

<h1 style="text-align: center;">Regulatory Analysis Form</h1>		<p style="text-align: center;">This space for use by IRRC</p> <p style="text-align: center;">2001 SEP -4 PM 3:34</p> <p style="text-align: center;">REGULATORY REVIEW COMMISSION</p>	
		<p>IRRC Number: <u>2214</u></p>	
<p>(1) Agency Department of Public Welfare Office of Medical Assistance Programs</p>			
<p>(2) I.D. Number (Governor's Office Use)</p>			
<p>(3) Short Title</p> <p>Transition Payments for county nursing facilities from January 1, 1999 through June 30, 2003</p>			
<p>(4) PA Code Cite</p> <p>55 Pa. Code Chapter 1187</p>		<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: Gail Weidman 705-3705</p> <p>Secondary Contact: Alice Gustitus 705-3705</p>	
<p>(6) Type of Rulemaking (Check One)</p> <p><input type="checkbox"/> Proposed Rulemaking</p> <p><input checked="" type="checkbox"/> Final Order Adopting Regulation</p> <p><input type="checkbox"/> Final Order, Proposed Rulemaking Omitted</p>		<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>This regulation change to 55 Pa. Code Chapter 1187, Section 1187.95 will authorize an extension of the transition payments to county nursing facilities for the period January 1, 1999 through June 30, 2003. These additional payments are the result of the Intergovernmental Transfer Agreement between the Commonwealth and the County Commissioners Association.</p>			
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>Public Welfare Code, 62 P.S. Section 201(2)</p>			

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The transition payments to county nursing facilities are authorized in the Intergovernmental Transfer agreements between the county commissioners and the Department of Public Welfare.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

None.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Transition rates are paid to county nursing facilities .

As per the 1997-1998 Intergovernmental Transfer (IGT) agreement, funds shall be allocated for payment of a transition rate to county nursing facilities for the period January 1, 1999 through June 30, 1999. As per the 1998-1999 IGT agreement, funds shall be allocated for payment of a transition rate to county nursing facilities for the period July 1, 1999 through June 30, 2003.

There are 41 county nursing facilities in Pennsylvania.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No adverse effects anticipated.

(15) List the person, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

No one will be required to comply with this regulation. This is a transition rate paid to county nursing facilities as authorized in the Intergovernmental Transfer agreements.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

This change is in response to the 1997-1998 and 1998-1999 Intergovernmental Transfer (IGT) agreements between the Department and certain county nursing facilities.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The purpose of this regulation change is to extend the timeframe for transition payments to county nursing facilities for the period January 1, 1999, to June 30, 2003. The IGT agreements provide for this payment.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

(Dollar Amounts In Thousands)

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:						
Regulated Community						
Local Government						
State Government						
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community						
Local Government						
State Government	\$2,641	\$1,584	\$1,056	\$0	\$0	\$0
Total Costs	\$2,641	\$1,584	\$1,056	\$0	\$0	\$0
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the estimates listed above were derived.

The cost estimate is based on instances where the transition rates for county nursing facilities are higher than the case-mix rate for each respective quarter of the facility transition rate for the period January 1, 1999, through June 30, 2003.

Regulatory Analysis Form

(20b) Provide the past three years expenditure history for programs affected by the regulation.
 (Dollar Amounts in Thousands)

Program	FY -3	FY -2	FY -1	Current FY
MA-Long Term Care	\$617,252	\$721,631	\$693,625	\$793,246

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

This regulation helps county facilities adjust to the impact of the new Minimum Data Set (MDS) 2.0 in the case-mix rates. These transition rates enable facilities to avoid a precipitous drop in payment rates and avoid any potential resident care issues.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY - 2	FY - 1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory alternatives were not considered. Currently, transition rate payments to county nursing facilities are found at 55 Pa. Code 1187. In order to extend the time period for these payments from January 1, 1999 through June 30, 2003, a regulatory process must be followed.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternatives were considered.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulation will not disadvantage the Commonwealth.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Yes. This is an extension of the transition payments for county nursing facilities to June 30, 2003. Currently, 55 Pa. Code Chapter 1187, Section 1187.95 only allows these payments through December 31, 1998.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

This information was published in the *Pennsylvania Bulletin* at 29 Pa.B. 3265 (June 26, 1999).

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attached copies of forms or reports which will be required as a result of implementation, if available.

This regulation change will not affect reporting, record keeping, or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The effective date of the regulation will be the date of publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

2001 SEP -6 PM 3:35
REVIEW COMMISSION

#2214

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Department of Public Welfare
(Agency)

LEGAL COUNSEL: Kathleen Grogan

DOCUMENT/FISCAL NOTE NO. 14-468

DATE OF ADOPTION: _____

BY: D. H. [Signature]

TITLE: Secretary of Public Welfare
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: [Signature]

3/6/01
Date of Approval

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF FINAL RULEMAKING WITHOUT PUBLICATION AS PROPOSED
DEPARTMENT OF PUBLIC WELFARE
OFFICE OF MEDICAL ASSISTANCE PROGRAMS

(55 PA CODE CHAPTER 1187)

General Principles for rate and price setting

Statutory Authority

The Department of Public Welfare, Office of Medical Assistance Programs, by this Order, adopts the amendment to 55 Pa. Code Chapter 1187 (relating to transition rates for county nursing facilities). The amendment is set forth in Annex A and is adopted under the authority of Section 201 of the Public Welfare Code, (62 P.S. § 201(2)).

Notice of proposed rulemaking is omitted in accordance with Section 204(1)(iv) and (3) of the Act of July 31, 1968 (P.L. 769, No. 240), (45 P.S. § 1204(1)(iv) and (3)), known as the Commonwealth Documents Law, and 1 Pa. Code § 7.4(1)(iv) and (3). Section 204(1)(iv) and (3) and § 7.4(1)(iv) and (3) provides that an agency may omit notice of proposed rulemaking when the amendment relates to Commonwealth grants or benefits or where circumstances render it impractical, unnecessary or contrary to public interest.

Purpose of Regulation

This regulation will extend the timeframe for transition payments to county nursing facilities for the period January 1, 1999 to June 30, 2003, only. The transition payments concern Commonwealth benefits to Medical Assistance (MA) recipients residing in county nursing facilities. The transition payments were negotiated between the Department and the County Commissioner Association of Pennsylvania (CCAP). CCAP membership consists of all affected county nursing facilities who are aware of, and in agreement with, the transition payments provided by this rulemaking.

Need for Regulation

The Intergovernmental Transfer (IGT) agreement for FY 1997-1998 provides that a transition rate for county nursing facilities shall be extended to include the period January 1, 1999 to June 30, 1999. The IGT agreement for FY 1998-1999 provides that a transition rate for county nursing facilities shall be extended to include the period July 1, 1999 through June 30, 2003. Based on these IGT agreements, State Plan Amendments were submitted and approved. Transmittal number 99-007 -- *Extension of County Transition Rates from January 1, 1999 through June 30, 1999* (approved by the Health Care Financing Administration on June 30, 1999) and Transmittal number 99-009 -- *Extension of County Nursing Facility Transition Rates for the Period July 1, 1999 through June 30, 2003* (approved by the Health Care Financing Administration on December 22, 1999).

Requirements

Section 1187.95 is being amended to include the extension of the transition payments for county nursing facilities from January 1, 1999 through June 30, 2003.

Affected Organizations

County nursing facilities participating in the Pennsylvania Medical Assistance program are eligible to receive transition payments.

Fiscal Impact

Public Sector

The Commonwealth

The Department will see a continuation of the transition payments to county nursing facilities through June 30, 2003.

Political Subdivisions

No impact is anticipated

Private Sector

No impact is anticipated

General Public

No impact is anticipated

Paperwork Requirements

There should be no increase in paperwork requirements.

Effective Date

This amendment shall take effect January 1, 1999.

Sunset Date

There is no sunset date for this regulation.

Public Comments

Although this regulation is being adopted without prior notice, interested persons are invited to submit their written comments within 30 days from the date of this publication for consideration by the Department as to whether the regulation should be revised. Such comments should be sent to the Department of Public Welfare, Office of Medical Assistance Programs, Attention: Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, Pennsylvania 17105.

Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (Voice users). If you require another alternative, please contact Tom Vracarich in the Office of Legal Counsel at (717) 782-2209.

Regulatory Review

Under Section 5(f) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. Sections 745.1 - 745.15), the agency submitted a copy of this regulation with proposed rulemaking omitted on ~~SEP 04 2007~~ to the Independent Regulatory Review Commission and to the Chairperson of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of the Attorney General for review and approval pursuant to the Commonwealth Attorneys Act. In accordance with Section 5(c) of the Act, this regulation was approved by the Committees on and was approved by the Commission on

The Department of Public Welfare finds:

- a. That notice of proposed rulemaking is omitted because this regulation relates to Commonwealth grants and benefits and notice of proposed rulemaking is unnecessary and contrary to public interest under Sections 204(1)(iv) and (3) of the Act No. 240 of July 31, 1968, P.L. 767 (45 P.S. § 1204(1)(iv) and (3)) and the regulations thereunder, 1 Pa. Code § 7.4(1)(iv) and (3).
- b. That the adoption of this regulation in the manner provided in this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code, Act of June 13, 1967 (P.L. 31, Act 21) § 443.1(2) and (3) (62 P.S. § 443.1(2) and (3)).

The Department of Public Welfare, acting pursuant to the authority of the Public Welfare Code, orders:

- a. The regulations of the Department of Public Welfare are amended to read as set forth in Annex A to this Order.
- b. The Secretary of the Department of Public Welfare shall submit this Order and Annex A hereto to the Attorney General and General Counsel for approval as to legality and form as required by law.
- c. The Secretary of the Department of Public Welfare shall duly certify this Order and Annex A hereto and deposit same in the Legislative Reference Bureau as required by law.
- d. This order shall take effect upon publication in the Pennsylvania Bulletin.

ANNEX A

Title 55. Public Welfare

Chapter 1187. Nursing Facility Services

* * * * *

§ 1187.95. General principles for rate and price setting.

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6. For the period January 1, 1999 through June 30, 1999, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (5), trended forward six months from January 1, 1999 to June 30, 1999 by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 1998 issue of the DRI McGraw-Hill publication "Health Care Costs."

7. For the period July 1, 1999 through June 30, 2000, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (6), trended forward nine months by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 1998 issue of the DRI McGraw-Hill publication "Health Care Costs."

8. For the period July 1, 2000 through June 30, 2001, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (7), trended forward twelve months by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 1999 issue of the DRI McGraw-Hill publication "Health Care Costs."

9. For the period July 1, 2001 through June 30, 2002, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (8), trended forward twelve months by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 2000 issue of the DRI McGraw-Hill publication "Health Care Costs."

10. For the period July 1, 2002 through June 30, 2003, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (9), trended forward twelve months by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 2001 issue of the DRI McGraw-Hill publication "Health Care Costs."

11. For the period January 1, 1996, through June 30, 1996, general nursing facilities other than hospital-based, special rehabilitation and county nursing facilities, will be provided a transition rate. The transition rate for each general nursing facility for each calendar quarter during the time period January 1, 1996, through June 30, 1996, will be the higher of the facility case-mix rate for that quarter or a July 1, 1994, facility blended rate. The facility blended rate is a composite of the skilled care and intermediate care interim per diem rates in effect on July 1, 1994, weighted by the reported MA days associated with the respective acuity levels.

§ 1187.96. Price and rate setting computations.

* * * * *

*Please sign all copies -
Deliver to IRRC - 14th Fl.
Harrisburg PA*

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 14-468
 SUBJECT: General Principles for Rate and Price Setting
 AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9-4-01	<i>[Signature]</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
9-4-01	<i>Margaret Pelletier</i>	
9/4/01	<i>Karoti Krishna</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
9-4-01	<i>Sandy Ruff</i>	
9/4/01	<i>Elena Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
9-4-01	<i>Mary Mummert</i>	ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

March 7, 2001