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State/Territory Name: Massachusetts

State Plan Amendment (SPA) #: MA 13-005

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



MAR 11 2014

John Polanowicz, Secretary
Executive Office of Health and Human Services
State of Massachusetts
One Ashburton Place, Room 1109
Boston, MA 02108

RE: Massachusetts 13-005

Dear Mr. Polanowicz:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 13-005. This amendment provides for a total increase of \$15.1 million for nursing facility services. Specifically, it increases the add-on payment adjustment that reflects a portion of the assessment cost incurred by nursing facilities based on each facility's user fee class until June 30, 2013. Additionally, it revises the pay-for-performance incentive payment pool amount. This plan amendment also makes non-substantive correction and clarification to the leave of absence days and cost reporting sections.

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 447 Subpart C. We are pleased to inform you that Medicaid State plan amendment 13-005 is approved effective February 1, 2013. We are enclosing the CMS-179 and the amended plan pages.

If you have any questions, please call Novena James-Hailey at (617) 565-1291.

Sincerely,
/s/

Cindy Mann
Director

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER: <div style="text-align: center;">013-005</div>	2. STATE <div style="text-align: center;">MA</div>
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT		4. PROPOSED EFFECTIVE DATE <div style="text-align: center;">02/01/13</div>	
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: <div style="text-align: center;">42 CFR Part 447</div>		7. FEDERAL BUDGET IMPACT: a. FFY 13 \$ 7,550,000 b. FFY 14 \$ 7,550,000	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: <div style="text-align: center;">Attachment 4.19-D (4) pp. 1-18</div>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): <div style="text-align: center;">Attachment 4.19-D (4) pp. 1-20</div>	
10. SUBJECT OF AMENDMENT: <div style="text-align: center;">Methods for Establishing Payment Rates – Nursing Facilities</div>			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Not required under <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL 42 CFR 430.12(b)(2)(ii)			
12. SIGNATURE OF STATE AGENCY OFFICIAL: <div style="text-align: center;">/s/</div>		16. RETURN TO: Michael P. Coleman State Plan Coordinator Office of Medicaid Executive Office of Health and Human Services One Ashburton Place, 11 th Floor Boston, MA 02108	
13. TYPED NAME: John Polanowicz		18. DATE APPROVED: <div style="text-align: center;">MAR 11 2014</div>	
14. TITLE: Secretary			
15. DATE SUBMITTED: 03/28/13			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: <div style="text-align: center;">MAR 11 2014</div>	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <div style="text-align: center;">FEB 01 2013</div>		20. SIGNATURE OF REGIONAL OFFICIAL: <div style="text-align: center;">/s/</div>	
21. TYPED NAME: Penny Thompson		22. TITLE: Deputy Director, Policy & Financial Mgt, EHC	
23. REMARKS:			

**State Plan under Title XIX of the Social Security Act
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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 February 1, 2013 formerly Division of Health Care Finance and Policy regulation, 114.2 CMR 6.00). All references to DHCFP refer to DHCFP or its successor agency. This attachment describes the methods and standards used to establish payment rates for nursing facilities effective February 1, 2013.
- 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 Other Operating Costs as well as a capital payment component. Nursing and Other Operating Standard Payment rates were calculated using Calendar Year (CY) 2005 costs. The allowable basis for capital was updated using CY 2005 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 February 1, 2013.
 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 1 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(2)(g) as of February 1, 2013 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. These requirements are outlined in 114.2 CMR 6.08 (2)(f) as of February 1, 2013.

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B. Penalties for Failure to File Timely. A provider's rate for current services will be reduced in accordance with 101 CMR 206.08 (7) as of February 1, 2013 if the Required Reports are not filed in a timely manner. On receipt of such Required Reports, the provider's rate will be restored effective on the date of report filing.

C. 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 related to MassHealth patient care as of February 1, 2013.

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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, Other Operating, and Capital payment components. Each of these components is described in detail in the following sections.
- B. Nursing Cost.** The following Nursing Standard Payments (per diem) comprise the Nursing Cost component of the prospective per diem payment rates for nursing facilities.

Payment Group	Management Minute Range	Nursing Standard Payment
H	0 – 30	\$14.08
JK	30.1 – 110	\$37.55
LM	110.1 – 170	\$65.72
NP	170.1 – 225	\$95.76
RS	225.1 – 270	\$116.69
T	270.1 & above	\$137.60

The base year used to develop the Nursing Standard Payments is 2005. Nursing costs reported in CY 2005 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 2005 median nursing costs times the CY 2005 industry median management minutes for each of six payment groups listed 101 CMR 206.04 (1) as of February 1, 2013 (Appendix A). The base year amounts for each group are updated to rate year 2007 by a cost adjustment factor of 6.49%. This cost adjustment factor is based on Massachusetts-specific CPI forecasts as well as national and regional indices supplied by Global Insight, Inc.

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- C. Other Operating Cost.** The Other Operating Cost Standard Payment (per diem) comprises the other operating component of the prospective per diem payment rates for nursing facilities. The Other Operating Standard Payment, effective September 1, 2009, is \$71.73.

The base year used to develop the Other Operating Standard Payment of \$71.73 is CY 2005. Other operating costs reported in CY 2005 in the following categories are included in the calculation: variable, administrative and general, and motor vehicle costs. The Other Operating Standard Payment is set equal to the CY 2005 industry median of these cost amounts, except for administrative and general costs, which are subject to a ceiling of \$17.99 before combining with other cost components. The calculation of the Other Operating Standard Payment is reduced by 3.17% to exclude non-allowable reported costs. The allowable base-year amount is updated by a CAF of 6.49%. 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.** The Capital component is computed in accordance with 101 CMR 206.05 as of February 1, 2013.

- 1. Capital Payments.** Capital payments for all facilities except for those identified in D.2 below, shall be based on the facility's allowable capital costs, including allowable depreciation, financing contribution and other fixed costs.
- (a) If a facility's capital payment effective July 31, 2007 is less than \$17.29, its capital payment will be the greater of its July 31, 2007 capital payment or the payment determined as follows:

2005 Base Year Capital Cost Per Day (101 CMR 206.05 (1))	Capital Payment
\$ 0.00 - \$4.00	\$4.45
\$ 4.01 - \$ 6.00	\$6.18
\$ 6.01 - \$ 8.00	\$8.15
\$ 8.01 - \$10.00	\$10.13
\$10.01 - \$12.00	\$12.11
\$12.01 - \$14.00	\$14.08
\$14.01 - \$16.00	\$16.06
\$16.01 - \$17.29	\$17.29
\$17.30 - \$18.24	\$18.24
\$18.25 - \$20.25	\$20.25
>\$20.25	\$22.56

- (b) If a facility's revised capital payment effective July 31, 2007 is greater than or equal to \$17.29, the facility's revised capital payment will equal its July 31, 2007 capital payment.

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- (c) If a provider re-licensed beds during the rate period that were out of service, its capital payment will be the lower (1) the capital payment rate established under 101 CMR 206.05(2)(c) as of February 1, 2013 or (2) the facility's most recent capital payment rates.
- (d) If a provider's capital payment is based on a DON approved prior to March 7, 1996 and the provider receives a temporary capital payment in accordance with 101 CMR 206.05 (4) (b) (3), the provider's capital payment will be revised in accordance with 101 CMR 206.05 (4) (b) (4) as of February 1, 2013.
2. **Capital Payments Exceptions.** The capital payment for new facilities constructed pursuant to a Determination of Need approved after March 7, 1996; replacement facilities that open pursuant to a Determination of Need approved after March 7, 1996; new facilities in urban under bedded areas that are exempt from the Determination of Need process; new beds that are licensed pursuant to a Determination of Need approved after March 7, 1996; new beds in twelve-bed expansion projects not associated with an approved Determination of Need project; hospital-based nursing facilities; and private nursing facilities that sign their first provider agreement on or after September 1, 2004 shall be as follows:

Date that New Facilities & Licensed Beds became Operational	Payment Amount
Prior to 2/1/1998 (for Hospital based NFs Only)	\$ 17.29
02/01/1998 - 12/31/2000	\$ 17.29
01/01/2001 - 06/30/2002	\$ 18.24
07/01/2002 - 12/31/2002	\$ 20.25
01/01/2003 - 08/31/2004	\$ 20.25
09/01/2004 - 06/30/2006	\$ 22.56
07/01/2006 - 07/31/2007	\$ 25.82
08/01/2007 - 07/31/2008	\$ 27.30
08/01/2008 - forward	\$ 28.06

3. **Notification of Substantial Capital Expenditures.** Any nursing facility that opens, adds new beds, adds substantial renovations, or re-opens beds after September 1, 2004, is required to notify EOHHS in accordance with 101 CMR 206.05 (4) (a) as of February 1, 2013. At that time, the Capital component may be recomputed in accordance with 101 CMR 206.05 (4) (b) as of February 1, 2013.
- E. **Retroactive Adjustments.** EOHHS will retroactively adjust the Capital Payment component of the rates if it learns that there was a material error in the rate calculation or if a nursing facility made a material error in its cost report. A material error is any error that would result in a change to a provider's rate.

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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. Currently, these programs include programs for patients with traumatic brain injury, mental illness and medical illness (MIMI's), technologic dependency, as well as a program for nursing facilities that have a substantial concentration of patients of the highest acuity level (i.e., Management Minute Category T).
- 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 February 1, 2013 or as a stand-alone rate established by contract under M.G.L. c. 118E, §12 that is not subject to the provisions of 101 CMR 206.00 as of February 1, 2013. 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:

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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; 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;
2. 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
3. the facility must be a geriatric nursing facility.

- D. Pediatric Nursing Facilities.** EOHHS will determine payments to facilities licensed to provide pediatric nursing facility services using allowable reported costs for nursing and other operating costs, excluding administration and general costs, from the facility's 2006 Cost Report. EOHHS will include an administration and general payment based on 85% of 2005 median statewide administration and general costs. EOHHS will apply an appropriate cost adjustment factor to nursing, other operating, and administration and general costs.

The nursing and other operating component of the rate is increased by a cost adjustment factor of 3.89%. This factor is derived from a composite market basket. The labor component on the market basket is the Massachusetts Consumer Price Index, optimistic forecast, as provided by Global Insight. The non-labor component is based on the CMS Skilled Nursing Facility without capital market basket, except for the Food and Health Care Services subcomponents, which are based on the Regional CPI for New England, as published by Global Insight.

- 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 Other Operating Costs.
- F. Legislative Mandate for Rate Relief.** A nursing facility with the following conditions shall have all of its variable costs and nursing costs recognized by EOHHS and its MassHealth rate adjusted accordingly:
- (i) with rate of public utilization consisting of Medicare, MassHealth, and Commission for the Blind patients, of ninety percent or more;
 - (ii) located in the service area of a federally designated sole community hospital; and
 - (iii) with more than 10% of its variable costs and nursing costs disallowed by DHCFP pursuant to 114.2 CMR 5.00 or any successor regulations.

EOHHS shall adjust the prospective rates for any nursing home that meets the aforementioned criteria for the rates that were effective January 1, 1994, and for each succeeding rate year that such nursing home complies with aforementioned criteria. The amount of variable costs and nursing costs recognized as allowable by EOHHS for any rate for a nursing home is limited to an amount that will not increase costs to MassHealth in an amount greater than \$3,000.

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- The Acute Care Hospital Conversion Board approved the owner's acquisition costs of the facility.
 - On average, no less than 85% of the nursing facility's patient population is MassHealth recipients.
- G. Receivership under M.G.L. C.111 s.72N et seq.** In accordance with 101 CMR 206.06 (10) as of February 1, 2013, 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.
- H 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 state policy and federal requirements, and with the available funding authorized in the final budget for each fiscal year 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 consumer price index to the Massachusetts House and Senate Committees on Ways and Means.
- I 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.

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- J. 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 February 1, 2013 within 30 calendar days after EOHHS files the rate with the State Secretary. EOHHS may amend a rate or request additional information from the provider even if the provider has filed a pending appeal.
- K. Department of Developmental Services (DDS) Requirements.** As part of the per diem rate calculation, an adjustment to the per diem rate will be calculated under 101 CMR 206.06((3) as of February 1, 2013 for nursing facilities that serve persons with mental retardation and developmental disabilities and that maintain clinical and administrative procedures in a manner that complements DDS interdisciplinary service planning activities.
1. **Eligibility.** Eligible facilities are those identified by DMR as providers of care to nursing facility residents with mental retardation or developmental disabilities as of July 25, 2003. A facility may become ineligible for the allowance and its calculated per diem add-on may be rescinded if the facility fails to comply with DDS interdisciplinary service planning requirements.
 2. **Total Add-On Allowance Amount.** The total allowance amount to be allocated to all eligible facilities be equal to the number of Medicaid eligible residents identified by DMR as of June 14, 2007 as having mental retardation or developmental disabilities, times \$3.00, times 366 days.
 3. **Add-On Calculation.** The per diem amount to be included in the payment rate for an eligible facility is calculated by dividing the total add-on allowance amount calculated above by the product of:
 - a. Current licensed bed capacity for the rate period, times 366,
 - b. Reported 2005 actual utilization percentage, times
 - c. Reported 2005 Medicaid utilization percentage
- L. 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 section 101 CMR 206.06 (4) (as of February 1, 2013).

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- M. Annualization Adjustment.** This adjustment was originally included in the rates effective August 1, 2007 to provide payment for the reasonable costs of nursing facilities over the full State Fiscal Year (SFY), which has a customary start date of July 1. The adjustment has been retained in the rates for subsequent years in order to assure stability of nursing facility per diem rates.

The adjustment was calculated by multiplying the difference between the SFY2007 and SFY2008 rates by 9.254%. This percentage was derived by dividing 31 (the number of days in July) by 335 (the number of patient days from August 1, 2007 to June 30, 2008).

For the base standard payments, the adjustments are:

Payment Class	Adjustment Amount
Nursing H	\$0.05
Nursing JK	\$0.14
Nursing LM	\$0.25
Nursing NP	\$0.43
Nursing RS	\$0.45
Nursing T	\$0.50
Other Operating	\$0.70

For certain additional payments allowed in SFY2008, including the Kosher Kitchen, Capital, and DMR add-ons, the adjustment was calculated by multiplying the difference between the SFY2007 and SFY2008 rate add-ons by 9.254%.

To account for certain other payments that were allowed in SFY2008, including the Direct Care add-on and the SFY2007 Annualization Adjustment, the adjustment was reduced by multiplying the difference between the SFY2007 and SFY2008 rate add-ons by negative 9.254%.

- N. Large Medicaid Provider Add-On.** The payment of this add-on amount is contingent on Medicaid utilization in nursing facilities. In the event that Medicaid utilization is reduced in a fiscal year, an add-on payment is calculated at the close of the fiscal year. Funds in the account are authorized legislatively for Medicaid payments to nursing facilities. In the event that Medicaid utilization does not decline, no add-on payment is made.

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The method of this add-on, which is unchanged from prior years and is contained in Appendix A:

(5) Large Medicaid Provider Payment. A facility will be eligible for a Large Medicaid Provider Payment as follows.

(a) Eligibility. A facility will be eligible for payment if:

1. The facility had at least 188 licensed beds in 2002
2. the facility's 2002 Medicaid days divided by total patient days, as report in its 2002 HCF-1, was equal to or greater than 70% and
3. the facility received a score of at least 123 on the Department of Public Health's Nursing Facility Survey Performance Tool as received by the Division on March 25, 2005

(b) Calculation of Payment. The EOHHS will calculate the amount of the payment received by each eligible facility as follows:

1. EOHHS will divide the number of reported 2002 Medicaid days for each eligible facility by the total number of Medicaid days in all eligible facilities
2. EOHHS will multiply the resulting percentage by \$3,198,812
3. EOHHS will divide the amount calculated above by the product of:
 - a. current licensed bed capacity for the rate period, times 365, times
 - b. reported 2002 Actual Utilization, time
 - c. reported 2002 Medicaid Utilization

(c) The amount will be included as add-on to each Provider's rate.

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O. 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.

(a) EOHHS will establish an Interim per diem rate using a FY06 base year CMS-2540 cost report inflated to the rate year using the cost adjustment factor calculated pursuant to (b) below,

(b) EOHHS will use a 5.19% cost adjustment factor for the period FY06 through FY08 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.

(c) 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.

P. Publicly-operated Nursing Facilities. Effective September 1, 2009, the payment of this add-on amount is contingent upon overall Medicaid utilization in nursing facilities. In the event that overall Medicaid utilization is reduced in a fiscal year, an add-on payment is calculated at the close of the fiscal year. Funds in the account are authorized legislatively for Medicaid payments to nursing facilities. In the event that overall Medicaid utilization does not decline, no add-on payment is made. Nursing facilities will be eligible for an add-on if they are owned and operated by a town, city or state government entity. The add-on will be calculated as follows:

- (a) will divide the number of reported 2002 Medicaid days for each eligible facility by the total number of Medicaid days in all eligible facilities.
- (b) will multiply the resulting percentage by the sum of the total add-on payments
- (c) will divide the amount calculated by the product of:
 - 1. current licensed bed capacity for the rate period, times 365, times
 - 2. reported 2003 Actual Utilization times
 - 3. reported 2002 Medicaid Utilization
- (d) This amount will be included as an add-on to the rates established by EOHHS under 101 CMR 206.06 (9) as of February 1, 2013.

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Q. Nursing Facility Pay for Performance Incentive Payments

(1) General. An incentive payment will be calculated for nursing facilities through the Nursing Facility Pay for Performance (P4P) Program. Incentive Payments are calculated subject to the following criteria.

(a) Criteria: To be eligible for any P4P incentive payment, a nursing facility must:

1. be enrolled as a MassHealth Nursing Facility for at least one day between July 1, 2012, and June 30, 2013;
2. have at least one paid MassHealth day during the Measurement Year of FY 2012 (July 1, 2012 through June 30, 2013);
3. not be designated by CMS as a Special Focus Nursing Facility and
4. not have an immediate jeopardy designation by the Massachusetts Department of Public Health.

(b) Performance measures:

1. percent of long-stay residents who received an antipsychotic medication;
2. consistent assignment of certified nursing assistant caregivers for long- and short-stay residents

(c) SFY 2013 Incentive Payments:

1. SFY 2013 incentive payments will be made on a pro rata basis to nursing facilities who:

(i) demonstrate that they meet the threshold criteria described in subsection (a), above;

(ii) select one of the performance measures described in subsection (b), above;

(iii) provide documentation on or before February 6, 2013, to the MassHealth Office of Long Term Services and Supports that includes all pertinent information and data documenting the existence of the nursing facility's cooperative effort policy; and

(iv) attain the selected performance measure.

2. For SFY 2013, the sum of all Pay for Performance incentive payments will be \$1.4M and will be paid to all Nursing Facilities that meet the

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general eligibility criteria described in 101 CMR 206.07 (2) as of February 1, 2013 and attain performance measures in the Nursing Facility Pay for Performance program.

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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

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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.

(a) For the purposes of a medical leave of absence for Medicaid eligible residents, a facility must ensure that the bed in the facility occupied by said resident before the hospitalization will be available upon the return of said resident from an inpatient acute hospital stay for a period of up to ten (10) days. .

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

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V. 2002 State Legislative Changes

1. **Nursing Facility Assessments.** An adjustment to nursing facility payment rates is established, effective October 1, 2002, to reimburse participating MassHealth nursing facilities for the providers' assessment costs that are incurred for the care of MassHealth members only, reflecting a portion of the providers' total assessment costs. No reimbursement is made for the providers' assessment costs that are incurred for the care of privately paying residents or others who are not MassHealth members.

The rate adjustments for the Nursing Facility Assessment (User Fee) reflect Medicaid's partial share of the tax costs as an allowable cost for purposes of developing Medicaid payment rates and do not provide for a hold harmless arrangement with providers.

- (a) Except as provided in section V.1. (b) and (c) below, the user fee adjustment will be based on the Nursing Facility Class under 114.5 CMR 12.04 as follows:

Nursing Facility Class	Adjustment Amount
1	\$15.47
2	\$1.55
3	\$1.55
4	0

- (b) In accordance with the provisions of Chapter 139 of the Acts of 2012, section 2, line 4000-0640, for the period from February 1, 2013 through June 30, 2013, the user fee adjustment will be as follows:

Nursing Facility Class	Adjustment Amount
1	\$18.41
2	\$1.84
3	\$1.84
4	0

- (c) FY2013 Annualization. In accordance with the provisions of Chapter 139 of the Acts of 2012, section 2, line 4000-0640, for the period from February 1, 2013 through February 28, 2013, nursing facility payments will include a one-month annualization adjustment as follows:

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Nursing Facility Class	Adjustment Amount
1	\$3.39
2	\$0.34
3	\$0.34
4	\$0.00

- d) A prior rate period may be recertified to exclude these add-ons if the Nursing Facility fails to incur the cost of the Nursing Facility user fee assessment within 120 days of the assessment due date.
 - e) The add-on amount may be adjusted to reflect a change in the amount of the Nursing Facility user fee assessment under 114.5 CMR 12.04
2. **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.

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VI. Intermediate Care Facilities for the Mentally Retarded (ICFs/MR)

Payments for services provided by Intermediate Care Facilities for the Mentally Retarded to publicly assisted residents are governed by the Division of Health Care Finance and Policy (DHCFP) regulation, 101.CMR 206 as of February 1, 2013 Rate and Charge Determination for Certain Intermediate Care Facilities for the Mentally Retarded Operated by the Department of Mental Retardation, effective October 1, 2002.