State of New Hampshire
DEPARTMENT OF HEALTH AND HUMAN SERVICES
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NICHOLAS A. TOUMPAS
COMMISSIONER

February 3, 2015

Mr. John Poirier, President
New Hampshire Health Care Association
5 Sheep Davis Road, Suite E
Pembroke, New Hampshire 03275

Ms. Bronwyn Asplund-Walsh, President
New Hampshire Association of Counties
46 Donovan Street
Concord, New Hampshire 03301

Re: Department of Health and Human Services' SFY 2015 Reduction Plan

Dear Mr. Poirier and Ms. Asplund-Walsh:

I am writing to address a number of issues that have been raised with the Department over the past number of weeks by the New Hampshire Healthcare Association, several private nursing homes and all of the county governments regarding reimbursement of nursing services in New Hampshire. The issues concern the rates paid to the nursing homes and two recent actions by the Department with respect to those rates. The questions we have received can be summarized as follows:

A. Why did the Department decrease the Medicaid per diem rate of reimbursement for nursing facility services for the period beginning January 1, 2015, through June 30, 2015?

B. Why did the Department not pay out in additional rates a balance from SFY 14 of approximately $4.9M (in total funds) as contemplated by the State budget?

C. What is the status of the additional supplemental payments to the nursing homes?

D. What is the status of integrating nursing facility services in the State's Medicaid Care Management program?

I would like to address each of these issues directly:

A. Determination of Rates for Nursing Services: Recent Fluctuation

All nursing homes, whether private or county, receive two types of rates (a per diem rate and a quarterly rate based on the Nursing Facility Quality Assessment tax) to reimburse facilities for nursing home care. Both private and county homes receive a facility-specific per diem rate which is re-set twice a year, effective January 1 and July 1.

These rates are determined by utilizing an Acuity Based Rate System. Since the rates are facility specific, rates can vary by facility depending upon the acuity of the residents at the facility, the number of Medicaid residents as compared to the full census, and the costs incurred by the facility. Cost components include both direct care and non-direct care.

Over the last few rate cycles the average per diem, excluding any supplemental payments, of all facilities fluctuated. It is not uncommon to see fluctuations from July to January when rates are reset. In State Fiscal Year (SFY) 2014, the average facility saw a cumulative rate increase of 8.2%. This was at a time when all other providers, including community based providers serving the elderly, had little or no rate increases. Over the SFY 2014-2015 biennium, the average rates started at $151.77 and ended at $155.41, an overall rate increase for the biennium of 2.4%. In the period between July 1, 2014, and January 1, 2015, the average rate did decrease from $159.83 to $155.41 or 2.8%.

Rates dropped for a combination of reason, including adjustments in cost and acuity data that were reflected on nursing home cost reports and changes in utilization. Even if the additional $4.9 million was fully available to be paid out in additional rates, the rates would still have decreased from the prior July because of the increase in utilization.

Nursing home rates for the period between January 1, 2009, to January 1, 2015, are identified in the table below.

SFY	Rate Setting Period	Average Medicaid Rate	Increase (decrease)	% change		Estimated Medicaid Utilization used for rate setting
2010	7/1/2009	$ 150.98				4,370
	1/1/2010	$ 140.77	$ (10.21)	-6.8%		4,370
2011	7/1/2010	$ 137.51	$ (3.26)	-2.3%		4,370
	1/1/2011	$ 143.57	$ 6.06	4.4%		4,370
2012	7/1/2011	$ 148.00	$ 4.43	3.1%		4,320
	1/1/2012	$ 146.16	$ (1.84)	-1.2%		4,360
2013	7/1/2012	$ 145.48	$ (0.68)	-0.5%		4,400
	1/1/2013	$ 148.35	$ 2.87	2.0%		4,380
2014	7/1/2013	$ 151.77	$ 3.42	2.3%		4,380
	1/1/2014	$ 160.58	$ 8.81	5.8%	8.2%	4,290
2015	7/1/2014	$ 159.83	$ (0.75)	-0.5%		4,300
	Final effective 1/1/2015	$ 155.41	$ (4.42)	-2.8%		4,325
	* revised on 1/16/15					

Once the acuity rates by facility are calculated, the rates must then be adjusted to stay within the budgeted appropriations given to the Department. This is the so-called Budget Neutrality Factor (BNF). Since rates, in the aggregate, cannot exceed what the Legislature appropriates in the Department's budget, rates are adjusted to stay within the amount provided. When rates were set in July 2014, we expected the utilization to trend slightly upward and the Department based the BNF accordingly. During the January rate setting process, there was higher utilization than projected. The utilization increase meant that more funds were spent in the first 6 months than planned, leaving less than 50% of the budget to be available for the remaining of the current fiscal year. Since less of the budget is now available, the BNF for the rest of the year was increased.

In addition to per diem rates, all nursing homes receive a supplemental payment based upon the Medicaid Quality Incentive Payment Program (MQIP). This is paid to both private and county facilities quarterly and is funded 50% by the collections of the nursing home assessment of 5.5% of net patient revenue and 50% matched by federal Medicaid. As increases in utilization occur, facilities should see an increase in net patient revenue which would then be able to be matched with federal dollars and paid back out to facilities. The purpose of MQIP is to close the gap between the Medicaid payment and the facility costs.

County nursing homes receive an additional reimbursement called Proshare, which is paid annually in June. Proshare is intended to fund the gap between Medicaid and Medicare. Since traditionally county homes had a higher proportion and higher acuity of Medicaid clients, Proshare payments were established to offset the greater burden of nursing home care at county run facilities. As per diem rates decrease Proshare will increase to cover any gap between Medicaid and Medicare rates.

B. Determination and Carry Forward of Additional Nursing Home Rates in SFY 2015

Both private and public nursing homes, as well as members of the General Court, have questioned why the Department did not roll forward funds from SFY 14 into the rates for the period beginning January 1, 2015. At the end of SFY 2014, and before complying with the mandated appropriation reduction, there was nominally $4.9 million in total funds (representing $2.45 million in general funds) in the nursing home account. Even if this additional money was paid out in rates, the average rate would have been $159.17, which is still a decrease from the July 2014 nursing home rates of ($159.83). While historically we have adjusted rates in January for any surpluses, it's not required by law that we do so in any specific month.

On January 23, 2015, I appeared before the General's Court's Joint Fiscal Committee to provide a monthly update on the Department's major programs. As part of this update, I presented the Department's plan to resolve a $58 million dollar deficit in the SFY 15 budget. Both before and following this presentation, I have heard from private and public nursing homes, county officials and members of the General Court about the Department's decision to use unexpended funds in the nursing and home care accounts to achieve a $7 million general fund appropriation reduction mandated by the legislature in the current SFY 14-15 budget which contributes to the $58 million deficit that the Department must resolve.

The $7 million in general funds used to achieve the appropriations reduction consisted of $1.9 million in general funds from the nursing home account (of a total of $2.45 in general funds in that account) and $5.1 million in general funds from the home and community based care accounts. The balance of general funds in the nursing account of $500,000 was added into rates as described below.

It is important that the legislature, the nursing homes and county officials understand the Department's actions in resolving the SFY 15 deficit. The Department's SFY 15 deficit is the product of a number of circumstances, some of which were not within the Department's control and were outlined in the Fiscal Item presented on January 23rd. These included the following:

- Changes to Medicaid eligibility standards that resulted in the growth in caseloads by approximately 12,000 persons, which add up to an additional $20 million in State general fund obligations in SFY 15 and thereafter annually.
- Administrative and operational costs for the implementation of the New Hampshire Health Protection program of $5.7 million for SFY 15 that were not funded by the legislature.
- Requirement to fund the $5.9 million SFY 15 general fund cost of the Community Mental Health Agreement that was appropriated by the legislature only to the extent that there was unobligated revenue in the State treasury sufficient to cover this cost and, to date, there is no identified revenue in the treasury to cover these costs.
- Changes to the Department's information systems to meet federal requirements and for certification of the Medicaid Management Information System.
- Delayed implementation of the Medicaid Care Management program.
- The legislatively mandated appropriation reduction of $7 million.

The budget language requiring the $7 million appropriation reduction is as follows:

> "The department of health and human services is hereby directed to reduce state general fund appropriations by $7,000,000 for the biennium ending June 30, 2015. The department shall provide a quarterly report of reductions made under this section to the fiscal committee of the general court and the governor and council." 2013 Laws Chapter 143:10

In order to satisfy this legislative requirement, the Department reduced appropriations from balances brought forward into SFY 15 in the nursing home and home care accounts. This appropriation reduction is a biennial requirement and is appropriately taken from account balances that exist in one or both of State fiscal years 2014 and 2015. Because the legislature mandated the reduction as a biennial reduction, any final balance in accounts in either State fiscal year 2014 and 2015 cannot be determined until the $7 million reduction has been applied. The legislature did not restrict or otherwise specify from which accounts the reduction was to be made.

C. Status of Additional Rates to Nursing Homes

The monies remaining in the nursing home accounts following the appropriation reduction totaled approximately $1,000,000 in total funds (of which $500,000 was general funds). The $1,000,000 was included in nursing homes rates as additional rates in accordance with the Organizational Note in HB 1 (05 95 48 481510 5942). The organization note reads as follows:

> "The appropriations contained in classes 504, 505, 506, and 529 may only be transferred between and among said classes, and shall not lapse. Any balance remaining at the end of the fiscal year shall be paid as additional rates based upon the rate setting methodology in effect at the time."

The revised rates were published on January 16, 2015.

The SFY 15 reduction plan that was submitted to the Fiscal Committee on January 23, 2015, was a difficult but necessary plan to close the SFY 15 deficit, and it involved hard choices that touched almost every area within the Department.

The entire Department staff and its senior management have worked hard to address our budget shortfall so that the Department can continue its mission to provide opportunities for citizens to achieve health and independence. We will continue to work with the Governor, the legislature, county officials, local officials and stakeholders to prudently manage our budget.

D. Status of Integrating Nursing Services into the Medicaid Care Management Program

The legislative policy of implementing managed care for the State's Medicaid beneficiaries was established in June 2011 with the enactment of Senate Bill 147. At that time, the legislature recognized and continues to recognize several realities of long term care and health costs in New Hampshire:

- New Hampshire's population is aging.
- Medicaid expenditures for persons aged 65 and older are projected to increase by 50% by 2030.
- In New Hampshire, approximately 25% (the Elderly, those with Mental Illness and those with Intellectual and Developmental Disabilities) of the Medicaid population drives 75% of Medicaid expenditures.

In addition, it is becoming increasingly clear nationally that the only effective approach to health care for our citizens is a "whole person" approach that addresses all health care needs and provides true integration and coordination of care across the spectrum of care.

The Department has proceeded to implement the next phase of the Care Management Program which consists of mandating inclusion of all non-exempt persons into the program and integrating nursing and those receiving services under the Choices For Independence Waiver.

From July through October 2014, the Department held numerous stakeholder sessions for Step 2 of Care Management in which over 800 persons participated. Twelve of these sessions were focused solely on the integration of nursing and CFI services. Many nursing homes and community based care providers participated and have provided us with feedback and questions which helped frame a set of concepts for moving forward.

The Department takes seriously all of the feedback gained in these stakeholder sessions. As previously announced, based upon all of this feedback, the Department will put forward a specific plan for the integration of nursing and CFI services at a public hearing for further public review. A public hearing will be scheduled in the coming weeks. We believe that is an appropriate forum for all parties to weigh in on the plan before we finalize.

I remain committed to insuring the highest quality of the State's Care Management Program and for insuring our most vulnerable citizens are cared for.

I hope that this information is helpful in addressing the questions that have been raised about the status of nursing home rates and the integration of nursing services into the Care Management Program.

Should you have any additional questions, please do not hesitate to contact my office directly.

Sincerely,

Nicholas A. Toumpas
Commissioner

cc: Her Excellency, Governor Margaret Wood Hassan
The Honorable Colin Van Ostern
The Honorable Joseph D. Kenney
The Honorable David K. Wheeler
The Honorable Christopher T. Sununu
The Honorable Christopher C. Pappas
The Honorable Chuck Morse
The Honorable Shawn Jasper
The Honorable Neal Kurk
The Honorable Frank Kotowski
The Honorable Andy Sanborn
The Honorable Jeanie Forrester
The Honorable Members of the Joint Fiscal Committee
County Commissioners
County Nursing Home Administrators