



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

## MEMORANDUM

**TO:** RHCF Members

**FROM:** Dan Heim, Senior Vice President

**DATE:** February 18, 2010

**SUBJECT:** **Issues with Rebased Medicaid Rates**

**ROUTE TO:** Administrator, CFO

---

ABSTRACT: NYAHS working on issues related to 2009-10 nursing home Medicaid rates.

### Introduction

As you know, last month the Department of Health (DOH) issued the long-awaited April/May 2009 and January 2010 rate calculations reflecting the 2002 base year and other changes to the methodology. NYAHS has been carefully reviewing the rates, and provided its members with summaries of the rate changes, guidance on rate appeals, and access to a template to model case-mix index (CMI) changes in the new system (see [NYAHS Doc. ID# n00004283](#)).

The rebased Medicaid rates will provide badly needed increases in Medicaid funding for many nursing homes. At the same time; however, NYAHS is concerned that a number of homes are seeing significant reductions in payment caused by the imposition of the Medicaid-only CMI and the “scale back” adjustment being used to constrain overall rate changes under the new system to \$210 million statewide.

### Timing of Rate Payments

DOH had previously received approval from the Centers for Medicare and Medicaid Services (CMS) for the Medicaid state plan amendment containing the rebasing methodology. The remaining step at this point is to secure CMS approval of the Medicare upper payment limit (UPL) assurances that DOH submitted to CMS earlier this month. The UPL is a test that ensures that the Medicaid rates would not exceed what would be paid under Medicare principles of reimbursement. Barring any major issues, DOH is anticipating CMS approval of the UPL assurances in the next few weeks. Following CMS action and assuming that DOH can timely fix various errors in the rates, the rates would be certified for payment by the Division of the Budget, transmitted to eMedNY, and paid in the second quarter of 2010.

## Rate-setting Issues

NYAHSA has been carefully analyzing the rates and eliciting member feedback to identify both systemic and isolated errors in the calculations, as well as to review the effects of state policy decisions on the methodology. We have asked DOH to carefully review their calculation of the mean prices – particularly for those peer groups that experienced large decreases since the last rate issuance – as well as the WEF/IPAF calculations, specifically for New York City. NYAHSA has also expressed serious concern that the way the state applied the scale back adjustment is having an extreme impact on certain homes. We are also seeking other backup information and data from DOH on various elements of the rate calculations so as to verify their accuracy.

NYAHSA and its colleagues from the Joint Association Task Force on Nursing Home Reimbursement (JATF) met on February 8<sup>th</sup> to discuss several issues that have been identified with the rates, determine the scope of each issue, and make recommendations for resolution. NYAHSA and its JATF partners are meeting with DOH next week to follow up on these and other issues (see Attachment A below for a list of issues we plan to take up with the Department). We will provide further information to you following our discussions with DOH.

Thanks to those members who have provided feedback to us thus far. Please let us know as soon as possible if you have any concerns about your rates, if you have not yet done so. In this regard, please contact Darius Kirstein at [dkirstein@nyahsa.org](mailto:dkirstein@nyahsa.org) or 518-449-2707, ext. 104; Patrick Cucinelli at [pcucinelli@nyahsa.org](mailto:pcucinelli@nyahsa.org) or ext. 145; or Dan Heim at [dheim@nyahsa.org](mailto:dheim@nyahsa.org) or ext. 128.

Attachment

## **JATF TECHNICAL AND POLICY ITEMS FOR DISCUSSION**

### **Systemic/Technical Questions:**

- NYC WEF (Direct & Indirect Regional salary % - large decrease from initial rebasing rate) – trim points / fringes / contracted services
- Mean-price Facilities (16 facilities)
  - Non-comp. component not trended from 1983 to 2002 / Sch. does not foot
  - TBI add-on appears overstated / utilities not in calc.
- Adjustments not in 1/1/10 rates (*DOH is addressing*)
  - Criminal History Background Checks & Measles/Rubella
- Specialty unit beds in/out for peer group assignment
  - 300+ / <80
- Part D calculation for homes over ceiling
  - Exclude Part A drug costs and days
- R&R adjustment – taken out of base costs
- Details of outlier trimming and its effect
- Ventilator Rates:
  - Analyze pharmacy exclusions from cost
  - Systemic negative impacts – determine cause
  - WEF issues / small sample size

### **Policy Questions:**

- Scale Back Methodology
  - Explore alternative ways to proportionalize the scale back effect (vs. net revenue)
  - Remove CMI from scale back (7/09 CMI increases could be negated by statewide scale back)
- Revised RHCF cost reports not being accepted / no hotline appeal available to correct apparent material errors
- Corridor widening to 15% (max. allowed by legislation)
- 65% Rule (direct labor)
  - How to pay when net rate-to rate has decreased due to subsequent budget reductions (i.e.: Medicaid Only / Trend elimination / Scale back)
- 2008 WEF Update
  - Including agency costs reported in RHCF?
  - Timing of implementation?
- Specialty rates calculated now (ambiguity re: implementation of specialty rates)
- Cash flow implications of resulting rate adjustments (i.e., moving rate schedules together, spreading out recoupments, etc.)