TITLE 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.020 Prospective Reimbursement Plan for Nursing Facility and HIV Nursing Facility Services. The division is amending sections (11) and (12).

PURPOSE: This amendment provides for an increase to nursing facility and HIV nursing facility per diem reimbursement rates of ten dollars and zero cents ($10.00) and an increase to the Value Based Purchasing per diem adjustments of eighty-seven ($0.87) for qualifying facilities, effective for dates of service beginning July 1, 2023. These per diem adjustments correspond to the state fiscal year (SFY) 2024 appropriation for nursing facilities and was contingent upon approval by the Centers for Medicare and Medicaid Services (CMS).

(11) Prospective Rate Determination. The division will use the rate setting cost report described in (11)(I) to determine the nursing facility's prospective rate, as detailed in (11)(A)-(I) below.

(F) Special Per Diem Adjustments. Special per diem rate adjustments may be added to a qualifying facility's rate without regard to the cost component ceiling if specifically provided as described below.

1. Patient care incentive. Each facility with a prospective rate on or after July 1, 2022, shall receive a per diem adjustment equal to four and seventy-fifth percent (4.75%) of the facility's patient care per diem determined in paragraph (11)(A)1. subject to a maximum of one hundred thirty percent (130%) of the patient care median when added to the patient care per diem as determined in paragraph (11)(A)1. This adjustment will not be subject to the cost component ceiling of one hundred twenty percent (120%) for the patient care median.

2. Multiple component incentive. Each facility with a prospective rate on or after July 1, 2022, and which meets the following criteria shall receive a per diem adjustment:

A. If the sum of the facility's patient care per diem and ancillary per diem, as determined in subsections (11)(A) and (11)(B), is greater than or equal to seventy percent (70%), rounded to four (4) decimal places (.6985 would not receive the adjustment) of the facility's total per diem, the adjustment is as follows:

Patient Care & Ancillary Percent of Total Rate	Incentive
< 70%	$0.00
> or = 70% but < 75%	$0.10
> or = 75% but < or = 80%	$0.15
> 80%	$0.20

B. A facility shall receive an additional incentive if it receives the adjustment in subparagraph (11)(F)2.A. and if the facility's Medicaid utilization percent is greater than eighty-five percent (85%), rounded to four (4) decimal places (.8485 would not receive the adjustment). The adjustment is as follows:

Medicaid Utilization Percent	Incentive
< 85%	$0.00
> or = 85% but < 90%	$0.10
> or = 90% but < 95%	$0.15

> or = 95%	$0.20

3. Value Based Purchasing (VBP) Incentive. Each facility with a prospective rate on or after July 1, 2022, and which meets the following criteria shall receive a per diem adjustment:

A. The facility shall receive a per diem adjustment for each Quality Measure (QM) Performance threshold that it meets*[, up to a maximum per diem adjustment of seven dollars ($7.00)]*. The threshold for each QM is based on national cut-points used by CMS in its Five Star Rating System. Each threshold is the maximum QM value a facility can have in order to receive the per diem adjustment. These thresholds are listed in Table A3 of the Five-Star Quality Rating System: Technical Users' Guide dated January 2017. The thresholds listed in Table A3 have been rounded to the nearest tenth for purposes of determining the VBP Incentive. Table A3 of the Five-Star Quality Rating System: Technical Users' Guide dated January 2017 is incorporated by reference and made a part of this rule as published by CMS and available at https://dss.mo.gov/mhd/providers/nursing-home-reimbursement-resources.htm. This rule does not incorporate any subsequent amendments or additions.

(I) **SFY 2023 QM Performance Measure table.** The facility's most current twelve- (12-) month rolling average QM value as of January 21, 2022 is used to determine the per diem adjustment(s) the facility qualified to receive for the rates effective July 1, 2022.

[(II)] The QM Performance Measure threshold, rounded to the nearest tenth, and per diem adjustments are as follows:

QM Performance	Threshold	Per Diem Adjustment
Decline in Late-Loss ADLs	< or = 10.0%	$1.00
Decline in Mobility on Unit	< or = 8.0%	$1.00
High-Risk Residents w/ Pressure Ulcers	< or = 2.7%	$1.00
Anti-Psychotic Medications	< or = 6.8%	$1.00
Falls w/ Major Injury	< or = 1.3%	$1.00
In-Dwelling Catheter	< or = 1.1%	$1.00
Urinary Tract Infection	< or = 1.9%	$1.00

[(III) Any revisions to the per diem adjustments shown in the above table will be included in 13 CSR 70-10.016, as set forth in (12)(A);]

(II) SFY 2024 QM Performance Measure table. Effective for dates of service beginning July 1, 2023, the QM Performance Measure per diem adjustments are as follows:

QM Performance	Threshold	Per Diem Adjustment
Decline in Late-Loss ADLs	**< or = 10.0%**	**$1.87**
Decline in Mobility on Unit	**< or = 8.0%**	**$1.87**
High-Risk Residents w/ Pressure Ulcers	**< or = 2.7%**	**$1.87**

Anti-Psychotic Medications	**< or = 6.8%**	**$1.87**
Falls w/ Major Injury	**< or = 1.3%**	**$1.87**
In-Dwelling Catheter	**< or = 1.1%**	**$1.87**
Urinary Tract Infection	**< or = 1.9%**	**$1.87**

B. A VBP percentage will also be applied to the per diem adjustment for each facility that qualifies for a VBP Incentive. The VBP percentage will be determined by the total QM score calculated from the Five-Star Rating System scores for each of the eight (8) long-stay QMs, as follows:
(I) The eight (8) long-stay QMs included in the total QM score to determine the VBP percentage include the following:
(a) Decline in Late-Loss ADLs;
(b) Decline in Mobility on Unit;
(c) High-Risk Residents w/ Pressure Ulcers;
(d) Anti-Psychotic Medications;
(e) Falls w/ Major Injury;
(f) In-Dwelling Catheter;
(g) Urinary Tract Infection; and
(h) Physical Restraints;
(II) The facility's most current twelve- (12-) month rolling average QM value as of January 21, 2022, is used to determine the facility's QM Score and VBP Percentage **for the rates effective July 1, 2022**;
(III) For each QM value, the corresponding number of QM points will be determined from Table A3 of the Five-Star Quality Rating System: Technical Users' Guide dated January 2017;
(IV) The QM points for all of the QMs will be summed to determine the facility's total QM Score; and
(V) The VBP percentage for each scoring range is listed in the following table.

QM Scoring Tier	Minimum Score	VBP Percentage
1	600	100%
2	520	75%
3	440	50%
4	360	25%
5	0	0%

4. Mental Illness Diagnosis Add-On. Each facility with a prospective rate on or after July 1, 2022, and which meets the following criteria shall receive a per diem adjustment:
A. If at least forty percent (40%) of a facility's Medicaid participants have the following mental illness diagnosis, the facility shall receive a per diem adjustment of five dollars ($5.00):
(I) Schizophrenia; **and**
(II) Bi-polar*[; and*
(III) Any revision to the Mental Illness Diagnosis Add-On reflected above in subparagraph (11)(F)4.A. will be included in 13 CSR 70-10.016, as set forth in subsection (12)(A)].

(H) Semi-Annual and Annual Rate Updates. Each facility with a prospective rate on or after July 1, 2022, shall have its rate updated for the following items as described below:

1. Semi-Annual Acuity Adjustment for Patient Care Per Diem Rate. Each facility's patient care per diem rate will be adjusted semi-annually using a current Medicaid CMI. The patient care per diem rate will be adjusted effective for dates of service beginning January 1 and July 1 of each year. The Medicaid CMI will be updated based on the facility's average Medicaid CMI using the RUGS IV 48 group model classifications from the two (2) preceding quarterly calculations. The allowable patient care cost per day determined in paragraph (11)(A)1. shall be adjusted by the applicable Medicaid CMI and shall be the facility's patient care per diem to be included in the facility's total prospective per diem rate, effective each January 1 and July 1. The patient care and multiple component incentives will not be updated based on the adjusted patient care per diem. The facility's prospective rate shall continue to include the patient care and multiple component incentives initially determined for the prospective rate. The applicable Medicaid CMI are as follows:

A. Effective for dates of service beginning January 1 of each year, each facility's Medicaid CMI will be updated using the average of the preceding July 1 and October 1 quarterly Medicaid CMI calculations; and

B. Effective for dates of service beginning July 1 of each year, each facility's Medicaid CMI will be updated using the average of the preceding January 1 and April 1 quarterly Medicaid CMI calculations;

2. Semi-Annual Adjustment for VBP Incentive. Each facility's QM Performance data shall be re-evaluated semi-annually and the per diem add-on rate shall be adjusted accordingly. The VBP will be recalculated effective for dates of service beginning January 1 and July 1 of each year. The QM Performance data will be updated based on the most current data available as of November 15 for the January 1 rate adjustment and as of May 15 for the July 1 rate adjustment. A facility must meet the criteria set forth in paragraph (11)(F)3. each period and will lose any per diem adjustments for which it does not continue to qualify;

3. Semi-Annual Adjustment for Mental Illness Diagnosis Add-On. Each facility's Mental Illness Diagnosis data shall be re-evaluated semi-annually and the per diem add-on rate shall be adjusted accordingly. The Mental Illness Diagnosis will be recalculated effective for dates of service beginning January 1 and July 1 of each year. The Mental Illness Diagnosis data will be updated based on the most current data available as of November 15 for the January 1 rate adjustment and as of May 15 for the July 1 rate adjustment. A facility must meet the criteria set forth in paragraph (11)(F)4. each period and will lose any per diem adjustments for which it does not continue to qualify;

4. Annual Capital Rate Update. Each facility's capital rate will be recalculated annually by updating the rental value portion of the capital rate. The capital rate will be recalculated at the beginning of each state fiscal year (SFY), effective for dates of service beginning July 1, as follows:

A. The total facility size will be updated each year for any increases or decreases in licensed beds and capital expenditures that qualify as bed equivalencies, as follows:

(I) For SFY 2024, effective for dates of service beginning July 1, 2023, the total facility size will be updated using information from the 2020 and 2021 cost reports; and

(II) For SFY 2025 forward, the total facility size will be updated using the information from the third (3rd) prior year cost report relative to the SFY (i.e., for SFY 2025, the facility size will be updated using 2022 cost report data.);

B. The weighted average age of the facility shall be updated each year. The age shall be calculated from the year coinciding with the latest cost report used to update the facility size above in subparagraph (11)(A)1.A. (i.e., the age for SFY 2024 shall be calculated from 2021, the age for SFY 2025 shall be calculated from 2022, etc.); and

C. The asset value shall be updated each SFY. The asset value shall be updated for the year coinciding with the latest cost report used to update the facility size above in subparagraph (11)(A)1.A. (i.e., for SFY 2024 the 2021 asset value shall be used, for SFY 2025 the 2022 asset value shall be used, etc.); and

5. A facility's prospective rate shall be increased or decreased based upon the semi-annual and annual rate adjustments but the rate shall not be decreased below the facility's June 30, 2022, prospective rate. *[A facility's June 30, 2022, prospective rate shall be adjusted for any global per diem adjustments granted to nursing facilities as set forth in subsection (12)(A). Semi-annual and annual rate adjustments shall not decrease a facility's prospective rate below the June 30, 2022, prospec*tive rate *that has been adjusted for any global per diem adjustments for the applicable effective date]*.

(I) Rate Setting Cost Report.

1. A facility with a valid Medicaid participation agreement and a prospective rate in effect on June 30, 2022, shall have its prospective rate rebased on its 2019 cost report. If a facility does not have a 2019 cost report, the next available cost report year shall be used as the rate setting cost report.

2. A nursing facility never previously certified for participation in the MO HealthNet program that originally enters the MO HealthNet program after June 30, 2022, shall receive an interim rate, as defined in subsection (4)(JJ), effective on the initial date of MO HealthNet certification. A prospective rate shall be determined in accordance with this regulation from the audited facility fiscal year cost report which covers the second full twelve- (12-) month fiscal year following the facility's initial date of MO HealthNet certification. This prospective rate shall be retroactively effective to the first day of the facility's second full twelve- (12-) month fiscal year and shall replace the interim rate for dates of service beginning on the first day of the facility's second full twelve- (12-) month fiscal year. The following items shall be updated annually and shall be used in determining the prospective rate:

A. Ceilings. *[The patient care, ancillary, and administration cost component ceilings shall be updated for any global per diem adjustments as set forth in subsection (12)(A). The effective date of the updated ceilings shall be the effective date of the global per diem adjustment.]* The ceiling used to determine the prospective rate shall be the ceiling in effect at the beginning of the rate setting period;

B. Asset Value. The asset value shall be updated annually as set forth in subsection (4)(E). The asset value for the year coinciding with the rate setting cost report year (i.e., the end of the cost report period) shall be used; and

C. Age of Beds and Bed Equivalencies. The age of beds shall be calculated by subtracting the year the beds were originally licensed from the year coinciding with the rate setting cost report year (i.e., the end of the cost report period). The age of bed equivalencies shall be calculated by subtracting the year the capital expenditures were made from the year coinciding with the rate setting cost report (i.e., the end of the rate setting cost report period).

3. A facility with a valid Medicaid participation agreement in effect after June 30, 2022, which either voluntarily or involuntarily terminates its participation in the Medicaid Program and which reenters the Medicaid Program within two (2) years, shall have its prospective rate established as the rate in effect on the day prior to the date of termination from participation in the program plus rate adjustments which may have been granted with effective dates subsequent to the termination date but prior to reentry into the program as described in subsection (12)(A). This prospective rate shall be effective for service dates on and after the effective date of the reentry following a voluntary or involuntary termination.

(12) Adjustments to the Reimbursement. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section*[, 13 CSR 70-10.016,]* and 13 CSR 70-10.017.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments as set forth *[in 13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates.]* ***below:***

1. *[Global per diem rate adjustments, other than per diem adjustments for the VBP Incentive per diems or the Mental Illness Diagnosis Add-On per diem, shall be allocated, and added to, the patient care, ancillary, and administration cost component ceilings based on the ceiling in effect at the time the global per diem adjustment is granted, unless the adjustment is directly attributable to a specific cost component(s). If the adjustment is directly attributable to a specific cost component(s), it shall be added to the specified cost component ceiling.*

2. The cost component ceilings will not be adjusted by global per diem adjustments made to the VBP Incentive per diems or the Mental Illness Diagnosis Add-On per diem.] **SFY 2024 Per Diem Rate Adjustment.**

A. Effective for dates of service beginning July 1, 2023, facilities with either an interim rate or a prospective rate in effect on July 1, 2023, shall be granted an increase to their per diem rate of ten dollars and zero cents ($10.00);

B. Effective for dates of service beginning July 1, 2023, and ending December 31, 2023, the rate to which the SFY 2024 per diem adjustment of ten dollars and zero cents ($10.00) shall be added is the facility's July 1, 2023, rate after all rate setting procedures have been applied, including adjustments for the Semi-Annual and Annual Rate Updates set forth in subsection (11)(H) that are effective July 1, 2023, and after selecting the greater of the Preliminary Per Diem or the June 30, 2022, prospective rate (excluding NFRA), and adding the NFRA per diem, VBP incentive, and MI add-on effective July 1, 2023. The increased VBP per diem adjustments effective July 1, 2023, detailed above in (11)(F)3.A.(II) and shown in the accompanying QM Performance Measure table shall be used in this calculation. The SFY 2024 per diem adjustment of ten dollars and zero cents ($10.00) is not added to

the facility's June 30, 2022, prospective rate and is not allocated and added to the cost component ceilings in performing this calculation.

C. Subsequent Semi-Annual and Annual Rate Updates. Effective for dates of service beginning with the effective date of the rate change (i.e., January 1 or July 1) and ending on the day prior to the effective date of the next rate change (i.e., December 31 or June 30), the SFY 2024 per diem adjustment of ten dollars and zero cents ($10.00) will be added to the facility's rate after all rate setting procedures have been applied, including the Semi-Annual and Annual Rate Updates set forth in subsection (11)(H) that are effective on the date of the rate change, and after selecting the greater of the Preliminary Per Diem or the June 30, 2022, prospective rate (excluding NFRA), and adding the NFRA per diem, VBP incentive, and MI add-on effective on the date of the rate change. The increased VBP per diem adjustments effective July 1, 2023, detailed above in (11)(F)3.A.(II) and shown in the accompanying QM Performance Measure table shall be used in this calculation. The SFY 2024 per diem adjustment of ten dollars and zero cents ($10.00) is not added to the facility's June 30, 2022, prospective rate and is not allocated and added to the cost component ceilings in performing this calculation. The SFY 2024 per diem adjustment of ten dollars and zero cents ($10.00) shall only be included in the rate once for each effective date, it is not a cumulative adjustment from one effective date to the next.

D. New nursing facilities. For new nursing facilities never previously certified for participation in the MO HealthNet program that need to have their prospective rate determined as set forth in subsection (11)(I), the SFY 2024 per diem adjustment of ten dollars and zero cents ($10.00) will be added to the facility's rate beginning July 1, 2023, in the same manner as detailed above in (12)(A)1.B and (12)(A)1.C.

AUTHORITY: sections 208.153, 208.159, 208.201, and 660.017, RSMo 2016. Emergency rule filed May 16, 2023, effective May 31, 2023, expired Nov. 26, 2023. Original rule filed May 16, 2023, effective Dec. 30, 2023.* ***Emergency amendment filed February 21, 2024, effective March 6, 2024, expired September 1, 2024. Amended: Filed February 21, 2024.***

**Original authority: 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991, 2007, 2012; 208.159, RSMo 1979; 208.201, RSMo 1987, amended 2007; and 660.017, RSMo 1993, amended 1995.*

PUBLIC COST: This emergency amendment will cost state agencies or political subdivisions approximately ninety-three million ninety-six thousand seven hundred twenty-nine dollars ($93,096,729) annually.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, P.O. Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*