**Facility Letter to Legislator – Version 1**

Facility Name and Address

**Dear Senator/Assembly Member \_\_\_\_:**

I am writing to share my great concern with a proposed major cut in Medicaid reimbursement to nursing homes that will adversely affect your constituents served by **[INSERT Facility Name]**. The Department of Health (DOH) is now seeking approval from the federal government to retroactively change the resident acuity adjustment to facilities’ July 1, 2019 Medicaid rates to save a total of $246 million statewide. **[INSERT Facility Name]** would see its Medicaid reimbursement cut by **[INSERT Estimated Facility Impact]**.

Our facility has not received a Medicaid cost-of-living adjustment since 2007, even though it faces growing costs for salaries and benefits, insurance, food and supplies, utilities and aging building maintenance. **At the same time, there are worker shortages and growing numbers of older New Yorkers, and I am concerned this cut will jeopardize quality of care and access to needed services.**

At **[INSERT Facility Name]**, a Medicaid cut of this magnitude would directly jeopardize access to high quality resident care by **[highlight specific possible impacts at your facility which could include]**:

* **Making hiring and retaining qualified staff more difficult**
* **Forcing layoffs of staff or reduced hours**
* **Cutting back on training for staff skill development**
* **Cutting specialty recreational/therapeutic quality of life enhancement programs**
* **Limiting services or closing beds**
* **Ability to meet the requirements of recently negotiated collective bargaining agreements**

We recognize and appreciate that the Legislature fought hard during the budget to establish in law a Nursing Home Acuity Workgroup to discuss possible changes to how case-mix (i.e., resident acuity) adjustments are made to future Medicaid rates. *Unfortunately, we understand that DOH unilaterally proposed a new method for making these adjustments which would create a large retroactive impact, inconsistent with the Legislature’s intent and the recommendations of the Workgroup (refer to the first attachment for details).*

Please reach out to the Governor’s Office to let them know that DOH’s proposal does not comply with the law and will destabilize the operations of nursing homes, which will directly impact the quality of care and quality of life of the most vulnerable people of our State including your constituents served by **[INSERT Facility Name]**. Please feel free to use the attached template letter, if you so choose, in your outreach.

Sincerely,

Attachments

**Facility Letter to Legislator – Version 2**

Date

Facility Name and Address

**Dear Senator/Assembly Member \_\_\_\_:**

I am writing to share my great concern with a proposed major cut in Medicaid reimbursement to nursing homes that will adversely affect your constituents served by [**INSERT Facility Name**]. The Department of Health (DOH) is now seeking approval from the federal government to retroactively change the resident acuity adjustment to facilities’ July 1, 2019 Medicaid rates to save a total of $246 million statewide. We estimate that [**INSERT Facility Name**] would see its Medicaid reimbursement cut by [**INSERT Estimated Facility Impact**].

Our facility has not received a Medicaid cost-of-living adjustment since 2007, even though it faces growing costs for salaries and benefits, insurance, food and supplies, utilities and aging building maintenance. At the same time, there are worker shortages and growing numbers of older New Yorkers, and I am concerned this cut will jeopardize quality of care and access to needed services.

A Medicaid cut of this magnitude would directly jeopardize access to high quality resident care, as it would make it more difficult for affected facilities to hire and retain qualified staff, and it would confront facilities with difficult choices, including potentially laying off staff, curtailing staff training, limiting or eliminating vital programs, reducing services or closing beds.

We recognize and appreciate that the Legislature fought hard during the Budget to establish in law a Nursing Home Acuity Workgroup to discuss possible changes to how case-mix (i.e., resident acuity) adjustments are made to future Medicaid rates. *Unfortunately, we understand that DOH is seeking to unilaterally implement a new method for making these adjustments which would create a large retroactive impact, inconsistent with the Legislature’s intent and the recommendations of the Workgroup (see attachment).*

Please reach out to the Governor’s Office to let them know that DOH’s proposal does not comply with the law and will destabilize the operations of nursing homes, which will directly impact the quality of care and quality of life of the most vulnerable people of our State including your constituents served by [**INSERT Facility Name**]. Please feel free to use the attached template letter, if you so choose, in your outreach.

Sincerely,

Attachments

**(Attachment to accompany facility letter to legislator)**

**Nursing Home Medicaid Cut Will Threaten Care to Thousands of Vulnerable New Yorkers**

**The Issue:**

* The Department of Health (DOH) is pressing ahead to implement a severe quarter-billion dollar cut that will threaten care for thousands of nursing home residents in New York.
* DOH is moving to retroactively change the methodology used to calculate case-mix index (CMI) adjustments (which ensure that nursing home rates match the acuity (i.e., level of need) of the residents they serve) in a way specifically designed to result in deep cuts to nursing homes.
* DOH is violating the letter and spirit of the enacted budget. The budget contained language inserted by both Houses directing DOH to engage a workgroup in the process of considering changes to CMI “to promote greater accuracy,” and “to target abuses.” The language also specifically charged the workgroup with reviewing case-mix data and related analyses conducted by the Department as part of the process of considering any changes to the CMI methodology.
* Instead of engaging the workgroup as envisioned, DOH, at the first meeting of the workgroup, stated that it intended unilaterally to revise the methodology used to determine the CMI adjustment for the July 1, 2019, rates to achieve a cut of at least $122.8 million in state spending ($245.6 million of total provider impact, inclusive of federal funding) through March 31, 2020.
* At no point during the workgroup process (or since) has DOH provided workgroup members with its case-mix data or related analyses for review.
* At the conclusion of the workgroup process, the workgroup submitted a unanimous report expressing grave concerns that DOH’s unilateral plan would put financially fragile nursing homes at risk, endanger quality resident care and put crucial health care jobs in jeopardy. In lieu of DOH’s plan, the workgroup proposed freezing CMI levels for the balance of 2019.
* On the day following the final workgroup meeting (June 28th), DOH filed a Medicaid state plan amendment (SPA) with the Centers for Medicare and Medicaid Services (CMS) seeking Federal approval to implement its retroactive plan to cut nursing home rates dramatically.

**What’s at Stake:**

* Virtually every nursing home in the State and more than 100,000 nursing home residents are at risk in the face of this cut.
* This cut will reduce nursing home payments by more than $9.00 per day on average. In an environment in which nursing homes have seen no trend factor increase in more than ten years, while the costs of care delivery have risen steadily during the same period, this cut will put many facilities at risk of having to sell or close, while virtually all facilities will be under pressure to curtail programs and reduce staffing. Ultimately, access to high quality care for those who rely on our long term care system will suffer greatly.
* The cut is so significant that it will drive the average nursing home operating margin in New York from -1.3 percent (2017) to -3.2 percent following the implementation of the cut. It will further increase the overall percentage of nursing homes in the State with negative operating margins from 41 percent currently to an estimated 56 percent following the cut. Such negative margins are unsustainable.
* This cut will have a particularly damaging effect on those facilities offering the highest quality of care, based on the CMS 5-Star Rating system. Forty-three percent of the nursing homes projected to have negative operating margins after the case-mix change are 4-Star or 5-Star facilities, and 20 percent of the facilities projected to have a negative operating margin after the change are 5-Star facilities. Fully half of the 5-star nursing homes in the State for which financial information is available will have a negative operating margin if this case-mix cut is implemented.

**Please contact Governor Cuomo, the Director of the Budget, and the Commissioner of Health and request that they suspend efforts to implement the CMI cut, and that they work with the long term care community to implement an alternative model, consistent with the recommendations of the Nursing Home Acuity Workgroup.**

**(Attachment to accompany legislator letter)**

**Draft Legislator Letter to the NYS Executive**

Dear Governor Cuomo,

I am writing to urge you to direct the Department of Health (DOH) to suspend efforts to effectuate a damaging quarter billion dollar nursing home rate cut by retroactively changing the calculation of acuity adjustments to facilities’ July 1, 2019, Medicaid rates.

The fact that DOH is proceeding unilaterally to implement this cut – notwithstanding strong objections to the cut articulated by the CMI Work Group that was convened pursuant to statutory language authored initially by the Senate and Assembly Health Committee Chairs – raises multiple concerns, but the greatest is the severe and harmful impact it would have on families and elders, in my district and across the State, who depend on continued access to high quality nursing home care.

DOH’s plan would destabilize nursing homes across the State – including many that are already deeply financially challenged – and in so doing would threaten access to needed care for thousands of Medicaid beneficiaries across New York State. It is projected that the proposed cut would drive average nursing homes operating margins in New York from -1.3 percent (2017) to -3.2 percent. It would further drive an increase in the overall percentage of nursing homes in the State with negative operating margins from 41 percent currently to an estimated 56 percent.

In the face of such unsustainable cuts, quality would suffer. Nursing home closures and conversions, which are happening far too frequently already in New York State, would increase, and facilities would face mounting pressure to lay off staff and limit or terminate important programs and services.

Imposing such severe and unsustainable cuts on the State’s essential long term care providers would be deeply short-sighted and harmful given all that we know about our State’s changing population. Our aging population is growing: we have more residents over the age of 65 (3.2 million) than the entire population of 21 states. In just ten years, that number will have grown by more than a million persons. Our citizens need, and increasingly will continue to need, quality long term care options. Rather than cutting payments and services for this population, we should be making the investments necessary to meet their needs today and into the future.

Again, I share the concerns unanimously expressed by the CMI Work Group: the proposed CMI cut would damage the financial viability of numerous financially fragile nursing homes, endanger quality resident care and put crucial health care jobs at risk.

On behalf of the constituents and communities that I serve, I urge you to intervene with DOH and suspend the proposed cut without delay.

Sincerely,

Name of Senator/Assembly Member