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MEMORANDUM

TO: RHCf Members

FROM: Darius Kirstein, Senior Policy Analyst

DATE: February 2, 2010

SUBJECT: **Nursing Home Rebased Medicaid Rates**

ROUTE TO: Administrator, CFO

ABSTRACT: NYAHS seeks member feedback on nursing home rebasing rates and has developed a template to model changes in CMI.

Introduction

By now, most nursing home members have had an opportunity to review the rate sheets that were issued in January. NYAHS has reviewed the rate calculations and has been compiling member observations and concerns. **The Joint Association Task Force (JATF) Policy and Technical Advisory Groups will meet next Monday to discuss these, and we ask that members that have identified potential problems in their rates bring them to our attention by that time.**

This memo outlines the items that members have brought to our attention as well as issues we have asked the Department of Health (DOH) to review. It also provides a template that will assist members in estimating rates reflective of the case-mix index (CMI) based on July 2009 roster submissions.

Rate Sheet Questions

DOH has not yet posted the answers to provider-submitted questions on the Health Provider Network (HPN) regarding the new rates. They hope to do so shortly and will notify facilities by e-mail when they are posted. A number of questions were addressed by DOH in the two JATF-sponsored rate Webinars that members may access using the links below:

Jan 15th: <https://hanys.webex.com/hanys/lsr.php?AT=pb&SP=EC&rID=37544377&rKey=63a59d975b691cf5>

Jan. 19th: <https://hanys.webex.com/hanys/lsr.php?AT=pb&SP=EC&rID=37602682&rKey=92335a522a737353>

The bulk of the questions that we have been getting from members involve appeals, scale back and CMI calculations as well as the differences between the recently issued rates and those released in December 2008. While there seem to be a number of facility-specific errors and several questionable pieces of key data, we have confirmed only one systemic error.

The systemic error is in the 1/1/10 rate sheets: the criminal background checks and Measles/Rubella adjustments are not included in the rate. DOH staff has assured us that these corrections will be made and has requested that facilities not appeal these items to reduce appeal volume. However, facilities may opt to appeal these to preserve their rights. We have also heard of facilities being grouped in the wrong peer group, some discrepancies in RUG category counts for 2009, post-2002 re-basings not reflected in the rates, and missing costs.

NYAHSAs have asked DOH to carefully review their calculation of the mean prices, especially for those peer groups that experienced large decreases since the last rate issuance, as well as the WEF calculation, specifically for New York City. We have expressed our concern that the way the state applied the scale-back is having an extreme impact on certain homes. We are also seeking other information from DOH, some of which had been promised to be posted to the HPN, including:

- the figures behind the scale-back calculation;
- numbers used in calculating the WEF;
- the hold harmless methodology used;
- the data used to update RUG category weights;
- the specific methodology used to correct for oversampling; and
- more detail of how outliers were removed from the rate setting calculations.

We have received some concerns from homes that 50 percent of the offset for recruitment and retention funding is being applied to the administrative cost center.

Omissions and Appeals

The deadline for appeals is May 13th. During the Webinars, **DOH suggested that facilities that note errors in their new rates file an appeal AND contact their rate setter at DOH.** Please keep in mind that based on recent legislation, DOH will only accept operating component appeals for the correction of computational errors or omissions of data based on information previously submitted. No updates or corrections to the operating component of the rate that would require the re-filing of a cost report are permitted.

DOH stressed that while the capital component in the 2010 rate may be appealed, the deadline for 2009 capital appeals has passed. DOH has said that homes that filed 2009 capital appeals that are not yet reflected in the recently issued rates will have them reflected in the final rates. However, we recommend that homes in this situation contact their rate setter to ensure that the appeal has been processed. The DAL providing detailed instructions for filing appeals via the HPN may be accessed [here](#). Hospital-based homes that file an RHCF-2 Medicaid cost report are required to file appeals on paper as described in the Dear Administrator Letter (DAL) issued with the rate sheets.

Modeling Case-Mix Changes

The rates issued in January all incorporate the CMI computed using the January 2009 census roster submission. Once DOH has finalized the data from the July 2009 submissions, rates effective 7/1/09 will be updated to reflect a CMI based on these July 2009 submissions. Members can use the attached CMI Impact Template (one for [Non-Public Homes with 80+ Beds](#), one for [Public Homes or homes with fewer than 80 beds](#)) to model estimated rates based on their July 2009 roster submission. However, please keep in mind that changes to your facility's rate as well as a change in the statewide total may change the "scale-back" applied to your rate.

What is not clear at this time is how long the July-based CMI would govern the rates since the governor's proposed budget would alter when the next case-mix update would be made. The CMI update schedules based on current law and on the state budget proposal are shown in the tables below.

Case-Mix Update Schedule: Current Law	
Rate Period	CMI Basis
4/1/09 – 6/30/09	Jan. 2009 Roster Submission
7/1/09 – 3/31/10	July 2009 Roster Submission
4/1/10 (Regional Rate)	Jan. 2010 Roster Submission

Case-Mix Update Schedule: Proposed in State Budget	
Rate Period	CMI Basis
4/1/09 – 6/30/09	Jan. 2009 Roster Submission
7/1/09 – 12/31/09	July 2009 Roster Submission
1/1/10 – 6/30/10	Jan. 2010 Roster Submission
7/1/10 – 2/28/11	July 2010 Roster Submission
3/1/11 (Regional Rates)	Jan. 2011 Roster Submission

Most facilities note that their base year "frozen" CMI in these rates is noticeably lower than that shown in the December 2008 notice rates. This is due to the adjustment that DOH applied to correct for the oversampling effect that caused Medicare MDSs to have a larger impact than warranted on the CMI in their original calculation. Additionally, DOH revised the weights assigned to each RUG category since rates were last issued. Since both the "frozen" base year and the current CMIs are affected, this revision should have no detrimental impact on the rate.

We thank those who have provided feedback and urge members to let us know quickly of any concerns with their rates if they have not yet done so. If you have questions regarding the information in this memo, please contact Darius Kirstein at dkirstein@nyahsa.org or by phone on 518-449-2707, ext. 104.