



August 9, 2019

«Name»

«Company»

«Address2», «Address1»

«City», «State» «ZipCode»

Dear «Position» «LastName»:

On behalf of the member nursing homes of our respective organizations, please contact Governor Cuomo's office and ask them to suspend current efforts to implement a damaging quarter billion dollar nursing home rate cut by retroactively changing the calculation of resident acuity adjustments to facilities' July 1, 2019, Medicaid rates.

The fact that the Department of Health (DOH) is proceeding unilaterally to implement this cut – notwithstanding strong objections from the Nursing Home Acuity Workgroup that was convened pursuant to statutory language authored by the Legislature – raises multiple concerns. The greatest is the severe and harmful impact it would have on families and elders in your 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 the average nursing home operating margin in New York from -1.3 percent (2017) to -3.2 percent. It would also increase 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.

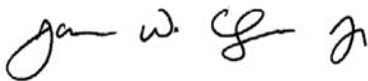
Imposing such severe and unsustainable cuts on the State's essential long term care providers would be deeply short-sighted and harmful given all that we know about our State's changing population. Our aging population is growing: we have more residents over the age of 65 (i.e.,

3.2 million) than the entire population of 21 states. In just ten years, that number will have grown by more than a million. 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.

We reiterate the concerns unanimously expressed by the Nursing Home Acuity Workgroup: the proposed resident acuity adjustment cut would damage the financial viability of numerous financially fragile nursing homes, endanger quality resident care and put crucial health care jobs at risk. For your reference, we have attached a brief document which provides additional details on the proposed cut and its anticipated effects on the delivery of nursing home care.

On behalf of all of our member nursing homes and the constituents and communities they serve, we respectfully urge you to contact Governor Cuomo and seek suspension of the proposed cut without delay. Please contact us with any questions you may have.

Sincerely,



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Attachment

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

The Issue:

- The New York State 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.
- In pressing ahead with this cut, 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 budget’s 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 in an effort to achieve a cut of at least \$122.8 million in state spending (\$245.6 million of total provider impact, inclusive of federal funding) over the balance of the State’s fiscal year ending 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 July 1 through December 31, 2019 period (fixing CMI at the CMI levels utilized in the January 1, 2019 rates).
- On the day following the final workgroup meeting (June 28th), and notwithstanding the workgroup’s recommendations, 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.
- Of note, 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.

Our Requests:

- Contact Governor Cuomo, the Director of the Division 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.
- Contact Mr. Ricardo Holligan, Acting Associate Regional Administrator of CMS, New York Regional Office, and urge disapproval of State Plan Amendment (SPA NY-19-0033), which is linked to the State's plan to implement the CMI cut. Mr. Holligan can be reached at (212) 616-2424 or by email at Ricardo.Holligan@cms.hhs.gov.