



STATE OF MARYLAND
DHMH

Office of Health Services
Medical Care Programs

Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201
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PT 20 - 02

MARYLAND MEDICAL ASSISTANCE PROGRAM
Nursing Home Transmittal No. 174

June 28, 2002

TO: Nursing Home Administrators
Susan J. Tucker
FROM: Susan J. Tucker, Executive Director
Office of Health Services

NOTE: Please ensure that appropriate staff members in your organization are informed of the contents of this transmittal.

RE: Amendments to Nursing Facility Services Regulations

The Maryland Medical Assistance Program has promulgated amendments to Regulations .06, .07, .11, .16 and .17 under COMAR 10.09.10 Nursing Facility Services.

These amendments are intended to reduce interim payments in the Medicaid Nursing Home Program for Fiscal Year 2003. Sixty-five percent of the intended savings would be achieved through implementation of a methodology to reduce interim nursing payments to those providers whose nursing expenditures are less than Medicaid reimbursement. Although there is a process in place which will enable the Program to recover unspent nursing payments through cost settlement, reducing interim payments will assist the Program in meeting budgetary constraints in Fiscal Year 2003. The proposals will also modify the method to set reimbursement for nursing wages and benefits for Fiscal Year 2003 by projecting rates based upon the average percent change during the past 5 years.

Additional savings will be achieved by increasing the occupancy standard, which impacts rates in the Administrative/Routine, Other Patient Care and Capital cost centers.

The amendments make legal, accounting and other professional expenses associated with unsuccessful appeals non-allowable costs.

The amendments also revise the criteria under which a provider can request an interim rate change in the Nursing Service cost center, clarify language in the preauthorization requirements and allow the cost settlement process to occur prior to the receipt of the audited or desk reviewed Medicare Home Office Cost Report.

Specifically, these proposed amendments will:

- Implement a methodology to reduce the interim nursing payments to providers that have historically under-spent these funds. Interim payments will be

reduced by 95 percent of the amount projected to be recovered at cost settlement. This projection will be based on nursing rates exclusive of the amount added to the rates based on Senate Bill 794 (2000).

Revise the criteria under which a provider can request an interim rate change in the Nursing Service cost center.

- Index nursing wages by the average percent change over the past 5 years instead of the past 3 years. (This change is applicable to an indexing methodology that impacts only Fiscal Year 2003.)
- Increase the occupancy standard used to determine providers' allowable costs from the average statewide occupancy plus .5 percent to the average statewide occupancy plus 1.5 percent. (This change is applicable to only Fiscal Year 2003.)

Classify legal, accounting and other professional expenses associated with unsuccessful appeals pertaining to cost report settlements and appraisals as non-allowable costs.

- Allow the cost settlement process to occur prior to the receipt of the audited or desk reviewed Medicare Home Office Cost Report.
- Clarify language in the preauthorization requirements.

It should be noted that proposed amendments were published in the April 5, 2002 edition of the *Maryland Register*. However, the Department revised the proposed amendments to COMAR 10.09.10.08 - .11 and .17. These revisions eliminated the proposed "cycle down" of reimbursement parameters and narrowed the conditions under which legal, accounting and other professional expenses associated with unsuccessful appeals would be non-allowable costs. These changes are published in the June 28, 2002 edition of the *Maryland Register*.

In order to minimize any potential misunderstanding, an unofficial version of only those proposed changes that remain in effect, amendments to Regulations .06, .07, .11, .16 and .17, are attached.

Any questions regarding this transmittal should be directed to the Nursing Home Section of the Division of Long Term Care Services at 410 767-1444.

SJT:seh
Attachments

cc: Nursing Home Liaison Committee

FY 2003 AMENDMENTS (UNOFFICIAL VERSION)

.06 Preauthorization Requirements.

A. (text unchanged)

B. The Department or its designee will certify as requiring nursing facility services only those *individuals* requiring nursing facility services as defined in Regulation .01B(31) of this chapter.

.07 Payment Procedures – Maryland Facilities.

A. (text unchanged)

A-1. A provider may request an interim rate change in the nursing service cost center by submitting documentation to the Department or its designee to demonstrate that a recalculation of the provider's interim per diem rate would change by 2 percent or more. A provider may not request an interim rate change more than two times during the same rate year. During the period of July 1, 2002 through June 30, 2003, the revised interim per diem rates may be applicable for the entire year during which the request is submitted.

B. (text unchanged)

C. General Principles.

(1) – (5) (text unchanged)

(6) For providers that the Department or its designee utilizes the audited or desk-reviewed Medicare home office cost report in its final settlement, the Department or its designee may calculate a final settlement of all other costs on the uniform cost report until the audited or desk-reviewed Medicare home office cost report becomes available. A final settlement revision shall then be issued incorporating only the results of the Medicare home office cost report.

[(6)] (7) – [(8)] (9) (text unchanged)

11 Rate Calculation – Nursing Service Costs.

A. – B-2. (text unchanged)

B-3. The maximum amount under §B-1(2)(b) of this regulation is calculated as follows:

(1) – (2) (text unchanged)

(3) For the period July 1, 2002 – June 30, 2003, 5 percent of the difference between the amount calculated under §B (1) of this regulation and the amount calculated under §G (10)(l) of this regulation.

C. – U. (text unchanged)

.16 Selected Costs – Allowable.

The following costs are allowable in establishing interim and final per diem payment rates:

A. – E. (text unchanged)

F. Bed Occupancy.

(1) The per diem cost determined for a provider, or a distinct part thereof in a multilevel facility, shall be calculated at the actual occupancy of the nursing facility beds or at the Statewide average occupancy of nursing facility beds, based on the cost reports used to set the current interim rates, plus 0.5 *(1.5 percent for the period July 1, 2002 through June 30, 2003)*, whichever is higher, for the calculated ceilings, current interim costs, and final costs in the cost centers of Administrative and Routine, and Other Patient Care.

(2) The per diem cost determined for a provider, or a distinct part of it in a multilevel facility, shall be calculated at the actual occupancy of the nursing facility beds or at the Statewide average occupancy of nursing facility beds, based on the costs reports used to set the current interim rates, plus 0.5 percent *(1.5 percent for the period July 1, 2002 through June 30, 2003)*, whichever is higher, for all Capital cost items exclusive of the net capital value rental.

(3) The per diem rate determined for a provider, or a distinct part of it in a multilevel facility, shall be calculated at the actual occupancy of the nursing facility beds plus 95 percent of licensed capacity of the non-nursing facility beds, or at Statewide average occupancy of nursing facility beds, based on the cost reports used to set the current interim rates, plus 0.5 percent *(1.5 percent for the period July 1, 2002 through June 30, 2003)*, plus 95 percent of licensed capacity of the non-nursing facility beds, whichever is higher, for the net capital value rental.

.17 Selected Costs – Not allowable.

The following costs are not allowable in establishing interim and final per diem rates:

A. – P. (text unchanged)

Q. Legal, accounting, and other professional expenses related to an appeal challenging a payment determination pursuant to Regulation .14E of this chapter or an appraisal pursuant to Regulation .10L(3) of this chapter unless a final adjudication is issued sustaining the nursing facility's appeal; and

R. A percentage of the legal, accounting, and other professional expenses related to an appeal as described in §Q of this regulation, based upon the proportion of additional reimbursement sought on appeal, if a facility prevails on some but not all issues raised in the appeal or action.