

**STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

**12/12/2022 PUBLIC NOTICE OF PROPOSED AMENDMENT TO RHODE ISLAND MEDICAID
STATE PLAN**

In accordance Rhode Island General Laws 42-35, notice is hereby given that the Executive Office of Health and Human Services (EOHHS) proposes to make the following amendment to the Rhode Island State Plan under Title XIX of the Social Security Act:

Nursing Facility Rate Methodology

EOHHS is seeking approval from the Centers for Medicare and Medicaid Services (CMS) to update Rhode Island's Medicaid State Plan to adjust the nursing facility rate revision methodology. The FY2023 Enacted Budget directed EOHHS to revise rates as necessary based on direct and indirect costs as reported in the most recent finalized year of the facility cost report, beginning in October 2024. The amendment also modifies the language relating to audits of financial and statistical records, as these rates are not cost-based and therefore optional. The proposed effective date is January 1, 2023.

There is no estimated fiscal impact from this change.

This proposed amendment is accessible on the EOHHS website (www.eohhs.ri.gov) or available in hard copy upon request (by calling 401-462-2407 or RI Relay, dial 711). Interested persons should submit data, views, or written comments by January 12, 2022 to Brittany Church, Executive Office of Health and Human Services, 3 West Road, Cranston, RI, 02920, or Brittany.Church@ohhs.ri.gov or via phone at (401) 462-2407.

In accordance with the Rhode Island General Laws 42-35-3, an oral hearing will be granted on the proposed State Plan Amendment if requested by twenty-five (25) persons, an agency, or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of this notice.

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief, or handicap in acceptance for or provision of services or employment in its programs or activities.

**Original signed by Ana Novais, Acting Secretary, Rhode Island Executive Office of Health
and Human Services
Signed this 12th day of December, 2022**

E. Periodic Rate Review

~~be developed with the nursing homes. However, nursing homes will still be required to submit cost reports annually. A similar review will be conducted every three years.~~

~~Beginning in October 2024, the state may revise rates as necessary based on increases in direct and indirect costs utilizing data from the most recent finalized year of facility cost report. The direct care and indirect care components will be adjusted accordingly to reflect changes in direct and indirect care costs since the previous rate revision. the state may conduct periodic rate reviews as necessary to determine if the base rates are still appropriate. The details of the review process would be developed with the nursing homes. Rate reviews may or may not result in new rates. However, n~~Nursing homes are required to submit cost reports annually.

Rates for Newly Constructed Facilities

Newly constructed facilities will be paid a rate determined in the manner described for all facilities under these Principles. The initial Fair Rental Value component shall be calculated using the methodology described on pages 15-18. The Tax component will use an occupancy rate equal to 98% of the statewide average.

Appeals Process

Any provider who is not in agreement with the reimbursement rate assigned for the applicable rate period, may within fifteen (15) days from the date of notification of rate assignment file a written request for a review conference to be conducted by the Medicaid Director, or other designee assigned by the Secretary of the Executive Office of Health and Human Services. This written request must identify the rate assignment issue(s). The Medicaid Director or designee shall schedule a review conference within fifteen (15) days of receipt of the request. As a result of the review conference, the Medicaid Director or designee may modify the rate of reimbursement. The Medicaid Director or designee shall provide the provider with a written decision within thirty (30) days from the date of the review conference.

Appeals beyond the Medicaid Director or the designee appointed by the Secretary of the Executive Office of Health and Human Services will be in accordance with the Administrative Procedures Act. The provider must file a written request for an Administrative Procedures Act hearing no later than fifteen (15) days of the decision noted in the paragraph above.

Appeal Requests For Prospective Rate Increments

The Executive Office of Health and Human Services may consider the granting of a prospective rate that reflects demonstrated cost increases in excess of the rate that has been established by the application of the percentage increase, that are the result of:

1. Demonstrated errors made during the rate determination process.
2. Significant increases in operating costs resulting from the implementation of new or additional programs, services, or staff specifically mandated by the Rhode Island Department of Health.
3. Significant increases in operating costs resulting from capital renovations, expansion, or replacement required for compliance with fire safety codes and/or certification requirements of the Rhode Island Department of Health.

4. Extraordinary circumstances including, but not limited to, acts of God, provided that such increases will be rescinded immediately upon cessation of the extraordinary circumstance.



Special Prospective Rate Appeal

Any facility that has been directed by the Department of Health to appoint an independent quality monitor, engage an independent quality consultant or temporary manager, and/or develop and implement a plan of correction to address concerns regarding resident care and coincident financial solvency may file for a Special Rate Appeal. The Special Rate Appeal components are as follows:

1. The provider must submit a written request (including a copy of the plan of correction) to the EOHHS Rate Setting Unit.
2. The request must be based on the approved spending plan set forth in the plan of correction and remediation.
3. The provider must submit evidence that the approved spending plan cannot be accommodated by the existing per diem rate.
4. The rate appeal will not be for a period of less than six (6) months.
5. EOHHS, at its discretion, may provide for subsequent extensions for six (6) month periods for a maximum total period of twenty-four (24) months.
6. The provider must submit a BM-64 Cost Report for each six (6) month appeal period.
7. EOHHS will recoup any funds not expended during the six (6) month appeal period.
8. In calculating the Special Prospective Rate Appeal, the Office may establish a per diem amount to be added to the facility's existing per diem rate.
9. Upon conclusion of the six (6) month period (or subsequent extension periods), the per diem rate will revert to the provider's normal per diem rate.

Payment

Rhode Island reimburses a provider monthly for Medicaid patient days times the assigned prospective per diem rate. This also applies to state-only days.

The state reserves the right to investigate and adjust reimbursement rates for facilities which do not substantially comply with all standards of licensure.

In determining the number of days for which payment may be made the date of admission is counted, however the date of death or discharge is not counted.

The per diem rate for eligible Title XIX recipients is a full payment rate and, therefore, under RIGL 40-8.2-3 and federal regulations, subsidy for patient care by the patient, relatives, or friends to the facility in any manner is prohibited.

RECORD KEEPING

Adequacy of Cost Information

Long-term care providers under the state Medicaid Program are required to maintain detailed records supporting the expenses incurred for services provided to Medicaid patients. The underlying records must be auditable and capable to substantiating the reasonableness of specific reported costs. Records include all ledgers, books, and source documents (invoices, purchase orders, time cards, or other employee attendance data, etc.). All records must be physically maintained within Rhode Island and/or be made readily available to the state upon request.

Census Data

Statistical records supporting both Medicaid and total patient days must be maintained in a clear and consistent manner for all reporting periods. The detailed record of all patient days must be in agreement with monthly attendance reports. In calculating patient days the date of admission is counted as one day, however, the date of death or discharge is not counted as a day.

Audit of Provider Costs

The state ~~will~~may conduct audits of the financial and statistical records of each participating provider in operation as needed.

~~If A~~audits are conducted, they will be conducted under generally accepted auditing standards, ~~and will insure that providers are reporting under generally accepted accounting principles.~~

Audits may include any tests of the provider's records deemed necessary to ascertain that costs are proper and in accordance with Medicaid principles of reimbursement and that personal needs accountability is in compliance with existing regulations. The knowing and willful inclusion on non-business related expenses, non-patient related expenses, or costs incurred in violation of the prudent buyer concept may be subject to criminal and/or civil sanctions. Failure of auditors of EOHHS to identify the above items or their adjustment of same shall not constitute a waiver of any civil or criminal penalty.
