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MEMORANDUM

TO: RHCF Members

FROM: Darius Kirstein, Senior Policy Analyst

DATE: April 5, 2010

SUBJECT: **Nursing Home Cash Receipts Assessment**

ROUTE TO: Administrator, CFO

ABSTRACT: Nursing homes must notify private-pay residents in advance if they intend to pass through the proposed increase in the cash receipt assessment

The Executive Budget Proposal seeks to increase the current 6 percent cash receipts assessment paid by nursing homes by an additional one percent. If this provision is enacted, facilities that pass the current cash receipts assessment tax through to their private-pay residents must provide a 30-day notice to residents if they intend to pass through the 1 percent increase.

It is possible that homes will not know about this increase early enough to provide the required 30 days notice if they wait until the budget is passed, given the uncertainty with the state budget process. Homes that intend to pass through the increase to their private-paying residents should consider providing a 30-day notice to residents now with appropriate caveats should the assessment increase be changed or rejected. The state Senate has signaled its intent to reject the assessment increase, while the Assembly is on record as accepting the proposal but making it reimbursable for Medicaid residents.

The state offers an income tax credit to a nursing home resident who pays the assessment tax. In order for the resident to claim the tax credit, the nursing home must itemize the amount of the cash receipts assessment tax on the private-pay invoice as a separate line item. The resident must file a tax return in order to be eligible for the credit. From a customer relations point of view, homes that pass the assessment through would want to ensure that their private-paying residents are aware of the credit.

The regulatory language requiring the 30-day written notice, excerpted from Section 415.26(i)(1) of NYCRR-10 (Health Department Regulations), states that a nursing home shall:

“vi) assess no additional charges, expenses or other financial liabilities in excess of the daily, weekly or monthly basic rate except;

(a) upon express written approval and authority of the resident, next of kin or sponsor;

(b) upon express written orders of the resident's personal, alternate or staff physician stipulating specific services and supplies not included as basic services;

(c) upon 30 days' prior written notice to the resident or designated representative, of additional charges, expenses or other financial liabilities due to the increased cost of maintenance and/or operation of the nursing home; and, upon request of the resident, designated representative or of the department, financial and statistical supportive evidence sufficient to reflect such change in economic status shall be provided; or (emphasis added)

(d) in the event of a health emergency involving the resident and requiring immediate special services or supplies to be furnished during the period of the emergency.”

We suggest that members confirm with their legal counsel that any rate increase and notice given is consistent with the terms of the facility's admissions agreement. If you have questions on this information, please contact me at dkirstein@nyahsa.org or cal 518-449-2707, ext. 104.