



STATE OF MARYLAND

**DHMH**

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

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

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Office of Health Services  
Medical Care Programs

**MARYLAND MEDICAL ASSISTANCE PROGRAM  
Nursing Home Transmittal No. 170**

June 22, 2001

Nursing Home Administrators

*Susan J. Tucker*

**FROM:** Susan J. Tucker, Acting 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 and Proposed Amendments to Nursing Facility Services  
Regulations

**ACTION:**  
Emergency Regulations  
Proposed Regulations (Permanent Status)

**PROPOSED EFFECTIVE DATE:**  
July 1, 2001  
January 1, 2002

**WRITTEN COMMENTS TO:**  
Michele Phinney,  
201 W. Preston Street, Room 521  
Baltimore, Maryland 21201  
(410) 767- 6499

**PROGRAM CONTACT PERSON:**  
Stephen E. Hiltner, Supervisor  
Nursing Home Program  
(410) 767-1447

**COMMENT PERIOD EXPIRES:** September 1, 2001

The Maryland Medical Assistance Program is promulgating emergency and proposed amendments to Regulations .10, .11, .13, and .14 under COMAR 10.09.10 Nursing Facility Services.

These amendments will augment reimbursement rates in the Nursing cost center by \$20 million (\$10 million in State funds and \$10 million in federal funds) for State Fiscal Year 2002 and by an additional \$20 million for State Fiscal Year 2003, (if appropriated). The average per diem additional funding of \$3.44 in FY 2002 is intended to increase the amount of direct patient care rendered by nursing staff and allow higher compensation to nursing staff. The amendments address the concerns of the Task

Force on Quality of Care in Nursing Homes, the intent of Senate Bill 794 passed by the General Assembly in 2000, and the recommendations of the Nursing Home

Reimbursement Study Group.

Specifically, these proposed amendments will:

- Factor additional reimbursement into the Nursing cost center, an average of \$3.44 per patient day in FY 2002. The additional reimbursement per day will be correlated to acuity, i.e., proportionally more reimbursement will be added to a heavy care day than a light care day.
- Ensure that the additional funds are not used to increase the level of profit earned by a provider, as mandated by Senate Bill 794.
- Describe the "base" period to be chosen by providers and how profit earned during this period will be used to limit the amount of profit allowed during Fiscal Years 2002 and 2003.
- Delineate the circumstances under which providers may be reimbursed above costs in the Nursing cost center during the 24-month period of additional funding and the manner in which reimbursement above costs will be determined.
- Extend the nursing cost reporting period to cover the full 24 months of additional funding, in order to maximize the intended impact.
- Delay the incorporation of results from a nursing procedure work measurement study by one year, to July 1, 2004, in order that the full impact of the additional funds will be measured.

In addition, the proposed regulations replace a discontinued index in the Capital cost center with a comparable one.

These emergency amendments, as submitted to be published in the Maryland Register, 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

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

A. – H. (text unchanged)

I. When applying the provisions of §§G and H of this regulation, the noninvestor-operated facility shall be assumed to have the following for the calculation of §C of this regulation:

(1) (text unchanged)

(2) A mortgage interest rate for the year equal to the lesser of:

(a) The moving average of the previous 6 months for the Treasury Bond Composite (greater than 10 years) Treasury Constant Maturities – 20 year rate on the provid-

er's original lease date plus 2 percentage points, unless the original financing by the owner of the facility was tax exempt, in which case 70 percent of the average of the previous 6 months for the Treasury Bond Composite (greater than 10 years) Treasury Constant Maturities – 20 year rate plus 2 percentage points; or

(b) The moving average of the previous 24 months for the Treasury Bond Composite (greater than 10 years) Treasury Constant Maturities – 20 year rate on the provid-

er's original lease date plus 2 percentage points, unless the original financing by the owner of the facility was tax exempt, in which case 70 percent of the average of the previous 24 months for the Treasury Bond Composite (greater than 10 years) Treasury Constant Maturities – 20 year rate plus 2 percentage points.

(3) A mortgage interest rate, for the first 5-year period under the first lease of a newly constructed facility, equal to the lesser of:

(a) The moving average of the previous 6 months for the Treasury Bond Composite (greater than 10 years)

Treasury Constant Maturities – 20 year rate on the provid-

er's original lease date plus 3.5 percentage points, unless the original financing by the owner of the facility was tax exempt, in which case 70 percent of the average of the previous 6 months for the Treasury Bond Composite (greater than 10 years) Treasury Constant Maturities – 20 year rate plus 3.5 percentage points; or

(b) The moving average of the previous 24 months for the Treasury Bond Composite (greater than 10 years) Treasury Constant Maturities – 20 year rate on the provid-

er's original lease date plus 3.5 percentage points, unless the original financing by the owner of the facility was tax exempt, in which case 70 percent of the average of the previous 24 months for the Treasury Bond Composite (greater than 10 years) Treasury Constant Maturities – 20 year rate plus 3.5 percentage points.

(4) – (6) (text unchanged)

J. – R. (text unchanged)

#### **.11 Rate Calculation · Nursing Service Costs.**

A. (text unchanged)

B. Interim Reimbursement.

(1) (text unchanged)

(2) Interim Except for the period July 1, 2001 through June 30, 2003.

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 percent of its standard per diem rates. A rate reduction factor is calculated as 50 percent of the percentage, up to 20 percent, by which the provider is projected to underspend its standard per diem rates, and the entire percentage of the rates projected to be unspent in excess of 20 percent.

underspend its standard per diem rates, and the entire percentage of the rates projected to be unspent in excess of 20 percent.

(3) (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:

(1) The interim reimbursements under §B(1) of this regulation; or

(2) The sum of:

(a) The provider's allowable Nursing Service costs,

(b) The greater of (i) or (ii):

(i) Subject to a maximum amount of 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, and by the identical percent change for the period July 1, 2002 through June 30, 2003, 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 reimbursements calculated under §B(1) of this regulation, minus the amount calculated under §G(10)(l) of this regulation, multiplied by 0.05;

(c) Amount of the adjustments resulting from the application of the provisions of §G(10)(e)-(g) of this regulation; and

(d) Amount of the interim reimbursements for specialized support surfaces in accordance with the provisions of §H-1 of this regulation.

**C. The final Medical Assistance reimbursement for nursing**

(1) (text unchanged)

(2) **The sum of the:**

(a) – (b) (text unchanged)

(c) **Amount of the adjustments resulting from the application of** the provisions of ~~§G(9)(e) – (g)~~ §G(10)(e)-(g) of this regulation, and

(d) **Amount of the interim reimbursements for specialized support surfaces in accordance with the provisions of ~~§I~~ §H-1** of this regulation.

D. – F. (text unchanged)

G. ~~[The]~~ Except as indicated in §G(7) of this regulation, the resident-specific standard reimbursement rates shall be determined by the following steps:

(1) – (6) (text unchanged)

(7) For the period July 1, 2002 through June 30, 2003, the hourly wages plus benefits will be determined by adjusting the hourly wages plus benefits for the period July 1, 2001 through June 30, 2002 by the average annual percent change in these wages and benefits used for establishing rates for the three State fiscal years prior to July 1, 2002.

~~[(7)]~~ (8) Multiply the hourly wages plus benefits applicable to each reimbursement class by procedure and activity times using the weights associated with each personnel category to determine the nursing service unadjusted standard per diem reimbursement rates for each reimbursement class. Current procedure and activity times and personnel category weights are established by the table under Regulation .25B of this chapter, and shall be recalibrated as follows:

(a) Effective July 1, ~~[2003]~~ 2004, and at subsequent 7-year intervals

procedure and activity times and personnel category weights shall be recalibrated based on a work measurement study of nursing procedures in nursing homes. The work measurement study sample may not include:

(i) – (v) (text unchanged)

(b) In any year with the exception of the period July 1, 2002



through June 30, 2003, that procedure and activity times and personnel category weights are not recalibrated based upon a work measurement study, times and weights shall be revised based on annual wage survey data modified to exclude those providers which during the wage survey period met any of the criteria referenced in ~~§G(7)(a)~~ §G(8)(a)

of this regulation.

[(8)] (9) (text unchanged)

[(9)] (10) Make the following adjustments to generate the standard per diem reimbursement rates for nursing services:

(a) – (k) (text unchanged)

(l) Subject to budget appropriations, for each rate year during the period July 1, 2001 through June 30, 2003, factor additional funds, as authorized in accordance with provisions specified in 2000 MD Laws – Chapter 212, into reimbursement for Nursing Services by adjusting the rates for light care, light care - behavior management, moderate care, moderate care - behavior management, heavy care and heavy special care as follows:

(i) This adjustment shall be achieved by adding nurse aide hours to the reimbursement rate calculations proportionate to the number of nurse aide hours factored into each of these ADL classifications in accordance with the provisions of §G(8) of this regulation; and



(ii) This adjustment shall account for the projected number of Medical Assistance days in each rate year and the percent of days in each ADL classification.

H. – U. (text unchanged)

**.13 Cost Reporting.**

A. – D. (text unchanged)

E. The provider shall submit to the Department or its designee, in the form prescribed, financial and statistical data within 3 months after the end of the provider's fiscal year unless the Department grants the provider an extension or the provider discontinues participation in the Program.

All providers shall submit nursing cost report data, in the form prescribed, for costs incurred from the end of their most recent fiscal period through June 30, 2003, by September 30, 2003.

When reports are not received within 3 months and an extension has not been granted, the Department shall withhold from the provider 10 percent of the interim payment for services provided during the calendar month after the month in which the report is due and any subsequent calendar month through the month during which the report has been submitted. This amount shall be repaid to the provider upon final cost settlement for the fiscal year from which the payments were withheld. If a provider discontinues participation, financial and statistical data shall be submitted to the Department within 45 days after the effective date of termination. A 1-month extension will be granted upon written request in advance by the provider. The Department may not grant an extension longer than 1 month unless the delay in filing the report has been caused by

fire, flood, or act of God, and an extension is not allowed past March 31 after the calendar year during which the provider's fiscal year ended unless the report cannot be submitted by that date due to fire, flood, or act of God.

F. – O. (text unchanged)

**.14 Field Verification.**

A. – C. (text unchanged)

C-1. For the purpose of field verification or desk review of Nursing Service costs, the period July 1, 2001 – June 30, 2003 shall be considered as one reporting period. The Nursing Service costs for this period will be subjected to a tentative cost settlement process upon submission as referenced under Regulation .13E of this chapter.

D. – M. (text unchanged)

Georges C. Benjamin, M.D.  
Secretary of Health and Mental Hygiene