

February 22, 2016

Secretary Sudders
Secretary of Executive Office of Health and Human Services
Executive Office of Health and Human Services
One Ashburton Place, 11th Floor
Boston, MA 02108

Dear Secretary Sudders,

The Acupuncture and Oriental Medicine Society of Massachusetts is pleased to see that Office of Medicaid has instituted regulatory changes that recognize the important role that acupuncture can play in improving healthcare quality and reducing healthcare costs for MassHealth participants. We believe that these changes are in the interest of patients and healthcare providers and support these regulations.

While strongly supporting the intent of these regulations, we do believe that licensed acupuncturists in the Commonwealth could more effectively meet the intent of the regulations by being permitted to provide care within the scope of their practice, and for the services proposed in the regulations, without a mandated supervisory relationship with a physician. Acupuncturists have never had mandated supervision in Massachusetts and it is unclear why this provision was included or what purpose it would serve.

Acupuncturists in Massachusetts are licensed by the Board of Registration in Medicine; the same board that licenses physicians. The conditions of their licensure mandate a minimum of 2500 hours of classroom and clinical training. We are highly professionalized and regulated health care practitioners. Our efficacy is well documented in the scientific literature. The widespread incorporation of acupuncture techniques in military and civilian health care in the U.S. and in Europe lend practical evidence to the literature.

We feel it is imperative that acupuncturists be eligible to treat MassHealth participants in clinical settings such as community health centers and hospitals without being placed under the direct supervision of a physician and that they should be able to receive direct reimbursement from MassHealth for covered services. We also feel that acupuncturists should be able to provide care to MassHealth participants in their own offices and to be able to receive reimbursements in that clinical setting as well.

The Acupuncture and Oriental Medicine Society of Massachusetts respectfully requests that the Division of Medicaid make the following changes in the current MassHealth regulations. We also request a meeting with you or Assistant Secretary Tsai to discuss these changes:

- Strike 130 CMR 405.474(E)(3)
- Strike the language “under the supervision of a physician” in 130 CMR 405.474(F)(1)
- Strike 130 CMR 410.438(E)(3)
- Strike the language “under the supervision of a physician” in 130 CMR 410.438(F)(1)

- Insert after the words “services performed”, the following : “licensed practitioner” in 130 CMR 410.438(F)(2)
- Strike 130 CMR 433.440(E)(3)
- Strike the language “under the supervision of a physician” in 130 CMR 433.440(F)(1)
- Insert after the words “independent nurse practitioner licensed in acupuncture”, the following : “licensed acupuncturists” in 130 CMR 433.440(F)(2)

In addition, we suggest the insertion of the following new section creating a category for acupuncture services, including a definition of acupuncture consistent with the currently proposed regulations, provisions for reimbursement, and other language as needed. Please see sample language below to indicate AOMSM intent:

130 CMR 485 – Acupuncture Services

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.

485.440: 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).

(B) General. 130 CMR 485.440 applies specifically to 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 et seq.

(E) Conditions of Payment. The MassHealth agency pays licensed acupuncturists 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 et seq); and;

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

(F) Acupuncture Claims Submissions.

(1) Licensed acupuncturists 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 provides those services directly to MassHealth members.

Sincerely,

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Lexi Neuman Acupuncture Student

cc: Governor Charles Baker

Daniel Tsai, Assistant Secretary, Director of MassHealth