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Title 10
MARYLAND DEPARTMENT OF HEALTH
Subtitle 09 MEDICAL CARE PROGRAMS

10.09.10 Nursing Facility Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, 19-14B-01, and 19-310.1, Annotated Code of Maryland

Notice of Proposed Action

[26-014-P]

The Secretary of Health proposes to amend Regulations **.01**, **.07**, **.08**, **.12—.15**, and **.31** under **COMAR 10.09.10 Nursing Facility Services**.

Statement of Purpose

The purpose of this action is to:

(1) Update language throughout the chapter, replacing references to "resource utilization group (RUG)" with "patient-driven payment model (PDPM)";

(2) Describe the phased-in implementation of the patient-driven payment model-based case mix index rate for nursing facility services;

(3) Add language to disqualify nursing facility providers from pay-for-performance eligibility for failure to make timely quality assessment payments;

(4) Update the budget adjustment factor for FY 2026; and

(5) Extend the sunset date for the Interim Working Capital Fund for one year.

Estimate of Economic Impact

I. Summary of Economic Impact. These regulations have an economic impact due to the adjustments to the day of care rate for Nursing Facility providers in accordance with the Statewide average Medicaid case-mix index and the application of the budget adjustment factor.

II. Types of Economic Impact.

Impacted Entity	**Revenue (R+/R-) Expenditure (E+/E-)**	**Magnitude**
A. On issuing agency:		
(1) Maryland Department of Health	(E+)	$3,042,972
(2) Maryland Department of Health	(R-)	$769,611
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	**Magnitude**
D. On regulated industries or trade groups:		
Medicaid Nursing Facility Providers	(+)	$3,042,972
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A(1). This amount assumes:

(a) Beginning July 1, 2025, Maryland Medical Assistance will reimburse an additional $.59 per day of care for nursing facilities services in accordance with the calculated Statewide average Medicaid case-mix index and the application of the budget adjustment factor.

(b) Based on a projected 5,157,580 days of care in FY 2026, this increase represents a cost to the State of $3,042,972.

(c) This amount is 50 percent general funds and 50 percent federal funds from July 1, 2025 through June 30, 2026.

A(2). This amount assumes:

(a) The interim working capital fund will provide a projected $20,522,954 to providers during FY 2026;

(b) The resulting loss of potential interest income is $769,611 based on a rate of return of 3.75 percent.

(c) This amount is 100 percent General Funds.

D. See A(2).

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jordan Fisher Blotter, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 534 Baltimore, Maryland 21201, or call 410-767-0938, or email to mdh.regs@maryland.gov. Comments will be accepted through May 18, 2026. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

(6) "Case mix index (CMI)" means a numeric score that identifies the average relative nursing resource needs for the residents classified under the **[**Resource Utilization Group (RUG)**]** *Patient-Driven Payment Model (PDPM)* based on the assessed nursing needs of the resident, whose values are set forth **[**as CMI Set F01, located at https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursingHomeQualityInits/NHQIMDS30TechnicalInformation.html**]** *in the PDPM case-mix, nursing component only.*

(7)—(12) (text unchanged)

(13) "ES3" means an extensive services group receiving services for:

(a) Tracheostomy care; and

(b) An invasive mechanical ventilator or respirator.

[(13)**]** *(14)*—**[**(30)**]** *(31)* (text unchanged)

(32) "Patient-Driven Payment Model (PDPM)" means a case-mix classification model that has been developed by CMS for grouping nursing facility residents according to the residents' unique needs, characteristics, and goals.

[(31)**]** *(33)*—**[**(34)**]** *(36)* (text unchanged)

[(35)**]** *(37)* "Prospective rate" means a facility-specific quarterly per diem rate based on the **[**RUG**]** *PDPM* classification system, and calculated as the sum of:

(a)—(d) (text unchanged)

[(36)**]** *(38)*—**[**(59)**]** *(61)* (text unchanged)

.07 Prospective Rates.

A.—F. (text unchanged)

G. Final facility rates for the period **[**July 1, 2024**]** *July 1, 2025* through **[**June 30, 2025**]** *June 30, 2026* shall be each nursing facility's quarterly rate, exclusive of the amount identified in Regulation .13A(2) of this chapter, increased by the budget adjustment factor of **[**2.703**]** *0.176* percent, plus the Nursing Facility Quality Assessment add-on identified in Regulation .11E of this chapter and the ventilator care add-on amount identified in Regulation .13A(2) of this chapter when applicable.

H. Effective January 1, 2025, the Department will transition from RUG CMIs to the PDPM CMIs for nursing facility rate calculation.

J. PDPM nursing component CMIs will be phased in at the following intervals:

(1) Effective January 1, 2025, rate calculations will consist of 75 percent RUG-based CMI rate and 25 percent PDPM-based CMI rate;

(2) Effective April 1, 2025, rate calculations will include 50 percent RUG-based CMI rate and 50 percent PDPM-based CMI rate; and

(3) Effective July 1, 2025, rate calculations will consist of 100 percent PDPM-based CMI rate.

.08 Interim Working Capital Fund.

A.—G. (text unchanged)

H. The Interim Working Capital Fund expires on **[**May 1, 2025**]** *May 1, 2026*. Providers shall repay all outstanding funds to the Department by **[**May 1, 2025**]** *May 1, 2026*. The Department may grant repayment extensions, not longer than 60 days, under extraordinary circumstances.

.12 Rate Calculation — Nursing Services Costs.

A.—E. (text unchanged)

F. Case Mix Index Calculation.

(1) The Department shall use the **[**resource utilization group**]** *PDPM* to adjust Nursing Service costs and to determine each nursing facility's Nursing Service rate component.

(2) (text unchanged)

[(3) If the Department or its contractor determines that a nursing facility has delinquent MDS resident assessments, for purposes of determining both facility CMI averages, the assessments shall be assigned the case mix index associated with the RUG group "BC1" or its successor.**]**

[(4)**]** *(3)* A delinquent MDS shall be assigned a CMI value equal to the lowest CMI in the **[**RUG**]** *PDPM* classification system, or its successor.

[(5)**]** *(4)*—**[**(7)**]** *(6)* (text unchanged)

G. (text unchanged)

.13 Ventilator Care Nursing Facilities.

Nursing facilities with licensed nursing facility beds, which have been determined by the Department to meet the standards for ventilator care under COMAR 10.07.02, shall be reimbursed as follows:

A.—B. (text unchanged)

C. Nursing facilities adding ventilator care services for the first time, which have been determined by the Department to meet the standards for ventilator care under COMAR 10.07.02, shall be reimbursed as described in §A of this regulation, except that the facility average Medicaid case mix index is assumed to be that of **[**RUG**]** *PDPM* classification ES3;

D.—F. (text unchanged)

.14 Pay-for-Performance — Eligibility.

In order to be eligible to receive funds through the pay-for-performance program under the provisions of Regulations .15—.19 of this chapter:

A. (text unchanged)

B. During the 1 year period ending March 31 of the prior State fiscal year, the provider may not have been:

(1) (text unchanged)

(2) Denied payment for new admissions by the Department; **[**or**]**

(3) Identified by the Department as delivering substandard quality of care**[**.**]***; or*

(4) Identified by the Department as failing to pay the quality assessment in accordance with the timetables established in COMAR 10.01.20.

.15 Pay-for-Performance — Quality Measures.

A. (text unchanged)

B. Staffing Levels.

(1)—(2) (text unchanged)

(3) A facility's average acuity shall be determined based on the facilities Minimum Data Set **[**Resource Utilization Groups (RUG)**]** *Patient-Driven Payment Model (PDPM)* during the 6-month period ending December 31 of the most recent State fiscal year. To establish expected staffing hours, each **[**RUG**]** *PDPM* group will be multiplied by the corresponding hours under Regulation .31B of this chapter and divided by the total days of care during the same period.

C.—F. (text unchanged)

.31 Nursing Service Personnel and Procedures.

A. (text unchanged)

B. **[**Minimum Data Set Resource Utilization Groups Hourly Weights.**]** (existing table proposed for repeal)

PDPM Case-mix, Nursing Component Only.

Nursing	
Nursing Group	*CMI*
ES3	*3.84*
ES2	*2.90*
ES1	*2.77*
HDE2	*2.27*

HDE1	*1.88*
HBC2	*2.12*
HBC1	*1.76*
LDE2	*1.97*
LDE1	*1.64*
LBC2	*1.63*
LBC1	*1.35*
CDE2	*1.77*
CDE1	*1.53*
CBC2	*1.47*
CA2	*1.03*
CBC1	*1.27*
CA1	*0.89*
BAB2	*0.98*
BAB1	*0.94*
PDE2	*1.48*
PDE1	*1.39*
PBC2	*1.15*
PA2	*0.67*
PBC1	*1.07*
PA1	*0.62*

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