

ATITLE 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance The division is amending sections (1) and (2).

PURPOSE: This amendment clarifies that the NFRA will comply with federal regulation 42 CFR 433.68 and produce revenues less than or equal to six percent (6%) of the revenues received by the health care provider, which is required for a health care related tax to be permissible, amends the fiscal period, updates the Quarterly Survey submission reference, provides for the days to be used if a Quarterly Survey is not submitted, and removes outdated language that is no longer needed.

(1) Nursing Facility Reimbursement Allowance (NFRA). NFRA shall be assessed as described in this section.

(A) Definitions.

1. Nursing facility. An institution or a distinct part of an institution which—

A. Is primarily engaged in providing to residents—

(I) Skilled nursing care and related services for residents who require medical or nursing care; or

(II) Rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or

(III) On a regular basis, health-care and services to individuals who, because of their mental or physical condition, require care and services (above the level of room and board) which can be made available to them only through institutional facilities and is not primarily for the care and treatment of mental diseases; and

B. Has in effect a transfer agreement with one (1) or more hospitals as required by federal law; and

C. Meets the requirements for a nursing facility described in section 1919(b)–(d) of the Social Security Act; or

D. Is licensed in accordance with Chapter 198, RSMo, as a skilled nursing facility.

2. Fiscal period. A facility's twelve- (12-) month fiscal reporting period/ *covering the same twelve- (12-) month period as its federal tax year*. **If the facility is also participating in the Title XVIII Medicare (Medicare) program, the Medicaid cost report period shall be the same as the Medicare cost report period. If the provider does not participate in Medicare, the Medicaid cost report should have the same twelve- (12-) month fiscal year consistent with the facility's accounting and reporting period.**

3. Department. Department of Social Services.

4. Director. Director of the Department of Social Services.

5. Division. MO HealthNet Division, Department of Social Services.

6. Department of Health and Senior Services (DHSS). The Missouri state agency responsible for licensing and inspecting all long-term care facilities operating in Missouri and certifying annually those facilities participating in the Medicare or Medicaid program.

7. Engaging in the business of providing nursing facility services. Accepting payment for nursing facility services rendered.

8. Quarterly survey. The survey filled out each quarter by a nursing facility providing data on its licensed and certified beds and the related resident occupancy days (ROD) that is submitted to the DHSS. The survey *[form]*, “Missouri Department of Health and Senior Services, *[Division of Senior Services and Regulation, ICF/SNF]* Certificate of Need Quarterly Survey” *[(form MO 886-9001 (6-95))]*, incorporated by reference in this rule, is published by the Department of Health and Senior Services, Division of Senior Services and Regulation, PO Box 570, Jefferson City, MO 65102 and is available at <https://consurvey.dhss.mo.gov/CONFacility/Login.aspx>, **June 23, 2025**. This rule does not incorporate any subsequent amendments or additions.

9. Applicable quarterly survey. The quarterly survey used by the division from which the patient occupancy days are taken to determine the NFRA assessment for a given period as set forth in section (2).

10. Patient occupancy days. The number of days that residents occupied the licensed beds in a nursing facility as shown on the quarterly survey, line D. “Number of occupied RODs (days patients in beds or beds held).”

11. Annualized level of patient occupancy days. The annual level of patient occupancy days used to determine the annual NFRA assessment.

A. For existing nursing facilities whose NFRA assessment is set in accordance with paragraph (1)(B)1. of this regulation, the annualized level of patient occupancy days is calculated by taking the number of patient occupancy days shown on line D. of the quarterly survey multiplied by four (4).

B. For nursing facilities whose NFRA assessment is not set by the general rule set forth in paragraph (1)(B)1. (i.e., it is an exception set under subparagraph (1)(B)1.A., is a new facility set under paragraph (1)(B)2., qualifies for a NFRA Adjustment in accordance with section (3), etc.), the annualized level of patient occupancy days may be calculated differently and is set forth in those sections.

12. Licensed beds. Any skilled nursing facility or intermediate care facility bed meeting the licensing requirement of the Missouri Department of Health and Senior Services.

13. Licensed bed days. The total number of patient days available for use during a given period for all licensed beds. For purposes of this regulation, licensed bed days are calculated for an annual period and is the number of licensed beds times three hundred sixty-five (365) days.

14. Change of ownership. A change in the ownership, control, operator, or leasehold interest.

(B) Each nursing facility, except any nursing facility operated by the Department of Mental Health, engaging in the business of providing nursing facility services in Missouri shall pay a Nursing Facility Reimbursement Allowance (NFRA).

1. The NFRA owed for existing nursing facilities shall be calculated by multiplying the NFRA rate by the annualized level of patient occupancy days from the applicable quarterly survey. The NFRA shall be divided by and collected over the number of months for which each NFRA rate is effective. The NFRA rates, effective dates, and applicable quarterly surveys are set forth in section (2).

A. Exceptions.

(I) If an existing nursing *[facility's]***facility is not open for the entire quarter relative to the applicable quarterly survey**, as set forth in section (2), **and the applicable quarterly survey** does not represent a full quarter's worth of days due to a termination, temporary closure, change of ownership, etc., **the annualized level of patient occupancy days used to determine the NFRA shall be the greater of:**

(a) The annualized level of patient occupancy days from the quarterly survey immediately prior to the applicable quarterly survey, if it represents a full quarter's worth of days; or

(b) Fifty percent (50%) of licensed bed days (i.e., number of licensed beds times three hundred sixty-five (365) days times fifty percent (50%)).

(II) If an existing nursing facility did not *[have patient occupancy information included on the applicable quarterly survey due to a termination, temporary closure, change of ownership, etc.]***submit the applicable quarterly survey**, the annualized level of patient occupancy days used to determine the NFRA shall be the greater of:

(a) *[The annualized level of patient occupancy days from the quarterly survey immediately prior to the applicable quarterly survey, if it represents a full quarter's worth of days]* **The facility's current NFRA assessment (i.e., the NFRA assessments that is in effect prior to the new SFY update for which the facility did not submit a survey); or**

(b) *[Fifty percent (50%)]* **Eighty percent (80%)** of licensed bed days.

(III) If a nursing facility has ICF licensed beds and SNF licensed beds and none of the beds are Medicaid certified, only the SNF beds are subject to NFRA. The annualized level of patient occupancy days used to determine the NFRA shall be determined by multiplying the occupancy percentage from the applicable quarterly survey by the licensed bed days for the SNF licensed beds (i.e., number of SNF licensed beds times three hundred sixty-five (365) days).

(IV) If two (2) existing nursing facilities merge, with one (1) nursing facility terminating and transferring its beds to the remaining facility, the NFRA for the two (2) previously independent nursing facilities shall be added together and assessed to the remaining facility.

2. The initial NFRA owed by a newly licensed nursing facility that just opened as a result of receiving a Certificate of Need (CON) for a new nursing facility shall be calculated by multiplying the NFRA rate by the annualized level of patient occupancy days based on fifty percent (50%) of licensed bed days. The NFRA shall be prorated for the number of months remaining in the NFRA period. If a nursing facility's licensure date is after the first day of a month, the NFRA will be collected beginning with the first day of the month following the actual licensure date.

3. If a nursing facility ceases to provide nursing facility services, the nursing facility is not required to pay the NFRA during the months in which it does not have residents, even though it may retain a license due to temporary closure for renovations, replacement, etc. If a nursing facility provided nursing facility services for any portion of a month, it shall pay the NFRA for the entire month (i.e., the NFRA shall not be prorated for the month in which it ceases to provide nursing facility services). If the facility reopens, it shall resume paying the NFRA. It shall owe the same NFRA as it did prior to closing, if the NFRA has not changed per section (2) below. If the NFRA has changed, the facility shall be assessed in accordance with paragraph (1)(B)1. above.

[(C) Each nursing facility shall submit to the department a statement that accurately reflects—

1. If the nursing facility is owned and operated by the state of Missouri; and

2. If the nursing facility accepts payment for services rendered.

(D) The department shall prepare a confirmation schedule of the information from each nursing facility's 1994 second quarterly survey from the Division of Aging and provide each nursing facility with this schedule.

1. This schedule shall include:

A. Provider name;

B. Provider number; and

C. Total patient occupancy days.

2. Each nursing facility required to pay the Nursing Facility Reimbursement Allowance shall review the information in the schedule referenced in paragraph (1)(D)1. of this regulation and provide the department with correct information. If the information supplied by the department is incorrect, the facility within thirty (30) calendar days of receiving the confirmation schedule must notify the division and explain the corrections. If the division does not receive corrected information within thirty (30) calendar days, it will be assumed to be correct, unless the nursing facility files a protest in accordance with subsection (1)(F) of this regulation.

(E)] (C) Payment of the NFRA.

1. Offset. Each nursing facility may request that their Nursing Facility Reimbursement Allowance be offset against any Missouri Medicaid payment due to that nursing facility. A statement authorizing the offset must be on file with the division before any offset may be made relative to the nursing facility reimbursement allowance by the nursing facility. Assessments shall be allocated and deducted over the applicable service period. Any balance due after the offset shall be remitted by the nursing facility to the department. The remittance shall be made payable to the Director of the Department of Revenue and deposited in the state treasury to the credit of the Nursing Facility Reimbursement Allowance Fund. If the remittance is not received before the next Medicaid payment cycle, the division shall offset the balance due from that check.

2. Check. If no offset has been authorized by the nursing facility, the division will begin collecting the nursing facility reimbursement allowance on the first day of each month. The NFRA shall be remitted by the nursing facility to the department. The remittance shall be made payable to the director of the Department of Revenue and deposited in the state treasury to the credit of the Nursing Facility Reimbursement Allowance Fund.

3. Failure to pay the NFRA. If a nursing facility fails to pay its NFRA within thirty (30) days of notice, the NFRA shall be delinquent. For any delinquent NFRA, the department may proceed to enforce the state's lien of the property of the nursing facility, may cancel or refuse to issue, extend, or reinstate the Medicaid provider agreement or may seek denial, suspension, or revocation of license granted under Chapter 198, RSMo. The new owner, as a result of a change in ownership, shall have his/her NFRA paid by the same method the previous owner elected.

[(F)] (D) Each nursing facility, upon receiving written notice of the final determination of its Nursing Facility Reimbursement Allowance may file a protest with the director of the department setting forth the grounds on which the protest is based, within thirty (30) days from the date of receipt of written notice from the department. The director of the department shall reconsider the determination and, if the nursing facility so requested, the director or the director's designee shall grant the nursing facility a hearing to be held within forty-five (45) days after the protest is filed, unless extended by agreement between the nursing facility and the director. The director shall issue a final decision within forty-five (45) days of the completion of the hearing. After a final decision by the director, a nursing facility's appeal of the director's final decision

shall be to the Administrative Hearing Commission in accordance with sections 208.156, RSMo and 621.055, RSMo.

(2) NFRA Rates. **The amount of the fees imposed under this rule shall not exceed the percentage of net patient service revenues permitted by federal regulation pursuant to 42 CFR 433.68 as determined by the department on a per occupied bed per day basis. Federal regulation 42 CFR 433.68 specifies that permissible health care related taxes shall produce revenues that are less than or equal to six percent (6%) of the revenues received by the health care provider. Federal regulation 42 CFR 433.68 is incorporated by reference as published by Office of the Federal Register National Archives and Records Administration, 732 N. Capitol Street, NW, Washington DC 20401, October 1, 2024. This rule does not incorporate any subsequent amendments or additions.** The NFRA rates determined by the division[, *as set forth in subsection (1)(B) above,*] are as follows:

(A) The NFRA will be two dollars and seventy-six cents (\$2.76) per patient occupancy day for the period January 1, 1995 through September 30, 1995, and collected over nine (9) months (February 1995 through October 1995). The applicable quarterly survey for this period shall be the Division of Aging's June 1994 quarterly survey;

(B) The NFRA will be three dollars and fifty-five cents (\$3.55) per patient occupancy day for the period October 1, 1995 through September 30, 1996, and collected over twelve (12) months (November 1995 through October 1996). The applicable quarterly survey for this period shall be the Division of Aging's June 1995 quarterly survey;

(C) The NFRA will be five dollars and thirty cents (\$5.30) per patient occupancy day for the period October 1, 1996 through September 30, 1997, and collected over twelve (12) months (November 1996 through October 1997). The applicable quarterly survey for this period shall be the Division of Aging's June 1996 quarterly survey;

(D) The NFRA will be five dollars and eighty-eight cents (\$5.88) per patient occupancy day for the period October 1, 1997 through September 30, 1998, and collected over twelve (12) months (November 1997 through October 1998). The applicable quarterly survey for this period shall be the Division of Aging's June 1997 quarterly survey;

(E) The NFRA will be five dollars and eighty-eight cents (\$5.88) per patient occupancy day for the period October 1, 1998 through September 30, 1999, and collected over twelve (12) months (November 1998 through October 1999). The applicable quarterly survey for this period shall be the Division of Aging's June 1998 quarterly survey;

(F) The NFRA will be seven dollars and four cents (\$7.04) per patient occupancy day, effective October 1, 1999. The applicable quarterly survey for this period shall be the Division of Aging's June 1999 quarterly survey;

(G) The NFRA will be seven dollars and fifty cents (\$7.50) per patient occupancy day, effective July 1, 2000. The applicable quarterly survey for this period shall be the Division of Aging's December 1999 quarterly survey;

(H) The NFRA will be seven dollars and thirty cents (\$7.30) per patient occupancy day, effective July 1, 2001. The applicable quarterly survey for this period shall be the Division of Aging's December 2000 quarterly survey;

(I) The NFRA will be eight dollars and forty-two cents (\$8.42) per patient occupancy day, effective July 1, 2003. The applicable quarterly survey for this period shall be the Department of Health and Senior Services' December 2002 quarterly survey;

(J) Effective January 1, 2005, the applicable quarterly survey shall be the June 2004 quarterly survey. The NFRA will continue to be eight dollars and forty-two cents (\$8.42) per patient occupancy day;

(K) Effective July 1, 2005, the applicable quarterly survey shall be updated at the beginning of each state fiscal year using the previous December's quarterly survey;

(L) Effective July 1, 2009, the NFRA will be nine dollars and seven cents (\$9.07) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K);

(M) Effective January 1, 2010, the NFRA will be nine dollars and twenty-seven cents (\$9.27) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K);

(N) Effective October 1, 2011, the NFRA will be eleven dollars and seventy cents (\$11.70) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K);

(O) Effective July 1, 2012, the NFRA will be twelve dollars and eleven cents (\$12.11) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K);

(P) Effective July 1, 2015, the NFRA will be thirteen dollars and forty cents (\$13.40) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K); and

(Q) Effective July 1, 2018, the NFRA will be twelve dollars and ninety-three cents (\$12.93) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K).

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436, 208.153, 208.159, and 208.201, RSMo 2016, and section 198.439, RSMo Supp. 2019. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. Emergency amendment filed Sept. 5, 1995, effective Oct. 1, 1995, expired March 28, 1996. Amended: Filed May 30, 1995, effective Dec. 30, 1995. Amended: Filed Sept. 5, 1995, effective March 30, 1996. Emergency amendment filed Sept. 20, 1996, effective Oct. 1, 1996, expired March 29, 1997. Emergency amendment filed Sept. 19, 1997, effective Oct. 1, 1997, expired March 29, 1998. Amended: Filed Sept. 25, 1997, effective March 30, 1998. Emergency amendment filed Sept. 21, 1998, effective Oct. 1, 1998, expired March 29, 1999. Amended: Filed Sept. 21, 1998, effective May 30, 1999. Emergency amendment filed Sept. 20, 1999, effective Oct. 1, 1999 expired March 29, 2000. Amended: Filed Aug. 30, 1999, effective March 30, 2000. Amended: Filed Feb. 29, 2000, effective Oct. 30, 2000. Emergency amendment filed Aug. 29, 2001, effective Sept. 8, 2001, expired March 6, 2002. Amended: Filed Aug. 29, 2001, effective March 30, 2002. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, terminated Oct. 29, 2003. Amended: Filed Sept. 22, 2003, effective May 30, 2004. Emergency amendment filed Dec. 17, 2004, effective Jan. 1, 2005, expired June 29, 2005. Amended: Filed Dec. 17, 2004, effective July 30, 2005. Emergency amendment filed Nov. 9, 2009, effective Nov. 19, 2009, expired Dec. 31, 2009. Amended: Filed July 1, 2009, effective Jan. 30, 2010. Emergency amendment filed Dec. 1, 2009, effective Jan. 1, 2010, expired June 29, 2010. Amended: Filed Dec. 1, 2009, effective June 30, 2010. Emergency amendment filed Sept. 20, 2011, effective Oct. 1, 2011, expired March 28, 2012. Amended: Filed July 1, 2011, effective Dec. 30, 2011. Emergency amendment filed June 20, 2012, effective July 1, 2012, expired Dec. 28, 2012. Amended: Filed July 2, 2012, effective Jan. 30, 2013. Emergency amendment filed June 19, 2015, effective July 1, 2015, expired Dec. 28, 2015. Amended: Filed July 1, 2015, effective Jan. 30, 2016. Emergency amendment filed May 9, 2019, effective June 1, 2019, expired Dec. 30, 2019. Amended: Filed May 9, 2019, effective Dec. 30, 2019. Emergency Amendment filed June 23, 2025, becomes effective July 8, 2025, and expires February 26, 2026. Amended: Filed August 12, 2025.*

**Original authority: 198.401, RSMo 1994; 198.403, RSMo 1994; 198.406, RSMo 1994; 198.409, RSMo 1994; 198.412, RSMo 1994; 198.416, RSMo 1994; 198.418, RSMo 1994; 198.421, RSMo 1994, 2014; 198.424, RSMo 1994; 198.427, RSMo 1994; 198.431, RSMo 1994; 198.433, RSMo 1994; 198.436, RSMo 1994, amended 1995; 198.439, RSMo 1994, amended 1996, 1999, 2002, 2005, 2006, 2007, 2011, 2015, 2016, 2018, 2019; 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991, 2007, 2012; 208.159, RSMo 1979; and 208.201, RSMo 1987, amended 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, P.O. Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*