

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, M/S S3-13-15  
Baltimore, MD 21244-1850



**Center for Medicaid, CHIP, and Survey & Certification (CMCSC)**

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Robert Hoffman, Secretary  
Agency of Human Services  
State of Vermont  
103 South Main Street  
Waterbury, VT 05676-1201

DEC 14 2010

RE: TN Vermont 10-006

Dear Mr. Hoffman:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 10-006. Effective July 1, 2010, this amendment revises the reimbursement methodology for nursing facility services. Specifically, there are two components: one is an inflation adjustment to the rates; and the second component is a reduction in the case-mix weights for the four lowest Vermont RUG-III case mix categories.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a), and 1923(g) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C. We are now ready to approve Medicaid State plan amendment 10-006 effective July 1, 2010. We are enclosing the CMS-179 and the amended plan pages.

If you have any questions, please call Novena James-Hailey at (617) 565-1291.

Sincerely,

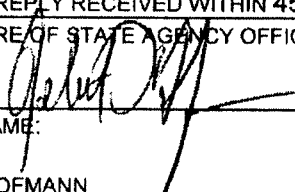
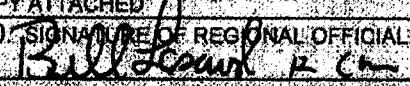
  
Cindy Mann  
Director (CMCSC)

Enclosures:

cc: Susan Besio, Director, OVHA

bcc: Richard McGreal, ARA, CMS Region I  
Joseph Barkas, Region I  
Irvin Rich, Region I  
Tim Weidler, NIRT  
Mark Cooley, NIRT  
Official SPA File

**INSTRUCTIONS FOR COMPLETING FORM HCFA-179**

<p align="center"><b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b></p> <p>FOR: HEALTH CARE FINANCING ADMINISTRATION</p>	<p>1. TRANSMITTAL NUMBER: <u>10 - 06</u></p>	<p>2. STATE: Vermont</p>
<p>TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE &amp; MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES</p>	<p>3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</p>	
<p>5. TYPE OF PLAN MATERIAL (CHECK ONE):</p> <p><input type="checkbox"/> NEW STATE PLAN      <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN      <input checked="" type="checkbox"/> AMENDMENT</p> <p align="center">COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>)</p>		
<p>6. FEDERAL STATUTE/REGULATION CITATION: 42 U.S.C. sec. 1396a(a)(13)</p>	<p>7. FEDERAL BUDGET IMPACT:</p> <p>a. FFY 2010 _____ (\$ 857,010) b. FFY 2011 _____ (\$ 2,449,633)</p>	
<p>8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  State of Vermont, Attachment 4.19D, Addendum A (cover page, page 4 and pages 43-44)</p>	<p>9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>):  cover page, page 4 and pages 43-44</p>	
<p>10. SUBJECT OF AMENDMENT: Methods, Standards and Principles for Establishing Medicaid Payment Rates for Long-Term Care Facilities</p>		
<p>11. GOVERNOR'S REVIEW (<i>Check One</i>):</p> <p><input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT      <input checked="" type="checkbox"/> OTHER, AS SPECIFIED  <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      <i>Health Care Fin. Admin.</i>  <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL</p>		
<p>12. SIGNATURE OF STATE AGENCY OFFICIAL: </p>	<p>16. RETURN TO:  AFSAR SULTANA DEPT. FOR CHILDREN AND FAMILIES ECONOMIC SERVICES DIVISION-PPR 103 SOUTH MAIN STREET Waterbury VT 05671-1201  (802) 241-3525</p>	
<p>13. TYPED NAME:  ROBERT HOFMANN</p>	<p>17. DATE RECEIVED:</p>	
<p>14. TITLE:  SECRETARY, AGENCY OF HUMAN SERVICES</p>	<p>18. DATE APPROVED: <u>12-14-10</u></p>	
<p>15. DATE SUBMITTED: <u>9/28/10</u></p>	<p><b>FOR REGIONAL OFFICE USE ONLY</b></p>	
<p>PLAN APPROVED - ONE COPY ATTACHED</p>		
<p>19. EFFECTIVE DATE OF APPROVED MATERIAL: <u>JUL 1 - 2010</u></p>	<p>20. SIGNATURE OF REGIONAL OFFICIAL: </p>	
<p>21. TYPED NAME: <u>William Lasowski</u></p>	<p>22. TITLE: <u>Deputy Director, CMCS</u></p>	
<p>23. REMARKS</p>		

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES  
DIVISION OF RATE SETTING

**METHODS, STANDARDS AND PRINCIPLES FOR  
ESTABLISHING MEDICAID PAYMENT RATES  
FOR LONG-TERM CARE FACILITIES**

JULY 2010

TN: 10-06  
SUPERSEDES  
TN: 09-08

Effective Date: 7/1/10

Approval Date: DEC 14 2010

delivering a copy of the document to the person or entity required to be served or to his or her representative or by sending a copy by prepaid first class mail to the official service address. Service by mail is complete upon mailing.

### 1.11 Representation in All Matters before the Division

(a) A facility may be represented in any matter under this rule by the owner (in the case of a corporation, partnership, trust, or other entity created by law, through a duly authorized agent), the nursing facility administrator, or by a licensed attorney or an independent public accountant.

(b) The provider shall file written notification of the name and address of its representative for each matter before the Division. Thereafter, on that matter, all correspondence from the Division will be addressed to that representative. The representative of a provider failing to so file shall not be entitled to notice or service of any document in connection with such matter, whether required to be made by the Division or any other person, but instead service shall be made directly on the provider.

### 1.12 Severability

If any part of these rules or their application is held invalid, the invalidity does not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

### 1.13 Effective Date

(a) These rules are effective from January 29, 1992, (as amended June 18, 1993, July 1, 1994, January 4, 1995, January 1, 1996, January 1, 1997, July 1, 1998, May 1, 1999, July 1, 1999, August 1, 1999, July 1, 2001, November 1, 2002, May 1, 2004, July 1, 2004, July 1, 2005, July 1, 2006, October 1, 2007, July 1, 2008, July 1, 2009 and July 1, 2010).

(b) Application of Rule: Amended provisions of this rule shall apply to:

(1) all cost reports draft findings issued on or after the effective date of the most recent amendment, and

(2) all rates set on or after the effective date of the most recent amendment.

(c) With respect to any administrative proceeding pending on the effective date of the most recent amendment the Director or the Secretary may apply any provision of such prior rules where the failure to do so would work an injustice or substantial inconvenience.

## 2 ACCOUNTING REQUIREMENTS

### 2.1 Accounting Principles

(a) All financial and statistical reports shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP), consistently applied, unless these rules authorize specific variations in such principles.

(b) The provider shall establish and maintain a financial management system which provides for adequate internal control assuring the accuracy of financial data, safeguarding of assets and operational efficiency.

(c) The provider shall report on an accrual basis. The provider whose records are not maintained on an accrual basis shall develop accrual data for reports on the basis of an analysis of the available documentation. In such a case, the provider's accounting process shall provide sufficient information to compile data to satisfy the accrued expenditure reporting requirements and to demonstrate the link between the accrual data reports and the non-accrual fiscal accounts. The provider shall retain all such documentation for audit purposes.

STATE <u>VT</u>	A
DATE REC'D _____	
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**Resident Day:** any day of services for which the facility is paid. For example, a paid hold day is counted as a resident day.

**Restricted Funds and Revenue:** funds and investment income earned from funds restricted for specific purposes by donors, excluding funds restricted or designated by an organization's governing body.

**RUGS III:** A systematic classification of residents in nursing facilities based upon a broad study of nursing care time required by groups of residents exhibiting similar needs.

**Secretary:** the Secretary of the Agency of Human Services.

**Special hospital-based nursing facility:** a facility that meets the following criteria: (a) is physically integrated as part of a hospital building with at least one common wall and a direct internal access between the hospital and the nursing home; (b) is part of a single corporation that governs both the hospital and the nursing facility; and (c) files one Medicare cost report for both the hospital and the nursing home.

**Standardized Resident Days:** Base Year resident days multiplied by the facility's average Case-Mix score for the base year.

**State nursing facilities:** facilities owned and/or operated by the State of Vermont.

**Swing-Bed:** a hospital bed used to provide nursing facility services.

## 17 TRANSITIONAL PROVISIONS

(a) For state fiscal year 2009 (July 1, 2008 through June 30, 2009), the methodology for calculating Medicaid rates for nursing facilities shall be modified as follows:

(1) The Division shall make a preliminary computation of the inflation factors for the Nursing, Director of Nursing, Resident Care and

Indirect cost categories for state fiscal year 2009 according to Section 5.8 of these rules.

(2) In setting the nursing facility Medicaid rates for state fiscal year 2009, the amount of the increase in inflation between rate years 2008 and 2009 shall be limited to one half of the difference between the inflation factors as used to calculate the rates for state fiscal year 2008 and those in the preliminary computation for state fiscal year 2009 as described in subparagraph (c)(1) of this subsection.

(b) For state fiscal year 2010 (July 1, 2009 through June 30, 2010), the Division shall modify its methodology for calculating Medicaid rates for nursing facilities by calculating the inflation factors for cost categories as follows:

(1) The Division shall inflate the Director of Nursing, Resident Care and Indirect cost categories using the same inflation percentages used to calculate the state fiscal year 2009 rates as described in paragraph (a) of this section. The Division will not apply any additional inflation to these cost categories for state fiscal year 2010.

(2) For the Nursing Care cost category, the Division shall first calculate the inflation percentage from calendar year 2007 to state fiscal year 2008. The Division shall next calculate the inflation percentage from calendar year 2007 to state fiscal year 2009. The difference in inflation between state fiscal year 2008 and state fiscal year 2009 shall be halved and this one-half difference will be added to the 2008 inflation to arrive at the inflation percentage to be used for the 2010 rate period. The Division will not apply any additional

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inflation to the Nursing Care cost category for state fiscal year 2010.

(c) For state fiscal year 2011 (July 1, 2010 through June 30, 2011), the Division shall modify its methodology for calculating Medicaid rates for nursing facilities as follows:

(1) Inflation. For state fiscal year 2011 rate setting, the Division shall calculate the incremental inflation amount between state fiscal years 2010 and 2011 for the Nursing Care, Director of Nursing, Resident Care and Indirect cost categories. The Division shall add that incremental inflation amount to the inflation percentages used in state fiscal year 2010 rate setting described in paragraph (b) of this section.

(2) Case-mix weights. For state fiscal year 2011 rate setting, the Division shall decrease by one-half the case-mix weights for the following Resource Utilization Groups: Impaired Cognition A (IA1), Challenging Behavior A (BA1), Reduced Physical Functioning A 2 (PA2) and Reduced Physical Functioning A 1 (PA1).

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DATE REC'D _____	
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DATE EFF _____	
HCFA 179 _____	

**OS Notification**

**State/Title/Plan Number:** Vermont 10-006

**Type of Action:** SPA Approval

**Required Date for State Notification:** December 27, 2010

**Fiscal Impact:**

FY 2010	(\$857,010) FFP
FY 2011	(\$2,449,663) FFP

**Number of Services Provided by Enhanced Coverage, Benefits or Retained Enrollment:** 0

**Number of Potential Newly Eligible People:** 0

**Eligibility Simplification:** No

**Provider Payment Increase:** No

**Delivery System Innovation:** No

**Number of People Losing Medicaid Eligibility:** 0

**Reduces Benefits:** No

**Detail:** Effective July 1, 2010, this amendment revises the reimbursement methodology for nursing facility services. Specifically, there are two components: one is a change in inflation, which increases the providers' rates from the previous year; and the second component is a reduction by one half in the case-mix weights of the four lowest Vermont RUG-III case-mix categories. The later component is done as an incentive to encourage the use of home and community based settings for residents with lower acuity, when appropriate. Providers are only affected if they have residents in these categories. Consequently, the net fiscal impact results in savings for both fiscal years 2010 and 2011.

**Other Considerations:** CMS is satisfied that the State has met all the Federal requirements. The state's response to the access questions is adequate. We are not aware of any issues with access to care. The State provided satisfactory responses to the funding questions. We do not recommend the Secretary contact the governor. This OSN has been reviewed in the context of the ARRA and approval of the OSN is not in violation of ARRA provisions.

**CMS Contact:** Novena James-Hailey, (617) 565-1291