**TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES**

**Proposed Rule**
LSA Document #07-31

DIGEST

Amends 405 IAC 1-4.2-2, 405 IAC 1-4.2-3, 405 IAC 1-4.2-4, and 405 IAC 1-4.2-5 to revise the Medicaid reimbursement methodology and annual rate adjustments for home health care services to be adjusted for inflation using the current rates as the basis for the rates for the period beginning upon the later of the effective date of this rule or July 1, 2007, through June 30, 2008, and revises the reimbursement methodology beginning on July 1, 2008, to use 95% of the unweighted median as the basis for the rates, instead of the current weighted median payment formula. Makes other conforming changes to the definition section. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

**405 IAC 1-4.2-2; 405 IAC 1-4.2-3; 405 IAC 1-4.2-4; 405 IAC 1-4.2-5**

SECTION 1. 405 IAC 1-4.2-2 IS AMENDED TO READ AS FOLLOWS:

**405 IAC 1-4.2-2 Definitions**

**Authority: IC 12-15-21-1; IC 12-15-21-2; IC 12-15-21-3**
**Affected: IC 12-15-13-2**

Sec. 2. (a) The definitions in this section apply throughout this rule.

~~(b) "Office" means the office of Medicaid policy and planning.~~

~~(c) "Home health care" means health care provided to Medicaid recipients who are medically confined to the home as certified by the attending or primary physician.~~

**(b) "Center for Medicare & Medicaid Services Home Health Agency Market Basket" means the index of that name published quarterly by Global Insight.**

**(c) "Forms prescribed by the office" means:**
**(1) forms provided by the office; or**
**(2) substitute forms that have received prior written approval by the office.**

(d) "Home health agency" or "HHA" means an agency licensed by the Indiana state department of health to provide home health care and enrolled as a Medicaid provider.

**(e) "Home health care" means health care provided to Medicaid recipients who are medically confined to the home as certified by the attending or primary physician.**

**(f) "Hours worked" means the number of total hours paid for home health agency personnel, less the number of hours paid for vacation, holiday, and sick pay.**

**(g) "Office" means the office of Medicaid policy and planning.**

**(h) "Overhead cost rate" means the flat, statewide rate for all allowable costs not reimbursed through the staffing rate.**

~~(e)~~ **(i)** "Prior authorization" has the meaning set forth in ~~405 IAC 1-6-2~~. **405 IAC 5-2-20.**

~~(f) "Overhead cost rate" means the flat, statewide rate for all allowable costs not reimbursed through the staffing rate.~~

~~(g) "Staffing cost rate" means the service-specific wage and benefit rate paid per billable hour and based upon standard personnel-related costs that are a function of staff time spent in the performance of patient care activities.~~

~~(h)~~ **(j)** "Semivariable cost" means that portion of the overhead cost that is reallocated from the overhead cost to the staffing cost. It consists of **the following:**

(1) Direct supervision.
(2) Routine medical supplies.
(3) Transportation. ~~and~~
(4) Any other semivariable expenses that must be covered by Medicaid under federal law.

~~(i) "Health Care Financing Administration Home Health Agency Market Basket" means the index of that name published quarterly by DRI/McGraw-Hill.~~

~~(j) "Forms prescribed by the office" means forms provided by the office or substitute forms which have received prior written approval by the office.~~

~~(k) "Hours worked" means the number of total hours paid for home health agency personnel, less the number of hours paid for vacation, holiday, and sick pay.~~

**(k) "Staffing cost rate" means the service-specific wage and benefit rate paid per billable hour and based upon standard personnel-related costs that are a function of staff time spent in the performance of patient care activities.**

*(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-2; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3375; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1116; filed Oct 8, 1998, 12:23 p.m.: 22 IR 433; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 2. 405 IAC 1-4.2-3 IS AMENDED TO READ AS FOLLOWS:

**405 IAC 1-4.2-3 Home health care services; general information**

**Authority: IC 12-15-21-1; IC 12-15-21-2; IC 12-15-21-3**
**Affected: IC 12-15-13-2**

Sec. 3. (a) Indiana Medicaid will reimburse HHA providers for the following home health services:

(1) Skilled nursing performed by a registered nurse or licensed practical nurse.
(2) Home health aide services.
(3) Physical and occupational therapies.
(4) Speech pathology services.
(5) Renal dialysis.

The services in this subsection must be performed in the home and provided within the limitations set forth in ~~405 IAC 1-6-11.~~ **405 IAC 5-16.**

(b) Except as provided in subsection (c), all home health services require prior authorization by submitting a properly completed written request to the office or its contractor. Prior authorization procedures for home health care are set forth in ~~405 IAC 1-6-11.~~ **405 IAC 5-16-3 and 405 IAC 5-16-3.1.**

(c) Prior authorization may be obtained by telephone under the circumstances and subject to the limitations set forth in ~~405 IAC 1-7-3(a)(3)(C).~~ **405 IAC 5-3-2(b)(3).** Services ordered in writing by a physician prior to the patient's discharge from a hospital within the limitations set forth in ~~405 IAC 1-6-11.~~ **405 IAC 5-3-12(2)** do not need prior authorization.

*(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-3; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3376; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 3. 405 IAC 1-4.2-4 IS AMENDED TO READ AS FOLLOWS:

**405 IAC 1-4.2-4 Home health care services; reimbursement methodology**

**Authority: IC 12-15-21-1; IC 12-15-21-2; IC 12-15-21-3**
**Affected: IC 12-15-13-2; IC 12-15-22-1**

Sec. 4. (a) Home health agencies will be reimbursed for covered services provided to Medicaid recipients through standard, statewide rates, computed as: ~~follows:~~

(1) ~~the~~ **one** overhead cost rate **per provider, per recipient, per day;** plus

(2) the staffing cost rate multiplied by the number of hours spent in the performance of billable patient care activities;

to equal the total reimbursement per visit.

(b) The overhead cost rate is a flat, statewide rate based on **ninety-five percent (95%) of** the statewide ~~weighted~~ median overhead cost per visit. The statewide ~~weighted~~ median overhead cost per visit is derived in the following manner:

(1) Determine for each HHA total patient-related costs submitted by HHA providers on forms prescribed by the office, less direct staffing and benefit costs, divided by the total number of HHA visits during the Medicaid reporting period for that provider. The result of this calculation is an overhead cost per visit for each HHA.

(2) Array all HHA providers in the state in accordance with their overhead cost per visit, from the highest to the lowest cost.

~~(3) Calculate the cumulative number of Medicaid visits for all agencies.~~

~~(4)~~ **(3)** The statewide ~~weighted~~ median overhead cost per visit is the cost of the agency at the point in the ~~accumulation of visits in~~ **overhead cost array at** which ~~half~~ **one-half (½)** of the ~~Medicaid visits~~ **overhead cost observations** are ~~provided by~~ **from** higher-cost agencies and ~~half~~ **one-half (½)** are ~~provided by~~ **from** lower-cost agencies.

(c) The staffing cost rate is a flat, statewide rate based on **ninety-five percent (95%) of** the statewide ~~weighted~~ median direct staffing and benefit costs per hour for each of the following disciplines:

(1) Registered nurse.
(2) Licensed practical nurse.
(3) Home health aide.
(4) Physical therapist.
(5) Occupational therapist.
(6) Speech pathologist.

(d) The statewide ~~weighted~~ median direct staffing and benefit costs per hour is derived in the following manner:

(1) Determine for each HHA total patient-related direct staffing and benefit costs submitted by HHA providers on forms prescribed by the office, divided by the total number of HHA hours worked during the Medicaid reporting period for that provider for each discipline. The result of this calculation is a staffing cost rate per hour for each HHA and discipline.

(2) Array all HHA providers in the state in accordance with their staffing cost rate per hour for each discipline, from the highest to the lowest.

~~(3) Calculate the cumulative number of Medicaid hours by all disciplines for all agencies.~~

~~(4)~~ **(3)** The statewide ~~weighted~~ median staffing cost rate per hour for each discipline is the cost of the agency at the point in the ~~accumulation of hours~~ **staffing cost array** in which ~~half~~ **one-half (½)** of the ~~Medicaid hours~~ **cost observations** are ~~provided by~~ **from** agencies with higher staffing rates per hour and ~~half~~ **one-half (½)** are ~~provided by~~ **from** agencies with lower staffing rates per hour.

(e) All HHAs must keep track of and make available for audit total hours paid and hours paid relating to vacation, holiday, and sick pay for all HHA personnel.

(f) Medicare-certified HHA providers are required to submit a Medicaid cost report on forms prescribed by the office and the most recently filed Medicare cost report. Non-Medicare-certified HHA providers are required to submit a Medicaid cost report on forms prescribed by the office and the latest fiscal year end financial statements.

(g) Rate setting shall be prospective, based on the provider's initial or annual cost report for the most recent completed period. In determining prospective allowable costs, each provider's cost from the most recent completed year will be adjusted for inflation using the ~~Health Care Financing Administration~~ **Center for Medicare & Medicaid Services** Home Health Agency ~~input price~~ **Market Basket** index. ~~He~~ **The** inflation adjustment shall apply from the midpoint of the initial or annual cost report period to the midpoint of the next expected rate period.

(h) The semivariable cost will be removed from the overhead cost calculated in accordance with subsection (b) and added to the staffing cost calculated in accordance with subsection (c), based on hours worked.

(i) Field audits will be conducted yearly on a selected number of home health agencies. **Any audit adjustments shall be incorporated into the calculation of agency costs to be included in the rate arrays.**

(j) Financial and statistical documentation may be requested by the office or its contractor. This documentation may include, but is not limited to, the following:
(1) Medicaid cost reports.
(2) Medicare cost reports.
(3) Statistical data.
(4) Financial statements.
(5) Other supporting documents deemed necessary by the office or the rate setting contractor.
Failure to submit requested documentation may result in the imposition of the sanctions described in section 3.1(c) and 3.1(d) of this rule and sanctions set forth in IC 12-15-22-1.

(k) Retroactive repayment will be required when any of the following occur:
(1) A field audit identifies overpayment by Medicaid.
~~(2) A field audit or investigation determines that Medicaid paid more than other payers for like services provided before September 2, 1993.~~
~~(3)~~ **(2)** The provider knowingly receives overpayment of a Medicaid claim from the office. In this event, the provider must:
**(A)** complete appropriate Medicaid billing adjustment forms; and
**(B)** reimburse the office for the amount of the overpayment.

*(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-4; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3376; errata filed Sep 24, 1996, 3:20 p.m.: 20 IR 332; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1117; filed Oct 8, 1998, 12:23 p.m.: 22 IR 434; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 4. 405 IAC 1-4.2-5 IS AMENDED TO READ AS FOLLOWS:

**405 IAC 1-4.2-5 Home health care services; annual adjustments**

**Authority: IC 12-15-21-1; IC 12-15-21-2; IC 12-15-21-3**
**Affected: IC 12-15-13-2; IC 12-15-22-1**

Sec. 5. New rates set ~~after January 1, 1997,~~ **on July 1, 2008,** shall be:
**(1)** effective on ~~January 1~~ **July 1;** and ~~shall be~~
**(2)** annually adjusted thereafter based upon the most recently submitted financial and statistical documentation as filed by all providers of services who billed Medicaid for services provided during the cost report period.

*(Office of the Secretary of Family and Social Services; 405 IAC 1-4.2-5; filed Jul 18, 1996, 3:00 p.m.: 19 IR 3377; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1119; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 5. **Notwithstanding SECTION 3 of this document, to ensure that home health reimbursement rates are sufficient to promote adequate access to services prior to July 1, 2008, the rates for the period**

**beginning upon the later of the effective date of this rule or July 1, 2007, will be calculated by adjusting the rates in effect on June 30, 2007, by an inflationary adjustment using the Center for Medicare & Medicaid Services Home Health Agency Market Basket index. These inflated rates shall be in effect through June 30, 2008, and then the office shall reestablish the reimbursement rates based on the methodology described in SECTION 3 of this document, at which time this SECTION concerning implementation shall expire.**

Notice of Public Hearing

*Posted: 04/11/2007 by Legislative Services Agency*
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