

130 CMR: DIVISION OF MEDICAL ASSISTANCE

130 CMR 484.000: ABORTION SERVICES

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484.001: Definition of Payable Abortions

(A) The MassHealth agency pays for abortion services performed in a Department of Public Health licensed clinic when provided to Medical Assistance recipients (categories of assistance 0, 1, 2, 3, 5, 6, 7, and 8) if all of the following conditions are met:

- (1) 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;
- (2) the abortion is performed in accordance with law; and
- (3) the abortion claim is made in accordance with 130 CMR 484.000.

(B) For the purposes of 130 CMR 484.000, a medically necessary abortion is one which, according to the medical judgment of a licensed physician, is necessary in light of all factors affecting the woman's health.

(C) Unless otherwise indicated, all abortions referred to in 130 CMR 484.000 are payable abortions as defined in 130 CMR 484.001(A) and (B).

(D) For information on reimbursable services for recipients of the Emergency Aid to the Elderly, Disabled and Children Program (category of assistance 4), *see* 130 CMR 450.106: *Emergency Aid to the Elderly, Disabled and Children Program*.

484.002: Assurance of Recipient Rights

No provider shall use any form of coercion in the provision of abortion services. Neither the MassHealth agency nor any provider, nor any agent or employee of a provider, shall mislead any recipient into believing that a decision to have or not to have an abortion will adversely affect her entitlement to benefits or services for which she would otherwise be eligible. The MassHealth agency has strict requirements for confidentiality of patient records for abortion services as well as for all other medical services payable under MassHealth.

484.003: Participation by MassHealth Agency Staff

Any employee or agent of the MassHealth agency who objects on moral or religious grounds to participation in the furnishing of information or other assistance concerning abortion services to recipients, and who reports such objection to his or her superiors, shall not be required to

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participate in such activities. The refusal thereafter of such person to participate in such activities shall not form the basis for any disciplinary or recriminatory action against such person.

484.004: Provider Certification Requirements

(A) Ambulatory Abortion Clinic. An ambulatory abortion clinic must be licensed by the Massachusetts Department of Public Health in compliance with the clinic licensure rules and regulations. In order to receive payment from the MassHealth agency, an ambulatory abortion clinic must be enrolled as a participating provider in the Medical Assistance Program.

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(B) Hospital. A hospital in which abortions are performed must be licensed by the Massachusetts Department of Public Health in compliance with the hospital licensure rules and regulations. In order to receive payment from the MassHealth agency, a hospital must be enrolled as a participating provider in the Medical Assistance Program.

(C) Physician. In order to receive payment from the MassHealth agency for abortion services, a physician must be enrolled as a participating provider in the Medical Assistance Program.

484.005: Reimbursable Abortion-related Services

(A) The MassHealth agency will reimburse providers for the following abortion-related services when they are provided in conjunction with a payable abortion procedure:

- (1) pre-operative evaluation and examination;
- (2) pre-operative counseling;
- (3) laboratory services, including pregnancy testing, blood type, and Rh factor;
- (4) Rh<sub>0</sub> (D) immune globulin (human);
- (5) anesthesia (general or local);
- (6) post-operative care;
- (7) follow-up; and
- (8) advice on contraception or referral to family planning services.

(B) Reimbursement for all of the above abortion-related services, with the exception of Rh<sub>0</sub> (D) immune globulin (human), is included in the all-inclusive abortion fees for ambulatory abortion clinics, as established by the Massachusetts Center for Health Information and Analysis. For other providers (*i.e.*, physicians, hospitals, and outpatient departments), the MassHealth agency shall make payment for any of the above abortion-related services in accordance with the fee schedule appropriate to the provider's category (*see* 130 CMR 484.010).

484.006: Report Requirement

(A) Completion of the Certification for Payable Abortion (CPA-2) Form. All providers (*i.e.*, physicians, hospitals, outpatient departments, and ambulatory abortion clinics), must complete a Certification for Payable Abortion (CPA-2) form and retain the form in the member's record. 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 484.006(A)(1), (2), and (3) when applicable. For all medically necessary abortions not included in 130 CMR 484.008(A)(1), (2), or (3), the certification described in 130 CMR 484.008(A)(4) is required on the CPA-2 form. The provider must indicate on the CPA-2 form which of the following circumstances is applicable, and shall 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 his or her 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 is not an "interested physician," defined herein as one:

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- (a) whose income is directly or indirectly affected by the fee paid for the performance of the abortion; or
- (b) 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.

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(3) Victim of Rape or Incest. The provider is responsible for retaining 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 which 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 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 484.008(A)(1), (2), and (3), the abortion performed was necessary in light of all factors affecting the mother's health.

(B) Availability of Certification for Payable Abortion (CPA-2) Form. A provider may obtain a supply of the Certification for Payable Abortion (CPA-2) form from:

Unisys  
ATTN: Forms Distribution  
P.O. Box 9101  
Somerville, MA 02145

484.007: Out-of-state Abortions

(A) A facility located outside of Massachusetts is eligible to receive reimbursement for abortion services provided to Massachusetts recipients only if it is licensed by the governing or licensing agency in its state to perform abortions. An out-of-state facility must obtain a Massachusetts Medical Assistance provider number before it may receive such reimbursement from the MassHealth agency.

(B) The MassHealth agency will pay for a non-emergency abortion performed in an out-of-state facility only if it is a payable abortion and if prior authorization has been requested from and granted by the MassHealth agency.

(1) The recipient or a referral agency may request prior authorization by telephone or in writing. The request should be made to: MassHealth, Prior Authorization Unit, ATTN: Prior Authorization, 100 Hancock Street, 6th Floor, Quincy, MA, 02171 (800) 862-8341. The facility may also make the prior-authorization request.

(2) If the MassHealth agency grants a prior-authorization request, it will issue a prior authorization slip directly to the out-of-state facility. In order to receive payment for an out-of-state abortion which requires prior authorization, the facility must attach the authorized prior approval slip to the claim form.

(3) The MassHealth agency will grant a prior-authorization request only when the abortion service needed by the recipient is not available in a Massachusetts facility.

(C) Consistent with regulations governing other aspects of the Medical Assistance Program, the MassHealth agency grants an exception to the prior-authorization requirement for recipients who live in communities near the borders of the states of Connecticut, New Hampshire, New York, Rhode Island, or Vermont. Such recipients may seek abortion services at facilities in these states

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when the location of the out-of-state facility is closer to the recipient's residence than the nearest Massachusetts abortion facility which provides equivalent services and which is eligible to participate in the Medical Assistance Program.

484.008: Reimbursement for Services

A provider of abortion services claiming reimbursement from the MassHealth agency must bill according to the fee schedule appropriate to its provider category.

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484.009: Billing

Refer to 130 CMR 450.000: *Administrative and Billing Regulations* for billing regulations applicable to all providers. Providers of abortion services must bill the MassHealth agency on the appropriate claim form, in accordance with the billing instructions.

REGULATORY AUTHORITY

130 CMR 484.000: M.G.L. c. 118E, §§ 7 and 12.