

Bulletin

August 5, 2008

Minnesota Department of Human Services □ P.O. Box 64973 □ St. Paul, MN 55164-0973

OF INTEREST TO

- County Directors
- Social Services Supervisors and Staff
- Nursing Facility Owners
- Nursing Home Administrators
- Nursing Facility Employee Unions

ACTION/DUE DATE

Please Read

Some provisions are time sensitive

Expiration Date

August 5, 2010

Nursing Facility Policy Changes in 2008 Legislation

TOPIC

Policy and rate changes enacted during the 2008 legislative session

PURPOSE

To inform interested parties of changes made to policy and rates for nursing facilities

CONTACT

Nursing Facility Policy Center at (651) 431-2282, or by email at: DHS.LTCpolicycenter@state.mn.us

SIGNED

LOREN COLMAN
Assistant Commissioner
Continuing Care

1.0 INTRODUCTION

The purpose of this bulletin is to describe how the Minnesota Department of Human Services (DHS) will implement the provisions of law enacted in 2008 that apply to nursing facilities.

2.0 RATE ADJUSTMENTS MADE AVAILABLE TO ALL NURSING FACILITIES

Laws of Minnesota 2008, Chapter 363, Article 18, section 3, subdivision 6, paragraph c

Section 2 of DHS bulletin 08-69-02 provides a detailed description of the rate adjustments and implementation requirements and what DHS will do to implement these provisions.

3.0 NATURAL DISASTERS

Laws of Minnesota 2008, chapter 247, section 10

Minnesota Statutes, section 12A.10

Effective August 1, 2008, in the event of a natural disaster, DHS will have the authority to reimburse nursing facilities for costs incurred for evacuation, transportation, or medical or remedial services provided to residents. This reimbursement will cover costs that are:

- Not reimbursed elsewhere,
- Necessary to ensure the health and safety of medical assistance residents, and
- Incurred during the disaster and up to 60 days following the disaster.

Costs incurred by a nursing facility that provides shelter to residents of an evacuated facility are eligible for this reimbursement.

This authority does not extend to repairing damage resulting from the natural disaster.

The disaster may be a flood, tornado, fire or any other event which would force emergency action to protect residents or which would cause a prudent manager to conclude that it would be wise to take emergency action.

Nursing home administrators and others delegated responsibility as the person-in-charge of the nursing home should be aware that DHS will pay for costs incurred by the nursing home in a disaster situation for actions taken to ensure resident safety.

4.0 SPECIAL RATE ADJUSTMENTS RELATED TO SPRINKLER SYSTEMS

Laws of Minnesota 2007, chapter 147, article 7, section 21

Minnesota Statutes, section 256B.434, subdivision 4

As described in Section 4 of DHS bulletin 07-62-02, temporary rate adjustments were made available to nursing facilities that planned or completed capital investments in fire suppression sprinkler systems. These rate adjustments are effective for the period October 1, 2007 to September 30, 2008.

Approved sprinkler projects must be complete by December 31, 2008 with final invoices provided to DHS at the address noted below when the project is completed and no later than January 31, 2009. If the final costs are less than the amount provided in the rate adjustment, DHS will recoup the difference. If the invoices are not provided by January 31, 2009, the entire amount paid will be recouped.

Mail to:

Bev Milotzky
Nursing Facility Rates and Policy Division
MN Department of Human Services
PO Box 64973
St. Paul MN 55164-0973

Or fax to:

Bev Milotzky
Nursing Facility Rates and Policy Division
651-431-7415

Or deliver by hand to:

Information Desk
MN Department of Human Services
540 Cedar St., St. Paul

5.0 SNSA REPORT

Laws of Minnesota 2008, chapter 286, article 2, section 3
Minnesota Statutes, section 256B.039 (Repealed)

DHS was previously required to submit to the legislature an annual report describing the use of Supplemental Nursing Service Agencies (SNSAs). This report is no longer required. However, summary information on the use of SNSAs will still be available in the Minnesota Nursing Home Report Card which can be found at this link:

<http://www.health.state.mn.us/nhreportcard/>

6.0 CONSORTIUM BILL

Laws of Minnesota 2008, chapter 338, section 3

The commissioner of human services, in cooperation with the commissioners of health and housing finance, shall develop and implement, beginning July 1, 2009, a three-year demonstration project for older adult services community consortiums.

A consortium may consist of health care and social service providers, county agencies, health plan companies, and other community stakeholders within a demonstration site that have established a process for joint decision making. Demonstration sites may include a portion of a county, an entire county, or multiple counties.

The projects are intended to accelerate the development of community based services to fill in gaps identified within communities using a pool of funds and provide flexibility in the use and distribution of these funds. The projects must be designed to:

- Ensure consumer access to a continuum of older adult services;
- Create an adequate supply of affordable home-based alternatives to care for persons currently using a nursing facility or likely to need nursing facility services;
- Establish and achieve measurable performance targets for care delivered throughout the continuum; and
- Support the management of chronic and complex conditions through greater coordination.

Project funding may include funding from the nursing facility Performance Incentive Payment Project and the Community Services Service Development Grant Program. In addition a portion of nursing facility Moratorium Exception funding will be reserved for facilities in Consortium Projects, and priority will be given in selecting technology grants from the Minnesota Department of Health (MDH), affordable housing options projects from the Minnesota Housing Finance Agency (MHFA) and transportation projects for older adults from the Minnesota Department of Transportation (MNDOT).

The implementation of this project will include several events:

- An Idea Generating Event – on September 23, 2008, at the Best Western Americana Inn, St. Cloud; call Beth Gabrysiak at 651-645-4545 for details.
- The request for proposals (RFP) will be published in November 2008 with proposals due in May 2009
- The RFP may include details about a bidder's conference.

Please watch the DHS public website at www.dhs.state.mn.us for further information.

7.0 CHANGES TO THE REBASING LAW

Laws of Minnesota 2008, chapter 363, article 15, sections 10-12

Minnesota Statutes, section 256B.441, subdivisions 1, 55 and 56

Legislation was enacted in 2007 requiring the rebasing of nursing facility operating payment

rates. This law affected rates that were to be phased in, beginning October 1, 2008. The rebasing law was clarified and amended in several ways in the 2008 session.

- Portions of operating payment rates associated with Performance Incentive Payment Project (PIPP) contract amendments will be separate from rate calculations under rebasing. In determining the rate under Minnesota Statutes, section 256B.434, the amount of any PIPP rate adjustment will be removed, and then added back after all other calculations have been performed.
- Legislation in 2008 also clarified that for each year of the rebasing phase-in, the portion of the payment rate calculated using the new system methodology is to be computed using the most recently available statistical and cost report.
- The original law provided that the rates effective October 1, 2008, would be a blending of 13% of the rate determined under the new system and 87% of the rate determined under the old Alternative Payment System (APS). Also, there was a hold harmless provision, such that, if the result of the blending were less than the APS rates, compared at a RUGS weight of 1.00, then the rates would be equal to the rates determined by the APS method. This method was amended to ensure that all facilities would receive a rate increase of at least 1%, the floor. DHS is also directed to establish a maximum rate increase, a ceiling, which will result from the blending, such that the savings from applying this ceiling will offset the costs of applying the floor. The floor will continue to be in effect during the entire phase-in of rebasing. The dollar amount of the reduction required when the ceiling is applied will be taken off of the operating payment rate determined by the blending during each subsequent year of the phase-in of rebasing.
- During the phase-in of rebasing, for years beginning after September 30, 2009, facilities will be held harmless to the rate on September 30, 2009.

Additionally, the payment rate for external fixed costs, beginning October 1, 2008, will be determined in accordance with the rebasing law and will not be subject to a phase-in.

Further information describing the cost of living (COLA) implementation requirements related to new funds received through rebasing can be found in DHS bulletin #08-69-02, particularly in sections 2.1.1 and 2.2.1.1, (b).

8.0 LEGISLATIVE STUDIES

Laws of Minnesota 2008, chapter 317, section 4

Laws of Minnesota 2008, chapter 326, article 1, section 42 and 43

DHS is required, by January 15, 2009, to provide reports to the legislature with recommendations on:

- Definition of direct care workers – examining, in consultation with MDH, existing definitions of direct care staff positions, how to standardize definitions to allow the public to compare staffing across facilities, and how to incorporate new types of positions;
- Pension costs – examining the extent to which reimbursement methods for pension costs lead to funding shortfalls when facilities convert from public to private ownership; and
- Rate disparities – how to reduce disparities in rates between various regions of the state.

DHS is also required, by December 15, 2008, to prepare a report on providing health insurance to LTC workers.

DHS will consult with interested stakeholders and consider their advice in preparing these reports.

Special Needs

This information is available in other forms to people with disabilities by contacting us at (651) 431-2282. TDD users can call the Minnesota Relay at 711 or (800) 627-3529. For the Speech-to-Speech Relay, call (877) 627-3848.

DHS BULLETINS

Official versions of DHS bulletins can be found at:
http://www.dhs.state.mn.us/main/id_000305