Virginia Regulatory Town Hall

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Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation	12 VAC 30–90-264.4, 12 VAC 30–90-264.8 and 12 VAC 30-90-264.9
Regulation title	Methods and Standards for Establishing Payment Rates—Long Term Care Services
Action title	Reimbursement for NF Specialized Care Ancillary Services
Document preparation date	5/18/2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the action is to notify interested parties of the Department's intent to change the method of payment for specialized care ancillary services. Ancillary services for non-specialized care nursing facility patients are subject to payment limits that are linked to: 1) the average level of patient severity in each facility, based on the Resource Utilization Groups classification system (RUGS III) and, 2) the statewide median cost for providing care. The purpose of this payment method is to ensure that providers deliver appropriate levels of care in an efficient manner. Because the RUGS III system does not adequately capture the higher resource needs of specialized care patients, the Commonwealth established the method of 'passing through' allowable specialized care ancillary service costs, in order to ensure equitable payment for these unusual and high cost services. Rather than being subject to payment limits, ancillary services provided to specialized care patients are reimbursed at 100 percent of allowable costs.

Over the past several years, specialized care ancillary services costs have markedly increased (more than doubled), and wide variation in costs (over two fold) among facilities has been

observed. In contrast with non-specialized nursing facility ancillary care services, the observed wide variation among facilities in the cost for providing specialized care ancillary services does not appear to correspond to differing levels of severity among specialized care populations. In other words, higher costs do not always appear to be associated with the severity of the patient's needs and suggests that these services may not be delivered in the most efficient manner.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, 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

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the regulation is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The section of the State Plan for Medical Assistance that will be affected by this intended action is the Nursing Home Payment System (Supplement 1 to Attachment 4.19-D (12 VAC 30-90-264)).

Existing regulations will be amended in order to implement limits on the reimbursement for specialized care ancillary services. The regulation is necessary to ensure that Medicaid recipients continue to receive appropriate specialized care ancillary services in an efficient manner while maintaining adequate reimbursement**.** A new reimbursement method will be developed with input from interested parties. The following existing regulations will be amended:

"12 VAC30-90-264. 4. Facility-specific prospective routine operating ceiling. Each nursing facility's prospective routine operating ceiling shall be calculated as:

a. Statewide ceiling. The statewide routine operating ceiling shall be the weighted average (weighted by 1994 days) of specialized care rates in effect on July 1, 1996, reduced by statewide weighted average ancillary and capital cost per day amounts based on audited 1994 cost data from the 12 facilities whose 1994 FY specialized care costs were audited during 1996. This routine operating ceiling amount shall be adjusted for inflation by the percentage of change in the moving average of the Virginia specific Skilled Nursing Facility Market Basket of Routine Service Costs, as developed by DRI/McGraw-Hill, using the second quarter 1996 DRI table. The respective statewide operating ceilings will be adjusted each quarter in which the provider's most recent fiscal year ends, by adjusting the most recent interim ceiling by 100% of historical inflation and 50% of forecasted inflation to the end of the provider's next fiscal year."

"12 VAC30-90-264.8 Ancillary costs: Specialized care ancillary costs will be paid on a pass-through basis for those Medicaid specialized care patients who do not have Medicare or any other sufficient third-party insurance coverage. Ancillary costs will be reimbursed as follows:

a. All covered ancillary services, except kinetic therapy devices, will be reimbursed for reasonable costs as defined in the current NHPS. See 12VAC30-90-290 for the cost reimbursement limitations."

"12 VAC30-90-264.9. Covered ancillary services are defined as…An interim rate for covered ancillary services will be determined (using data from the most recent settled cost report) by dividing allowable ancillary costs by the number of patient days for the same cost reporting period. The interim rate will be retroactively cost settled based on the specialized care nursing facility cost reporting period."

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

The alternative is to maintain the current method of reimbursement**.**

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

This regulation has no impact on the institution of the family. These changes do not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 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; strengthen or erode the marital commitment; or increase or decrease disposable family income**.**