

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

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MAR - 6 2014

INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number: 3016

(1) Agency
Department of Public Welfare
Office of Long-Term Living

(2) Agency Number:
Identification Number: 14-537

(3) PA Code Cite:
55 Pa.Code Chapter 1187

(4) Short Title:
Payment for Nursing Facility Services Provided by Special Rehabilitation Nursing Facilities

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Judith Patrick
Email: judpatrick@pa.gov
Phone: (717) 705-3705

Secondary Contact: Marilyn Yocum
Email: myocum@pa.gov
Phone: (717) 772-2549

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
 Final Regulation
 Final Omitted Regulation

- Emergency Certification Regulation;
 Certification by the Governor
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This final-form regulation changes the Department's methods and standards for payment of Medical Assistance (MA) nursing facility services provided by Special Rehabilitation Facilities (SRFs), effective November 1, 2011. The Department uses peer groups, peer group medians and peer group prices to determine case-mix rates for nonpublic nursing facilities for each state fiscal year. SRFs are assigned to Peer Group (PG) 13. The amendment establishes two different formulae for calculating peer group medians and prices for PG 13.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The Department has the authority under the Public Welfare Code (62 P. S. §§ 201(2), 206(2), 403(b) and 443.1).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This final-form regulation is not mandated by any federal or state law, regulation or court order.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The final-form regulation is needed to amend the regulations to provide for a distinct method of calculating peer group medians and prices between the initial four SRFs and the facilities classified as SRFs after 2000.

This final-form rulemaking primarily affects the four nursing facilities classified as SRFs in the MA Program on or before July 1, 2000. Other nonpublic nursing facilities may see a minimal positive impact estimated to be an average of 7¢ per bed day or \$2,006 per nonpublic nursing facility for Fiscal Year (FY) 2012-2013 and beyond. This change does not adversely impact the facilities classified as SRFs after July 1, 2000.

In addition, this change is consistent with the currently approved State Plan. State Plan Amendment (SPA) 11-028 was submitted by the Department on December 28, 2011. It was approved by the Centers for Medicare and Medicaid Services (CMS) on March 13, 2012, and effective November 1, 2011.

This change also ensures that the Commonwealth's MA nursing facility residents with chronic impairments continue to have access to medically necessary nursing facility services.

(11) 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 regulations.

There are no provisions that are more stringent than Federal law.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This regulation is consistent with the Department's ongoing efforts to ensure that MA recipients continue to receive access to medically necessary nursing facility services. Pennsylvania will not be competing with other states, as this final-form regulation relates to payment rates for SRFs enrolled in the MA Program located in this Commonwealth.

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

This regulation will not affect any other existing or proposed regulations of the Department or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Department published a notice in the *Pennsylvania Bulletin* at 40 Pa.B. 7441 (December 25, 2010), proposing to change its methods and standards for payment of MA nursing facility services provided by SRFs. On October 29, 2011, the Department published a subsequent public notice superseding the notice published at 40 Pa.B. 7441. This second notice announced that the Department was considering changing its methods and standards for payment of MA nursing facility services provided by SRFs.

During the 30-day public comment period for the notice published October 29, 2011, one comment was received from Pennsylvania Health Care Association (PHCA). PHCA expressed concern that without additional funding this proposed change in rate methodology would redistribute dollars away from the other nonpublic nursing facilities with the application of the budget adjustment factor (BAF). They requested that the public notice be republished to reflect the impact on varying groups of nursing facilities instead of the aggregate. A similar comment was also received from LeadingAge PA immediately following the public comment period.

As provided in the response to question #15, this rulemaking will primarily affect the four nursing facilities classified as SRFs in the MA Program on or before July 1, 2000. Other nonpublic nursing facilities may see a minimal positive impact estimated to be an average of 7¢ per bed day or \$2,006 per nonpublic nursing facility for FY 2012-2013 if rates for the four initial SRFs remain lower under this methodology than the existing methodology.

Also, on December 13, 2011, the proposed change in rate methodology was discussed with members of the Long-Term Care Delivery System Subcommittee of the Medical Assistance Advisory Committee (LTC Sub). In addition, no public comments were received regarding the proposed rulemaking.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

There are approximately 618 nursing facilities (589 nonpublic and 29 county) in Pennsylvania enrolled in the MA Program. Using full year MA-11s (cost reports) available as of July 30, 2012 and grouping the nursing facilities by common ownership, 150 nonpublic nursing facilities, one of which is a SRF, had annual receipts of less than \$25.5 million and thus were identified as small businesses. See 13 CFR §§ 121.201 (relating to small business size standards) and 121.104 (relating to Small Business Administration calculation of annual receipts). Revenue data from cost reports was substituted for revenue data from federal tax returns in the determination of annual receipts. All nursing facilities enrolled in the MA Program are required to submit an MA-11 form as directed in Chapter 1187, Subchapter F (relating to cost reporting and audit requirements) and Chapter 1189, Subchapter C (relating to cost reporting and audit requirements). Cost reports are typically submitted on an annual basis and cover a 12-month period. They contain financial and statistical report schedules which are used in setting per diem rates.

This final-form rulemaking primarily affects the four nursing facilities classified as SRFs in the MA Program on or before July 1, 2000. This final-form rulemaking has the potential to affect the other nonpublic nursing facilities that participate in the MA Program. This is because the Department uses a budget adjustment factor (BAF) to confine rates to the amounts appropriated by the General Assembly for MA payments. Therefore, any change in the SRF's rates will result in a corresponding change in the rates of the other nonpublic nursing facilities.

Although 25% of nursing facilities are identified as a small business, all the nonpublic nursing facilities (with the exception of the initial SRFs) may see a minimal positive impact. This change in rate methodology will provide three of the four initial SRFs, including the SRF identified as a small business, an estimated additional \$0.736 million in revenue for the period November 1, 2011 thru June 30, 2012. For FY 2012-2013 and beyond, this change in rate methodology will provide an estimated decrease of \$1.191 million in revenue for the initial four SRFs. Also, there are no additional reporting requirements under this final-form regulation.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

This final-form regulation affects nursing facilities enrolled in the MA Program classified as SRFs. Currently, there are eight SRFs in total.

There are approximately 618 nursing facilities (589 nonpublic and 29 county) in Pennsylvania enrolled in the MA Program. Of the 618 nursing facilities, 150 were identified as small businesses, one of which is a SRF. (See the response to question #15 for more details.)

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

This final-form rulemaking primarily affects the initial SRFs, one of which is a small business, enrolled in the MA Program. This change in rate methodology will provide three of the four initial SRFs, including the SRF identified as a small business, an estimated additional \$0.736 million in revenue for the period November 1, 2011 thru June 30, 2012. For FY 2012-2013 and beyond, this change in rate methodology will provide an estimated decrease of \$1.191 million in revenue for the initial four SRFs. This change does not adversely impact the facilities classified as SRFs after July 1, 2000. Other nonpublic nursing facilities may see a minimal positive impact estimated to be an average of 7¢ per bed day or \$2,006 per nonpublic nursing facility for FY 2012-2013 if rates for the four original SRFs remain lower under this final-form methodology than the existing methodology.

This change provides a distinct method of calculating peer group medians and prices between the initial four SRFs and the facilities classified as SRFs after 2000. In addition, this change ensures that MA residents with chronic impairments continue to have access to medically necessary nursing facility services.

Finally, this change aligns MA payment methodology to the currently approved State Plan. State Plan Amendment (SPA) 11-028 was submitted by the Department on December 28, 2011. It was approved by the Centers for Medicare and Medicaid Services on March 13, 2012, and effective November 1, 2011.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

This change provides a distinct method of calculating peer group medians and prices between the initial four SRFs and the facilities classified as SRFs after 2000. In addition, this change ensures that MA residents with chronic impairments continue to have access to medically necessary nursing facility services.

Finally, this change aligns MA payment methodology to the currently approved State Plan. SPA 11-028 was submitted by the Department on December 28, 2011. It was approved by the Centers for Medicare and Medicaid Services on March 13, 2012, and effective November 1, 2011.

(19) 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. Explain how the dollar estimates were derived.

The fiscal impact to the regulated community for the period November 1, 2011 through June 30, 2012 is a \$ 0.736 million (\$0.331 million in state funds) increase in nursing facilities' rates. There is no fiscal impact associated with this rulemaking for FY 2012-2013 and beyond. Adjustments to peer groups do not have a fiscal impact because of the Budget Adjustment Factor (BAF). The application of a BAF in the nursing facility rate setting process ensures that nursing facility payment rates are limited to the percentage rate of change permitted by the funds appropriated by the General Assembly. The fiscal impact will remain budget neutral as long as the BAF continues to be reauthorized; Act 55 of 2013 extends use of a BAF through June 30, 2016. Additional funding was added to the 2011-2012 nursing facility appropriation so that this change in peer group methodology would not be a factor in the quarterly BAF calculations for the period November 1, 2011 through June 30, 2012 as specified in the Commonwealth's currently approved State Plan.

An explanation of how the dollar estimates were derived is provided in the response to question #21.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This final-form regulation will not have any cost or savings impact on local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The estimated cost to the state government for the change in payment rates related to the SRFs for the period November 1, 2011 through June 30, 2012 is \$0.331 million in State funds. For FY 2012-2013 and beyond, the fiscal impact will remain budget neutral as long as the BAF continues to be reauthorized; Act 55 of 2013 extends use of a BAF through June 30, 2016. Additional funding was added to the 2011-2012 nursing facility appropriation so that this change in peer group methodology would not be a factor in the quarterly BAF calculations for the period November 1, 2011 through June 30, 2012 as specified in the Commonwealth's currently approved State Plan.

The dollar estimate for the period November 1, 2011 through June 30, 2012 was derived by comparing each of the initial four SRFs' MA payment rates calculated using the methodology currently in effect and their MA payment rates calculated as if the methodology was final for the same time period. The difference between the two rates was multiplied by an estimated number of paid MA days for the defined period. The resulting amount reflected the expected difference in total MA payments caused by the change in methodology. The state portion of that total payment was calculated as 100% minus the estimated federal medical assistance percentage. This state portion percentage was then multiplied by the total payments to result in the estimated cost to state government for FY 2011-2012.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No new reports, forms, recordkeeping or paperwork are required by this regulation.

Paul Byrd 11-7-13

(23) 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.

	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	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community						
Local Government						
State Government	\$331	\$0	\$0	\$0	\$0	\$0
Total Costs	\$331	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government						
State Government						
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Long-Term Care	672,597	540,266	728,907	737,356

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

This final-form regulation primarily affects nursing facilities classified as SRFs on or before July 1, 2000 enrolled in the MA Program. This change in rate methodology will provide three of the four initial SRFs, including the SRF identified as a small business, an estimated additional \$0.736 million in revenue for the period November 1, 2011 thru June 30, 2012.

For FY 2012-2013 and beyond, this change in rate methodology provides an estimated decrease of \$1.191 million in revenue for the initial four SRFs. This change provides a distinct method of calculating peer group medians and prices between the initial four SRFs and the facilities classified as SRFs after 2000.

(a) There are approximately 618 nursing facilities (589 nonpublic and 29 county nursing facilities) in Pennsylvania enrolled in the MA Program. Of the 618 nursing facilities enrolled in the MA Program, 150 were identified as small businesses, one of which is a nursing facility classified as a SRF on or before July 1, 2000.

(b) No new reports, forms, recordkeeping or paperwork by nursing facilities is required under this final-form regulation.

(c) Although 25% of nursing facilities are identified as a small business, all the nonpublic nursing facilities (with the exception of the four nursing facilities classified as SRFs on or before July 1, 2000, one of which is a small business) may see a minimal positive impact as stated in question #15. This change in rate methodology will provide three of the four initial SRFs, including the SRF identified as a small business, an estimated additional \$0.736 million in revenue for the period November 1, 2011 thru June 30, 2012. For FY 2012-2013 and beyond, this change in rate methodology will provide an estimated decrease of \$1.191 million in revenue for the initial four SRFs.

(d) There are no less intrusive or less costly alternative methods of achieving the purpose of the final-form regulation. This change is consistent with the currently approved State Plan.

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

A significant majority of the MA recipients receiving care in a nursing facility are older adults, and the overall impact of the regulation on that group is beneficial.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Although an alternative methodology was considered, no alternative regulatory provisions were developed. Notice of the alternative methodology was published at 40 Pa.B. 7441(December 25, 2010). The current methodology was agreed upon by the initial four SRFs.

In addition, this change is consistent with the currently approved State Plan. State Plan Amendment (SPA) 11-028 was submitted by the Department on December 28, 2011. It was approved by the Centers for Medicare and Medicaid Services (CMS) on March 13, 2012, and effective November 1, 2011.

The provisions effectively support the goals of the Department by providing access to quality care for MA recipients.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

This change aligns MA payment methodology to the currently approved State Plan. SPA 11-028 was submitted by the Department on December 28, 2011. It was approved by CMS on March 13, 2012, and effective November 1, 2011.

There are approximately 618 nursing facilities (589 nonpublic and 29 county nursing facilities) in Pennsylvania enrolled in the MA Program. Using full year MA-11s (cost reports) available as of July 30, 2012, and grouping the nursing facilities by common ownership, 150 nonpublic nursing facilities, one of which is a SRF, had annual receipts of less than \$25.5 million and thus identified as small businesses.

Although 25% of nursing facilities are identified as a small business, all the nonpublic nursing facilities (with the exception of the four nursing facilities classified as SRFs on or before July 1, 2000, one of which is a small business) may see a minimal positive impact as stated in question #15.

No new reports, forms, recordkeeping or paperwork by nursing facilities is required under this final-form regulation.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data other than what is used in the rate determination was considered. The data elements necessary to calculate rates are located at:
<http://www.dpw.state.pa.us/provider/doingbusinesswithdpw/longtermcarecasemixinformation/index.htm>.

(29) Include a schedule for review of the regulation including:

- | | |
|---|--------------------------|
| A. The date by which the agency must receive public comments: | <u>September 9, 2013</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>Not applicable</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>May 3, 2014</u> |
| D. The expected effective date of the final-form regulation: | <u>November 1, 2011</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>November 1, 2011</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>Not applicable</u> |

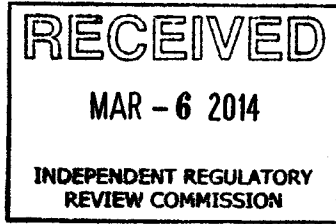
(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Department will review the regulation on an ongoing basis to ensure compliance with Federal and State law and to assess the appropriateness and effectiveness of the regulation. In addition, specific regulatory issues raised by members of the Medical Assistance Advisory Committee (MAAC) and the Long-Term Care Delivery System Subcommittee of the MAAC are researched and addressed as needed. The Department will also monitor the impact of these regulations through regular audits and utilization management reviews to determine the effectiveness of the regulations on consumers of long-term care services and the industry.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)



DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF PUBLIC WELFARE (Agency)</p> <p>LEGAL COUNSEL: <u>Edward J. Murray</u></p> <p>DOCUMENT/FISCAL NOTE NO. <u>14-537</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Beverly Mackintosh</u></p> <p>TITLE: <u>SECRETARY OF PUBLIC WELFARE</u> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>[Signature]</u></p> <p>FEB 25 2014 _____ Date of Approval</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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NOTICE OF FINAL-FORM RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF LONG-TERM LIVING

[55 Pa.Code Chapter 1187 Nursing Facility Services]

Payment for Nursing Facility Services Provided by Special Rehabilitation Nursing Facilities

Statutory Authority

The Department of Public Welfare (Department); by this order, adopts the amendments set forth at 43 Pa.B. 4599 (August 10, 2013) under the authority of sections 201(2), 206(2), 403(b) and 443.1 of the Public Welfare Code (62 P. S. §§ 201(2), 206(2), 403(b) and 443.1).

Purpose of Regulation

The purpose of this final-form rulemaking is to amend § 1187.94 (relating to peer grouping for price setting) to provide for a distinct method of calculating peer group medians and prices between the initial four Special Rehabilitation Facilities (SRFs) and the facilities classified as SRFs after 2000.

The final-form rulemaking is needed to amend the manner in which the peer group medians and peer group prices are set for facilities classified as SRFs as defined in § 1187.2 (relating to definitions).

Summary

A complete description of the amendment was published at 43 Pa.B. 4599.

Affected Individuals and Organizations

This final-form rulemaking primarily affects the initial SRFs enrolled in the Medical Assistance Program. This change in rate methodology provides three of the four initial SRFs an estimated additional \$0.736 million in revenue for the

period November 1, 2011 through June 30, 2012. For fiscal year 2012-2013 and beyond, this change in rate methodology provides an estimated decrease of \$1.191 million in revenue for the initial four SRFs. Other nonpublic nursing facilities may see a minimal positive impact estimated to be an average of 7¢ per bed day or \$2,006 per nonpublic nursing facility. This change does not adversely impact the facilities classified as SRFs after July 1, 2000.

Accomplishments and Benefits

This rulemaking provides a distinct method of calculating peer group medians and prices between the initial four SRFs and the facilities classified as SRFs after 2000. In addition, this change ensures that residents with chronic impairments continue to have access to medically necessary nursing facility services.

Fiscal Impact

The estimated fiscal impact to the Commonwealth for the change in payment rates related to the initial four special rehabilitation nursing facilities for the period November 1, 2011 through June 30, 2012 is \$0.331 million in State funds. There is no fiscal impact associated with this rulemaking for FY 2012-2013 and beyond. Adjustments to peer groups do not have a fiscal impact because of the Budget Adjustment Factor (BAF).

Paperwork Requirements

There are no new or additional paperwork requirements needed to comply with the final-form rulemaking.

Public Comment

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of the proposed rulemaking. No public comments were received within the 30-day time frame. The Independent Regulatory Review Commission (IRRC) did not comment on the proposed amendments.

Regulatory Review Act

Under § 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on **MAR 06 2014**, the Department submitted a copy of this final-form rulemaking to the IRRC and to the Chairpersons of the House Committee on Human Services and the Senate Committee on Public Health and Welfare. No comments were received on the proposed amendments.

In accordance with § 5.1(j.1) and (j.2) of the Regulatory Review Act, this final-form regulation was deemed approved by the Committees on _____ . IRRC met on _____ and approved the regulation.

In addition to submitting the final-form rulemaking, the Department provided the IRRC and the Committees with a copy of a Regulatory Analysis

Form prepared by the Department. A copy of this form is available to the public upon request.

Order

The Department finds:

- (a) The public notice of intention to amend the administrative regulation by this Order has been given pursuant to §§ 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202) and the regulations at 1 Pa.Code §§ 7.1 and 7.2.
- (b) That the adoption of this regulation in the manner provided by this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

The Department acting pursuant to §§ 201(2), 206(2), 403(b) and 443.1 of the Public Welfare Code orders:

- (a) The regulation of the Department is amended to read as set forth at 43 Pa.B. 4599 on August 10, 2013.
- (b) The Secretary of the Department shall submit this Order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.
- (c) The Secretary of the Department shall certify and deposit this Order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect November 1, 2011.

Annex A

TITLE 55. PUBLIC WELFARE

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1187. NURSING FACILITY SERVICES

Subchapter G. RATE SETTING

§ 1187.94. Peer grouping for price setting.

To set net operating prices under the case-mix payment system, the Department will classify the nursing facilities participating in the MA Program into 14 mutually exclusive groups as follows:

* * * * *

(2) To set net operating prices under the case-mix payment system, the Department will classify the nursing facilities participating in the MA Program that meet the definition of a special rehabilitation facility into one peer group, peer group number 13.

Regardless of the number of facilities in this peer group, the Department will not collapse the peer group of special rehabilitation facilities.

(i) Effective November 1, 2011, the Department will establish peer group medians and prices for facilities classified as special rehabilitation facilities on or before July 1, 2000, by using data from only the nursing facilities classified as special rehabilitation facilities on or before July 1, 2000.

(ii) Effective November 1, 2011, the Department will establish peer group medians and prices for facilities classified as special rehabilitation facilities after July 1, 2000, by using data from all nursing facilities classified as special rehabilitation facilities.

(3) To set net operating prices under the case-mix payment system, the Department will classify the nursing facilities participating in the MA Program that meet the definition of a hospital-based nursing facility into one peer group, peer group number 14. Regardless of the number of facilities in this peer group, the Department will not collapse the peer group of hospital-based nursing facilities.

* * * * *

IROR

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

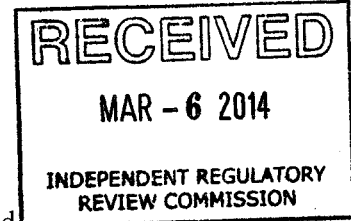
I.D. NUMBER: 14-537

SUBJECT: PAYMENT FOR NURSING FACILITY SERVICES PROVIDED BY SPECIAL REHABILITATION NURSING FACILITIES

AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- Proposed Regulation
- X 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



DELIVERY OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<i>HOUSE COMMITTEE ON HEALTH SERVICES OR HUMAN SERVICES</i>
X 3/6/14	<u>Pam Huss</u>	MAJORITY CHAIR <u>Gene DiGirolamo</u>
X 3/6/14	<u>Lynette Perkins</u>	MINORITY CHAIR <u>Angel Cruz</u>
		<i>SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE</i>
X 3/6/14	<u>Kit Jones</u>	MAJORITY CHAIR <u>Patricia H. Vance</u>
X	<u>Dhoral Boney 3/6/14</u>	MINORITY CHAIR <u>Shirley M. Kitchen</u>
	<u>3/6/14 K Cooper</u>	<i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>
		<i>ATTORNEY GENERAL (for Final Omitted only)</i>
		<i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i>