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MEMORANDUM

TO: RHCFC Members

FROM: Darius Kirstein, Senior Policy Analyst

DATE: October 29, 2010

SUBJECT: **Nursing Home Medicaid Rates**

ROUTE TO: Administrator, CFO

ABSTRACT: Many issues still undecided as DOH moves ahead with regional pricing.

Introduction

On October 28th DOH provided an update on regional pricing to the Nursing Home Reimbursement Workgroup. According to provisions included in this year's state budget, regional pricing goes into effect on July 1, 2011 but leaves the methodological details up to DOH. The Department has established a very ambitious timeline (see attached) for finalizing the methodology, especially since much of it will coincide with work on the state budget.

The meeting consisted mainly of a review of the open issues that were under discussion when the Workgroup last met in the Spring of 2010. These include key features of regional pricing such as the composition of the regions; whether the methodology should include a facility-specific WEF adjustment; how transitional payments will be structured and at what amount; what quality measures will be used; and the amount of the quality pool. Several Workgroup members noted that updated impact estimates are necessary to conduct an informed discussion of these issues and DOH promised to share estimates updated for January 2010 CMI. The next step is for DOH to convene the two previously established subgroups, one on quality, one on payment, to work on the particulars. Given the tight timeframes, additional workgroups focused on specific items may also be established.

Quality Pool and Transition Funding

DOH did provide an updated list of measures on which quality pool payments would be made (see attached). Based on recommendations from the quality subgroup, the department has revised their original proposal to include an additional MDS measure (on loss of bowel and

bladder control) to the five originally proposed, and has made a substantial revision to the staffing measure. Instead of the measure being based on RN hours as a percentage of total nursing hours, they propose to use the ratio of actual to expected staffing which is currently used in the 5-star system. While some DOH staff argue for setting aside as much money as possible for the quality pool, Workgroup members emphasized that since the quality pool dollars would be subtracted from the base (i.e., redistributed from all homes to those qualifying for the payments), increasing the pool means further constraining reimbursement for all facilities in what already is a capped environment.

The same is true for transition funding which would come from diverted current funding, not from additional money. DOH recognizes that the size and duration of transition funding may need to be larger than originally proposed, but doubts that any new funding would be available based on the state's continuing fiscal crisis. Along with the details of funding, the Workgroup discussed the need to establish whether funding would be based on transitioning to regional rates from rebased rates or from 1/1/09 (i.e., pre-rebased) rates.

Continuing Concerns

While NYAHSA supports DOH's goal of a methodology that results in predictable and stable rates, we have major concerns that regional rates establish a "race to the bottom" that will have a negative consequence on resident care and that the ambitious timeframe leaves insufficient time for DOH and the Workgroup to complete the necessary analysis given the importance of the endeavor. Further, a large quality pool would likely result in unpredictable rates, causing the type of instability DOH seeks to avoid. NYAHSA's Dan Heim pointed out that a number of issues included in the legislatively mandated charge of the Workgroup have yet to be fully addressed, and that the use of MDS 3.0 may have a significant impact on facilities' CMIs and Medicaid rates that is not yet understood.

We will continue working with DOH to address these concerns as well as cash flow issues stemming from coming reconciliations, will seek member input as needed and keep you apprised of developments.

Please address questions to Darius Kirstein at dkirstein@nyahsa.org or by phone to ext. 104.