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**To: Medicaid-Enrolled Nursing Facilities**

**Subject: Nursing Facility Case Mix Reimbursement System Updates**

## Overview

The purpose of this bulletin is to update previous communications from the Office of Medicaid Policy and Planning (OMPP) about recent developments surrounding the Medicaid case mix reimbursement system for nursing facilities. As communicated on April 8, 2002, the Indiana General Assembly did not appropriate sufficient revenue to fund Medicaid expenditures at current levels, and as such, the OMPP has been forced to make reductions to payments, which are, in part, implemented through changes to the case mix reimbursement criteria. These case mix reimbursement changes have been identified through multiple phases. The following sections include an outline of each of these changes with a current status report.

## Phase I Case Mix Changes

The following are the Phase I case mix changes:

- Reduce profit add-on payments for direct care costs
- Inflation reduction factor
- Changes in therapy payment methodology/updated the *RUG-III* resident classification system (*version 5.12*)
- Move repairs and maintenance costs to indirect care rate component
- Add a ventilator payment adjustment

## Phase I Status Report

The Phase I case mix reimbursement changes were originally implemented pursuant to emergency rule making authority effective October 1, 2001. These emergency rules were the subject of litigation sponsored by various for-profit nursing facilities and the Indiana Health Care Association in the *AmHealth* lawsuit. The OMPP has appealed the trial court's decision in *AmHealth*, and will provide further updates about this litigation and its impact on Medicaid payments to nursing facilities as pertinent information becomes available. At the present time, the Phase I changes are scheduled to take effect July 1, 2002, pursuant to the Office's permanent rule making authority.

## Phase II Case Mix Changes

The following are the Phase II case mix changes:

- Establish a *children's nursing facility* designation for reimbursement purposes, (refer to further discussion of this provision below.)
- Apply a minimum occupancy standard of 65 percent (in conjunction with an exception process available under limited circumstances)
- Remove non-Medicaid indirect costs associated with ancillary services that are not allowable for Medicaid reimbursement purposes
- Remove profit add-on payment for direct care costs (except for children's nursing facilities)
- Establish rebasing schedule for rate setting purposes to be every other year

## Phase II Status Report

The OMPP intends to implement the Phase II case mix reimbursement changes effective July 1, 2002, pursuant to emergency rule making authority. The Phase II changes will be implemented simultaneously with the Phase I changes as discussed above. Prior to the expiration of the Phase II emergency case mix reimbursement rule changes, the OMPP intends to promulgate the same rules on a permanent basis.

## Children's Nursing Facility Designation

Effective with the implementation of the Phase II changes, a nursing facility that has 25 percent or more of its residents who are under the chronological age of 21 years, and who have received written approval from the OMPP, will be designated for reimbursement purposes to be a children's nursing facility. Beginning July 1, 2002, any nursing facility that meets these criteria must submit a written request to the

OMPP's rate setting contractor, Myers and Stauffer LC, to be designated as a children's nursing facility. The written request must be sent to the following address:

**Myers and Stauffer LC  
8555 North River Road  
Suite 360  
Indianapolis, IN 46260**

After a request is received, the OMPP and Myers and Stauffer LC will review the information in conjunction with available Minimum Data Set (MDS) data to determine whether the request can be approved. The facility will be promptly notified of the OMPP's decision about the request. Any approval from the OMPP will be in effect until the nursing facility's next regularly scheduled annual rate review.

Please note that in addition to submitting the request to be designated a children's nursing facility with the implementation of the Phase II changes, a nursing facility must also submit a similar request for each annual rate review thereafter. Such requests must be submitted each year with the annual financial report to Myers and Stauffer LC. The facility will be promptly notified of the OMPP's decision about the request.

## Occupancy Exemption

The rule allows an exemption to the 65 percent occupancy requirement if the facility has increased its census by at least 15 percent such that its occupancy is 65 percent or greater after the facility's last year-end cost report used to establish its rate, and has maintained the higher occupancy for at least 90 days. Such requests may be submitted any time after the facility has maintained the minimum 90-day requirement to OMPP's rate setting contractor, Myers and Stauffer, at the address listed above. Myers and Stauffer will then evaluate the request in conjunction with an analysis of MDS information, and the facility will be promptly notified of the OMPP's decision about the request for exemption. If it is determined that the facility meets the exemption, the facility's rate will be recalculated based on the newly demonstrated occupancy information. The new rate will be effective the first day of the month following the date the conditions above are met.

## MDS Auditing and Reporting

In light of the delay in implementing the Phase I resident classification system changes (*RUG-III, version 5.12*) that resulted from the *AmHealth* trial court decision, there are questions about what resident classification system nursing facilities should follow for rate setting and MDS auditing purposes. Based on the trial court's decision in *AmHealth*, the OMPP is currently precluded from implementing the *RUG-*

*III, version 5.12* resident classification system until the permanent Phase I rule is legally effective. This means that until the final outcome of the OMPP's appeal of the *AmHealth* decision is known, the previous resident classification system (*RUG-III, version 5.01*) will continue to apply until July 1, 2002.

For MDS audit purposes, the permanent Phase I rules (including *RUG-III version 5.12*) will be applied for MDS audits that were completed on or after the legally effective date of the permanent Phase I rules, which is April 15, 2002. The permanent Phase I rules require that a corrective remedy be applied beginning October 1, 2002, for nursing facilities that have unsupported MDS assessments that exceed the thresholds established in *405 IAC 1-14.6-4(k)*.

## Further Information

Direct any inquires about this bulletin to EDS Customer Assistance at (317) 655-3240 within the Indianapolis area or at 1-800-577-1278 outside the Indianapolis area.

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