New York Association of Homes & Services for the Aging

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MEMORANDUM

TO: RHCF Members

FROM: Patrick Cucinelli, Senior Financial Policy Analyst
Darius Kirstein, Senior Policy Analyst

DATE: September 11, 2008

SUBJECT: **Rebasing Transition Funding and Assessment Liabilities**

ROUTE TO: Administrator, CFO

ABSTRACT: DOH details release of rebasing funding and assessment recoupments.

Introduction

The Department of Health (DOH) is slated to release retroactive transition funding of $305 million statewide, $137.5 million for 2007 and $167.5 million for 2008, within the next few weeks. This represents the full amount of the transition monies due to facilities as part of the phase-in of the Joint Association Task Force's (JATF) 2002 base year update and revised methodology, now slated to be fully implemented in January 2009.

DOH met yesterday with NYAHSA and its JATF partners to finalize some outstanding details regarding the release of these funds. Again, NYAHSA and our JATF partners have been aggressively advocating for the prompt release of these monies.

Release Dates

NYAHSA advised members late last week that DOH was targeting the Medicaid check dated September 22, 2008 with a release date of **October 8, 2008** for payment of the transition funding. DOH confirmed these dates during yesterday's discussion and providers should anticipate receiving a *Dear Administrator Letter (DAL)* confirming the retroactive payment.

The amount of the payments is based upon estimates developed by the JATF, and the DAL will advise members that these payments will be subject to a final reconciliation once DOH finalizes their own calculations. As with other retroactive rate changes, the check released on October 8th will encompass all previously paid 2007 and 2008 claims, and the appropriate per diem transition funding add-on will be paid prospectively on all other claims with 2007 or 2008 dates of service.

Payments Assessable

DOH has confirmed that the transition payments are assessable under the cash receipts assessment program. Therefore, facilities need to anticipate paying the 6 percent assessment on their transition payments. NYAHSA has raised the issue of inequity in that this increase in assessment payments is not recognized in the assessment rate add-on facilities are currently receiving. DOH is unwilling to consider adjusting the rate add-on at this time, which leaves facilities having to wait for an assessment reconciliation to recoup any excess payments made as a result of the assessment on the retroactive transition monies. This is an issue which we will continue to pursue with DOH as the increase in Medicaid payments resulting from the rebasing will likewise not be recognized in the current rate-on.

Cash Receipts Assessment Recoupment

Despite our efforts in advocating against their doing so, DOH has decided to take advantage of the release of the transition funding to deal with some of the current backlog in cash receipts assessment payments. Providers who are currently delinquent in their cash receipts assessment payments will be receiving a separate DAL detailing this recoupment.

According to the information released to NYAHSA and the other statewide associations during yesterday's meeting, DOH states that there are 195 facilities that will have their transition funding reduced as a result of this recoupment. Out of an approximate $163 million (including interest and penalties) owed by these facilities, DOH anticipates recouping approximately $26 million. These impacted facilities will still receive approximately $50 million in retroactive transition monies.

Additional Details on Assessment Recoupment

According to DOH, for purposes of this one-time recoupment they are segregating each of the 195 delinquent facilities. Based upon their analysis of certain financial parameters, including bottom-line, net asset balances, cash flow, and any equity withdrawals for the three-year period of 2004 through 2006, facilities are being classified into one of three groups.

- **Group 1**

DOH considers the first group of 70 facilities as financially stable or sound. This group, which accounts for approximately $33 million of the total amount delinquent, will be subject to a full recoupment of delinquent assessment payments from the transition funding up to either the amount of assessment owed or the amount of transition payment, whichever is less. Any assessment money still owed after the recoupment will be subject to an ongoing recoupment of 15 percent of future Medicaid payments.

Given the timing of the transition payments, these facilities will not have any opportunity to appeal DOH's determination. As in the case of any recoupment, the ongoing assessment recoupment percentage of 15 percent can be negotiated and the facility would be able to supply additional information regarding financial hardship in appealing for a reduction in the recoupment percentage. Also, as in the case of any recoupment this would be processed sequentially pending the resolution of any other outstanding recoupments already in process.

- **Group 2**

This second group is considered less financially stable than the first and is comprised of 71 facilities owing approximately $68 million. As is the case of the first group, DOH is implementing a full recoupment of monies owed up to either the amount of assessment owed or the amount of transition payment, whichever is less. All other provisions and options noted above for Group 1 will also apply to this group. The only difference between the two is that Group 2 facilities will have any ongoing recoupment that still applies implemented at whatever recoupment percentage is already in place (i.e., most often 10 percent). In other words, this group will not see their ongoing recoupment percentage automatically imposed at the 15 percent.

- **Group 3**

The third group should consist of 54 facilities owing $60 million. We believe that this group will essentially be those facilities that DOH determines as qualifying for 2008 disadvantaged facility funding. DOH is currently in the process of finalizing the analysis to make this determination. These facilities will receive their transition funding minus a 10 percent recoupment from the total. Any ongoing recoupment for these facilities will continue at the percentage already established, and all other provisions and considerations that apply to the first two groups are applicable to Group 3.

For all three groups, any other recoupments (e.g. Medicaid audit findings, etc.) will be suspended for the check dated September 22, 2008, and all monies recouped will be applied to the cash receipts assessment liability only. These other recoupments will resume as usual in the subsequent Medicaid check. Facilities that have other recoupments in process but are not delinquent in their assessment payments will see their normal recoupment uninterrupted in the September 22nd payment.

Conclusion

While NYAHSA and our JATF partners are pleased that this desperately needed cash flow relief will now be released to providers, these latest developments raise some issues of serious concern. One major concern we are now reviewing is the possibility that we may have members who do not officially qualify for disadvantaged facility funding due to some unique funding circumstances, but who are nonetheless facing serious financial hardships and should otherwise be in Group 3. NYAHSA and the JATF are continuing our advocacy in this area. Please contact us with any questions at dkirstein@nyahsa.org (518-449-2707 ext. 104) or pcucinelli@nyahsa.org (ext. 145).