgery and Related Anesthesia Services*
- (D) 101 CMR 317.00: *Medicine*
- (E) 114.3 CMR 18.00: *Radiology*
- (F) 114.3 CMR 20.00: *Clinical Laboratory Services*

433.406: Individual Consideration

(A) The MassHealth agency has designated certain services in Subchapter 6 of the *Physician Manual* as requiring individual consideration. This means that the MassHealth agency will establish the appropriate rate for these services based on the standards and criteria set forth in 130 CMR 433.406(B). Providers claiming payment for any service requiring individual consideration must submit with such claim a report that includes a detailed description of the service, and is accompanied by supporting documentation that may include, 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 services requiring individual consideration unless it is satisfied that the report and documentation submitted by the provider are adequate to support the claim. See 130 CMR 433.410 for report requirements.

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(B) The MassHealth agency determines the appropriate payment for a service requiring individual consideration 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;
- (5) any complications or other circumstances that the MassHealth agency deems relevant;
- (6) the policies, procedures, and practices of other third-party insurers;
- (7) the payment rate for drugs as set forth in the MassHealth pharmacy regulations at 130 CMR 406.000: *Pharmacy*; and
- (8) for drugs or supplies, a copy of the invoice from the supplier showing the actual acquisition cost.

433.407: Service Limitations: Professional and Technical Components of Services and Procedures

Additional limitations are set forth in 130 CMR 433.413 and 433.437.

(A) Definitions.

- (1) Mobile Site – any site other than the physician's office, but not including community health centers, hospital outpatient departments, or hospital-licensed health centers.
- (2) Professional Component – the component of a service or procedure representing the physician's work interpreting or performing the service or procedure.
- (3) Technical Component – the component of a service or procedure representing the cost of rent, equipment, utilities, supplies, administrative and technical salaries and benefits, and other overhead expenses of the service or procedure, excluding the physician's professional component.

(B) Payment. A physician may bill for the professional component of a service or procedure or, subject to the conditions of payment set forth in 130 CMR 433.407(C), both the professional and technical components of the service or procedure. The MassHealth agency does not pay a physician for providing the technical component only of a service or procedure.

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(C) Conditions of Payment for the Provision of Both the Professional and Technical Components of a Service or Procedure. Only the physician providing the professional component of the service or procedure may bill for both the professional and technical components. This constitutes a limited exception to 130 CMR 450.301: *Claims*. A physician may bill for providing both the professional and technical components of a service or procedure in the physician's office when the physician owns or leases the equipment used to perform the service or procedure, provides the technical component (either directly or by employing a technician), and provides the professional component.

433.408: Prior Authorization

(A) Introduction.

- (1) Subchapter 6 of the *Physician Manual* lists codes that require prior authorization as a prerequisite for payment. The MassHealth agency does not pay for services if billed under any of these codes, unless the provider has obtained prior authorization from the MassHealth agency before providing the service.
- (2) A 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.

(B) Requesting Prior Authorization. All prior-authorization requests must be submitted in accordance with the instructions in Subchapter 5 of the *Physician Manual*.

(C) Physician Services Requiring Prior Authorization. Services requiring prior authorization include, but are not limited to, the following:

- (1) certain surgery services, including reconstructive surgery and gender-reassignment surgery;
- (2) nonemergency services provided to a member by an out-of-state physician who practices outside a 50-mile radius of the Massachusetts border;
- (3) certain vision care services; and
- (4) certain psychiatry services.

(D) Mental Health and Substance Abuse Services Requiring Prior Authorization. Members enrolled with the MassHealth behavioral health contractor require service authorization before certain mental health and substance abuse services are provided. For more information, see 130 CMR 450.124: *Behavioral Health Services*.

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(E) Therapy Services Requiring Prior Authorization. Prior authorization is required for the following therapy services provided by any MassHealth provider to eligible MassHealth members.

- (1) more than 20 occupational-therapy visits or 20 physical-therapy visits, including group-therapy visits, for a member within a 12-month period; and
- (2) more than 35 speech/language therapy visits, including group-therapy visits, for a member within a 12-month period.

(F) Nonphysician Services Requiring Prior Authorization. Many nonphysician services require prior authorization, and must first be ordered, or have their need substantiated, by a physician before the MassHealth agency grants such authorization. These services include, but are not limited to, the following:

- (1) transportation;
- (2) selected drugs;
- (3) home health services;
- (4) nursing facility services;
- (5) durable medical equipment; and
- (6) therapy services.

433.409: Recordkeeping (Medical Records) Requirements

(A) Payment for any service listed in 130 CMR 433.000 is conditioned upon its full and complete documentation in the member's medical record. Payment for maintaining the member's medical record is included in the fee for the service.

(B) In order for a medical record to document completely a service or services to a member, that record must set forth the nature, extent, quality, and necessity of care provided to the member. When the information contained in a member's medical record is not sufficient to document the service for which payment is claimed by the provider, the MassHealth agency will disallow payment for the claimed service.

(C) The MassHealth agency may at its discretion request, and upon such request the physician must provide, any and all medical records of members corresponding to or documenting the services claimed, in accordance with M.G.L. c. 118E, §38, and 130 CMR 450.205. The MassHealth agency may produce, or at its option may require the physician to produce, photocopies of medical records instead of actual records when compliance with 130 CMR 433.409(C) would otherwise result in removal of medical records from the physician's office or other place of practice.

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(D) (1) Medical records corresponding to office, home, nursing facility, hospital outpatient department, and emergency department services provided to members must include the reason for the visit and the data upon which the diagnostic impression or statement of the member's problem is based, and must be sufficient to justify any further diagnostic procedures, treatments, and recommendations for return visits or referrals. Specifically, these medical records must include, but may not be limited to, the following:

- (a) the member's name and date of birth;
- (b) the date of each service;
- (c) the name and title of the person performing the service, if the service is performed by someone other than the physician claiming payment for the service;
- (d) the member's medical history;
- (e) the diagnosis or chief complaint;
- (f) clear indication of all findings, whether positive or negative, on examination;
- (g) any medications administered or prescribed, including strength, dosage, and regimen;
- (h) a description of any treatment given;
- (i) recommendations for additional treatments or consultations, when applicable;
- (j) any medical goods or supplies dispensed or prescribed;
- (k) any tests administered and their results; and
- (l) for members under the age of 21 who are being treated by a psychiatrist, a CANS completed during the initial behavioral-health assessment and updated at least once every 90 days thereafter.

(2) When additional information is necessary to document the reason for the visit, the basis for diagnosis, or the justification for future diagnostic procedures, treatments, or recommendations for return visits or materials, such information must also be contained in the medical record. Basic data collected during previous visits (for example, identifying data, chief complaint, or history) need not be repeated in the member's medical record for subsequent visits. However, data that fully document the nature, extent, quality, and necessity of care provided to a member must be included for each date of service or service code claimed for payment, along with any data that update the member's medical course.

(E) For inpatient visit services provided in acute, chronic, or rehabilitation hospitals, there must be an entry in the hospital medical record corresponding to and substantiating each hospital visit claimed for payment. An inpatient medical record will be deemed to document services provided to members and billed to the MassHealth agency if it conforms to and satisfies the medical record requirements set forth in 105 CMR 130.000. The physician claiming payment for any hospital inpatient visit service is responsible for the adequacy of the medical record documenting such service. The physician claiming payment for an initial hospital visit must sign the entry in the hospital medical record that documents the findings of the comprehensive history and physical examination.

(F) Additional medical record requirements for radiology, psychiatry, and other services can be found in the applicable sections of 130 CMR 433.000.

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(G) Compliance with the medical record requirements set forth in, referred to in, or deemed applicable to 130 CMR 433.000 will be determined by a peer-review group designated by the MassHealth agency as set forth in 130 CMR 450.206. The MassHealth agency will refuse to pay or, if payment has been made, will consider such payment to be an overpayment as defined in 130 CMR 450.234 subject to recovery, for any claim that does not comply with the medical record requirements established or referred to in 130 CMR 433.000. Such medical record requirements constitute the standard against which the adequacy of records will be measured for physician services, as set forth in 130 CMR 450.205(B).

433.410: Report Requirements

(A) General Report. A general written report or a discharge summary must accompany the physician's claim for payment for any service that is listed in Subchapter 6 of the *Physician Manual* as requiring a report or individual consideration (I.C.), or if the code is for an unlisted service. This report must be sufficiently detailed to enable the MassHealth agency to assess the extent and nature of the service.

(B) Operative Report. For surgery procedures designated in Subchapter 6 of the *Physician Manual* as requiring individual consideration, the provider must attach operative notes to the claim. An operative report must state the operation performed, the name of the member, the date of the operation, the preoperative diagnosis, the postoperative diagnosis, the names of the surgeon and surgical assistants, and the technical procedures performed.

433.411: Child and Adolescent Needs and Strengths (CANS) Data Reporting

For each Child and Adolescent Needs and Strengths (CANS) conducted as described in 130 CMR 433.429, the physician must report data collected during the assessment to the MassHealth agency, in the manner and format specified by the MassHealth agency.

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

The MassHealth agency pays for all medically necessary physician services for EPSDT-eligible members in accordance with 130 CMR 450.140 et seq., without regard to service limitations described in 130 CMR 433.000, and with prior authorization.

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Part 2. Medical Services

433.413: Office Visits: Service Limitations

(A) Time Limit. Payment for office visits is limited to one visit per day per member per physician.

(B) Office Visit and Treatment/Procedure. The physician may bill for either an office visit or a treatment/procedure, but may not bill for both an office visit and a treatment/procedure for the same member on the same date when the office visit and the treatment/procedure are performed in the same location. This limitation does not apply to tobacco cessation counseling services provided by a physician or a qualified staff member under the supervision of a physician on the same day as a visit. This limitation does not apply to a treatment/procedure that is performed as a result of an Early and Periodic Screening, Diagnosis and Treatment (EPSDT) visit (see 130 CMR 450.140 et seq.); in such a case, the physician may bill for both an EPSDT visit and a treatment/procedure. Examples of treatment/procedures are suturing, suture removal, aspiration of a joint, and cast application or removal. X rays, laboratory tests, and certain diagnostic tests may be billed in addition to an office visit.

(C) Immunization or Injection. When an immunization or injection is the primary purpose of an office or other outpatient visit, the physician may bill only for the injectable material and its administration. However, when the immunization or injection is not the primary purpose of the office or other outpatient visit, a physician may bill for both the visit and the injectable material, but not for its administration. (See 130 CMR 433.440 on drugs dispensed in a physician's office.) The MassHealth agency does not pay for the cost of the injectable material if

- (1) the Massachusetts Department of Public Health distributes the injectable material free of charge; or
- (2) its cost to the physician is \$1.00 or less.

(D) Family Planning Office Visits. The MassHealth agency pays for office visits provided for the purposes of family planning. The MassHealth agency pays for any family planning supplies and medications dispensed by the physician at the physician's acquisition cost. To receive payment for the supplies and medications, the provider must attach to the claim a copy of the actual invoice from the supplier.

433.414: Hospital Emergency Department and Outpatient Department Visits

(A) Emergency Department Treatment. The MassHealth agency pays a physician for medical care provided in a hospital emergency department only when the hospital's claim does not include a charge for the physician's services.

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(B) Outpatient Department Visits. The MassHealth agency pays either a physician or a hospital outpatient department, but not both, for physician services provided in an outpatient department.

433.415: Hospital Services: Service Limitations and Screening Requirements

(A) Hospital inpatient visit fees apply to visits by physicians to members hospitalized in acute, chronic, or rehabilitation hospitals. Payment is limited to one visit per day per member for the length of the member's hospitalization.

(B) The MassHealth agency does not routinely pay for visits to members who have undergone or who are expected to undergo surgery, since the allowable surgical fees include payment for the provision of routine inpatient preoperative and postoperative care. In unusual circumstances, however, the MassHealth agency does pay for such visits.

(C) The MassHealth agency pays only the attending physician for hospital visits, with the following exceptions.

- (1) The MassHealth agency pays for consultations by a physician other than the attending physician. (See 130 CMR 433.418 for regulations about consultations.)
- (2) If it is necessary for a physician other than the attending physician to treat a hospitalized member, the other physician's services are payable. An explanation of the necessity of such visits must be attached to the claim. The MassHealth agency will review the claim and determine appropriate payment to the other physician.

433.416: Nursing Facility Visits: Service Limitations

(A) Requirement for Approval of Admission. The MassHealth agency seeks to ensure that a MassHealth member receives nursing facility services only when available alternatives (see 130 CMR 433.476 through 433.483) do not meet the member's need, and that every member receiving nursing facility services is placed appropriately according to the medical eligibility criteria, in accordance with 130 CMR 456.409 through 456.411.

(B) Service Limitations. Payment for a visit by a physician to members in nursing facilities or rest homes is limited to one visit per member per month, except in an emergency. Any medically necessary care required for the follow-up of a condition during the month must be billed as subsequent nursing facility care.

433.417: Home Visits: Service Limitations

Payment for a visit by a physician to a member's home is limited to one visit per member per day. (For information on additional home health services covered by MassHealth, see 130 CMR 433.478.)

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433.418: Consultations: Service Limitations

The MassHealth agency pays for only one initial consultation per member per case episode. Additional consultation visits per episode are payable as follow-up consultations.

433.419: Nurse Midwife Services

(A) General. 130 CMR 433.419 applies specifically to nurse midwives. In general, however, subject to the limitations of state law, the requirements elsewhere in 130 CMR 433.000 that apply to physicians also apply to nurse midwives, such as service limitations, recordkeeping, report requirements, and prior-authorization requirements.

(B) Conditions of Payment. The MassHealth agency pays either an independent nurse midwife (in accordance with 130 CMR 433.419(C)) or the physician employer of a nonindependent nurse midwife (in accordance with 130 CMR 433.419(D)) for nurse midwife services provided by a nurse midwife when

- (1) the services are limited to the scope of practice authorized by state law or regulation (including but not limited to the regulations of the Massachusetts Board of Registration in Nursing);
- (2) the nurse midwife has a current license to practice as a nurse midwife in Massachusetts from the Massachusetts Board of Registration in Nursing; and
- (3) the nurse midwife has a current collaborative arrangement with a physician or group of physicians, as required by state law or regulation (including but not limited to the regulations of the Massachusetts Board of Registration in Nursing and 130 CMR 433.419(C)(2)). The MassHealth agency deems this requirement to be met for nonindependent nurse midwives employed by a physician.

(C) Independent Nurse Midwife Provider Eligibility.

(1) Submission Requirements. Only an independent nurse midwife may enroll in MassHealth as a provider. Any nurse midwife applying to participate as a provider in MassHealth must submit documentation, satisfactory to the MassHealth agency, that he or she is

- (a) a member of a group practice comprising physicians and other practitioners and is compensated by the group practice in the same manner as the physicians and other practitioners in the group practice;
- (b) a member of a group practice that solely comprises nurse midwives; or
- (c) in a solo private practice.

(2) Collaborative Arrangement Requirements. The independent nurse midwife's collaborating physician must be a MassHealth provider, or a salaried employee of a MassHealth provider, who engages in the same type of clinical practice as the nurse midwife. The nurse midwife must practice in accordance with written guidelines developed in conjunction with the collaborating physician as set forth in the regulations of the Massachusetts Board of Registration in Nursing. The nurse midwife must submit to the MassHealth agency thorough documentation of the collaborative arrangement, including guidelines and any written agreement signed by the nurse midwife and the collaborating physician or physicians. The guidelines must specify

- (a) the services the nurse midwife is authorized to perform under the collaborative arrangement; and
- (b) the established procedures for common medical problems.

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(3) Consultation Between Independent Nurse Midwife and Collaborating Physician. The MassHealth agency does not pay for a consultation between an independent nurse midwife and a collaborating physician as a separate service.

(D) Submitting Claims for Nonindependent Nurse Midwives. Any nurse midwife who does not meet the requirements of 130 CMR 433.419(C) is a nonindependent nurse midwife and is not eligible to enroll as a MassHealth provider. As an exception to 130 CMR 450.301, an individual physician (who is neither practicing as a professional corporation nor is a member of a group practice) who employs a nonindependent nurse midwife may submit claims for services provided by a nonindependent nurse midwife employee, but only if such services are provided in accordance with 130 CMR 433.419(B), and payment is claimed in accordance with 130 CMR 450.301(B).

433.420: Obstetric Services: Introduction

The MassHealth agency offers two methods of payment for obstetric services: the fee-for-service method and the global-fee method. Fee for service requires submission of claims for services as they are performed and is available to a provider for all covered obstetric services. The global fee is available only when the conditions specified in 130 CMR 433.421 are met.

433.421: Obstetric Services: Global-Fee Method of Payment

(A) Definition of Global Fee. The global fee is a single inclusive fee for all prenatal visits, the delivery, and one postpartum visit. The global fee is available only when the conditions in 130 CMR 433.421 are met.

(B) Conditions for Global Fee.

(1) Primary Provider. A physician or independent nurse midwife who assumes responsibility for performing or coordinating a minimum of six prenatal visits, the delivery, and postpartum care for the member is the primary provider. In a group practice or when a back-up physician is involved, the primary provider is not required to perform all the components of a global delivery directly. Another member of the practice or a back-up physician can perform services; he or she is a referred provider. Only providers in the same group practice or back-up physicians are considered referred providers.

(2) Payment to Primary Provider. Only the primary provider may claim payment of the global fee. A physician who is a primary provider may claim payment of the global fee for the obstetric services provided by a nurse, nurse practitioner, nurse midwife, or physician assistant employed by the physician. (This constitutes an exception to 130 CMR 450.301(A) and 130 CMR 433.451(A).) All global-fee claims must use the delivery date as the date of service.

(3) Standards of Practice. All of the components of a global fee must be provided at a level of quality consistent with the standards of practice of the American College of Obstetrics and Gynecology.

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(4) Coordinated Medical Management. The physician and nurse, nurse practitioner, nurse midwife, or physician assistant employed by the physician, or an independent nurse midwife must provide referral to and coordination of the medical and support services necessary for a healthy pregnancy and delivery. This includes the following:

- (a) tracking and follow-up of the patient's activity to ensure completion of the patient care plan, with the appropriate number of visits;
- (b) coordination of medical management with necessary referral to other medical specialties and dental services; and
- (c) referral to WIC (the Special Supplemental Food Program for Women, Infants, and Children), counseling, and social work as needed.

(5) Health-Care Counseling. In conjunction with providing prenatal care, the physician and nurse, nurse practitioner, physician assistant, or nurse midwife employed by the physician, or the independent nurse midwife must provide health-care counseling to the woman over the course of the pregnancy. Topics covered must include, but are not limited to, the following:

- (a) EPSDT screening for teenage pregnant women;
- (b) smoking and substance abuse;
- (c) hygiene and nutrition during pregnancy;
- (d) care of breasts and plans for infant feeding;
- (e) obstetrical anesthesia and analgesia;
- (f) the physiology of labor and the delivery process, including detection of signs of early labor;
- (g) plans for transportation to the hospital;
- (h) plans for assistance in the home during the postpartum period;
- (i) plans for pediatric care for the infant; and
- (j) family planning.

(6) Obstetrical-Risk Assessment and Monitoring. The physician and nurse, nurse practitioner, physician assistant, or nurse midwife employed by the physician, or the independent nurse midwife must manage the member's obstetrical-risk assessment and monitoring. Medical management requires monitoring the woman's care and coordinating diagnostic evaluations and services as appropriate. The professional and technical components of these services are paid separately and should be billed for on a fee-for-service basis. Such services may include, but are not limited to, the following:

- (a) counseling specific to high-risk patients (for example, antepartum genetic counseling);
- (b) evaluation and testing (for example, amniocentesis); and
- (c) specialized care (for example, treatment of premature labor).

(C) Multiple Providers. When more than one provider is involved in prenatal, delivery, and postpartum services for the same member, the following conditions apply.

- (1) The global fee may be claimed only by the primary provider and only if the required services (minimum of six prenatal visits, a delivery, and postpartum care) are provided directly by the primary provider, by a nurse, nurse practitioner, nurse midwife, or physician assistant employed by the physician, or by a referred provider, that is, a member of the same group practice or a back-up physician. (This constitutes an exception to 130 CMR 450.301(A) and 130 CMR 433.451(A).)

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(2) If the primary provider bills for the global fee, no referred provider may claim payment from the MassHealth agency. Payment of the global fee constitutes payment in full both to the primary provider and each referred provider.

(3) If the primary provider bills for the global fee, any provider who is not a referred provider but who performed prenatal visits or postpartum visits for the member may claim payment for such services only on a fee-for-service basis. If the primary provider bills for the global fee, no other provider may claim payment for the delivery.

(4) If the primary provider bills on a fee-for-service basis, any other provider may claim payment on a fee-for-service basis for prenatal, delivery, and postpartum services provided to the same member.

(D) Recordkeeping for Global Fee. The primary provider is responsible for documenting, in accordance with 130 CMR 433.409, all the service components of a global fee. This includes services performed by referred providers or employees of the primary provider. All hospital and ambulatory services, including risk assessment and medical visits, must be clearly documented in each member's record in a way that allows for easy review of her obstetrical history.

(130 CMR 433.422 and 433.423 Reserved)

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433.424: Obstetric Services: Fee-for-Service Method of Payment

The fee-for-service method of payment is always available to a provider for obstetric services covered by the MassHealth agency. If the global-fee requirements in 130 CMR 433.421 are not met, the provider or providers may claim payment from the MassHealth agency only on a fee-for-service basis, as specified below.

- (A) When there is no primary provider for the obstetric services performed for the member, each provider may claim payment only on a fee-for-service basis.
- (B) If the pregnancy is terminated by an event other than a delivery, each provider involved in performing obstetric services for the member may claim payment only on a fee-for-service basis.
- (C) When an independent nurse midwife is the primary provider and the collaborating physician performs a cesarean section, the independent nurse midwife may claim payment for the prenatal visits only on a fee-for-service basis. The collaborating physician may claim payment for the cesarean section only on a fee-for-service basis.
- (D) When additional services (for example, ultrasound or special tests) are performed, the provider may claim payment for these only on a fee-for-service basis.

433.425: Ophthalmology Services

The MassHealth agency pays for ophthalmic materials in accordance with the vision care regulations at 130 CMR 402.000. The MassHealth agency pays for eye examinations subject to the following limitations.

- (A) Comprehensive Eye Examinations.
 - (1) The MassHealth agency does not pay for a comprehensive eye examination if the service has been provided
 - (a) within the preceding 12 months, for a member under 21 years of age; or
 - (b) within the preceding 24 months, for a member 21 years of age or older.
 - (2) The restrictions at 130 CMR 433.425(A)(1) do not apply if one of the following complaints or conditions is documented in the member's medical record:
 - (a) blurred vision;
 - (b) evidence of headaches;
 - (c) systemic diseases, such as diabetes, hyperthyroidism, or HIV;
 - (d) cataracts;
 - (e) pain;
 - (f) redness; or
 - (g) infection.
- (B) Consultation Service. The MassHealth agency pays for a consultation service only if it is provided independently of a comprehensive eye examination.
- (C) Screening Services. The MassHealth agency does not pay for a screening service if two screening services have been furnished to the member within the preceding 12 months.

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(D) Comprehensive Eye Examinations and Screening Services. A comprehensive eye examination includes a screening service. If the provider performs both a screening service and a comprehensive eye examination for the same member, the MassHealth agency pays for only the comprehensive eye exam.

(E) Tonometry. The MassHealth agency does not pay for a tonometry as a separate service when it is performed as part of a comprehensive eye examination, consultation, or screening service. When a tonometry is performed as a separate service to monitor a member who has glaucoma, the provider must use the appropriate service code.

433.426: Audiology Services: Service Limitations

The MassHealth agency pays for audiology services only when they are provided either by a physician, or by an audiologist licensed or certified in accordance with 130 CMR 426.404 who is employed by a physician. This limitation does not apply to an audiometric hearing test, pure-tone, air only.

433.427: Allergy Testing: Service Limitations

(A) The MassHealth agency pays for allergy testing only when performed by a physician or under a physician's direct supervision. All fees include payment for physician observation and interpretation of the tests in relation to the member's history and physical examination. A physician may bill for an initial consultation in addition to allergy testing.

(B) The MassHealth agency does not pay for more than three blood tests and pulmonary function tests (such as spirometry and expirogram) used only for diagnosis and periodic evaluation per member per year.

(C) Immunotherapy and desensitization (extracts) are covered services. The provider must indicate the amount and anticipated duration of the supply for immunotherapy and desensitization (extracts) on the claim form.

(D) The MassHealth agency pays for follow-up office visits for injections and reevaluation as office visits.

(E) The MassHealth agency pays for sensitivity tests only once per member per year regardless of the type of tests performed or the number of visits required.

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433.428: Psychiatry Services: Introduction

(A) Covered Services. The MassHealth agency pays for the psychiatry services described in 130 CMR 433.429.

(B) Noncovered Services.

(1) Nonphysician Services. The MassHealth agency does not pay a physician for services provided by a social worker, psychologist, or other nonphysician mental health professional employed or supervised by the physician.

(2) Research and Experimental Treatment. The MassHealth agency does not pay for research or experimental treatment. This includes, but is not limited to, any method not generally accepted or widely used in the field, or any session conducted for research rather than for a member's clinical need.

(3) Nonmedical Services. The MassHealth agency does not pay a physician for nonmedical services, including, but not limited to, the following:

(a) vocational rehabilitation services;

(b) educational services;

(c) recreational services (play therapy, the use of play activities with a child in an identified treatment setting as an alternative to strictly verbal expression of conflicts and feelings, is not considered a recreational service and is payable);

(d) street-worker services (information, referral, and advocacy to certain age populations; liaison with other agencies; role modeling; and community organization);

(e) life-enrichment services (ego-enhancing services such as workshops or educational courses provided to functioning persons); and

(f) biofeedback.

(4) Nonmedical Programs. The MassHealth agency does not pay for diagnostic and treatment services that are provided as an integral part of a planned and comprehensive program that is organized to provide primarily nonmedical or other noncovered services. Such programs include freestanding alcohol or drug detoxification programs, freestanding methadone maintenance programs, residential programs, day activity programs, drop-in centers, and educational programs.

(5) Psychological Testing. The MassHealth agency does not pay for psychological testing provided by a physician.

(C) Recordkeeping (Medical Records) Requirements. In addition to the provisions in 130 CMR 433.409, the following specific information must be included in the medical record for each member receiving psychiatric services:

(1) the condition or reason for which psychiatric services are provided;

(2) the member's diagnosis;

(3) the member's medical history;

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- (4) the member's social and occupational history;
- (5) the treatment plan;
- (6) the physician's short- and long-range goals for the member;
- (7) the member's response to treatment; and
- (8) if applicable, a copy of the signed consent for electroconvulsive therapy.

(D) Frequency of Treatment. The MassHealth agency pays a physician for only one session of each type of service provided to a member in one week except for crisis intervention, as described below.

- (1) In a crisis, as defined in 130 CMR 433.429(K), the MassHealth agency will pay a physician for extra sessions. The physician must bill for these services using the service code for crisis intervention and must document the following in the member's record:
 - (a) the member is in a state of marked life change or crisis;
 - (b) the member's ability to function is likely to deteriorate; and
 - (c) the plan of treatment is to resume or to initiate regular weekly sessions after the resolution of the crisis.
- (2) Although prior authorization is still required after 17 treatment sessions, the MassHealth agency will pay a physician for more than one type of service provided to a member in one week if the additional service or services are medically necessary. The member's record must document the circumstances necessitating the provision of more than one type of service. The record must make clear that the substitution of one type of service for another would not adequately benefit the member and that an additional type of service is necessary.

433.429: Psychiatry Services: Scope of Services

130 CMR 433.429 describes the services that a psychiatrist may provide, including the limitations imposed on those services by the MassHealth agency. For all psychotherapeutic services, the majority of time must be spent as personal interaction with the member; a minimal amount of time must be spent for the recording of data.

(A) Individual Psychotherapy. The MassHealth agency pays a physician for individual psychotherapy provided to a member only when the physician treats the member. This service includes diagnostics.

(B) Family and Couple Therapy. The MassHealth agency pays for therapy provided simultaneously in the same session to more than one member of the same family or to a couple whose primary complaint is the disruption of their marriage, family, or relationship. Payment is limited to one hour per session per week, regardless of the number of family members present or the presence of a cotherapist.

(C) Group Therapy. The MassHealth agency pays for therapy provided to a group of persons, most of whom are not related by blood, marriage, or legal guardianship. The MassHealth agency pays for group therapy only if the session lasts for at least 90 minutes with the physician. Payment is limited to one fee per group member with a maximum of 10 members per group regardless of the presence of a cotherapist.

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(D) Diagnostic Services. The MassHealth agency pays for the examination and determination of a patient's physical, psychological, social, economic, educational, and vocational assets and disabilities for the purpose of designing a treatment plan. This service includes an initial medication evaluation.

(E) Reevaluation. Without prior authorization, the MassHealth agency pays for the reevaluation of a member who has been out of treatment for at least six months and who has used up the lifetime benefit of 17 treatment sessions. A provider may bill for a maximum of two one-hour units per member per calendar year for the purpose of designing a treatment plan and requesting prior authorization for a particular number of sessions.

(F) Long-Term Therapy. The MassHealth agency defines long-term therapy as a combination of diagnostics; individual, couple, family, and group therapy; and consultation planned to extend more than 17 sessions.

(G) Short-Term Therapy. The MassHealth agency defines short-term therapy as a combination of diagnostics; individual, couple, family, and group therapy; and consultation planned to terminate within 17 sessions.

(H) Medication Review. The MassHealth agency pays for a member visit to the physician specifically for the prescription, review, and monitoring of medication. If this service is not combined with psychotherapy, it must be billed as a minimal office visit. The MassHealth agency does not pay separately for medication review if it is performed on the same day as another service.

(I) Case Consultation. The MassHealth agency pays for a consultation with another agency or person when the physician has accepted a patient for treatment and continues to assume primary responsibility for the patient's treatment, while the other agency continues to provide ancillary services.

(J) Family Consultation. The MassHealth agency pays for a preplanned meeting of at least one-half hour with the parent or parents or legal guardian of a child who is being treated by the physician, when the parent or parents or legal guardian are not clients of the physician.

(K) Crisis Intervention/Emergency Services. The MassHealth agency pays for an immediate mental health evaluation, diagnosis, hospital prescreening, treatment, and arrangements for further care and assistance as required, provided during all hours to members showing sudden, incapacitating emotional stress. The MassHealth agency pays only for face-to-face contact; telephone contacts are not payable. The MassHealth agency pays for no more than two hours of emergency services per member on a single date of service.

(L) Electroconvulsive Therapy. The MassHealth agency pays for electroconvulsive therapy only when it is provided in a hospital setting by a physician and only when both the physician and the facility meet the standards set by the Massachusetts Department of Mental Health, including those relative to informed consent.

(M) After-Hours Telephone Service. The physician must provide telephone coverage during the hours when the physician is unavailable, for members who are in a crisis state.

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(N) Hospital Inpatient Visit. A visit to a hospitalized member is payable only as a hospital visit (see 130 CMR 433.415) unless at least 15 minutes of psychotherapy is provided. Payment will be made for only one visit per member per day.

(O) Routine Inpatient Care. The MassHealth agency pays for a maximum of three weeks of routine inpatient care without prior authorization if the admission has received a preadmission screening number from the MassHealth agency or its agent in accordance with 130 CMR 433.415(A). Routine inpatient care includes the following services. The amounts of services listed are the maximum payable; fewer services may be provided.

(1) During the first week of hospitalization, the MassHealth agency pays for the following:

(a) for an initial evaluation:

- (i) up to three hours for a member under 19 years of age; and
- (ii) up to two hours for a member aged 19 or older;

(b) for individual psychotherapy, regulation of medication, family therapy, family consultation, or case consultation:

- (i) up to five hours for a member under 19 years of age; and
- (ii) up to three hours for a member aged 19 or older; and

(c) for daily psychiatric-related medical care, which includes a limited examination or evaluation, treatment, and follow-up visits:

- (i) up to one day for a member under 19 years of age; and
- (ii) up to three days for a member aged 19 or older.

(2) During each of the second and third weeks of hospitalization, the MassHealth agency pays a psychiatrist for the following:

(a) for individual psychotherapy, regulation of medication, family therapy, family consultation, or case consultation:

- (i) up to five hours for a member under 19 years of age; and
- (ii) up to three hours for a member aged 19 or older; and

(b) for daily psychiatric-related medical care, which includes a limited examination or evaluation, treatment, and follow-up visits:

- (i) up to two days for a member under 19 years of age; and
- (ii) up to four days for a member aged 19 years or older.

(3) The MassHealth agency pays for only one type of service a day.

(4) In order to be payable, individual psychotherapy, regulation of medication, and daily medical care must involve face-to-face contact between the psychiatrist and the member.

(5) For extended hospitalization, if the hospital has complied with the MassHealth agency's concurrent review process, the MassHealth agency pays a psychiatrist for the services described in 130 CMR 433.429(O)(2), that is, for the same amount of services payable in the second and third weeks.

(P) Child and Adolescent Needs and Strengths (CANS). Any psychiatrist who provides individual, group, or family therapy to members under the age of 21 must be certified every two years according to the process established by the Executive Office of Health and Human Services (EOHHS) to administer the CANS, must use the CANS during initial behavioral-health assessments before the initiation of therapy, and must update the CANS at least every 90 days thereafter during the treatment review process.

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433.430: Dialysis: Service Limitations

(A) Medicare Coverage. Medicare is the primary source of payment for medical care to persons of any age who have chronic renal disease and who require hemodialysis or a kidney transplant. Members being treated for chronic renal disease must be referred to a MassHealth Enrollment Center or their Social Security Administration office to determine Medicare eligibility.

(B) Service Limitations. The MassHealth agency pays for hemodialysis only to hospitalized members who are

- (1) being dialyzed for acute renal failure;
- (2) receiving initial dialysis for chronic renal failure prior to continuing chronic maintenance dialysis; or
- (3) receiving dialysis for complications of chronic maintenance dialysis.

433.431: Physical Medicine: Service Limitations

(A) The services listed in 130 CMR 433.431 are payable only when the physician prescribes the needed therapy, and the services are provided by the physician or by a licensed physical or occupational therapist employed by the physician, subject to all general conditions of payment, including the requirement to obtain prior authorization as described in 130 CMR 433.408.

(B) Physical medicine services include, but are not limited to, superficial or deep-heat modalities, therapeutic exercise, traction, hydrotherapy, prosthetics and orthotics training, activities of daily living and ambulation training, range of motion, and manual muscle strength assessment. Other restorative services are covered by MassHealth upon referral by a physician (see 130 CMR 433.471).

(C) (1) The MassHealth agency pays for the establishment of a maintenance program and the training of the member, member's family, or other persons to carry it out, as part of a regular treatment visit, not as a separate service. The MassHealth agency does not pay for performance of a maintenance program, except as provided in 130 CMR 433.431(C)(2).

(2) In certain instances, the specialized knowledge and judgment of a licensed physician or licensed therapist may be required to perform services that are part of a maintenance program, to ensure safety or effectiveness that may otherwise be compromised due to the member's medical condition. At the time the decision is made that the services must be performed by a licensed physician or a licensed therapist, all information that supports the medical necessity for performance of such services by a licensed physician or licensed therapist, rather than a nonphysician or non-therapist, must be documented in the medical record.

433.432: Other Medical Procedures

(A) Cardiovascular and Other Vascular Studies. Fees for cardiovascular services and other vascular studies include payment for laboratory procedures, interpretations, and physician services (except surgery and anesthesia services), unless otherwise stated. These services may be billed in addition to an office visit.

(B) Cardiac Catheterization. Fees for cardiac catheterization are for the physician's services only and include payment for the usual preassessment of the cardiac problem and the recording of intracardiac pressure.

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(C) Pulmonary Procedures. Fees for pulmonary procedures include payment for laboratory procedures, interpretations, and physician's services. These services may be billed in addition to an office visit.

(D) Dermatological Special Procedures. These services may be billed in addition to an office visit.

(E) Unlisted Procedures. Providers may bill for unlisted procedures only if there is no "Not otherwise classified" code.

433.433: Nurse Practitioner Services

(A) General. 130 CMR 433.433 applies specifically to nurse practitioners. In general, however, subject to the limitations of state law, the requirements elsewhere in 130 CMR 433.000 that apply to physicians also apply to nurse practitioners, such as service limitations, recordkeeping, report requirements, and prior-authorization requirements.

(B) Conditions of Payment. The MassHealth agency pays either an independent nurse practitioner (in accordance with 130 CMR 433.433(C)) or the physician employer of a nonindependent nurse practitioner (in accordance with 130 CMR 433.433(D)) for nurse practitioner services provided by a nurse practitioner when:

- (1) the services are limited to the scope of practice authorized by state law or regulation (including but not limited to the regulations of the Massachusetts Board of Registration in Nursing);
- (2) the nurse practitioner has a current license to practice as a nurse practitioner in Massachusetts from the Massachusetts Board of Registration in Nursing; and
- (3) the nurse practitioner has a current collaborative arrangement with a physician or group of physicians, as required by state law or regulation (including but not limited to the regulations of the Massachusetts Board of Registration in Nursing and 130 CMR 433.433(C)(2)). The MassHealth agency deems this requirement to be met for nonindependent nurse practitioners employed by a physician.

(C) Independent Nurse Practitioner Provider Eligibility.

- (1) Submission Requirements. Only an independent nurse practitioner may enroll as a MassHealth provider. Any nurse practitioner applying to participate as a provider in MassHealth must submit documentation, satisfactory to the MassHealth agency, that he or she is:
 - (a) a member of a group practice comprising physicians and other practitioners and is compensated by the group practice in the same manner as the physicians and other practitioners in the group practice;
 - (b) a member of a group practice that solely comprises nurse practitioners; or
 - (c) in a solo private practice.

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(2) Collaborative Arrangement Requirements. The independent nurse practitioner's collaborating physician must be a MassHealth provider, or a salaried employee of a MassHealth provider, who engages in the same type of clinical practice as the nurse practitioner. The nurse practitioner must practice in accordance with written guidelines developed in conjunction with the collaborating physician as set forth in the regulations of the Massachusetts Board of Registration in Nursing. The nurse practitioner must submit to the MassHealth agency thorough documentation of the collaborative arrangement, including guidelines and any written agreement signed by the nurse practitioner and the collaborating physician or physicians. The guidelines must specify:

- (a) the services the nurse practitioner is authorized to perform under the collaborative arrangement; and
- (b) the established procedures for common medical problems.

(3) Consultation Between Independent Nurse Practitioner and Collaborating Physician. The MassHealth agency does not pay for a consultation between an independent nurse practitioner and a collaborating physician as a separate service.

(D) Submitting Claims for Nonindependent Nurse Practitioners. Any nurse practitioner who does not meet the requirements of 130 CMR 433.433(C) is a nonindependent nurse practitioner and is not eligible to enroll as a MassHealth provider. As an exception to 130 CMR 450.301, an individual physician (who is neither practicing as a professional corporation nor a member of a group practice) who employs a nonindependent nurse practitioner may submit claims for services provided by a nonindependent nurse practitioner employee, but only if such services are provided in accordance with 130 CMR 433.433(B), and payment is claimed in accordance with 130 CMR 450.301(B).

433.434: Physician Assistant Services

(A) General. 130 CMR 433.434 applies specifically to physician assistants. In general, however, subject to the limitations of state law, the requirements elsewhere in 130 CMR 433.000 that apply to physicians also apply to physician assistants, such as service limitations, recordkeeping, report requirements, and prior-authorization requirements. Services provided by a physician assistant must be limited to the scope of practice authorized by state law or regulation (including but not limited to 263 CMR 5.00).

(B) Conditions of Payment. The MassHealth agency pays the physician employer of a physician assistant (in accordance with 130 CMR 433.434(E)) for services provided by a physician assistant when the:

- (1) services are limited to the scope of practice authorized by state law or regulation (including but not limited to 263 CMR 5.05);
- (2) physician assistant has a current license or certificate of registration from the Massachusetts Board of Registration of Physician Assistants. Services provided by a physician assistant who possesses only a temporary license to practice, who has failed the certifying examination, or whose license has expired or is suspended are not payable; and
- (3) services are provided pursuant to a formal supervisory arrangement with a physician, as further described under 130 CMR 433.434(C).

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(C) Supervisory Arrangement Requirements.

(1) The services of a physician assistant must be performed under the supervision of a physician. For purposes of 130 CMR 433.434, "supervision" or "supervise" means that the supervising physician is principally responsible for all medical decisions relating to physician assistant services and is either:

- (a) immediately available to the physician assistant in person or by means of a communication device; or
- (b) in actual physical attendance at and during the provision of those physician assistant services identified in written guidelines as requiring the physician's physical presence. (See 130 CMR 433.434(C)(3).)

(2) The physician assistant's supervising physician must be a MassHealth provider, or a salaried employee of a MassHealth provider, who engages in the same type of clinical practice as the physician assistant. Such supervising physician must be the physician assistant's employer or a physician member of the physician assistant's employer group. (See 130 CMR 433.434(E).)

(3) The physician assistant must practice in accordance with written guidelines developed in conjunction with the supervising physician as set forth in 263 CMR 5.04. The guidelines must specify:

- (a) what services the physician assistant can perform;
- (b) the established procedures for common medical problems; and
- (c) those services for which the supervising physician must be physically present.

(4) The physician assistant's supervising physician must designate another licensed physician to provide temporary supervision in circumstances where the supervising physician is unavailable. Such designated physician must be a MassHealth provider, or a salaried employee of a MassHealth provider, who engages in the same type of clinical practice as the supervising physician. The name of such physician must be documented in the member's records.

(5) The physician assistant's supervising physician is, in all cases, responsible for ensuring that each task performed by a physician assistant is properly supervised, even under circumstances involving temporary supervision by another physician pursuant to 130 CMR 433.434(C)(2).

(6) A supervising physician may not supervise more than the number of physician assistants allowed in 263 CMR 5.00.

(D) Nonpayable Services.

(1) Physician supervision of or consultation with a physician assistant is not payable as a separate service.

(2) The MassHealth agency does not pay for surgical assistance provided by a physician assistant.

(E) Submitting Claims for Physician Assistants. A physician assistant is not eligible to enroll as a MassHealth provider. As an exception to 130 CMR 450.301(A), a physician or group practice who is an employer of a physician assistant may submit claims for services provided by a physician assistant employee but only if such services are provided in accordance with 130 CMR 433.434, and payment is claimed in accordance with 130 CMR 450.301(B).

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433.435: Tobacco Cessation Services

(A) Introduction. MassHealth members are eligible to receive tobacco cessation counseling services described in 130 CMR 433.435(B) and pharmacotherapy treatment, including nicotine replacement therapy (NRT), in accordance with 130 CMR 406.000.

(B) Tobacco Cessation Counseling Services.

(1) MassHealth covers a total of 16 group and individual counseling sessions per member per 12-month cycle, without prior authorization. These sessions may be any combination of group and individual counseling. All individual counseling sessions must be at least 30 minutes, except for intake sessions, which must be at least 45 minutes. Intake sessions are limited to two per member per 12-month cycle, without prior authorization.

(a) Individual counseling consists of face-to-face tobacco cessation counseling services provided to an individual member by a MassHealth-qualified provider of tobacco cessation services as set forth in 130 CMR 433.435(B) and (C).

(b) Group tobacco treatment counseling consists of a scheduled professional counseling session with a minimum of three and a maximum of 12 members and has a duration of at least 60 to 90 minutes.

(c) Individual and group counseling also includes collaboration with and facilitating referrals to other health care providers to coordinate the appropriate use of medications, especially in the presence of medical or psychiatric comorbidities.

(2) The individual and group tobacco cessation counseling services must include the following:

(a) education on proven methods for stopping the use of tobacco, including:

- (i) a review of the health consequences of tobacco use and the benefits of quitting;
- (ii) a description of how tobacco dependence develops and an explanation of the biological, psychological, and social causes of tobacco dependence; and
- (iii) a review of evidence-based treatment strategies and the advantages and disadvantages of each strategy;

(b) collaborative development of a treatment plan that uses evidence-based strategies to assist the member to attempt to quit, to continue to abstain from tobacco, and to prevent relapse, including:

- (i) identification of personal risk factors for relapse and incorporation into the treatment plan;
- (ii) strategies and coping skills to reduce relapse risk; and
- (iii) a plan for continued aftercare following initial treatment; and

(c) information and advice on the benefits of nicotine replacement therapy or other proven pharmaceutical or behavioral adjuncts to quitting smoking, including:

- (i) the correct use, efficacy, adverse events, contraindications, known side effects, and exclusions for all tobacco dependence medications; and
- (ii) the possible adverse reactions and complications related to the use of pharmacotherapy for tobacco dependence.

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(C) Provider Qualifications for Tobacco Cessation Counseling Services.

(1) Qualified Providers.

- (a) Physicians, registered nurses, nurse practitioners, nurse midwives, and physician assistants may provide tobacco cessation counseling services without additional experience or training in tobacco cessation counseling services.
- (b) All other providers of tobacco cessation counseling services must be under the supervision of a physician, and must complete a course of training in tobacco cessation counseling by a degree-granting institution of higher education with a minimum of eight hours of instruction.

(2) Supervision of Tobacco Cessation Counseling Services. A physician must supervise all nonphysician providers of tobacco cessation counseling services for whom the physician will submit claims.

(D) Tobacco Cessation Services: Claims Submission.

(1) Physicians, independent nurse practitioners, and independent nurse midwives may submit claims for tobacco cessation services when they provide those services directly to MassHealth members. These are the only MassHealth provider types who may bill for this service independently. A physician may submit claims for tobacco cessation counseling services that are provided by physicians, nurse practitioners, registered nurses, nurse midwives, physician assistants, and MassHealth-qualified tobacco cessation counselors according to 130 CMR 433.435(B) and (C). See Subchapter 6 of the *Physician Manual* for service code descriptions.

(2) As an exception to 130 CMR 450.301(A), a physician that is an employer of a nonphysician provider of tobacco cessation counseling may submit claims for services provided by a nonphysician employee, but only if such services are provided in accordance with 130 CMR 433.435(B) and (C) and payment is claimed in accordance with 130 CMR 450.301(B).

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433.436: Radiology Services: Introduction

The MassHealth agency pays for radiology services only when the services are provided at the written request of a licensed physician. All radiology equipment used in providing these services must be inspected and approved by the Massachusetts Department of Public Health.

(A) Services Provided by an Independent Diagnostic Testing Facility (IDTF). The MassHealth agency pays an IDTF as defined in 130 CMR 433.401 for applicable diagnostic tests in accordance with the independent diagnostic testing facility regulations at 130 CMR 431.000.

(B) Radiology Recordkeeping (Medical Records) Requirements. In addition to complying with the general recordkeeping requirements (see 130 CMR 433.409), the physician must keep suitable records of radiology services performed. All X rays must be labeled adequately with the following:

- (1) the member's name;
- (2) the date of the examination;
- (3) the nature of the examination; and
- (4) left and right designations and patient position, if not standard.

433.437: Radiology Services: Service Limitations

See also the general limitations described at 130 CMR 433.407.

(A) Diagnostic Interpretations. When a physician provides the professional component (interpretation) of a diagnostic radiology service in a hospital inpatient or outpatient setting, the MassHealth agency pays physicians in accordance with the DHC FP fee schedule. The MassHealth agency does not pay for the interpretation of an X ray that was previously read and taken in the same hospital. However, the MassHealth agency does pay a physician for interpreting an X ray that was previously read and taken in a different hospital.

(B) Therapeutic Interpretations. When a physician provides the professional component (interpretation) of a therapeutic radiology service in a hospital inpatient or outpatient setting, the MassHealth agency pays the physician in accordance with the DHC FP fee schedule.

(C) Surgical Introductions and Interpretations. The MassHealth agency pays a physician for performing surgical introductions and interpretations of films performed in a hospital inpatient or outpatient setting, with the following restrictions.

- (1) Only one surgical introduction per operative session is payable in accordance with the DHC FP fee schedule.
- (2) In a single operative session:
 - (a) no more than three additional surgical introductions using the same puncture site are payable, each in accordance with the DHC FP fee schedule; and
 - (b) no more than three additional selective vascular studies using the same puncture site are payable, each at the maximum allowable fee.
- (3) Interpretations are payable in accordance with the DHC FP fee schedule, up to a maximum of three.

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(D) Duplicate Services. Two or more identical diagnostic or therapeutic radiology services performed on one day for a member by one or more physicians are payable only if sufficient documentation for each is shown in the member's medical record.

(E) Interventional Radiology. If interventional radiology services are performed by two providers, the professional component is divided equally into surgical and interpretative components.

433.438: Clinical Laboratory Services: Introduction

Clinical laboratory services necessary for the diagnosis, treatment, and prevention of disease and for the maintenance of the health of a member are payable under MassHealth.

(A) Provider Eligibility. The MassHealth agency pays for laboratory tests only when they are performed on a member by a physician or by an independent clinical laboratory certified by Medicare.

(B) Payment.

(1) Except for the circumstance described in 130 CMR 433.438(B)(2), the MassHealth agency pays a physician only for laboratory tests performed in the physician's office. If a physician uses the services of an independent clinical laboratory, the MassHealth agency pays only the laboratory for services provided for a member.

(2) A physician may bill the MassHealth agency for laboratory services provided on a fee-for-service basis by the state laboratory of the Massachusetts Department of Public Health.

(C) Information with Specimen. A physician who sends a specimen to an independent clinical laboratory participating in MassHealth must also send the following:

- (1) a signed request for the laboratory services to be performed;
- (2) the member's MassHealth identification number; and
- (3) the physician's name, address, and provider number.

433.439: Clinical Laboratory Services: Service Limitations

(A) Specimen Collections. The MassHealth agency does not pay a physician for routine specimen collection and preparation for the purpose of clinical laboratory analysis (for example, venipunctures; urine, fecal, and sputum samples; Pap smears; cultures; and swabbing and scraping for removal of tissue). However, the MassHealth agency will pay a physician who collects, centrifuges, and mails a specimen to a laboratory for analysis once per member specimen, regardless of the number of tests to be performed on that specimen.

(B) Professional Component of Laboratory Services. The MassHealth agency does not pay a physician for the professional component of a clinical laboratory service. The MassHealth agency pays a physician for the professional component of an anatomical service (for example, bone marrow analysis or analysis of a surgical specimen).

(C) Calculations. The MassHealth agency does not pay a physician for calculations such as red cell indices, A/G ratio, creatinine clearance, and those ratios calculated as part of a profile. Payment for laboratory services includes payment for all aspects involved in an assay.

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(D) Profile (or Panel) Tests.

(1) A profile or panel test is defined as any group of tests, whether performed manually, automatedly, or semiautomatedly, that is ordered for a specified member on a specified day and has at least one of the following characteristics.

(a) The group of tests is designated as a profile or panel by the physician performing the tests.

(b) The group of tests is performed by the physician at a usual and customary fee that is lower than the sum of the physician's usual and customary fees for the individual tests in that group.

(2) In no event may a physician bill or be paid separately for each of the tests included in a profile test when a profile test has either been performed by that physician or requested by an authorized person.

(E) Forensic Services. The MassHealth agency does not pay for tests performed for forensic purposes or any purpose other than those described in 130 CMR 433.438, including but not limited to:

(1) tests performed to establish paternity;

(2) tests performed pursuant to, or in compliance with, a court order (for example, monitoring for drugs of abuse); and

(3) post-mortem examinations.

433.440: Acupuncture

(A) Introduction. MassHealth members are eligible to receive acupuncture for the treatment of pain as described in 130 CMR 433.440(C), for use as an anesthetic as described in 130 CMR 433.454(C), and for use for detoxification as described in 130 CMR 418.406(C)(3): *Acupuncture Detoxification.*

(B) General. 130 CMR 433.440 applies specifically to physicians and licensed practitioners of acupuncture.

(C) Acupuncture for the Treatment of Pain. MassHealth provides a total of 20 sessions of acupuncture for the treatment of pain per member per year without prior authorization. If the member's condition, treatment, or diagnosis changes, the member may receive more sessions of medically-necessary acupuncture treatment with prior authorization.

(D) Provider Qualifications for Acupuncture.

(1) Qualified Providers.

(a) Physicians

(b) Other practitioners who are licensed in acupuncture by the Massachusetts Board of Registration in Medicine under 243 CMR 5.00: *The Practice of Acupuncture.*

(2) Supervising physicians must ensure that acupuncture practitioners for whom the physician will submit claims, possess the appropriate training, credentials, and licensure.

(E) Conditions of Payment. The MassHealth agency pays physicians, physician employers of an acupuncturist (in accordance with 130 CMR 433.401(F)), independent nurse practitioners licensed in acupuncture, or independent nurse midwives licensed in acupuncture for acupuncture services when the:

(1) services are limited to the scope of practice authorized by state law or regulation (including but not limited to 243 CMR 5.00: *The Practice of Acupuncture*);

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(2) the acupuncturist has a current license or certificate of registration from the Massachusetts Board of Registration in Medicine; and

(3) services are provided pursuant to a supervisory arrangement with a physician.

(F) Acupuncture Claims Submissions.

(1) Physicians, independent nurse practitioners licensed in acupuncture, and independent nurse midwives licensed in acupuncture may submit claims for acupuncture services when they provide those services directly to MassHealth members or as an exception to 130 CMR 450.301(A) when a licensed practitioner under the supervision of a physician provides those services directly to MassHealth members. See Subchapter 6 of the *Physician Manual* for service code descriptions and billing requirements.

(2) For MassHealth members receiving services under any of the acupuncture codes on the same date of service as an office visit, the physician, independent nurse practitioner licensed in acupuncture, or independent nurse midwife licensed in acupuncture may bill for either an office visit or the acupuncture code, but may not bill for both an office visit and the acupuncture code for the same member on the same date when the office visit and the acupuncture services are performed in the same location. This limitation does not apply to a significant, separately identifiable office visit provided by the same provider on the same day of the acupuncture service.

433.441: Pharmacy Services: Prescription Requirements

(A) **Legal Prescription Requirements.** The MassHealth agency pays for prescription drugs, over-the-counter drugs, and items listed on the Non-Drug Product List only if the pharmacy has in its possession a prescription that meets all requirements for a legal prescription under all applicable federal and state laws and regulations. Each prescription, for drugs in Schedules II through V must contain the prescriber's unique DEA number. For Schedule VI drugs, if the prescriber has no DEA registration number, the prescriber's Massachusetts Controlled Substance Registration number must appear on the prescription.

(B) **Emergencies.** When the pharmacist determines that an emergency exists, the MassHealth agency will pay a pharmacy for at least a 72-hour, nonrefillable supply of the drug in compliance with state and federal regulations. Emergency dispensing to a MassHealth member who is enrolled in the Controlled Substance Management Program (CSMP) must comply with 130 CMR 406.442(C)(2).

(C) **Refills.**

(1) The MassHealth agency does not pay for prescription refills that exceed the specific number authorized by the prescriber.

(2) The MassHealth agency pays for a maximum of 11 monthly refills, except in circumstances described at 130 CMR 433.441(C)(3), or where the MassHealth Drug List specifically limits the number of refills, duration of the prescription, or both.

(3) The MassHealth agency pays for more than 11 refills within a 12-month period if such refills are for less than a 30-day supply and have been prescribed and dispensed in accordance with 130 CMR 433.441(D).

(4) The MassHealth agency does not pay for any refill dispensed after one year from the date of the original prescription.

(5) The absence of an indication to refill by the prescriber renders the prescription nonrefillable.

(6) The MassHealth agency does not pay for any refill without an explicit request from a

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member or caregiver for each filling event. The possession by a provider of a prescription with remaining refills authorized does not in itself constitute a request to refill the prescription.

(D) Quantities.

(1) Days' Supply Limitations. The MassHealth agency requires that all drugs be prescribed in a 30-day supply, unless the drug is available only in a larger minimum package size, except as specified in 130 CMR 433.441(D)(2).

(2) Exceptions to Days' Supply Limitations.

(a) The MassHealth agency allows exceptions to the limitations described in 130 CMR 433.441(D)(1) for the following products:

(i) drugs in therapeutic classes that are commonly prescribed for less than a 30-day supply, including but not limited to antibiotics and analgesics;

(ii) drugs that, in the prescriber's professional judgment, are not clinically appropriate for the member in a 30-day supply;

(iii) drugs that are new to the member, and are being prescribed for a limited trial amount, sufficient to determine if there is an allergic or adverse reaction or lack of effectiveness. The initial trial amount and the member's reaction or lack of effectiveness must be documented in the member's medical record;

(iv) drugs packed in such a way that the smallest quantity that may be dispensed is larger than a 30-day supply (for example, inhalers, ampules, vials, eye drops, and other sealed containers not intended by the manufacturer to be opened by any person other than the end user of the product);

(v) drugs in topical dosage forms that do not allow the pharmacist to accurately predict the rate of the product's usage (for example, lotions or ointments);

(vi) products generally dispensed in the original manufacturer's packaging (for example, fluoride preparations, prenatal vitamins, and over-the-counter drugs); and

(vii) methylphenidate and amphetamine prescribed in 60-day supplies;

(b) Drugs paid for by a member's primary insurance carrier that are dispensed in up to a 90-day supply when the MassHealth agency pays any portion of the claim, including the copayment portion or deductible, may be dispensed in up to a 90-day supply.

(c) Drugs used for family planning may be dispensed in up to a 90-day supply.

(E) Prescription-Splitting. Providers must not split prescriptions by filling them for a period or quantity less than that specified by the provider. For example, a prescription written for a single 30-day supply may not be split into three 10-day supplies. The MassHealth agency considers prescription-splitting to be fraudulent. (See 130 CMR 450.238(B)(6).)

(F) Excluded, Suspended, or Terminated Clinicians. The MassHealth agency does not pay for prescriptions written by clinicians

(1) who have been excluded from participation based on a notice by the U.S. Department of Health and Human Services Office of Inspector General; or

(2) whom the MassHealth agency has suspended, terminated, or denied admission into its program for any other reason.

433.442: Pharmacy Services: Covered Drugs and Medical Supplies

(A) Drugs. The MassHealth Drug List specifies the drugs that are payable under MassHealth. In addition, the following rules apply.

(1) Prescription Drugs. The MassHealth agency pays only for prescription drugs that are approved by the U.S. Food and Drug Administration and manufactured by companies that have signed rebate agreements with the U.S. Secretary of Health and Human Services

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pursuant to 42 U.S.C. 1396r-8. Payment is calculated in accordance with Executive Office of Health and Human Services (EOHHS) regulations at 114.3 CMR 31.00: *Prescribed Drugs*.
(2) Over-the-Counter Drugs. Payment by the MassHealth agency for over-the-counter drugs is calculated in accordance with EOHHS regulations at 114.3 CMR 31.00: *Prescribed Drugs*.

(B) Non-drug Products Paid Through POPS.

(1) The MassHealth agency pays through POPS, only for those products not classified as drugs that are listed on the non-drug product section of the MassHealth Drug List.

(2) Non-drug Product List. Payment for these items is in accordance with rates published in the Executive Office of Health and Human Services (EOHHS) regulations at 114.3 CMR 22.00: *Durable Medical Equipment, Oxygen, and Respiratory Therapy Equipment* and 101 CMR 317.00: *Medicine*. The MassHealth Non-Drug Product List also specifies which of the included products require prior authorization.

433.443: Pharmacy Services: Limitations on Coverage of Drugs

(A) Interchangeable Drug Products. The MassHealth agency pays no more for a brand-name interchangeable drug product than its generic equivalent, unless

- (1) the prescriber has requested and received prior authorization from the MassHealth agency for a nongeneric multiple-source drug (*see* 130 CMR 433.444); and
- (2) the prescriber has written on the face of the prescription in the prescriber's own handwriting the words "brand name medically necessary" under the words "no substitution" in a manner consistent with applicable state law. These words must be written out in full and may not be abbreviated.

(B) Drug Exclusions. The MassHealth agency does not pay for the following types of prescription or over-the-counter drugs or drug therapy.

- (1) Cosmetic. The MassHealth agency does not pay for any drug used for cosmetic purposes or for hair growth.
- (2) Cough and Cold. The MassHealth agency does not pay for any drug used solely for the symptomatic relief of coughs and colds, including but not limited to, those that contain an antitussive or expectorant as a major ingredient, unless dispensed to a member who is a resident in a nursing facility or an intermediate care facility for the mentally retarded (ICF/MR).
- (3) Fertility. The MassHealth agency does not pay for any drug used to promote male or female fertility.
- (4) Obesity Management. The MassHealth agency does not pay for any drug used for the treatment of obesity.
- (5) Less-Than-Effective Drugs. The MassHealth agency does not pay for any drug products (including identical, similar, or related drug products) that the U.S. Food and Drug Administration has proposed, in a Notice of Opportunity for Hearing (NOOH), to withdraw from the market because they lack substantial evidence of effectiveness for all labeled indications.
- (6) Experimental and Investigational Drugs. The MassHealth agency does not pay for any drug that is experimental, medically unproven, or investigational in nature.
- (7) Drugs for Sexual Dysfunction. The MassHealth agency does not pay for any drug when used for the treatment of male or female sexual dysfunction.

(C) Service Limitations.

- (1) MassHealth covers drugs that are not explicitly excluded under 130 CMR 433.443(B).

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The limitations and exclusions in 130 CMR 433.443(B) do not apply to medically necessary drugs for MassHealth Standard enrollees under age 21. The MassHealth Drug List specifies the drugs that are payable under MassHealth. Any drug that does not appear on the MassHealth Drug List requires prior authorization, as set forth in 130 CMR 433.000. The MassHealth Drug List can be viewed online at www.mass.gov/druglist, and copies may be obtained upon request. (*See* 130 CMR 450.303: *Prior Authorization*.)

(2) The MassHealth agency does not pay for the following types of drugs or drug therapy without prior authorization:

(a) immunizing biologicals and tubercular (TB) drugs that are available free of charge through local boards of public health or through the Massachusetts Department of Public Health (DPH);

(b) nongeneric multiple-source drugs; and

(c) drugs related to gender-reassignment surgery, specifically including but not limited to, presurgery and postsurgery hormone therapy.

(3) The MassHealth agency does not pay any additional fees for dispensing drugs in a unit-dose distribution system.

(4) The MassHealth agency does not pay for any drug prescribed for other than the FDA-approved indications as listed in the package insert, except as the MassHealth agency determines to be consistent with current medical evidence.

(5) The MassHealth agency does not pay for any drugs that are provided as a component of a more comprehensive service for which a single rate of pay is established in accordance with 130 CMR 450.307: *Unacceptable Billing Practices*.

433.444: Pharmacy Services: Insurance Coverage

(A) Managed Care Organizations. The MassHealth agency does not pay pharmacy claims for services to MassHealth members enrolled in a MassHealth managed care organization (MCO) that provides pharmacy coverage through a pharmacy network or otherwise, except for family planning pharmacy services provided by a non-network provider to a MassHealth MCO enrollee (where such provider otherwise meets all prerequisites for payment for such services). A pharmacy that does not participate in the MassHealth member's MCO must instruct the MassHealth member to take his or her prescription to a pharmacy that does participate in such MCO. To determine whether the MassHealth member belongs to an MCO, pharmacies must verify member eligibility and scope of services through POPS before providing service in accordance with 130 CMR 450.107: *Eligible Members and the MassHealth Card* and 450.117: *Managed Care Participation*.

(B) Other Health Insurance. When the member's primary carrier has a preferred drug list, the prescriber must follow the rules of the primary carrier first. The provider may bill the MassHealth agency for the primary insurer's member copayment for the primary carrier's preferred drug without regard to whether the MassHealth agency generally requires prior authorization, except in cases where the drug is subject to a pharmacy service limitation pursuant to 130 CMR 433.443(C)(2)(a) and (c). In such cases, the prescriber must obtain prior authorization from the MassHealth agency in order for the pharmacy to bill the MassHealth agency for the primary insurer's member copayment. For additional information about third party liability, *see* 130 CMR 450.101 *et seq*.

(C) Medicare Part D.

(1) Overview. Except as otherwise required in 130 CMR 406.414(C)(2) and (3), for MassHealth members who have Medicare, the MassHealth agency does not pay for any

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Medicare Part D drugs, or for any cost-sharing obligations (including premiums, copayments, and deductibles) for Medicare Part D drugs, whether or not the member has actually enrolled in a Medicare Part D drug plan. Medications excluded from the Medicare Part D drug program continue to be covered for MassHealth members eligible for Medicare, if they are MassHealth-covered medications.

(2) Medicare Part D One-Time Supplies. The MassHealth agency pays for one-time supplies of prescribed medications if the medication is a MassHealth-covered medication and the MassHealth member would otherwise be entitled to MassHealth pharmacy benefits but for being eligible for Medicare prescription drug coverage. MassHealth prior authorization does not apply to such one-time supplies. The MassHealth agency pays for the one-time supplies in all instances in which the pharmacist cannot bill a Medicare Part D prescription drug plan at the time the prescription is presented.

The MassHealth agency pays for a one-time 72-hour supply of prescribed medications.

(3) Cost-Sharing Assistance for MassHealth Members Enrolled in a Medicare Part D Prescription Drug Plan. For the purpose of 130 CMR 433.444(C)(3)(a) and (b), the “applicable MassHealth copayment” is the copayment the MassHealth member would pay for prescription drugs if the drugs were covered by MassHealth and not covered by Medicare Part D. MassHealth members who are enrolled in a Medicare Part D prescription drug plan and are charged a copayment or deductible in excess of the member’s applicable MassHealth copayment for a drug that MassHealth would otherwise cover, must pay the applicable MassHealth copayment and the MassHealth agency pays the difference between the applicable MassHealth copayment and the amount charged by the Medicare Part D prescription drug plan.

433.445: Pharmacy Services: Prior Authorization

(A) Prescribers must obtain prior authorization from the MassHealth agency for drugs identified by the MassHealth agency in accordance with 130 CMR 450.303. If the limitations on covered drugs specified in 130 CMR 433.442(A) and 433.443(A) and (C) would result in inadequate treatment for a diagnosed medical condition, the prescriber may submit a written request, including written documentation of medical necessity, to the MassHealth agency for prior authorization for an otherwise noncovered drug.

(B) All prior-authorization requests must be submitted in accordance with the instructions for requesting prior authorization in Subchapter 5 of the *Physician Manual*. If the MassHealth agency approves the request, it will notify the pharmacy and the member.

(C) The MassHealth agency will authorize at least a 72-hour emergency supply of a prescription drug to the extent required by federal law. (See 42 U.S.C. 1396r-8(d)(5).) The MassHealth agency acts on requests for prior authorization for a drug within a time period consistent with federal regulations.

(D) Prior authorization does not waive any other prerequisites to payment such as, but not limited to, member eligibility or requirements of other health insurers.

(E) The MassHealth Drug List specifies the drugs that are payable under MassHealth. Any drug that does not appear on the MassHealth Drug List requires prior authorization, as set forth in 130 CMR 406.000. MassHealth evaluates the prior-authorization status of drugs on an ongoing basis, and updates the MassHealth Drug List accordingly.

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433.446: Pharmacy Services: Member Copayments

Under certain conditions, the MassHealth agency requires that members make a copayment to the dispensing pharmacy for each original prescription and for each refill for all drugs (whether prescription or over-the-counter) covered by MassHealth. The copayment requirements are detailed in 130 CMR 450.130.

433.447: Pharmacy Services: Payment

Drugs and biologicals dispensed in the office are payable, subject to the service limitations at 130 CMR 433.404, 433.406, and 433.443. The MassHealth agency does not pay a physician separately for drugs that are considered routine and integral to the delivery of a physician's professional services in the course of diagnosis or treatment. Such drugs are commonly provided without charge or are included in the physician's fee for the service. The MassHealth agency does not pay separately for any oral drugs dispensed in the office for which the physician has not requested and received prior authorization from the MassHealth agency, with the exception of oral vaccines and oral radiopharmaceuticals, which do not require prior authorization. Claims for drugs and biologicals that are listed in Subchapter 6 of the *Physician Manual* must include the name of the drug or biological, strength, dosage, and number of units dispensed. A copy of the invoice showing the actual acquisition cost must be attached to the claim form for drugs and/or biologicals that are listed as requiring individual consideration in Subchapter 6 of the *Physician Manual*, and must include the National Drug Code (NDC). Claims without this information are denied. The MassHealth agency does not pay for a biological if the Massachusetts Department of Public Health distributes the biological free of charge. Payment for drugs may be claimed in addition to an office visit.

(130 CMR 433.448 Reserved)

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433.449: Fluoride Varnish Services

(A) Eligible Members. Members must be younger than 21 years old to be eligible for the application of fluoride varnish.

(B) Qualified Personnel. Physicians, nurse practitioners, registered nurses, licensed practical nurses, physician assistants, and medical assistants may apply fluoride varnish subject to the limitations of state law. To qualify to apply fluoride varnish, the individual must complete a MassHealth-approved training on the application of fluoride varnish, maintain proof of completion of the training, and provide such proof to the MassHealth agency upon request.

(C) Billing for an Office Visit and Fluoride Varnish Treatment or Procedure. A physician may bill for fluoride varnish services provided by the physician or a qualified staff member as listed in 130 CMR 433.449(B) under the supervision of a physician. The physician may bill for an office visit, in addition to the fluoride varnish application, only if fluoride varnish was not the sole service, treatment, or procedure provided during the visit.

(D) Claims Submission. Physicians and independent nurse practitioners may submit claims for fluoride varnish services when they provide those services directly to MassHealth members. These are the only MassHealth provider types who may bill for this service independently under 130 CMR 433.449. A physician may also submit claims for fluoride varnish services that are provided by nurse practitioners, registered nurses, licensed practical nurses, physician assistants, and medical assistants according to 130 CMR 433.449(C). *See* Subchapter 6 of the *Physician Manual* for service codes.

(130 CMR 433.450 Reserved)

Part 3. Surgery Services

433.451: Surgery Services: Introduction

(A) Provider Eligibility. The MassHealth agency pays a physician for surgery only if the physician is scrubbed and present in the operating room during the major portion of the operation. (*See* 130 CMR 433.421(B)(2) for the single exception to this requirement.)

(B) Nonpayable Services. The MassHealth agency does not pay for

- (1) any experimental, unproven, cosmetic, or otherwise medically unnecessary procedure or treatment;
- (2) the treatment of male or female infertility (including, but not limited to, laboratory tests, drugs, and procedures associated with such treatment); however, MassHealth does pay for the diagnosis of male or female infertility;
- (3) reconstructive surgery, unless the MassHealth agency determines, pursuant to a request for prior authorization, the service is medically necessary to correct, repair, or ameliorate the physical effects of disease or physical defect, or traumatic injury;
- (4) services billed under codes listed in Subchapter 6 of the *Physician Manual* as not payable;
- (5) services otherwise identified in MassHealth regulations at 130 CMR 433.000 or 450.000 as not payable; and
- (6) services billed with otherwise covered service codes when such codes are used to bill for nonpayable circumstances as described in 130 CMR 433.404.

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(C) Definitions. The following terms have the meanings given for purposes of 130 CMR 433.451 and 433.452, unless otherwise indicated.

- (1) Complications Following Surgery – all additional medical or surgical services required of the surgeon during the postoperative period of the surgery because of complications that do not require additional trips to the operating room.
- (2) Evaluation and Management (E/M) Services – visits and consultations furnished by physicians in various settings and of various complexities as defined in the Evaluation and Management section of the American Medical Association’s *Current Procedural Terminology (CPT)* code book.
- (3) Intraoperative Services – intraoperative services that are normally a usual and necessary part of a surgical procedure.
- (4) Major Surgery – a surgery for which the Centers for Medicare & Medicaid Services (CMS) determines the preoperative period is one day and the postoperative period is 90 days.
- (5) Minor Surgery – a surgery for which CMS determines the preoperative period is zero days and the postoperative period is zero or 10 days.
- (6) Postoperative Period –
 - (a) The postoperative period for major surgery is 90 days.
 - (b) The postoperative period for minor surgery and endoscopies is zero or 10 days.
- (7) Postoperative Visits – follow-up visits during the postoperative period of the surgery that are related to recovery from the surgery.
- (8) Postsurgical Pain Management – postsurgical pain management by the surgeon, including supplies.
- (9) Preoperative Period –
 - (a) The preoperative period for major surgery is one day.
 - (b) The preoperative period for minor surgery is zero days.
- (10) Preoperative Visits – preoperative visits after the decision is made to operate, beginning with the day before the day of surgery for major procedures and the day of surgery for minor procedures.

433.452: Surgery Services: Payment

Surgical services and other invasive procedures are listed in the surgery and medicine section of the American Medical Association’s *Current Procedural Terminology (CPT)* code book. The MassHealth agency pays for all medicine and surgery CPT codes in effect at the time of service, except for those codes listed in Section 602 of Subchapter 6 of the *Physician Manual*, subject to all conditions and limitations described in MassHealth regulations at 130 CMR 433.000 and 450.000.

- (A) Visit and Treatment/Procedure on Same Day in Same Location. The MassHealth agency pays a physician for either a visit or a treatment/procedure, whichever fee is greater. The MassHealth agency does not pay for both a preoperative evaluation and management visit, and a treatment/procedure provided to a member on the same day when they are performed in the same location. For minor surgeries and endoscopies, the MassHealth agency does not pay separately for an evaluation and management service on the same day as the surgery or endoscopy. For payment information about obstetrical care, refer to 130 CMR 433.421.

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(B) Payment for Global Surgical Package. The payment for a surgical procedure includes a standard package of preoperative, intraoperative, and postoperative services. The services are included in the global surgical package regardless of setting, including but not limited to hospitals, ambulatory surgical centers, and physicians' offices.

- (1) The following services are included in the payment for a global surgery when furnished by the physician who performs the surgery:
 - (a) preoperative visits;
 - (b) intraoperative visits;
 - (c) complications following surgery;
 - (d) postoperative visits;
 - (e) postsurgical pain management;
 - (f) miscellaneous services related to surgery, including but not limited to dressing changes; local incisional care; removal of operative pack, cutaneous sutures and staples, lines, wires, tubes, drains, casts, and splints; insertion, irrigation, and removal of urinary catheters, routine peripheral intravenous lines, nasogastric tubes, and rectal tubes; and changes and removal of tracheostomy tubes; and
 - (g) visits related to the surgery to a patient in an intensive care or critical care unit, if made by the surgeon. Intensive or critical care visits unrelated to surgery are not included in the global surgical package.
- (2) The following services are not included in the payment for a global surgery:
 - (a) the initial consultation or evaluation of the problem by the surgeon to determine the need for surgery;
 - (b) services of other physicians except where the surgeon and the other physician or physicians agree on the transfer of care during the global period. Such transfer agreement must be in writing and a copy of the written transfer agreement must be kept in the member's medical record;
 - (c) visits unrelated to the diagnosis for which the surgical procedure is performed;
 - (d) treatment for the underlying condition or an added course of treatment that is not part of the normal recovery from the surgery;
 - (e) diagnostic tests and procedures, including diagnostic radiological procedures;
 - (f) clearly distinct surgical procedures during the postoperative period that are not reoperations or treatment for complications resulting from the surgery. A new postoperative period begins with the subsequent surgical procedure. This exception includes procedures done in two or more parts for which the decision to stage the procedure is made prospectively or at the time of the first procedure;
 - (g) treatment for postoperative complications that require a return trip to the operating room (OR). An OR for this purpose is defined as a place of service specifically equipped and staffed for the sole purpose of performing procedures. The term includes a cardiac catheterization suite, a laser suite, and an endoscopy suite. It does not include a patient's room, a minor treatment room, a recovery room, or an intensive care unit (unless the patient's condition was so critical that there would be insufficient time for transportation to an OR);
 - (h) a second, more extensive procedure required because the initial, less extensive procedure did not produce the desired outcome;
 - (i) immunotherapy management for organ transplants; and
 - (j) critical care services unrelated to the surgery where a seriously injured or burned patient is critically ill and requires constant attendance by the physician.

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(C) Payment for Multiple Surgeries. Multiple surgeries are separate procedures performed by a physician on the same patient at the same operative session or on the same day. Multiple surgeries are distinguished from intraoperative services and surgeries that are incidental to or components of a primary surgery (that is, bundled services). Bundled services are not paid separately. When two or more related procedures are performed on a patient during a single session or visit, the MassHealth agency pays the provider for the comprehensive code and denies or adjusts the component, incidental, or mutually exclusive procedure performed during the same session. The bundling guidelines that MassHealth applies are based upon generally accepted industry guidelines including, but not limited to the Correct Coding Initiative administered through the Centers for Medicare & Medicaid Services (CMS) and the American Medical Association's *Current Procedural Terminology (CPT)* code book. To receive payment for multiple surgeries, the surgeon must bill with the multiple surgery modifier.

(D) Payment for Multiple Endoscopy Procedures. When multiple procedures are performed through the same endoscope, payment is made for the highest valued endoscopy procedure plus the difference between the next highest endoscopy procedure and the base endoscopy procedure. The base endoscopy procedure is included in the code for each of the multiple procedures. When two related endoscopies and an unrelated endoscopy are performed, the endoscopic payment rule stated above applies to the related endoscopies. Unrelated endoscopic procedures are treated as separate surgeries and paid as multiple surgeries pursuant to 130 CMR 433.452(C).

(E) Payment for Add-on Surgical Procedures. The Centers for Medicare & Medicaid Services (CMS) has identified certain procedures as add-on procedures that are always billed with another procedure. Add-on codes are identified in the CPT code book. By definition, these services do not stand alone and must be provided in conjunction with a primary surgical procedure or qualifying service. Both the service code for the primary procedure and add-on code are paid separately. The global surgery package provisions at 130 CMR 455.451 and 455.452 apply to the service code for the primary procedure.

(F) Payment for Bilateral Procedures. Bilateral surgeries are defined as procedures performed on both sides of the body during the same operative session or on the same day. To receive payment, the surgeon must use the bilateral surgery modifier with the appropriate service code. The provider must not use the bilateral surgery modifier with service codes containing the terms "bilateral" or "unilateral or bilateral" in their definitions, since the terminology of the code identifies the service as one whose payment accounts for any additional work required for bilateral surgery.

(G) Surgical Assistants. Some surgical procedures require a primary surgeon and an assistant surgeon. To receive payment, the assistant surgeon must use the appropriate modifier. Surgical codes that accept the surgical assistant modifiers are indicated in The Centers for Medicare & Medicaid Services *Correct Coding Initiative Guide*. In addition, the MassHealth agency does not pay for a surgical assistant if

- (1) any component of the surgery is billed using a team surgery modifier pursuant to 130 CMR 433.452(H) or a two-surgeon modifier pursuant to 130 CMR 433.452(I);
- (2) the surgery services were provided in a teaching hospital that has an approved training program related to the medical specialty required for the surgical procedure and a qualified resident available to perform the services. If no qualified resident is available to perform the services, the MassHealth agency pays for a surgical assistant if the member's medical record documents that a qualified resident was unavailable at the time of the surgery; or
- (3) the surgical procedure does not require the services of more than one surgeon.

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(H) Team Surgery. Under some circumstances, the MassHealth agency pays for highly complex surgical procedures requiring the concomitant services of more than two surgeons as “team surgery.” The MassHealth agency pays a single consolidated payment for team surgery to the director of the surgical team. To receive payment, the director of the team must use the team surgery modifier. Payment includes all surgical assistant fees. The director of the surgical team is expected to distribute the MassHealth payment to the other physician members of the surgical team.

(I) Two Surgeons (Co-Surgery). The MassHealth agency pays for co-surgery when two surgeons work together as primary surgeons performing distinct parts of a reportable procedure. To receive payment, each surgeon must use the two surgeons modifier. Payment includes all surgical assistant fees.

(130 CMR 433.453 Reserved)

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433.454: Anesthesia Services

(A) Payment.

(1) Payment Determination. Payment for anesthesia services is determined using base anesthesia units and time units. To determine payment, the MassHealth agency multiplies the anesthesia unit fee established by DHCFP by the time units reported on the claim pursuant to 130 CMR 433.454(A)(2)(c), plus the number of base units, if any have been set by DHCFP. The number of base units is the same for a surgical procedure, regardless of the type of anesthesia administered, including acupuncture (see 130 CMR 433.454(C)).

(2) Calculation.

(a) Anesthesia Units. The MassHealth agency pays for anesthesia services by multiplying the time units plus any base anesthesia units by the unit fee established by DHCFP. If DHCFP has not established base anesthesia units for a service, the MassHealth agency pays using time units only.

(b) Determining Payable Anesthesia Time. Payable anesthesia time starts when the anesthesiologist or certified registered nurse anesthetist (CRNA) begins to prepare the patient for the induction of anesthesia in the operating room or equivalent area. Payable anesthesia time ends when the patient may be safely placed under postoperative supervision.

(c) Reporting Time Units. A provider's claim must report only payable time units. It must not include base anesthesia units or units that exceed the criteria described in 130 CMR 433.454(A)(2)(b) in the number of units field on the claim. Time units are measured in minutes. One unit equals one minute.

(3) Multiple Surgery Procedures. When anesthesia is administered for multiple surgery procedures, the MassHealth agency applies only the base anesthesia units for the procedure with the largest number of units to determine the maximum allowable fee.

(B) Services Provided by a Certified Registered Nurse-Anesthetist (CRNA).

(1) General. 130 CMR 433.454 applies specifically to physicians and CRNAs. In general however, subject to the limitations of state law, the requirements elsewhere in 130 CMR 433.000 that apply to physicians, also apply to CRNAs, such as service limitations, recordkeeping, report requirements, and prior-authorization requirements.

(2) Conditions of Payment. The MassHealth agency pays the physician or group practice employer or contractor of a CRNA for services provided by the CRNA when

(a) the services are limited to the scope of practice authorized by state law or regulation (including, but not limited to regulations of the Massachusetts Board of Registration in Nursing);

(b) the CRNA has a current license to practice as a certified registered nurse anesthetist in Massachusetts from the Massachusetts Board of Registration in Nursing;

(c) the CRNA is not a salaried employee of the hospital in which the CRNA services were performed; and

(d) the services of the CRNA are provided under the supervision of a physician such that the operating physician or an anesthesiologist is immediately available if needed.

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(3) Submitting Claims for Certified Registered Nurse-Anesthetists. As an exception to 130 CMR 450.301(A), a physician or group practice who is an employer of or who contracts with a CRNA, may submit claims for services provided by a CRNA, but only if such services are provided in accordance with 130 CMR 450.301(B). Only one provider may claim payment for the services provided by the CRNA.

(C) Acupuncture as an Anesthetic. The MassHealth agency pays for acupuncture as a substitute for conventional surgical anesthesia.

433.455: Abortion Services

(A) Payable Services.

- (1) The MassHealth agency pays for an abortion service if both of the following conditions are met:
 - (a) the abortion is a medically necessary abortion, or the abortion is performed upon a victim of rape or incest when such rape or incest has been reported to a law enforcement agency or public health service within 60 days of the incident; and
 - (b) the abortion is performed in accordance with law.
- (2) For the purposes of 130 CMR 433.455, a medically necessary abortion is one that, according to the medical judgment of a licensed physician, is necessary in light of all factors affecting the woman's health.
- (3) Unless otherwise indicated, all abortions referred to in 130 CMR 433.455 are payable abortions as defined in 130 CMR 433.455(A)(1) and (2).

(B) Assurance of Member Rights. A provider must not use any form of coercion in the provision of abortion services. The MassHealth agency, any provider, or any agent or employee of a provider must not mislead any member into believing that a decision to have or not to have an abortion will adversely affect the member's entitlement to benefits or services for which the member would otherwise be eligible. The MassHealth agency has strict requirements for confidentiality of member records for abortion services as well as for all other medical services covered by MassHealth.

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(C) Certification for Payable Abortion Form. All physicians must complete a Certification for Payable Abortion (CPA-2) form and retain the form in the member's record. (Instructions for obtaining the CPA-2 form are in Appendix A of all provider manuals.) To identify those abortions that meet federal reimbursement standards, the MassHealth agency must secure on the CPA-2 form the certifications described in 130 CMR 433.455(D)(1), (2), and (3), when applicable. For all medically necessary abortions not included in 130 CMR 433.455(D)(1), (2), or (3), the certification described in 130 CMR 433.455(D)(4) is required on the CPA-2 form. The physician must indicate on the CPA-2 form which of the following circumstances is applicable, and must complete that portion of the form with the appropriate signatures.

(1) Life of the Mother Would Be Endangered. The attending physician must certify that, in the physician's professional judgment, the life of the mother would be endangered if the pregnancy were carried to term.

(2) Severe and Long-Lasting Damage to Mother's Physical Health. The attending physician and another physician must each certify that, in his or her professional judgment, severe and long-lasting damage to the mother's physical health would result if the pregnancy were carried to term. At least one of the physicians must also certify that he or she is not an "interested physician," defined herein as one whose income is directly or indirectly affected by the fee paid for the performance of the abortion; or who is the spouse of, or another relative who lives with, a physician whose income is directly or indirectly affected by the fee paid for the performance of the abortion.

(3) Victim of Rape or Incest. The physician is responsible for submitting with the claim form signed documentation from a law enforcement agency or public health service certifying that the person upon whom the procedure was performed was a victim of rape or incest that was reported to the agency or service within 60 days of the incident. (A public health service is defined as either an agency of the federal, state, or local government that provides health or medical services, or a rural health clinic, provided that the agency's principal function is not the performance of abortions.) The documentation must include the date of the incident, the date the report was made, the name and address of the victim and of the person who made the report (if different from the victim), and a statement that the report included the signature of the person who made the report.

(4) Other Medically Necessary Abortions. The attending physician must certify that, in his or her medical judgment, for reasons other than those described in 130 CMR 433.455(D)(1), (2), and (3), the abortion performed was necessary in light of all factors affecting the mother's health.

433.456: Sterilization Services: Introduction

(A) Covered Services. The MassHealth agency pays for a sterilization service provided to an eligible member only if all of the following conditions are met.

- (1) The member has voluntarily given informed consent for the sterilization procedure in the manner and at the time described in 130 CMR 433.457, and such consent is documented in the manner described in 130 CMR 433.458.
- (2) The member is at least 18 years old at the time consent is obtained.
- (3) The member is not a mentally incompetent individual or an institutionalized individual.

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(B) Assurance of Member Rights. A provider must not use any form of coercion in the provision of sterilization services. The MassHealth agency, any provider, or any agent or employee of a provider must not mislead any member into believing that a decision to have or not have a sterilization will adversely affect the member's entitlement to benefits or services for which the member would otherwise be eligible. The MassHealth agency has strict requirements for confidentiality of member records for sterilization services as well as for all other medical services covered by MassHealth.

(C) Retroactive Eligibility. The MassHealth agency does not pay for a sterilization performed during the period of a member's retroactive eligibility unless all conditions for payment listed in 130 CMR 433.456(A) are met.

(D) Locations in Which Sterilizations May Be Performed.

- (1) Male sterilization must be performed by a licensed physician in a physician's office, hospital, or sterilization clinic.
- (2) Female sterilization must be performed by a licensed physician in a hospital, freestanding ambulatory surgery center, or sterilization clinic.
- (3) A hospital, freestanding ambulatory surgery center, or sterilization clinic in which a sterilization is performed must be licensed in compliance with Massachusetts Department of Public Health regulations at 105 CMR 130.000: *Hospital Licensure* or 140.000: *Licensure of Clinics*, as applicable.

433.457: Sterilization Services: Informed Consent

A member's consent for sterilization will be considered informed and voluntary only if such consent is obtained in accordance with the requirements specified in 130 CMR 433.457(A) and (B), and such consent is documented as specified in 130 CMR 433.458.

(A) Informed Consent Requirements.

- (1) The person who obtains consent (a physician, nurse, or counselor, for example) must orally provide all of the following information and advice to the member requesting sterilization:
 - (a) advice that the member is free to withhold or withdraw consent for the procedure at any time before the sterilization without affecting the right to future care or treatment and without loss of any federal- or state-funded program benefits to which the member otherwise might be entitled;
 - (b) a description of available alternative methods of family planning and birth control;
 - (c) advice that the sterilization procedure is considered irreversible;
 - (d) a thorough explanation of the specific sterilization procedure to be performed;
 - (e) a full description of the discomforts and risks that may accompany or follow the procedure, including an explanation of the type and possible effects of any anesthetic to be used;
 - (f) a full description of the benefits or advantages that may be expected as a result of the sterilization; and
 - (g) advice that the sterilization will not be performed for at least 30 days, except under the circumstances specified in 130 CMR 433.457(B)(1).

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- (2) The person who obtains consent must also
 - (a) offer to answer any questions the member may have about the sterilization procedure;
 - (b) give the member a copy of the consent form;
 - (c) make suitable arrangements to ensure that the information and advice required by 130 CMR 433.457(A)(1) are effectively communicated to any member who is blind, deaf, or otherwise handicapped;
 - (d) provide an interpreter if the member does not understand the language used on the consent form or the language used by the person obtaining consent; and
 - (e) allow the member to have a witness of the member's choice present when consent is obtained.

(B) When Informed Consent Must Be Obtained.

- (1) A member's consent for sterilization will be considered informed and voluntary only if such consent is obtained at least 30 days, but not more than 180 days, before the date of the sterilization procedure, except in the case of premature delivery or emergency abdominal surgery. A member may consent to be sterilized at the time of a premature delivery or emergency abdominal surgery if at least 72 hours have passed since the member gave informed consent for the sterilization in the manner specified in 130 CMR 433.457. In the case of premature delivery, the informed consent must have been given at least 30 days before the expected date of delivery.
- (2) A member's consent for sterilization will not be considered informed or voluntary if such consent is obtained or given while the member requesting sterilization is
 - (a) in labor or childbirth;
 - (b) seeking to obtain or obtaining an abortion; or
 - (c) under the influence of alcohol or other substances that affect the individual's state of awareness.
- (3) Shortly before the performance of the sterilization procedure, the physician performing the procedure must orally inform the member of all of the information and advice specified in 130 CMR 433.457(A)(1).

433.458: Sterilization Services: Consent Form Requirements

Informed consent for sterilization must be documented by the completion of the MassHealth agency's Consent for Sterilization form in accordance with the following requirements.

(A) Required Consent Form.

- (1) One of the following Consent for Sterilization forms must be used:
 - (a) CS-18 – for members aged 18 through 20; or
 - (b) CS-21 – for members aged 21 and older.
- (2) Under no circumstances will the MassHealth agency accept any other consent for sterilization form.

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(B) Required Signatures. The member, the interpreter (if one was required), and the person who obtained the consent for sterilization must all sign and date the Consent for Sterilization form (CS-18 or CS-21) at the time of consent. After performing the sterilization procedure, the physician must sign and date the form.

(C) Required Distribution of the Consent Form. The Consent for Sterilization form (CS-18 or CS-21) must be completed and distributed as follows:

- (1) the original must be given to the member at the time of consent; and
- (2) a copy must be included in the member's permanent medical record at the site where the sterilization is performed.

(D) Provider Billing and Required Submissions.

(1) All providers must bill with the appropriate sterilization diagnosis and service codes, and must attach a copy of the completed Consent for Sterilization form (CS-18 or CS-21) to each claim made to the MassHealth agency for sterilization services. This provision applies to any medical procedure, treatment, or operation for the purpose of rendering an individual permanently incapable of reproducing. When more than one provider is billing the MassHealth agency (for example, the physician and the hospital), each provider must submit a copy of the completed sterilization consent form with the claim.

(2) A provider does not need to submit a Consent for Sterilization form (CS-18 or CS-21) with a claim for a medical procedure, treatment, or operation that is not for the purpose of rendering an individual permanently incapable of reproducing. If the appropriate service code used to bill for such a medical procedure, treatment, or operation may also be used to bill for a sterilization, the claim will be denied unless at least one of the following justifications is present and documented on an attachment signed by the physician and attached to the claim.

(a) The medical procedure, treatment, or operation was a unilateral procedure and did not result in sterilization.

(b) The medical procedure, treatment, or operation was unilateral or bilateral, but the patient was previously sterile as indicated in the operative notes.

(c) The medical procedure, treatment, or operation was medically necessary for treatment of an existing illness or injury and was not performed for the purpose of sterilization; or

(d) The medical procedure, treatment, or operation was medically necessary for treatment of a life-threatening emergency situation and was not performed for the purpose of sterilization, and it was not possible to inform the member in advance that it would or could result in sterilization. Include the nature and date of the life-threatening emergency.

(3) In the circumstances set forth in 130 CMR 433.458(D)(2)(a) and (c), the medical records must also document that the member consented to the medical procedure, treatment, or operation after being informed that it would or could result in sterilization.

(4) When more than one provider is billing the MassHealth agency under the circumstances specified in 130 CMR 433.458(D)(2) (for example, the physician and the hospital), each provider must submit a copy of the signed attachment along with the claim.

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433.459: Hysterectomy Services

(A) Nonpayable Services. The MassHealth agency does not pay for a hysterectomy provided to a member under the following conditions.

- (1) The hysterectomy was performed solely for the purpose of sterilizing the member.
- (2) If there was more than one purpose for the procedure, the hysterectomy would not have been performed but for the purpose of sterilizing the member.

(B) Hysterectomy Information Form. The MassHealth agency pays for a hysterectomy only when the appropriate section of the Hysterectomy Information (HI-1) form is completed, signed, and dated as specified below.

- (1) Prior Acknowledgment. Except under the circumstances specified below, the member and her representative, if any, must be informed orally and in writing before the hysterectomy operation that the hysterectomy will make her permanently incapable of reproducing. (Delivery in hand of the Hysterectomy Information (HI-1) form will fulfill the written requirement, but not the oral requirement.) Section (B) of the Hysterectomy Information (HI-1) form must be signed and dated by the member or her representative before the operation is performed, as acknowledgment of receipt of this information. Whenever any surgery that includes the possibility of a hysterectomy is scheduled, the member must be informed of the consequences of a hysterectomy, and must sign and date section (B) of the Hysterectomy Information (HI-1) form before surgery.
- (2) Prior Sterility. If the member is sterile prior to the hysterectomy operation, the physician who performs the operation must so certify, describe the cause of sterility, and sign and date section (C)(1) of the Hysterectomy Information (HI-1) form.
- (3) Emergency Surgery. If the hysterectomy is performed in an emergency, under circumstances that immediately threaten the member's life, and if the physician determines that obtaining the member's prior acknowledgment is not possible, the physician who performs the hysterectomy must so certify, describe the nature of the emergency, and sign and date section (C)(2) of the Hysterectomy Information (HI-1) form.
- (4) Retroactive Eligibility. If the hysterectomy was performed during the period of a member's retroactive eligibility, the physician who performed the hysterectomy must certify that one of the following circumstances existed at the time of the operation:
 - (a) the woman was informed before the operation that the hysterectomy would make her sterile (the physician must sign and date section (D)(1) of the HI-1 form);
 - (b) the woman was sterile before the hysterectomy was performed (the physician must sign, date, and describe the cause of sterility in section (D)(2) of the HI-1 form); or
 - (c) the hysterectomy was performed in an emergency that immediately threatened the woman's life and the physician determined that it was not possible to obtain her prior acknowledgment (the physician must sign, date, and describe the nature of the emergency in section (D)(3) of the HI-1 form).

(C) Submission of the Hysterectomy Information Form. Each provider must attach a copy of the completed Hysterectomy Information (HI-1) form to each claim form submitted to the MassHealth agency for hysterectomy services. When more than one provider is billing the MassHealth agency for the same hysterectomy, each provider must submit a copy of the completed HI-1 form.

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Part 4. Other Services

433.466: Durable Medical Equipment and Medical/Surgical Supplies: Introduction

(A) Covered Equipment. Durable medical equipment consists of products that are fabricated primarily and customarily to fulfill a medical purpose, are generally not useful in the absence of illness or injury, can withstand repeated use over an extended period of time, and are appropriate for home use. Payment for durable medical equipment and medical/surgical supplies is considered by the MassHealth agency on an individual basis.

(B) Nonpayable Services.

(1) The MassHealth agency does not pay for durable medical equipment or medical/surgical supplies that are experimental in nature, unless prior authorization has been obtained.

(2) The MassHealth agency does not pay for nonmedical equipment or supplies. Equipment that is used primarily and customarily for a nonmedical purpose is not considered medical equipment, even if such equipment has a medically related use. For example, equipment whose primary function is environmental control, comfort, or convenience, or that is provided primarily for the comfort or convenience of a person caring for the member, or that is customarily used to promote physical fitness is not covered.

(3) The MassHealth agency does not pay for durable medical equipment or medical/surgical supplies that are not both necessary and reasonable for the treatment of a member's medical condition. This includes:

(a) items that cannot reasonably be expected to make a meaningful contribution to the treatment of a member's illness or injury or to the improved functioning of a member's malformed body member; and

(b) items that are substantially more costly than a medically appropriate and feasible alternative piece of equipment or that serve essentially the same purpose as equipment already available to the member.

(4) The MassHealth agency does not pay for standard medical and surgical treatment products, goods, and health-related items provided to members who reside in hospitals, nursing facilities, or rehabilitation facilities.

433.467: Durable Medical Equipment and Medical/Surgical Supplies: Prescription Requirements

The purchase or rental of durable medical equipment and the purchase of medical/surgical supplies are payable only when prescribed in writing by a licensed physician. The equipment and repair services must be furnished by a participating MassHealth provider. The prescription must include the following information:

(A) the member's name, address, and member identification number;

(B) the specific identification of the prescribed equipment or supplies;

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- (C) the medical justification for use of the equipment or supplies;
- (D) the estimated length of time that the equipment or supplies will be used by the member;
- (E) the location in which the member will customarily use the equipment or supplies;
- (F) the physician's address and telephone number; and
- (G) the date on which the prescription was signed by the physician.

433.468: Durable Medical Equipment and Medical/Surgical Supplies: Prior-Authorization Requirements

The MassHealth agency requires that the durable medical equipment provider obtain prior authorization as a prerequisite for payment for certain durable medical equipment, including hospital beds and wheelchairs, certain durable medical equipment repair services, and certain medical/surgical supplies. The request for prior authorization must be submitted by the durable medical equipment provider on the appropriate MassHealth agency form.

433.469: Oxygen and Respiratory Therapy Equipment

(A) Nonpayable Services.

- (1) The MassHealth agency does not pay for oxygen or respiratory therapy equipment for members in acute, chronic, or rehabilitation hospitals, or in state schools.
- (2) The MassHealth agency does not pay for oxygen or respiratory therapy equipment when prescribed for emergency use or on an "as needed" basis for members residing in nursing facilities.
- (3) The MassHealth agency does not pay for respiratory therapy equipment that is investigative or experimental in nature, unless prior authorization from the MassHealth agency has been obtained.
- (4) The MassHealth agency does not pay for nonmedical equipment or supplies. Equipment that is used primarily and customarily for a nonmedical purpose is not considered medical equipment, even if such equipment has a medically related use. For example, equipment whose primary function is environmental control, comfort, or convenience is not payable.
- (5) The MassHealth agency does not pay for oxygen or respiratory therapy equipment that is not both necessary and reasonable for the treatment of a member's pulmonary condition. This includes:
 - (a) equipment or services that cannot reasonably be expected to make a meaningful contribution to the treatment of a member's pulmonary insufficiency; and
 - (b) equipment or services that are substantially more costly than a medically appropriate, feasible alternative or that serve essentially the same purpose as equipment already available to the member.

(B) Prescription Requirements. The purchase of oxygen and the purchase or rental of respiratory therapy equipment are payable only when prescribed in writing by a licensed physician. The oxygen and the respiratory therapy equipment must be provided by a participating MassHealth provider. The prescription must include the following information:

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- (1) the member's name, address, and member identification number;
- (2) the specific identification of the prescribed oxygen and equipment;
- (3) the medical justification for the use of the oxygen and equipment;
- (4) for oxygen: the prescribed liter flow rate and frequency of treatment;
- (5) for respiratory therapy equipment: the frequency of use per day;
- (6) the estimated length of time the oxygen or equipment will be used by the member;
- (7) the location in which the member will customarily use the oxygen or equipment;
- (8) the physician's address and telephone number; and
- (9) the date on which the prescription was signed by the physician.

(C) Purchases and Rentals Requiring Prior Authorization. The MassHealth agency requires that prior authorization be obtained as a prerequisite to payment for the oxygen and respiratory therapy equipment and services listed below.

- (1) Purchase of any of the following requires prior authorization:
 - (a) respiratory therapy equipment costing more than \$35.00; and
 - (b) gaseous and liquid oxygen provided more than three months after the date of the physician's initial prescription.
- (2) Rental of the following requires prior authorization:
 - (a) gaseous- and liquid-oxygen delivery systems after a rental period of three months;
 - (b) aspirators after a rental period of three months;
 - (c) nebulizers after a rental period of three months;
 - (d) intermittent positive pressure breathing (IPPB) machines after a rental period of three months;
 - (e) oxygen-generating devices; and
 - (f) all other rental equipment.

(D) Requests for Prior Authorization. Instructions for the completion of the prior-authorization form for oxygen are in Subchapter 5 of the *Physician Manual*. Before determining the medical necessity of the items or services for which prior authorization is requested, the MassHealth agency may, at its discretion, require the prescribing physician to submit an assessment of the member's pulmonary condition on a patient respiratory evaluation form supplied by the MassHealth agency.

- (1) All prior-authorization requests for oxygen and oxygen-generating devices must be accompanied by the results of an arterial blood gas analysis performed within the six weeks preceding the date of the request. This analysis should be performed while the member is in a stable chronic condition.
- (2) All prior-authorization requests for respiratory therapy equipment must be accompanied by the results of a pulmonary function test performed within the six weeks preceding the date of the request.

433.470: Transportation Services

(A) Payable Transportation. Transportation services are payable only when a member is traveling to obtain medical services that are payable by the MassHealth agency.

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(B) Service Limitations.

(1) Members must use transportation resources such as family or friends whenever possible. When personal transportation resources are unavailable, a member must use public transportation, if available in the member's locality and suitable to his or her medical condition. Private transportation is reimbursable only when public transportation suitable to the member's medical condition is unavailable.

(2) In general, the MassHealth agency pays for a member to be transported to sources of medical care only within the member's locality. Locality refers to the town or city in which the member resides and to immediately adjacent communities. However, when necessary medical services are unavailable in the member's locality, medical transportation to the nearest medical facility in which treatment is available is payable. For additional information on service limitations, see 130 CMR 407.000.

(C) Authorization.

(1) Taxi and Dial-a-Ride Transportation. Taxi and dial-a-ride transportation requires a Prescription for Taxi or Dial-a-Ride Transportation (PT-1) form, pursuant to 130 CMR 407.421(C).

(2) Ambulance and Wheelchair Van Transportation. Nonemergency ambulance and wheelchair van transportation requires that a Medicare/Medicaid Medical Necessity Form be completed, pursuant to 130 CMR 407.421(D). The Medical Necessity Form may be signed by a physician, physician's designee, physician assistant, nurse midwife, nurse practitioner, or managed-care representative. Information given on the medical necessity form must be supported by the member's medical record. Emergency ambulance trips do not require a prescription. However, the nature of the emergency must be supported by medical records at the hospital to which the member was transported.

(3) Multiple Trips. When a member must travel more than once per 30-day period to the same destination, all trips may be authorized for the 30-day period on one medical necessity form. The anticipated dates of each trip and the anticipated total number of trips must be entered on the form.

(4) Other Forms of Transportation. Other forms of transportation (for example, train, boat, and plane) are payable only if the member obtains prior authorization from the MassHealth agency.

(D) Member Reimbursement. The MassHealth agency reimburses a member directly for expenses incurred in traveling to medical services covered by MassHealth when documented in accordance with 130 CMR 407.431.

433.471: Therapy, Speech and Hearing Clinic, and Amputee Clinic Services

(A) Payable and Nonpayable Services. The MassHealth agency pays for (therapy, speech and hearing clinic, and amputee clinic services that require the skill and training of a licensed physician or a licensed therapist to reduce physical disability and to restore the member to a satisfactory functional level, or to prevent the worsening of the member's condition. The MassHealth agency does not pay for medically unnecessary or experimental services.

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(B) Physical, Occupational, and Speech Therapy.

(1) Physician Authorization.

(a) Physical and occupational therapy require a written referral from a licensed physician or licensed nurse practitioner before the member's evaluation or treatment, and prior authorization after 20 visits, including group-therapy visits. The orders for physical therapy and occupational therapy must be renewed in writing every 60 days as long as the member is undergoing treatment.

(b) Speech therapy requires the written recommendation of a licensed physician, nurse practitioner, or dentist before the member's evaluation or treatment, and prior authorization after 35 visits, including group-therapy visits.

(2) Service Restrictions.

(a) The MassHealth agency pays for the establishment of a maintenance program and the training of the member, member's family, or other persons to carry it out, as part of a regular treatment visit, not as a separate service. The MassHealth agency does not pay for performance of a maintenance program, except as provided in 130 CMR 433.471(B)(2)(b).

(b) In certain instances, the specialized knowledge and judgment of a licensed physician or licensed therapist may be required to perform services that are part of a maintenance program, to ensure safety or effectiveness that may otherwise be compromised due to the member's medical condition. At the time the decision is made that the services must be performed by a licensed physician or a licensed therapist, all information that supports the medical necessity for performance of such services by a licensed physician or licensed therapist, rather than a nonphysician or non-therapist, must be documented in the medical record.

(C) Speech and Hearing Clinic Services. The member must be examined by an ear specialist (an otologist or an otolaryngologist) before referral is made to a speech and hearing clinic approved by the MassHealth agency. If a hearing aid is indicated, a medical clearance stating that the member has no medical conditions to contraindicate the use of a hearing aid must accompany the referral.

(D) Amputee Clinic Services. An amputee clinic provides the following services: complete medical evaluation of the member's need for an artificial limb (prosthetic device); counseling concerning the use of the device; prescription of the device; referral to a certified prosthetic company; and follow-up evaluation. The MassHealth agency pays for a prosthetic device only when it is prescribed by an amputee clinic approved by the MassHealth agency.

433.472: Mental Health Services

130 CMR 433.472 describes the range of mental health services payable by the MassHealth agency.

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(A) Mental Health Center Services. It is appropriate to refer members to a mental health center when they are no longer able to maintain their level of functioning and must seek professional help. Referral for treatment in a clinic setting is appropriate when the individuals are not harmful to themselves or to others and can maintain themselves in the community even if at a diminished level of functioning.

- (1) The MassHealth agency pays for mental health center services provided by freestanding mental health centers, community health centers, hospital-licensed health centers, or hospital outpatient departments only when the MassHealth agency has certified the provider to perform mental health center services.
- (2) Mental health center services are payable only when provided by psychiatrists, psychologists, psychiatric social workers, psychiatric nurses, counselors (with a master's or doctoral degree in counseling education or rehabilitation counseling), or occupational therapists.
- (3) Mental health center services include diagnosis and evaluation, case consultation, medication, psychological testing if done by a licensed psychologist, and individual, couple, family, and group psychotherapy.

(B) Mental Health Practitioner Services. A member may be referred to a private mental health practitioner (a licensed physician or a licensed psychologist) for the same reason that the member may be referred to a mental health center. Mental health practitioners provide services that are more specialized and less comprehensive than the treatment and support services provided in mental health centers.

- (1) The only mental health practitioners who can receive direct payment by the MassHealth agency for diagnostic and treatment services are licensed physicians (see 130 CMR 433.428 and 433.429).
- (2) The MassHealth agency pays licensed psychologists only for providing psychological testing. The MassHealth agency does not pay psychologists for providing psychotherapy, even under the supervision of a psychiatrist.

(C) Psychiatric Hospital Services. When psychiatric individuals require 24-hour management because they may be harmful to themselves or to others, or if they are unable to maintain themselves in the community, inpatient psychiatric services may be appropriate.

- (1) The MassHealth agency pays for inpatient psychiatric hospitalization only when provided to:
 - (a) a member aged 65 years or older in a psychiatric hospital participating in MassHealth; or
 - (b) a member of any age in a licensed and certified general hospital with or without an inpatient psychiatric unit.
- (2) The services of an inpatient psychiatric unit include medication, individual and group therapy, milieu activities, and 24-hour observation provided by an interdisciplinary team.

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(D) Psychiatric Day Treatment Services. Some members require the structure and support of a psychiatric treatment center, but do not require the overnight care provided by hospitalization. Accordingly, the member must have a suitable place to live while attending a psychiatric day treatment program. A psychiatric day treatment program may not adequately meet the needs of actively suicidal, homicidal, severely withdrawn, or grossly confused and disoriented individuals who cannot be maintained by family or friends and who are unable to travel to such a program. The MassHealth agency pays for psychiatric day treatment services provided by freestanding mental health centers, hospital-licensed health centers, hospital outpatient departments, or other facilities only when the MassHealth agency has certified the provider to perform psychiatric day treatment services.

(130 CMR 433.473 through 433.475 Reserved)

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433.476: Alternatives to Institutional Care: Introduction

The MassHealth agency pays for ways to help elderly and disabled members remain in the community and avoid unnecessary or premature institutional placement. These include home health, adult day health, adult foster care, private duty nursing, independent living, intermediate care for the mentally retarded, and day habilitation. Decisions about institutional placement are made by the member, the member's family, the physician, and hospital continuing-care personnel. The physician's role can often be the most influential. For this reason, it is important for the physician to be aware of the alternatives to institutional long-term care. A network of community-based support services that did not exist previously in any quantity or quality is now available in many areas of Massachusetts. Only if physicians become aware of and support the use of such services will the use of institutional services be reduced.

433.477: Alternatives to Institutional Care: Adult Foster Care

(A) Program Definition. Adult foster care is designed to provide a family-like environment for an adult who otherwise would be in a level II or III nursing facility. Each foster family may care for a maximum of two participants (elderly or disabled adults). The foster family provides 24-hour supervision and assistance with such activities of daily living as bathing, dressing, and self-administration of medications. Community support is available from such organizations as certified home health agencies and adult day health programs.

(B) Physician Responsibilities.

- (1) Each member must have medical clearance prior to placement in a foster home.
- (2) The member's physician is required to provide documentation of the following: a physical examination conducted within the preceding three months; current treatment including medications and diet; and a description of any physical or emotional limitations that may preclude participation in activities.
- (3) The physician, with the certified home health agency nurses, must maintain follow-up care of the member.

433.478: Alternatives to Institutional Care: Home Health Services

(A) Program Definition. Home health agencies provide health and support services in the home for elderly and disabled persons who wish to remain in their homes rather than to enter an institution. These services are available between 8:00 A.M. and 9:00 P.M., and homemaker/home health aide services are available on a 24-hour or short-term basis. All services are available seven days a week. All home health agencies provide nursing and homemaker/home health aide services; in addition, most agencies provide physical, occupational, and speech therapy. The MassHealth agency pays only Medicare-certified home health agencies, frequently called visiting nurse associations.

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(B) Physician Responsibilities. Any physician who believes that a member needs home health services should call the home health agency directly or send written orders. A member seen by the agency must have written orders from his or her physician; these orders must be updated and recertified every 60 days.

433.479: Alternatives to Institutional Care: Private Duty Nursing Services

(A) Program Definition. A private duty nurse is a registered nurse or a licensed practical nurse who independently contracts to provide nursing services to patients who, without such services, might be institutionalized. The MassHealth agency pays for nursing care in the member's home when private duty nursing services are less costly than institutional placement, provided that the professional services are medically necessary. This program provides alternative care to home-bound members whose medical and nursing needs cannot be met by a home health agency, adult day health program, or support services.

(B) Prior Authorization Requirements. Prior authorization must be obtained from the MassHealth agency before private duty nursing services are payable. The attending physician and nurse must document the following: diagnosis, treatment plan, functional limitations, estimated length of service, and description of the member's social situation.

(C) Physician Responsibilities. The member's attending physician must sign the patient care plan documenting the medical necessity for private duty nursing services.

433.480: Alternatives to Institutional Care: Adult Day Health Services

(A) Program Definition. An adult day health program is a structured program of health care and socialization designed to meet the needs of persons who otherwise might be institutionalized. Adult day health services also enable some individuals who have been institutionalized to return to community living. Adult day health programs are based in a center and may be freestanding or located in nursing facilities or hospitals. Staff members of the program make arrangements for transportation to and from the center, depending upon community resources and the member's needs. The program offers the participant professional supervision, observation, and preventive health care including medical, therapeutic, restorative, counseling, and nutrition services. In addition, the program offers planned educational, recreational, and social activities. These services are provided to maintain the participant at his or her highest level of functioning, thereby preventing or delaying institutionalization. The program offers the participant's family relief from 24-hour supervision and caretaking. Adult day health programs also provide counseling to family caretakers to help them cope with their family situations.

(B) Physician Responsibilities.

(1) Each member accepted into an adult day health program must have a complete physical examination within the three months preceding the member's first program attendance day.

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(2) The member's physician will be expected to furnish program staff members, upon request, with the results of this physical examination; a list of current medications and treatments; any special dietary requirements; a statement indicating any contraindications or limitations to the individual's participation in program activities; and recommendations for therapy, when applicable.

(3) Each member's physician will receive a participant care plan developed by the staff members of the program for review every three months. The program's registered nurse will request that the participant care plan be reviewed and signed by the physician and returned to the program.

433.481: Alternatives to Institutional Care: Independent Living Programs

(A) Program Definition. Independent living programs teach persons with severe physical disabilities the skills to live independently, assisted by a personal care attendant. The skills may be taught in a group residential setting or individually. For those severely disabled persons who have the ability to train and manage a personal care attendant and who are living independently in the community, the program acts as a fiscal conduit to pay the personal care attendant. Participation in this program is helpful to persons to whom a lifetime of institutional or family care is unacceptable.

(B) Physician Responsibilities. The member's physician must certify that the member is:

- (1) severely physically disabled (in need of an average of four hours or more of personal care attendant services per day);
- (2) wheelchair dependent for mobility;
- (3) emotionally stable; and
- (4) medically stable (able to participate in daily living activities without requiring frequent substantial medical care).

433.482: Alternatives to Institutional Care: Intermediate Care Facilities for the Mentally Retarded (ICFs/MR)

(A) Program Definition. Community intermediate care facilities for the mentally retarded (or for persons with related conditions) are small community-based residential programs for 15 or fewer residents. There are two types of community ICFs/MR: Type A, serving participants not capable of self-preservation, and Type B, serving ambulatory and mobile nonambulatory participants capable of self-preservation. Both types of facilities provide a planned, 24-hour program of care to persons who are mentally retarded or developmentally disabled. A member who participates in a community ICF/MR must be in need of and capable of benefiting from active treatment (for example, a program of regular participation in accordance with an individual plan of care professionally developed and administered by an interdisciplinary team). Treatment is designed to increase the participant's level of functioning and to allow the participant to become as independent as possible. Participants must have the potential through active treatment to move eventually from the ICF/MR into a setting that is less restrictive.

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(B) Physician Responsibilities. The propriety of the member's placement in an ICF/MR must be certified by a physician at the time of the member's admission and recertified every 60 days. The Massachusetts Department of Mental Health regional or area office screens all potential ICF/MR residents. Physicians who believe that their patients are in need of ICF/MR services should contact the Department of Mental Health area office.

433.483: Alternatives to Institutional Care: Day Habilitation Centers

(A) Program Definition. Day habilitation centers serve persons who are mentally retarded and developmentally disabled and who need more habilitative services than are provided in less-restrictive day programs but who do not require full-time institutionalization. Day habilitation centers provide a range of intensive medical, behavioral, and therapeutic services in a culturally normative setting. The centers provide goal-oriented services that help participants reach their highest possible level of independent functioning and that facilitate the participants' moving to less-restrictive settings.

(B) Physician Responsibilities. The MassHealth agency screens and refers potential members to day habilitation centers with the Massachusetts Department of Mental Health. Any physician who believes that his or her patient would benefit from day habilitation services should contact the Department of Mental Health area office.

433.484: The Massachusetts Special Education Law (Chapter 766)

(A) Requirement of Law. Chapter 766 of the Acts of 1972 is a comprehensive special education law that requires local school agencies to develop and implement individual educational plans for children with special needs. The law mandates that every child between the ages of three and 21 who has special needs should take part in a special education program. Any child entering kindergarten must have a comprehensive health and developmental examination. Any student between the ages of three and 21 who is having school-related problems will be referred to the school's Administrator of Special Education to obtain all necessary assessments, including medical, psychological, and other specialty evaluations. Based on the results of these assessments, an individualized educational plan will be developed with an emphasis on meeting the needs of the child within the regular classroom setting. In addition, any problems that have been diagnosed must receive treatment.

(B) Payment. Many of the evaluation and treatment services required by the Special Education Law are payable by the MassHealth agency. The MassHealth agency cannot pay for services provided by school personnel. Any services not furnished by MassHealth providers, such as educational and social services, that are necessary for an eligible child's special education, will be provided or arranged for by the local school agency, as required under Chapter 766.

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(1) Individual MassHealth Providers. The MassHealth agency will pay providers for services mandated by the Special Education Law that are furnished to children who are MassHealth members. Payment will be based on the existing fee schedules. For example, the MassHealth agency will pay for a complete physical examination as required by the law for a kindergarten-aged child if the child is referred to a pediatrician or health clinic that participates in MassHealth. As required by the law, a provider who performs any assessments of eligible children after referral by an Administrator of Special Education must submit the reports to the local school agency. The provider must also take the responsibility for treatment of detected conditions.

(2) Core Evaluation Groups. The MassHealth agency will pay, at a comprehensive rate, MassHealth agency-approved interdisciplinary professional groups and MassHealth agency-approved medical facilities that perform the medical, psychological, and family assessments of a Chapter 766 full core evaluation.

REGULATORY AUTHORITY

130 CMR 433.000: M.G.L. c. 118E, §§7 and 12.