

LEGAL NOTICE
STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
MEDICAID NURSING FACILITY REIMBURSEMENT

TAKE NOTICE that, the Department of Human Services, Division of Medical Assistance and Health Services, intends to submit a State Plan Amendment to the Centers for Medicare & Medicaid Services (CMS) to change the nursing facility rates in order to implement proposed State Fiscal Year (SFY) 2022 budget provisions. This Notice is intended to satisfy the requirements of federal law and regulations, specifically 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205.

Notwithstanding the provisions of chapter 85 of Title 8 of the New Jersey Administrative Code or any other law or regulation to the contrary, and subject to any required federal approvals as may be required, the amounts hereinabove appropriated within the General Medical Services program classification are subject to the following conditions: (1) Class I (private), Class II (county), and Class III (special care) nursing facilities being paid on a fee-for-service basis shall be reimbursed at a per diem rate no less than the rate received on June 30, 2020, plus ten percent, minus the first provider tax add-on and any performance add-on amounts; (2) nursing facilities that are being paid by a Managed Care Organization (MCO) for custodial care through a provider contract that includes a negotiated rate shall receive that negotiated rate; (3) any Class I and Class III nursing facility that is being paid by an MCO for custodial care through a provider contract but has not yet negotiated a rate shall receive the equivalent fee-for-service per diem reimbursement rate as it received on June 30, 2020, plus ten percent, minus the first provider tax add-on and any performance add-on amounts, and any Class II nursing facility that is being paid by an MCO for custodial care through a provider contract but has not yet negotiated a rate shall receive the equivalent fee-for-service per diem reimbursement rate as it received on June 30, 2020, plus 10 percent, minus any performance add-on amounts, had it been a Class I nursing facility; (4) monies designated pursuant to subsection c. of section 6 of P.L.2003, c.105 (C.26:2H-97) for distribution to nursing facilities, less the portion of those funds to be paid as pass-through payments in accordance with paragraph (1) of subsection d. of section 6 of P.L.2003, c.105 (C.26:2H-97) and less the actual amounts expended during fiscal year 2021 on performance add-ons and expenditures to establish a minimum per diem of \$188.35, shall be combined with amounts hereinabove appropriated for the General Medical Services program classification for the purpose of calculating NJ FamilyCare reimbursements for nursing facilities; (5) for the purposes of this paragraph, a nursing facility's per diem reimbursement rate or negotiated rate shall not include, if the nursing facility is eligible for reimbursement, the difference between the full calculated provider tax add-on and the quality-of-care portion of the provider tax add-on, which difference shall be payable as an allowable cost pursuant to subsection d. of section 6 of P.L.2003, c.105 (C.26:2H-97); (6) the add-ons used for fiscal year 2021 shall be applied from July 1, 2021, through September 30, 2021 and the first add-on as calculated in section 4 above shall be applied to both MCO and fee-for-service per diem reimbursement rates effective October 1, 2021; (7) each Class I, Class II, and Class III nursing facility that has, not later than November 17, 2020, submitted to the Department of Human Services (DHS) the DHS Fiscal Year 2022 CoreQ Long-Stay Survey Size Calculation Grid with affirmative answers, as defined by the Department, to validated Hospital Utilization Tracking system use, CoreQ vendor intent, and completion of the CoreQ Long-Stay Survey sample size calculation and, if eligible for CoreQ, not later than November 27, 2020, submitted demographics to the

CoreQ vendor to initiate the CoreQ survey process, (a) shall receive a performance add-on of \$.60 for each of the following CMS nursing home long stay quality measures where the nursing facility has not failed to report data for any of the reporting periods Q1 2019, Q2 2019, Q3 2019 and Q4 2019, and the simple average of the quarters, as calculated by the Department with available data, is at or below the national average, as calculated by CMS, for the percentage of long stay residents who are: physically restrained, receiving antipsychotic medication, experiencing one or more falls with major injury, and high risk residents with a pressure ulcer, (b) shall receive a performance add-on of \$.60 if the percentage of long-stay residents who are assessed and/or given, appropriately, the influenza vaccination is at or above the national average for the 2019 CMS reporting year, and (c) shall receive a performance add-on of \$.60 if the nursing facility has been deemed eligible to participate in the CoreQ survey process as determined by the Department and received a composite score of 75% or greater on the CoreQ Resident and Family Experience Survey for the fiscal year 2022 survey period; (8) each nursing facility shall use no less than sixty percent of the ten percent rate adjustment provided under section 1 above for the sole purpose of maintaining or increasing wages of staff providing direct care and, to ensure compliance, shall provide wage and cost data in a manner and form prescribed by the Commissioner of the Department of Human Services and shall return any of the sixty percent amount not used for this purpose; (9) each nursing facility shall use the remainder of the ten percent rate adjustment provided under section 1 above for the sole purpose of COVID-19 infection control preparedness and response and shall return twenty percent of the ten percent increase if the nursing facility is cited by the Department of Health for two or more repeat infection control violations during the fiscal year; and (10) each nursing facility shall receive a per diem adjustment that shall be calculated based upon an additional \$15,000,000 in State and \$15,000,000 in federal appropriations.

A copy of this Notice is available for public review at all Offices of the Area Agency on Aging that are situated in all twenty-one counties, as well as at the local Medical Assistance Customer Centers, County Welfare Agencies, and the DHS website at <http://www.state.nj.us/humanservices/providers/grants/public/index.html>. Comments or inquiries must be submitted in writing within 30 days of the date of this notice to:

Division Director
Division of Aging Services
PO Box 807
Trenton, New Jersey 08625-0807