

LEGAL NOTICE  
STATE OF OHIO  
OHIO DEPARTMENT OF MEDICAID  
COLUMBUS, OHIO

Pursuant to section 1902(a)(13)(A) of the Social Security Act, the Director of the Ohio Department of Medicaid (department) gives notice of the department's intent to modify provisions relating to the reimbursement of nursing facilities participating in the Medicaid program.

The modifications are amendments to the Ohio Revised Code that will impact the way nursing facilities are reimbursed for services rendered to Medicaid recipients in state fiscal years 2022, 2023, and beyond. The department is initiating a public input process with this notice. The proposed amendments are based on the executive budget as introduced, and are included in legislation being considered by the Ohio House of Representatives and the Ohio Senate. The amendments are subject to change by the Ohio House and Senate.

**CHANGE IN REIMBURSEMENT METHODOLOGY FOR NURSING FACILITY SERVICES**

The proposed amendments to the way nursing facilities are reimbursed for services provided to Medicaid eligible recipients are as follows:

**Definition Changes - "inpatient days", "occupancy rate", "as of"**

The department is proposing the following clarifications to several definitions that impact the nursing facility per Medicaid day payment rate formula:

- Clarifies the definition of "inpatient days" to mean all days during which a resident occupies a licensed bed in a nursing facility.
- Clarifies occupancy rate to mean the percentage of licensed beds that, regardless of payer source, are reserved for use or actually being used.
- Clarifies that, for purposes of eligibility for the critical access incentive payment, the nursing facility's occupancy and utilization rates "as of the last day of the calendar year" refers to the occupancy and utilization rates for the entire cost reporting period and identified on the annual cost report.

**Quality Changes**

For state fiscal year 2022, the department is proposing to continue a quality program for nursing facilities that is currently set to expire at the end of state fiscal year 2021. However, in order to better assure the delivery of high-quality care to nursing facility residents, the department is proposing the following changes to the program:

- By January 1, 2022, the department, in consultation with the Ohio Departments of Aging and Health, will develop and establish quality improvement criteria that will be used to calculate a quality improvement payment for eligible nursing facilities.

- The quality improvement criteria to be developed will replace the state fiscal year 2022 quality improvement criteria if implemented in that state fiscal year, and if the criteria are developed after state fiscal year 2022, no quality improvement payments will be made until the criteria are established.
- Nursing facilities will be required to operate a location in Ohio with key program staff who are residents of Ohio and based and working in Ohio to be eligible for quality improvement payments.

### **Specify Resident Assessment Data Excluded from Case Mix**

The department uses resident assessment data to calculate case mix scores, which then are used to determine the direct care component of the per Medicaid day payment rate. The department is proposing to specify in Administrative Code rules any resident assessment data that will be excluded from case mix calculations. This change is being made to ensure that resident assessment data included in the Resource Utilization Groups (RUGs) case mix score reflects only those residents for which the nursing facility per diem rate was paid.

### **Appeals Process for Special Focus Facilities and Technical Assistance**

The department is proposing changes to the nursing facility Special Focus Facility (SFF) Program, which requires the department to terminate a facility's participation in the Medicaid program if the facility is placed on the federal Special Focus Facility list and fails to make improvements or graduate from the SFF program within certain periods of time. The department is proposing to develop an appeals process for nursing facilities to dispute the length of time a facility is placed in a specific table on the SFF list. This change is being made to add an additional due process element in the state's SFF statute. The proposed changes also will require nursing facilities to take all necessary steps to improve their quality of care to avoid having their participation in the Medicaid program terminated. Technical assistance and quality improvement initiatives are described to assist nursing facilities in improving quality.

### **Lump Sum Payment for Low Medicaid Utilization**

The department is proposing to issue a one-time lump sum payment to qualifying nursing facilities that had Medicaid utilization for state fiscal year 2022 that was less than 90% of the aggregate Medicaid utilization for all facilities for calendar year 2019. The total lump sum payments will be capped at the lesser of \$50 million or an amount equal to the aggregate utilization shortfall across all nursing facilities during that time period. Facilities that do not qualify for the lump sum payment are those that:

- Are new facilities as of state fiscal year 2022.
- Have undergone a change of operator during state fiscal year 2022.
- Closed during state fiscal year 2022.

The department is implementing this initiative to compensate providers whose revenues were adversely impacted by the COVID-19 public health emergency.

## **Temporary Extension of Rebasing**

The department currently is required to conduct a rebasing of each cost center that comprises the nursing facility per Medicaid day payment rate at least once every five years. The last rebasing was conducted in state fiscal year 2016, with the next rebasing scheduled for state fiscal year 2021. With this change, the department is proposing to extend the scheduled time for the next rebasing until July 1, 2023 due to the uncertainty related to the COVID-19 pandemic.

## **PUBLIC INPUT PROCESS**

Any person may examine and obtain a copy of the amendments, without charge, at the following locations\*:

- Ohio Department of Medicaid, 50 West Town Street, Suite 400, Columbus, Ohio 43215; or
- Any county department of job and family services.

Written comments on the amendments may be submitted by mail to the Ohio Department of Medicaid, attn: Administrative Professional, Bureau of Long-Term Services and Supports, 50 West Town Street, Suite 400, Columbus, Ohio 43215-3414 and may be reviewed at the same location. Comments may also be provided by e-mail to the following address: [bhcp@medicaid.ohio.gov](mailto:bhcp@medicaid.ohio.gov). Comments must be submitted no later than June 3, 2021.

\*If you would like to review the amendments or written comments in person at the department or county, please contact the department or county first to schedule an appointment, as office hours may be limited or revised from the usual schedule due to COVID-19.