Virginia Department of Planning and Budget

Economic Impact Analysis

12 VAC 30-90 Methods and Standards for Establishing Payment Rates – Long Term Care Services
Department of Medical Assistance Services
July 13, 2015

Summary of the Proposed Amendments to Regulation

Pursuant to Item 301 KKK of Chapter 2 of the 2014 Acts of the Assembly and Item 301 KKK of Chapter 665 of the 2015 Acts of the Assembly, the proposed changes replace the existing cost-based nursing facility payment methodology with a price-based methodology and adjust the reimbursement for capital costs. The proposed changes have already been implemented between July 1, 2014 and November 1, 2014.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Prior to July 1, 2014, nursing facilities were reimbursed according to a cost-based payment methodology based on each facility's operating costs in the prior year inflated to the rate year subject to ceilings for defined peer groups. Other costs, including capital, nurse aide training, and administrative costs, were also reimbursed on a retrospective basis. Moreover, there was no additional reimbursement provided when a nursing facility resident had a medical need to be placed in a private room.

Pursuant to Item 301 KKK of Chapter 2 of the 2014 Acts of the Assembly and Item 301 KKK of Chapter 665 of the 2015 Acts of the Assembly, the proposed changes replace the existing cost-based nursing facility payment methodology with a price-based methodology and adjust the reimbursement for capital costs. The Department of Medical Assistance Services (DMAS) implemented the new methodology between July 1, 2014 and November 1, 2014. The proposed changes will update the regulations to reflect the new price-based methodology.

The new price-based payment methodology creates prospective payment components for direct and indirect operating nursing home costs by peer group. The cost per day will be 105.000 percent of the direct operating day-weighted median for each direct peer group and 100.735 percent of the indirect operating day-weighted median for each indirect peer group. These price-based rates for the operating components will be calculated using nursing facility cost report data in a base year and rebased at least every three years. The price-based rates will also be adjusted by a spending floor to limit the potential gain of low cost facilities, thereby making it possible to implement higher adjustment factors for other facilities at less cost.

The direct operating component will be adjusted by the Resource Utilization Group (RUG) weights to reflect the RUG for each nursing facility resident. RUG is a resident classification system that groups nursing facility residents according to resource utilization and assigns weights related to the resource utilization for each classification. DMAS will also transition from the RUG-III 34 Medicaid grouper to a newer RUG-IV 48 grouper in fiscal year (FY) 2018.

Moreover, DMAS will transition to the new methodology over the next four years in 25-percent increments. For the first transition period, the direct operating rates from July 1, 2014 to October 31, 2014 will be case-mix adjusted on a facility basis using the two most recent facility average quarterly Case Mix Index (CMI) scores. The RUG weight will be applied to direct operating component to adjust the claim payment for the individual’s CMI score. Effective November 1, 2014, nursing facility claims have been reimbursed based on the RUG submitted on individual claims.

The legislative mandate also directs DMAS to reimburse the price-based operating rate rather than the transition operating rate to any nursing facility whose licensed bed capacity decreased by at least 30 beds after 2011 and occupancy increased from less than 70 percent in 2011 to more than 80 percent in 2013.

Additionally, the existing capital reimbursement methodology will be converted to a fully prospective reimbursement using the same Fair Rental Value (FRV) methodology. The capital reimbursement methodology is being amended to reduce the FRV rental rate from 8.5 percent to 8.0 percent. The new methodology also establishes a $3,000 per bed threshold for major renovation and a mid-year process for adjusting the FRV rate.

The Nurse Aide Training Competency Evaluation Programs (NATCEPs) will also be reimbursed their costs in a prospective manner also. The NATCEPs per diem will be calculated by dividing costs by days and inflating to the rate year.

Criminal Records Checks (CRC) costs will be reimbursed based on a prospective per diem rate. CRC costs will be calculated by dividing total costs by days and paid prospectively.

The capital, NATCEPs, and CRC rate components will be recalculated annually from one year more recent cost report data.

A private room differential for individuals when the accommodation is medically necessary will also be allowed. The additional payment amount will be allowed based on medical necessity criteria established by DMAS.

In summary, the total per diem amount paid to nursing facilities will be the sum of the case-mix adjusted direct operating per diem, the indirect operating per diem, the capital per diem, the NATCEPs per diem, and the CRC per diem.

This action will likely increase the efficiency of reimbursement for nursing home services to some extent. Under the new system, nursing homes will receive a fixed payment for a specific service for a period of three years between the rebasing. During the three year rebasing period, payments will be adjusted periodically to account for inflation, for cost of living in certain geographical locations, etc, but will not accommodate individual nursing facilities. Each facility will receive the same base payment for the same service adjusted for geographic location regardless of facility specific costs. Since the base reimbursement rate is calculated using cost data from all nursing homes, inefficient facilities will receive less than what they receive under the cost based methodology and efficient facilities will receive more than what they receive under the cost based methodology. Thus, all nursing facilities will have an incentive to keep their costs as low as possible to maximize their profit. Lower costs, in turn, will lead to lower reimbursement rates when the rates are rebased every three years. Over time, inefficient nursing homes will be forced to improve their efficiency and reduce costs which in turn will push reimbursement rates down to a lower level on a continuing basis.

The proposed changes were estimated to be budget neutral in the aggregate prior to the additional reductions in the rental rate floor. In FY 2015, the total Medicaid reimbursement to nursing homes was approximately $866 Million. However, the reimbursements to individual nursing homes may increase or decrease under the new methodology. Based on FY 2015 data and assuming full implementation, 90 nursing homes will receive $100,000 to $1.9 million less, 66 nursing homes will receive $0 to $99,999 less, 27 nursing homes will receive $1 to $99,999 more, and 83 nursing homes will receive $100,000 to $1.3 million more in their reimbursements compared to payments under the old methodology.

To some extent, this action will also increase the predictability of reimbursement during the three year rebasing period. Since fixed rates will be paid for services, the total reimbursement will be driven mainly by utilization and not by hospital specific cost factors.

The new methodology is also expected to reduce DMAS's administrative costs associated with cost settlement of claims for about $500,000 per year after the second year of implementation. On the other hand, approximately $640,000 in additional administrative costs on DMAS is expected to modify its information technology to incorporate this methodology. The impact on administrative costs of providers is expected to be minimal as they will continue to submit claims in the same manner.

Businesses and Entities Affected

The proposed changes apply to approximately 266 nursing facilities. DMAS estimates that about 24 facilities may qualify as small businesses because they have less than 120 beds and are not part of a nursing home national chain, a hospital, or a continuing care retirement community.

Localities Particularly Affected

The regulations apply throughout the Commonwealth.

Projected Impact on Employment

The new methodology will reduce reimbursement for inefficient nursing homes while increasing reimbursement for efficient nursing homes. Inefficient facilities may reduce their demand for labor while efficient facilities may increase their demand for labor.

Effects on the Use and Value of Private Property

The new methodology will reduce reimbursement for 156 nursing homes while increasing reimbursement for 110 facilities. The asset values of the affected nursing homes would be affected depending on the impact on their revenues.

Real Estate Development Costs

The proposed amendments are unlikely to significantly affect real estate development costs.

Small Businesses[1]:

Costs and Other Effects

About 24 nursing homes are estimated to be small businesses. The costs and other effects on them would the same as discussed above.

Alternative Method that Minimizes Adverse Impact

There is no known alternative that would minimize the adverse impact on inefficient nursing facilities while accomplishing the same goals.

Adverse Impacts:

Businesses:

Majority of nursing homes are not small businesses. The costs and other effects on them would the same as discussed above.

Localities:

The proposed amendments will not adversely affect localities.

Other Entities:

The proposed amendments are expected to introduce approximately $640,000 in additional administrative costs on DMAS to modify its information technology to incorporate the new methodology.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed

[1] Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5)the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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