



**Report to the House and Senate
Ways and Means Committees
Nursing Facility Direct Care Add-On
As required by Chapter 61 of the Acts of 2007**

October 2008

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Executive Summary

This report summarizes the Division of Health Care Finance and Policy's Nursing Facility direct care add-on (DCA) compliance activities for state fiscal year 2007 (FY07). Nursing facilities received an average of \$124,434 in direct care add-on revenue during state FY07, or \$4.79 per resident day. The Division has found that, overall, nursing facilities have complied with legislative requirements. A list of the facilities that have failed the compliance tests in state FY07 and prior years is provided in the Appendix.

Introduction

The direct care add-on program was initiated in the state FY03 budget¹ to encourage nursing facilities to increase the resources devoted to direct nursing care. The legislation required nursing facilities to spend \$50 million of MassHealth nursing facility user fee revenue on direct care each year. It also required the Division of Health Care Finance and Policy (DHCFP) to audit facilities to ensure that funds were spent appropriately.

The DHCFP submitted an initial report with the committee on October 1, 2004 pursuant to Chapter 26 of the Acts of 2003, the state FY04 budget, which required the DHCFP to report a "preliminary analysis of funds expended" under the direct care add-on. The Division has annually provided the committee a report summarizing the Division's audit and compliance activities for the direct care add-on. This report is an update based on state FY07 records.

Background

The state FY03 budget directed the DHCFP to begin implementation of a user fee on all non-Medicare nursing facility patient days. This user fee allows the Commonwealth to leverage federal Medicaid matching funds and to increase MassHealth nursing facility payment rates accordingly. Regulation 114.5 CMR 12.00 implements the nursing facility payment liability of this user fee. Regulation 114.2 CMR 6.00 implements the required MassHealth nursing facility payment increases resulting from the use of these funds.

Legislative Requirements

Each year since state FY03, the budget has dedicated \$50 million of the MassHealth nursing facility user fee payment increases for the direct care add-on. The legislation requires that these funds be used by nursing facilities in the following areas:

- Increasing wages, hours, and benefits of direct care staff
- Increasing the facility's staff-to-patient ratio
- Demonstrably improving the facility's recruitment and retention of nursing staff to provide quality care

The legislation also directs the DHCFP to audit facilities to ensure compliance with these requirements according to the following specific legislative directives:

- If a facility's per minute nursing cost is above the statewide median used to calculate the standard nursing component of Medicaid payment rates, DHCFP must credit the amount of spending above the median towards direct care add-on compliance

¹ Chapter 184 of the Acts of 2002, section 180

- DHCFP must include temporary nursing agency costs as “direct care costs”
- DHCFP must count wage increases that are “over and above” previously collectively bargained wage increases”
- DHCFP must adjust spending compliance tests to “reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002”

DHCFP Compliance Program

In order to meet the legislative requirements described above, total facility spending in the areas outlined above must equal or exceed the amount of revenue that the facility received from the direct care add-on. The DHCFP developed a compliance program that includes four separate tests to measure whether facility spending met the requirements. These include the following:

Test 1: Nursing costs in excess of the median

Test 2: Increasing wages and benefits

Test 3: Increasing staff-to-patient ratio

Test 4: Improved recruitment and retention

The DHCFP determines final compliance for each nursing facility as the higher of the following amounts:

- The sum of [Test 1: Nursing costs in excess of the median + Test 4: Improved recruitment and retention]
- or
- The sum of [Test 2: Increasing wages and benefits + Test 3: Increasing staff-to-patient ratio + Test 4: Improved recruitment and retention]

The DHCFP constructed final compliance in this manner so that direct care add-on spending by facilities would not be double-counted.

To measure facility compliance, the Division developed direct care add-on compliance schedules that facilities were required to file by October 23, 2007. Previously, facilities were required to report their direct care spending on each of the four tests listed above, and the Division determined initial compliance based on these self-reported amounts. For state FY07 the Division required 54 nursing facilities to file a report that detailed how the facility expended its add-on revenue. To select this sample, the Division chose facilities randomly, facilities that had recoveries or data issues in previous filings, and one facility from within each major management group.

In cases where facilities failed to comply with direct care add-on spending requirements, the Division required that any unspent direct care add-on funds, plus a 50% penalty, be recouped by MassHealth

Audit and Recovery Program

In addition to applying the four compliance tests to reports filed by each facility, the Division performed analytical reviews of all 54 reports and flagged reports for further analysis if they contained any of the following characteristics:

- Large increases in average hourly compensation from the base period to the rate period
- A difference between direct care add-on revenue and reported compliance amount
- Unusually large recruitment and retention expenses
- Inconsistent filings between buyers and sellers when nursing facilities changed ownership
- Large increases in direct care purchased services from the base period to the rate period
- Inconsistencies in data filed

Of the direct care add-on reports that were flagged based on the above criteria, nine facilities were reviewed and audited. In cases where facilities were not in compliance due to a spending deficiency, regardless of whether the deficiency was self-reported or discovered through audit, the Division instructed MassHealth to recoup the unspent funds plus the 50% penalty. A summary of recoveries and penalties related to state FY07 is listed in the Appendix. Based on the reviews, the Division has found that, overall, nursing facilities' spending complies with the legislative requirements.

State FY07 Compliance Analysis

The results of audits determined that:

- Eight of the selected homes were in compliance and demonstrated that they had expended the add-on funds appropriately.
- One nursing home, Willimansett West, located in Chicopee, received funds of \$125,908 and had not expended all funds appropriately. The Division determined that the facility had not spent \$99,712 appropriately. MassHealth recovered \$149,568 from the facility, including the unspent funds of \$99,712 and a penalty of \$49,856.

Appendix: Recovery and Penalties, State FY07

Nursing Facilities Not in Compliance with Spending Requirements, State FY07

Nursing Facility Name	Funds Received	Recovery Amount with 50% Penalty
Willimansett West	\$125,908	\$149,568

Appendix: Recovery and Penalties, State FY06

Nursing Facilities Not in Compliance with Spending Requirements, State FY06

Nursing Facility Name	Funds Received	Recovery Amount with 50% Penalty
Ann Carroll Nursing Home	\$13,868	\$20,802
Eastpointe Nursing Care	\$250,918	\$89,139
Golden Living Wedgemere	\$94,935	\$142,402
Willimansett West	\$109,890	\$128,279
Total Recovery and Penalties	\$469,611	\$380,622

Appendix: Recovery and Penalties, State FY05

Nursing Facilities Not in Compliance with Spending Requirements, State FY05

Nursing Facility Name	Funds Received	Recovery Amount with 50% Penalty
Southpointe Rehab and Nrg Residence	\$191,849	\$16,190
Piety Corner Nursing Home	\$79,600	\$28,831
Sippican Long Term Health Care Center	\$175,874	\$70,364
Total Recovery and Penalties	\$447,323	\$115,385

Appendix: Recovery and Penalties, State FY04

Nursing Facilities Not in Compliance with Spending Requirements, State FY04

Nursing Facility Name	Funds Received	Recovery Amount with 50% Penalty
Sunbridge C&R - Hammond House	\$74,774	\$3,104
Kimball Farms Nursing Care Center	\$70,461	\$35,481
Fairview Commons	\$106,809	\$77,544
Williamstown Commons	\$164,478	\$31,716
Jesmond Nursing Home	\$55,039	\$1,185
Hathaway Manor Extended Care	\$130,184	\$10,033
Sunbridge - Colonial Heights	\$100,160	\$25,595
Mcfadden Memorial Manor	\$64,450	\$8,507
Port Healthcare	\$100,159	\$13,604
New Bedford Jewish Convalescent Home	\$102,074	\$4,085
Southwood At Norwell Nursing Home	\$146,036	\$21,783
Subtotal	\$1,114,624	\$232,637

Nursing Facilities that Did Not File DCA Compliance Reports, State FY04

Nursing Facility Name	Funds Received	Recovery Amount with 50% Penalty
Hutchins Transitional Care Unit	\$2,617	\$3,926
Charlesgate Manor Convalescent Home	\$56,158	\$84,237
Crestview Healthcare Facility	\$36,591	\$54,887
Subtotal	\$95,366	\$143,050
Total Recovery and Penalties	\$1,209,990	\$375,687

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