

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

**FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

24 — 0023

2. STATE

MI

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL  
SECURITY ACT

TO: CENTER DIRECTOR  
CENTERS FOR MEDICAID & CHIP SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

3. PROPOSED EFFECTIVE DATE

January 1, 2025

5. FEDERAL STATUTE/REGULATION CITATION  
42 CFR 447

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2025 \$0  
b. FFY 2026 \$0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-D Section IV Page 17  
Attachment 4.19-D Section IV Page 18  
Attachment 4.19-D Section IV Page 19  
Attachment 4.19-D Section IV Page 20

8. PAGE NUMBER OF THE SUPERSEDED PLAN

SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-D Section IV Page 17 (TN : 11-15)  
Attachment 4.19-D Section IV Page 18 (TN : 11-15)  
Attachment 4.19-D Section IV Page 19 (TN : 19-0008)  
Attachment 4.19-D Section IV Page 20 (TN : 14-015)

9. SUBJECT OF AMENDMENT

This SPA discontinues a nursing facility rate relief program.

10. GOVERNOR'S REVIEW (Check One)

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GOVERNOR'S OFFICE REPORTED NO COMMENT

☒

OTHER, AS SPECIFIED:

☐

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

11. SIGNATURE OF STATE AGENCY OFFICIAL



11. TYPED NAME

Meghan Groen

12. TITLE

Senior Deputy Director

13. DATE SUBMITTED

November 14, 2024

15. RETURN TO

Behavioral and Physical Health and Aging Services  
Administration  
Office of Strategic Partnerships & Medicaid Administrative  
Services – Federal Liaison  
Capitol Commons Center – 7<sup>th</sup> Floor  
400 South Pine  
Lansing, Michigan 48933

Attn: Erin Black

**FOR CMS USE ONLY**

16. DATE RECEIVED

17. DATE APPROVED

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. 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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- c. The provider's variable rate base is determined as the lesser of the calculated variable rate base or the provider's class wide variable cost limit (VCL), where (continued)
- 3) The variable cost limit for private institutions for the mentally ill and mentally retarded is computed by adding the VCL for Class I nursing facilities plus the cost of additional nursing hours per patient care day plus the cost of additional services as required by the Department, as outlined in the Supplement to Attachment 3.1-A.

**4. ~~Nursing Facility Class I Rate Relief~~**

- a. ~~Criteria for Eligibility for NF Class I Rate Relief — A Class I nursing facility provider may apply for rate relief from the usual rate setting process if they meet the following eligibility criteria:~~
  - 1) ~~The provider must demonstrate that the current Medicaid rate does not provide them with adequate funding to deliver the level of care to the Medicaid beneficiaries in the facility such that “each resident attains and maintains the highest practicable physical, mental and psycho-social well-being” as required by the Omnibus Budget Reconciliation Act (OBRA) of 1987.~~
  - 2) ~~The nursing facility Variable Rate Base amount meets the following criteria:~~
    - a) ~~For a current provider — The facility's Variable Rate Base is at or below the corresponding class Average Variable Cost. The class Average Variable Cost used for this determination is the one that corresponds with the October 1 to September 30 rate year for which rate relief has been requested; or,~~
    - b) ~~For a new provider in a Medicaid-enrolled nursing facility — The facility's current Variable Rate Base is at or less than 80 percent of the corresponding class Average one that corresponds with the October 1 to September 30 rate year for which rate relief has been requested. (A new facility with a Variable Rate Base between 80 and 100% of the corresponding class Average Variable Cost will be eligible for accelerated rebasing and will be treated as a current provider)~~
  - 3) ~~A current Medicaid provider agreement for the facility is in effect, except when applying under criteria 4) e). The rate relief period will be based on the facility, and not the owner, provider, or licensee. A change of ownership, provider, or licensee during the rate relief period would not end the agreement for rate relief under this policy, so long as the new owner, provider, or licensee fully complies with the requirements of the rate relief agreement.~~

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TN NO.: 24-0023

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

Effective Date: 01/01/2025

Supersedes

TN No.: 11-15

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

State of MICHIGAN

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RESERVED

4) ~~The provider must also meet at least one of the following 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 charge 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.: 24-0023

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

Effective Date: 01-01-2025

Supersedes

TN No.: 14-015

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RESERVED

- ~~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 actual variable costs are 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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TN NO.: 24-0023

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

Effective Date: 01-01-2025

Supersedes

TN No.: 19-0008

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

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***Policy and Methods for Establishing Payment Rates  
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C. Variable Cost Component

4. RESERVED 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 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

## **Public Notice**

### **Michigan Department of Health and Human Services Behavioral and Physical Health and Aging Services Administration**

#### **Rate Relief State Plan Amendment Request**

The Michigan Department of Health and Human Services (MDHHS) plans to submit a State Plan Amendment (SPA) request to the Centers for Medicare & Medicaid Services (CMS) to discontinue the Rate Relief Program.

The anticipated effective date for the Rate Relief Discontinuation SPA is January 1, 2025

This change is being made in response to recent audit findings by the Office of the Auditor General. To comply with their recommendation to simplify the Michigan Medicaid Long Term Care Reimbursement Methodology and make changes to make it less complicated, less labor intensive and more efficient, effective January 1, 2025, the Rate Relief Program will be discontinued.

There is no estimated gross cost to the State of Michigan for the SPA, and it is considered to be budget neutral.

There is no public meeting scheduled regarding this notice. Any interested party wishing to request a written copy of the SPA or wishing to submit comments may do so by sending an e-mail to [MSADraftPolicy@michigan.gov](mailto:MSADraftPolicy@michigan.gov) or submitting a request in writing to: MDHHS/ Behavioral and Physical Health and Aging Services Administration, Program Policy Division, PO Box 30479, Lansing MI 48909-7979 by September 20, 2024. A copy of the proposed SPA will also be available for review at : <https://www.michigan.gov/mdhhs/inside-mdhhs/budgetfinance/264/state-plan-amendments>.

**RELEASED:** August 21, 2024



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
LANSING

ELIZABETH HERTEL  
DIRECTOR

September 11, 2024

NAME  
TITLE  
ADDRESS  
CITY STATE ZIP

Dear Tribal Chair and Health Director:

**RE:** Discontinuation of the Rate Relief Program

This letter, in compliance with Section 1902(a)(73) and Section 2107(e)(1)(C) of the Social Security Act, serves as notice to all Tribal Chairs and Health Directors of the intent by the Michigan Department of Health and Human Services (MDHHS) to submit a State Plan Amendment (SPA) request to the Centers for Medicare & Medicaid Services (CMS).

In response to recent audit findings by the Office of the Auditor General and comply with their recommendation to simplify the Michigan Medicaid Long Term Care Reimbursement Methodology and make changes to make it less complicated, less labor intensive and more efficient, effective January 1, 2025, the Rate Relief Program will be discontinued. MDHHS expects this change to have minimal impact on Native American beneficiaries.

There is no public hearing scheduled for this SPA. Input regarding this SPA is highly encouraged, and comments regarding this notice of intent may be submitted to Lorna Elliott-Egan, MDHHS Liaison to the Michigan tribes. Lorna can be reached at 517-512-4146, or via email at [Elliott-EganL@michigan.gov](mailto:Elliott-EganL@michigan.gov). **Please provide all input by November 12, 2024.**

In addition, MDHHS is offering to set up group or individual consultation meetings to discuss the SPA, according to the tribes' preference. Consultation meetings allow tribes the opportunity to address any concerns and voice any suggestions, revisions, or objections to be relayed to the author of the proposal. If you would like additional information or wish to schedule a consultation meeting, please contact Lorna Elliott-Egan at the telephone number or email address provided above.

MDHHS appreciates the continued opportunity to work collaboratively with you to care for the residents of our state.

An electronic copy of this letter is available at [www.michigan.gov/medicaidproviders](http://www.michigan.gov/medicaidproviders) >>  
Policy, Letters & Forms.

Sincerely,

A handwritten signature in black ink that reads "Meghan E. Groen". The signature is written in a cursive, flowing style.

Meghan E. Groen, Director  
Behavioral and Physical Health and Aging Services Administration

CC: Keri Toback, CMS  
Nancy Grano, CMS  
Chasity Dial, CEO, American Indian Health and Family Services of Southeastern  
Michigan  
Asha Petoskey, Acting Area Director, Indian Health Service - Bemidji Area Office  
Lorna Elliott-Egan, MDHHS



**Distribution List for L 24-44**  
**September 11, 2024**

Ms. Whitney Gravelle, President, Bay Mills Indian Community  
Ms. Lucy DeWildt, Health Director, Bay Mills (Ellen Marshall Memorial Center)  
Ms. Sandra Witherspoon, Chairperson, Grand Traverse Band Ottawa & Chippewa Indians  
Ms. Doris Winslow, Health Director, Grand Traverse Band Ottawa/Chippewa  
Mr. Kenneth Meshigaud, Tribal Chairman, Hannahville Indian Community  
Ms. G. Susie Meshigaud, Health Director, Hannahville Health Center  
Ms. Doreen G. Blaker, Tribal President, Keweenaw Bay Indian Community  
Ms. Deanna Foucault, 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  
Mr. Daryl Wever, Health Director, Little River Band of Ottawa Indians  
Ms. Regina Gasco, Tribal Chairman, Little Traverse Bay Band of Odawa Indians  
Ms. Jodi Werner, Health Director, Little Traverse Bay Band of Odawa  
Mr. Bob Peters, Chairman, Match-E-Be-Nash-She-Wish Potawatomi Indians (Gun Lake Band)  
Ms. Phyllis Davis, Tribal Council Member, Match-E-Be-Nash-She-Wish Potawatomi  
Ms. Mariah Austin, Tribal Council Member, Match-E-Be-Nash-She-Wish Potawatomi  
Ms. Dorie Rios, Tribal Chairperson, Nottawaseppi Huron Band of Potawatomi Indians  
Ms. Rosalind Johnston, Health Director, Huron Potawatomi Inc.- Tribal Health Department  
Mr. Matthew Wesaw, Tribal Chairman, Pokagon Band of Potawatomi Indians  
Ms. Priscilla Gatties, Interim Health Director, Pokagon Potawatomi Health Services  
Mr. Tim Davis, Tribal Chief, Saginaw Chippewa Indian Tribe  
Mrs. Karmen Fox, Executive Health Director, Nimkee Memorial Wellness Center  
Mr. Austin Lowes, Tribal Chairperson, Sault Ste. Marie Tribe of Chippewa Indians  
Mr. Leonid Chugunov, Health Director, Sault Ste. Marie Tribe of Chippewa Indians - Health Center

CC: Keri Toback, CMS  
Nancy Grano, CMS  
Chasity Dial, CEO, American Indian Health and Family Services of Southeastern Michigan  
Asha Petoskey, Acting Area Director, Indian Health Service - Bemidji Area Office  
Lorna Elliott-Egan, MDHHS