

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA HEALTH CARE ASSOCIATION,
INC., a Florida Corporation not for profit, and
FLORIDA ASSOCIATION OF HOMES AND
SERVICES FOR THE AGING, INC., a Florida
Corporation not for profit;

Petitioners,

v.

CASE NO. _____

STATE OF FLORIDA, AGENCY FOR HEALTH
CARE ADMINISTRATION,

Respondent.

PETITION FOR DETERMINATION OF INVALIDITY
OF NON-RULE POLICY UNDER § 120.56(4)

Petitioners Florida Health Care Association, Inc. (FHCA) and Florida Association of Homes and Services for the Aging, Inc. (FAHSA) bring this Petition to challenge a non-rule policy of the State of Florida, Agency for Health Care Administration (AHCA), under Fla. Stat. § 120.56(1) and (4), and say:

1. This Petition challenges AHCA's non-rule reduction of Medicaid nursing home rates to all nursing homes in Florida by applying an improper "trend adjustment" factor to rates.
2. The Division of Administrative Hearings has exclusive jurisdiction under Fla. Stat. § 120.56(1) and (2).
3. Petitioner FHCA is a Florida not-for-profit corporation which represents approximately 500 member Florida nursing homes with approximately 59,000 beds. Petitioner FAHSA is a Florida not-for-profit corporation which represents approximately 97 member

Florida nursing homes with approximately 10,000 beds. These facilities are licensed and regulated by AHCA under Fla. Stat. Ch. 400 Part II. FHCA's and FAHSA's members receive reimbursement from the State Medicaid Program for long term care services rendered to eligible persons, under the provisions of Fla. Stat. Ch. 409. For purposes of this action, FHCA's and FAHSA's addresses are that of undersigned counsel.

4. Petitioners' members are substantially affected by the non-rule policy which results in decreased Medicaid rates, in that the reductions will provide insufficient reimbursement to cover the cost of providing care. The cost of providing care allows Petitioners' members to provide quality care and meet applicable state and federal laws, rules, regulations, and quality and safety standards, as required by §409.908(2)(b), Fla. Stat. (2007).

5. Respondent AHCA is the state agency responsible for administering the Medicaid Program under Fla. Stat. Ch. 409. The Medicaid Program is funded by federal and state matching funds to provide health care to eligible persons based on medical and financial need. Long term care in skilled nursing facilities is a mandatory component of the Medicaid program. AHCA is also the state agency responsible for licensing and regulating nursing facilities under Fla. Stat. Ch. 400 Part II. AHCA's duties as a regulatory agency include enforcing requirements for levels of staffing to assure such facilities meet quality of care standards. AHCA's address is 2727 Mahan Drive, MS#3, Tallahassee, FL 32308.

Background

6. Pursuant to §409.908, Fla. Stat. (2007), AHCA is to develop methodologies for Medicaid reimbursement of providers, "as set forth in the rules of the agency" as set forth in the appropriations act. The Agency has developed a "Long-Term Care Reimbursement Plan" (the "Plan") in which it sets forth the methodology for computing an individual facility's per diem

reimbursement for a Medicaid-eligible resident. This Plan is modified as directed by changes in substantive law or through proviso language in the annual appropriations act, and is adopted by rule.

7. Typically, the appropriations act, through proviso language, sets forth any directed modifications to the Plan, and these are incorporated into the amount projected, budgeted, and appropriated for reimbursement of Medicaid providers. AHCA then publishes, as a proposed rule change, modifications to the Plan to incorporate these changes. There is often a delay in final adoption of the proposed rule, due to a delay in obtaining approval from the federal agency which controls the federal portion of Medicaid funding, the Centers for Medicare and Medicaid Services (CMS) of the Department of Health and Human Services. During this lag time, however, AHCA implements the Plan modifications as expressed in the proposed rule, as required by §120.56, Fla. Stat. (2007).

8. During the Regular 2007 Florida Legislative Session, the Legislature appropriated approximately \$2.6 billion for nursing home care reimbursement (\$1,127,064,570 from General Revenue, \$5,405,895 from the Grants and Donations Trust Fund, and \$1,503,803,532 from the Medical Care Trust Fund). A copy of the appropriation line item with proviso language is attached as Exhibit A, line 242. This appropriation included a number of changes which would need to be incorporation into the Plan, as indicated in the proviso language, which increased reimbursement levels. The appropriation also included additional funding to address a statutory requirement for increased staffing levels. The appropriation was made without having to generate additional state general revenues, due to a modification of the Plan which allows Florida to shift some costs to the federal Medicare program.

9. The Plan changes took effect on July 1, 2007, and were implemented. By implementing these changes, facilities' reimbursement rates were generally increased. AHCA filed a public notice required by Federal law on June 29, 2007 and Notice of Rule Development on July 6, 2007. AHCA filed a proposed rule to incorporate these changes to the Plan (the "Implemented Rule") October 26, 2007. (Copies of these notices are attached hereto as Exhibit B.)

10. A Special Session of the Legislature was convened in October, 2007, and funding reductions were adopted in an appropriations act, see attached Exhibit C. The Legislature reduced funding to nursing homes by approximately \$110 million (\$47,658,696 from General Revenue and \$62,884,653 from the Medical Care Trust Fund) based upon revised nursing home expenditure estimates. This reduction required no agency action, and had no impact on provider rates.

11. The Special Session appropriations act also identified approximately \$37.6 million in reductions (\$16,198,032 from General Revenue and \$21,393,131 from the Medical Care Trust Fund) "as a result of modifying the reimbursement for nursing home rates effective January 1, 2008." The proviso language directed AHCA to modify the "Medicaid trend adjustment" in the Plan to achieve *that specific reduction* (\$37.6 million) in expenditures, for the period from January 1, 2008 until the end of the fiscal year, June 30, 2008. The goal of making such adjustment was to limit statewide average nursing home rates to a level which would yield a \$37.6 million reduction in the projected expenditures. Thus, instead of an average of \$185.99 per day as anticipated as of January 1, 2008, the "trend adjustment" was to be applied to ensure that the average was \$180.70 per day. At the rate of \$180.70 per day, the mandated \$37.6 million reduction would be achieved.

12. Ordinarily, AHCA adjusts the Medicaid reimbursement to nursing facilities annually on January 1 and July 1 of each year, to assure that increased costs imposed by inflation and other increased costs of doing business are reimbursed.

13. Nursing facilities' Medicaid rates are individually set based on facility cost reports submitted to AHCA, which set forth their allowable costs, up to certain "target" or "ceiling" levels. The resulting rate is then decreased by a certain percentage, the "Medicaid trend adjustment," which percentage applies to every facility equally. The calculated trend adjustment of 0.9% is included in the Implemented Rule, Exhibit B.

14. Due to the fact that facilities' costs have not risen as fast as projected by AHCA, and other limiting factors, calculation of rates pursuant to the Implemented Rule, using an 0.9% trend adjustment, results in a reduction greater than that mandated by the Special Session appropriations act. The average rate as of January 1, 2008 using the appropriate trend adjustment of 0.9% yields a rate of \$179.34 per day, less than the anticipated and projected \$180.70 per day. AHCA's projections, upon which the appropriations were based, assumed that facilities' rates would increase approximately 5.5% in January, which the Legislature effectively limited in October to approximately 2.5%; the actual rate increase without modification of the existing trend adjustment is only 1.7%, thereby requiring no additional adjustment.

Non-Rule Policy

15. In spite of the fact that the 0.9% trend adjustment in the Implemented Rule will result in reductions greater than the amount directed by the Legislature, AHCA has notified facilities of their new rates which are based upon a 3.5% trend adjustment, to take effect January 1, 2008. The trend adjustment used is contrary to the Implemented Rule and the Special Session appropriations act. Implementation of this trend adjustment which reduces the average Medicaid

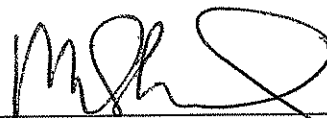
rate to \$174.60 will more than double the reduction directed by the Legislature. This payment rate does not meet facilities' costs of providing the care and may jeopardize the quality care required under applicable statutes and regulations.

16. AHCA is applying this change to the Implemented Rule without any notice of change of rule or going through any rule-making procedures.

17. The change in the trend adjustment percentage meets the definition of a rule in §120.52: it is a statement of general applicability that implements, interprets, or prescribes law or policy, and in fact changes a provision of the Implemented Rule. It is thus violates §120.54 and is invalid.

WHEREFORE, Petitioner requests that the Division of Administrative Hearings conduct a formal hearing and enter a Final Order declaring that the challenged policy is invalid for failure to adopt it through required rulemaking procedures; and for other reasons as set forth above; and awarding Petitioner attorney's fees and costs from Respondents jointly and severally pursuant to § 120.595(3) and (4), Florida Statutes; and granting such other relief as may be proper or just.

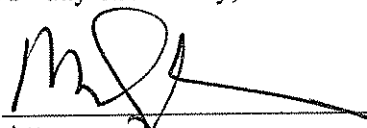
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy was delivered by Hand Delivery to Craig Smith, Esquire, General Counsel Agency for Health Care Administration, 2727 Mahan Drive, Fort Knox Building 3, Tallahassee, FL 32308, this 31st day of January, 2008.



Attorney J

SECTION 3 - HUMAN SERVICES

TOTAL: MEDICAID SERVICES TO INDIVIDUALS		
FROM GENERAL REVENUE FUND	2597,204,712	6711,185,760
FROM TRUST FUNDS		
TOTAL ALL FUNDS		9308,390,472

MEDICAID LONG TERM CARE

Funds appropriated for Medicaid Home and Community-Based Waiver programs, the Program of All-inclusive Care for the Elderly (PACE), and Assistive Care Services may be used to serve individuals under the MEDS AD waiver who would otherwise receive these services, but who do not qualify under eligibility groups approved in the state plan.

237 SPECIAL CATEGORIES		
ASSISTIVE CARE SERVICES		
FROM MEDICAL CARE TRUST FUND		32,871,249

Funds in Specific Appropriation 237 are provided to implement Medicaid coverage for Assistive Care Services and are contingent on the availability of state match being provided in Specific Appropriation 449.

238 SPECIAL CATEGORIES		
HOME AND COMMUNITY BASED SERVICES		
FROM GENERAL REVENUE FUND	21,059,304	15,540
FROM GRANTS AND DONATIONS TRUST FUND		1032,372,834
FROM MEDICAL CARE TRUST FUND		

Funds in Specific Appropriation 238 and 247 for the Developmental Services Waiver, the Aged and Disabled Waiver, the Project AIDS Care Waiver, and the Nursing Home/Diversion Waiver may be used for reimbursement for services provided through agencies licensed pursuant to section 400.506, Florida Statutes.

239 SPECIAL CATEGORIES		
ASSISTED LIVING FACILITY WAIVER		
FROM MEDICAL CARE TRUST FUND		35,165,610

240 SPECIAL CATEGORIES		
INTERMEDIATE CARE FACILITIES/MENTALLY		
RETARDED - SUNLAND CENTER		
FROM MEDICAL CARE TRUST FUND		102,748,794

241 SPECIAL CATEGORIES		
INTERMEDIATE CARE FACILITIES/		
DEVELOPMENTALLY DISABLED COMMUNITY		
FROM GENERAL REVENUE FUND	101,392,954	133,912,115
FROM MEDICAL CARE TRUST FUND		

242 SPECIAL CATEGORIES		
NURSING HOME CARE		
FROM GENERAL REVENUE FUND	1127,064,570	5,405,895
FROM GRANTS AND DONATIONS TRUST FUND		1503,803,532
FROM MEDICAL CARE TRUST FUND		

From the funds in Specific Appropriation 242, \$5,405,895 from the Grants and Donations Trust Fund and \$7,139,696 from the Medical Care Trust Fund are provided for the purpose of maximizing federal revenues through the continuation of the Special Medicaid Payment Program for governmentally funded nursing homes. Any requests pursuant to chapter 216, Florida Statutes, by the Agency for Health Care Administration to increase budget authority to expand existing programs using increased federal reimbursement through these provisions, shall be contingent upon the availability of state match from existing state funds or local sources that do not increase the current requirement for state general revenue. The agency is authorized to seek federal Medicaid waivers as necessary to implement this provision.

Funds in Specific Appropriation 242 reflect a reduction of \$55,000,000 from the General Revenue Fund and \$72,639,824 from the Medical Care Trust Fund as a result of limiting the Medicaid payments for nursing home Medicare Part A coinsurance. Medicaid will pay no portion of Medicare coinsurance when payment that Medicare has made for the service equals or exceeds what Medicaid would have paid if it had been the sole payer. This provision shall be contingent upon federal

SECTION 3 - HUMAN SERVICES

approval of a Medicaid State Plan amendment to limit Medicaid payments for nursing home Medicare Part A coinsurance. Should the Centers for Medicare and Medicaid services eliminate nursing home payment of Medicare Part A bad debt, the agency shall reinstate the dually eligible coinsurance payment policy existing prior to July 1, 2007 for Medicare nursing home Part A coinsurance claims in a budget neutral manner that does not increase existing nursing home expenditures. The agency is authorized to reduce nursing home reimbursement rates to fund the reinstatement of the Medicare nursing home Part A coinsurance payments and shall coordinate with the nursing home industry to develop and implement this reduction.

From the funds in Specific Appropriation 242, \$55,000,000 from the General Revenue Fund and \$72,639,824 from the Medical Care Trust Fund are provided to re-base the operating and indirect patient care component targets and target rate class ceilings of the Medicaid nursing home per diem rate. The operating and indirect patient care components of the per diem rate shall continue to be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider-specific target.

The Title XIX Long-Term Care Reimbursement Plan shall be modified to:

Establish a target rate class ceiling floor equal to 90 percent of the cost-based class ceiling.

Establish an individual provider-specific target floor equal to 75 percent of the cost-based class ceiling.

Modify the inflation multiplier to equal 2.0 times inflation for the individual provider-specific target. (The inflation multiplier for the target rate class ceiling shall remain at 1.4 times inflation.)

Modify the calculation of the change of ownership target to equal the previous providers' operating and indirect patient care cost per diem (excluding incentives), plus 50 percent of the difference between the previous providers' per diem (excluding incentives) and the effective class ceiling and use an inflation multiplier of 2.0 times inflation.

This provision shall be contingent upon federal approval of a Medicaid State Plan amendment to limit Medicaid payments for nursing home Medicare Part A coinsurance. Should the Centers for Medicare and Medicaid Services eliminate nursing home payment of Medicare Part A bad debt, the agency shall reinstate the dually eligible coinsurance payment policy for Medicare nursing home Part A coinsurance claims existing prior to July 1, 2007 in a budget neutral manner that does not increase existing nursing home expenditures. The agency is authorized to reduce nursing home reimbursement rates to fund the reinstatement of the Medicare nursing home Part A coinsurance payments and shall coordinate with the nursing home industry to develop and implement this reduction.

243	SPECIAL CATEGORIES		
	STATE MENTAL HEALTH HOSPITAL PROGRAM		
	FROM GENERAL REVENUE FUND	5,170,800	
	FROM MEDICAL CARE TRUST FUND		13,064,675
244	SPECIAL CATEGORIES		
	MENTAL HEALTH HOSPITAL DISPROPORTIONATE SHARE		
	FROM MEDICAL CARE TRUST FUND		60,998,691
245	SPECIAL CATEGORIES		
	T.B. HOSPITAL DISPROPORTIONATE SHARE		
	FROM MEDICAL CARE TRUST FUND		2,444,444
246	SPECIAL CATEGORIES		
	COMMUNITY SUPPORTED LIVING WAIVER		
	FROM MEDICAL CARE TRUST FUND		74,557,478
247	SPECIAL CATEGORIES		
	CAPITATED NURSING HOME DIVERSION WAIVER		
	FROM GENERAL REVENUE FUND	93,874,034	
	FROM GRANTS AND DONATIONS TRUST FUND		10,027
	FROM MEDICAL CARE TRUST FUND		123,665,984

The agency shall require all nursing home diversion providers to provide a report indicating the number of recipients receiving hospice services

SECTION 3 - HUMAN SERVICES

each month, and whether the hospice is operating as for-profit or not-for-profit.

TOTAL: MEDICAID LONG TERM CARE		
FROM GENERAL REVENUE FUND	1348,561,662	
FROM TRUST FUNDS		3121,036,868
TOTAL ALL FUNDS		4469,598,530

MEDICAID PREPAID HEALTH PLANS

248 SPECIAL CATEGORIES		
PREPAID HEALTH PLANS--ELDERLY AND DISABLED		
FROM GENERAL REVENUE FUND	472,039,522	
FROM MEDICAL CARE TRUST FUND		623,749,069
FROM REFUGEE ASSISTANCE TRUST FUND		126

From the funds in Specific Appropriations 248 and 249, \$2,178,195 from the General Revenue Fund and \$2,876,794 from the Medical Care Trust Fund are provided to increase the percentage payment limit factor by 0.5 percent, effective January 1, 2008, for each agency area and eligibility category, unless the increase would cause the percentage limit factor to exceed 100 percent. In these instances, the percentage limit factor shall be limited to 100 percent.

249 SPECIAL CATEGORIES		
PREPAID HEALTH PLANS--FAMILIES		
FROM GENERAL REVENUE FUND	486,244,839	
FROM MEDICAL CARE TRUST FUND		642,422,056
FROM REFUGEE ASSISTANCE TRUST FUND		13,816,376

TOTAL: MEDICAID PREPAID HEALTH PLANS		
FROM GENERAL REVENUE FUND	958,284,361	
FROM TRUST FUNDS		1279,987,627
TOTAL ALL FUNDS		2238,271,988

PROGRAM: HEALTH CARE REGULATION

HEALTH CARE REGULATION

APPROVED SALARY RATE	28,322,629	
250 SALARIES AND BENEFITS POSITIONS	652.00	
FROM GENERAL REVENUE FUND	1,849,876	
FROM HEALTH CARE TRUST FUND		33,885,318
FROM ADMINISTRATIVE TRUST FUND		1,175,965
FROM FLORIDA ORGAN AND TISSUE DONOR EDUCATION AND PROCUREMENT TRUST FUND		80,302
251 OTHER PERSONAL SERVICES		
FROM HEALTH CARE TRUST FUND		114,276
252 EXPENSES		
FROM GENERAL REVENUE FUND	811,253	
FROM HEALTH CARE TRUST FUND		6,829,231
FROM ADMINISTRATIVE TRUST FUND		587,909
FROM FLORIDA ORGAN AND TISSUE DONOR EDUCATION AND PROCUREMENT TRUST FUND		44,911
253 OPERATING CAPITAL OUTLAY		
FROM GENERAL REVENUE FUND	24,511	
FROM HEALTH CARE TRUST FUND		355,160
FROM ADMINISTRATIVE TRUST FUND		6,173
254 SPECIAL CATEGORIES		
TRANSFER TO DIVISION OF ADMINISTRATIVE HEARINGS		
FROM HEALTH CARE TRUST FUND		1,484,887
255 SPECIAL CATEGORIES		
CONTRACTED SERVICES		
FROM GENERAL REVENUE FUND	4,036,777	
FROM HEALTH CARE TRUST FUND		1,642,405
FROM ADMINISTRATIVE TRUST FUND		3,381,090

Applicant: Pasco-Pinellas Hillsborough Community Health System, Inc.

Project Description: Establish an 80-bed Class I acute care hospital

Approved Cost: \$121,017,163.00

County: Pasco Service District: 5

CON # 9977 Decision Date: 6/15/2007 Decision: D

Facility/Project: BayCare of Southeast Pasco, Inc.

Applicant: BayCare of Southeast Pasco, Inc.

Project Description: Establish a 130-bed Class I acute care hospital

Approved Cost: \$0

County: Orange Service District: 7

CON # 9978 Decision Date: 6/15/2007 Decision: A

Facility/Project: The Nemours Foundation

Applicant: The Nemours Foundation

Project Description: Establish a 5-bed Level II NICU

Approved Cost: \$3,876,744.00

County: Orange Service District: 7

CON # 9979 Decision Date: 6/15/2007 Decision: A

Facility/Project: The Nemours Foundation

Applicant: The Nemours Foundation

Project Description: Establish an 82-bed Class II children's hospital

Approved Cost: \$266,848,451.00

County: Orange Service District: 7

CON # 9980 Decision Date: 6/15/2007 Decision: A

Facility/Project: The Nemours Foundation

Applicant: The Nemours Foundation

Project Description: Establish an 8-bed Level III NICU

Approved Cost: \$6,294,962.00

County: St. Lucie Service District: 9

CON # 9981 Decision Date: 6/15/2007 Decision: A

Facility/Project: Martin Memorial Medical Center, Inc.

Applicant: Martin Memorial Medical Center, Inc.

Project Description: Establish an 80-bed Class I acute care hospital

Approved Cost: \$116,970,000.00

A request for administrative hearing, if any, must be made in writing and must be actually received by this department within 21 days of the first day of publication of this notice in

the Florida Administrative Weekly pursuant to Chapter 120, Florida Statutes, and Chapter 59C-1, Florida Administrative Code.

The Florida Agency for Health Care Administration (the Agency), Bureau of Medicaid Program Analysis provides the following public notice regarding reimbursement for nursing home facilities participating in the Florida Medicaid Program.

PURPOSE: To comply with federal public notice requirements in Section 1902(a)(13)(A) of the Social Security Act in changing reimbursement for nursing home facilities, the Agency is publishing the proposed rates, the methodologies underlying the establishment of such rates, and justifications for the proposed rates. The Agency is in the process of amending its Title XIX Long-Term Care Reimbursement Plan (The Plan) to incorporate changes to the reimbursement methodology.

PROPOSED RATES: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan payment methodology effective July 1, 2007. The Title XIX Long-Term Care Reimbursement Plan will be modified as follows:

1. The operating and indirect patient care component targets and target rate class ceilings of the Medicaid nursing home per diem rate shall be rebased. The operating and indirect patient care components of the per diem rate shall continue to be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider-specific target.
2. Establish a target rate class ceiling floor equal to 90 percent of the cost-based class ceiling.
3. Establish an individual provider-specific target floor equal to 75 percent of the cost-based class ceiling.
4. Modify the inflation multiplier to equal 2.0 times inflation for the individual provider-specific target. (The inflation multiplier for the target rate class ceiling shall remain at 1.4 times inflation.)
5. Modify the calculation of the change of ownership target to equal the previous providers' operating and indirect patient care cost per diem (excluding incentives), plus 50 percent of the difference between the previous providers' per diem (excluding incentives) and the effective class ceiling and use an inflation multiplier of 2.0 times inflation. This provision shall be contingent upon federal approval of a Medicaid State Plan amendment to limit Medicaid payments for nursing home Medicare Part A coinsurance. Should the Centers for Medicare and Medicaid Services

eliminate nursing home payment of Medicare Part A bad debt, the agency shall reinstate the dually eligible coinsurance payment policy for Medicare nursing home Part A coinsurance claims existing prior to July 1, 2007 in a budget neutral manner that does not increase existing nursing home expenditures. The agency is authorized to reduce nursing home reimbursement rates to fund the reinstatement of the Medicare nursing home Part A coinsurance payments and shall coordinate with the nursing home industry to develop and implement this reduction.

6. The methodology for nursing home special Medicaid payments is being revised.

7. The low occupancy adjustment is being removed.

METHODOLOGIES: The methodology underlying the establishment of the proposed rates for Medicaid nursing facilities will be rates resulting from the revised methodology used to calculate per diem rates in the Title XIX Long-Term Care Reimbursement Plan effective July 1, 2007.

JUSTIFICATION: The justification for the proposed rate change is the 2007-08 General Appropriations Act, Senate Bill 2800, proviso language following Specific Appropriation 242.

The Agency is proposing the above changes effective July 1, 2007. Providers, beneficiaries and their representatives, and other concerned state residents may provide written comment on the proposed rates, methodologies and justification underlying the establishment of such changes.

Written comments may be submitted to: Edwin Stephens, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 21, Tallahassee, Florida 32308 or stephene@ahca.myflorida.com. Written comments should be submitted no later than July 31, 2007.

The Florida Agency for Health Care Administration (the Agency), Bureau of Medicaid Program Analysis, provides the following public notice regarding reimbursement for inpatient hospitals participating in the Florida Medicaid Program.

PURPOSE: To comply with federal public notice requirements in Section 1902(a)(13)(A) of the Social Security Act in changing reimbursement for inpatient hospitals, the Agency is publishing the proposed rates, the methodologies underlying the establishment of such rates, and justifications for the proposed rates. The Agency is in the process of amending its Title XIX Inpatient Hospital Reimbursement Plan (The Plan) to incorporate changes to the reimbursement methodology.

PROPOSED RATES: Effective July 1, 2007, the proposed rates for Medicaid inpatient hospitals will be rates resulting from revised methodology used to calculate per diem rates.

1. Effective July 1, 2007, inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days, as a percentage of total adjusted hospital days, equal or exceed 11 percent. For any public hospital that does not qualify for the elimination of the inpatient ceilings under this section of the 2007-08 General Appropriations Act or any other proviso listed, the public hospital shall be exempt from the inpatient reimbursement ceilings contingent on the public hospital or local governmental entity providing the required state match. The Agency shall use the average of the 2001, 2002, and 2003 audited disproportionate share (DSH) data available as of March 1, 2007. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency shall use the average of the audited DSH data for 2001, 2002, and 2003 that are available.
2. Effective July 1, 2007, the inpatient reimbursement ceilings for hospitals that have a minimum of ten licensed Level II Neonatal Intensive Care Beds and are located in Trauma Services Area 2 will be eliminated.
3. Effective July 1, 2007, the inpatient hospital reimbursement ceilings for hospitals whose Medicaid days as a percentage of total hospital days exceed 7.3 percent, and are designated or provisional trauma centers will be eliminated. This provision shall apply to all hospitals that are designated or provisional trauma centers on July 1, 2007 and any hospitals that become a designated or provisional trauma center during State Fiscal Year 2007-2008. The Agency shall use the average of the 2001, 2002 and 2003 audited DSH data available as of March 1, 2007. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency shall use the average of the audited DSH data for 2001, 2002 and 2003 that are available.
4. Effective July 1, 2007, the inpatient reimbursement ceilings will be eliminated for teaching, specialty, Community Hospital Education Program hospitals and Level III Neonatal Intensive Care Units that have a minimum of three of the following designated tertiary services as regulated under the Certificate of Need Program: pediatric bone marrow transplantation, pediatric open heart surgery, pediatric cardiac catheterization and pediatric heart transplantation.

Miscellaneous

AGENCY FOR HEALTH CARE ADMINISTRATION**Medicaid****59G-6.010****RULE NO: RULE TITLE****59G-6.010: Payment Methodology for Nursing Home Services**

The Florida Agency for Health Care Administration (the Agency), Bureau of Medicaid Program Analysis provides the following public notice regarding reimbursement for nursing home facilities participating in the Florida Medicaid Program.

PURPOSE: To comply with federal public notice requirements in Section 1902(a)(13)(A) of the Social Security Act in changing reimbursement for nursing home facilities, the Agency is publishing the proposed rates, the methodologies underlying the establishment of such rates, and justifications for the proposed rates. The Agency is in the process of amending its Title XIX Long-Term Care Reimbursement Plan (The Plan) to incorporate changes to the reimbursement methodology.

PROPOSED RATES: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan payment methodology effective July 1, 2007. The Title XIX Long-Term Care Reimbursement Plan will be modified as follows:

1. The operating and indirect patient care component targets and target rate class ceilings of the Medicaid nursing home per diem rate shall be rebased. The operating and indirect patient care components of the per diem rate shall continue to be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider-specific target.
2. Establish a target rate class ceiling floor equal to 90 percent of the cost-based class ceiling.
3. Establish an individual provider-specific target floor equal to 75 percent of the cost-based class ceiling.
4. Modify the inflation multiplier to equal 2.0 times inflation for the individual provider-specific target. (The inflation multiplier for the target rate class ceiling shall remain at 1.4 times inflation.)
5. Modify the calculation of the change of ownership target to equal the previous providers' operating and indirect patient care cost per diem (excluding incentives), plus 50 percent of the difference between the previous providers' per diem (excluding incentives) and the effective class ceiling and use an inflation multiplier of 2.0 times inflation. This provision shall be contingent upon federal approval of a Medicaid State Plan amendment to limit Medicaid payments for nursing home Medicare Part A coinsurance. Should the Centers for Medicare and Medicaid Services eliminate nursing home payment of Medicare Part A bad debt, the agency shall reinstate the dually eligible coinsurance payment policy for Medicare nursing home Part A coinsurance claims existing prior to July 1, 2007 in a budget neutral manner that does not increase existing nursing home expenditures. The agency is authorized to reduce nursing home reimbursement rates to fund the reinstatement of the Medicare nursing home Part A coinsurance payments and shall coordinate with the nursing home industry to develop and implement this reduction.
6. The methodology for nursing home special Medicaid payments is being revised.
7. The low occupancy adjustment is being removed.

METHODOLOGIES: The methodology underlying the establishment of the proposed rates for Medicaid nursing facilities will be rates resulting from the revised methodology used to calculate per diem rates in the Title XIX Long-Term Care Reimbursement Plan effective July 1, 2007.

JUSTIFICATION: The justification for the proposed rate change is the 2007-08 General Appropriations Act, Senate Bill 2800, proviso language following Specific Appropriation 242.

The Agency is proposing the above changes effective July 1, 2007. Providers, beneficiaries and their representatives, and other concerned state residents may provide written comment on the proposed rates, methodologies and justification underlying the establishment of such changes.

Written comments may be submitted to: Edwin Stephens, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 21, Tallahassee, Florida 32308 or stephene@ahca.myflorida.com. Written comments should be submitted no later than July 31, 2007.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-5.020 Provider Requirements.

(1) All Medicaid providers enrolled in the Medicaid program and billing agents who submit claims to Medicaid on behalf of an enrolled Medicaid provider must comply with the provisions of the Florida Medicaid Provider General Handbook, January 2007, updated July 2007, which is incorporated by reference and available from the fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Handbooks. A paper copy of the handbook may be obtained by calling Provider Enrollment at (800)377-8216.

(2) No change.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.906, 409.907, 409.908, 409.912, 409.913 FS. History—New 9-22-93, Formerly 10P-5.020, Amended 7-8-97, 1-9-00, 4-24-01, 8-6-01, 10-8-03, 1-19-05, 5-24-07,_____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-6.010
 RULE TITLE: Payment Methodology for Nursing Home Services

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan payment methodology, effective July 1, 2007.

1. The operating and indirect patient care component targets and target rate class ceilings of the Medicaid nursing home per diem rate shall be rebased. The operating and indirect patient care components of the per diem rate shall continue to be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider-specific target.
2. Establish a target rate class ceiling floor equal to 90 percent of the cost-based class ceiling.
3. Establish an individual provider-specific target floor equal to 75 percent of the cost-based class ceiling.
4. Modify the inflation multiplier to equal 2.0 times inflation for the individual provider-specific target. (The inflation multiplier for the target rate class ceiling shall remain at 1.4 times inflation.)
5. Modify the calculation of the change of ownership target to equal the previous providers' operating and indirect patient care cost per diem (excluding incentives), plus 50 percent of the difference between the previous providers' per diem (excluding incentives) and the effective class ceiling and use an inflation multiplier of 2.0 times inflation.
6. The methodology for nursing home special Medicaid payments is being revised.
7. The low occupancy adjustment is being removed.

SUBJECT AREA TO BE ADDRESSED: July 1, 2007 nursing home rates, nursing home special Medicaid payments, and the removal of the low occupancy adjustment.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: July 25, 2007, 2:00 p.m. – 3:00 p.m.

PLACE: 2727 Mahan Drive, Conference Room C, Building 3, Tallahassee, Florida 32312

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Edwin Stephens, (850)414-2759 or by e-mail at stephene@ahca.myflorida.com

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Edwin Stephens, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida 32308, (850)414-2759 or by e-mail at stephene@ahca.myflorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-6.020
 RULE TITLE: Payment Methodology for Inpatient Hospital Services

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development are to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan payment methodology, effective July 1, 2007, in accordance with the 2007-08 General Appropriations Act, Senate Bill 2800, Specific Appropriations 206, 211, 212, 244, and 245.

1. Effective July 1, 2007, inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days, as a percentage of total adjusted hospital days, equal or exceed 11 percent. For any public hospital that does not qualify for the elimination of the inpatient ceilings under this section of the 2007-08 General Appropriations Act or any other proviso listed, the public hospital shall be exempt from the inpatient reimbursement ceilings contingent on the public hospital or local governmental entity providing the required state match. The Agency shall use the average of the 2001, 2002, and 2003 audited disproportionate share (DSH) data

Notice of Development of Rulemaking

AGENCY FOR HEALTH CARE ADMINISTRATION**Medicaid****RULE NO: RULE TITLE****59G-6.010: Payment Methodology for Nursing Home Services****PURPOSE AND EFFECT:** The purpose and effect of the proposed rule development is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan payment methodology, effective July 1, 2007.

1. The operating and indirect patient care component targets and target rate class ceilings of the Medicaid nursing home per diem rate shall be rebased. The operating and indirect patient care components of the per diem rate shall continue to be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider-specific target.
2. Establish a target rate class ceiling floor equal to 90 percent of the cost-based class ceiling.
3. Establish an individual provider-specific target floor equal to 75 percent of the cost-based class ceiling.
4. Modify the inflation multiplier to equal 2.0 times inflation for the individual provider-specific target. (The inflation multiplier for the target rate class ceiling shall remain at 1.4 times inflation.)
5. Modify the calculation of the change of ownership target to equal the previous providers' operating and indirect patient care cost per diem (excluding incentives), plus 50 percent of the difference between the previous providers' per diem (excluding incentives) and the effective class ceiling and use an inflation multiplier of 2.0 times inflation.
6. The methodology for nursing home special Medicaid payments is being revised.
7. The low occupancy adjustment is being removed.

SUBJECT AREA TO BE ADDRESSED: July 1, 2007 nursing home rates, nursing home special Medicaid payments, and the removal of the low occupancy adjustment.**SPECIFIC AUTHORITY:** 409.919 FS.**LAW IMPLEMENTED:** 409.908 FS.**IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:****TIME AND DATE:** July 25, 2007, 2:00 p.m. – 3:00 p.m.**PLACE:** 2727 Mahan Drive, Conference Room C, Building 3, Tallahassee, Florida 32312Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Edwin Stephens, (850)414-2759 or by e-mail at stephene@ahca.myflorida.com

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Edwin Stephens, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida 32308, (850)414-2759 or by e-mail at stephene@ahca.myflorida.com**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.**

wetlands or other surface waters (grading, muleking, planting), compensation for floodplain encroachment or loss of historic basin storage, water quality treatment features, and discharge control facilities prior to beneficial occupancy or use of the development being served by this system and prior to transfer of responsibility for operation and maintenance of the system to a local government or other responsible entity.

(i) through (k) No change.

(l) Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to conversion to operation phase and the occupation of the site or operation of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to a local government or other responsible entity.

(m) through (n) No change.

(o) The operation phase of this permit shall not become effective until the permittee has complied with the requirements of the conditions in subsection (1) above, the District in accordance with subsections 2.6 through 2.6.3 of the Basis of Review, adopted by reference in Rule 40D-4.091, F.A.C., determines the system to be in compliance with the permitted plans, and the entity approved by the District accepts responsibility for operation and maintenance of the system. The permit shall may not be transferred to the operation and maintenance entity approved by the District until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall request transfer of the permit to the responsible operation and maintenance entity approved by the District, if different from the permittee. Until the permit is transferred pursuant to subsection 2.6.1 of the Basis of Review, adopted by reference in Rule 40D-4.091, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

(p) through (x) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, F.S. Law Implemented 373.042, 373.403, 373.409, 373.413, 373.414, 373.416, 373.426 FS. History—Readopted 10-5-74, Amended 12-31-74, 6-7-78, Formerly 16J-4.06(7), 16J-4.11, 16J-4.10(3), Amended 10-1-84, 3-1-88, 10-3-95, 10-16-96, 10-11-01, 2-19-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Martha A. Moore, Senior Attorney, Office of General Counsel,
2379 Broad Street, Brooksville, FL 34604-6899,
(352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2007

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-6.010

RULE TITLE:
Payment Methodology for Nursing Home Services

PURPOSE AND EFFECT: The purpose of the proposed rule is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan (the Plan) payment methodology, effective July 1, 2007.

1. The operating and indirect patient care component targets and target rate class ceilings of the Medicaid nursing home per diem rate shall be rebased. The operating and indirect patient care components of the per diem rate shall continue to be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider-specific target.
2. Establish a target rate class ceiling floor equal to 90 percent of the cost-based class ceiling.
3. Establish an individual provider-specific target floor equal to 75 percent of the cost-based class ceiling.
4. Modify the inflation multiplier to equal 2.0 times inflation for the individual provider-specific target. (The inflation multiplier for the target rate class ceiling shall remain at 1.4 times inflation.)
5. Modify the calculation of the change of ownership target to equal the previous providers' operating and indirect patient care cost per diem (excluding incentives), plus 50 percent of the difference between the previous providers' per diem (excluding incentives) and the effective class ceiling and use an inflation multiplier of 2.0 times inflation.
6. The methodology for nursing home special Medicaid payments is being revised.

SUMMARY: The proposed changes to Rule 59G-6.010, F.A.C., incorporate revisions to the Florida Title XIX Long-Term Care Reimbursement Plan. The rule modifies July 1, 2007 nursing home rates and changes the term Upper Payment Limit to special Medicaid payments.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: November 19, 2007, 2:00 p.m.
 PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, FL 32308
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2149A, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756 or by e-mail at stephene@ahca.myflorida.com If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2149A, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756 or by e-mail at stephene@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.010 Payment Methodology for Nursing Home Services.
 Reimbursement to participating nursing homes for services provided shall be in accord with the Florida Title XIX Long-Term Care Reimbursement Plan, Version ~~XXXII XXXI~~ Effective Date August 26, 2007 and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Secretary for Medicaid, 2727 Mahan Drive, Mail Stop 8, Tallahassee, Florida 32308. The Plan incorporates Provider Reimbursement Manual (CMS Pub. 15-1).

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History--New 7-1-85, Amended 10-1-85, Formerly 10C-7.482, Amended 7-1-86, 1-1-88, 3-26-90, 9-30-90, 12-17-90, 9-15-91, 3-26-92, 10-22-92, 4-13-93, 6-27-93, Formerly 10C-7.0482, Amended 4-10-94, 9-22-94, 5-22-95, 11-27-95, 11-6-97, 2-14-99, 10-18-99, 1-11-00, 4-24-00, 9-20-00, 11-20-01, 2-20-02, 7-14-02, 1-8-03, 6-11-03, 12-3-03, 2-16-04, 7-21-04, 10-12-04, 4-19-06, 8-26-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Mr. Edwin Stephens
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Phil Williams
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NO.: 61G1-11.013
 RULE TITLE: Definitions
 PURPOSE AND EFFECT: The Board proposes the rule amendment in order to add the definition of "intern-architect" to the rule.
 SUMMARY: The definition of "intern-architect" will be added to the rule.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.
 Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
 SPECIFIC AUTHORITY: 481.2055 FS.
 LAW IMPLEMENTED: 481.203, 481.211, 481.221(4), (8), 481.229(1)(c) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-11.013 Definitions.
 In these rules, where the context will permit;
 (1) through (3) No change.
 (4) The title "Intern Architect" may be used by an individual who possesses a National Architectural Accreditation Board (NAAB) accredited professional degree in architecture, is actively enrolled with the National Council of Architectural Registration Boards (NCARB) in the Intern Development Program (IDP), and is working under the direct supervision of a registered architect. This title shall be used only in conjunction with the architectural firm for which an individual is employed as an intern to meet the requirements of Section 481.211, F.S., "Architecture internship required."

Specific Authority 481.2055, 481.211 FS. Law Implemented 481.203, 481.211, 481.221(4), (8), 481.229(1)(c) FS. History--New 12-23-79, Amended 2-24-83, 10-27-83, 12-29-83, Formerly 21B-11.13, Amended 11-12-89, 2-14-91, 5-5-91, 12-26-91, Formerly 21B-11.013, Amended 11-15-93, 11-21-94, 1-10-99, 2-12-04, 4-15-07,_____.

Notice of Proposed Rule

AGENCY FOR HEALTH CARE ADMINISTRATION**Medicaid****RULE NO: RULE TITLE****59G-6.010: Payment Methodology for Nursing Home Services****PURPOSE AND EFFECT:** The purpose of the proposed rule is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan (the Plan) payment methodology, effective July 1, 2007.

1. The operating and indirect patient care component targets and target rate class ceilings of the Medicaid nursing home per diem rate shall be rebased. The operating and indirect patient care components of the per diem rate shall continue to be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider-specific target.
2. Establish a target rate class ceiling floor equal to 90 percent of the cost-based class ceiling.
3. Establish an individual provider-specific target floor equal to 75 percent of the cost-based class ceiling.
4. Modify the inflation multiplier to equal 2.0 times inflation for the individual provider-specific target. (The inflation multiplier for the target rate class ceiling shall remain at 1.4 times inflation.)
5. Modify the calculation of the change of ownership target to equal the previous providers' operating and indirect patient care cost per diem (excluding incentives), plus 50 percent of the difference between the previous providers' per diem (excluding incentives) and the effective class ceiling and use an inflation multiplier of 2.0 times inflation.
6. The methodology for nursing home special Medicaid payments is being revised.

SUMMARY: The proposed changes to Rule 59G-6.010, F.A.C., incorporate revisions to the Florida Title XIX Long-Term Care Reimbursement Plan. The rule modifies July 1, 2007 nursing home rates and changes the term Upper Payment Limit to special Medicaid payments.**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.919, FS.**LAW IMPLEMENTED:** 409.908, FS.**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):****DATE AND TIME:** November 19, 2007, 2:00 p.m.**PLACE:** Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2149A, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756 or by e-mail at stephene@ahca.myflorida.com If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2149A, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756 or by e-mail at stephene@ahca.myflorida.com (850) 414-2756 or by e-mail at stephene@ahca.myflorida.com**THE FULL TEXT OF THE PROPOSED RULE IS:**

59G-6.010 Payment Methodology for Nursing Home Services.
 Reimbursement to participating nursing homes for services provided shall be in accord with the Florida Title XIX Long-Term Care Reimbursement Plan, Version ~~XXXII~~ ~~XXXI~~ Effective Date August 26, 2007 and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Secretary

for Medicaid, 2727 Mahan Drive, Mail Stop 8, Tallahassee, Florida 32308. The Plan incorporates Provider Reimbursement Manual (CMS Pub. 15-1).

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History--New 7-1-85, Amended 10-1-85, Formerly 10C-7.482, Amended 7-1-86, 1-1-88, 3-26-90, 9-30-90, 12-17-90, 9-15-91, 3-26-92, 10-22-92, 4-13-93, 6-27-93, Formerly 10C-7.0482, Amended 4-10-94, 9-22-94, 5-22-95, 11-27-95, 11-6-97, 2-14-99, 10-18-99, 1-11-00, 4-24-00, 9-20-00, 11-20-01, 2-20-02, 7-14-02, 1-8-03, 6-11-03, 12-3-03, 2-16-04, 7-21-04, 10-12-04, 4-19-06, 8-26-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Edwin Stephens

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Phil Williams

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007

SECTION 3 - HUMAN SERVICES

to achieve this reduction.

114	SPECIAL CATEGORIES		
	MEDIPASS SERVICES		
	FROM GENERAL REVENUE FUND	-36,069	
	FROM MEDICAL CARE TRUST FUND		-41,957
	FROM REFUGEE ASSISTANCE TRUST FUND		-454
TOTAL:	MEDICAID SERVICES TO INDIVIDUALS		
	FROM GENERAL REVENUE FUND	-100,796,293	
	FROM TRUST FUNDS		-133,072,759
	TOTAL ALL FUNDS		-233,869,052

MEDICAID LONG TERM CARE

116	SPECIAL CATEGORIES		
	NURSING HOME CARE		
	FROM GENERAL REVENUE FUND	-68,679,773	
	FROM MEDICAL CARE TRUST FUND		-90,647,696

The reduced appropriation in Specific Appropriation 116 includes reductions of \$16,198,032 from the General Revenue Fund and \$21,393,131 from the Medical Care Trust Fund as a result of modifying the reimbursement for nursing home rates, effective January 1, 2008. The agency shall modify the Medicaid trend adjustment contained in the Title XIX Nursing Home Reimbursement Plan to achieve this recurring reduction.

The reduced appropriation in Specific Appropriation 116 includes reductions of \$4,823,045 from the General Revenue Fund and \$6,369,912 from the Medical Care Trust Fund as a result of expanding the Nursing Home Diversion Program, effective January 1, 2008.

The reduced appropriation in Specific Appropriation 116 includes reductions of \$47,658,696 from the General Revenue Fund and \$62,884,653 from the Medical Care Trust Fund based on the revised Fiscal Year 2007-2008 nursing home care expenditure estimate provided in the September 14, 2007 Medicaid Impact Conference.

117	SPECIAL CATEGORIES		
	STATE MENTAL HEALTH HOSPITAL PROGRAM		
	FROM GENERAL REVENUE FUND	-5,170,800	
	FROM MEDICAL CARE TRUST FUND		-6,829,200

The reduced appropriation in Specific Appropriation 117 includes reductions of \$5,170,800 from the General Revenue Fund and \$6,829,200 from the Medical Care Trust Fund as a result of eliminating funding that allows non-State Mental Health hospitals to provide services for individuals 65 and older in Institutions for Mental Disease that are inconsistent with current statutory authority.

118	SPECIAL CATEGORIES		
	CAPITATED NURSING HOME DIVERSION WAIVER		
	FROM GENERAL REVENUE FUND	2,927,729	
	FROM MEDICAL CARE TRUST FUND		3,866,722

From the funds in Specific Appropriation 118, \$3,554,042 from the General Revenue Fund and \$4,693,909 from the Medical Care Trust Fund are provided to expand the current Nursing Home Diversion Program by an additional 1,000 slots, effective January 1, 2008. The agency is authorized to seek the necessary federal waivers to implement this provision.

Funds in Specific Appropriation 118 include reductions of \$626,313 from the General Revenue Fund and \$827,187 from the Medical Care Trust Fund as a result of assessing a disenrollment fee to a nursing home diversion provider when a plan member disenrolls from the program and enrolls in a Medicaid fee-for-service nursing home facility within two months of initial enrollment, effective January 1, 2008.

CONFERENCE REPORT ON SENATE BILL 2-C

SECTION 3 - HUMAN SERVICES

TOTAL: MEDICAID LONG TERM CARE		
FROM GENERAL REVENUE FUND	-70,922,844	
FROM TRUST FUNDS		-93,610,174
 TOTAL ALL FUNDS		 -164,533,018

MEDICAID PREPAID HEALTH PLANS

119 SPECIAL CATEGORIES		
PREPAID HEALTH PLANS--ELDERLY AND DISABLED		
FROM GENERAL REVENUE FUND	-2,238,771	
FROM MEDICAL CARE TRUST FUND		-2,956,799

The reduced appropriations in Specific Appropriations 119 and 120 include reductions of \$4,944,900 from the General Revenue Fund, \$6,533,261 from the Medical Care Trust Fund and \$66,772 from the Refugee Assistance Trust Fund as a result of modifying the reimbursement for inpatient and outpatient hospital rates, effective January 1, 2008.

The reduced appropriations in Specific Appropriations 119 and 120 include reductions of \$2,124,421 from the General Revenue Fund, \$2,806,810 from the Medical Care Trust Fund and \$28,687 from the Refugee Assistance Trust Fund as a result of reducing prescribed drug costs, effective January 1, 2008.

From the funds in Specific Appropriations 119 and 120, \$2,710,856 from the General Revenue Fund, \$3,121,752 from the Medical Care Trust Fund and \$33,930 from the Refugee Assistance Trust Fund are provided to expand managed care enrollment as a result of eliminating equal assignment between managed care plans and MediPass, as specified in s. 409.9122 (2)(k), Florida Statutes, in Medicaid areas 1 and 6 for any new recipient who is required to enroll in managed care and who fails to make a choice in the initial 30-day choice period, effective March 1, 2008.

120 SPECIAL CATEGORIES		
PREPAID HEALTH PLANS--FAMILIES		
FROM GENERAL REVENUE FUND	-2,119,694	
FROM MEDICAL CARE TRUST FUND		-3,261,520
FROM REFUGEE ASSISTANCE TRUST FUND		-61,529

TOTAL: MEDICAID PREPAID HEALTH PLANS		
FROM GENERAL REVENUE FUND	-4,358,465	
FROM TRUST FUNDS		-6,279,848
 TOTAL ALL FUNDS		 -10,638,313

PROGRAM: HEALTH CARE REGULATION

HEALTH CARE REGULATION

APPROVED SALARY RATE	-119,651	
121 SALARIES AND BENEFITS POSITIONS	-3.00	
FROM HEALTH CARE TRUST FUND		-161,936
122 EXPENSES		
FROM HEALTH CARE TRUST FUND		-35,767
123 SPECIAL CATEGORIES		
CONTRACTED SERVICES		
FROM HEALTH CARE TRUST FUND		-360
124 SPECIAL CATEGORIES		
TRANSFER TO DEPARTMENT OF MANAGEMENT		
SERVICES - HUMAN RESOURCES SERVICES		
PURCHASED PER STATEWIDE CONTRACT		
FROM HEALTH CARE TRUST FUND		-1,203