

114.3 CMR: DIVISION OF HEALTH CARE FINANCE AND POLICY

114.3 CMR 55.00: FREESTANDING BIRTH CENTER SERVICES

Section

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55.01: General Provisions

(1) Scope, Purpose and Effective Date. 114.3 CMR 55.00 governs the rates of payment to eligible freestanding birth centers to be used by all Governmental Units for services provided to Publicly-aided Individuals. 114.3 CMR 55.00 shall be effective October 5, 2011.

(2) Coverage. 114.3 CMR 55.00 and the rates of payment contained in 114.3 CMR 55.00 are full compensation for the Facility Component of services furnished in connection with prenatal, labor, delivery, newborn nursery and postpartum care for low risk births that can be performed safely in a freestanding birth center under the scope of covered services and that meet the conditions for payment for such services by the governmental purchaser. Payment from any other sources shall be used to offset the amount of the purchasing Governmental Unit's obligation for services rendered to the Publicly-aided Individuals. 114.3 CMR 55.00 does not cover professional services billed separately from the birth center facility fee by either the facility or by the clinical staff.

(3) Disclaimer of Authorization of Services. 114.3 CMR 55.00 is not authorization for or approval of the procedures for which rates are determined pursuant to 114.3 CMR 55.00. Governmental Units that purchase care are responsible for the definition, authorization, and approval of care and services extended to Publicly-aided Individuals.

(4) Coding Updates and Corrections. The Division may publish procedure code updates and corrections in the form of an Administrative Bulletin. Updates may reference coding systems including but not limited to the American Medical Association's *Current Procedural Terminology* (CPT). The publication of such updates and corrections will list:

- (a) codes for which only the code numbers change, with the corresponding cross references between existing and new codes;
- (b) codes for which the code number remains the same but the description has changed;
- (c) deleted codes for which there are no corresponding new codes; and
- (d) codes for entirely new services that require pricing. The Division will list these codes and apply individual consideration (I.C.) payment for these codes until appropriate rates can be developed.

(5) Administrative Bulletins. The Division may issue administrative bulletins to clarify its policy on and understanding of substantive provisions of 114.3 CMR 55.00.

(6) Authority. 114.3 CMR 55.00 is adopted pursuant to M.G.L. c.118G.

55.02: Definitions

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Meaning of Terms. The descriptions and five-digit codes included in 114.3 CMR 55.00 utilize the Healthcare Common Procedure Code System (HCPCS) for Level I and Level II coding. Level 1 CPT-4 codes are obtained from the Physicians' *Current Procedural Terminology*® 2011 by the American Medical Association, unless otherwise specified. Level II codes are obtained from 2011 HCPCS maintained jointly by the Centers for Medicare and Medicaid Services (CMS), the Blue Cross and Blue Shield Association, and the Health Insurance Association of America. HCPCS is a listing of descriptive terms and identifying codes and modifiers for reporting medical services and procedures performed by physicians and other healthcare professionals, as well as associated non-physician services. 114.3 CMR 55.00 includes only HCPCS numeric and alpha-numeric identifying codes and modifiers for reporting medical services and procedures that were selected by the Division. Any use of CPT outside the fee schedule should refer to the Physicians' *Current Procedural Terminology*® 2011.

In addition, terms used in 114.3 CMR 55.00 shall have the meanings set forth in 114.3 CMR 55.02.

Certified Nurse-midwife (CNM). A registered professional nurse who has completed a program of study and clinical experience for nurse midwives, and is authorized by the Board of Registration in Nursing to practice as a nurse midwife, whose eligibility is limited to those procedures specified by the government unit purchasing such services, and who also meets such conditions of participation as may have been or may be adopted from time to time by a government unit.

Clinical Staff. The physician, certified nurse-midwife, nurse practitioner, registered nurse, licensed practical nurse and other licensed health care practitioners appointed by the governing authority to practice within the birthing center and governed by rules approved by the governing body.

Division. The Division of Health Care Finance and Policy established under M.G.L. c.118G.

Facility Component. Rate of payment for a freestanding birth center's Facility Component costs. The Facility Component does not include payment for physician, certified nurse-midwife or nurse practitioner services in performing a procedure or service. The Facility Component does include payment for the services of other clinical staff, e.g., registered nurses and licensed practical nurses. The Facility Component also includes payment for the component of a service or procedure representing the cost of rent, equipment, utilities, supplies, drugs and biologicals, clinical laboratory services, malpractice insurance, administrative and technical salaries and benefits, all related administrative or supervisory duties performed in connection with the provision of the service or procedure, and all other overhead expenses of the service or procedure.

Freestanding. Existing independently or physically separated from another health care facility and administered by separate staff with separate records.

Freestanding Birth Center (FBC). A health facility not operated under a hospital license that is licensed by DPH as a birth center, pursuant to 105 CMR 142.000.

Governmental Unit. The Commonwealth of Massachusetts or any of its departments, agencies, boards, commissions or political subdivisions.

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Individual Consideration (I.C.). Freestanding facility services which are authorized but not listed in 114.3 CMR 55.00, and FBC services performed in unusual circumstances and services whose fees are designated by the letters "I.C." are individually considered items. The Governmental Unit or purchaser shall analyze the Eligible Provider's operative report which shall contain a diagnosis, a pertinent medical history, a description of the services rendered and the length of time spent with the patient. In making the determination of whether the service is appropriately classified as an individually considered item the following criteria shall be used:

- (a) policies, procedures and practices of other third party purchasers of care, both governmental and private;
- (b) the severity and complexity of the patient's disorder or disability;
- (c) prevailing provider ethics and accepted practice;
- (d) time, degree of skill, and cost including equipment cost required to perform the procedure(s).

Modifiers. Listed services may be modified under certain circumstances. When applicable, the modifying circumstances should be identified by the addition of the appropriate two digit number or letters.

Publicly-aided Individual. A person who receives health care and services for which a Governmental Unit is in whole or in part liable under a statutory program of public assistance.

55.03: General Rate Provisions and Payment

- (1) **Rate Determination.** Rates of payment for the Facility Component of authorized freestanding birth center facility services to which 114.3 CMR 55.00 applies shall be the lower of:
 - (a) the Eligible Provider's usual charge to the general public, or
 - (b) the schedule of allowable rates set forth in 114.3 CMR 55.03(5).
- (2) **Individual Consideration and Non-listed Procedures.** Rates of payment for freestanding birth center services which are authorized but not listed herein; services performed in unusual circumstances; and services whose fees are designated by the letters "I.C." shall be determined on an Individual Consideration basis.
- (3) **Terminated Procedures.** The purchaser shall determine payment on an individual consideration (I.C.) basis for any procedure that has been terminated after the procedure has been initiated.
- (4) **Services and Payments Covered Under Other Regulations.** Rules and payment rates for professional services of physicians, certified nurse-midwives and nurse practitioners performed in freestanding birth centers are contained in other Division regulations listed below.

Regulation Title	Regulation Number
Surgery and Anesthesia	114.3 CMR 16.00
Medicine	114.3 CMR 17.00
Radiology	114.3 CMR 18.00

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(5) Fee Schedule.

HCPCS Code	Fee	Description
59400-TC	\$2,715.41	Routine obstetric care including ante-partum care, vaginal delivery (with or without episiotomy, and/or forceps) and postpartum care. (Payment for the mother's length of stay for an all-inclusive global facility obstetrical service without use of forceps).
99460-TC	\$766.71	Initial hospital or birthing center care, per day, for evaluation and management of normal newborn infant. (All inclusive global facility payment for newborn's length of stay).
S4005	I.C.	Interim labor facility global (labor occurring but not resulting in delivery). (Global facility payment for pre-partum services when delivery occurs at another facility).

55.04: Reporting Requirements

- (1) Required Reports. Upon request of the Division, each provider within 90 days following the end of its fiscal year, shall forward to the Division a complete and accurate cost report and certified financial statements. The provider shall also make available within 30 days all records and books relating to said operations, including such data, statistics, and records as the Division may from time to time request.
- (2) Extension of Filing Date. The Division may grant an extension of time for the submission of cost reports or other information, data or statistics upon written request from the provider demonstrating that good cause exists for such an extension.
- (3) Failure to File Timely Reports. The Division may reduce the payment rates by 15% for any Provider that fails to submit required information. The Division will notify the Provider in advance of its intention to impose a rate reduction. The rate reduction will remain in effect until the Division receives the required information.

55.05: Severability

The provisions of 114.3 CMR 55.00 are severable, and if any provision of 114.3 CMR 55.00 or application of such provision to any freestanding birth center facility or any circumstances shall be held to be invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions to eligible freestanding birth center facilities or circumstances other than those held invalid.

REGULATORY AUTHORITY

114.3 CMR 55.00: M.G.L. c. 118G.