TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Final Rule
LSA Document #10-65(F)

DIGEST

Amends 405 IAC 1-14.6-24 to change the quality assessment fee for nursing facilities that became nonstate government owned or operated after July 1, 2003, from $2.50 to $10 and to add a reference for the new CCRC criteria contained in the 2009 budget bill HEA 1001(ss). Effective 30 days after filing with the Publisher.

405 IAC 1-14.6-24

SECTION 1. 405 IAC 1-14.6-24 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-24 Nursing facility quality assessment

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 4-21.5-3; IC 12-13-7-3; IC 12-15-21-3; IC 16-21; IC 16-28; IC 23-2-4

Sec. 24. (a) Effective August 1, 2003 through June 30, 2011, the office shall collect a quality assessment from each nursing facility licensed under IC 16-28 as a comprehensive care facility based on the most recently completed annual financial report or quality assessment data collection form, as follows:

(1) ~~If the~~ **Privately owned or operated nursing facilities with** total annual nursing facility census days ~~are~~ fewer than seventy thousand (70,000), ten dollars ($10) per non-Medicare day.

(2) ~~If the~~ **Privately owned or operated nursing facilities with** total annual nursing facility census days ~~are~~ equal to or greater than seventy thousand (70,000), two dollars and fifty cents ($2.50) per non-Medicare day.

(3) ~~If the nursing facility is~~ **Nonstate government owned or operated nursing facilities that became** nonstate government owned or operated **before July 1, 2003,** two dollars and fifty cents ($2.50) per non-Medicare day.

(4) Nonstate government owned or operated nursing facilities that became nonstate government owned or operated on or after July 1, 2003, ten dollars ($10) per non-Medicare day.

(b) The following nursing facilities shall be exempt from the quality assessment described in subsection (a):

(1) A continuing care retirement community registered with the securities commissioner of the office of the secretary of state under IC 23-2-4 **that satisfies all provisions of P.L.182-2009(ss), SECTION 486(f)(1).**

(2) A hospital-based nursing facility licensed under IC 16-21.

(3) The Indiana Veterans' Home.

(c) For nursing facilities certified for participation in the Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the quality assessment shall be an allowable cost for cost reporting and auditing purposes. The quality assessment shall be included in Medicaid reimbursement as an add-on to the Medicaid rate. The add-on is determined by dividing the product of the assessment rate times total non-Medicare patient days by total patient days from the most recently completed desk reviewed annual financial report.

(d) For nursing facilities that are not certified for participation in the Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the facility shall remit the quality assessment to the state of Indiana within ten (10) days after the due date. If a nursing facility fails to pay the quality assessment under this subsection within ten (10) days after the date the payment is due, the nursing facility shall pay interest on the quality assessment at the same rate as determined under IC 12-15-21-3(6)(A).

(e) The office or its contractor shall notify each nursing facility of the amount of the facility's assessment after the amount of the assessment has been computed. If the facility disagrees with the computation of the assessment, the facility shall request an administrative reconsideration by the Medicaid rate-setting contractor. The reconsideration request shall be as follows:

(1) In writing.

(2) Contain the following:

(A) Specific issues to be reconsidered.

(B) The rationale for the facility's position.

(3) Signed by the authorized representative of the facility and must be received by the contractor within forty-five (45) days after the notice of the assessment is mailed.

Upon receipt of the request for reconsideration, the Medicaid rate-setting contractor shall evaluate the data. After review, the Medicaid rate-setting contractor may amend the assessment or affirm the original decision. The Medicaid rate-setting contractor shall thereafter notify the facility of its final decision in writing, within forty-five (45) days of the Medicaid rate-setting contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the rate-setting contractor to the facility's reconsideration request, the request shall be deemed denied and the provider may initiate an appeal under IC 4-21.5-3.

(f) The assessment shall be calculated on an annual basis with equal monthly amounts due on or before the tenth day of each calendar month.

(g) A facility may file a request to pay the quality assessment on an installment plan. The request shall be as follows:

(1) In writing setting forth the facility's rationale for the request.

(2) Submitted to the office or its designee.

An installment plan established under this section shall not exceed a period of six (6) months from the date of execution of the agreement. The agreement shall set forth the amount of the assessment that shall be paid in installments and include provisions for the collection of interest. The interest shall not exceed the percentage set out in IC 12-15-21-3(6)(A).

(h) A facility that fails to pay the quality assessment due under this section within ten (10) days after the date the payment is due shall pay interest on the quality assessment at the same rate as determined under IC 12-15-21-3(6)(A).

(i) The office may withhold Medicaid payments to a facility that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessment and any interest due under subsection (h).

(j) Not later than one hundred twenty (120) days after payment of the quality assessment was due, the office shall report each facility that has failed to pay the quality assessment by the due date to the state department of health to initiate license revocation proceedings.

(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-24; filed Apr 24, 2006, 3:30 p.m.: 29 IR 2983; readopted filed Sep 19, 2007, 12:16 p.m.: 20071010-IR-405070311RFA; filed Nov 12, 2009, 4:01 p.m.: 20091209-IR-405090215FRA; filed Nov 1, 2010, 11:45 a.m.: 20101201-IR-405100065FRA)

LSA Document #10-65(F)
Notice of Intent: 20100210-IR-405100065NIA
Proposed Rule: 20100825-IR-405100065PRA
Hearing Held: September 21, 2010
Approved by Attorney General: October 26, 2010
Approved by Governor: November 1, 2010
Filed with Publisher: November 1, 2010, 11:45 a.m.
Documents Incorporated by Reference: None Received by Publisher
Small Business Regulatory Coordinator: Maithao (Tracy) Nguyen, Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning, Indiana Government Center South, 402 West Washington Street, Indianapolis, IN 46204, (317) 234-5550, maithao.nguyen@fssa.in.gov

Posted: 12/01/2010 by Legislative Services Agency
An html version of this document.