

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, M/S S3-13-15
Baltimore, MD 21244-1850



NOV 30 2009

Center for Medicaid and State Operations (CMSO)

Robert Hoffman, Secretary
Agency of Human Services
State of Vermont
103 South Main Street
Waterbury, VT 05676-1201

NOV - 5 2009

RE: TN Vermont 09-008

Dear Mr. Hoffman:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 09-008. This amendment amends the rate setting methodology for reimbursement to nursing facilities. Specifically, it modifies the methodology for calculating inflation factors for state fiscal year 2010 only in the following cost categories: Nursing Care, Director of Nursing, Resident Care, and Indirect.

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 09-008 is approved effective July 1, 2009. We are enclosing the CMS-179 and the amended plan pages.

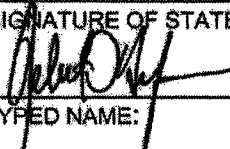

If you have any questions, please call Novena James-Hailey at (617) 565-1291.

Sincerely,

Cindy Mann
Director

Center for Medicaid and State Operations (CMSO)

INSTRUCTIONS FOR COMPLETING FORM HCFA-179

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: <u>09 - 08</u>	2. STATE: Vermont
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & 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 COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)		4. PROPOSED EFFECTIVE DATE(S) July 1, 2009	
6. FEDERAL STATUTE/REGULATION CITATION: 42 U.S.C. sec. 1396a(a)(13)		7. FEDERAL BUDGET IMPACT: a. FFY 2009 (\$1,027,015) b. FFY 2010 (\$3,157,315)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: State of Vermont, Attachment 4.19D, Addendum A (cover page, page 4 and pages 43-44)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): cover page, page 4 and pages 43-43b	
10. SUBJECT OF AMENDMENT: Methods, Standards and Principles for Establishing Medicaid Payment Rates for Long-Term Care Facilities			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL <input checked="" type="checkbox"/> OTHER, AS SPECIFIED <i>Spencer F. V. Sec. of Administration</i>			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: AFSAR SULTANA DEPT. FOR CHILDREN AND FAMILIES ECONOMIC SERVICES DIVISION-PPR 103 SOUTH MAIN STREET Waterbury VT 05671-1201 (802) 241-3525	
13. TYPED NAME: ROBERT HOFMANN		17. DATE RECEIVED:	
14. TITLE: SECRETARY, AGENCY OF HUMAN SERVICES		18. DATE APPROVED: 11-5-09	
15. DATE SUBMITTED: <i>September 18, 2009</i>		19. EFFECTIVE DATE OF APPROVED MATERIAL: JUL - 1 2009	
21. TYPED NAME: William Lasowski		20. SIGNATURE OF REGIONAL OFFICIAL: 	
23. REMARKS		22. TITLE: Deputy Director, CMSO	

STATE OF VERMONT
AGENCY OF HUMAN SERVICES
DIVISION OF RATE SETTING

**METHODS, STANDARDS AND PRINCIPLES FOR
ESTABLISHING MEDICAID PAYMENT RATES
FOR LONG-TERM CARE FACILITIES**

JULY 2009

TN: 09-08
SUPERSEDES
TN: 08-14

Effective Date: 7/1/09

Approval Date: NOV - 5 2009

delivering a copy of the document to the person or entity required to be served or to his or her representative or by sending a copy by prepaid first class mail to the official service address. Service by mail is complete upon mailing.

1.11 Representation in All Matters before the Division

(a) A facility may be represented in any matter under this rule by the owner (in the case of a corporation, partnership, trust, or other entity created by law, through a duly authorized agent), the nursing facility administrator, or by a licensed attorney or an independent public accountant.

(b) The provider shall file written notification of the name and address of its representative for each matter before the Division. Thereafter, on that matter, all correspondence from the Division will be addressed to that representative. The representative of a provider failing to so file shall not be entitled to notice or service of any document in connection with such matter, whether required to be made by the Division or any other person, but instead service shall be made directly on the provider.

1.12 Severability

If any part of these rules or their application is held invalid, the invalidity does not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

1.13 Effective Date

(a) These rules are effective from January 29, 1992, (as amended June 18, 1993, July 1, 1994, January 4, 1995, January 1, 1996, January 1, 1997, July 1, 1998, May 1, 1999, July 1, 1999, August 1, 1999, July 1, 2001, November 1, 2002, May 1, 2004, July 1, 2004, July 1, 2005, July 1, 2006, October 1, 2007, July 1, 2008 and July 1, 2009).

(b) Application of Rule: Amended provisions of this rule shall apply to:

(1) all cost reports draft findings issued on or after the effective date of the most recent amendment, and

(2) all rates set on or after the effective date of the most recent amendment.

(c) With respect to any administrative proceeding pending on the effective date of the most recent amendment the Director or the Secretary may apply any provision of such prior rules where the failure to do so would work an injustice or substantial inconvenience.

2 ACCOUNTING REQUIREMENTS

2.1 Accounting Principles

(a) All financial and statistical reports shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP), consistently applied, unless these rules authorize specific variations in such principles.

(b) The provider shall establish and maintain a financial management system which provides for adequate internal control assuring the accuracy of financial data, safeguarding of assets and operational efficiency.

(c) The provider shall report on an accrual basis. The provider whose records are not maintained on an accrual basis shall develop accrual data for reports on the basis of an analysis of the available documentation. In such a case, the provider's accounting process shall provide sufficient information to compile data to satisfy the accrued expenditure reporting requirements and to demonstrate the link between the accrual data reports and the non-accrual fiscal accounts. The provider shall retain all such documentation for audit purposes.

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Resident Day: any day of services for which the facility is paid. For example, a paid hold day is counted as a resident day.

Restricted Funds and Revenue: funds and investment income earned from funds restricted for specific purposes by donors, excluding funds restricted or designated by an organization's governing body.

RUGS III: A systematic classification of residents in nursing facilities based upon a broad study of nursing care time required by groups of residents exhibiting similar needs.

Secretary: the Secretary of the Agency of Human Services.

Special hospital-based nursing facility: a facility that meets the following criteria: (a) is physically integrated as part of a hospital building with at least one common wall and a direct internal access between the hospital and the nursing home; (b) is part of a single corporation that governs both the hospital and the nursing facility; and (c) files one Medicare cost report for both the hospital and the nursing home.

Standardized Resident Days: Base Year resident days multiplied by the facility's average Case-Mix score for the base year.

State nursing facilities: facilities owned and/or operated by the State of Vermont.

Swing-Bed: a hospital bed used to provide nursing facility services.

17 TRANSITIONAL PROVISION

(a) For state fiscal year 2009 (July 1, 2008 through June 30, 2009), the methodology for calculating Medicaid rates for nursing facilities shall be modified as follows:

(1) The Division shall make a preliminary computation of the inflation factors for the Nursing, Director of Nursing, Resident Care and

Indirect cost categories for state fiscal year 2009 according to Section 5.8 of these rules.

(2) In setting the nursing facility Medicaid rates for state fiscal year 2009, the amount of the increase in inflation between rate years 2008 and 2009 shall be limited to one half of the difference between the inflation factors as used to calculate the rates for state fiscal year 2008 and those in the preliminary computation for state fiscal year 2009 as described in subparagraph (c)(1) of this subsection.

(b) For state fiscal year 2010 (July 1, 2009 through June 30, 2010), the Division shall modify its methodology for calculating Medicaid rates for nursing facilities by calculating the inflation factors for cost categories as follows:

(1) The Division shall inflate the Director of Nursing, Resident Care and Indirect cost categories using the same inflation percentages used to calculate the state fiscal year 2009 rates as described in paragraph (a) of this section. The Division will not apply any additional inflation to these cost categories for state fiscal year 2010.

(2) For the Nursing Care cost category, the Division shall first calculate the inflation percentage from calendar year 2007 to state fiscal year 2008. The Division shall next calculate the inflation percentage from calendar year 2007 to state fiscal year 2009. The difference in inflation between state fiscal year 2008 and state fiscal year 2009 shall be halved and this one-half difference will be added to the 2008 inflation to arrive at the inflation percentage to be used for the 2010 rate period. The Division will not apply any additional

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inflation to the Nursing Care cost
category for state fiscal year 2010.

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OS Notification

State/Title/Plan Number: Vermont 09-008

Type of Action: SPA approval

Required Date for State Notification: December 17, 2009

Fiscal Impact:

FY 2009	(\$1,027,015) FFP
FY 2010	(\$3,157,315) FFP

Number of Services Provided by Enhanced Coverage, Benefits or Retained Enrollment: 0

Number of Potential Newly Eligible People: 0

Eligibility Simplification: No

Provider Payment Increase: No

Delivery System Innovation: No

Number of People Losing Medicaid Eligibility: 0

Reduces Benefits: No

Detail: Effective July 1, 2009, this amendment modifies the rate setting methodology for reimbursement to nursing facilities. Specifically, it modifies the methodology for calculating inflation factors for state fiscal year 2010 only in the following cost categories: Nursing Care, Director of Nursing, Resident Care, and Indirect.

Other Considerations: This amendment has not generated significant outside interest and we do not recommend the Secretary contact the governor. This OSN has been reviewed in the context of the ARRA and approval of the OSN is not in violation of ARRA provisions.

CMS Contact: Novena James-Hailey, (617) 565-1291

VT 09-008

Effective July 1, 2009, the State proposes to calculate two inflation factors across 4 cost categories. For³ the director of nursing, resident care and indirect cost categories, the increase for SFY 2010 will be the same inflation percentages as were used in SFY 2009 which was calculated as one half the percentage change in the inflation factors between SFYs 2008 and 2009. For the nursing care cost category, the SFY2010 increase will be calculated by first rebasing costs in this category from base year 2005 to 2007 and recalculating the inflation percentage for SFYs 2008 and 2009. After which one half the difference in inflation between SFYs 2008 and 2009 plus the SFY2008 inflation will equal the inflation percentage for SFY2010.

The State provided written assurance that it is not anticipated that the decrease in reimbursement rates will affect access.

Fiscal impact is savings of \$1,027,015 in FY 2009 and \$3,157,315 in FY 2010.

Public Notice was timely
The non-Federal share is funded from State appropriation and a nursing facility bed tax that meets the definitions of broad based and uniform under 42 CFR 433.68.

UPL demonstration is acceptable.

I recommend approval.