Volume 36, Number 21
Pages 2217–2364
November 1, 2011

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."

ROBIN CARNAHAN

SECRETARY OF STATE

MISSOURI REGISTER

The *Missouri Register* is published semi-monthly by

Secretary of State

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ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: $56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER
Office of the Secretary of State
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MISSOURI REGISTER

November 1, 2011

Vol. 36 No. 21 **Pages 2217–2364**

IN THIS ISSUE:

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
July 1, 2011	**August 1, 2011**	August 31, 2011	September 30, 2011
July 15, 2011	**August 15, 2011**	August 31, 2011	September 30, 2011
August 1, 2011	**September 1, 2011**	September 30, 2011	October 30, 2011
August 15, 2011	**September 15, 2011**	September 30, 2011	October 30, 2011
September 1, 2011	**October 3, 2011**	October 31, 2011	November 30, 2011
September 15, 2011	**October 17, 2011**	October 31, 2011	November 30, 2011
October 3, 2011	**November 1, 2011**	November 30, 2011	December 30, 2011
October 17, 2011	**November 15, 2011**	November 30, 2011	December 30, 2011
November 1, 2011	**December 1, 2011**	December 31, 2011	January 30, 2012
November 15, 2011	**December 15, 2011**	December 31, 2011	January 30, 2012
December 1, 2011	**January 3, 2012**	January 30, 2012	February 29, 2012
December 15, 2011	**January 17, 2012**	January 30, 2012	February 29, 2012
January 3, 2012	**February 1, 2012**	February 29, 2012	March 30, 2012
January 17, 2012	**February 15, 2012**	February 29, 2012	March 30, 2012
February 1, 2012	**March 1, 2012**	March 31, 2012	April 30, 2012
February 15, 2012	**March 15, 2012**	March 31, 2012	April 30, 2012
March 1, 2012	**April 2, 2012**	April 30, 2012	May 30, 2012
March 15, 2012	**April 16, 2012**	April 30, 2012	May 30, 2012
April 2, 2012	**May 1, 2012**	May 31, 2012	June 30, 2012
April 16, 2012	**May 15, 2012**	May 31, 2012	June 30, 2012

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at http://www.sos.mo.gov/adrules/pubsched.asp

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The rules are codified in the *Code of State Regulations* in this system—

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 11—Nursing Education Incentive Program

EMERGENCY RULE

6 CSR 10-11.010 Nursing Education Incentive Program

PURPOSE: This rule sets forth the criteria to be used by the Department of Higher Education and the State Board of Nursing regarding the awarding of grants to eligible institutions of higher education under the Nursing Education Incentive Program.

EMERGENCY STATEMENT: This is a new program, established by sections 335.200 to 335.203 of House Bill 223 of the 2011 legislative session. These provisions became effective on August 28, 2011, and the rule must be established in order to implement the grants. There is an acute need to expand educational capacity for the nursing profession in Missouri. There are many qualified students who are being turned away because of a lack of physical and educational capacity at our higher education institutions. The Nursing Incentive Grant Program presents a new funding mechanism through the State Board of Nursing to address this urgent problem. Budgetary authority was granted to begin the program in FY 2012 via House Bill 3 (2011), and timing is of the essence in beginning the process of awarding the grants. The academic year has already begun at the state's institutions, and an emergency rule is necessary to facilitate the beginning of that process prior to the start of the spring semester. An order of rulemaking has been filed with the Joint Committee on Administrative Rules regarding this subject but will not become effective in time to begin the process of awarding grants before January 2012. Without an emergency rule, grants may not be awarded to institutions in time to make an impact on nursing capacity this academic year and during the fiscal year for which funds have been appropriated. The proposed rule was published for public comment to ensure fairness to all interested parties, and the thirty (30)-day comment period has expired. This emergency rule is identical to the published proposed rule, with the exception of an adjustment to address the only concern raised by those commenting about the rule. Thus the department believes this emergency rule is fair to all interested parties. This emergency rule was filed September 23, 2011, becomes effective October 3, 2011, and expires on March 30, 2012.

(1) Program Description. The Nursing Education Incentive Program is intended to address two (2) growing problems in nursing education.

(A) Missouri institutions have been unable to admit many qualified applicants to their nursing programs because of a lack of physical or educational capacity. Because of these capacity constraints, students interested in entering nursing programs are unable to access the program of their choice, creating supply problems for the health care industry.

(B) Many areas of Missouri have been determined to be medically underserved. This determination is based upon the income of the population and the ratio of physicians, dentists, and behavioral health clinicians to the total population.

(2) Institutional Criteria for Grant Awards. To be eligible to receive a Nursing Education Incentive Grant, the applicant must meet the following eligibility criteria:

(A) Be a Missouri institution of higher education (sponsoring institution) offering a program of professional nursing;

(B) Be accredited by the Higher Learning Commission of the North Central Association; and

(C) Offer a nursing program or programs that meet the following program criteria:

1. Official National Council Licensure Examination for Registered Nurses (NCLEX-RN) pass rates consistently greater than or equal to eighty percent (80%);

2. Record of consistently meeting requirements for full approval by the Missouri State Board of Nursing;

3. Student graduation rates greater than or equal to eighty percent (80%). Graduation rate shall mean the percent of first-time students who complete their program within one hundred fifty percent (150%) of the normal time to completion; and

4. Job placement rates greater than or equal to ninety percent (90%). Job placement rate shall mean the percent of program graduates (less those continuing their education) who have secured employment in the nursing field within six (6) months of graduation.

(3) Required Components of the Grant Proposal. To receive consideration, each proposal must include the following components:

(A) Cover letter of support from the president of the sponsoring institution and the relevant official with direct responsibility for nursing education at the sponsoring institution;

(B) Abstract—Applicants must provide a one (1)-page overview of the project that includes its goals, purpose, and scope; and

(C) Narrative description of the proposal including:

1. Description of the activities that will be undertaken as part of the grant;

2. Description of the capacity and structure the institution has in place to administer the grant activities;

3. Explanation of how the proposal will impact the goals established for the grant program; and

4. The following data/information:

A. Student admissions/progression requirements;

B. For each of the past three (3) years, the number of applicants for admission that met those requirements yet were denied admission due to a lack of capacity;

C. The number of faculty positions that are currently vacant and the duration of any such vacancy;

D. Any evidence that would indicate that additional graduates will serve geographically underserved areas of the state; and

E. Description of the applicant's plan for maintaining the benefits of the initiative following the expiration of the grant;

5. Goals and objectives—Applicants must identify the goals and objectives of the project. Activities, services, and anticipated outcomes should be described and clearly aligned with the objectives of the overall grant program; and

6. Budget summary and narrative—Applicants must provide detail concerning personnel, activities, and services paid for through grant funds. This should include:

A. Proposed expenditures for the grant period; and

B. A narrative outlining how funds will be used to accomplish the goals and objectives of the project. Each budget category must be justified in the budget narrative.

(4) Goals and Objectives. Successful proposals must show evidence of their ability to impact the program goals of an increase in faculty resources and/or an increase in student capacity. Grant proposals should focus on one (1) or more of the following areas:

(A) Additional faculty positions;

(B) Development of accelerated graduate nursing programs with focus on expansion of faculty resources;

(C) Scholarships or traineeships for faculty development with commitment to teach in a Missouri school of nursing for a minimum of three (3) years after degree completion;

(D) Creation of faculty salary/benefit packages that are market competitive to recruit and retain highly qualified faculty for theory/clinical teaching;

(E) Expansion of clinical placement through development of new clinical partnerships; and/or

(F) Use of technology resources designed to augment instruction.

(5) Grant Award Amounts and Duration. Proposals are limited to one (1) year in duration, with the potential for extensions of two (2) additional one (1)-year periods. Grants are limited to one hundred fifty thousand dollars ($150,000) per campus for each year.

(6) Grant Applications Submission Deadlines. The Missouri Department of Higher Education (MDHE) will establish and publicize the filing deadlines for the submission of grant applications. To be considered complete, applications must include all components referenced in section (3) of this rule and be received at the offices of the MDHE by 5:00 p.m. on the deadline date.

AUTHORITY: sections 335.036 and 335.200 to 335.203, HB 223, First Regular Session, Ninety-sixth General Assembly, 2011. Original rule filed July 12, 2011. Emergency rule filed Sept. 23, 2011, effective Oct. 3, 2011, expires March 30, 2012.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates. The division is adding paragraph (3)(A)15.

PURPOSE: This amendment provides for a per diem increase to nursing facility and HIV nursing facility reimbursement rates by granting a trend adjustment resulting in an increase of six dollars ($6.00) effective for dates of service beginning October 1, 2011.

*EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division, by rule and regulation, must define the reasonable costs, manner, extent, quantity, quality, charges, and fees of medical assistance. Effective October 1, 2011, the federal government, through the Centers for Medicare and Medicaid Services, has allowed the maximum limit on health care-related taxes to change from a five and one-half percent (5.5%) to a six percent (6%) limit of the provider group's related revenues. MO HealthNet Division has filed an amendment to the Nursing Facility Reimbursement Allowance (NFRA) regulation, 13 CSR 70-10.110, to increase the NFRA rate effective October 1, 2011. This increase allows the MO HealthNet Division to increase the state share of funding through the NFRA. The additional funding generated from the NFRA increase will allow for a trend adjustment to nursing facilities' and HIV nursing facilities' reimbursements for SFY 2012. Effective for dates of service beginning October 1, 2011, the trend adjustment will be a six-dollar ($6.00) per diem increase to nursing facility and HIV nursing facility reimbursement rates. The trend adjustment is necessary to ensure that payments for nursing facility and HIV nursing facility per diem rates are in line with the increased NFRA funding available. There is a total of five hundred two (502) nursing facilities and HIV nursing facilities currently enrolled in MO HealthNet, which will receive a per diem increase to its reimbursement rate of six dollars ($6.00) effective for dates of service beginning October 1, 2011. This emergency amendment will ensure payment for nursing facility and HIV nursing facility services to approximately twenty-four thousand (24,000) senior Missourians. This emergency amendment must be implemented on a timely basis to ensure that quality nursing facility and HIV nursing facility services continue to be provided to MO HealthNet participants in nursing facilities and HIV nursing facilities during state fiscal year 2012. As a result, the MO HealthNet Division finds an immediate danger to public health, safety, and/or welfare and a compelling governmental interest, which requires emergency action. The MO HealthNet Division has a compelling governmental interest in providing continued cash flow for nursing facility and HIV nursing facility services. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The MO HealthNet Division believes this emergency amendment is fair to all interested persons and parties under the circumstances. A proposed amendment covering the six-dollar ($6.00) increase was published in the **Missouri Register** on August 1, 2011 (36 MoReg 1832–1834). The final order of rulemaking relating to that proposed amendment was filed with the Joint Committee on Administrative Rules on September 9, 2011, and will be filed with the secretary of state October 11, 2011. Therefore, the division believes this emergency to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 20, 2011, becomes effective October 1, 2011, and expires March 28, 2012.*

(3) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed in 13 CSR 70-10.015, a nursing facility's reimbursement rate may be adjusted as described in this section. Subject to the limitations prescribed in 13 CSR 70-10.080, an HIV nursing facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in

effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of four and six-tenths percent (4.6%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of three and seven-tenths percent (3.7%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

3. Nursing Facility Reimbursement Allowance (NFRA). Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the current NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents ($2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents ($1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of three and four-tenths percent (3.4%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of two and one-tenth percent (2.1%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities**,** and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of one and ninety-four hundredths percent (1.94%) of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities**,** and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

9. FY-2004 nursing facility operations adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003, through June 30, 2004, of four dollars and thirty-two cents ($4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents ($3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003, and is effective for payment dates after August 1, 2003.

10. FY-2007 quality improvement adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2006, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2006, of three dollars and seventeen cents ($3.17) to improve the quality of life for nursing facility residents.

B. The quality improvement adjustment shall be added to the facility's current rate as of June 30, 2006, and is effective for dates of service beginning July 1, 2006, and after.

11. FY-2007 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning February 1, 2007, of three dollars and zero cents ($3.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's reimbursement rate as of January 31, 2007, and is effective for dates of service beginning February 1, 2007, for payment dates after March 1, 2007.

12. FY-2008 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2007, of six dollars and zero cents ($6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2007, and is effective for dates of service beginning July 1, 2007.

13. FY-2009 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2008, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2008, of six dollars and zero cents ($6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2008, and is effective for dates of service beginning July 1, 2008.

14. FY-2010 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2009, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2009, of five dollars and fifty cents ($5.50) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2009, and is effective for dates of service beginning July 1, 2009.

15. FY-2012 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on October 1, 2011, shall be granted an increase to their per diem rate effective for dates of service beginning October 1, 2011, of six dollars and zero cents ($6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of September 30, 2011, and is effective for dates of service beginning October 1, 2011.

C. This increase is contingent upon the federal assessment rate limit increasing to six percent (6%) and is subject to approval by the Centers for Medicare and Medicaid Services.

*AUTHORITY: section 208.159, RSMo 2000, and sections 208.153 and 208.201, RSMo Supp. [2008] **2010**. Original rule filed July 1, 2008, effective Jan. 30, 2009. For intervening history, please consult the **Code of State Regulations**. Amended: Filed July 1, 2011. Emergency amendment filed Sept. 20, 2011, effective Oct. 1, 2011, expires March 28, 2012.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.030 Prospective Reimbursement Plan for Nonstate-Operated Facilities for ICF/MR Services. The division is amending section (4).

PURPOSE: This amendment provides for the Fiscal Year 2012 trend factor to be applied to adjust per diem rates for nonstate-operated ICF/MR facilities providing ICF/MR services participating in the Medicaid program.

*EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division, by rule and regulation, must define the reasonable costs, manner, extent, quantity, quality, charges, and fees of medical assistance. Effective October 1, 2011, the federal government, through the Centers for Medicare and Medicaid Services, has allowed the maximum limit on health care-related taxes to change from a five and one-half percent (5.5%) to a six percent (6%) limit of the provider group's related revenues. The Department of Mental Health has filed an amendment to the Intermediate Care Facility for the Mentally Retarded Reimbursement Allowance (IFRA) regulation, 9 CSR 10-31.030, to increase the IFRA percent effective October 1, 2011. This increase allows the Department of Mental Health to increase the state share of funding through the IFRA. The additional funding generated from the IFRA increase will allow for a trend adjustment to ICF/MR facilities' reimbursements for SFY 2012. Effective for dates of service beginning October 1, 2011, the trend adjustment will be a one and four-tenths percent (1.4%) increase to nonstate-operated ICF/MR facility reimbursement rates. The trend adjustment is necessary to ensure that payments for ICF/MR facility per diem rates are in line with the increased IFRA funding available. There are a total of eight (8) nonstate-operated ICF/MR facilities currently enrolled in MO HealthNet, which will receive a per diem increase to its reimbursement rate of one and four-tenths percent (1.4%) effective for dates of service beginning October 1, 2011. This emergency amendment will ensure payment for ICF/MR services to approximately eighty-four (84) ICF/MR Missourians. This emergency amendment must be implemented on a timely basis to ensure that quality ICF/MR services continue to be provided to MO HealthNet participants in ICF/MR facilities during state fiscal year 2012. As a result, the MO HealthNet Division finds an immediate danger to public health, safety, and/or welfare, and a compelling governmental interest, which requires emergency action. The MO HealthNet Division has a compelling governmental interest in providing continued cash flow for ICF/MR services. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The MO HealthNet Division believes this emergency amendment is fair to all interested persons and parties under the circumstances. A proposed amendment covering this same material will be published in the **Missouri Register**. This emergency amendment was filed September 20, 2011, becomes effective October 1, 2011, and expires March 28, 2012.*

(4) Prospective Reimbursement Rate Computation.

(A) Except in accordance with other provisions of this rule, the provisions of this section shall apply to all providers of ICF/MR services certified to participate in Missouri's MO HealthNet program.

1. ICF/MR facilities.

A. Except in accordance with other provisions of this rule, the MO HealthNet program shall reimburse providers of these LTC services based on the individual MO HealthNet-participant days of care multiplied by the Title XIX prospective per-diem rate less any payments collected from participants. The Title XIX prospective per-diem reimbursement rate for the remainder of state Fiscal Year 1987 shall be the facility's per-diem reimbursement payment rate in effect on October 31, 1986, as adjusted by updating the facility's allowable base year to its 1985 fiscal year. Each facility's per-diem costs as reported on its Fiscal Year 1985 Title XIX cost report will be determined in accordance with the principles set forth in this rule. If a facility has not filed a 1985 fiscal year cost report, the most current cost report on file with the department will be used to set its per-diem rate. Facilities with less than a full twelve (12)-month 1985 fiscal year will not have their base year rates updated.

B. For state FY-88 and dates of service beginning July 1, 1987, the negotiated trend factor shall be equal to two percent (2%) to be applied in the following manner: Two percent (2%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1987, shall be added to each facility's rate.

C. For state FY-89 and dates of service beginning January 1, 1989, the negotiated trend factor shall be equal to one percent (1%) to be applied in the following manner: One percent (1%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1988, shall be added to each facility's rate.

D. For state FY-91 and dates of service beginning July 1, 1990, the negotiated trend factor shall be equal to one percent (1%) to be applied in the following manner: One percent (1%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1990, shall be added to each facility's rate.

E. FY-96 negotiated trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning January 1, 1996, of six dollars and seven cents ($6.07) per patient day for the negotiated trend factor. This adjustment is equal to four and six-tenths percent (4.6%) of the weighted average per-diem rates paid to nonstate-operated ICF/MR facilities on June 1, 1995, of one hundred thirty-one dollars and ninety-three cents ($131.93).

F. State FY-99 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 1998, of four dollars and forty-seven cents ($4.47) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 1998,

of one hundred forty-eight dollars and ninety-nine cents ($148.99).

G. State FY-2000 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 1999, of four dollars and sixty-three cents ($4.63) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on April 30, 1999, of one hundred fifty-four dollars and forty-three cents ($154.43). This increase shall only be used for increases for the salaries and fringe benefits for direct care staff and their immediate supervisors.

H. State FY-2001 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 2000, of four dollars and eighty-one cents ($4.81) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on April 30, 2000, of one hundred sixty dollars and twenty-three cents ($160.23). This increase shall only be used for increases for salaries and fringe benefits for direct care staff and their immediate supervisors.

I. State FY-2007 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase of seven percent (7%) to their per-diem rates effective for dates of service billed for state fiscal year 2007. This adjustment is equal to seven percent (7%) of the per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 2006.

J. State FY-2008 trend factor. Effective for dates of service beginning July 1, 2007, all nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates of two percent (2%) for the trend factor. This adjustment is equal to two percent (2%) of the per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 2007.

K. State FY-2009 trend factor. Effective for dates of service beginning July 1, 2008, all nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates of three percent (3%) for the trend factor. This adjustment is equal to three percent (3%) of the per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 2008.

L. State FY-2009 catch up increase. Effective for dates of service beginning July 1, 2008, all nonstate-operated ICF/MR facilities shall be granted an increase to their per diem rates of thirteen and ninety-five hundredths percent (13.95%). This adjustment is equal to thirteen and ninety-five hundredths percent (13.95%) of the per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 2008. This increase is intended to provide compensation to providers for the years (2003, 2004, 2005, and 2006) where no trend factor was given. The catch up increase was based on the CMS PPS Skilled Nursing Facility Input Price Index (4 quarter moving average).

M. State FY-2012 trend factor. Effective for dates of service beginning October 1, 2011, all nonstate-operated ICF/MR facilities shall be granted an increase to their per diem rates of one and four-tenths percent (1.4%) for the trend factor. This adjustment is equal to one and four-tenths percent (1.4%) of the per diem rate paid to nonstate-operated ICF/MR facilities on September 30, 2011.

2. Adjustments to rates. The prospectively determined reimbursement rate may be adjusted only under the following conditions:

A. When information contained in a facility's cost report is found to be fraudulent, misrepresented, or inaccurate, the facility's reimbursement rate may be reduced, both retroactively and prospectively, if the fraudulent, misrepresented, or inaccurate information as originally reported resulted in establishment of a higher reimbursement rate than the facility would have received in the absence of this information. No decision by the MO HealthNet agency to impose a rate adjustment in the case of fraudulent, misrepresented, or inaccurate information in any way shall affect the MO HealthNet agency's ability to impose any sanctions authorized by statute or rule. The fact that fraudulent, misrepresented, or inaccurate information reported did not result in establishment of a higher reimbursement rate than the facility would have received in the absence of the information also does not affect the MO HealthNet agency's ability to impose any sanctions authorized by statute or rules;

B. In accordance with subsection (6)(B) of this rule, a newly constructed facility's initial reimbursement rate may be reduced if the facility's actual allowable per diem cost for its first twelve (12) months of operation is less than its initial rate;

C. When a facility's MO HealthNet reimbursement rate is higher than either its private pay rate or its Medicare rate, the MO HealthNet rate will be reduced in accordance with subsection (2)(B) of this rule;

D. When the provider can show that it incurred higher cost due to circumstances beyond its control, and the circumstances are not experienced by the nursing home or ICF/MR industry in general, the request must have a substantial cost effect. These circumstances include, but are not limited to:

(I) Acts of nature, such as fire, earthquakes, and flood, that are not covered by insurance;

(II) Vandalism, civil disorder, or both; or

(III) Replacement of capital depreciable items not built into existing rates that are the result of circumstances not related to normal wear and tear or upgrading of existing system;

E. When an adjustment to a facility's rate is made in accordance with the provisions of section (6) of this rule; or

F. When an adjustment is based on an Administrative Hearing Commission or court decision.

*AUTHORITY: section 208.159, RSMo 2000, and sections 208.153 and 208.201, RSMo Supp. [2007] **2010**. This rule was previously filed as 13 CSR 40-81.083. Original rule filed Aug. 13, 1982, effective Nov. 11, 1982. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Sept. 20, 2011, effective Oct. 1, 2011, expires March 28, 2012. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance. The division is adding subsection (2)(N).

PURPOSE: This amendment provides for a change in the Nursing Facility Reimbursement Allowance (NFRA) rate to eleven dollars and seventy cents ($11.70) effective beginning October 1, 2011.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division, finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide nursing facility services to individuals eligible for the MO HealthNet nursing facility program. This emergency amendment changes the NFRA rate from nine dollars and twenty-seven cents ($9.27) to eleven dollars and seventy cents ($11.70) effective October 1, 2011. This emergency amendment is necessary to generate additional state matching funds to pay nursing facilities an increased reimbursement rate, also effective October 1, 2011. An early effective date is required because the emergency amendment is necessary to establish the Nursing Facility Reimbursement Allowance (NFRA) assessment rate for State Fiscal Year (SFY) 2012. The NFRA needs to be established in order to collect the state revenue to ensure funds are available to pay for nursing facility services for MO HealthNet participants in participating MO HealthNet nursing facilities with the funds appropriated for that purpose. This emergency amendment results in an additional NFRA assessment of $26,992,812

for SFY 2012 which yields additional payments of $53,163,927 to nursing facilities. The NFRA will raise approximately $163,982,136 annually. The MO HealthNet Division also finds an immediate danger to public health, safety, and/or welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri nursing facilities which service approximately twenty-four thousand (24,000) individuals eligible for the MO HealthNet nursing facility program. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants in need of nursing facility services. A proposed amendment covering the eleven dollars and seventy cents ($11.70) NFRA rate effective October 1, 2011, was published in the ***Missouri Register*** *on August 1, 2011 (36 MoReg 1835–1839). The final order of rulemaking relating to that proposed amendment was filed with the Joint Committee on Administrative Rules on September 9, 2011, and will be filed with the secretary of state October 11, 2011. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the* ***Missouri*** *and* ***United States Constitutions****. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed September 20, 2011, becomes effective October 1, 2011, and expires March 28, 2012.*

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in **subsection** (1)(B) above, are as follows:

(L) Effective July 1, 2009, the NFRA will be nine dollars and seven cents ($9.07) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K); *[and]*

(M) Effective January 1, 2010, the NFRA will be nine dollars and twenty-seven cents ($9.27) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K)*[.]***; and**

(N) Effective October 1, 2011, the NFRA will be eleven dollars and seventy cents ($11.70) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K).

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436, **and** *208.159,* **RSMo 2000,** *and sections 198.439, 208.153,* **and** *208.201,* **RSMo Supp.** *[2009]* ***2010****. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed July 1, 2011. Emergency amendment filed Sept. 20, 2011, effective Oct. 1, 2011, expires March 28, 2012.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is amending section (1) and adding section (20).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2012 trend factor to be applied to the inpatient and outpatient adjusted net revenues determined from the Federal Reimbursement Allowance (FRA) fiscal year cost report. It establishes the FRA assessment effective for dates of service beginning October 1, 2011 of five and ninety-five hundredths percent (5.95%) of each hospital's inpatient and outpatient adjusted net revenues as determined from its base year cost report. The FRA assessment rate must be below the rate established by federal law. This amendment assumes the federal allowable assessment rate will increase from five and one-half percent (5.5%) to six percent (6.0%) on October 1, 2011.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. An early effective date is required because the emergency amendment is necessary to establish the Federal Reimbursement Allowance (FRA) assessment rate effective for dates of service beginning October 1, 2011. The FRA needs to be established in regulation in order to collect the state revenue to ensure access to hospital services for MO HealthNet participants and indigent patients at hospitals that have relied on MO HealthNet payments to meet those patients' needs. The Missouri Partnership Plan between the Centers for Medicare and Medicaid Services (CMS) and the Missouri Department of Social Services (DSS), which establishes a process whereby CMS and DSS determine the permissibility of the funding source used by Missouri to fund its share of the MO HealthNet program, is based on a state fiscal year. The MO HealthNet Division also finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri hospitals which serve over eight hundred sixty thousand (860,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants and uninsured individuals in need of medical treatment. The FRA will raise approximately $1 billion for SFY 2012 (July 1, 2011–June 30, 2012). A proposed amendment, which covers the same material, was published in the ***Missouri Register*** *on August 1, 2011 (36 MoReg 1840–1842). This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the* ***Missouri*** *and* ***United States Constitutions****. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed September 20, 2011, becomes effective October 1, 2011, and expires March 28, 2012.*

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

(A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve (12)-month period will be used. If none of the cost reports cover*[s]* a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve (12)-month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve (12)-month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve (12)-month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals. The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6.

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1.

(III) "Nursing Facility Ancillary Charges" as determined from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.)

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2.

(V) "Ambulance Charges" from Worksheet C, Part I, Line 65, Column 7.

(VI) "Home Health Charges" from Worksheet G-2, Line 19, Column 2.

(VII) "Total Rural Health Clinic Charges" from Worksheet C, Part I, Column 7, Lines 63.50–63.59.

(VIII) "Other Non-Hospital Component Charges" from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24.

B. Obtain "Net Revenue" from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology.

C. "Adjusted Gross Total Charges" (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide "Net Revenue" by "Gross Total Charges."

(II) "Adjusted Gross Total Charges" will be multiplied by the result of part (1)(A)13.C.(I) to yield "Adjusted Net Revenue."

D. Obtain "Gross Inpatient Charges" from Worksheet G-2, Line 25, Column 1, of the most recent cost report that is available for a hospital.

E. Obtain "Gross Outpatient Charges" from Worksheet G-2, Line 25, Column 2, of the most recent cost report that is available for a hospital.

F. Total "Adjusted Net Revenue" will be allocated between "Net Inpatient Revenue" and "Net Outpatient Revenue" as follows:

(I) "Gross Inpatient Charges" will be divided by "Gross Total Charges."

(II) "Adjusted Net Revenue" will then be multiplied by the result to yield "Net Inpatient Revenue."

(III) The remainder will be allocated to "Net Outpatient Revenue."

G. The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2009 = 5.50%

(II) SFY 2009 Missouri Specific Trend = 1.50%

(III) SFY 2010 = 3.90%

(IV) SFY 2010 Missouri Specific Trend = 1.50%

(V) SFY 2011 = 3.20%

(VI) SFY 2012 = 5.33%

14. Net operating revenue—Gross charges less bad debts, less charity care, and less contractual allowances times the trend indices listed in 13 CSR 70-15.010(3)(B).

15. Other operating revenues—The other operating revenue is total other revenue less government appropriations, less donations, and less income from investments times the trend indices listed in 13 CSR 70-15.010(3)(B).

(20) Beginning October 1, 2011, the FRA assessment shall be determined at the rate of five and ninety-five hundredths percent (5.95%) of each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues as set forth in paragraph (1)(A)13. The FRA assessment rate of five and ninety-five hundredths percent (5.95%) will be applied individually to the hospital's inpatient adjusted net revenues and outpatient adjusted net revenues. The hospital's total FRA assessment is the sum of the assessment determined from its inpatient adjusted net revenue plus the assessment determined for its outpatient adjusted net revenue.

AUTHORITY: sections 208.201 and 208.453, RSMo Supp. 2010, and section[s] 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed July 1, 2011. Emergency amendment filed Sept. 20, 2011, effective Oct. 1, 2011, expires March 28, 2012.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.160 Prospective Outpatient Hospital Services Reimbursement Methodology. The division is amending section (1).

PURPOSE: This amendment provides for a change in MO HealthNet reimbursement of outpatient radiology procedures and is a cost containment measure recommended for FY 2012. It also provides for an increase in the prospective outpatient rate for federally-designated

critical access hospitals for dates of service October 1, 2011 through June 30, 2012.

*EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division, finds that this emergency amendment is necessary to generate hospital program savings so that general revenue funds are available to pay for necessary Medicaid services. The MO HealthNet Division also finds an immediate danger to public health, safety, and/or welfare which require emergency actions. If this emergency amendment is not enacted, approximately $41 million in SFY 2012 and $54.7 million annually thereafter of additional Medicaid reductions would be necessary because of a lack of general revenue, which would cause significant cash flow shortages to Medicaid providers, causing a financial strain on Missouri providers which service approximately eight hundred ninety thousand (890,000) Missourians eligible for the MO HealthNet program plus the uninsured. This financial strain, in turn, would result in an adverse impact on the health and welfare of MO HealthNet participants in need of Medicaid services. The MO HealthNet Division determined the adverse impact of reimbursing radiology services on a Medicaid fee schedule disproportionately affects federally-designated critical access hospitals (CAHs) and could result in radiology services no longer being available to MO HealthNet participants and uninsured individuals in the rural areas served by the federally-designated CAHs. Federally-designated CAHs are defined in section 1820(c)(2)(B) of the Social Security Act which includes criteria such as: rural hospitals with no more than twenty-five (25) acute care inpatient beds that have federal limits on their lengths of stay, are located more than thirty-five (35) miles away from another hospital, and make available twenty-four (24) hour emergency care services. In order to ensure access to radiology services provided by federally-designated CAHs, the MO HealthNet Division determined an increase to the prospective outpatient percentage rate for non-radiology services is necessary to lessen the adverse impact of the decreased reimbursement resulting from the radiology fee schedule until the prospective outpatient percentage rates are adjusted to exclude the procedures paid on a fee schedule. The MO HealthNet Division expects program savings of approximately $41 million in SFY 2012 and $54.7 million annually thereafter to be generated by no longer reimbursing the hospitals for outpatient radiology procedures on a percentage of charge basis, but based on a Medicaid fee schedule. A proposed amendment was published in the **Missouri Register** on August 1, 2011 (36 MoReg 1843–1845) and a final order of rulemaking will be filed which covers the same material. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances and has discussed the proposed changes with the hospital industry association and industry leaders. This emergency amendment was filed September 20, 2011, becomes effective October 1, 2011, and expires March 28, 2012.*

(1) Prospective Outpatient Hospital Services Reimbursement Percentage for Hospitals Located Within Missouri.

(A) Outpatient hospital services shall be reimbursed on a prospective outpatient payment percentage effective July 1, 2002**,** except for services identified in subsection (1)(C). The prospective outpatient payment percentage will be calculated using the Medicaid over-all outpatient cost-to-charge ratio from the fourth, fifth, and sixth prior base year cost reports regressed to the current State Fiscal Year (SFY). (If the current SFY is 2003**,** the fourth, fifth**,** and sixth prior year cost reports would be the cost report filed in calendar year 1997, 1998**,** and 1999.) The prospective outpatient payment percentage shall not exceed one hundred percent (100%) and shall not be less than twenty percent (20%).

1. Effective for service dates October 1, 2011 through June 30, 2012, hospitals which meet the federal definition of Critical Access Hospital (CAH) found in section 1820(c)(2)(B) of the Social Security Act will receive a five percent (5%) increase to their prospective outpatient payment percentage rate determined in accordance with this regulation.

(C) Outpatient Hospital Services Reimbursement Limited by Rule.

1. Effective for dates of service September 1, 1985, and annually updated, certain clinical diagnostic laboratory procedures will be reimbursed from a Medicaid fee schedule which shall not exceed a national fee limitation.

2. Effective for service dates beginning October 1, 2011, and annually updated, the technical component of outpatient radiology procedures will be reimbursed from a Medicaid fee schedule. Medicaid fee schedule amounts will be based on one hundred twenty-five percent (125%) of the Medicare Physician fee schedule rate using Missouri Locality 01. The list of affected procedure codes and the Medicaid fee schedule rate for the technical component of outpatient radiology procedures will be published on the MO HealthNet website at www.dss.mo.gov/mhd beginning October 1, 2011.

*[2.]***3.** Services of hospital-based physicians and certified registered nurse anesthetists shall be billed on a CMS-1500 professional claim form and reimbursed from a Medicaid fee schedule or the billed charge, if less. The CMS-1500 professional claim form is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at www.dss.mo.gov/mhd, November 1, 2010. This rule does not incorporate any subsequent amendments or additions.

*[3.]***4.** Outpatient hospital services provided for those recipients having available Medicare benefits shall be reimbursed by Medicaid to the extent of the deductible and coinsurance as imposed under Title XVIII.

*[4.]***5.** Effective for payment dates beginning October 1, 2010, reimbursement of Medicare/Medicaid crossover claims (crossover claims) for Medicare Part B and Medicare Advantage/Part C outpatient hospital services with dates of service on or after January 1, 2010, except for public hospitals operated by the Department of Mental Health (DMH), shall be determined as follows:

A. Crossover claims for Medicare Part B outpatient hospital services in which Medicare was the primary payer and the MO HealthNet Division (MHD) is the payer of last resort for cost-sharing (i.e., coinsurance, copay, and/or deductibles) must meet the following criteria to be eligible for MHD reimbursement:

(I) The crossover claim must be related to Medicare Part B outpatient hospital services that were provided to MO HealthNet participants also having Medicare Part B coverage; and

(II) The crossover claim must contain approved outpatient hospital services which MHD is billed for cost-sharing; and

(III) The Other Payer paid amount field on the claim must contain the actual amount paid by Medicare. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MHD for payment regardless of how the claim is submitted. Providers submitting crossover claims for Medicare Part B outpatient hospital services to MHD must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Part B plan's remittance advice. Any amounts paid by MHD that are determined to be based on inaccurate data will be subject to recoupment;

B. Crossover claims for Medicare Advantage/Part C (Medicare Advantage) outpatient hospital services in which a Medicare Advantage plan was the primary payer and MHD is the payer of last resort for cost-sharing (i.e., coinsurance, copay, and/or deductibles) must meet the following criteria to be eligible for MHD reimbursement:

(I) The crossover claim must be related to Medicare Advantage outpatient hospital services that were provided to MO HealthNet participants who also are either a Qualified Medicare

Beneficiary (QMB Only) or Qualified Medicare Beneficiary Plus (QMB Plus); and

(II) The crossover claim must be submitted as a Medicare UB-04 Part C Professional Crossover claim through the MHD online Internet billing system; and

(III) The crossover claim must contain approved outpatient hospital services which MHD is billed for cost-sharing; and

(IV) The Other Payer paid amount field on the claim must contain the actual amount paid by the Medicare Advantage plan. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MHD for payment. Providers submitting crossover claims for Medicare Advantage outpatient hospital services to MHD must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Advantage plan's remittance advice. Any amounts paid by MHD that are determined to be based on inaccurate data will be subject to recoupment;

C. MHD reimbursement for approved outpatient hospital services. MHD will reimburse seventy-five percent (75%) of the allowable cost-sharing amount; and

D. MHD will continue to reimburse one hundred percent (100%) of the allowable cost-sharing amounts for outpatient services provided by public hospitals operated by DMH as set forth above in paragraph (1)(C)*[3.]***4.**

AUTHORITY: sections [208.010,] 208.152, 208.153, ***and*** *208.201 [and 208.471], RSMo Supp. 2010. Emergency rule filed June 20, 2002, effective July 1, 2002, expired Feb. 27, 2003. Original rule filed June 14, 2002, effective Jan. 30, 2003. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed July 1, 2011. Emergency amendment filed Sept. 20, 2011, effective Oct. 1, 2011, expires March 28, 2012.*