

## Long Term Care Update

January 4, 2010

### **AHCA Releases January Medicaid Rates for SNFs**

The inflation factors AHCA used, particularly for the Operating and Indirect components, resulted in substantially more DEFLATION to 12/31/08 cost report per diems than we anticipated for January 2010. Therefore, AHCA's rates are below our estimates. We haven't received the inflation tables, or heard confirmation regarding the rates yet, but the rates have been posted to AHCA's website, and except for the amount of deflation, the rates appear normal. Contact your MSL representative if you need a copy of your rate sheets.

### **Updated Initial Medicare Part B Fee Schedule for 2010**

Tony Marshall just provided us with updated schedules for all 50 states reflecting legislation signed December 21st (in a defense spending bill!), that replaces the 21% reduction with a zero update. These schedules are to be used for January and February 2010. Remember that the Exceptions process to the Part B combined physical and speech pathology, and Occupational caps (both \$1,860) has expired, but it is hoped that Congress will extend the process before too many patients hit the limits.

### **AHCA Forced to Play Hardball With Overpayments**

DME and Home Health fraud was the impetus of last year's SB 1986, but all providers are affected. Language in sections 409.913(27) and (30), Florida Statutes (regarding 100% payment suspension and decertification from Medicaid) was changed from "AHCA may" to "AHCA shall". Unfortunately, those simple changes have some serious consequences:

The law now requires that AHCA withhold ALL Medicaid reimbursements beginning 30 days following notice of an alleged overpayment unless a provider has made full repayment or established a satisfactory repayment agreement with the Agency.

The Agency is now REQUIRED to terminate a provider's participation in the Medicaid program if the provider fails to reimburse an overpayment within 35 days after the date of the final order, unless the provider and the Agency have entered into a repayment agreement. Such a termination is not subject to appeal. Providers who may have previously relied upon the withhold process to satisfy their debts to the Agency need to understand that an involuntary withhold does NOT satisfy the statutory obligation to repay in full or enter into a satisfactory repayment agreement. Even if the involuntary withhold results in the debt ultimately being satisfied, the provider will still be terminated from the program.

With the various contract audits AHCA and CMS have initiated, these changes could cause some real problems because providers may not have as much notice about overpayment determinations as they have in

the past.

Also, since the Statute doesn't say anything about date of audit, it would seem the new statute is applicable across the board, not just to new audits or new overpayment determinations.

We're here to help, so if you have any questions or need assistance, contact your MSL representative or Steve Jones in Clearwater at (727) 531-4477 or [sjones@mslcpa.com](mailto:sjones@mslcpa.com).

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