TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Regulatory Analysis
LSA Document #24-58

I. Description of Rule

This section should include an overview of the proposed rulemaking, background, and high-level justification. Topics to address include (as applicable):

a. History and Background of the Rule – The OMPP proposes reimbursement methodology changes to accommodate the transition to a Managed Long-Term Services and Supports (mLTSS) delivery system by eliminating retroactivity and creating a fully prospective reimbursement system. Additionally, the changes will align reimbursement incentives to facilitate achieving higher staffing levels and better resident outcomes. Further, identified special resident populations will have additional reimbursement dedicated to the specific individual further incentivizing access to care.

b. Scope of the Rule –The scope of the proposed change is Medicaid reimbursement for nursing facilities. Major changes include:

1. The reimbursement of special care unit and ventilator dependent residents from a facility-wide add-on included in the Medicaid per diem to a Medicaid resident specific add-on for qualifying nursing facilities, effective July 1, 2023. This change incentivizes continued access to care by providing more immediate and responsive reimbursement to facilities for the identified special resident population.
2. The calculation of the direct care, indirect care, and administrative components from a median to a percentile effective July 1, 2024 with a transition period through June 30, 2027. This methodology change also results in the establishment of price based components which allow for potential administrative simplification for the future and more predictable reimbursement for the facilities. Additionally, the direct care component will contain a spending floor which incentivizes continued investment in direct care staffing and related areas.
3. The reimbursement for quality from the Medicaid per diem to the supplemental payment program effective July 1, 2024 with a transition period through June 30, 2027. Through the transition the amount of at-risk dollars related to quality will increase overtime, and ensure supplemental payments are linked to better staffing and better resident outcomes.
4. The supplemental payment program from a facility specific payment to a pooled methodology effective July 1, 2024 with a transition period through June 30, 2027. The pooled methodology allows the office to better direct supplemental payment dollars to facilities that provide care to comparatively higher need individuals and who achieve better staffing and better resident outcomes. This provides incentives for continued access to care for higher needs individuals and links reimbursement with better staffing and better resident outcomes.

c. Statement of Need – The state of Indiana is transitioning to a managed long-term service and support program called the Indiana Pathways for Aging Program. The program's stated purpose is to, ". . .promote the health and well-being of people who need assistance with activities of daily living due to long-term conditions or disabilities, or who require supervision and support due to cognitive impairment. These services will include in-home personal care, adult day centers, caregiver support, assisted living and nursing facility care." The proposed rule change to Medicaid nursing facility reimbursement is necessary to accommodate the transition to a managed long-term services and supports delivery system by eliminating retroactivity and creating a fully prospective reimbursement system.

d. Statutory Authority for the Proposed Rule – The OMPP has rulemaking statutory authority under IC 12-15-1-10, IC 12-15-14-2, and IC 12-15-21-2.

e. Fees, Fines, and Civil Penalties – The proposed rule does not implement any fees, fines, or civil penalties.

II. Fiscal Impact Analysis

a. Anticipated Effective Date of the Rule – July 1, 2024

b. Estimated Fiscal Impact on State and Local Government –The total impact of the proposed rule change is estimated to decrease state expenditures by $0.8 million for state fiscal year 2024 and $3.9 million

for state fiscal year 2025.

c. Sources of Expenditures or Revenues Affected by the Rule –There is an estimated increase in the expenditures associated with the fee-for-service program generated from the state assuming responsibility for the state's share of expenditures of including privately-owned nursing facility providers into the quality portion of the supplemental payment program, and increased investments for ventilator dependent residents and the base Medicaid per-diem rate. These increased expenditures are offset by the reduction of nursing facility Healthy Indiana Plan (HIP) 2.0 expenditures due to the rate equalization efforts scheduled to begin January 1, 2024 causing a total fiscal impact which decreases state expenditures.

III. Impacted Parties - The proposed rule will impact the manner in which the approximately 513 nursing facilities in the state of Indiana receive Medicaid reimbursement. It is estimated that 85% of the Medicaid population in the 513 nursing facilities will transition to a managed care program with Medicaid reimbursement through capitation payments while 15% of the Medicaid population will continue to be under a fee-for-service program with Medicaid reimbursement set by facility specific rates. A blending methodology beginning January 1, 2025 and ending June 30, 2027 is proposed to be implemented to ease this transition.

IV. Changes in Proposed Rule

See the following list of major changes below. However, the proposed rule only affects the amount of Medicaid reimbursement received by nursing facilities in the state of Indiana and imposes no requirement or restrictions to their voluntary participation in the Medicaid program.

Major changes are as follows:

1. The reimbursement of special care unit and ventilator dependent residents from a facility-wide add-on included in the Medicaid per diem to a Medicaid resident specific add-on for qualifying nursing facilities, effective July 1, 2023. This change incentivizes continued access to care by providing more immediate and responsive reimbursement to facilities for the identified special resident population.

2. The calculation of the direct care, indirect care, and administrative components from a median to a percentile effective July 1, 2024 with a transition period through June 30, 2027. This methodology change also results in the establishment of price based components which allow for potential administrative simplification for the future and more predictable reimbursement for the facilities. Additionally, the direct care component will contain a spending floor which incentivizes continued investment in direct care staffing and related areas.

3. The reimbursement for quality from the Medicaid per diem to the supplemental payment program effective July 1, 2024 with a transition period through June 30, 2027. Through the transition the amount of at-risk dollars related to quality will increase overtime, and ensure supplemental payments are linked to better staffing and better resident outcomes.

4. The supplemental payment program from a facility specific payment to a pooled methodology effective July 1, 2024 with a transition period through June 30, 2027. The pooled methodology allows the office to better direct supplemental payment dollars to facilities that provide care to comparatively higher need individuals and who achieve better staffing and better resident outcomes. This provides incentives for continued access to care for higher needs individuals and links reimbursement with better staffing and better resident outcomes.

V. Benefit Analysis

a. Estimate of Primary and Direct Benefits of the Rule –The primary benefit of this rule amendment is facilitating the implementation of Managed Long-Term Services and Supports (mLTSS) as part of the Indiana Pathways for Aging initiative. Having a managed long-term services and supports program means FSSA will partner with experienced health plans to coordinate LTSS benefits and an individual's other benefits such as Medicare.

b. Estimate of Secondary or Indirect Benefits of the Rule - A secondary benefit of the proposed rule amendment allows nursing facilities to better forecast their dollars due to the removal of retroactive adjustments to their Medicaid per diem reimbursement rates as a result of compliance reviews.

c. Estimate of Any Cost Savings to Regulated Industries –Since this rule amendment makes revisions to

the manner in which nursing facility Medicaid reimbursement rates are calculated to facilitate the transition to a managed care delivery system, no estimated cost savings to regulated entities is anticipated with these changes.

VI. Cost Analysis

a. Estimate of Compliance Costs for Regulated Entities – This rule amendment makes revisions to the manner in which nursing facility Medicaid reimbursement rates are calculated to facilitate the transition to a managed care delivery system. The FSSA and OMPP does not expect any additional compliance costs for regulated entities imposed by this rule amendment. Nursing facility providers have been included in this rule development process and have not raised any concerns of any additional costs or burdens.

b. Estimate of Administrative Expenses Imposed by the Rules –Since this rule amendment makes revisions to the manner in which nursing facility Medicaid reimbursement rates are calculated to facilitate the transition to a managed care delivery system, the FSSA and OMPP does not expect any additional administrative costs for regulated entities imposed by this rule amendment. Nursing facility providers have been included in this rule development process and have not raised any concerns of any additional costs or burdens.

c. The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6 – The proposed rule does not implement any fees, fines, or civil penalties.

VII. Sources of Information

a. Independent Verifications or Studies - The FSSA – OMPP has relied upon the analysis performed by its Medicaid rate setting contractor Myers and Stauffer LC for determining the fiscal impact.

b. Sources Relied Upon in Determining and Calculating Costs and Benefits –The FSSA - OMPP has relied upon information and analysis prepared by its contractor Myers and Stauffer LC for determining the fiscal impact.

VIII. Regulatory Analysis

This rulemaking intends to revise the reimbursement system for nursing facilities facilitating the implementation of Managed Long-Term Services and Supports (mLTSS) which intends to improve the government's Medicaid processes and provide an incentive to nursing facilities for providing quality care to their residents.

Notice of First Public Comment Period with Proposed Rule: 20240221-IR-405240058FNA
LSA Document #24-58
Notice of Determination Received: February 2, 2024

Posted: 02/21/2024 by Legislative Services Agency
An html version of this document.