

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b> <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>	1. TRANSMITTAL NUMBER: <b>14 - 015</b>	2. STATE: <b>Michigan</b>
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH FINANCING ADMINISTRATION DEPARTMENT OF HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE <b>November 1, 2014</b>	

5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN       AMENDMENT TO BE CONSIDERED AS NEW PLAN       AMENDMENT

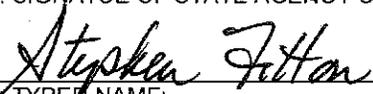
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 447.252	7. FEDERAL BUDGET IMPACT: a. FFY 2015 _____ \$ 1,842,967 b. FFY 2016 _____ \$ 1,884,430
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Attachment 4.19-D, Section IV, Pages 18, 19 and 20	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  Attachment 4.19-D, Section IV, Pages 18, 19 and 20

10. SUBJECT OF AMENDMENT:  
This amendment adds a new criterion for Class I Nursing Facility rate relief eligibility that would allow Nursing Facilities with a Variable Rate Base of less than or equal to 60% of the corresponding year's Variable Cost Limit to apply.

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT       OTHER, AS SPECIFIED:  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      Stephen Fitton, Director  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL      Medical Services Administration

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: Medical Services Administration Actuarial Division Capitol Commons Center - 7th Floor 400 South Pine Street Lansing, Michigan 48933  Attn: Loni Hackney
13. TYPED NAME: Stephen Fitton	
14. TITLE: Director, Medical Services Administration	
15. DATE SUBMITTED: October 22, 2014	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED:	18. DATE APPROVED:

PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPE NAME:	22. TITLE:

23. REMARKS:

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT**

State of MICHIGAN

***Policy and Methods for Establishing Payment Rates  
(Long Term Care Facilities)***

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- 4) The provider must also meet at least one of the following five SIX criteria:
- a) The sum of the provider's Variable Rate Base, Economic Inflation Update and other associated rate add-ons (excluding Nurse Aide Training and Testing reimbursement), plus the net Quality Assurance Supplement, must be less than the provider's audited Medicaid variable cost per resident day for the provider's two fiscal cost reporting periods of not less than seven months immediately prior to the first period of rate relief. Costs for Nurse Aide Training and Testing are not included in the Medicaid variable costs. To demonstrate this difference, the provider must submit an analysis comparing their variable costs incurred and variable costs reimbursed for the two years previous to the year for which rate relief is requested.
  - b) The provider is required, as a result of a survey by the State Survey Agency (SSA), or federal regulatory agency, to correct one or more substandard quality of care deficiencies to attain or sustain compliance with Medicaid certification requirements. The survey must have occurred within six months prior to the provider's request for rate relief. The provider must submit a copy of the citation and an approved Plan of Correction outlining the action being taken by the provider to address the deficiencies. A copy of facility staffing levels before and after the survey citation must be provided to demonstrate the staffing increase is sustained and is not for short term training purposes only; or
  - c) The facility has a significant change in the level of care needed for current Medicaid residents. A significant change is defined as an increase of at least 10 minutes of nursing care per patient resident per day as demonstrated by Minimum Data Set (MDS) data, which results in a corresponding increase in direct care staffing equal to or greater than the increase in patient minutes per day. The provider must submit an analysis comparing resident acuity levels from the rate base year to current resident acuity levels. The Minimum Data Set (MDS) data must be used for this comparison. This data will be subject to a clinical review by DCH clinical staff. The analysis must also include a comparison of the previous and current nursing staffing levels required based on actual residential census or actual patient days and other nursing related costs or requirements likely to increase the operational costs. This does not include nursing administration staff; or
  - d) The provider is new in a Medicaid Enrolled facility and the facility's most recent cost report submitted to DCH was incomplete, undocumented or had unsubstantiated cost data by the previous provider. Inadequate cost reporting would include non-payment of accrued liabilities due to the previous provider's bankruptcy as determined by Medicaid auditors in accord with Medicaid allowable costs, or inadequate records to support the filed cost report. Proof of the change of ownership must be submitted along with an explanation of why the cost report data is inadequate to calculate the provider's reimbursement rate; or

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TN NO.: 14-015

Approval Date: \_\_\_\_\_

Effective Date: 11-01-2014

Supersedes  
TN No.: 11-15

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- e) Rate relief is needed because the facility will be closed due to a regulatory action by the State Survey Agency (SSA) or federal regulatory agency where the facility's closure will result in severe hardship for its residents and their families due to the distance to other nursing facilities, and no new provider will operate the facility at its current reimbursement rate. A facility would meet this hardship criteria only if a new owner has agreed to take over its operation and if it is either the only nursing facility in the county or, the closing facility has at least sixty-five percent of the Medicaid nursing facility (Class I, III and V) certified beds in that county; OR,
  
- F) THE PROVIDER'S CURRENT VARIABLE RATE BASE IS LESS THAN OR EQUAL TO 60 PERCENT OF THE CORRESPONDING RATE YEAR'S VARIABLE COST LIMIT. A FACILITY IS NOT ELIGIBLE UNDER THIS CRITERION IF AN OWNER OR ADMINISTRATOR'S COMPENSATION IS ABOVE THE CURRENT COMPENSATION LIMIT. A PROVIDER WITH NON-ALLOWABLE RELATED PARTY TRANSACTION COSTS OR NON-ALLOWABLE RELATED PARTY LEASE COSTS CANNOT BE ELIGIBLE UNDER THIS CRITERION.

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C. Variable Cost Component

4. Nursing Facility Class 1 Rate Relief

- b. Levels of Rate Relief – New providers who meet the criteria above and have a Variable Rate base less than or equal to 80% of the Class Average Variable Cost may apply for NF Class 1 Rate Relief. A new rate will be calculated using the Class I average variable cost for the appropriate year as the variable rate base for the calculation of the facility variable cost component. This variable rate base will be in effect through the current State fiscal year rate period ending September 30.

Current providers and new providers with a variable rate base between 80 – 100% of the class average variable costs and who meet the criteria outlined above may request accelerated rebasing, which is the use of the Medicaid cost report data from the period ending in the current calendar year in the rate setting process, rather than using cost report data from the period ending in the previous calendar year under the standard reimbursement methodology. The nursing facility's allowable variable cost will be indexed to October 1 of the year that is one year prior to the rate year being calculated, by applying the appropriate Cost Index.

CURRENT PROVIDERS WITH A VARIABLE RATE BASE LESS THAN OR EQUAL TO 60% OF THE CLASS I VARIABLE COST LIMIT AND WHO MEET THE CRITERIA OUTLINED ABOVE MAY APPLY FOR NF CLASS I RATE RELIEF. A NEW RATE WILL BE CALCULATED USING UP TO 50% OF THE DIFFERENCE BETWEEN THE CLASS I AVERAGE VARIABLE COST AND THE FACILITY'S VARIABLE RATE BASE FOR THE APPROPRIATE YEAR. THE NEW RATE WILL SERVE AS THE VARIABLE RATE BASE FOR THE CALCULATION OF THE FACILITY VARIABLE COST COMPONENT. THIS VARIABLE RATE BASE WILL BE IN EFFECT THROUGH THE CURRENT STATE FISCAL YEAR RATE PERIOD ENDING SEPTEMBER 30. EFFECTIVE OCTOBER 1 OF THE FOLLOWING STATE FISCAL YEAR RATE PERIOD, THE VARIABLE RATE BASE IS DETERMINED USING ACCELERATED REBASING. THE ACCELERATED REBASING UTILIZES THE MEDICAID COST REPORT DATA FROM THE PERIOD ENDING IN THE CURRENT CALENDAR YEAR IN THE RATE SETTING PROCESS. THE NURSING FACILITY ALLOWABLE VARIABLE COST IS INDEXED TO OCTOBER 1 OF THE YEAR THAT IS ONE YEAR PRIOR TO THE NEW RATE YEAR BEING CALCULATED BY APPLYING THE APPROPRIATE COST INDEX.

No retroactive rate relief will be approved. Providers may apply and receive rate relief under this policy once every 7 years (84 months). This seven-year period begins on the effective date of rate relief. The rate relief period will be based on the facility, and not the owner or licensee.

The NF Class I Rate Relief agreement may be withdrawn by the State if the facility is cited by the state or federal regulatory agency for serious certification violations while

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receiving rate relief. Such citations would be for serious and immediate threat or substandard quality of care.

5. Special Provisions: The variable cost component will be determined using special methods for providers that are "new facilities" or have changed class. Special methods are required because there is no (or an inadequate) cost basis upon which to determine rates. Providers with newly purchased facilities or with major additions, renovations or new construction are not granted any special methods because there are historical variable costs upon which to base rates.
  - a. New Facility: A "new facility" which is defined as a long term care provider in a

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Effective Date: 11-01-2014

Supersedes

TN No.: 11-15



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
LANSING

RICK SNYDER  
GOVERNOR

JAMES K. HAVEMAN  
DIRECTOR

August 21, 2014

NAME  
TITLE  
ADDRESS  
CITY STATE ZIP

Dear Tribal Chair and Health Director:

**RE:** New Class I Nursing Facility Rate Relief Criterion

This letter, in compliance with Section 6505 of the Affordable Care Act, serves as notice of intent to all Tribal Chairs and Health Directors of the request by the Michigan Department of Community Health (MDCH) to submit a State Plan Amendment (SPA).

MDCH intends to submit a SPA to the Centers for Medicare and Medicaid Services (CMS) to add a new criterion for Class I Nursing Facility rate relief eligibility. Nursing Facilities that have a Variable Rate Base of less than or equal to 60% of the corresponding year's Variable Cost Limit would be able to apply. A new rate of no more than 50% of the difference between the facility's current Variable Rate Base and the Class I Average Variable Cost is calculated. In order to qualify a facility would also have to meet any other applicable qualifying criteria as laid out in the State Plan.

You may submit comments regarding this Notice of Intent to [msapolicy@michigan.gov](mailto:msapolicy@michigan.gov). If you would like to discuss the Notice of Intent, please contact Lorna Elliott-Egan, MDCH Liaison to the Michigan Tribes. Lorna can be reached at (517) 373-4963 or via e-mail at [Elliott-EganL@michigan.gov](mailto:Elliott-EganL@michigan.gov).

There is no public hearing scheduled for this SPA.

Sincerely,

Stephen Fitton, Director  
Medical Services Administration

cc: Leslie Campbell, Region V, CMS  
Pamela Carson, Region V, CMS  
Ashley Tuomi, MHPA, Executive Director, American Indian Health and Family Services of Southeastern Michigan  
L. John Lufkins, Executive Director, Inter-Tribal Council of Michigan, Inc.  
Jenny Jenkins, Acting Area Director, Indian Health Service - Bemidji Area Office  
Lorna Elliott-Egan, MDCH

**Distribution List for L 14-41  
August 21, 2014**

Mr. Levi Carrick, Sr., Tribal Chairman, Bay Mills Indian Community  
Ms. Vicki Newland, Health Director, Bay Mills (Ellen Marshall Memorial Center)  
Mr. Alvin Pedwaydon, Tribal Chairman, Grand Traverse Band Ottawa & Chippewa Indians  
Ms. Loi Chambers, Health Director, Grand Traverse Band Ottawa/Chippewa  
Mr. Kenneth Meshigaud, Tribal Chairman, Hannahville Indian Community  
Ms. G. Susie Meshigaud, Health Director, Hannahville Health Center  
Mr. Donald Shalfoe Sr., President, Keweenaw Bay Indian Community  
Ms. Carole LaPointe, Health Director, Keweenaw Bay Indian Community - Donald Lapointe Health/Educ Facility  
Mr. James Williams, Jr., Tribal Chairman, Lac Vieux Desert Band of Lake Superior Chippewa Indians  
Ms. Sadie Valliere, Health & Human Services Director, Lac Vieux Desert Band  
Mr. Larry Romanelli, Ogema, Little River Band of Ottawa Indians  
Ms. Jessica Burger, Acting Health Director, Little River Band of Ottawa Indians  
Mr. Fred Kiogima, Tribal Chairman, Little Traverse Bay Band of Odawa Indians  
Ms. Sharon Sierzputowski, Health Director, Little Traverse Bay Band of Odawa  
Mr. DK Sprague, Tribal Chairman, Match-E-Be-Nash-She-Wish Potawatomi Indians (Gun Lake Band)  
Ms. Phyllis Davis, Health Director, Match-E-Be-Nash-She-Wish Potawatomi  
Mr. Homer Mandoka, Vice Tribal Chairman, Nottawaseppi Huron Band of Potawatomi Indians  
Ms. Rosalind Johnston, Health Director, Huron Potawatomi Inc. - Tribal Health Department  
Mr. John Warren, Tribal Chairman, Pokagon Band of Potawatomi Indians  
Mr. Matt Clay, Health Director, Pokagon Potawatomi Health Services  
Mr. Dennis V. Kequom Sr, Tribal Chief, Saginaw Chippewa Indian Tribe  
Ms. Diana Quigno-Grundahl, Interim Health Director, Nimkee Memorial Wellness Center  
Mr. Aaron Payment, Tribal Chairman, Sault Ste. Marie Tribe of Chippewa Indians  
Ms. Bonnie Culfa, Health Director, Sault Ste. Marie Tribe of Chippewa Indians - Health Center

CC: Leslie Campbell, Region V, CMS  
Pamela Carson, Region V, CMS  
Ashley Tuomi, MHPA, Executive Director, American Indian Health and Family Services of Southeastern Michigan  
L. John Lufkins, Executive Director, Inter-Tribal Council of Michigan, Inc.  
Jenny Jenkins, Acting Area Director, Indian Health Service - Bemidji Area Office  
Lorna Elliott-Egan, MDCH

# Order Confirmation

Detroit News & Free Press

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**Agency**  
 MDCH/ACTUARIAL DIVISION  
 ATTN: PATRICIA SMITH, P O BOX 30479  
 LANSING MI 48909-7979 USA

SmithP2@Michigan.gov  
 acct# 0100001743  
 ph# 517-241-9444

**Customer/Client**  
 MDCH/ACTUARIAL DIVISION  
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**Ordered By**  
 PAT SMITH

**PO Number**

Order Number	Sales Rep	Ad Type	Ad Size	Color	Production Notes
0002451184	Elizabeth Genna	..Liner	: 1.0 X 78 LI	<NONE>	
Rep Ph #	Rep Email	Affidavits	Total Amt.	Pay't. Amt.	Pay't. Method
(586) 826-7086	egenna@dnps.com	0	\$1,357.86	\$0.00	

**PUBLIC NOTICE** Michigan Department of Community Health Medical Services Administration New Class I Nursing Facility Rate Relief Criterion The Michigan Department of Community Health provides notice.

**PUBLIC NOTICE**

Michigan Department of Community Health Medical Services Administration

New Class I Nursing Facility Rate Relief Criterion

The Michigan Department of Community Health provides notice of its intent to submit a State Plan Amendment to add a new criterion for Class I Nursing Facility Rate Relief. A facility would need to have a Variable Rate Base that is less than or equal to 80% of the Class I Variable Cost Limit. A Class I Rate Relief Interim Cost Statement would need to be filed upon applying for rate relief. This new rate relief would be subject to audit and settlement with the Department of Community Health. The Department of Community Health will adjust the rate relief using the principles and guidelines outlined in Medicaid policy. During the first rate year, a qualifying provider would receive an interim Variable Rate Base in excess of 80% of the difference between the provider's current Variable Rate Base and the Class I Average Variable Cost. The second rate year would then be subjected to pro-rated rate relief using the current fiscal year's cost report data. Providers would need to send a written request for rate relief to the Michigan Department of Community Health's Long Term Care Reimbursement and Rate Setting Section. The proposed effective date for the State Plan Amendment is November 1, 2014.

**Comments**  
 Any comments, or requests for copies of the Notice of Proposed Policy may be submitted in writing to: Michigan Department of Community Health, Program Policy Division, Bureau of Medicaid Policy and Health System Innovation, Attention: Ryan Fields, P.O. Box 30479, Lansing, Michigan 48909-7979. Written comments may be reviewed by the public at Capital Community Center, 400 South Pine Street, Lansing, Michigan. Request for copies and comments must include the project number. There is no public hearing scheduled for this proposed policy.

Products	Placement	Classification	# Runs	Start Date	Stop Date
Detroit News	Bulletin Board	0080-Legal Notices Bids Proposals	1	09/26/2014	09/26/2014
Free Press	Bulletin Board	0080-Legal Notices Bids Proposals	1	09/26/2014	09/26/2014
Digital	Bulletin Board	0080-Legal Notices Bids Proposals	1	09/26/2014	09/26/2014