

Title 20. Public Health and Welfare

Chapter XV. Division of Medical Services, Department of Human Services

Subchapter A. Generally

Part 577. Administrative Procedures of Nursing Home Quality Assurance Fee

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules of 2024 provided as follows:

"Reference: Act 635 of 2001, An Act to Levy a Quality Assurance Fee. Effective: March 9, 2001"

Subpart 1. Generally

20 CAR § 577-101. Definitions.

As used in this part:

(1) "Accounts receivable" means the accounts receivable unit of the Division of Finance of the Department of Human Services;

(2) "Director" means the Director of the Division of Medical Services;

(3) "Division" means the Division of Medical Services of the Department of Human Services;

(4)(A) "Gross receipts" means gross receipts paid as compensations for services provided to residents of nursing facilities, including but not limited to client participation.

(B) "Gross receipts" does not mean charitable contributions;

(5) "Medicaid" means the medical assistance program established by Title XIX of the Social Security Act, as existing on January 1, 2001, and administered by the Division of Medical Services;

(6) "Midnight census" means the count of:

(A) Each patient occupying a nursing facility bed at midnight of each day;

(B) Those beds placed on hold during a period of time not to exceed five

(5) consecutive calendar days during which a patient is in a hospital bed; and

(C) Those beds placed on hold during a period of time not to exceed fourteen (14) consecutive calendar days during which a patient is on therapeutic home leave;

(7) "Multiplier" means the fixed-dollar amount used to calculate the quality assurance fee;

(8)(A) "Nursing facilities" means any building, structure, agency, institution, or other place that requires payment for the reception, accommodation, board, care, or treatment of more than three (3) unrelated individuals who, due to a physical or mental infirmity, are unable to care for themselves.

(B) Nursing facilities does not mean:

(i) Offices of private physicians and surgeons;

(ii) Boarding homes;

(iii) Residential care facilities;

(iv) Intermediate care facilities for the mentally retarded;

(v) Hospitals;

(vi) Institutions operated by the federal government or licensed by the Division of Developmental Disabilities Services; or

(vii) Any facility which is conducted by and for those who rely exclusively upon treatment by prayer for healing in accordance with tenets or practices of any recognized religious denomination; and

(9) "Patient days" means the number of patients in a nursing facility as determined by the midnight census.

Authority. Arkansas Code § 20-10-1604.

Codification Notes. Title XIX of the Social Security Act is codified at 42 U.S.C. § 1396 et seq.

20 CAR § 577-102. Patient revenues.

All nursing facilities shall report their patient revenues on a monthly basis on a form prescribed by the Division of Medical Services for the specific purpose of reporting patient revenue.

Authority. Arkansas Code § 20-10-1604.

20 CAR § 577-103. Fee assessment, billing, collection.

(a) Each nursing facility shall file a report with the Department of Human Services by the tenth of each month for the preceding month, listing the patient midnight census as required by rules promulgated by the Division of Medical Services.

(b)(1) Accounts receivable will calculate the quality assurance fee by multiplying patient midnight census as reported by the facilities for the previous month by the appropriate rate per period.

(2) Billing will be sent no later than the fifteenth of each month.

(3) A copy of the patient census report and statement will be forwarded to the division.

(4) The fee shall then be due and payable for the previous month by the thirtieth of the month.

(c) From the effective date of the Acts 2001, No. 635, March 9, 2001, to June 30, 2001, the rate shall be set at five dollars and twenty-five cents (\$5.25) multiplied by the midnight census count for of all nursing facilities in this state, for each month of this period.

(d)(1) Failure of any nursing facility to file required reports and/or pay fees on a timely basis may result in the withholding of Medicaid reimbursement, license nonrenewal, letters of caution, sanctions, and/or fines.

(2) The fine shall be at least ten thousand dollars (\$10,000) but no more than twenty thousand dollars (\$20,000).

(3) The fine and outstanding quality assurance fee shall accrue interest at the maximum rate permitted by law from the date the quality assurance fee is due until payment of the quality assurance fee and the fine.

(4) Accounts receivable will initiate the collection process on the first of the month following the due date for payments not postmarked by close of business on the thirtieth of the month.

(5) Outstanding accounts report will be forwarded to the division for determination of further action.

Authority. Arkansas Code §§ 20-10-1602, 20-10-1604.

20 CAR § 577-104. Change of ownership or management.

The liability for any amount owed the Division of Medical Services in connection with the quality assurance fee is joint and several as between or among the original obligor and any successor licensees.

Authority. Arkansas Code § 20-10-1604.

20 CAR § 577-105. Administration of fees.

(a) Fees assessed and collected will be deposited into a designated account within the Arkansas Medicaid Program Trust Fund as established under Arkansas Code § 19-5-985.

(b) No nursing facility shall be guaranteed, expressly or otherwise, that any additional moneys paid to the nursing facility will equal or exceed the amount of its quality assurance fee.

Authority. Arkansas Code § 20-10-1604.

20 CAR § 577-106. Sanctions.

(a) Sanctions will be assessed by the Division of Medical Services on all nursing facilities that fail to comply with the provisions of Acts 2001, No. 635, as implemented by this part.

(b) Any fee or fine imposed under this part, as authorized by Acts 2001, No. 635,

shall accrue interest at the rate of ten percent (10%) per annum from the date the fee or fine is imposed until the nursing facility pays the fee or fine.

(c) For the purposes of this section, "postmarked" means dated for delivery to the division and submitted to the appropriate carrier by whatever means designated by the division including electronic or other means.

(d) The procedures for suspension and reinstatement of a license set forth in this section shall only apply to violations of this part.

(e) **Midnight census data.** Should a nursing facility fail to submit midnight census data to the division within the time specified in Acts 2001, No. 635, the following sanctions shall be imposed:

(1) If the midnight census data is not received within ten (10) days after the date on which the data must be postmarked for transmission to the division, the division shall issue a letter of caution to the nursing facility;

(2) If the midnight census data is not received within twenty (20) days after the date on which the data must be postmarked for transmission to the division, the nursing facility shall be deemed to be in noncompliance with Acts 2001, No. 635, and the nursing facility shall be fined at least ten thousand dollars (\$10,000) but no more than twenty thousand dollars (\$20,000), such amount to be dependent upon the number of times the nursing facility has been found to be in noncompliance with the midnight census data reporting requirement of Acts 2001, No. 635, within the twelve (12) months immediately preceding the date of noncompliance:

(A) First finding of noncompliance, ten thousand dollars (\$10,000);

(B) Second finding of noncompliance, fifteen thousand dollars (\$15,000);

and

(C) Third finding of noncompliance, twenty thousand dollars (\$20,000);

and

(3) Failure to provide midnight census data on four (4) or more occasions within any twelve-month period will result in the division directing the Office of Long-Term Care to suspend a nursing facility's license to operate for a period of not less than thirty (30) days and not more than ninety (90) days, such period to be determined by

the Director of the Division of Medical Services.

(f) **Gross receipts data.** Should a nursing facility fail to submit gross receipts data to the division within the time specified in Acts 2001, No. 635, the following sanctions shall be imposed:

(1) If the gross receipts data is not received within ten (10) days after the date on which the data must be postmarked for transmission to the division, the division shall issue a letter of caution to the nursing facility;

(2) If the gross receipts data is not received within twenty (20) days after the date on which the data must be postmarked for transmission to the division, the nursing facility shall be deemed to be in noncompliance with Acts 2001, No. 635, and the nursing facility shall be fined at least ten thousand dollars (\$10,000) but no more than twenty thousand dollars (\$20,000), such amount to be dependent upon the number of times the nursing facility has been found to be in noncompliance with the gross receipts data reporting requirement of Acts 2001, No. 635, within the twelve (12) months immediately preceding the date of noncompliance:

(A) First finding of noncompliance, ten thousand dollars (\$10,000);

(B) Second finding of noncompliance, fifteen thousand dollars (\$15,000);

(C) Third finding of noncompliance, twenty thousand dollars (\$20,000);

and

(3) Failure to provide gross receipts data on four (4) or more occasions within any twelve-month period will result in the division directing the office to suspend a nursing facility's license to operate for a period of not less than thirty (30) days and not more than ninety (90) days, such period to be determined by the director.

(g) **Payment of quality assurance fee.** Should a nursing facility fail to pay any quality assurance fee to the division, the following sanctions shall be imposed upon that nursing facility:

(1)(A) If the quality assurance fee is not received within ten (10) days of the date it is due to the division, the nursing home shall be deemed to be in noncompliance with Acts 2001, No. 635.

(B) The Department of Human Services will assess a fine on any nursing

facility found to be in noncompliance with its obligation to remit this fee to the division, and the nursing facility shall be fined at least ten thousand dollars (\$10,000) but no more than twenty thousand dollars (\$20,000), such amount to be dependent upon the number of times the nursing facility has been found to be in noncompliance with the obligation to remit imposed fees to the division within the twelve (12) months immediately preceding the date of noncompliance:

(i) First finding of noncompliance, ten thousand dollars (\$10,000);

(ii) Second finding of noncompliance, fifteen thousand dollars (\$15,000);

(iii) Third finding of noncompliance, twenty thousand dollars (\$20,000); and

(2) Failure to pay the quality assurance fee within the time specified by this part on four (4) or more occasions within any twelve-month period will result in the division directing the office to suspend a nursing facility's license to operate for a period of not less than thirty (30) days and not more than ninety (90) days, such period to be determined by the director.

(h) **Procedures for reinstatement of license.** Should a license for a nursing facility be suspended under the terms of this part, except for those suspensions provided for in subsection (i) of this section, the license will be reinstated upon full payment of all fines, fees, interest, or other charges imposed by the division, along with a showing, to the division's satisfaction, that measures are in place to ensure future compliance with Acts 2001, No. 635.

(i) **Procedures for chronic violations.**

(1) Any facility that is in noncompliance on six (6) or more occasions in any twelve-month period with any obligation imposed by Acts 2001, No. 635, as implemented in this part, shall be deemed to be a chronic violator of Acts 2001, No. 635, and a threat to the safety of Arkansans in nursing facilities.

(2) Any nursing facility found to a chronic violator of Acts 2001, No. 635, shall have its license suspended by the office and such license will be reinstated only after the nursing facility complies with the requirements of Acts 2001, No. 635, including

payment of all applicable fees, fines, interest or other sanction and adopts measures that, to the satisfaction of the division, will ensure future compliance with Acts 2001, No. 635.

(3) After the adoption of these measures and satisfaction of all sanctions, the license for the nursing facility shall be reinstated.

(4) Any subsequent violation of Acts 2001, No. 635, by a nursing facility within twelve (12) months after its license is reinstated pursuant to the procedures set forth in this subsection will result in a suspension of the nursing facility's license by the office for a period of not less than ninety (90) days and no more than one hundred eighty (180) days, such duration to be determined by the director and such license shall be reinstated only for good cause shown.

(j) **Period of suspension.** Any period of suspension of a nursing facility's license to operate under this section shall extend from the end of any appeal made by that nursing facility that is resolved in favor of the division.

(k) **Recoupment provisions.**

(1) The division may withhold from a licensee's vendor payment any amount owed the Medicaid program as a result of an imposed fine for noncompliance as detailed in subsections (e), (f), and (g) of this section, or any quality assurance fee not paid by the due date.

(2) For purposes of this section, a fine is considered imposed once the division notifies the licensee of the fine and the licensee has an opportunity to appeal the fine.

Authority. Arkansas Code § 20-10-1604.

20 CAR § 577-107. Appeal procedures.

(a) Appeal procedures for nursing facilities are outlined in 20 CAR § 579-110 of the Department of Human Services Medical Assistance Program Manual of Cost Reimbursement Rules for Long Term Care Facilities.

(b) Providers can obtain a copy of these procedures by contacting the Provider Reimbursement Unit at (501) 682-8366.

Authority. Arkansas Code § 20-10-1604.