

June 28, 2024

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

TAKE NOTICE that, the Department of Human Services, Division of Medical Assistance and Health Services, intends to submit a State Plan Amendment to the Centers for Medicare & Medicaid Services (CMS) to change the nursing facility rates in order to implement the following budget provisions of the New Jersey Fiscal Year 2025 Appropriations Act. This Notice is intended to satisfy the requirements of federal law and regulations, specifically 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205.

Subject to the approval of the Appropriations Act and notwithstanding the provisions of chapter 85 of Title 8 of the New Jersey Administrative Code or any other law or regulation to the contrary, and subject to any required federal approval, the amounts hereinabove appropriated within the General Medical Services program classification are subject to the following conditions:

(1) Class I (private), Class II (county), and Class III (special care) nursing facilities being paid on a fee-for-service basis shall be reimbursed at a per diem rate no less than the rate received on June 30, 2024 minus the first provider tax add-on and any performance add-on amounts, subject to the condition that Class III (special care) facilities shall be reimbursed the greater of this rate or \$450 per diem, and that Class III (special care) nursing facilities licensed pursuant to a Certificate of Need to operate a traumatic brain injury unit as of July 1, 2023, shall be reimbursed the greater of this rate or at a base per diem reimbursement rate that is \$400 above the special care nursing facility's base per diem reimbursement rate as of June 30, 2022; and that Class III (special care) nursing facilities licensed pursuant to a Certificate of Need to operate a neurologically impaired young adult unit as of July 1, 2024 shall be reimbursed, at a minimum, the greater of the special care nursing facility's FY 2024 base per diem rate or \$804 per diem ;

(2) nursing facilities that are being paid by a Managed Care Organization (MCO) for custodial care through a provider contract that includes a negotiated rate shall receive that negotiated rate;

(3) any Class I and Class III nursing facility that is being paid by an MCO for custodial care through a provider contract but has not yet negotiated a rate shall receive the equivalent fee-for-service per diem reimbursement rate as it received on June 30, 2024 minus the first provider tax add-on and any performance add-on amounts, and any Class II nursing facility that is being paid by an MCO for custodial care through a provider contract but has not yet negotiated a rate shall receive the equivalent fee-for-service per diem reimbursement rate as it received on June 30, 2024 minus any performance add-on amounts, had it been a Class I nursing facility;

(4) monies designated pursuant to subsection c. of section 6 of P.L.2003, c.105 (C.26:2H-97) for distribution to nursing facilities, less the portion of those funds to be paid as pass-through payments in accordance with paragraph (1) of subsection d. of section 6 of P.L.2003, c.105 (C.26:2H-97) and less the actual amounts expended during fiscal year 2024 on performance add-ons and expenditures to establish a minimum per diem of \$188.35, shall be combined with amounts hereinabove appropriated for the General Medical Services program classification for the purpose of calculating NJ FamilyCare reimbursements for nursing facilities;

(5) for the purposes of this paragraph, a nursing facility's per diem reimbursement rate or negotiated rate shall not include, if the nursing facility is eligible for reimbursement, the difference between the full calculated provider tax add-on and the quality-of-care portion of the provider tax add-on, which difference shall be payable as an allowable cost pursuant to subsection d. of section 6 of P.L.2003, c.105 (C.26:2H-97);

(6) the add-ons used for fiscal year 2024 shall be applied from July 1, 2024, through September 30, 2024 and the first add-on as calculated in section 4 above shall be applied to both MCO and fee-for-service per diem reimbursement rates effective October 1, 2024;

(7) each Class I, Class II, and Class III nursing facility that has, no later than the deadline established by the Commissioner of Human Services, submitted to the Department of Human Services (DHS) the DHS Fiscal Year 2025 CoreQ Long-Stay Survey Sample Size Calculation Grid with affirmative answers, as defined by the Department, CoreQ vendor intent, and completion of the CoreQ Long-Stay Survey sample size calculation and, if eligible for CoreQ, no later than the deadline established by the Commissioner of Human Services, submitted demographics to the CoreQ vendor to initiate the CoreQ survey process, and, during calendar year 2023, has not been included on the Centers for Medicare and Medicaid Services (CMS) Special Focus Facility Lists A, B, E or F, ranked as a one-star facility by the CMS Five-Star Quality Rating System, or cited by the Department of Health for two or more Level G or higher licensing violations

(a) shall receive a performance add-on of \$3.00 for each of the following CMS nursing home long stay quality measures where the nursing facility has not failed to report data for any of the reporting periods Q4 2022, Q1 2023, Q2 2023 and Q3 2023, and the simple average of the quarters, as calculated by the Department with available data, is at or below the lower of the New Jersey or national average, as calculated by CMS, for the percentage of long-stay residents who are losing too much weight and high risk residents with a pressure ulcer,

(b) shall receive a performance add-on of \$3.00 for the following CMS nursing home long stay quality measure where the nursing facility has not failed to

report data for any of the reporting periods Q3 2022, Q4 2022, Q1 2023 and Q2 2023, and the simple average of the quarters, as calculated by the Department with available data, is at or below the lower of the New Jersey or national average, as calculated by CMS, for the number of hospitalizations per 1,000 long-stay resident days,

- (c) shall receive a performance add-on of \$3.00 if the nursing facility has been deemed eligible to participate in the CoreQ survey process as determined by the Department and received a composite score of 85 percent or greater, as calculated by the DHS vendor, on the CoreQ Resident and Family Experience Survey for the fiscal year 2025 survey period,
- (d) shall receive a performance add-on of \$4.50 for the following CMS staff measure where the nursing facility has not failed to report data for any of the reporting periods Q4 2022, Q1 2023, Q2 2023 and Q3 2023 and the simple average of the quarters, as calculated by the Department with the available data, is at or below 30 percent, as calculated by CMS, for the percentage of total nursing staff that are no longer employed at the facility,
- (e) shall receive a performance add-on of \$4.50 for the following CMS staff measure where the nursing facility has not failed to report data for any of the reporting periods Q4 2022, Q1 2023, Q2 2023 and Q3 2023 and the simple average of the quarters, as calculated by the Department with the available data, is at or above the New Jersey average and below 4.1 hours per resident day, as calculated by CMS, for the total nurse staffing hours per resident day,
- (f) shall receive a performance add-on of \$6.75 for the following CMS staff measure where the nursing facility has not failed to report data for any of the reporting periods Q4 2022, Q1 2023, Q2 2023 and Q3 2023 and the simple average of the quarters, as calculated by the Department with the available data, is at or above 4.1 hours per resident day, as calculated by CMS, for the total nurse staffing hours per resident day, and
- (g) shall receive a performance add-on of \$1.25 for the following CMS staff measures where the nursing facility has not failed to reported any data for any of the reporting periods Q4 2021, Q1 2022, Q2 2022, Q3 2022, Q4 2022, Q1 2023, Q2 2023 and Q3 2023 and the simple average of Q4 2022, Q1 2023, Q2 2023 and Q3 2023, as calculated by the Department using available data, is equal to or greater than 100.5% of the simple average of Q4 2021, Q1 2022, Q2 2022, and Q3 2022, as calculated by the Department using available data, and is at or above 3.6 hours per resident day and below 4.1 hours per resident day, as calculated by CMS, for total nurse staffing hours per resident day,

(8) each nursing facility shall receive a per diem adjustment that shall be calculated based upon an additional \$37,200,000 in State and \$37,200,000 in federal appropriations, except that if the Department promulgates regulations implementing a new rate setting methodology in the current fiscal year, nursing facilities shall be reimbursed in accordance with that rate setting methodology, plus the performance add-ons defined above, subject to the approval of the Director of the Division of Budget and Accounting: and

(9) within 30 days of setting nursing facility Medicaid reimbursement rates based upon Medicaid cost reports submitted by nursing homes, the Commissioner of Human Services shall report to the Legislature on the differential between the average per diem nursing home Medicaid rate and the average per diem cost of providing nursing home care to Medicaid beneficiaries.

The estimated fiscal impact associated with this State Plan Amendment is \$1,570,000 total (\$785,000 state share) in State Fiscal Year 2025.

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

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