

Testimony regarding 130 CMR 508.000 MassHealth: Managed Care Requirements

Submitted via email to masshealthpublicnotice@mass.gov

October 3, 2027

Dear Friends,

These comments are submitted on behalf of the Massachusetts Law Reform Institute concerning proposed amendments to the regulations at 130 CMR 508.000 and supplement my oral testimony at this morning's public hearing. Thank you for the opportunity to comment.

508.001 Member Participation in Managed Care

The amendment to (D) updates the name of the ICO Plan to the One Care Plan. However, the ICO name is still used in the 610.000 Fair Hearing regulations and the 501.001 Definitions. To avoid confusion until the 610.000 and 501.001 regulations are amended with the new name, MLRI recommends that you add language to 508.001 that all references to the ICO in 130 CMR are references to One Care.

The amendments to (E) regarding the Behavioral Health Contractor delete the requirement that certain members of the Money Follow the Person HCBS waiver program enroll with the Contractor. We have no comment on this change provided that our understanding of the remaining rules is correct. We read the remaining rules as providing that all HCBS waiver participants can voluntarily enroll with managed care providers if otherwise eligible to enroll, and that all children and youth under 21 who are not eligible to enroll with managed care providers are able to enroll with the Behavioral Health Contractor. This is necessary to ensure that children and youth under 21 who are eligible for services in the Children's Behavioral Health Initiative (CBHI) are able to access those CBHI services that are only available in managed care. The Money Follows the Person waiver as well as the Acquired Brain Injury waiver and the waiver for Children with Autism all include children or young adults under 21 who may be eligible for CBHI.

508.002 MH Members Excluded from Managed Care

In subsection (A) (3) members 65 or older are excluded from managed care providers. The amendment deletes the reference to their voluntary enrollment in SCO. Because members 65 and older are not excluded from One Care (if they initially enrolled while under 65) or from SCO, the exclusion should retain a cross-reference to SCO and the relevant section of One Care.

The most significant new exclusion from Managed Care is in (A)(6) of section 508.002 and repeated in the 508.002(C) regarding One Care and (B) regarding (SCO). All these sections amend the current rule to exclude all EAEDC recipients from all managed care. The current rule only excludes EAEDC recipients who are solely receiving medical services pursuant to 130 CMR 450.106 which describes a temporary EAEDC benefit available prior to enrollment into MassHealth. With no public notice, MassHealth terminated all EAEDC recipients from managed care beginning in May 2025.

Now MassHealth proposes to amend its rules for the first time to exclude all EAEDC recipients from all forms of managed care. Aside from the many procedural irregularities of MassHealth's actions, there are substantive concerns with this rule change. First, according to the DTA website there are 470 children

under 18 enrolled in EAEDC who are not living with a parent or caretaker relative and for that reason alone are not eligible for TAFDC. EAEDC fills the gap for children who may be living with an unrelated legal guardian or relative too remote to be included in the definition of caretaker relative. Some of these children will have serious emotional disturbances and be eligible for CBHI. However, under the proposed rule they will be unable to access the Behavioral Health Contractor or any managed care provider of CBHI services. The exclusion is also problematic for adults with behavioral health needs who will not have access to the same scope of services or network of providers in fee for service that are available in managed care.

We strongly urge MassHealth to reconsider this policy change, and, at the very least to enable EAEDC recipients the option to enroll with the Behavioral Health Contractor.

508.007 One Care Plans

Currently individuals who want to enroll into One Care Plans do so through MassHealth. This is how enrollment occurs in all forms of managed care for individuals under 65. We understand that CMS is requiring a change in One Care to enrollment through the plans themselves and that this may involve the plans' use of external brokers. Enrollment brokers have engaged in deceptive practices in the Medicare Advantage program, and we urge MassHealth to both describe the new enrollment process in more detail and consider additional rule-making that may be necessary to protect against abuses by external brokers.

508.008 SCO

The most significant change in SCO is the exclusion of individuals who are not enrolled in Medicare. We have many concerns with the outreach and assistance and transition protections that this change entails, we have no comments on the rule change in compliance with the amended statute.

508.010 Right to a Fair Hearing

We support clarifying the scope of appealable actions by a cross reference to the fair hearing rules at 610.032. However, we recommend an added cross reference to the federal managed care rules at 42 CFR 438.400 et seq as well. However, we are concerned that 610.032 omits any reference whatever to appeal rights in the four HCBS waiver programs administered by DDS. The applicants and members of the DDS waivers must have appeal rights and they should be set out in the regulations.

Please let me know if you require any further information regarding these comments. MLRI looks forward to continuing to work with MassHealth on supporting the rights of MassHealth applicants and members.

Yours truly,

Vicky Pulos,
Senior Health Attorney
vpulos@mlri.org
617-347-0700 Ext 318