

957 CMR: CENTER FOR HEALTH INFORMATION AND ANALYSIS

957 CMR 3.00: ASSESSMENT ON ACUTE HOSPITALS, AMBULATORY SURGICAL CENTERS,
AND PHARMACY BENEFIT MANAGERS

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3.01: General Provisions

- (1) Scope and Purpose. 957 CMR 3.00 governs payments to the Center for Health Information and Analysis from certain Acute Hospitals, Ambulatory Surgical Centers, and Pharmacy Benefit Managers.
- (2) Applicability. 957 CMR 3.00 applies to Acute Hospitals, Ambulatory Surgical Centers, and Pharmacy Benefit Managers, as defined by this regulation.
- (3) Authority. This regulation is issued pursuant to M.G.L. c. 12C, including but not limited to, §§ 3, 5, 7, and 11.

3.02: Definitions

All defined terms in 957 CMR 3.00 are capitalized. Any other term used in this regulation but not defined herein shall have the meaning given to the term by M.G.L. c. 12C, other CHIA regulations, or Sub-Regulatory Guidance.

As used in 957 CMR 3.00, unless the context requires otherwise, the following words shall have the following meanings:

Acute Hospital. The teaching hospital of the University of Massachusetts Medical School and any acute hospital licensed under M.G.L. c. 111, § 51 that contains a majority of medical-surgical, pediatric, obstetric and maternity beds, as defined by the Department of Public Health; provided, however, that state institutions and acute hospitals operated by a city or town are not subject to assessment under 957 CMR 3.00.

Adjudicatory Proceeding. A proceeding before an agency in which the legal rights, duties or privileges of specifically named persons or entities are required by constitutional right or by any provision of the General Laws to be determined after an opportunity for an agency hearing.

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Ambulatory Surgical Center. Any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and meets the U.S. Centers for Medicare and Medicaid Services (CMS) requirements for participation in the Medicare Program.

Carrier. An insurer licensed or otherwise authorized to transact accident or health insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health maintenance organization organized under chapter 176G; and an organization entering into a preferred provider arrangement under chapter 176I, but not including an employer purchasing coverage or acting on behalf of its employees or the employees of 1 or more subsidiaries or affiliated corporations of the employer; provided that, unless otherwise noted, the term “carrier” shall not include any entity to the extent it offers a policy, certificate or contract that provides coverage solely for dental care services or vision care services.

CHIA or Center. The Center for Health Information and Analysis as established under M.G.L. c. 12C.

Center Expenses. The amount appropriated by the general court for the expenses of the Center and an amount equal to the cost of fringe benefits and indirect expenses, as established by the Office of the Comptroller, minus amounts collected from:

- (a) filing fees;
- (b) fees and charges generated by the Center’s publication or dissemination of reports and information; and
- (c) federal matching revenues received for these expenses or received retroactively for expenses of predecessor agencies.

Claims Subject to Assessment. For purposes of 957 CMR 3.04, claims paid by the Pharmacy Benefit Manager on behalf of carriers for pharmaceutical benefits attributed to residents of the Commonwealth are subject to assessment.

Division. The Division of Insurance established under M.G.L. c. 26.

Gross Patient Service Revenue (GPSR). The total dollar amount of an Acute Hospital’s or Ambulatory Surgical Center’s charges for services rendered in a fiscal year.

MassHealth. The medical assistance program administered by the Executive Office of Health and Human Services Office of Medicaid pursuant to M.G.L. c. 118E and in accordance with Titles XIX and XXI of the Federal Social Security Act, and a Section 1115 Demonstration Waiver.

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Medicare Program. The medical insurance program established by Title XVIII of the Social Security Act.

Payment. A check, draft or other paper instrument, an electronic fund transfer, or any order, instruction, or authorization to a financial institution to debit one account and credit another.

Pharmacy Benefit Manager. An entity defined as such in M.G.L. c. 176Y § 1.

Presiding Officer. The individual(s) authorized by law or designated by the Center to conduct an Adjudicatory Proceeding.

Provider. Any person, corporation partnership, governmental unit, state institution or any other entity qualified under the laws of the Commonwealth of Massachusetts to perform or provide health care services.

Provider Organization. Any corporation, partnership, business trust, association or organized group of persons, which is in the business of health care delivery or management, whether incorporated or not that represents one or more health care providers in contracting with carriers for the payments of health care services, including but not limited to, physician organizations, physician-hospital organizations, independent practice associations, provider networks, accountable care organizations and any other organization that contracts with carriers for payment for health care services.

Sub-Regulatory Guidance. An Administrative Bulletin, notice, manual, guide, or other document, including the *Data Submission Guide* or *Data Specification Manual*, that specifies deadlines, technical submission requirements, or contains methodological explanations and examples to facilitate understanding of and compliance with adopted regulations.

3.03: Acute Hospital and Ambulatory Surgical Center Assessment

- (1) General. The Center shall establish an assessment on all Acute Hospitals and Ambulatory Surgical Centers.
- (2) Calculation of the Acute Hospital and Ambulatory Surgical Center Assessment Percentage. Using the best information available, as determined by the Center, the Center shall calculate an assessment percentage for each Acute Hospital and Ambulatory Surgical Center by dividing each entity's individual GPSR for the most recent fiscal year for which complete data was reported to the Center by the total of all such GPSR reported by all Acute

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Hospitals and Ambulatory Surgical Centers in the same fiscal year.

- (3) Hospital and Ambulatory Surgical Center Assessment Liability. The assessment liability for each Acute Hospital and Ambulatory Surgical Center is the product of:
 - (a) the assessment percentage as determined in 957 CMR 3.03(2); and
 - (b) $\frac{4}{10}$ (four tenths) of Center Expenses.

- (4) Payment Process.
 - (a) Unless otherwise specified, each Acute Hospital and Ambulatory Surgical Center shall make a preliminary payment to the Center on October 1st of each year in an amount equal to $\frac{1}{2}$ (one half) of the Acute Hospital's or Ambulatory Surgical Center's previous year's total assessment.
 - (b) Each Acute Hospital and Ambulatory Surgical Center shall pay the balance of its total assessment within 30 days after receiving notice from the Center.
 - (c) The Center shall, using the best information available as determined by the Center, adjust the assessment to account for any variation in actual Center Expenses and any changes in Acute Hospital or Ambulatory Surgical Center gross patient service revenues.
 - (d) All assessment payments must be payable to the Commonwealth of Massachusetts in United States dollars and drawn on a United States bank.
 - (e) All assessment payments shall be made in the form, manner, and format prescribed by the Center, which may include payment through a centralized electronic or online payment portal designated by the Center. The Center may modify or update the required payment method from time to time upon notice to Acute Hospitals and Ambulatory Surgical Centers.

3.04: Pharmacy Benefit Manager Assessment

- (1) General. The Center shall establish an assessment on all Pharmacy Benefit Managers licensed pursuant to M.G.L. c. 176Y.

- (2) Calculation of the Pharmacy Benefit Manager Assessment Percentage. Using the best information available, as determined by the Center, the Center shall calculate an assessment percentage for each Pharmacy Benefit Manager by dividing the Pharmacy Benefit Manager's Claims Subject to Assessment from the most recent fiscal year for which complete data was reported to the Center or the Division by the total of all such claims paid by all Pharmacy Benefit Managers in the same fiscal year.

- (3) Pharmacy Benefit Manager Assessment Liability. The assessment liability for each Pharmacy Benefit Manager is the product of:

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- (a) the Pharmacy Benefit Manager assessment percentage as determined in 957 CMR 3.04(2); and
 - (b) $\frac{1}{10}$ (one tenth) of Center Expenses.
- (4) Payment Process.
- (a) Unless otherwise specified, each Pharmacy Benefit Manager shall make a preliminary payment to the Center on October 1st of each year in an amount equal to $\frac{1}{2}$ (one half) of the Pharmacy Benefit Manager's previous year's total assessment.
 - (b) Each Pharmacy Benefit Manager shall pay the balance of its total assessment within 30 days after receiving notice from the Center.
 - (c) The Center shall, using the best information available as determined by the Center, adjust the assessment to account for any variation in actual Center Expenses.
 - (d) All assessment payments must be payable to the Commonwealth of Massachusetts in United States dollars and drawn on a United States bank.
 - (e) All assessment payments shall be made in the form, manner, and format prescribed by the Center, which may include payment through a centralized electronic or online payment portal designated by the Center. The Center may modify or update the required payment method from time to time upon notice to each Pharmacy Benefit Manager.

3.05: Data Submission Procedures

- (1) General.
- (a) Each Acute Hospital, Ambulatory Surgical Center, and Pharmacy Benefit Manager shall file or make available information that is required or that the Center deems reasonably necessary for calculating and collecting the assessment.
 - (b) By June 30 of each year, each Acute Hospital and Ambulatory Surgical Center shall file a report with the Center that documents its GPSR for the preceding fiscal year.
- (2) Sub-Regulatory Guidance. CHIA will issue Sub-Regulatory Guidance to clarify its requirements, policies, and procedures, including data submission procedures, under 957 CMR 3.00 and to set forth additional details about the financial data and information required to be submitted pursuant to 957 CMR 3.00.

CHIA may also issue Sub-Regulatory Guidance to specify or amend data and information required to be submitted; to specify or amend the procedures for

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submitting data and information; and to specify or amend the timeframes for submitting data and information.

- (3) Amended Data Submissions. An entity required to submit data or information pursuant to 957 CMR 3.00 may amend such submissions, subject to the approval of CHIA, upon notice of the proposed amended data submissions, and the reasons for such changes. Amended data submissions shall be made in accordance with the procedures provided in Sub-Regulatory Guidance.
- (4) Data Review, Verification, and Resubmission. If necessary, an entity required to submit data or information pursuant to 957 CMR 3.00 may be required to review, verify, or resubmit certain data and information previously submitted. CHIA will notify an entity of when such data and information must be reviewed, verified, or resubmitted and will provide to the applicable entity such data and information, or summary reports of such data and information, for review, verification, or resubmission.
- (5) Additional Documentation. The Center may request that an entity required to submit data or information pursuant to 957 CMR 3.00 submit additional documentation related to reported data and information through Sub-Regulatory Guidance or by written request.
- (6) Accuracy. Each entity required to submit data or information pursuant to 957 CMR 3.00 (i) certifies that an authorized representative of the entity submitted information and data to the Center, and (ii) attests that information and data submitted to the Center is true, correct, and complete.
- (7) Mergers. Each Acute Hospital, Ambulatory Surgical Center, and Pharmacy Benefit Manager shall submit data or information required by 957 CMR 3.00 for newly merged entities in accordance with Sub-Regulatory Guidance. CHIA must approve any organizational reporting structure change prior to implementation. The entity shall notify CHIA in writing of any organization ID change and obtain CHIA's approval prior to submitting data.
- (8) Extension Requests for Data or Information. CHIA may grant, for good cause, an extension in time for reporting data or information to an entity required to submit data or information pursuant to 957 CMR 3.00.
- (9) Notification to Health Policy Commission and Department of Public Health. The Center is required by M.G.L. c. 12C § 11 to notify the Health Policy Commission and the Department of Public Health if a Provider or Provider Organization has failed to timely report required data or information.

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3.06: Special Provisions

- (1) Transfer of Ownership. All liabilities to the Center by an Acute Hospital, Ambulatory Surgical Center, or Pharmacy Benefit Manager shall, in the case of a transfer of ownership, be assumed by the successor.
- (2) Debt Collection. If an Acute Hospital, Ambulatory Surgical Center, or Pharmacy Benefit Manager maintains an outstanding liability to the Center for more than 120 days, the Center will pursue all legal remedies available, including those under M.G.L. c. 7A, § 3.

3.07: Penalties

The Center will provide written notice to Acute Hospitals, Ambulatory Surgical Centers, and Pharmacy Benefit Managers that fail to comply with the reporting deadlines established in 957 CMR 3.00.

- (1) The Center will notify Acute Hospitals, Ambulatory Surgical Centers, and Pharmacy Benefit Managers that failure to respond within two weeks of the written notice, without just cause, may result in penalties. In accordance with M.G.L. c. 12C, § 11, Acute Hospitals, Ambulatory Surgical Centers, and Pharmacy Benefit Managers may be subject to a penalty of up to \$25,000 per week for each week that they fail to provide the required data and information.
- (2) Any remedy available under 957 CMR 3.07 is in addition to other sanctions and penalties that may apply under the provisions of other statutes and regulations.
- (3) Acute Hospitals, Ambulatory Surgical Centers, and Pharmacy Benefit Managers that fail to comply with the requirements of 957 CMR 3.00 will be subject to all penalties and remedies allowed by law and the Center will take all necessary steps to enforce 957 CMR 3.07, including a petition to the Superior Court for an order enforcing the same.
- (4) Before assessing a penalty, the Center shall notify the Acute Hospital, Ambulatory Surgical Center, or Pharmacy Benefit Manager that has failed to comply with the requirements of 957 CMR 3.00 that it has the right to request a hearing in accordance with M.G.L. c. 30A, § 10.
- (5) If a hearing is timely requested in writing, the Center, including through a Presiding Officer, will conduct the hearing in accordance with 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*. After the hearing,

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the Center shall render a written decision and may assess a civil penalty pursuant to 957 CMR 3.07(1).

- (6) After the issuance of a final decision, except where any provision of law precludes judicial review, an Acute Hospital, Ambulatory Surgical Center, or Pharmacy Benefit Manager aggrieved by such final decision may seek judicial review thereof in accordance with M.G.L. c. 30A, § 14.

3.08: Severability

The provisions of 957 CMR 3.00 are severable. If any provision or the application of any provision is held to be invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 957 CMR 3.00 or the application of such provisions.

REGULATORY AUTHORITY

957 CMR 3.00: M.G.L. c. 12C