



150 State Street, Suite 301 Albany, New York 12207-1698 Telephone (518) 449-2707 Fax (518) 455-8908 Web www.nyahsa.org

MEMORANDUM

TO: RHCF Members

FROM: Dan Heim, Vice President for Public Policy

DATE: August 21, 2009

SUBJECT: NYAHSA Amends Lawsuit on Medicaid Rate Cuts

ROUTE TO: Administrator, Director of Finance

ABSTRACT: NYAHSA challenges additional nursing home Medicaid rate cuts.

As indicated in [NYAHSA Doc. ID # n00003497](#) and [Doc. ID # n00003556](#), NYAHSA filed suit on behalf of its member nursing homes challenging the three-month delay in the 2009 Medicaid rate methodology. This “rebasings” delay was authorized in the state’s Deficit Reduction Plan enacted in February 2009. *NYAHSA v. Daines et. al.* was filed in state Supreme Court, Albany County on June 3, 2009.

More recently, the NYAHSA Board of Directors authorized the Association to amend this lawsuit to incorporate challenges to the following cuts enacted as part of the 2009-10 state budget: (1) elimination of the 2008 trend factor, effective 4/1/09 (\$82.4 million estimated statewide impact); (2) elimination of the 2009 trend factor, effective 4/1/09 (\$120.0 million impact); and (3) capping the benefit of rebasing at \$210 million (\$70 million impact).

A copy of the amended petition and exhibits is available on the NYAHSA Web site by clicking on the “Attachment 1” link below the window that frames the text of this memo. NYAHSA remains the named plaintiff in the action, on behalf of all of its member nursing homes (other than those represented in another lawsuit) that participate in the Medicaid program.

[NYAHSA Doc. ID # n00003497](#) had indicated that the costs of this litigation would be defrayed through a special member assessment. As part of its authorization to amend the lawsuit, the NYAHSA Board of Directors authorized use of the NYAHSA Board Designated Fund to pay the costs associated with filing this lawsuit. Please bear in mind that NYAHSA’s decision to fund the cost of this litigation relates to preparation and filing of the lawsuit to protect member rights to judicial relief. Unanticipated developments in the course of the litigation could affect the overall cost of the proceeding and could necessitate a future special assessment.

Your facility need not take any action at this point. We will keep you posted as the situation develops and instruct you if and when any actions are required on your part.

This litigation continues NYAHSAs long-standing commitment to protect members' interests through legal challenges to Medicaid cuts and other issues. Please contact me at (518) 449-2707, ext. 128 or via e-mail at dheim@nyahsa.org with any questions.

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