## Table of Contents

**State/Territory Name: Massachusetts**

**State Plan Amendment (SPA) #: 20-0032**

This file contains the following documents in the order listed:

**DEPARTMENT OF HEALTH & HUMAN SERVICES**
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S3-14-28
Baltimore, Maryland 21244-1850


**Financial Management Group**

April 21, 2021

Marylou Sudders
Secretary
Executive Office of Health and Human Services
One Ashburton Place
Room 1109
Boston, MA 02108

RE: State Plan Amendment (SPA) TN 20-0032

Dear Secretary Sudders:

This is a revised approval package for a technical correction to the CMS-179 of the Massachusetts State Plan Amendment of Attachment 4.19-D submitted under transmittal number (TN) 20-0032 to the Centers for Medicare & Medicaid Services (CMS) on December 31, 2020. This plan amendment modifies reimbursement for nursing facility services. Specifically, it authorizes the rebasing and restructuring of nursing facility rates and establish additional payment methodologies associated with COVID-19 supports and oversight for fiscal year (FY) 2021.

The approved amendment date is March 26, 2021 with an effective date of October 1, 2020. We are enclosing the complete approval package with a revision to block number 9 of the CMS-179.

If you have any additional questions or need further assistance, please contact Novena James-Hailey at (617) 565-1291 or Novena.JamesHailey@cms.hhs.gov.

Sincerely,

[redacted]

For

Rory Howe
Acting Director

Enclosures

**DEPARTMENT OF HEALTH & HUMAN SERVICES**
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S3-14-28
Baltimore, Maryland 21244-1850

**Financial Management Group**

March 26, 2021

Marylou Sudders
Secretary
Executive Office of Health and Human Services
One Ashburton Place
Room 1109
Boston, MA 02108

RE: State Plan Amendment (SPA) TN 20-0032

Dear Secretary Sudders:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 20-0032. Effective October 1, 2020, this amendment authorizes the rebasing and restructuring nursing of facility rates and establish additional payment methodologies associated with COVID-19 supports and oversight for fiscal year (FY) 2021.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30) and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR Part 447. This letter is to inform you that Massachusetts 20-0032 is approved effective October 1, 2020. The CMS-179 and approved plan pages are enclosed.

If you have any questions, please contact Novena James-Hailey at (617) 565-1291 or Novena.JamesHailey@cms.hhs.gov.

Sincerely,

[redacted]

For
Rory Howe
Acting Director

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

# TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

**FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER: 20-032

2. STATE: MA

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE: 10/01/20

5. TYPE OF PLAN MATERIAL *(Check One)*

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☑ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR Part 447

7. FEDERAL BUDGET IMPACT
a. FFY 2021 $ ~~76,500,000~~ $80,650,000
b. FFY 2022 $ ~~70,010,000~~ $43, 810,000

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D(4) pages 1-15i

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: Attachment 4.19-D(4) pages 1-15

10. SUBJECT OF AMENDMENT

An amendment to rates for nursing facilities

11. GOVERNOR'S REVIEW *(Check One)*

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☑ OTHER, AS SPECIFIED

Not required under 42 CFR 430.12(b)(2)(i)

12. SIGNATURE OF STATE AGENCY OFFICIAL
[redacted]

13. TYPED NAME: Marylou Sudders

14. TITLE: Secretary

15. DATE SUBMITTED: 12/31/20

16. RETURN TO

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
One Ashburton Place, Room 1109
Boston, MA 02108

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: December 31, 2020

18. DATE APPROVED: 3/26/21

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL: October 1, 2020

20. SIGNATURE OF REGIONAL OFFICIAL
[redacted] For

21. TYPED NAME: Rory Howe

[redacted]gement Group

23. REMARKS

**State Plan under Title XIX of the Social Security Act**
**State. Massachusetts**
**Methods for Establishing Payment Rates - Nursing Facilities**

## I. General Description of Payment Methodology

**A. Overview.** Nursing facility payments for services provided to MassHealth members are governed by the Executive Office of Health and Human Services (EOHHS) regulation, 101 CMR 206.00: Standard Payments to Nursing Facilities as of October 1, 2020. This attachment describes the methods and standards used to establish payment rates for nursing facilities effective October 1, 2020.

**B. Chief Components.** The payment method describes standard payments for nursing facility services. Standard payments are derived from reported median base-year costs for Nursing and Operating Costs as well as a capital payment component. Nursing and Operating Standard Payment rates were calculated using Calendar Year (CY) 2018 costs. The allowable basis for capital was updated using CY 2014 data.

## II. Cost Reporting Requirements and Cost Finding

**A. Required Reports.** Except as provided below, each provider of long-term care facility services under the State Plan must complete an annual Cost Report.

1. For each cost reporting year, the Cost Report must contain detailed cost information based on generally accepted accounting principles and the accrual method of accounting that meets the requirements of 101 CMR 206.08 as of October 1, 2020.

2. There are five types of cost reports: a) Nursing Facility Cost Report; b) Realty Company Cost Report (if the facility is leased from another entity); c) Management Company Cost Report (if the facility reports management expenses paid to another entity); d) Financial Statements, and e) Clinical Data.

3. A facility that closes prior to November 30 is not required to submit a cost report for the following calendar year.

4. There are special cost reporting requirements outlined in 101 CMR 206.08(1)(f) and 101 CMR 206.08(2)(g) as of October 1, 2020 for hospital-based nursing facilities, state-operated nursing facilities, and facilities that operate other programs such as Adult Day Health, Assisted Living or Outpatient Services.

5. A facility may be subject to penalties in accordance with 101 CMR 206.08(7) as of October 1, 2020 if a facility does not file the required cost reports by the due date.

**B. General Cost Principles**. In order to report a cost as related to MassHealth patient care, a cost must satisfy the following criteria:

1. the cost is ordinary, necessary, and directly related to the care of publicly aided patients;
2. the cost is for goods or services actually provided in the nursing facility;

3. the cost must be reasonable; and
4. the provider must actually pay the cost.

Costs that are not considered related to the care of MassHealth patients include, but are not limited to: costs that are discharged in bankruptcy; costs that are forgiven; costs that are converted to a promissory note; and accruals of self-insured costs that are based on actuarial estimates.

A provider may not report any of the costs that are listed in 101 CMR 206.08(3)(h) as of October 1, 2020 as related to MassHealth patient care.

## III. Methods and Standards Used to Determine Payment Rates

**A. Prospective Per Diem Rates**. The prospective per diem payment rates for nursing facilities are derived from the Nursing, Operating, and Capital Cost components. Each of these components is described in detail in the following sections.

**B. Nursing Cost Component**.

1. The Nursing Cost component of prospective per diem payment rates comprises the following Nursing Standard Payments (per diem).

| Payment Group | Management Minute Range | Nursing Standard Payment |
|---|---|---|
| H | 0 – 30 | $17.00 |
| JK | 30.1 – 110 | $45.56 |
| LM | 110.1 – 170 | $81.54 |
| NP | 170.1 – 225 | $113.76 |
| RS | 225.1 – 270 | $137.48 |
| T | 270.1 & above | $162.29 |

2. The base year used to develop the Nursing Standard Payments is 2018. Nursing costs reported in CY 2018 in the following categories are included in the calculation: Director of Nurses, Registered Nurses, Licensed Practical Nurses, Nursing Aides, Nursing Assistants, Orderlies, Nursing Purchased Services, Director of Nurses and Nursing Workers' Compensation, Payroll Tax, and Fringe Benefits, including Pension Expense. The Nursing Standard Payments are derived from the product of the industry CY 2018 median nursing costs times the CY 2018 industry median management minutes for each of six payment groups listed in 101 CMR 206.04(1) as of October 1, 2020. The base year amounts for each group are increased by a cost adjustment factor of 3.06%. This cost adjustment factor is based on Massachusetts-specific consumer price index (CPI) forecasts as well as national and regional indices supplied by Global Insight, Inc.

**C. Operating Cost Component.**

1. The Operating Cost component of the prospective per diem payment rates for nursing facilities, is $102.16.
2. The base year used to develop the Operating Standard Payments is CY2018. The following operating costs reported in CY 2018 are included in the calculation: variable, and administrative and general costs. The Operating Standard Payment is set equal to the CY2018 industry median of these cost amounts, except for administrative and general costs, which are set at the 85th percentile of the 2018 statewide administrative and general costs before being combined with other cost components. The base year Operating Standard Payment amount is then increased by a cost adjustment factor of 3.06%. This cost adjustment factor is based on Massachusetts-specific CPI forecasts as well as national and regional indices supplied by Global Insight, Inc.

**D. Capital Cost Component.**

1. The Capital Cost component of the prospective per diem payment rates for nursing facilities comprises the Capital Cost Standard Payments (per diems). The base year for the Capital Cost Standard Payments is 2014. The capital payments are increased from the base year by a cost adjustment factor of 7.10%. The Capital Cost payments are based on the county in which the facility is located, with exceptions as described in III.D.2-5.

| County | Capital Standard Payment |
|---|---|
| Berkshire, Franklin, Hampden, Hampshire | $15.08 |
| Middlesex, Suffolk | $17.20 |
| Barnstable, Dukes, Nantucket | $19.32 |
| Bristol, Essex, Norfolk, Plymouth, Worcester | $17.20 |

2. If a nursing facility capital standard payment as listed in subsection III.D.1 is less than the facility's rebased capital payment that it would have received based on the capital standard payment calculation methodology in effect prior to October 1, 2020, the facility may be eligible for an upward adjustment to its capital payment as follows.
    a. The facility's upward adjustment is calculated as the difference between the standard capital payment listed in III.D.1 and its rebased capital payment that it would have received based on the capital standard payment calculation methodology in effect prior to October 1, 2020.
3. Nursing facilities that meet any of the criteria listed in III.D.4 will be eligible for an upward adjustment to its capital standard payment as follows:
    a. Determine the standard capital payment listed in III.D.1 that is applicable to the facility based on the county in which the facility is located;
    b. Determine the rebased capital payment that the facility would have received based on the capital standard payment calculation methodology in effect prior to October 1, 2019. For petitions for revised capital payments that were

c. submitted on or before November 1, 2019, the calculation methodology will use a financing factor of 7.625%. For petitions for revised capital payments that were submitted after November 1, 2019, the calculation methodology will use a financing factor of 2.875%;
d. The upward adjustment is equal to the difference between the results of III.D.3.a and III.D.3.b.

4. A nursing facility will be eligible for an adjustment to its capital standard payment as described in III.D.3, if:
   a. The facility has expended at least 50% of the maximum capital expenditure for an approved determination of need and the facility has submitted a notification request for a revised capital payment to EOHHS between November 1, 2009, and November 1, 2019; or
   b. The facility expends at least 50% of the maximum capital expenditure for an approved determination of need, and the facility submits a notification request for a revised capital payment to EOHHS, provided that prior to September 30, 2021, the facility provided documentation to EOHHS of at least one of the criteria:
      i. Department of Public Health plan review approval pursuant to an approved determination of need dated prior to January 1, 2020; or
      ii. Detailed architectural or engineering plans developed in response to an approved determination of need and submitted to the Department of Public of Health prior to January 1, 2020; or
      iii. Evidence of funding received, or a firm commitment to fund, from an outside lender dated prior to January 1, 2020, in an amount equal to or in excess of 50 per cent of the maximum capital expenditure as specified in an approved determination of need; or
      iv. Evidence of applications made on or before January 1, 2020, to local government agencies for planning, zoning or building permits or other regulatory approvals required in connection with the implementation of an approved determination of need;
      v. Evidence of the acquisition of land required for development of the project authorized by an approved determination of need; or
      vi. An application for a determination of need submitted to the Department of Public Health prior to January 1, 2020 and detailed architectural or engineering plans, dated prior to January 1, 2020, for the capital project contemplated in the facility's determination of need application.
      vii. Detailed architectural or engineering plans for, or evidence of applications made to local government agencies for planning, zoning, or building permits or other regulatory approvals required in connection with, conversion of rooms with three or more residents to one- and two-bedded rooms.

5. A nursing facility that becomes operational on or after November 1, 2019, an existing nursing facility that replaces its current building on or after November 1, 2019, or an existing nursing facility that fully relocates to a newly constructed location on or after November 1, 2019 will be eligible for a capital standard payment in the amount of

6. $37.60. Such facility will not be eligible for additional capital payments as listed in subsection III.D.1 or for an adjustment to its capital standard payment as described in subsection III.D.2.
7. A nursing facility will not receive an adjustment to its capital standard payment rate solely because of an increase or decrease in its number of licensed beds.
8. Rate Adjustments. EOHHS will adjust any capital payment upon EOHHS's determination that there was a material error in the calculation of the payment or in the facility's documentation of its capital costs.

## IV. Special Conditions

**A. Innovative and Special Programs**. The MassHealth program may contract for special and/or innovative programs to meet special needs of certain patients, which are not ordinarily met by existing services in nursing facilities or which can only be met by existing services in nursing facilities at substantially higher cost. Currently, these programs include programs for patients with traumatic brain injury, mental illness and medical illness (MIMI's), developmental disability, technologic dependency, as well as programs for nursing facilities that have a substantial concentration of patients of the highest acuity level (i.e., Management Minute Category T), nursing facilities that have a substantial concentration of patients with multiple sclerosis or multiple sclerosis and amyotrophic lateral sclerosis, nursing facilities that have a substantial concentration of deaf patients, and nursing facilities with substantially higher costs due to island location.

**B. Rate for Innovative and Special Programs.** A provider who seeks to participate in an innovative and special program must contract with the MassHealth program to provide special care and services to distinct categories of patients designated by the MassHealth program. This is usually done through a Request for Responses by the MassHealth program for special or innovative programs to address special needs of certain patients that are not ordinarily met by existing services in nursing facilities. Payment under the innovative and special programs may be calculated based on the added reasonable and necessary costs and expenses that must be incurred (as determined by the MassHealth program) by a provider in connection with that program. The provider must verify that such items or services are furnished because of the special needs of the patients treated as contemplated in the contract with the MassHealth Program, and that such items or services are reasonable and appropriate in the efficient delivery of necessary health care. The rate for an innovative and special program may be established as an add-on to a rate established by EOHHS under 101 CMR 206.00 as of October 1, 2020 or as a stand-alone rate established by contract under M.G.L. c. 118E, s.12 that is not subject to the provisions of 101 CMR 206.00 as of October 1, 2020. In either instance, the rate must be consistent with the payment methodology established herein for long-term care facilities. In the event that the special program is located within a special unit, the remaining costs of the unit are to be integrated into the cost report for the entire facility.

**C. Facilities with High-Acuity High-Nursing Need Residents.** A provider whose resident population primarily and consistently consists of high-acuity high-nursing need residents such that the aggregate need of the entire population requires a staffing level significantly

greater than a typical nursing facility may be reimbursed as a special program, in which case the increment added to the facility's rate may apply to all residents of the facility and will be calculated based on allowable costs associated with the higher care needs of the patients. In order to be eligible for reimbursement under this paragraph, a nursing facility must meet each of the following criteria:

1. at least ninety percent (90%) of its residents must have Management Minute ("MM") scores that fall in either MM category 9 or 10 and at least seventy-five percent (75%) of its residents must have MM scores that fall in MM category 10;
2. or (ii) the facility must be a former acute hospital that has undergone conversion to a nursing facility under the auspices of the Massachusetts Acute Hospital Conversion Board;
3. the mean MM score for all residents of the facility in MM category 10 must be at least fifteen percent (15%) higher than the minimum score needed to qualify for MM category 10; and
4. the facility must be a geriatric nursing facility.

**D. Pediatric Nursing Facilities**.

1. EOHHS will determine payments to facilities licensed to provide pediatric nursing facility services using allowable reported costs for nursing and operating costs, excluding administration and general costs, from the facility's 2014 Cost Report. EOHHS will include an administration and general payment based on the 85$^{th}$ percentile of the 2018 statewide administrative and general costs. EOHHS will apply an appropriate cost adjustment factor to nursing, operating, and administration and general costs.
2. The nursing and operating components of the rate is increased by a cost adjustment factor of 3.06%. This cost adjustment factor is based on Massachusetts-specific CPI forecasts as well as national and regional indices supplied by Global Insight, Inc.
3. Effective October 1, 2020, facilities licensed to provide pediatric nursing facility services will receive the rates which are the greater of: (a) the rates calculated as described IV.D.1 and IV.D.2; or (b) the Nursing Standard and Operating Cost Standard rates calculated as described in III.B. and III.C.

**E. Beds Out of Service**. Facilities with licensed beds that were out of service prior to 2001 that re-open in 2001 will receive the lower of the Standard Payment rates or the most recent prior payment rates adjusted by the applicable CAF for Nursing and Operating Costs.

**F. Receivership under M.G.L. c.111, s.72N *et seq.*** In accordance with 101 CMR 206.06(9) as of October 1, 2020, provider rates of a nursing facility in receivership may be adjusted by EOHHS to reflect the reasonable and necessary costs associated with the court-approved closure of the facility.

**G. Review and Approval of Rates and Rate Methodology by the MassHealth Program**. Pursuant to M.G.L c 118E, s.13, the MassHealth program shall review and approve or disapprove any change in rates or in rate methodology proposed by EOHHS. The MassHealth program shall review such proposed rate changes for consistency with federal and state policy

and budget requirements prior to certification of such rates by EOHHS.

The MassHealth program shall, whenever it disapproves a rate increase, submit the reasons for disapproval to EOHHS together with such recommendations for changes. Such disapproval and recommendations for changes, if any, are submitted to EOHHS after the MassHealth program is notified that EOHHS intends to propose a rate increase for any class of provider under Title XIX but in no event later than the date of the public hearing held by EOHHS regarding such rate change; provided that no rates shall take effect without the approval of the MassHealth program. EOHHS and the MassHealth program shall provide documentation on the reasons for increases in any class of approved rates that exceed the medical component of the CPI to the Massachusetts House and Senate Committees on Ways and Means.

**H. Supplemental Funding.** If projected payments from rates necessary to conform to applicable requirements of Title XIX are estimated by the MassHealth program to exceed the amount of funding appropriated for such purpose in the budget for the fiscal year, the MassHealth program and EOHHS shall jointly prepare and submit to the Governor a proposal for the minimum amount of supplemental funding necessary to satisfy the requirements of the State Plan developed by the MassHealth program under Title XIX of the federal Social Security Act.

**I. Appeals.** A provider may file an appeal at the Division of Administrative Law Appeals of any rate established pursuant to 101 CMR 206.00 as of October 1, 2020 within 30 calendar days after EOHHS files the rate with the Secretary of the Commonwealth. EOHHS may amend a rate or request additional information from the provider even if the provider has filed a pending appeal.

**J. Low Occupancy Adjustment**.

1. Effective October 1, 2020, a nursing facility may be subject to a Low Occupancy Adjustment to its payment rate, according to the following methodology:
    a. Each facility's occupancy is calculated as follows:
        i. Determine the facility's total resident days as reported on User Fee Reports covering the period from October 1, 2018 through September 30, 2019;
        ii. Determine the facility's total number of licensed beds as of October 1, 2019, minus licensed Level IV beds and minus the number of beds not in service as reported in the facility's most recent Nursing Facility Occupancy Report, as of October 1, 2019. Multiply the result by 365 days.
        iii. Calculate the facility's occupancy by dividing the result of IV.J.1.a.i. by the result of IV.J.1.a.ii.
    b. Based on the occupancy calculated in IV.J.1.a., a facility may face a reduction to its nursing standard rate and operating rate, applied at each acuity level in accordance with the following chart:

| Occupancy Rate | Low Occupancy Penalty |
|---|---|
| Occupancy below 80% | -3.0% |
| Occupancy of at least 80% but below 84% | -2.0% |
| Occupancy of at least 84% but below 88% | -1.0% |
| Occupancy of at least 88% | 0.0% |

c. A nursing facility will be eligible for a one-time reconsideration of its Low Occupancy Adjustment as determined in IV.J.1.b. to be applied beginning April 1, 2021, if the nursing facility:
   i. Reduces by any amount its number of licensed beds from the number of licensed beds in the facility as of October 1, 2019, by March 1, 2021; and
   ii. Submits a rate review request to EOHHS by March 1, 2021.

d. Upon receiving a rate review request from a nursing facility as described in IV.J.1.c.ii., EOHHS will recalculate the facility's occupancy, as follows:
   i. Determine the facility's total resident days as reported on User Fee Reports covering the period October 1, 2018 through September 30, 2019;
   ii. Determine the facility's total number of licensed beds as of March 1, 2021, minus the number of beds not in service as reported in the facility's most recent Nursing Facility Occupancy Report, as of October 1, 2019. Multiply the result by 365 days.
   iii. Calculate the facility's occupancy by dividing the result of IV.J.1.d.i. by the result of IV.J.1.d.ii.

e. The facility's new occupancy rate, as calculated in IV.J.1.d.iii, will be used to redetermine the amount or applicability of the Low Occupancy Adjustment, as described IV.J.1.b. Any changes to a facility's Low Occupancy Adjustment as a result of a new occupancy rate will apply solely prospectively, beginning April 1, 2021.

**K. Kosher Kitchens.** Nursing facilities with kosher kitchen and food service operations shall receive an add-on of up to $5.00 per day to reflect any additional cost of these operations. Eligibility requirements and determination of payment amounts are described in 101 CMR 206.06(3) as of October 1, 2020.

**L. Quality Achievement and Improvement Adjustments.**

1. Effective October 1, 2020, a nursing facility may be eligible for a quality adjustment in the form of an increase or decrease applied to the facility's nursing standard rate and operating standard rate at each acuity level. The quality adjustment will be equal to the sum of the percent increase or decrease assessed for performance on each of the following four quality measures: Quality Achievement Based on CMS Score, Quality Improvement Based on CMS Score, Quality Achievement Based on DPH Score, and Quality Improvement based on DPH Score.

a. Quality Achievement Based on CMS Score. The quality adjustment a nursing facility will incur under the measure "Quality Achievement Based on CMS Score" will be based on the facility's overall rating on the Centers for Medicare and Medicaid Services Nursing Home Compare 5-Star Quality Rating Tool as of June 2020, as follows:

| CMS Overall Score as of June 2020 | Adjustment Percentage |
|---|---|
| 1 | -1.00% |
| 2 | -0.75% |
| 3 | 0.00% |
| 4 | 0.75% |
| 5 | 1.00% |

b. Quality Improvement Based on CMS Score. The quality adjustment a nursing facility will incur under the measure "Quality Improvement Based on CMS Score" will be based on the facility's overall rating on the Centers for Medicare and Medicaid Services Nursing Home Compare 5-Star Quality Rating Tool, as follows. If a facility has a score of 5 Stars as of June 2020, its adjustment for this measure will be 2.0%, regardless of whether it meets any other criteria in the following table. If a facility meets the criteria for "CMS Chronic Low Quality", its adjustment for this measure will be -3.0%, regardless of whether it meets any other criteria in the following table.

| Criteria based on CMS Rating | Adjustment Percentage |
|---|---|
| Facility has a score of 5 Stars as of June 2020 | 2% |
| Facility experienced an increase of 2 or more Stars from June 2019 to June 2020 | 1.5% |
| Facility experienced an increase of 1 Star from June 2019 to June 2020 | 1% |
| Facility experienced no change to its Star rating from June 2019 to June 2020 | 0% |
| Facility experienced a decrease of 1 Star from June 2019 to June 2020, and had a score of 5 Stars as of June 2019 | 0% |
| Facility experienced a decrease of 1 Star from June 2019 to June 2020, and did not have a score of 5 Stars as of June 2019 | -2% |
| Facility experienced a decrease of 2 or more Stars from June 2019 to June 2020 | -2.5% |
| CMS Chronic Low Quality: The average of a facility's scores as of June 2017, June 2018, June 2019, and June 2020 is less than or equal to 1.5 Stars | -3% |

c. Quality Achievement Based on DPH Score. The quality adjustment a nursing facility will incur under the measure "Quality Achievement Based on DPH Score" will be based on the facility's performance on the Department's Nursing Facility Survey Performance Tool (DPH NFSPT) as of July 1, 2020, as follows:

| DPH NFSPT Score as of July 1, 2020 | Adjustment Percentage |
|---|---|
| 110 or less | -1.00% |
| 111 – 115 | -0.75% |
| 116 – 119 | 0.00% |
| 120 – 123 | 0.75% |
| 124+ | 1.00% |

d. Quality Improvement Based on DPH Score. The quality adjustment a nursing facility will incur under the measure "Quality Improvement Based on DPH Score" will be based on the facility's performance on the DPH NFSPT, as follows. If a facility has an NFSPT score of 124 or higher as of July 1, 2020, its adjustment for this measure will be 2.0%, regardless of whether it meets any other criteria in the following table. If a facility meets the criteria for "DPH Chronic Low Quality", its adjustment for this measure will be -3.0%, regardless of whether it meets any other criteria in the following table.

| Criteria based on DPH FSPT Score | Adjustment Percentage |
|---|---|
| Facility has a score of 124 or higher as of July 1, 2020 | 2.0% |
| Facility experienced an increase of 4 or more points from July 1, 2019 to July 1, 2020 | 1.5% |
| Facility experienced an increase of 1, 2, or 3 points from July 1, 2019 to July 1, 2020 | 1.0% |
| Facility experienced no change to its score from July 1, 2019 to July 1, 2020 | 0.0% |
| Facility experienced a decrease of 1, 2, or 3 points from July 1, 2019 to July 1, 2020, and had a score of 124 or higher as of July 1, 2019 | 0.0% |
| Facility experienced a decrease of 1, 2, or 3 points from July 1, 2019 to July 1, 2020, and did not have a score of 124 or higher as of July 1, 2019 | -2.0% |
| Facility experienced a decrease of 4 or more points from July 1, 2019 to July 1, 2020 | -2.5% |

| | |
|---|---|
| DPH Chronic Low Quality: Facility had a score of less than 100 as of each of the following dates: November 26, 2018; July 1, 2019; and July 1, 2020 | -3% |

**M. State-Operated Nursing Facilities**. A Facility operated by the Commonwealth will be paid at the Facility's reasonable cost of providing covered Medicaid services to eligible Medicaid recipients.

1. EOHHS will establish an interim per diem rate using a FY2014 base year CMS-2540 cost report inflated to the rate year using the cost adjustment factor calculated pursuant to (2) below and a final rate using the final CMS-2540 cost report from the rate year.

2. EOHHS will use a 2.96% cost adjustment factor for the period FY2016 through FY2018 using a composite index using price level data from the CMS Nursing Home without capital forecast, and regional health care consumer price indices, and the Massachusetts-specific consumer price index (CPI), optimistic forecast. EOHHS will use the Massachusetts CPI as proxy for wages and salaries.

3. EOHHS will retroactively adjust the final settled amount when the Medicare CMS- 2540 cost report is re-opened or for audit adjustments. Adjustments will be made on an annual basis to update the base year and cost adjustment factor with the most recent data.

**N. Behavioral Indicator Adjustment**.

1. Effective October 1, 2020, a nursing facility may be eligible for a Behavioral Indicator Adjustment to its payment rate as follows. Eligibility for the Behavioral Indicator Adjustment will be determined based on the proportion of the facility's MassHealth residents in FY2019 who were coded as 2 or 3 on one or more of the following Minimum Data Set 3.0 (MDS 3.0) indicators: Behavioral Health (E0200A, E0200B, or E0200C), Rejection of Care (E0800), or Wandering (E0900).
    a. A facility for which at least 25% and less than 40% of its MassHealth residents that meet the eligibility criteria described in IV.N.1. will receive a 4% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.
    b. A facility for which at least 40% and less than 55% of its MassHealth residents that meet the eligibility criteria described in IV.N.1. will receive a 5% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.
    c. A facility for which at least 55% of its MassHealth residents that meet the eligibility criteria described in IV.N.1. will receive a 6% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.

## O. High Medicaid Adjustment.

1. Effective October 1, 2020, a nursing facility may be eligible for a High Medicaid Adjustment to its payment rate, based on the proportion of the facility's total resident days which are MassHealth resident days, as reported on the facility's quarterly User Fee Assessment Forms covering the period October 1, 2018 through September 30, 2019.
    a. A facility for which its MassHealth resident days are at least 50% and less than 75% of its total resident days will receive a 1% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.
    b. A facility for which its MassHealth resident days are at least 75% and less than 90% of its total resident days will receive a 2% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.
    c. A facility for which MassHealth resident days are at least 90% of its total resident days will receive a 4% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.

## P. Direct Care Cost Quotient Adjustment

Beginning October 1, 2020, Massachusetts nursing facilities must have a direct care cost quotient of at least 75%. The direct care cost quotient is calculated by dividing eligible direct care workforce expenses by the facility's total revenue, excluding non-nursing facility lines of business revenue, and minus certain Medicaid resident expenses and the User Fee assessment. Beginning October 1, 2021, nursing facilities that fail to meet the 75% threshold in the previous year will receive a downward adjustment as follows:

1. For every 1% below the 75% threshold, a 0.5% downward adjustment will be applied to the facility's nursing and operating standard payments.
2. The maximum downward adjustment may be no more than 5% of the facility's nursing and operating standard payments
3. Massachusetts may apply the maximum downward adjustment to facilities that fail to submit required reports on their direct care cost quotient compliance.
4. Nursing facilities that report less than 5,000 Massachusetts Medicaid Days in state fiscal year 2021 will be exempt from the downward adjustment.

## Q. Average Staffing Hours Incentive

Beginning October 5, 2020, Massachusetts requires nursing facilities to report its direct care staffing hours per patient day. Facilities that fail to meet an average of 3.58 direct care hours per patient day in any calendar quarter beginning on or after January 1, 2021 will receive a downward adjustment equal to 2% of the facility's standard rate for that calendar quarter.

**R. Certification of Public Expenditures of a Nursing Facility Owned and Operated by a Municipality**.

1. Within 60 days after the filing of its Medicare CMS-2540 cost report, a nursing facility, which is owned and operated by a municipality, may submit a request for Certified Public Expenditures (CPE) to EOHHS. This CPE will account for its public expenditures of providing Medicaid services to eligible Medicaid recipients. The submission shall be based on the inpatient routine service cost reported on the 2540 Medicare cost report.

2. Following review of the facility's submission, EOHHS within 60 days of the submission, will approve, deny, or revise the amount of the Certified Public Expenditure request based upon its evaluation of the reported costs and payments. The final approved amount will be equal to the difference between the Medicaid interim payments and the total allowable Medicaid costs as determined by EOHHS and this final determined amount will be certified by the municipality as eligible for federal match.

3. Interim Payments are based on the reimbursement methodology contained in Section III of the State Plan Attachment 4.19-D(4).

4. The determination of allowable (CPE) Medicaid costs will be based on the Medicare CMS - 2540 Cost Report and will be determined on a per diem rate calculated as follows:

*I. Skilled Nursing Facility Inpatient Routine Service Costs*

**(A)** Total Allowable Costs - Worksheet B, Part I, Line *30*, Column 18
**(B)** Total Days - Worksheet *S*-3, Line 1, Column 7
**(C)** Per Diem Rate - (A)/(B)
**(D)** Medicaid Days - Worksheet S-3, Line 1, Column 5
**(E)** Medicaid Allowable *Skilled Nursing Facility* Costs - (C) X (D)

*II. Nursing Facility Inpatient Service Costs*

**(A)** Total Allowable Costs - Worksheet B, Part I, Line *31*, Column 18
**(B)** Total Days - Worksheet *S*-3, Line *3*, Column 7
**(C)** Per Diem Rate - (A)/(B)
**(D)** Medicaid Days - Worksheet S-3, Line *3*, Column 5
**(E)** Medicaid Allowable *Nursing Facility* Costs - (C) X (D)

*III. Total Allowable Medicaid Costs*

I (E) Skilled Nursing Facility Inpatient Costs + II (E) Nursing Facility Inpatient Costs

5. EOHHS will calculate an interim reconciliation based on the difference between the interim payments and total allowable Medicaid costs from the as filed CMS - 2540 Cost Report. When the CMS-2540 is reopened the facility must immediately notify EOHHS. Within 60 days after receiving notification of the final Medicare settlement EOHHS will

retroactively adjust the final settlement amount.

**S. Leaves of Absence.**

The current payment rate for medical or non-medical leave of absence is $80.10 per day.

**T. Low-income Municipality Adjustment.**

1. Effective October 1, 2020, a nursing facility will be eligible for a Low-income Municipality Adjustment to its payment rate if it is located in a city or town in Massachusetts with a median household income level that is below the 20th percentile of median household income across all Massachusetts cities and towns, based on the US Census Bureau's 2013–2017 American Community Survey (ACS) data. The Low-income Municipality Adjustment is a 0.5% upward adjustment applied to the facility's nursing standard rate and operating standard rate at each acuity level.

**U. Level-funding Upward Adjustment.**

1. Effective beginning October 1, 2020, a nursing facility will be eligible for an additional upward adjustment to its total standard nursing facility per diem rate described in III.B., III.C, III.D., IV.J., IV.K, IV.L., IV.N., IV.O., and IV.T. for the dates of service October 1, 2020, through December 31, 2020, if such rate is less than the facility's total standard nursing facility rate that was in effect as of September 30, 2020. The upward adjustment will be calculated as follows:
    a. Determine the facility's standard nursing facility rate as calculated pursuant to III.B., III.C, III.D., IV.J., IV.K, IV.L., IV.N., IV.O., and IV.T.;
    b. Determine the facility's standard nursing facility rate that was in effect on September 30, 2020;
    c. Calculate the difference between the rate in IV.U.1.a. and IV.U.1.b;
    d. The upward adjustment will equal the amount calculated in IV.U.1.c.

**V. State Legislative Changes**

A. **Multiple Sclerosis Primary Diagnosis.** In accordance with the provisions of St. 2002, c. 184, §180, as amended by St. 2002, c. 300, §43, and Chapter 151 of the Acts of 1996, a rate add-on is computed, for eligible nursing facilities that serve a patient population of which more than 75% of the residents have a primary diagnosis of multiple sclerosis to reflect the difference between the standard payment amounts for nursing and the actual base year nursing costs of the eligible nursing facility. Therefore, an eligible nursing facility would get full recognition of its actual base year nursing costs in its rates.

## VI. COVID-19 Ongoing Supplemental Payments to Nursing Facilities

A. Massachusetts will provide monthly supplemental payments for nursing facilities that have been determined by Massachusetts to meet quality and infection control standards necessary to operate a COVID-19 isolation space, in a dedicated wing or unit, and who are operating such isolation spaces as of October 1, 2020. The supplemental payments are equal to each facility's proportion of total Massachusetts Medicaid days (including both FFS and managed care days) reported by nursing facilities during the previous year, multiplied by 1) $30 per member for each day that the facility operated a COVID-19 isolation space during the months of October, November and December of 2020; and 2) $50 per member for each day that the facility operated a COVID-19 isolation space in January 2021 or any subsequent month.

B. Massachusetts will pay supplemental payments, on a monthly basis, to all eligible nursing facilities conducting staff COVID-19 surveillance testing in accordance with Massachusetts public health requirements for long term care facilities. For October, November, and December of 2020, the supplemental payments will equal $80 per qualifying test conducted at the facility during each month. Beginning January 1, 2021, the supplemental payments will equal the number of qualifying tests conducted at the facility each month multiplied by the market rate of qualifying COVID-19 tests. Facilities will not be eligible for these payments if they are substantially out of compliance with the testing requirements, testing reporting requirements, or resident density reporting requirements.

C. Massachusetts will pay supplemental payments to all eligible nursing facilities for the heightened costs of operating safely during times of severe staffing shortages combined with high and rapidly increasing COVID-19 cases in Massachusetts. The supplemental payments will be paid on a per month basis for any month that thresholds for such conditions are met in the state as of the first day of the month. The supplemental payments will equal each facility's proportion of total Massachusetts Medicaid days (including both FFS and managed care days) reported by nursing facilities during the previous year, multiplied by 10% of the average monthly FFS Medicaid payment to the nursing facilities during the previous year. Facilities will not be eligible for these payments if they are substantially out of compliance with the testing requirements, testing reporting requirements, or resident density reporting requirements.

## VII. Intermediate Care Facilities for the Intellectually Disabled (ICFs/ID)

Payments for services provided by Intermediate Care Facilities for the Intellectually Disabled (ICFs/ID) to publicly assisted residents are governed by EOHHS regulation, 101 CMR 129: Rate and Charge Determination for Certain Intermediate Care Facilities Operated by the Department of Developmental Services (formerly 114.1 CMR 29.00) as of July 1, 2013.

The per diem payment rates for ICFs/ID are provider-specific and are established using Center for Health Information and Analysis (CHIA) ICF Cost Reports (403A). ICFs/ID rates are interim in nature and final rates are determined based on the final cost reports for the rate year. The initial inpatient per diem rate is calculated by dividing the allowable total patient care costs by total patient days using data from the fiscal year two years prior to the rate year and then adding inflation up to the rate year. The final inpatient per diem is calculated by dividing the allowable total patient care costs by total patient days using the data from the rate year. The final rate then replaces the initial per diem for the rate year.

The inflation factor for the initial per diem rates consists of a composite index comprised of two cost categories: labor and non-labor. The Massachusetts CPI is used as a proxy for the labor cost categories and the CMS Market Basket for Prospective Payment System-exempt hospitals is used for the non-labor cost category.

Payment rates include all allowable costs that are reasonable and directly related to health care and services provided in the ICFs/ID. Allowable total patient care costs are the sum of the ICF/ID's total inpatient routine and ancillary costs plus overhead costs associated with ICFs/ID health care and services, as reviewed and adjusted pursuant to regulation 101 CMR 129.04.

An ICF/ID may apply for an administrative adjustment to its inpatient per diem rate.