LNHA Regulatory Update: November 2021

Notice of Intent

Facility Need Review – Relocation of Nursing Facility Beds (LAC 48:I.12529)

The Louisiana Department of Health (LDH) previously amended the provisions governing the facility need review (FNR) process in order to allow the department to approve a temporary relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building (*Louisiana Register*, Volume 47, Number 9). The department now proposes to amend the provisions governing the FNR process in order to revise the timeframes for a temporary relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building.

The proposed amendment reads as follows:

§12529. General Provisions

A. - D. ...

1. The department may approve a one-time temporary relocation of a nursing facility's Medicaid FNR approvals to another licensed building that may be outside the existing FNR approved service area or parish, provided that all of the following provisions are met:

a. - e. ...

f. The temporary license shall expire 18 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period. One extension of the temporary license, not to exceed 6 months, may be granted by the department for good cause shown.

Interested parties may submit written comments to Ms. Tasheka Dukes at P.O. Box 3767, Baton Rouge, LA, 70821. The deadline for submitting written comments is at close of business (4:30 p.m. CT) on December 30, 2021.

Nursing Facilities Reimbursement – Reimbursement Methodology (LAC 50:VII.1303)

LDH proposes to amend the provisions governing reimbursement for nursing facilities in order to establish guidelines for submitting amended cost reports and to ensure that costs in the rate and floor component are classified appropriately.

The proposed amendment reads as follows:

§20003. Cost Reports [Formerly LAC 50:VII.1303]

A. - A.3. ...

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program using the definition of allowable and non-allowable cost contained in the CMS Publication 15-1, Provider Reimbursement Manuals, with the following exceptions.

1. - 2. ...

3. Amended Cost Reports. The department will accept amended cost reports in electronic format for a period of 12 months following the end of the cost reporting period. Cost reports may not be amended after an audit or desk review has been initiated; however, the department maintains the right, at their discretion, to supersede this requirement and allow a cost report to be amended after the desk review or audit has been initiated. When an amended cost report is received by the department, it will notify the submitting facility if a desk review or audit covering the submitted cost report period has been initiated and that the amended cost report cannot be accepted. Amended cost reports should include a letter explaining the reason for the amendment, an amended certification statement with original signature, and the electronic format completed amended cost reports. Each amended cost report submitted should be clearly marked with "Amended" in the file name.

4. Rate Warning. While the Medicare regulations may allow more than one option for classifying costs, Medicaid will only recognize costs in a rate and floor component based on the case mix cross-walk shown on the case mix cross-walk tab of the Medicaid Excel cost report template. If a facility chooses to classify cost on their Medicare cost report in a manner that excludes that cost from their direct care or care-related rate component and floor, then the cost will forever be excluded from the direct care and care related rate and floor, unless adjusted at audit or desk review

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested parties may submit written comments to Mr. Patrick Gillies, P.O. Box 91030, Baton Rouge, LA, 70821. The deadline for submitting written comments is at close of business on December 30, 2021.

Questions

If you have comments or concerns regarding this update, contact LNHA Legal and Policy Director Wes Hataway at whataway@lnha.org.