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NOTICE OF PUBLIC HEARING

Pursuant to the provisions of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, the Executive Office of Health and Human Services (EOHHS) will hold a public hearing on Wednesday, December 13, 2017, at 1:00 p.m. in the First Floor Conference Room, 100 Hancock Street, Quincy, MA relative to the adoption of:

101 CMR 322.00: Durable Medical Equipment, Oxygen, and Respiratory Therapy Equipment

and the repeal of:

114.3 CMR 22 .00: Durable Medical Equipment, Oxygen, and Respiratory Therapy Equipment

The proposed adoption of 101 CMR 322.00: Durable Medical Equipment and Supplies (DME), Oxygen, and Respiratory Therapy Equipment (OXY) and the corresponding rescission of 114.3 CMR 22.00: Durable Medical Equipment and Supplies, Oxygen, and Respiratory Therapy Equipment are proposed to satisfy the requirements of M.G.L. c. 118E, Section 13D and the statutory transfer of rate setting authority from the Division of Health Care Finance and Policy to EOHHS.

The proposed regulation, 101 CMR 322.00, amends and updates the payment rates for DME and OXY services provided to publicly aided individuals by governmental units. Specifically, the proposed amendments:

- codify and clarify policy including updates implemented through the Administrative Bulletin (AB) process through August 2017, and transfer cost reporting provisions to 957 CMR 6.00;
- update components of the pricing methodology and ensure consistency in pricing of similar items, and generally rebase the rates that are based on Medicare rates to 2016 Medicare rates;
- maintain consistency with federal Medicaid definitions, capped rental categories and requirements for access and adequacy of rates;
- provide authority to establish differential rates via AB where EOHHS has procured a preferred supplier for suppliers of certain DME and to incorporate preferred supplier pricing for DME available to eligible MassHealth-enrolled DME providers;



- provide authority to establish differential rates via AB for any DME subject to a rebate agreement or agreements between EOHHS and manufacturers;
- provide authority to price designated equipment and supplies at 100% of Medicare or AAC plus the standard markup rather than at a percentage of Medicare rates; and
- update the list of modifiers.

The proposed effective date of the regulations is February 23, 2018.

EOHHS is proposing these changes and amendments to ensure that payments are consistent with efficiency, economy, and quality of care. EOHHS anticipates that annual aggregate MassHealth expenditures will decrease by approximately \$2.2 million as result of these amendments. There is no anticipated fiscal impact on cities and towns. The amendments are not anticipated to impose new costs on small businesses, and any impact on small business providers will vary based on the volume of services provided.

Individuals who notify EOHHS of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers may notify EOHHS of their intention to testify at the hearing by registering online at www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html. Individuals may also submit written testimony by emailing ehs-regulations@state.ma.us. Please submit electronic testimony as an attached Word document or as text within the body of the email with the name of the regulation in the subject line. All submissions must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6th Floor, Quincy, MA 02171. Written testimony must be submitted by 5:00 p.m. on December 13, 2017. EOHHS specifically invites comments as to how the amendments may impact beneficiary access to care.

All persons desiring to review the current draft of the proposed actions may go to www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html or request a copy in writing or in person from MassHealth Publications, 100 Hancock Street, 6th Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at ADAAccommodations@state.ma.us or by phone at 617-847-3468 (TTY: 617-847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a revised version of the proposed actions taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at www.mass.gov/masshealth.

November 22, 2017