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NYS Skilled Nursing Facility Upper Payment Limit Program Obligations

New York State Health Facilities Association

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Executive Summary

CLA has been engaged by the New York State Health Facilities Association (NYSHFA) to assist in the calculation of New York State skilled nursing facility upper payment limit (UPL) program obligations based upon the proposed Medicaid rate increases. The estimated UPL calculation for 2023 is based primarily upon on the December 31, 2021 Medicare cost reports, plus four March 31, 2022 Medicare cost reports. In addition, the July 2023 New York Medicaid rate was utilized in the analysis.

Based on the analysis, an additional \$2,693,516,127 is available to skilled nursing facilities in the State of New York to increase Medicaid benchmark rates without violating any UPL principles.



New York Upper Payment Limit Program

- The Upper Payment Limit (UPL) program under federal regulations allows for Medicaid payments to skilled nursing facilities up to allowable Medicare payments. To ensure that payments are consistent with the statutory goals of economy and efficiency, CMS established an upper limit on aggregate Fee For Service payments to skilled nursing facility providers based on an estimate of what would have been paid for the same service under Medicare payment principles (42 CFR 447.272 and 447.321). This limit is referred to as the UPL.



New York Upper Payment Limit Program

- Approval of the UPL by CMS is provider type specific. The calculation and payment for nursing facilities is separate and distinct from the hospital UPL calculation and payment.
- The UPL calculation utilizes the allowable costs under Medicare principles, compared to allowable costs under Medicaid principles. Both New York and CLA's calculations are conservative in that they both utilize the lowest acuity category for all Medicare residents irrespective of their actual acuity level. If the actual acuity were included, the allowable Medicaid costs/payments could be higher.



Data Sources and Methodology

- 2021 year end Medicaid cost reports (558)
 - Total population was 620, 62 filtered out due to lack of info reported
 - Private - 537
 - State - 5
 - NSGO - 16
- New York Medicaid reimbursement rates for skilled nursing facilities per data available from the New York Department of Health. Utilized rates as of July 2023.
- Guided by the Cost to Payment Methodology obtained from the New York Department of Health, CLA determined the UPL.
 - UPL is equal to Medicare Principals (defined in appendix A) less the following:
 - Medicaid Principles (defined in appendix A)
 - Provider Tax (Schedule 9, line 81, column 0270)
 - SPA Adjustments (estimated based on New York Department of Health's 'Nursing Home Upper Payment Limit Overview' workbook)



CLA's 2023 NH UPL Calculation

Provider Type	Medicare Principles	Medicaid Principles	Provider Tax	SPA Adjustments	UPL Room
Private	\$ 5,251,338,608	\$ 1,955,823,687	\$ 442,462,329	\$ 423,526,611	\$ 2,429,525,981
State	\$ 77,691,150	\$ 24,404,103	\$ 4,914,302	\$ 3,232,393	\$ 45,140,352
NSGO	\$ 337,407,702	\$ 75,401,559	\$ 21,749,845	\$ 21,406,504	\$ 218,849,794

UPL Room	2022 UPL Room	Estimated Additional UPL Room
\$ 2,429,525,981	\$ 1,534,937,071	\$ 894,588,910
\$ 45,140,352	\$ 9,553,636	\$ 35,586,716
\$ 218,849,794	\$ 184,465,929	\$ 34,383,865



UPL Calculated by New York State

Department of Health, Division of Finance and Rate Setting

2020 NH UPL

Provider Type	Medicare Principles	Medicaid Principles	Provider Tax	SPA Adjustments	Room
Private	\$6,992,160,266	\$4,578,973,902	\$574,732,718	\$94,493,476	\$1,743,960,170
State	\$46,743,124	\$30,756,063	\$1,771,272	\$777,812	\$13,437,977
NSGO	\$433,786,712	\$296,941,665	\$17,839,253	\$6,120,533	\$112,885,261

2021 NH UPL

Provider Type	Medicare Principles	Medicaid Principles	Provider Tax	SPA Adjustments	Room
Private	\$6,967,889,362	\$4,666,368,878	\$571,650,037	\$148,407,107	\$1,581,463,340
State	\$46,868,814	\$30,651,241	\$1,701,843	\$3,232,393	\$11,283,337
NSGO	\$432,983,948	\$287,599,179	\$19,383,288	\$15,915,180	\$110,086,301

2022 NH UPL

Provider Type	Medicare Principles	Medicaid Principles	Provider Tax	SPA Adjustments	Room
Private	\$6,891,945,293	\$4,596,104,221	\$337,377,390	\$423,526,611	\$1,534,937,071
State	\$46,174,945	\$31,752,653	\$1,636,263	\$3,232,393	\$9,553,636
NSGO	\$539,234,231	\$311,205,553	\$22,156,245	\$21,406,504	\$184,465,929



Conclusion

In conclusion, an additional \$2,693,516,127 is available to skilled nursing facilities in the State of New York to increase Medicaid benchmark rates without violating any UPL principles. This conclusion assumes compliance with previously described Medicare and Medicaid principles.



Appendix A

Medicare Principles

- NY Medicaid Cost Report - Exhibit H, column 44 (total)
 - Activities Program
 - Administrative Services
 - Cafeteria
 - Central Service Supply
 - Housekeeping
 - Laundry and Linen
 - Medical Records
 - Nursing Administration
 - Patient Food Service
 - Pharmacy
 - Plant Operation & Maintenance
 - Social Service

Medicaid Principles

- NY Medicaid Cost Report - Exhibit H, column 44 (total) less column 36 (employee benefits)
 - Activities Program
 - Central Service Supply
 - Laundry and Linen
 - Nursing Administration
 - Occupational Therapy
 - Pharmacy
 - Physical Therapy
 - Social Service
 - Speech/Hearing Therapy
 - Transportation





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