



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene  
201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

March 10, 2008

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401-1991

The Honorable Michael E. Busch  
Speaker of the House of Delegates  
H-101 State House  
Annapolis, MD 21401-1991

**Re: Report on Implementation of Nursing Home Quality Assessment Required by SB 101 (Chapter 503 of the Acts of 2007)**

Dear President Miller and Speaker Busch:

I am pleased to submit the report required by SB 101 of last year's regular session of the General Assembly, which required the Department to report by March 1, 2008 and annually thereafter, on its implementation of a quality assessment on the State's nursing facilities. SB 101 established in law this quality assessment on Maryland nursing facilities (with the exception of facilities with fewer than 45 beds, and those operated by continuing care retirement communities, or CCRCs), to be applied to all non-Medicare days of care provided by the facility in the previous quarter of the State fiscal year. SB 101 directed the Department to maintain the revenue generated through this assessment in a special fund, and to use the revenue (including the federal funding match it will generate) to fully fund the Medicaid nursing facility payment system. This report will update the General Assembly on the development and implementation of the quality assessment, and provide the specific information required at Health-General Article §19-310.1 (f).

### **Development and Submission of the Quality Assessment Model**

In order to establish the quality assessment program, the Department had to seek approval from the federal Centers for Medicare and Medicaid Services (CMS) of a "health care-related tax" pursuant to applicable federal regulations at 42 CFR §433.68. To develop a model of the quality assessment that would pass the complex statistical test for approval imposed by the federal regulations, the Department worked closely with representatives of the industry and with CMS program staff. In late August 2007, we submitted the assessment model and proposal to CMS staff at the regional level for an informal review, in order to address in advance any questions or problems before the formal submission. In mid-November, CMS concluded its informal review, and the Department submitted its application on November 16, 2007. We continued to work on the administrative measures necessary to begin the collection and payment of the quality assessment in the form of enhanced Medicaid rates for its provider facilities. By a letter dated December 19, 2007, CMS notified the Department that its proposed



model for the assessment was approved. Because the enabling legislation provided that the assessment would take effect on the first day of the State fiscal quarter in which CMS approved the application, the Nursing Facility Quality Assessment – and the new Medicaid nursing facility reimbursement rates funded by the assessments – took effect retroactively on October 1, 2007.

Under the approved model, quality assessments are expected to generate \$25.9 million in revenue during Fiscal Year 2008 (based on the effective period, October 1, 2007 through June 30, 2008). This amount will establish a special fund to be matched with federal funds for Medicaid reimbursement of nursing facilities, which will generate \$51.8 million in total funds during the nine-month period. This will provide (1) \$19.2 million to fully fund the nursing facility payment system by restoring certain cost containment reductions imposed during prior years; (2) \$17.6 million to reimburse Medicaid providers for the allowable portion of their assessment; and (3) \$15 million to ensure full funding of the Medicaid nursing facility reimbursement system after reductions in the appropriation for nursing facility services that were contingent upon CMS approval of the quality assessment.

The quality assessment enabled the following changes in the Medicaid nursing facility reimbursement rates, retroactive to October 1, 2007:

- Administrative/Routine cost center ceilings increased from 112.25 percent to 114 percent of the median per diem cost; efficiency incentive allowed for providers with costs less than the ceiling increased from 40 percent to 50 percent of the difference between the provider's cost and the ceiling.
- Other Patient Care cost center ceilings increased from 118 percent to 120 percent of the median.
- The net capital value rental rate increased from 8.22 percent to 8.57 percent; appraisal ceiling and equipment allowance are increased.
- Payment reductions of 1.4 percent in the Administrative/Routine, Other Patient Care, and Capital cost centers (imposed for cost containment purposes in Fiscal Year 2007) are rescinded.
- Maximum profit in the Nursing cost center for providers that do not spend the full amount available for nursing services increased from 3.15 percent to 4 percent of the nursing service rate. The previous maximum of 5 percent was not restored, so as to provide funding for the following nursing home reimbursement categories that had not been addressed previously due to fiscal constraints:
  - Adjustment to over-the-counter drug costs to more accurately reflect costs incurred for Medicaid residents;
  - Payment for negative pressure wound therapy; and
  - Payment for power wheelchairs and special beds for bariatric patients.

The new rates will be paid for days and services provided on or after February 1st to be billed during March 2008, and will also be in place for the remainder of FY 2008. For days and services provided from October 1, 2007 through January 31, 2008, participating providers will receive an adjustment payment corresponding to the difference between the old and new rate,

as applied to the care provided to Medicaid recipients in each facility. Providers will receive this adjustment payment in the near future.

The other important aspect of implementing the quality assessment is putting a process in place to receive the quarterly payment of the assessment by nursing facilities subject to its collection, and provide for the transfer of the revenues into a designated special fund dedicated to the enhanced nursing facility reimbursement for Medicaid providers. SB 101 requires that "on or before the 60<sup>th</sup> day after each quarter of the State fiscal year, each nursing facility . . . shall pay to the Comptroller an amount determined by the Department based on an amount per non-Medicare day of service for the previous fiscal quarter." In the next several weeks, the Department and the Comptroller's Office will put into place a mechanism to collect the assessment, and finalize the necessary procedural regulations to enable the quarterly payments.

### **Information Specified by SB 101 Reporting Requirement**

SB 101 required that the Department report by March 1, 2008 and annually thereafter on its implementation of the quality assessment. The relevant section of the new statute specified that this report include the following information:

- (1) The percentage and amount of the assessment charged to each nursing facility subject to [the assessment];
- (2) The number of nursing facilities subject to [the assessment] with a net loss; and
- (3) A comparison of the total amount provided in the Medicaid budget for nursing home reimbursement in the current fiscal year to the amount proposed for the upcoming fiscal year.

With regard to (1) above, the aggregate amount of the quality assessment necessary to fully fund the Medicaid nursing facility reimbursement system in the current fiscal year is equivalent to 1.68% of the operating revenue for all nursing facilities, below the statutory cap of 2%. The attached table<sup>1</sup> shows all nursing facilities in the State, and for the nine months of FY 2008 that the quality assessment applies, shows:

- o the percentage of Medicaid days of service,
- o the per diem amount of the assessment,
- o the facility's nine-month assessment,
- o the additional reimbursement to the facility in rates,
- o the reimbursement of the Medicaid portion of the assessment,
- o the net difference in the assessment and the benefit, and
- o the percentage paid by each facility of the State's total annual assessment.

The table below provides a summary of the impact on the 236 facilities<sup>2</sup>. The first two categories – facilities in CCRCs and those with 45 or fewer beds – are not required to pay a

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<sup>1</sup> Based upon FY 2006 Medicaid cost reports, indexed to FY 2008.

<sup>2</sup> The list of all facilities includes transitional care units within acute care hospitals, generally 30 or fewer beds, as well as State nursing facilities, since the calculations specified by the federal regulations required that all bed-days be considered, even those not subject to the assessment.

quarterly assessment, though they receive the benefit of the increased reimbursement for their Medicaid residents. The facilities in the third and fourth categories pay different per diem assessment amounts; the lower amount, \$1.59 per day, applies to five facilities with the highest number of Medicaid patient days. As explained earlier in this report, Maryland's assessment needed to be a so-called "non-uniform" model, with at least two different tax amounts in order to meet a complex statistical test, because it is not uniformly imposed on all nursing facilities in the State. This model met the federal specifications for approval by CMS.

**Profile of Maryland Nursing Facilities by Quality Assessment Category**

Peer Group	Number of Facilities	Average Percent Medicaid Utilization	Assessment Paid (per non-Medicare patient day)	Average Increase in Reimbursement Per Medicaid day
CCRCs	33	21%	\$0.00	\$4.33
providers with < 45 Beds	19	20%	\$0.00	\$4.62
Providers with > 64,500 MA Days	5	77%	\$1.59	\$4.75
All Other Providers	179	67%	\$5.18	\$4.31
Total	236			

In response to the second element of information required by SB 101, the table below shows the 15 nursing facilities subject to the assessment that will experience a net loss, because the amount they will pay in assessment will exceed the benefit afforded by increased reimbursement for Medicaid days. This reflects the relatively low percentage of Medicaid days provided by these facilities, one of which does not participate as a provider in the Medicaid program. Two of the facilities, Deer's Head Center and Western Maryland Center, are owned and operated by the State. These two facilities realize a net loss because they are subject to the assessment under the provisions of SB 101, but do not receive the benefit of enhanced Medicaid rates, since they are reimbursed based upon Medicare principles of reasonable cost.

**Nursing Facilities Subject to Assessment with Net Loss, FY 2008**

Facility Name	Net Loss
1 CARRIAGE HILL BETHESDA	(\$106,441)
2 HILLHAVEN NURSING CENTER	(\$52,725)
3 ROCKVILLE NURSING HOME	(\$42,655)
4 BEL PRE HEALTH AND REHABILITATION CENTER	(\$28,394)
5 DEER'S HEAD CENTER	(\$21,349)
6 COPPER RIDGE	(\$17,700)
7 FOREST GLEN SKILLED NURSING AND REHABILITATION CENTER	(\$12,694)
8 WESTERN MARYLAND CENTER	(\$16,082)
9 FOX CHASE REHABILITATION & NURSING CENTER	(\$13,159)
10 SEVERNA PARK CENTER	(\$12,541)
11 LORIEN NURSING & REHAB CENTER BEL AIR	(\$12,272)
12 MANORCARE HEALTH SERVICES POTOMAC	(\$11,544)
13 FRIENDS NURSING HOME	(\$11,065)
14 MANORCARE HEALTH SERVICES WOODBRIDGE VALLEY	(\$5,634)
15 WALDORF HEALTHCARE CENTER	(\$3,616)

The third piece of information required in the annual report is a comparison of the Medicaid budget for nursing home reimbursement for the current and the upcoming fiscal years. These amounts are as follows:

Medicaid Nursing Home Appropriation, FY 2008: **\$1,006,306,359**  
Medicaid Nursing Home Appropriation, FY 2009: **\$1,076,896,250** (requested)

If you have any questions or would like additional information, please contact Mark A. Leeds, Director of Medicaid's Long Term Care and Community Support Services, at (410) 767-1443.

Sincerely,



John M. Colmers  
Secretary

Attachments: Table: Nursing Facility Quality Assessment, Impact by Facility, FY 2008  
Letter to Dennis G. Smith, CMS, from DHMH Deputy Secretary John G. Folkemer, November 16, 2007  
Letter to Deputy Secretary Folkemer from Mr. Smith, December 19, 2007

cc: The Honorable Ulysses Currie, Chairman  
Senate Budget and Taxation Committee

The Honorable Thomas M. Middleton, Chairman  
Senate Finance Committee

The Honorable Norman Conway, Chairman  
House Appropriations Committee

The Honorable Peter A. Hammen, Chairman  
House Health and Government Operations Committee

ATTACHMENT 1

Nursing Facility Quality Assessment Model

	Facility Name	% Days MA	Facility Assessment per Non-Medicare Day of Care	Facility Assessment (\$ Per Day x Non-Medicare Days)	Additional Reimbursement to Facility in Rates	Reimbursement of Medicaid Portion of Assessment	Net	Facility's % of Total Assessment
1	ADVENTIST HEALTHCARE SLIGO CREEK	61%	\$5.18	\$96,748	\$55,935	\$59,042	\$18,230	0.37%
2	ALICE BYRD TAWES NURSING HOME	90%	\$5.18	\$84,848	\$61,537	\$76,028	\$52,716	0.33%
3	ALICE MANOR NURSING HOME	93%	\$5.18	\$133,096	\$135,274	\$123,835	\$126,013	0.51%
4	ALLEGANY COUNTY NURSING HOME	74%	\$5.18	\$161,158	\$108,316	\$118,838	\$65,997	0.62%
5	ALTHEA WOODLAND NURSING HOME	89%	\$5.18	\$66,154	\$65,445	\$58,920	\$58,211	0.26%
6	ANCHORAGE NURSING & REHABILITATION CENTER	79%	\$5.18	\$148,819	\$130,163	\$117,456	\$98,800	0.57%
7	ANNAPOLIS NURSING & REHABILITATION CENTER	76%	\$5.18	\$97,172	\$89,172	\$73,844	\$65,845	0.37%
8	ARCOLA HEALTH & REHABILITATION CENTER	68%	\$5.18	\$182,105	\$106,399	\$124,578	\$48,871	0.70%
9	ASBURY SOLOMONS ISLAND	7%	\$0.00	\$0	\$6,319	\$0	\$6,319	0.00%
10	AUGSBURG LUTHERAN HOME OF MARYLAND	72%	\$0.00	\$0	\$75,367	\$0	\$75,367	0.00%
11	AVALON MANOR	73%	\$5.18	\$181,084	\$113,323	\$132,704	\$64,943	0.70%
12	BAYSIDE CARE CENTER AT LEXINGTON PARK	74%	\$5.18	\$98,213	\$35,450	\$72,606	\$9,843	0.38%
13	BEDFORD COURT	33%	\$0.00	\$0	\$15,450	\$0	\$15,450	0.00%
14	BEL AIR HEALTH & REHABILITATION CENTER	62%	\$5.18	\$158,143	\$78,325	\$98,341	\$18,523	0.61%
15	BEL PRE HEALTH & REHABILITATION CENTER	42%	\$5.18	\$102,308	\$30,700	\$43,213	(\$28,394)	0.39%
16	BERLIN NURSING & REHABILITATION CENTER	54%	\$5.18	\$190,322	\$139,276	\$103,696	\$52,650	0.73%
17	BETHESDA HEALTH & REHABILITATION CENTER	65%	\$5.18	\$206,581	\$119,450	\$134,117	\$46,986	0.80%
18	BEVERLY HEALTHCARE FREDERICK	72%	\$5.18	\$138,034	\$45,719	\$96,974	\$4,659	0.53%
19	BEVERLY LIVING CENTER - CUMBERLAND	64%	\$5.18	\$182,164	\$69,597	\$116,294	\$3,726	0.70%
20	BEVERLY LIVING CENTER - HAGERSTOWN	76%	\$5.18	\$154,813	\$115,713	\$118,422	\$79,322	0.60%
21	BEVERLY LIVING CENTER - WESTMINSTER	71%	\$5.18	\$156,876	\$97,045	\$111,952	\$52,121	0.60%
22	BRADFORD OAKS NURSING & RETIREMENT CENTER	73%	\$5.18	\$213,667	\$126,607	\$156,466	\$69,406	0.82%
23	BRIGHTON GARDENS OF TUCKERMAN LANE	27%	\$0.00	\$0	\$10,503	\$0	\$10,503	0.00%
24	BRIGHTWOOD CENTER	43%	\$5.18	\$94,965	\$56,701	\$41,115	\$2,851	0.37%
25	BRINTON WOODS NURSING & REHAB CENTER	62%	\$5.18	\$67,094	\$45,064	\$41,787	\$19,757	0.26%
26	BROADMEAD	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
27	BROOKE GROVE REHABILITATION & NURSING CENTER	39%	\$0.00	\$0	\$73,607	\$0	\$73,607	0.00%
28	BUCKINGAM'S CHOICE	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
29	CALVERT COUNTY NURSING CENTER	69%	\$5.18	\$183,061	\$120,276	\$126,939	\$64,154	0.71%
30	CALVERT MANOR HEALTH CARE CENTER	54%	\$5.18	\$168,710	\$84,643	\$91,075	\$7,008	0.65%
31	CALVERT MEMORIAL TRANSITIONAL CARE UNIT	0%	\$0.00	\$0	\$117	\$0	\$117	0.00%
32	CAROLINE NURSING HOME	62%	\$5.18	\$129,837	\$101,221	\$80,897	\$52,281	0.50%
33	CARRIAGE HILL BETHESDA	-	\$5.18	\$106,441	\$0	\$0	(\$106,441)	0.41%
34	CARROLL LUTHERAN VILLAGE	30%	\$0.00	\$0	\$38,218	\$0	\$38,218	0.00%
35	CATON MANOR	81%	\$5.18	\$169,378	\$140,225	\$137,516	\$108,362	0.65%
36	CATONSVILLE COMMONS	78%	\$5.18	\$159,203	\$65,561	\$124,881	\$31,238	0.61%
37	CHAPEL HILL NURSING CENTER	69%	\$5.18	\$67,187	\$46,895	\$46,427	\$26,135	0.26%
38	CHARLES COUNTY NURSING & REHABILITATION CENTER	65%	\$5.18	\$184,561	\$81,361	\$119,398	\$16,198	0.71%
39	CHARLESTOWN CARE CENTER	25%	\$0.00	\$0	\$78,794	\$0	\$78,794	0.00%
40	CHARLOTTE HALL VETERANS HOME	59%	\$5.18	\$285,987	\$135,365	\$168,563	\$17,942	1.10%
41	CHERRY LANE NURSING CENTER	78%	\$5.18	\$179,848	\$171,087	\$140,904	\$132,142	0.69%
42	CHESAPEAKE WOODS CENTER	66%	\$5.18	\$114,747	\$81,822	\$76,250	\$43,324	0.44%
43	CHESTER RIVER MANOR	65%	\$5.18	\$108,209	\$66,871	\$70,476	\$29,138	0.42%
44	CHESTERTOWN NURSING & REHABILITATION CENTER	56%	\$5.18	\$95,085	\$51,150	\$52,983	\$9,048	0.37%
45	CHESTNUT GREEN HEALTH CARE CENTER BLAKEHURST	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
46	CHOICE COMMUNITIES (EASTPOINT NURSING HOME)	78%	\$5.18	\$184,576	\$97,150	\$143,476	\$56,049	0.71%
47	CITIZENS NURSING HOME OF FREDERICK COUNTY	77%	\$5.18	\$175,586	\$103,351	\$135,840	\$63,604	0.68%
48	CITIZENS NURSING HOME OF HARFORD COUNTY	79%	\$5.18	\$216,158	\$181,033	\$170,452	\$135,328	0.83%
49	CLINTON NURSING AND REHABILITATION CENTER	59%	\$5.18	\$303,450	\$169,674	\$178,025	\$44,249	1.17%
50	COFFMAN NURSING HOME	57%	\$5.18	\$77,622	\$41,259	\$44,433	\$8,069	0.30%
51	COLLEGE VIEW CENTER	63%	\$5.18	\$126,263	\$57,042	\$79,623	\$10,402	0.49%
52	COLLINGSWOOD NURSING & REHABILITATION CENTER	62%	\$5.18	\$198,030	\$140,278	\$123,248	\$65,497	0.76%
53	COLLINGTON EPISCOPAL LIFE CARE COMMUNITY	2%	\$0.00	\$0	\$1,774	\$0	\$1,774	0.00%
54	CONTINUUM CARE AT SYKESVILLE	67%	\$5.18	\$126,507	\$50,992	\$85,089	\$9,574	0.49%
55	COPPER RIDGE	44%	\$5.18	\$83,873	\$28,968	\$37,205	(\$17,700)	0.32%
56	CORSICA HILLS CENTER	70%	\$5.18	\$135,987	\$70,075	\$95,861	\$29,950	0.52%
57	CRAWFORD RETREAT	100%	\$0.00	\$0	\$24,066	\$0	\$24,066	0.00%
58	CRESCENT CITIES CENTER	78%	\$5.18	\$153,271	\$123,834	\$118,970	\$89,533	0.59%
59	CROFTON CONVALESCENT CENTER	61%	\$5.18	\$190,586	\$74,380	\$117,188	\$981	0.73%
60	CROMWELL CENTER	72%	\$5.18	\$160,742	\$109,477	\$115,614	\$64,349	0.62%
61	DEER'S HEAD CENTER	75%	\$5.18	\$85,874	\$0	\$64,525	(\$21,349)	0.33%
62	DENNETT ROAD MANOR	88%	\$5.18	\$117,960	\$69,241	\$104,287	\$55,568	0.45%
63	DEVLIN MANOR NURSING HOME	63%	\$5.18	\$119,180	\$94,844	\$75,032	\$50,696	0.46%
64	EDENWALD	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
65	EGLER NURSING HOME	82%	\$5.18	\$83,904	\$78,655	\$68,683	\$63,433	0.32%
66	ELLCOTT CITY HEALTH & REHABILITATION CENTER	67%	\$5.18	\$184,914	\$133,981	\$124,354	\$73,420	0.71%
67	FAHRNEY-KEEDY MEMORIAL HOME FOR THE AGED	58%	\$0.00	\$0	\$68,278	\$0	\$68,278	0.00%
68	FAIRFIELD NURSING & REHABILITATION CENTER	82%	\$5.18	\$94,270	\$80,117	\$77,609	\$63,457	0.36%
69	FAIRHAVEN	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
70	FAIRLAND NURSING & REHAB CENTER	67%	\$5.18	\$100,897	\$68,408	\$67,932	\$35,443	0.39%
71	FAYETTE HEALTH & REHAB CENTER	88%	\$5.18	\$219,231	\$147,041	\$193,898	\$121,709	0.85%
72	FOREST GLEN SKILLED NURSING & REHAB CENTER	50%	\$5.18	\$122,245	\$42,465	\$67,087	(\$12,694)	0.47%

### Nursing Facility Quality Assessment Model

	Facility Name	% Days MA	Facility Assessment per Non-Medicare Day of Care	Facility Assessment (\$ Per Day x Non-Medicare Days)	Additional Reimbursement to Facility in Rates	Reimbursement of Medicaid Portion of Assessment	Net	Facility's % of Total Assessment
73	FOREST HAVEN NURSING HOME	93%	\$5.18	\$218,760	\$106,764	\$203,541	\$91,544	0.84%
74	FOREST HILL HEALTH & REHABILITATION CENTER	62%	\$5.18	\$157,444	\$61,318	\$97,334	\$1,209	0.61%
75	FORESTVILLE HEALTH & REHABILITATION CENTER	70%	\$5.18	\$189,405	\$83,299	\$133,030	\$26,924	0.73%
76	FORT WASHINGTON HEALTH & REHABILITATION CENTER	74%	\$5.18	\$176,064	\$126,159	\$130,782	\$80,876	0.68%
77	FOX CHASE REHABILITATION & NURSING CENTER	41%	\$5.18	\$78,963	\$33,363	\$32,441	(\$13,159)	0.30%
78	FRANKLIN WOODS CENTER	39%	\$5.18	\$83,318	\$56,163	\$32,706	\$5,551	0.32%
79	FREDERICK MEMORIAL TRANSITIONAL CARE UNIT	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
80	FREDERICK VILLA NURSING CENTER	67%	\$5.18	\$141,158	\$104,926	\$94,315	\$58,083	0.54%
81	FRIENDS NURSING HOME	44%	\$5.18	\$103,807	\$47,530	\$45,213	(\$11,065)	0.40%
82	FROSTBURG NURSING & REHABILITATION CENTER	70%	\$5.18	\$107,863	\$81,534	\$75,886	\$49,557	0.42%
83	FROSTBURG VILLAGE NURSING CARE CENTER	63%	\$5.18	\$144,914	\$92,409	\$91,956	\$39,450	0.56%
84	FUTURECARE CHARLES VILLAGE	77%	\$5.18	\$123,698	\$98,032	\$94,866	\$69,200	0.48%
85	FUTURECARE CANTON HARBOR	69%	\$5.18	\$175,447	\$171,034	\$121,229	\$116,817	0.68%
86	FUTURECARE CHERRYWOOD	75%	\$5.18	\$181,227	\$160,797	\$135,930	\$115,500	0.70%
87	FUTURECARE CHESAPEAKE	59%	\$5.18	\$145,924	\$80,145	\$85,955	\$20,176	0.56%
88	FUTURECARE HOMEWOOD	69%	\$5.18	\$135,144	\$114,081	\$92,755	\$71,692	0.52%
89	FUTURECARE IRVINGTON	82%	\$5.18	\$236,084	\$275,684	\$192,665	\$232,265	0.91%
90	FUTURECARE OLD COURT	81%	\$5.18	\$168,135	\$128,731	\$135,851	\$96,447	0.65%
91	FUTURECARE SANDTOWN-WINCHESTER	86%	\$5.18	\$183,768	\$159,311	\$158,311	\$133,854	0.71%
92	GARRETT COUNTY MEMORIAL HOSPITAL SUBACUTE UNIT	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
93	GINGER COVE	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
94	GLADE VALLEY NURSING & REHABILITATION CENTER	51%	\$5.18	\$136,713	\$74,926	\$70,226	\$8,439	0.53%
95	GLADYS SPELLMAN SPECIALTY HOSPITAL & NURSING CTR	85%	\$5.18	\$68,629	\$69,611	\$58,609	\$59,592	0.26%
96	GLEN BURNIE HEALTH & REHABILITATION CENTER	70%	\$5.18	\$203,178	\$202,185	\$142,951	\$141,958	0.78%
97	GLEN MEADOWS RETIREMENT COMMUNITY	30%	\$0.00	\$0	\$10,847	\$0	\$10,847	0.00%
98	GOOD SAMARITAN HOSPITAL TRANSITIONAL CARE UNIT	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
99	GOOD SAMARITAN NURSING CENTER	68%	\$5.18	\$165,579	\$127,944	\$113,209	\$75,573	0.64%
00	GOODWILL MENNONITE HOME	74%	\$0.00	\$0	\$87,741	\$0	\$87,741	0.00%
01	GREATER BALTIMORE MEDICAL CENTER SUBACUTE UNIT	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
02	GREATER LAUREL HEALTH & REHABILITATION CENTER	74%	\$5.18	\$186,189	\$104,131	\$137,092	\$55,035	0.72%
03	HAMILTON CENTER	78%	\$5.18	\$117,292	\$56,855	\$91,812	\$31,375	0.45%
04	HAMMONDS LANE CENTER	68%	\$5.18	\$130,835	\$60,854	\$88,472	\$18,491	0.50%
05	HARBORSIDE HEALTHCARE - HARFORD GARDENS	81%	\$5.18	\$173,368	\$112,044	\$140,807	\$79,482	0.67%
06	HARTLEY HALL NURSING HOME	74%	\$5.18	\$72,956	\$65,501	\$54,042	\$46,586	0.28%
07	HAVEN NURSING HOME	88%	\$5.18	\$97,176	\$68,300	\$85,415	\$58,539	0.37%
08	HEARTLAND HEALTH CARE CENTER - ADELPHI	71%	\$5.18	\$182,708	\$94,096	\$129,943	\$41,331	0.70%
09	HEARTLAND HEALTH CARE CENTER - HYATTSVILLE	55%	\$5.18	\$143,170	\$87,120	\$78,803	\$22,753	0.55%
10	HEBREW HOME OF GREATER WASHINGTON	65%	\$1.59	\$198,868	\$482,217	\$129,254	\$412,803	0.77%
11	HERITAGE CENTER	72%	\$5.18	\$209,642	\$108,952	\$150,099	\$49,409	0.81%
12	HERITAGE HARBOUR HEALTH & REHABILITATION	48%	\$5.18	\$127,203	\$92,530	\$61,188	\$26,515	0.49%
13	HERMAN M. WILSON HEALTH CARE CENTER	30%	\$0.00	\$0	\$105,746	\$0	\$105,746	0.00%
14	HERON POINT OF CHESTERTOWN	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
15	HILLHAVEN NURSING CENTER	21%	\$5.18	\$85,703	\$15,095	\$17,883	(\$52,725)	0.33%
16	HOLLY HILL MANOR INC	62%	\$5.18	\$71,002	\$37,491	\$44,157	\$10,646	0.27%
17	HOLY CROSS REHABILITATION & NURSING CENTER	59%	\$5.18	\$143,570	\$103,164	\$83,997	\$43,591	0.55%
18	HOMWOOD AT CRUMLAND FARMS	39%	\$0.00	\$0	\$52,044	\$0	\$52,044	0.00%
19	HOMWOOD AT WILLIAMSPORT MD INC	48%	\$0.00	\$0	\$50,773	\$0	\$50,773	0.00%
20	HOMWOOD CENTER	84%	\$5.18	\$122,412	\$113,432	\$102,917	\$93,936	0.47%
21	IVY HALL GERIATRIC CENTER	67%	\$5.18	\$139,677	\$91,647	\$95,158	\$47,127	0.54%
22	JEWISH CONVALESCENT & NURSING HOME	75%	\$5.18	\$152,642	\$125,807	\$114,276	\$87,441	0.59%
23	JOHNS HOPKINS BAYVIEW CARE CENTER	67%	\$5.18	\$167,801	\$123,921	\$111,920	\$68,040	0.65%
24	JULIA MANOR HEALTH CARE CENTER	61%	\$5.18	\$114,806	\$49,647	\$69,829	\$4,670	0.44%
25	KENSINGTON NURSING & REHABILITATION CENTER	79%	\$5.18	\$154,351	\$132,517	\$121,767	\$99,932	0.60%
26	KESWICK MULTICARE CENTER	67%	\$5.18	\$262,797	\$202,351	\$177,110	\$116,664	1.01%
27	KNOLLWOOD MANOR NURSING HOME	81%	\$5.18	\$77,172	\$65,729	\$62,729	\$51,287	0.30%
28	LA PLATA CENTER	75%	\$5.18	\$177,055	\$72,168	\$132,988	\$28,100	0.68%
29	LARKIN CHASE NURSING & RESTORATIVE CENTER	62%	\$5.18	\$123,827	\$93,689	\$76,555	\$46,417	0.48%
30	LAURELWOOD CARE CENTER AT ELKTON	69%	\$5.18	\$130,241	\$64,758	\$89,817	\$24,334	0.50%
31	LAYHILL CENTER	76%	\$5.18	\$134,724	\$113,277	\$102,060	\$80,813	0.52%
32	LEVINDALE HEBREW GERIATRIC CENTER	73%	\$5.18	\$205,070	\$139,438	\$148,915	\$83,283	0.79%
33	LIBERTY HEIGHTS HEALTH & REHAB CENTER	86%	\$5.18	\$134,297	\$114,160	\$115,541	\$95,405	0.52%
34	LIONS MANOR NURSING HOME	72%	\$5.18	\$123,403	\$69,503	\$89,180	\$35,280	0.48%
35	LITTLE SISTERS OF THE POOR	80%	\$5.18	\$77,463	\$51,082	\$62,113	\$35,732	0.30%
36	LOCH RAVEN CENTER	75%	\$5.18	\$132,028	\$94,372	\$99,282	\$61,627	0.51%
37	LOCHEARN NURSING HOME	79%	\$5.18	\$188,609	\$157,998	\$148,104	\$117,493	0.73%
38	LONG GREEN CENTER	77%	\$5.18	\$161,274	\$118,355	\$124,494	\$81,575	0.62%
39	LONG VIEW NURSING HOME	58%	\$5.18	\$129,176	\$81,287	\$74,790	\$26,901	0.50%
40	LORIE NURSING & REHAB CENTER BEL AIR	39%	\$5.18	\$61,830	\$25,395	\$24,163	(\$12,272)	0.24%
41	LORIE NURSING & REHAB CENTER COLUMBIA	65%	\$5.18	\$213,073	\$164,960	\$137,470	\$89,357	0.82%
42	LORIE NURSING & REHAB CENTER FRANKFORD	85%	\$1.59	\$86,607	\$189,968	\$73,796	\$177,158	0.33%
43	LORIE NURSING & REHAB CENTER MT. AIRY	59%	\$5.18	\$62,067	\$51,424	\$36,445	\$25,802	0.24%
44	LORIE NURSING & REHAB CENTER RIVERSIDE	68%	\$5.18	\$149,646	\$127,441	\$101,159	\$78,954	0.58%

### Nursing Facility Quality Assessment Model

	Facility Name	% Days MA	Facility Assessment per Non-Medicare Day of Care	Facility Assessment (\$ Per Day x Non-Medicare Days)	Additional Reimbursement to Facility in Rates	Reimbursement of Medicaid Portion of Assessment	Net	Facility's % of Total Assessment
145	LORIEN NURSING & REHAB CENTER TANEYTOWN	57%	\$5.18	\$62,397	\$38,051	\$35,600	\$11,254	0.24%
146	MAGNOLIA CENTER	67%	\$5.18	\$107,401	\$69,682	\$72,143	\$34,424	0.41%
147	MALLARD BAY CARE CENTER AT CAMBRIDGE	75%	\$5.18	\$163,294	\$84,063	\$122,895	\$43,663	0.63%
148	MANOKIN MANOR NURSING & REHABILITATION CENTER	70%	\$5.18	\$150,004	\$73,577	\$104,948	\$28,521	0.58%
149	MANORCARE HEALTH SERVICES BETHESDA	50%	\$5.18	\$91,325	\$68,831	\$45,435	\$22,941	0.35%
150	MANORCARE HEALTH SERVICES CHEVY CHASE	43%	\$5.18	\$160,524	\$97,979	\$69,460	\$6,915	0.62%
151	MANORCARE HEALTH SERVICES LARGO	53%	\$5.18	\$119,281	\$63,621	\$63,578	\$7,917	0.46%
152	MANORCARE HEALTH SERVICES POTOMAC	34%	\$5.18	\$157,611	\$92,186	\$53,881	(\$11,544)	0.61%
153	MANORCARE HEALTH SERVICES ROLAND PARK	62%	\$5.18	\$121,775	\$104,857	\$75,393	\$58,475	0.47%
154	MANORCARE HEALTH SERVICES ROSSVILLE	56%	\$5.18	\$162,583	\$97,520	\$90,530	\$25,467	0.63%
155	MANORCARE HEALTH SERVICES RUXTON	54%	\$5.18	\$193,830	\$118,431	\$104,638	\$29,239	0.75%
156	MANORCARE HEALTH SERVICES SILVER SPRING	58%	\$5.18	\$155,757	\$118,657	\$90,431	\$53,331	0.60%
157	MANORCARE HEALTH SERVICES TOWSON	63%	\$5.18	\$132,587	\$109,198	\$84,011	\$60,621	0.51%
158	MANORCARE HEALTH SERVICES WHEATON	53%	\$5.18	\$89,048	\$56,378	\$47,162	\$14,492	0.34%
159	MANORCARE HEALTH SERVICES WOODBRIDGE VALLEY	44%	\$5.18	\$86,849	\$43,022	\$38,193	(\$5,634)	0.33%
160	MANORCARE OF DULANEY	68%	\$5.18	\$135,093	\$69,545	\$92,276	\$26,728	0.52%
161	MAPLEWOOD PARK PLACE	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
162	MARIA HEALTH CARE CENTER	93%	\$5.18	\$46,111	\$44,896	\$42,755	\$41,540	0.18%
163	MARLEY NECK HEALTH & REHAB CENTER	75%	\$5.18	\$120,015	\$76,298	\$89,701	\$45,984	0.46%
164	MARYLAND BAPTIST AGED HOME	100%	\$0.00	\$0	\$33,527	\$0	\$33,527	0.00%
165	MARYLAND MASONIC HOMES	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
166	MEMORIAL HOSPITAL AT EASTON SUBACUTE UNIT	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
167	MILFORD MANOR NURSING HOME	71%	\$5.18	\$144,650	\$99,834	\$102,913	\$58,096	0.56%
168	MONTGOMERY VILLAGE HEALTH CARE CENTER	64%	\$5.18	\$123,228	\$89,512	\$78,592	\$44,875	0.48%
169	MORAN MANOR	69%	\$5.18	\$146,880	\$137,441	\$101,779	\$92,339	0.57%
170	MULTI-MEDICAL CENTER	60%	\$5.18	\$118,465	\$83,458	\$71,359	\$36,353	0.46%
171	NATIONAL LUTHERAN HOME FOR THE AGED	52%	\$0.00	\$0	\$196,891	\$0	\$196,891	0.00%
172	NORTH ARUNDEL HEALTH & REHABILITATION CENTER	59%	\$5.18	\$114,782	\$69,672	\$67,469	\$22,358	0.44%
173	NORTH OAKS	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
174	NORTHAMPTON MANOR	55%	\$5.18	\$203,659	\$122,748	\$111,713	\$30,802	0.79%
175	NORTHWEST HEALTH & REHAB CTR.	89%	\$5.18	\$111,398	\$100,617	\$99,677	\$88,896	0.43%
176	NORTHWEST HOSPITAL CENTER SUBACUTE UNIT	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
177	OAK CREST VILLAGE CARE CENTER	21%	\$0.00	\$0	\$61,084	\$0	\$61,084	0.00%
178	OAKLAND NURSING AND REHAB	84%	\$5.18	\$124,604	\$115,200	\$104,644	\$95,241	0.48%
179	OVERLEA HEALTH & REAHBILITATION CENTER	86%	\$5.18	\$181,072	\$94,164	\$155,269	\$68,361	0.70%
180	PARKWAY NURSING & REHABILITATION CENTER	93%	\$5.18	\$176,247	\$166,566	\$164,083	\$154,401	0.68%
181	PENNINSULA REGIONAL MEDICAL CENTER	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
182	PERRING PARKWAY CENTER	71%	\$5.18	\$129,677	\$85,814	\$92,572	\$48,709	0.50%
183	PICKERSGILL INC.	45%	\$0.00	\$0	\$17,795	\$0	\$17,795	0.00%
184	PINEVIEW NURSING & REHABILITATION CENTRE	68%	\$5.18	\$217,078	\$177,363	\$148,181	\$108,466	0.84%
185	PLEASANT VIEW NURSING HOME OF MT. AIRY	81%	\$5.18	\$125,474	\$53,027	\$101,854	\$29,407	0.48%
186	POTOMAC VALLEY NURSING & WELLNESS CENTER	52%	\$5.18	\$222,199	\$111,114	\$116,321	\$5,235	0.86%
187	PRESBYTERIAN HOME OF MARYLAND	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
188	RANDALLSTOWN CENTER	81%	\$5.18	\$209,809	\$72,937	\$169,356	\$32,483	0.81%
189	RANDOLPH HILLS NURSING HOME	81%	\$5.18	\$142,785	\$133,064	\$115,325	\$105,604	0.55%
190	RAVENWOOD LUTHERAN VILLAGE	48%	\$0.00	\$0	\$35,683	\$0	\$35,683	0.00%
191	RAVENWOOD NURSING & REHABILITATION CENTER	93%	\$1.59	\$80,706	\$247,947	\$75,010	\$242,251	0.31%
192	REEDERS MEMORIAL HOME	63%	\$5.18	\$160,493	\$95,475	\$101,801	\$36,782	0.62%
193	RIDERWOOD VILLAGE	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
194	RIDGEWAY MANOR NURSING & REHABILITATION CENTER	74%	\$5.18	\$76,989	\$45,744	\$56,939	\$25,694	0.30%
195	RIVERVIEW CARE CENTER LLC	76%	\$5.18	\$293,539	\$256,481	\$222,960	\$185,902	1.13%
196	ROCK GLEN NURSING & REHABILITATION CENTER	85%	\$5.18	\$126,309	\$109,585	\$107,568	\$90,843	0.49%
197	ROCKVILLE NURSING HOME	34%	\$5.18	\$121,476	\$37,864	\$40,958	(\$42,655)	0.47%
198	ROLAND PARK PLACE	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
199	RUXTON HEALTH OF DENTON	68%	\$5.18	\$115,175	\$70,916	\$78,797	\$34,538	0.44%
200	RUXTON HEALTH OF PIKESVILLE	72%	\$5.18	\$151,410	\$120,701	\$109,414	\$78,705	0.58%
201	SACRED HEART HOME	72%	\$5.18	\$132,681	\$106,777	\$95,858	\$69,955	0.51%
202	SALISBURY REHABILITATION & NURSING CENTER	74%	\$1.59	\$106,283	\$264,122	\$78,548	\$236,388	0.41%
203	SEVERNA PARK CENTER	56%	\$5.18	\$148,784	\$52,480	\$83,763	(\$12,541)	0.57%
204	SHADY GROVE ADVENTIST NURSING & REHAB CENTER	64%	\$5.18	\$114,526	\$74,045	\$72,902	\$32,421	0.44%
205	SNOW HILL NURSING & REHABILITATION CENTER	66%	\$5.18	\$76,084	\$42,792	\$50,352	\$17,060	0.29%
206	SOLOMON'S NURSING CENTER	54%	\$5.18	\$111,713	\$58,852	\$60,645	\$7,784	0.43%
207	SOUTH RIVER HEALTH & REHAB CENTER	77%	\$5.18	\$129,569	\$102,460	\$99,682	\$72,573	0.50%
208	SPA CREEK CENTER	43%	\$5.18	\$117,634	\$71,952	\$50,062	\$4,380	0.45%
209	SPRINGBROOK ADVENTIST NURSING & REHAB CENTER	75%	\$5.18	\$105,113	\$66,851	\$79,242	\$40,981	0.41%
210	ST. CATHERINE'S NURSING CENTER	61%	\$5.18	\$92,148	\$55,640	\$56,067	\$19,559	0.36%
211	ST. ELIZABETH REHABILITATION & NURSING CENTER	67%	\$5.18	\$200,089	\$137,234	\$134,220	\$71,365	0.77%
212	ST. JOSEPH'S NURSING HOME	56%	\$0.00	\$0	\$39,827	\$0	\$39,827	0.00%
213	ST. MARY'S NURSING CENTER INC.	62%	\$5.18	\$235,633	\$148,620	\$146,922	\$59,909	0.91%
214	ST. THOMAS MORE NURSING & REHABILITATION CENTER	50%	\$5.18	\$227,983	\$127,066	\$114,776	\$13,858	0.88%
215	ST. VINCENT CARE CENTER	82%	\$5.18	\$58,749	\$48,409	\$48,221	\$37,881	0.23%
216	STELLA MARIS	66%	\$1.59	\$145,576	\$323,974	\$96,127	\$274,526	0.56%

### Nursing Facility Quality Assessment Model

	Facility Name	% Days MA	Facility Assessment per Non-Medicare Day of Care	Facility Assessment (\$ Per Day x Non-Medicare Days)	Additional Reimbursement to Facility in Rates	Reimbursement of Medicaid Portion of Assessment	Net	Facility's % of Total Assessment
17	SOUTHERN MARYLAND HOSPITAL SUBACUTE CARE UNIT	1%	\$0.00	\$0	\$280	\$0	\$280	0.00%
18	SUMMIT PARK HEALTH & REHABILITATION CENTER	66%	\$5.18	\$146,228	\$94,098	\$97,209	\$45,079	0.56%
19	SUNBRIDGE CARE & REHABILITATION FOR ELKTON	61%	\$5.18	\$151,725	\$122,597	\$92,418	\$63,290	0.59%
20	THE ARBOR (AT BAY WOODS)	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
21	THE PINES	66%	\$5.18	\$187,828	\$138,132	\$123,927	\$74,231	0.72%
22	TRANSCARE AT ST. JOSEPH	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
23	TRANSITIONAL CARE AT MERCY	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
24	HARFORD MEMORIAL HOSPITAL TRANSITIONAL CARE UNIT	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
25	VANTAGE HOUSE	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
26	VILLA THE	80%	\$0.00	\$0	\$21,754	\$0	\$21,754	0.00%
27	VILLA ROSA NURSING HOME	68%	\$5.18	\$132,840	\$100,078	\$89,689	\$56,927	0.51%
28	VINDOBONA NURSING HOME	65%	\$5.18	\$64,273	\$32,654	\$41,772	\$10,153	0.25%
29	WALDORF HEALTHCARE CENTER	58%	\$5.18	\$103,982	\$40,486	\$59,880	(\$3,616)	0.40%
30	WESLEY HOME THE	37%	\$0.00	\$0	\$21,457	\$0	\$21,457	0.00%
31	WEST MD TCU/SACRED HEART HOSPITAL	0%	\$0.00	\$0	\$0	\$0	\$0	0.00%
32	WESTERN MARYLAND CENTER	78%	\$5.18	\$73,341	\$0	\$57,259	(\$16,082)	0.28%
33	WICOMICO NURSING HOME	63%	\$5.18	\$120,711	\$89,116	\$76,494	\$44,899	0.47%
34	WILLIAM HILL MANOR	33%	\$0.00	\$0	\$28,041	\$0	\$28,041	0.00%
35	WILLIAMSPORT NURSING HOME	67%	\$5.18	\$114,110	\$57,816	\$76,842	\$20,548	0.44%
36	WOODSIDE CENTER	64%	\$5.18	\$89,258	\$81,425	\$57,397	\$49,564	0.34%
	Based on FY 2006 Medicaid Cost Reports Indexed to FY 2008			\$25,935,151	\$19,230,260	\$17,628,128	\$10,923,238	100.00%

**DHMH**

Maryland Department of Health and Mental Hygiene  
201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

November 16, 2007

Dennis G. Smith, Director  
Center for Medicaid and State Operations  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, MD 21244

Dear Mr. Smith:

During its 2007 session, the Maryland General Assembly authorized the Department of Health and Mental Hygiene to impose a quality assessment on nursing facilities in the State, established in law the applicability and method of calculation of this assessment, and directed the Department of Health and Mental Hygiene to apply to the Centers for Medicare and Medicaid Services for a waiver under §1903 of the Social Security Act, needed to impose the assessment as defined in the new statute.

Accordingly, the Maryland Medicaid Program requests your approval of a health care-related tax, proposed pursuant to 42 CFR §433.68, which would be assessed, collected, and redistributed as defined in Senate Bill 101 (now Chapter 503, Laws of Maryland 2007, and codified as Health-General Article §19-310, Annotated Code of Maryland.) These provisions define “nursing facilities” subject to the assessment as those facilities with 45 or more licensed beds. The statute also excludes nursing facilities operated at Maryland’s 34 continuing care retirement communities (CCRCs) from the quality assessment.

Under Maryland’s proposal, facilities with the highest volume of Medicaid days would pay a lower per-bed rate than other facilities that are subject to the assessment. Since this represents a health care –related tax that is neither broad-based nor uniform, Maryland requests approval of a waiver under the provisions of §443.68(e)(2). Maryland’s proposed tax does not hold any facilities harmless through a direct relationship between the amount of tax paid and the benefit received. Although not all Maryland nursing facilities will be assessed for purposes of creating the special fund to augment nursing facility reimbursement, all Maryland Medicaid providers (other than two facilities that are owned and operated by the State) will receive the enhanced reimbursement for their Medicaid recipients, including the facilities with 44 or fewer beds, and CCRCs whose nursing facilities are enrolled in the Program.

The attached spreadsheet shows the proposed model for calculating the tax, and what the impact would be on each facility in the State, including those excluded from the assessment by

Dennis G. Smith, Director

November 16, 2007

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statute. The spreadsheet demonstrates that the assessment meets the statistical "slope" test in accordance with the requirements specified at §443.68(e)(2).

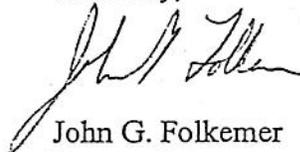
The statutory framework established for Maryland's "health care-related tax" further defines the scope, nature, and means of collection of the assessment:

- The statute establishes a cap on the total aggregate amount of the assessment, which "may not exceed 2% of the net operating revenue for all nursing facilities subject to this section for the previous fiscal quarter."
- The aggregate annual assessment "may not exceed the amount necessary to fully fund the nursing facility payment system."
- Not later than 60 days following the end of each State fiscal quarter, each facility subject to the assessment will pay an amount determined by the Department that, in the aggregate, would fully fund the nursing facility payment system, and
- The amount collected will be based on an amount per patient day for each non-Medicare day of service for the previous quarter. The assessment will be collected by the State Comptroller, and distributed to a special fund, to be used solely to fund reimbursement to all nursing facilities enrolled in the Medicaid program.
- Finally, the statute stipulates that funds accumulated through the assessment and allocated by the Department as reimbursements to nursing facilities "shall be in addition to and may not supplant funds already appropriated for this purpose."

Because the enabling statute requires the waiver class of nursing facilities to pay the assessment on a quarterly basis to the Comptroller of the Treasury, the facilities will be subject to the enforcement and penalty provisions governing any tax assessment under Maryland statute. The information presented is based upon State Fiscal Year 2006 data trended forward to State Fiscal Year 2008 and reported on an annualized basis.

We look forward to further discussions on this matter with members of your staff. Please contact Mark A. Leeds, Director, Long Term Care and Community Support Services, Office of Health Services, if you have questions or need further information. Mr. Leeds may be reached at (410) 767-1443.

Sincerely,



John G. Folkemer  
Deputy Secretary  
Health Care Financing

Dennis G. Smith, Director  
November 16, 2007  
Page 3 of 3

Attachment

cc: John M. Colmers, Secretary, Department of Health and Mental Hygiene  
Susan J. Tucker, Executive Director, Office of Health Services  
Mark A. Leeds, Director, Long Term Care & Community Support Services Administration

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations

John G. Folkemer  
Deputy Secretary  
Maryland Department of Health and Mental Hygiene  
201 W. Preston Street  
Baltimore, Maryland 21201

DEC 19 2007

Dear Mr. Folkemer:

This is in response to your request for waiver of the broad based and uniformity requirements related to a tax on certain nursing facility patient days. Upon review and consideration of the information formally provided to CMS on November 16, 2007, I am pleased to inform you that your request for waiver of the broad based and uniformity provisions of section 1903(w)(3)(C) of the Social Security Act (the Act) is approved.

The tax structure for which Maryland requested waiver would be imposed as follows:

- (i) Medicare patient days are excluded from the tax;
- (ii) Continuing Care Retirement Centers are excluded from the tax;
- (iii) Providers with less than 45 beds are excluded from the tax;
- (iv) Providers with more than 64,500 Medicaid patient days are assessed \$1.59 per non-Medicare patient day;
- (v) All other providers are assessed \$5.18 per non-Medicare patient day.

Section 1903(w)(3)(E) of the Act specifies that the Secretary shall approve broad-based and uniformity waiver applications if the net impact of the tax is generally redistributive and that the amount of the tax is not directly correlated to Medicaid payments.

The Federal regulation at 42 CFR 433.68(e)(2) describes the statistical test necessary for a state to demonstrate that the proposed tax structure is generally redistributive. Maryland's statistical demonstration is addressed below. Moreover, the Federal regulation at 42 CFR 433.68(f) describes the circumstances in which a direct correlation would exist. The State has requested approval of the waiver of the broad based and uniformity requirements prior to the submission of their reimbursement methodology to CMS for evaluation. However, the statute is very clear that the health care related taxes cannot contain hold harmless arrangements and any failure to comply with any of the three hold harmless "tests" would render a health care related tax impermissible. We reserve the right to review any reimbursement methodology associated with this tax on nursing facility services to ensure compliance with the hold harmless provisions.

**Analysis**

To determine the generally redistributive nature of the proposed nursing facility patient day tax, Maryland calculated the slope (expressed as B1) of a linear regression for a broad-based and uniform tax in which the dependent variable was each nursing facility's percentage share of the total tax paid, if the tax was uniformly imposed on all nursing facility patient days in the State and the independent variable was each nursing facility's number of Medicaid patient days.

Maryland then calculated the slope (expressed as B2) of a linear regression for the State's actual proposed tax program in which the dependent variable was each nursing facility's percentage share of the total tax paid, and the independent variable was the number of Medicaid patient days for each nursing facility.

Using the patient day and tax rate data you provided, CMS also performed the regression analysis calculations required in the regulations for the proposed tax. CMS finds that the result of the generally redistributive calculation for the Maryland nursing facility patient day tax is 1.00278.

Therefore, we are able to approve your request for a waiver of the broad based and uniformity provisions of section 1903(w)(3)(C) of the Act for the proposed nursing facility patient day tax.

The Federal regulations at 42 CFR 433.72(c)(1) specify that a waiver will be effective for tax programs commencing on or after August 13, 1993, on the first day of the calendar quarter in which the waiver is received by CMS. CMS received the State of Maryland's request for waiver of the broad based and uniformity requirements on November 16, 2007 with a requested effective date of October 1, 2007. Therefore, the effective date of Maryland's request for waiver of the broad based and uniformity requirements is October 1, 2007.

CMS reserves the right to perform a financial management review at any time to ensure that the State operation of the tax on nursing facilities continues to meet the requirements of section 1903(w) of the Act.

I hope this information addresses all of your concerns, if you have further questions or need additional information please contact Kristin Fan at (410) 786-4581.

Sincerely,

  
Dennis G. Smith  
Director