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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

January 12, 2011

Honorable Michael Nardone, Acting Secretary
Department of Public Welfare
333 Health and Welfare Building
Harrisburg, PA 17120

Re: Regulation #14-520 (IRRC #2881)
Department of Public Welfare
Transition to RUG-III Version 5.12 and Latest Assessment

Dear Acting Secretary Nardone:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. We will send a copy to the new Standing Committees when they are designated.

If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director

Enclosure

cc: Robert A. Mulle, Esq., Office of Attorney General
Andrew Clark, Esq., Office of General Counsel

Comments of the Independent Regulatory Review Commission



Department of Public Welfare Regulation #14-520 (IRRC #2881)

Transition to RUG-III Version 5.12 and Latest Assessment

January 12, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the November 13, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Public Welfare (Department) to respond to all comments received from us or any other source.

1. Section 1187.93. CMI calculations. – Implementation procedures; Clarity.

This regulation amends the Department's payment methodology to phase-in the use of a new classification system and the most recent resident assessments in determining the case-mix indices that are used in setting case-mix per-diem rates for non-public nursing facilities and in making certain incentive payments to county nursing facilities. In the proposed regulation, the Department applies rate settings to past rate years and quarters, in particular beginning with July 1, 2010. The Department needs to clarify how the new rates applied to these periods will occur retroactively. Similar concerns apply to Section 1187.96, Section 1187.97, Appendix A, and Section 1189.105.

**Facsimile Cover Sheet**

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To: Ruth D. O'Brien, Senior Assistant Counsel
Jennifer Whare, Assistant Counsel
Lisa Benedetto, Secretary to Ms. O'Brien
Stephanie Schubert

Agency: Department of Public Welfare
Phone: 3-2201; 3-2800; 3-2201; 7-4063
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Date: 01/12/11
Pages: 3

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Comments: We are submitting the Independent Regulatory Review Commission's comments on the Department of Public Welfare's regulation #14-520 (IRRC #2881). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by:

C. Harris

Date:

1-12-2011