

Comments and Responses on ARC 8086B
Implementation of Nursing Facility Quality Assurance Assessment
Received September 15, 2009

The following persons and organizations provided written comments, which are included in the summary below:

Kelly Verwers Meyers, director of regulatory affairs, Iowa Health Care Association and Iowa Center for Assisted Living, West Des Moines

William Nutty, director of government relations and member services, Iowa Association of Homes and Services for the Aging, West Des Moines

Failure to Pay Assessment

COMMENT: SF 476 Sec. 3.6(a) creates a penalty for providers in arrears of the assessment: “A nursing facility that fails to pay the quality assurance assessment within the time frame specified in this section shall pay, in addition to the outstanding quality assurance assessment, a penalty of one and five-tenths percent of their quality assurance assessment amount owed for each month or portion of each month that the payment is overdue. However, if the department determines that good cause is shown for failure to comply with the payment of the quality assurance assessment, the department shall waive the penalty, or a portion of the penalty.” (Emphasis added.)

We don’t find the discretionary penalty waiver for good cause language in the draft amendments. The Quality Assurance Assessment Program is new, complex, and there will need to be extensive education of providers to help them comply with the new program. Providers who fail to make payments due to good cause should have financial penalties waived at the department’s discretion. It is the General Assembly’s legislative intent that provider financial penalties be waived if good cause can be shown.

Recommendation: We ask that the following language from SF 476 be included in future draft amendments, preferably after 36.7(4): “However, if the department determines that good cause is shown for failure to comply with the payment of the quality assurance assessment, the department shall waive the penalty, or a portion of the penalty” be included in the draft amendments. (Nutty)

RESPONSE: As the legislation does have this language described above, the Department will amend the rules to include the statutory language allowing a good-cause waiver to the rule.

Forms

COMMENT: It is our understanding Form 470-4836 “Nursing Facility Quality Assurance Assessment Calculation Worksheet;” and Form 470-4829 “Nursing Facility Medicaid Enhanced Payment Report” will be developed by a working group later in the fall. We ask to be active participants in the forms’ development, and be able to share draft copies with our members so they may comment. (Nutty)

RESPONSE: There are two forms that will be required to be completed by nursing facilities for the nursing facility quality assurance assessment fee: 470-4836, *Nursing Facility Quality Assurance Assessment Calculation Worksheet*, and 470-4829, *Nursing Facility Medicaid Enhanced Payment Report* (reference 81.6(21)c).

Legislation specifies that that the enhanced payment report be developed in cooperation with representatives of the Iowa Caregivers Association, the Iowa Health Care Association, the Iowa Association of Homes and Services for the Aging, and AARP. As such, the Department will contact these organizations when the work group will convene to develop the reporting form.

Regarding the development of the assessment calculation worksheet, legislation specifies that the Department shall prepare and distribute the form upon which nursing facilities shall calculate and report the quality assurance assessment. The legislation does not specify that the form be developed with a work group.

Therefore, the Department will develop this form and share a draft with industry representatives, including the Iowa Association of Homes and Services for the Aging, for review and comment prior to finalizing the form. Once finalized, the form will be made available to providers to calculate and report the quality assurance assessments due.

Use of Funds

COMMENT: On behalf of our membership, I would like to express our support of the program as IHCA/ICAL was instrumental in bringing forth this proactive funding program. IHCA/ICAL, with the support of the other trade associations, believes that the Quality Assurance Assessment program is essential to assist with the Medicaid funding program so nursing home providers can continue to take excellent care of Iowa's frail and elderly citizens.

IHCA/ICAL stresses the importance of using these funds only for long term care rates and other programs specific to long term care facilities. The understanding and legislative intent was that this program would help nursing home providers with continued funding to support our commitment to increase compensation and direct care employment costs. It was also the understanding that these funds are to be used to rebase nursing home cost growth due to the continued rising costs and resident acuity. Our membership is proud of its commitment to increase direct care employee wages to retain employment and provide excellent care, however, that goal cannot be achieved if the funds in this program are utilized for any other purposes. (Meyers)

RESPONSE: Legislation specifies that moneys in the trust fund shall be used, subject to their appropriation by the General Assembly, only for reimbursement of services for which federal financial participation under the medical assistance program is available to match state funds. The Department will look to the legislature to appropriate funds from the quality assurance trust fund for specific, federally funded purposes under the medical assistance program.