

## Comments of the Independent Regulatory Review Commission



### Department of Public Welfare Regulation #14-535 (IRRC #3019)

#### Supplemental Ventilator Care Payment for Medical Assistance Nursing Facilities

October 23, 2013

We submit for your consideration the following comments on the proposed rulemaking published in the August 24, 2013 *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.

**Public comments requesting that “trach collar” patients be included in this regulation and reimbursed at the same level as ventilator patients. – Economic impact; Feasibility; Protection of the public health, safety and welfare.**

Commentators on this regulation compliment the Department for recognizing and reimbursing the additional costs providers incur for ventilator patients. These same commentators also suggest including “trach collar” patients in this regulation because:

- There is little or no difference in the care of a ventilator dependent patient and a “trach collar” patient and they should receive the same reimbursement, and
- For many reasons, the reimbursement for Medical Assistance patients has declined, making it more difficult to provide medical services.

We recognize there are many factors for the Department to consider when determining the scope of services that can be reimbursed, including the medically required level of patient care, whether a State Plan Amendment is needed, federal requirements along with whether federal and state funds are available. We ask the Department to consider the request by the commentators to include “trach collar” patients at the same reimbursement level as ventilator patients. In the final-form regulation submittal, the Department should provide a thorough explanation supporting the Department’s decision, including an amended Regulatory Analysis Form, if necessary. We will review the Department’s response as part of our consideration of whether the final-form regulation is in the public interest.