



LNHA Regulatory Update: December 2020

Final Rule

Nursing Facilities - Reimbursement Methodology (LAC 50:II.20005)

In the September 2020 edition of the *Louisiana Register*, a Notice of Intent was published which amended the provisions governing reimbursement methodology for nursing facilities. The amendment increased the allowable square footage used for calculating payments when a Medicaid participating nursing facility has at least 15 percent of its licensed beds in private rooms. The amended provision stated as follows:

- i. Each nursing facility's actual square footage per bed is multiplied by the January 1, 2003 new value per square foot, plus \$9.75 for land. The square footage used shall not be less than 300 square feet or more than 450 square feet per licensed bed. If 15 percent or more of the nursing facility's licensed beds are private rooms compared to the total licensed beds of the nursing facility, then the maximum square footage used shall not be more than 550 square feet per licensed bed. To this value add the product of total licensed beds times \$4,000 for equipment, sum this amount and trend it forward using the capital index. This trended value shall be depreciated, except for the portion related to land, at 1.25 percent per year according to the weighted age of the facility. Bed additions, replacements and renovations shall lower the weighted age of the facility. The maximum age of a nursing facility shall be 30 years. Therefore, nursing facilities shall not be depreciated to an amount less than 62.5 percent or $[100 \text{ percent} \text{ minus } (1.25 \text{ percent} \times 30)]$ of the new bed value. There shall be no recapture of depreciation.

Since its introduction, the proposed rule has been properly implemented through the administrative process. However, implementation of the provisions of this Rule are contingent upon the approval of Centers for Medicare and Medicaid Services (CMS).

A full text of the rules can be found [here](#) on page 32 of the PDF.

Standards for Payment for Nursing Facilities (LAC 50:II.10123 and 20001)

In September 2020, LDH introduced a Notice of Intent to repeal the section which mandated the use of the optional state assessment (OSA) item set. Since its introduction, the proposed rule has been properly implemented through the administrative process. As such, the OSA section has been repealed.

A full text of the rules can be found [here](#) on page 32 of the PDF.

Emergency Rule

Nursing Facilities Reimbursement Adjustment (LAC 50:II.20006)

Effective December 20, 2020, the department extended the previously issued Emergency Rule which included an add-on of \$12 to the per diem rate paid to privately owned or operated nursing facilities. The add-on is effective for the duration of the COVID-19 public health emergency or to end at the discretion of the State.

Notice of Intent

Nursing Facilities - Non-Emergency Transportation for Medical Appointments (LAC 50:II.10137)

LDH proposes to amend the standards of payment for nursing facilities in order to clarify the provisions governing non-emergency transportation for medical appointments. The clarifying language is as follows:

E. Non-Emergency Transportation for Medical Appointments

1. It is the responsibility of the nursing facility to arrange for or provide its residents with non-emergency transportation to all necessary medical appointments when use of an ambulance is not appropriate. This includes wheelchair bound residents and those residents going to therapies and hemodialysis. Transportation shall be provided to the nearest available qualified provider of routine or specialty care within reasonable proximity to the facility. Residents can be encouraged to utilize medical providers of their choice in the community in which the facility is located when they are in need of transportation services. It is also acceptable if the facility or legal representative/sponsor chooses to transport the resident.
2. If non-emergency transportation is required, and it is medically necessary for the resident to be transported to a necessary medical appointment by ambulance, the nursing facility will be responsible for contacting the appropriate managed care organization (MCO) or fee-for-service (FFS) transportation representative and submitting the completed Certification of Ambulance Transportation form to the MCO or FFS representative prior to the scheduled pick-up time.

A full text of the proposed rule can be found [here](#) on page 69 of the PDF.

Any comments regarding this proposed rule should be submitted to Tara Leblanc at P.O. Box 91030 Baton Rouge, LA 70821. The deadline for submitting comments is January 29, 2021. A public hearing will also be held if requested by January 11, 2021.

Questions

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