



LNHA State Regulatory Update: November 2018

Emergency Rule

Nursing Facilities – Licensing Standards Virtual Visitation

Act 596 of the 2018 Regular Session created the [Nursing Home Virtual Visitation Act](#). In addition to other requirements, the Act directed the Louisiana Department of Health (LDH) to adopt emergency rules governing “capacity to consent to virtual visitation.” The rule states a resident’s capacity to consent to the authorization for installation and use of a monitoring device is presumed if the resident has not been interdicted and has no current documented medical diagnosis affecting capacity. Any question as to the capacity of a non-interdicted resident shall be determined by the resident’s admitting physician, the resident’s personal physician or the medical director of the nursing facility. The determination shall be documented in the resident’s record. Finally, each facility shall have a policy regarding capacity determinations. The full text of the emergency rule can be found [here](#).

Notice of Intent

Nursing Facilities – Reimbursement Methodology Case-Mix Documentation Reviews and Index Reports (LAC 50:II.20013)

LDH proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to align the case-mix index threshold percentage for nursing facility rate setting with the national threshold percentage.

The proposed change pertains to the threshold percentage of unsupported assessments in the initial onsite case-mix documentation review (CMDR) which triggers an expansion of the CMDR sample. Currently, if the percentage of unsupported assessments in the initial onsite CMDR sample is **greater than 25%**, the sample shall be expanded and shall include the greater of 20% of the remaining resident assessments or 10 assessments. The proposed change lowers the threshold of unsupported assessments in the initial CMDR to **greater than 20%**. The full text of the proposed change can be found [here](#) on page 96 of the PDF.

LDH will host a public hearing on the proposed rule on December 27, 2018, at 9:30 a.m. in Room 118 of the Bienville Building at 628 North Fourth St. in Baton Rouge, LA. If you have any comments regarding the proposed changes, submit them to Jenn Steele at MedicaidPolicy@la.gov prior to the hearing date.

Final Rule

Medicaid Employee Criminal History Records Checks (LAC 50:I.103)

Act 147 of the 2017 Regular Session directed LDH to perform criminal history records checks of current and prospective employees, contractors or subcontractors within the Medicaid eligibility section that have access to federal tax information or other criminal history record information. LDH introduced rules in furtherance of this directive.

Since its introduction, the proposed rules have been properly implemented through the administrative process. As such, the rules became final on November 20, 2018. The full text of the rules can be found [here](#) on page 32 of the PDF.

Questions

If you have comments or concerns regarding this update, contact LNHA’s Legal and Policy Director, Wes Hataway at whataway@lnha.org.