



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

November 2, 2010

Subject: Draft Preliminary 2011 RHCF Rates

Dear Administrator:

The purpose of this Dear Administrator Letter (DAL) is to provide you draft preliminary information about your residential health care facility Medicaid reimbursement rate for the period commencing January 1, 2011.

RHCF-4 Filers

If you are an RHCF-4 Filer, the all inclusive rates provided on the Attachment include a 2011 capital rate that is based upon your 2009 certified cost report. The rate of return on investment for 2011 is .17% and is based upon the 26 week U.S. Treasury Bill rate in effect on September 9, 2010 and the rate of return on real property equity is 3.72% for 2011. The Department of Health has posted the draft 2011 capital component rate sheets for each RHCF-4 filer on the Health Commerce System. The capital component of the rate will be zero for facilities that have not properly submitted and certified their 2009 cost report. Please be advised that if you have not properly filed any required related company financial statements prior to the publishing of 2011 rates the capital component of your rate will be reduced to zero.

The non-capital portion of the all inclusive rates (i.e., the sum of the operating component of the rate and other per diem adjustments) reflects the same non-capital portion as calculated in the rates transmitted to you via the September 8, 2010 DAL. Subtract the 2011 capital per diem from the all inclusive rate to determine the non-capital portion of your rate. As a reminder, the non-capital component of these rates reflects the same methodology described in the January 13, 2010 DAL and **does not** include the impact of case mix adjustments for July 1, 2009 or January 1, 2010, the impact of the banking adjustment, and other adjustments described in the September 8, 2010 DAL.

RHCF-2 Filers

The Department is in the process of extracting the required data from the 2009 Institutional Cost Reports (ICR) for RHCF-2 Filers. Thus, if you are an RHCF-2 Filer, the all inclusive rates provided on the Attachment are identical to those provided in the September 8, 2010 DAL, and include a 2010 capital rate that is based upon the step down of cost to the nursing home using the 2008 ICR. The January 1, 2011 rates for RHCF-2 filers will be updated to reflect allowable 2009 base year nursing home capital upon completion

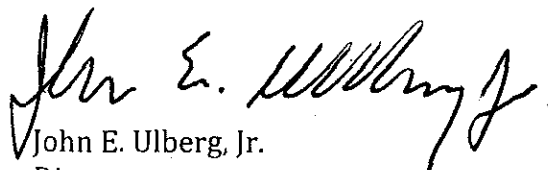
of the processing of the 2009 ICR for capital cost determination and publishing of the 2011 rates.

Information Regarding the Submission of Appeals

As a result of questions raised in connection with ongoing litigation, the Department's Division of Health Care Financing, in conjunction with the Department's Division of Legal Affairs, has undertaken a review of the existing practice of allowing facilities to file administrative rate appeals with regard to rates which have not been approved by DOB and CMS and published as final rates in accordance with the provisions of Public Health Law §2807. As a result of that review, it has been determined that such administrative rate appeals may be accepted only with regard to published rates. **Thus, the draft preliminary 2011 rates provided herein are not subject to appeal.** Upon receipt of the required DOB and CMS approvals of both the capital and non-capital component of the rates the Department will publish rates effective January 1, 2011. The DAL that will accompany such rates will provide 120 days from the date of such DAL to file appeals.

If you are an RHCF-4 Filer and believe your preliminary **2011 capital rate sheet** contains a significant error, please transmit information about the nature of the error by submitting an e-mail to NFRATES@health.state.ny.us. **In the subject line of the email please type 2011 Preliminary Capital Rate for "ABC Facility"** (please replace "ABC Facility" with the name of your facility). The Department will make every effort to review and address significant errors prior to the publication of the 2011 capital rates. Please note that failure to submit information about a possible error in the preliminary 2011 capital rate sheet or any action the Department takes in response to those possible errors will not preclude submission of a formal administrative rate appeal upon publishing of the rates as described above.

Sincerely,



John E. Ulberg, Jr.
Director
Division of Health Care Financing