

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4 and 2009 Iowa Acts, Senate File 476, section 4, the Department of Human Services amends Chapter 36, "Facility Assessments," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments implement a nursing facility quality assurance assessment based on a facility's non-Medicare patient days. The quality assurance assessment shall be effective the first quarter beginning after all required Centers for Medicare and Medicaid Services approvals are obtained and shall be paid on a quarterly basis. The assessment shall be due to the Department no later than 30 days following the end of each quarter.

The following are the assessment brackets:

- \$1 per non-Medicare patient day if licensed beds are less than or equal to 50.
- \$1 per non-Medicare patient day for nursing facilities designated as continuing care retirement centers by the Iowa Insurance Division.
- \$1 per non-Medicare patient day for nursing facilities with annual Iowa Medicaid patient days of 26,500 or greater.
- \$5.26 per non-Medicare patient day for all other nursing facilities.

The following nursing facilities would be excluded from paying the quality assurance assessment:

- Nursing facilities operated by the state.
- Non-state government-owned or government-operated nursing facilities.
- Distinct-part skilled nursing unit or a swing-bed unit operated by a hospital.

The reimbursement methodology for nursing facilities is modified to provide a quality assurance assessment pass-through rate and a quality assurance assessment rate add-on, pursuant to 2009 Iowa Acts, Senate File 476.

These amendments do not provide for waivers in specified situations because all nursing facilities should be subject to the same assessment and reimbursement structure. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 26, 2009, as **ARC 8086B**. The Department also held a public hearing on the Notice of Intended Action, which no one attended. The Department received two comments on the Notice of Intended Action.

In response to these comments, the Department has made one change to the amendments as published under Notice of Intended Action. The following text has been added to subrule 36.7(4) to reflect a provision of the legislation that was not addressed:

"If the department determines that good cause is shown for failure to comply with payment of the quality assurance assessment, the department shall waive the penalty or a portion of the penalty. Requests for a good cause waiver must be submitted to the Iowa Medicaid Enterprise, Provider Cost Audit and Rate Setting Unit, 100 Army Post Road, Des Moines, Iowa 50315, within 30 days of notice to the facility that the penalty is due."

In the adopted amendments, subrule 36.7(4) reads as follows:

"36.7(4) A nursing facility that fails to pay the quality assurance assessment within the time frame specified above shall pay a penalty in the amount of 1.5 percent of the quality assurance assessment amount owed for each month or portion of a month that the payment is overdue. If the department determines that good cause is shown for failure to comply with payment of the quality assurance assessment, the department shall waive the penalty or a portion of the penalty. Requests for a good cause waiver must be submitted to the Iowa Medicaid Enterprise, Provider Cost Audit and Rate Setting Unit, 100 Army Post Road, Des Moines, Iowa 50315, within 30 days of notice to the facility that the penalty is due."

The Council on Human Services adopted these amendments on October 14, 2009.

These amendments are intended to implement 2009 Iowa Acts, Senate File 476.
These amendments shall become effective on January 1, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [Ch 36 Div II, 36.6, 36.7, 81.6(11)“p,” 81.6(21)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 8086B**, IAB 8/26/09.

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[For replacement pages for IAC, see IAC Supplement 11/4/09.]