



STATE OF MARYLAND

**DHMH**

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Office of Health Services  
Medical Care Programs

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Parris N. Glendening, Governor - Georges C. Benjamin, M.D., Secretary

**MARYLAND MEDICAL ASSISTANCE PROGRAM**

**Nursing Home Transmittal No. 172**

December 26, 2001

Nursing Home Administrators

**FROM:**

*Susan J. Tucker*  
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.

Emergency Amendments to Nursing Facility Services Regulations -  
Amended Fiscal Year 2002 Interim Rates

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The Maryland Medical Assistance Program has adopted emergency amendments to Regulations .07-.11 under COMAR 10.09.10 Nursing Facility Services. Under the emergency status approved by the Joint Committee on Administrative, Executive and Legislative Review, the provisions will be in effect only during the period December 1, 2001 through June 30, 2002. The emergency amendments, as submitted to be published in the Maryland Register, are attached.

The emergency regulations 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 75 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). This amount, the provider's share of \$20 million in total funds appropriated in Fiscal Year 2002 to enable providers to increase staffing and compensation, will not be reduced.
- Revise the criteria under which a provider can request an interim rate change in the Nursing cost center.

- Reduce the maximum allowable profit in the Nursing cost center from 5.0 percent to 4.5 percent of a provider's standard per diem rates.  
Reduce the ceilings in the Administrative and Routine cost center from 114 percent of the median cost to 113 percent of the median cost.
- Reduce the efficiency payment in the Administrative and Routine cost center from 50 percent to 45 percent of the difference between a provider's cost and the ceiling for those providers with per diem costs below the ceiling.
- Reduce the ceilings in the Other Patient Care cost center from 120 percent of the median cost to 119 percent of the median cost.
- Reduce the net capital value rental rate, used to calculate a provider's return on equity in the facility, from 8.9 percent to 7.92 percent.

Enclosed are amended Fiscal Year 2002 interim rates for your facility. Rates changes reflect the content of emergency regulations. These interim rates will become effective with payments for services provided on or after December 1, 2001 through June 30, 2002.

Please check the provider number at the top of the enclosed rate letter to ensure that you have received the correct data. A copy of these rates should be furnished to your accountant or bookkeeper for setting up your accounts. The salient changes in Medicaid payment are described below.

#### **I. Providers Electing Statewide Average Payment**

For those providers with less than 1,000 days of care to Maryland Medicaid recipients, that elected not to submit a cost report and accept as payment the statewide average Medicaid nursing home payment, the rate for each day of care provided on or after December 1, 2001 through June 30, 2002 is \$150.06.

#### **II. Occupancy Standard**

The occupancy standard remains unchanged at 88.9 percent.

#### **III. Nursing Service Cost Center**

##### **A. Nursing Rates**

Nursing rates have changed for some providers. Any rate reductions for nursing services are intended to cover a portion of the difference between the interim rates established in July 2001 and a provider's actual costs. The reductions will recover unspent funds by changing the interim payment rate for those providers for which the Department anticipates recovery at cost settlement.

Providers impacted by this change will find the amount of the per diem reduction for accelerated recovery under the section, Nursing Cost Center, on the first page of the attached rate letter.

No nursing home will have interim payments reduced below their current per diem costs. Providers who spend more than their revised rates will be given an opportunity to demonstrate that their allowable nursing expenditures exceed (or will exceed) the adjusted interim payment rate. In such cases, interim payment rates will be increased accordingly, up to the Medicaid maximum. The criteria and process for re-adjusting the interim payment rate are described in Attachment A. Providers will have until June 30, 2002 to submit documentation to support a change in FY 2002 interim payments.

The maximum Medicaid rate for nursing services will not change for the remainder of FY 2002. The maximum for FY 2002 includes the \$20 million made available for enhanced compensation and staffing for nursing staff, pursuant to Senate Bill 794 of the 2000 General Assembly. Providers spending at or above the maximum Medicaid interim payment rate will experience no reduction in interim payments during FY 2002. All providers will still be subject to a final cost settlement.

**B. Calculation of Profit**

The maximum allowable profit in the Nursing Service cost center has been reduced from 5% to 4.5% of the rate (not including the additional funds from SB 794). All provisions relating to the calculation of allowable profit in FY 2002 remain unchanged.

**IV. Administrative/Routine Cost Center**

For the period December 1, 2001 through June 30, 2002, ceilings have been lowered from 114 to 113 percent of the median day cost. The ceilings have changed as follows:

REGION	JULY 1 – NOVEMBER 30, 2001 CEILING	DECEMBER 1, 2001 – JUNE 30, 2002 CEILING	PERCENT DECREASE
BALTIMORE	\$54.64	\$54.16	0.9%
WASHINGTON	62.56	62.01	0.9%
NON-METRO	48.10	47.67	0.9%
SMALL FACILITY	49.67	49.23	0.9%

The efficiency allowance in this cost center has been reduced from 50 to 45 percent of the difference between the provider's cost and the ceiling, with a maximum efficiency payment of 10 percent of the ceiling.

**V. Other Patient Care Cost Center**

For the period December 1, 2001 through June 30, 2002, ceilings are lowered from 120 to 119 percent of the median day cost and have changed as follows:

REGION	JULY 1 – NOVEMBER 30, 2001 CEILING	DECEMBER 1, 2001 – JUNE 30, 2002 CEILING	PERCENT DECREASE
BALTIMORE	\$12.48	\$12.38	0.8%
WASHINGTON	12.90	12.79	0.9%
NON-METRO	11.82	11.72	0.8%

The efficiency allowance in this cost center remains 25 percent of the difference between the provider's cost and the ceiling, with a maximum efficiency payment of 5 percent of the ceiling.

**VI. Therapy Services Cost Center**

Physical, occupational and speech therapy rates remain unchanged.

**VII. Capital Cost Center**

Facility appraisals remain unchanged; the Fiscal Year 2002 appraisal limit (\$48,468.39/bed) and equipment allowance (\$4,672.93/bed) remain unchanged.

The Capital Rental Rate has been lowered from 8.9 to 7.92 percent.

\* \* \*

Any questions regarding this transmittal or the rates on the enclosed listings should be directed to the Nursing Home Section of the Division of Long Term Care Services at (410) 767-1444.

Enclosures

cc: Nursing Home Liaison Committee

**.07 Payment Procedures Maryland Facilities.**

A. (text unchanged)

A-1. A provider may request an interim rate change in the Nursing 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 July 1, 2001 through June 30, 2002, the revised interim per diem rates may be applicable for the entire rate year during which the request is submitted.

B. – C. (text unchanged)

**.08 Rate Calculation — Administrative and Routine Costs.**

A. (text unchanged)

B. The final per diem rate for administrative and routine costs each reimbursement class is the sum of:

(1) (text unchanged)

(2) An efficiency allowance equal to the lesser of ~~50~~ 45 percent of the amount by which the allowable per diem costs in §B(1) of this regulation are below the maximum per diem rate for this cost center, or 10 percent of the maximum per diem rate for the cost center.

C. – D. (text unchanged)

E. Maximum per diem rates for administrative and routine costs in each reimbursement class shall be established according to the following:

(1) – (4) (text unchanged)

(5) The maximum per diem rate for each reimbursement class shall be ~~114~~ 113 percent of the lowest aggregate indexed current interim per diem cost, from §E(1) of this regulation, which is equal to the aggregate indexed current interim per diem costs associated with at least 50 percent of the paid Medical Assistance days in the reimbursement class.

F. – G. (text unchanged)

#### **.09 Rate Calculation — Other Patient Care Costs.**

A. – D. (text unchanged)

E. Maximum per diem rates for Other Patient Care costs in nursing facilities shall be established using the provisions described in Regulation .08E of this chapter except that ~~120~~ 119 percent of the lowest aggregate indexed current interim per diem cost which is equal to the aggregate indexed current interim costs associated with at least 50 percent of the paid Medical Assistance days in the reimbursement class shall be used instead of the percentage expressed in Regulation .08E(5) of this chapter and except that the table of monthly indices listed under Regulation .21 of this chapter shall be used instead of that presented in Regulation .20 of this chapter.

F. – G. (text unchanged)

#### **.10 Rate Calculation — Capital Costs.**

A. – K. (text unchanged)

L. The net capital value rental for those facilities which are subject to rate determination under §C of this regulation is determined through the following steps:

(1) – (9) (text unchanged)

(10) The value of net capital from §I(8) of this regulation shall be multiplied by ~~0.089~~ 0.0792 in order to generate the net capital value rental.

M. – R. (text unchanged)

.11 Rate Calculation — Nursing Service Costs.

A. (text unchanged)

B. Interim Reimbursement.

(1) (text unchanged)

(2) ~~Except for the period July 1, 2001 through~~

~~June 30, 2003, interim]~~ Interim per diem rates shall be reduced for any provider which, based on the most recently desk reviewed actual allowable costs, is projected to spend less than ~~85~~ 75 percent of its standard per diem rates. A rate reduction factor is calculated as ~~50~~ 75 percent of the percentage, up to 20 percent, by which the provider is projected to under-spend its standard per diem rates, and the entire percentage of the rates projected to be unspent in excess of 20 percent.

75 percent of the difference between the provider's

interim reimbursements under §B(1) of this regulation and the



sum of the provider's projected allowable nursing service costs and the amounts calculated under §§B-1(2)(b) and G(10)(1) of this regulation.

(3) During the period December 1, 2001 through June 30, 2002, interim rates shall be reduced by the amount calculated under §B(2) of this regulation for services projected to be provided during the period July 1, 2001 through June 30, 2002.

(4) During the period December 1, 2001 through June 30, 2002, no provider's interim per diem payments shall be reduced, under the provisions of §B(2) – (3) of this regulation, to less than the sum of its projected per diem costs and the amount calculated under §G(10)(1) of this regulation.

~~(3)~~ (5) (text unchanged)

***B-1. The final Medical Assistance reimbursement for nursing services for the period July 1, 2001 — June 30, 2003 is the lesser of the:***

(1) (text unchanged)

(2) *Sum of the:*

(a) (text unchanged)

***(b) ~~Greater~~ For the period July 1, 2001 through November 30, 2001, the greater of (i) or (ii):***



(i) (text unchanged)

(ii) For those providers with nursing costs lower than their reimbursement amount minus the amount calculated under ~~§G(10)(1)~~ §G(10)(1) of this regulation, the amount of the difference between the provider's allowable nursing service costs and the reimbursements calculated under §B(1) of this regulation, minus the amount calculated under ~~§G(10)(1)~~ §G(10)(1) of this regulation, [multiplied by 0.05]

subject to a maximum of 5 percent of the amount of the reimbursements calculated under §B(1) of this regulation minus the amount calculated under ~~§G(10)(1)~~ §G(10)(1) of this regulation;

(c) For the period December 1, 2001 through June 30, 2002, the greater of (i) or (ii):

(i) Subject to a maximum amount of 4.5 percent of the provider's interim reimbursements during the provider-selected period of July 1, 2000 through December 31, 2000 or July 1, 2000 through June 30, 2001, adjusted by application of the salary and wage indices specified in Regulation .23 of this chapter for the period July 1, 2001 through June 30, 2002, the amount by which the provider's per diem interim reimbursements exceeded the provider's per diem cost; or

(ii) For those providers with nursing costs lower than their reimbursement amount minus the amount calculated under §G(10)(l) of this regulation, the amount of the difference between the provider's allowable nursing service costs and the reimbursements calculated under §B(1) of this regulation minus the amount calculated under §G(10)(l) of this regulation, subject to a maximum of 4.5 percent of the amount of the reimbursements calculated under §B(1) of this regulation minus the amount calculated under §G(10)(l) of this regulation;

[(c)] (d) – [(d)] (e) (text unchanged)

**C. – U. (text unchanged)**

**GEORGES C. BENJAMIN, M.D**  
**Secretary of Health and Mental Hygiene**

# ATTACHMENT A: REQUESTING AN INTERIM RATE ADJUSTMENT

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The Department has projected per diem costs in the Nursing Services cost center in FY 2002 for each provider based upon the provider's most recent reported costs. Expected cost increases to account for inflation were calculated for each provider. The Department also assumed that every provider spent the amount added to its rates in accordance with the appropriation pursuant to SB 794. After factoring allowable profit, the Department determined the amount that the provider will be expected to owe upon final settlement of the Nursing Services cost center. The Department has reduced interim per diem payments during the remainder of the fiscal year to recover 75 percent of that amount. Payments are not to be less than the provider's current per diem costs.

Any provider who can demonstrate that their expenditures for nursing services exceed the amount projected by the above methodology may request a modification to the per diem rate reduction. Documentation, at a minimum, must include actual nursing expenditures and census data during the most recent 3-month period. If the most recent three months do not demonstrate the extent of the cost increase (i.e., increases have not yet been fully implemented), then providers may submit one or more of the following:

### *Wage increases*

Date and amount of any actual or contemplated wage increases

- Include calculation of the impact on per diem costs
- Copies of notice to employees, etc.

### *Staffing increases*

Date and amount of any actual or contemplated staffing increases

- For contemplated increases, include plan of action, budget, recruitment efforts, interview schedule, commitment letters, etc.

(Note: Unless you have made specific commitments to increase staffing hours and compensation, it is not sufficient to simply state that you plan to increase your nursing expenditures. If you develop a specific plan of action at a later date, you can notify the Department to obtain an appropriate rate adjustment at that time.)

- Calculation of the impact of the increased staffing on per diem costs

Documentation must be submitted to the Department for review. You may be asked to update the Department on your progress in implementing your plan.

Do not request a rate adjustment unless you can document total allowable costs in the Nursing Services cost center that exceed your current level of reduced reimbursement. Providers will be limited to two requests per year for interim rate changes. The Department will approve requests that demonstrate that a justified recalculation of the provider's interim per diem rate in the Nursing Services cost center will change the rate by two percent or more.