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Regulatory
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Proposed Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	12 VAC 30-60 and 12 VAC 30-90
Regulation title	Standards Established and Methods Used to Assure High Quality Care, Methods and Standards for Establishing Payment Rates for Long-Term Care
Action title	Additional NF Reimbursement for Treatment of Stage IV Pressure Ulcers
Document preparation date	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This regulatory action will provide additional reimbursement (\$10 per day) to nursing facilities (NF) for residents who require specialized treatment beds due to their having at least one treatable stage IV pressure ulcer. The cost to NFs of providing specialized treatment beds frequently exceeds what is covered through the current NF reimbursement methodology. The additional \$10 per day reimbursement for specialized treatment beds is intended to help defray the cost to NFs of providing these beds to residents with Stage IV pressure ulcers.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The *Code of Virginia* (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments for services.

The *2004 Acts of the Assembly, Chapter 4, Item 326 RR* directed DMAS to provide an additional \$10 per day reimbursement to nursing facilities for residents who require a specialized treatment bed due to their having at least one treatable stage IV pressure ulcer.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this action is to provide additional reimbursement (\$10 per day) to nursing facilities (NF) for residents who require specialized treatment beds due to their having at least one treatable stage IV pressure ulcer. The cost to NFs of providing specialized treatment beds frequently exceeds what is covered through the current NF reimbursement methodology. The additional \$10 per day reimbursement for specialized treatment beds is intended to help defray the cost to NFs of providing these beds to residents with Stage IV pressure ulcers.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The sections of the State Plan for Medical Assistance that are affected by this action are Standards Established and Methods Used to Assure High Quality of Care (12 VAC 30-60) and Methods and Standards for Establishing Payment Rates—Long Term Care Services (12 VAC 30-90).

Pressure ulcers are caused by unrelieved pressure on skin over bony prominences such as hips, sacrum, and heels in residents with limited mobility. Pressure ulcers are graded by the degree of observable tissue damage from Stage I, being least severe, to Stage IV, being most severe.

NFs have established policies for the prevention and treatment of pressure ulcers. Standard interventions include ongoing assessment of the patient and the ulcer including a nutritional assessment; management of pressure and friction through positioning and the use of support surfaces; care of the ulcer including debridement, cleansing, and dressing; medications to treat infections; operative repair of the ulcer; patient and caregiver education; and, quality improvement programs.

DMAS proposes to provide an additional \$10 per day reimbursement to NFs to help defray the costs to the NFs of providing specialized treatment beds for residents with Stage IV pressure ulcers. Providing proper support surfaces is one component of a comprehensive pressure ulcer

treatment plan. In FY 2002, a total of 1,147 residents at 204 NFs had at least one Stage IV pressure ulcer during at least one quarter of the fiscal year. This figure represents approximately 4.2% of the total Medicaid recipients who received nursing facility care in FY 2002. The additional \$10 per day reimbursement is intended to help defray the cost to NFs of providing specialized treatment beds to residents with Stage IV pressure ulcers. These costs are related to direct patient care, and in the nursing facility payment system all direct patient care costs are adjusted for inflation each year. Therefore to be consistent with the provisions of the payment system, this payment will also be adjusted for inflation.

DMAS staff reviewed proposed policy options with representatives of health care provider organizations. The feedback from providers was used in developing the emergency regulations and will also be used in developing the preauthorization process for the additional \$10 per day reimbursement.

Issues

- Please identify the issues associated with the proposed regulatory action, including:*
- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage of these regulations is that the additional reimbursement will help to defray the cost to nursing facilities of providing specialized treatment beds to residents with at least one treatable stage IV pressure ulcer. There are no known disadvantages of these regulations to the agency, public or the Commonwealth.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>DMAS has not estimated any cost for implementing or enforcing the proposed regulation. This new rate requires prior authorization; DMAS will absorb the additional costs associated with this. DMAS does not anticipate making any adjustment in the budgeted amount for the cost settlement contract as a result of implementing this.</p>
<p>Projected cost of the regulation on localities</p>	<p>There is no impact on localities.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The regulation provides additional reimbursement to providers for specialty beds to help meet the needs of individuals who need specialty beds..</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means 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.</p>	<p>There are approximately 280 Medicaid nursing facilities. Approximately 25 of these facilities would qualify as a small business.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>There is no cost for individuals, businesses, or other entities.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

This action is intended to help defray some of the costs to nursing facilities of providing specialized treatment beds to their residents with stage IV pressure ulcers. Currently, no other alternatives can be considered due to the specific legislative mandate contained in *Chapter 4* of the *2004 Acts of the Assembly*.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

This regulatory action was published in Volume 21, Issue 20, of the Virginia Register on June 13, 2005. No public comments were received

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents. It does not strengthen or erode the marital commitment,.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12 VAC30-60-40 (E)	N/A	Utilization Control: Nursing facilities.	Text is added to inform providers about the criteria for receiving the additional \$10 per day reimbursement. There was no change to this regulation since the Emergency regulation.
12 VAC30-60-350	N/A	Reserved	Section was added to provide detail to providers on the criteria for receiving the additional \$10 per day reimbursement. . There was no change to this regulation since the Emergency regulation.
12 VAC 30-90-41 (A)	N/A	Nursing facility reimbursement formula.	New text explains the payment rate for the additional reimbursement for use of specialized treatment beds. The emergency regulation stated that reimbursement for use of specialized treatment beds would be effective for services on and after January 1, 2005. The proposed regulation correctly states

			reimbursement would be effective for services on and after July 1, 2005.
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There were no changes between the emergency regulation and the proposed regulation.