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256B.438 is amended to read:

256B.438 Implementation of a case mix system for nursing facilities based on the minimum data set.

Subdivision 1. Scope. This section establishes the method and criteria used to determine resident reimbursement classifications based upon the assessments of residents of nursing homes and boarding care homes whose payment rates are established under section 256B.431, 256B.434, or 256B.435. Resident reimbursement classifications shall be established according to the 34 group, resource utilization groups, version III or RUG-III model as described in section 144.0724. Reimbursement classifications established under this section shall be implemented after June 30, 2002, but no later than January 1, 2003. Reimbursement classifications established under this section shall be implemented no earlier than six weeks after the commissioner mails notices of payment rates to the facilities.

Subd. 2. Definitions. For purposes of this section, the following terms have the meanings given.
(a) Assessment reference date. "Assessment reference date" has the meaning given in section 144.0724, subdivision 2, paragraph (a).

(b) Case mix index. "Case mix index" has the meaning given in section 144.0724, subdivision 2, paragraph (b).

(c) Index maximization. "Index maximization" has the meaning given in section 144.0724, subdivision 2, paragraph (c).

(d) Minimum data set. "Minimum data set" has the meaning given in section 144.0724, subdivision 2, paragraph (d).

(e) Representative. "Representative" has the meaning given in section 144.0724, subdivision 2, paragraph (e).

(f) Resource utilization groups or rug. "Resource utilization groups" or "RUG" has the meaning given in section 144.0724, subdivision 2, paragraph (f).

Subd. 3. Case mix indices.
(a) The commissioner of human services shall assign a case mix index to each resident class based on the Centers for Medicare and Medicaid Services staff time measurement study and adjusted for Minnesota-specific wage indices. The case mix indices assigned to each resident class shall be published in the Minnesota State Register at least 120 days prior to the implementation of the 34 group, RUG-III resident classification system.

(b) An index maximization approach shall be used to classify residents.
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(c) After implementation of the revised case mix system, the commissioner of human services may annually rebase case mix indices and base rates using more current data on average wage rates and staff time measurement studies. This rebasing shall be calculated under subdivision 7, paragraph (b). The commissioner shall publish in the Minnesota State Register adjusted case mix indices at least 45 days prior to the effective date of the adjusted case mix indices.

Subd. 4. Resident assessment schedule.
(a) Nursing facilities shall conduct and submit case mix assessments according to the schedule established by the commissioner of health under section 144.0724, subdivisions 4 and 5.

(b) The resident reimbursement classifications established under section 144.0724, subdivision 3, shall be effective the day of admission for new admission assessments. The effective date for significant change assessments shall be the assessment reference date. The effective date for annual and second all quarterly assessments shall be the first day of the month following assessment reference date.

Subd. 5. Notice of resident reimbursement classification. Nursing facilities shall provide notice to a resident of the resident's case mix classification according to procedures established by the commissioner of health under section 144.0724, subdivision 7.

Subd. 6. Reconsideration of resident classification. Any request for reconsideration of a resident classification must be made under section 144.0724, subdivision 8.

Subd. 7. Rate determination upon transition to RUG-III payment rates. (a) The commissioner of human services shall determine payment rates at the time of transition to the RUG based payment model in a facility-specific, budget-neutral manner. The case mix indices as defined in subdivision 3 shall be used to allocate the case mix adjusted component of total payment across all case mix groups. To transition from the current calculation methodology to the RUG based methodology, the commissioner of health shall report to the commissioner of human services the resident days classified according to the categories defined in subdivision 3 for the 12-month reporting period ending September 30, 2001, for each nursing facility. The commissioner of human services shall use this data to compute the standardized days for the reporting period under the RUG system.

(b) The commissioner of human services shall determine the case mix adjusted component of the rate as follows:
(1) determine the case mix portion of the 11 case mix rates in effect on June 30, 2002, or the 34 case mix rates in effect on or after June 30, 2003;
(2) multiply each amount in clause (1) by the number of resident days assigned to each group for the reporting period ending September 30, 2001, or the most recent year for which data is available;
(3) compute the sum of the amounts in clause (2);
(4) determine the total RUG standardized days for the reporting period ending September 30, 2001, or the most recent year for which data is available using the new indices calculated under subdivision 3, paragraph (c);
(5) divide the amount in clause (3) by the amount in clause (4) which shall be the average case mix adjusted component of the rate under the RUG method; and
(6) multiply this average rate by the case mix weight in subdivision 3 for each RUG group.

(c) The noncase mix component will be allocated to each RUG group as a constant amount to determine the transition payment rate. Any other rate adjustments that are effective on or after July 1, 2002, shall be applied to the transition rates determined under this section.

Subd. 8. Effective with rates for the year starting October 1, 2006, the commissioner shall implement the case mix indices created from the time study conducted under MN Session Laws Special Session 2001, Chapter 9, Article 5, Section 35, Paragraph (e). The commissioner of human services shall implement the new case mix indices as follows:

(a) The September 30, 2005 case mix component of the nursing facility operating payment rate shall be multiplied by the new case mix indices to create 36 case mix adjusted rates.

(b) The 36 case mix adjusted rates determined in (a) plus the noncase mix component shall be the 36 nursing facility operating payment rates.

(c) The rate increases contained in 256b.431 Subd. 41 and 256B.441 Subd. 46 shall be applied to (b)

(d) The commissioner shall provide Nursing facilities that demonstrate a decrease in operating revenue from the implementation of the new case mix indices an increase to their June 30, 2007 operating rate on July 1, 2007. The information supporting the rate increase and the calculations of the rate increase are as follows:

1. Facilities that have a decrease in operating revenue resulting from the implementation of the new case mix indices and use of all quarterly assessments may report to the commissioner of human services the number of private and Medicaid resident days by RUG classification according to the case mix systems and resident assessments used on September 30, 2006 and October 1, 2006 for the six-month period ending March 31, 2007.
2. The commissioner shall use the resident days in (1) and the nursing facility’s October 1, 2006 unadjusted operating payment rate to determine operating revenue according to the case mix systems and resident assessments used on September 30, 2006 and October 1, 2006.
3. The operating revenue determined with the case mix weights used on September 30, 2006 minus the operating revenue determined with the case mix weights used on October 1, 2006 shall equal the decrease in operating revenue.
4. The July 1, 2007 operating rate increase shall be the decrease in operating revenue determined in (3) shall be divided by the total Medicaid and private pay days reported in (1).
5. The commissioner shall retroactively pay to nursing facilities the amount determined in (4) for all paid Medicaid days between October 1, 2006 to June 30, 2007.
(e) On October 1, 2006 the commissioner shall also provide facilities that are estimated to lose 3 percent or more in private pay operating revenue an interim private pay resident rate adjustment. The interim rate is established as follows:

1. The commissioner shall use Minimum Data Set data to classify private patient days by RUG classification according to the case mix systems and resident assessments used on September 30, 2006 and October 1, 2006, for the year ending June 30, 2006.

2. The commissioner shall use the resident days in (1) and the nursing facility’s October 1, 2006 unadjusted operating payment rate to estimate operating revenue according to the case mix systems and resident assessments used on September 30, 2006 and October 1, 2006.

3. The estimated operating revenue determined with the case mix weights used on September 30, 2006 minus the operating revenue determined with the case mix weights used on October 1, 2006 shall equal the decrease in private pay operating revenue.

4. Facilities with an estimated decrease of 3 percent or more in (3) shall receive an interim rate adjustment equal to the absolute value determined in (3) divided by the private days in (1).

5. The interim rate adjustment for private pay residents shall be in effect until June 30, 2007, and is not part of a facility’s operating rate.

6. Facilities receiving the interim rate adjustment shall provide the commissioner the report referenced in (d).

**Amend MN Statutes 144.0724, subd. 4 as follows:**

Subd. 4. Resident assessment schedule. (a) A facility must conduct and electronically submit to the commissioner of health case mix assessments that conform with the assessment schedule defined by Code of Federal Regulations, title 42, section 483.20, and published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, in the Long Term Care Assessment Instrument User's Manual, version 2.0, October 1995, and subsequent clarifications made in the Long-Term Care Assessment Instrument Questions and Answers, version 2.0, August 1996. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments used to determine a case mix classification for reimbursement include the following:

(1) a new admission assessment must be completed by day 14 following admission;

(2) an annual assessment must be completed within 366 days of the last comprehensive assessment;

(3) a significant change assessment must be completed within 14 days of the identification of a significant change; and
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(4) the second quarterly assessment following either a new admission assessment, an annual assessment, or a significant change assessment: all quarterly assessments following a new admission assessment, a quarterly assessment, an annual assessment, or a significant change assessment. Each quarterly assessment must be completed within 92 days of the previous assessment.