

# DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus – Room 301  
1901 N. DuPont Highway, New Castle, DE

Meeting of June 14, 2005

## MINUTES

Commission Members Present: Patricia C. Engelhardt; Walter E. Ferris; Karen E. Gallagher; Rep. Pamela S. Maier; Thomas P. McGonigle, Esq. (Chairman); Brian L. Posey; Yrene E. Waldron; Dr. McKinley Wardlaw, Jr.

Commission Members Absent: Vicki L. Givens; Joseph M. Letnaunchyn; Sen. Robert I. Marshall

Others Present: Brian Burdette and Paul Omrod (Knaup & Associates, LTD., Health Care Consulting); Sean Finnigan (Senate Staff); Carol Lovett (Consumer); Frank O'Connor, Chief of Administration and Harry Hill, Deputy Director (Division of Social Services, DHSS); Carol Ellis, Director; Mitzi Murphy and Joan Reynolds, Support Staff (Division of Long Term Care Residents Protection, DHSS).

### 1. Call to Order.

The meeting was called to order at 10:10 AM.

### 2. Approval of the Minutes.

Minutes for May 10, 2005, were approved as written.

### 3. Presentation and Discussion "Cost Reporting Process for Medicaid Reimbursement"

By Paul Omrod, Knaup & Associates, LTD, Health Care Consulting and Joe Dvorak, Genesis Health Care Corp.

Mr. Dvorak was unable to attend this meeting. Paul Omrod and Brian Burdette were introduced by Ms. Waldron. Knaup & Associates, LTD is a consulting firm that performs accounting services for long term care providers in Pennsylvania, Maryland and Delaware. They are experts in both cost accounting and the reimbursement industry and are well versed on Medicaid and Medicare systems in the tri-state area. Commission members were given handouts entitled "Delaware Long Term Care Reimbursement" and forms that Delaware facilities are required to file. Mr. Burdette said the State of Delaware pays nursing facilities basically two ways and he would be discussing the Medicaid rate that is paid for welfare patients. The State also pays for therapies and ancillary items that are patient care directed. Mr. Burdette spoke on the overall room and board per diem that is paid by Delaware to nursing homes. Referring to the brochure "Delaware Long Term Care Reimbursement" Mr. Burdette discussed the two parts of Medicaid daily per diem reimbursement then proceeded to explain all of the topics covered in the brochure page by page.

Discussing direct patient care costs, Mr. Burdette defined it as anything that counts toward 3.28 and higher for staffing. Any therapies physical, occupational, speech, those are ancillary. The wage survey is a 2-week picture date of nurses' (RN, LPN, CNA, Agency) salaries in a facility. The concept is to generate a dollar-per-hour for each nursing facility as shown in the example on page 6 of the brochure. The file cost report generates a benefit factor for primary care purposes that is added on to nurses' cost per hour. A calculation for the benefit factor is shown on pages 8 and 9 of the brochure. The important concept to understand is that this current explanation is generating a dollar-per-hour for the facilities. In New Castle Co. there are 20 nursing home facilities that participate in the Medicaid system. The results from these 20 facilities are put in order from highest dollar per hour to lowest dollar per hour and the 75<sup>th</sup> percentile is between the 15<sup>th</sup> and 16<sup>th</sup> facility. Of the 32 primary care rates, there are 8 levels of care. Of the 8 levels of care there are 4 different classifications: 1) standard services provided to the patient, 2) a routine or restorative therapy add-on, 3) a behavioral add-on and 4) a combination of two. The calculation of these 32 rates is quite convoluted. The basis for Medicaid payment to nursing facilities is based on hours times the dollar per hour that has been calculated. Chairman McGonigle asked if check-backs were ever made in the event there was an aberration during the two week period of time in June used in a facility's wage survey computation compared to the rest of the year. Mr. Burdette said the 75<sup>th</sup> percentile concept is in place to alleviate that possibility. The 75<sup>th</sup> percentile is packed due to many providers reporting similar data. Inefficient providers in any form of cost-based reimbursement systems are typically not paid and lose money with Medicaid patients. Mr. O'Connor said those providers who have costs above the 75<sup>th</sup> percentile are encouraged to reduce their overhead and new costs thus bringing them in line. Those providers that incur heavy agency have a higher dollar per hour above those

who don't. Those providers are encouraged to bring on full-time employees. The concept in Delaware is not to concentrate on this cost report it is to concentrate on the levels 1 through 32. In the State of Delaware there are two peer groups, southern - Kent and Sussex Counties and northern - New Castle County. Both receive the same 32 primary care rates.

To get paid in Delaware it is important to capture the services that nurses are giving which are the restorative and the behavioral. There are checks and balances including using copies of providers' payrolls, agency invoices, and the questioning of strange data. The question of why the wage survey is completed annually for the last full pay period ending in June was explained. Mr. Burdette's understanding is that it coincides and runs in correlation with the inflation factor that is set at the University of Delaware. There has been a request for the State to consider doing 2 wage surveys yearly because costs are going up exponentially every quarter. The primary care rate starts paying at 3.28. Normally nursing facilities are not staffing at 3.28, it's impossible. Providers staff at an average of 3.4 to 3.5 both north and south. Facilities with high acuity staff above the average. Ms. Waldron said the level of care for a patient is set by the State about every 6 months and in most cases the patient requires more acuity within those 6 months but payment is still at the lower level. Because of the shortage of nurses within the Medicaid system, quarterly reviews are not held. Another check is when providers get notification when annual verification tests for overpayment are run. This requirement was part of the Eagle's Law package that addresses increasing reimbursement to account for the increased patient care that was required. Increased reimbursement requires that providers must adhere to spending the monies received on direct patient care. Changes made to the Wage Survey include clarification of how to record personnel who may be licensed DONs, LPN, RNs, CNAs, but who may be performing tasks other than direct patient care such as unit clerks or scheduling coordinators. They would not come under 3.28 staffing.

Part II, facility base rates, are specific to each facility because it is based on the cost that each facility incurs and no two facilities incur exactly the same cost. Not all providers are reimbursed their costs, there are ceilings set in place to limit reimbursement for providers that overspend. Discussing different cost centers, Mr. Burdette said that pharmacies are reimbursed through a different program. If a patient is not covered by Part B the State can be billed separately for providing ancillary services to a Medicaid patient. It cannot be billed for reimbursement a second time in the cost report. The State using a per diem calculation does not pay for occupancy levels under 90%, that is standard in the States. Over the past 4 years Medicaid participating facilities in Sussex and Kent Counties had an average occupancy of 94%. During the same time period New Castle County had 92% to 94% occupancy. It was suggested that Delaware is not at 99% or 100% due to staffing constraints. Referring to occupancy, Ms. Waldron said that the continuum of care is constantly changing therefore, it is necessary to look at a five to fifteen year picture date to observe the flux and get a truer history. Mr. Burdette said there would be a drop in occupancy this year. Facilities are affected by this difference in occupancy which may be due to hospitals keeping patients a little longer; Password to Independence Program; individuals receiving services in their homes, and assisted living.

Discussion of Per Diem Calculation followed and it was stressed that small incentives are given by the State to entice providers to operate economically. In answer to the question of possible overpayment to providers for primary care costs it is possible on the base rate side, Part 2. Some providers will be paid more than their costs due to efficiency incentives that come from different cost centers. Mr. Hill said 15 years ago the group that put together the State plan for the Medicaid program that is on file with the Federal Government, came from industry, legislature and an outside consultant. A balance was established that encourages quality care and keeping costs in line with peers. Because of the way the system is set up there are very few arguments or cost report appeals in the State of Delaware. Systems in the other tri-state area are extremely convoluted according to Mr. Burdette.

Members were given a copy of the letter sent to providers from Medicaid after the cost report review is completed. It states that Medicaid's reconciliation indicates that primary care reimbursement received did not exceed expenditures for primary care services. Included is a record of the reconciliation calculation for the facility and documentation of the methodology used. This is another check against overpayment. For any questions on rate calculations Mr. Burdette recommended calling Mr. Hill or Leslie Boyd, fiscal Management Analyst, DSS.

#### 4. Discussion:

- Chairman McGonigle gave members a copy of a draft letter he has prepared addressing the Joint Finance Committee. Members were asked to review the letter and to make any comments or changes. The letter is requesting funding for additional copies of the publication produced by DAAPD, "Delaware Cares About Your Well Being—How to Select Long Term Care". It was suggested that an amount of money should be requested for the funding of this project.

- OIG Report "Nursing Homes High Degree of Facility Performance", Yrene Waldron  
Ms. Waldron discussed several handouts given to members and asked them to review the OIG report; The Guide to Dementia Care Practice; Quality First Initiative; Making the Move From Quality Assurance to Quality Improvement

- HB 167 update  
HB 167 expands the authority of the Adult Abuse Authority. It broadens the definitions of "abuse" and "neglect" used by Delaware's Adult Abuse Registry to include acts of abuse and neglect committed against all infirm adults, regardless of whether they are patients or residents of a licensed facility therefore, it will cover people in the community. The HB 167 is presently stuck in bicameral politics. Discussion followed on HB 190 having to do with personal services agencies. Personnel hired by these agencies should be subject to criminal background checks. This must be clearly stated in the bill to protect those using the services.

- NHRQA Commission Subcommittee Reports  
Quality Initiatives Subcommittee – Ms. Engelhardt reported meeting on June 13 and discussing culture change. Sandy Dole will have information and a video to illustrate the process of culture change at the next Commission meeting.

- NHRQA Commission Annual Report for 2003, 2004, 2005 Assignments  
Sections were assigned to members for the new annual report.  
Agency Review Section and Background – Chairman McGonigle; Legislative – Yrene Waldron;  
Outreach – Pat Engelhardt; Trends – Yrene Waldron.  
Members who have taken assignments will prepare drafts to circulate among the Commission members.

#### Old Business/New Business

In answer to questions about the pilot program, AWSAM (Assistance With Self-Administered Medication), the Board of Nursing monitors AWSAM and most facilities have completed staff training for those participating. Ms. Engelhardt reported she attended CNA Day at Legislative Hall with five CNAs. She also attended the All Stars Awards.

#### 6. Public Comment

7. The next meeting will be July 12, 2005 at 10:00 AM. The location will be the DHSS Campus, Main Building, Room 301.

#### 8. Adjournment

The meeting was adjourned at 11:32 AM.

FINAL MINUTES – The June 14, 2005 Minutes were approved as written.