

Legislative Report (LR) 20-041
House File (HF) 518
Nursing Facility Hospice Pass-Through

During the 2019 Iowa Legislative Session, HF 518 was passed regarding reimbursement for hospice services for a Medicaid member residing in a nursing facility. This legislation eliminates the hospice pass-through payment to nursing facilities when a Medicaid member resides in a nursing facility and elects the hospice benefit.

House File 518

Section 1. DUALY ELIGIBLE MEDICARE AND MEDICAID MEMBERS AND
MEDICAID-ONLY MEMBERS RECEIVING HOSPICE BENEFIT IN A NURSING
FACILITY ~ ELIMINATION OF PASS-THROUGH PAYMENT.

1. The department of human services shall request federal approval from the centers for Medicare and Medicaid services of the United States department of health and human services for a section 1115 demonstration waiver to allow for the payment of the nursing facility room and board expenses for a dually eligible Medicare and Medicaid member receiving the Medicare hospice benefit or a Medicaid-only member electing the member's hospice benefit, to allow Medicaid managed care organizations and the Medicaid fee-for-service payment system to reimburse the nursing facility directly for the room and board expenses at no less than ninety-five percent of the nursing facility's Medicaid fee-for-service rate rather than indirectly as a pass-through payment from the hospice services provider. The department of human services shall report receipt of such approval to the chairpersons and ranking members of the appropriations committees of the house and senate, the co-chairpersons and ranking members of the joint appropriations subcommittee on health and human services, and the legislative services agency.

2. The department of human services shall adopt rules pursuant to chapter 17A to administer this section and specifically to allow Medicaid managed care organizations and the department's fee-for-service Medicaid payment system to reimburse a nursing facility directly for the room and board expenses at no less than ninety-five percent of the nursing facility's Medicaid fee-for-service rate as provided in this section.

This legislation requires the Department to request federal approval from the Centers for Medicare and Medicaid Services (CMS). Specifically, the legislation requests the submission of an 1115 demonstration waiver to effectuate a change in the process for reimbursement of the nursing facility services for a member electing the hospice benefit. The Department has had many discussions and communications with CMS on the provisions of HF 518 requirements.

The Iowa and federal teams have worked collaboratively to identify the specific authority Iowa would need, as well as the appropriate vehicle to submit the requested policy change in order to receive approval (i.e. 1115 Demonstration Waiver and/or State Plan Amendment). The policy that CMS must "waive" is the prohibition on Medicaid payment directly for room and board.

During discussions with CMS, IME was told it is likely not possible to waive the prohibition on Medicaid payment for room and board through any authority. .

The Iowa Medicaid Director, Michael Randol, has continued to update legislative members on the status of the policy change required in HF 518. This includes providing updates at the legislative Health Policy Oversight Committee meetings on September 20, 2019 and December 2, 2019.

At this time, it does not appear that CMS will approve an 1115 demonstration waiver or any other authority, such as a state plan amendment, to pursue change to the hospice pass-through process for either fee-for-service claims or managed care claims. We will continue to work with CMS to determine if there is an appropriate authority to pursue this policy change, as required in HF 518.