



Department of
Medicaid

Mike DeWine, Governor
Jon Husted, Lt. Governor

Maureen M. Corcoran, Director

October 4, 2023

Pete VanRunkle, Executive Director
Ohio Health Care Association
9200 Worthington Road
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Westerville, Ohio 43082

Chris Murray, CEO
Academy of Senior Health Services, Inc.
17 South High Street
Suite 770
Columbus, Ohio 43215

Susan Wallace, President & CEO
LeadingAge Ohio
2233 North Bank Drive
Columbus, Ohio 43220

RE: Request for Reconsideration of Nursing Facility Rates effective July 1, 2023

Dear Mr. VanRunkle, Mr. Murray, and Ms. Wallace:

This letter is in response to your August 9, 2023 request to reconsider the Medicaid rates for skilled nursing facilities for the state fiscal year beginning July 1, 2023. You indicated in your letter that the reason for the reconsideration request is that the rates were not calculated in accordance with Chapter 5165. of the Ohio Revised Code. Specifically, you allege that the rates fail to comport with statute and legislative intent.

The department's rate calculations properly apply the language of the newly-revised quality incentive payment statute

Ohio Revised Code, 5165.26(E), as amended by HB 33 of the 135th Ohio General Assembly, provides the total amount to be spent by the department on quality incentive payments for a fiscal year. Specifically, it provides:

(E) The total amount to be spent on quality incentive payments under division (B) of this section for a fiscal year shall be determined as follows:

(1) Determine the following amount for each nursing facility:

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(a) The amount that is five and two-tenths per cent of the nursing facility's base rate for nursing facility services provided on the first day of the state fiscal year plus one dollar and seventy-nine cents; **plus sixty per cent of the per diem amount by which the nursing facility's rate for direct care costs determined for the fiscal year under section 5165.19 of the Revised Code changed as a result of the rebasing conducted under section 5165.36 of the Revised Code.**

(b) Multiply the amount determined under division (E)(1)(a) of this section by the number of the nursing facility's medicaid days for the calendar year preceding the fiscal year for which the rate is determined.

(2) Determine the sum of the products determined under division (E)(1)(b) of this section for all nursing facilities for which the product was determined for the state fiscal year.

(3) To the sum determined under division (E)(2) of this section, add one hundred twenty-five million dollars.

(Emphasis added)

Pursuant to Ohio Revised Code, 5165.01(SS), rebasing for direct care costs is a redetermination of the peer group cost per case mix unit, also known as the price. Rebasing is not a redetermination of the rate for an individual facility. Therefore, the change to the rate as a result of rebasing is a change to the price and 60% of the change in price is to be added to the quality pool of funds.

Your reconsideration request focuses on the term, "rate," without consideration of the remainder of the sentence that focuses on the change as a result of rebasing. The plain language of the statute does not require the addition of 60% of the **funding generated by rebasing** to the quality pool of funds. Rather, as noted in division (E)(1)(a) above, the quality pool of funds includes sixty percent of the amount by which the nursing facility's rate for direct care costs changed **as a result of rebasing**. Had the General Assembly wanted 60% to apply to the funding generated by rebasing, it would have included that language in the statute. It did not. Instead, it required that 60% of the change in price be applied to the quality pool of funds.

The department applied 60% of the change as a result of rebasing to quality incentive payments

The amendment to Ohio Revised Code, 5165.26(E), in HB 33 requires the addition of 60% of the amount by which the nursing facility's rate for direct care costs changed **as a result of rebasing** to the quality pool of funds. As noted above, the change to the rate as a result of rebasing is a change to the price. Sixty percent was properly applied to the change in price.

The department's calculation is consistent with the intent of the General Assembly

The funds appropriated from the General Assembly to the department align with the department's calculation. Specifically, the Legislative Budget Office (LBO) estimated the nursing home provisions would increase costs for Medicaid services by \$627,600,000 in FY 2024 and \$747,600,000 in FY 2025. The statutory language, when applied as the department did, produced this monetary result. The fiscal assessment by the LBO of the cost of the full nursing facility HB 33 budget package matches the result of a change in price. It does not match a change in the rate. The total expenditures estimated by the LBO were known to all parties during the budget process. No concerns were raised.

Applying terms in the manner you have suggested would result in an expenditure of \$285.6 million more per year than was authorized by the General Assembly.

It is noteworthy that the funds appropriated from the General Assembly represent one of the largest investments in nursing home quality that any state has made. The policy provisions to incentivize better care outcomes for residents look to ensure higher levels of staffing, decrease bed sores, decrease instances of urinary tract infections, and decrease the amount of antipsychotics, among other things. The overall investment in new funding toward nursing home care by the General Assembly also will have a substantial impact in support of direct care professionals across the state through the historic investment of an estimated additional \$1.3 billion over the biennium, representing a 17% rate increase over the previous fiscal year. In addition, new investments were made to increase the ability of the Department of Health and Department of Aging to support high quality nursing home care and those residents they serve.

In conclusion, the department's calculation of the FY2024 nursing facility rates comports with statute and legislative intent and no change will be made.

Sincerely,



Joan Schlagheck, Deputy Director
Ratesetting