



Posted: 06-15-2009

### **Governor's Unallotment Announcement Expected this Week**

Gov. Tim Pawlenty is expected to unveil his unallotment plan later this week, but no further details are known at this time.

Under state law, the governor must present his plan to the Legislative Advisory Commission (LAC), co-chaired by Speaker of the House Margaret Anderson Kelliher and Senate Majority Leader Larry Pogemiller. The commission is scheduled to meet Thursday, June 18, at 3 p.m. However, the LAC has no power to accept or reject the plan.

The governor announced five days before the end of the 2009 legislative session that, barring any budget agreement with the Legislature, he would sign all spending bills, line-item vetoing certain items, and then use his power to unallot or reduce allocated funding himself, to bring the budget into balance. Because no budget deal was reached with legislative leaders, Gov. Pawlenty will unallot.

Gov. Pawlenty has said that his targets for unallotment are aids to cities and counties, higher education, and health and human services. Aging Services will be sending a Breaking News Alert to members when we learn the details of the unallotment plan.

#### ***For Further Information:***

Contact Kari Thurlow at [kthurlow@agingservicesmn.org](mailto:kthurlow@agingservicesmn.org) or Jen McNertney at [jmcnertney@agingservicesmn.org](mailto:jmcnertney@agingservicesmn.org).

### **Public Policy Forum will be Held June 29 via Webinar**

The Aging Services annual public policy forum will be held Monday, June 29, from 10 a.m.-noon and focus on the state budget and unallotment decisions.

Based on feedback during the June district meetings, members are concerned about travel and education costs. With that in mind, this year's public policy program will be held in a webinar format,

The program will feature the following:

- The most up-to-date information about unallotments and the state budget;
- A question and answer session with Aging Services technical staff to answer any questions about the budget decisions made during the 2009 legislative session;
- Minnesota Department of Human Services Assistant Commissioner Loren Coleman has been invited to speak regarding the continuing care budget and the DHS vision for the future of older adult services.

Further Information on registration will be sent out to the membership later this week.

### **Cuts to EW and AC Reduced Only .58 percent, But Unallotment Issues Remain**

The Elderly Waiver/Customized Living rate bulletin has been issued and the cuts are somewhat less than

expected, however Aging Services still has concerns about the potential for additional cuts due to unallotment.

The Department of Human Services bulletin (#09-69-02) can be found at

[http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16\\_145129.pdf](http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_145129.pdf). This includes the rate limits effective Wednesday, July 1, for Elderly Waiver (EW), Alternative Care (AC), Customized Living (CL) and 24-hour Customized Living. Due to the formula used to determine the EW and AC case mix caps, which is based on nursing home operating payment rates, the cuts to EW and AC were reduced only .58 percent, rather than the 2.58 percent included in the omnibus bill. According to the bulletin, this is because of an anticipated 2 percent increase in nursing home operating payment rates.

In addition, the 24-hour Customized Living rate authorizations at the end of March were apparently higher than DHS had anticipated, surprising even DHS staff. As a result, the new 24-hour CL rate limits, even after the 2.58 percent reduction, are less than had been estimated. For example, the final 24-hour CL rate limit for Case Mix A is about 9 percent less than the rate limit for the period ending June 30--earlier DHS estimates based on authorizations from the end of 2008 suggested the final 24-hour CL rate limit would see a 12.58 percent total rate reduction.

Following are the EW monthly caps and rate limits for 24-hour Customized Living effective July 1, 2009, compared to the EW rate caps effective through June 30:

Case Mix	EW Monthly Cap 10/1/08 through 6/30/09	EW Monthly Cap Effective 7/1/09	24-hour CL Rate Limit Effective 7/1/09
A	\$2,298	\$2,285	\$2,084
B	\$2,615	\$2,600	\$2,403
C	\$3,067	\$3,049	\$2,827
D	\$3,169	\$3,151	\$2,953
E	\$3,495	\$3,475	\$3,285
F	\$3,601	\$3,580	\$3,407
G	\$3,716	\$3,695	\$3,544
H	\$4,193	\$4,169	\$3,982
I	\$4,303	\$4,278	\$4,093
J	\$4,587	\$4,561	\$4,378
K	\$5,346	\$5,315	\$5,111

If the governor does follow his original budget in determining how to unallot funds, it is very possible that additional reductions will be made to EW as the governor's budget proposed a 3 percent cut to EW and other home- and community-based services. The governor's plan for unallotment is scheduled to be released this week so we will have a better idea whether providers can anticipate further reductions in these rates.

#### **For Further Information:**

Contact Mary Youle at [myoule@agingservicesmn.org](mailto:myoule@agingservicesmn.org).

### **Audio Conference on EW and Customized Living Rates Is Thursday**

Aging Services has scheduled an audio conference on the Elderly Waiver and Customized Living rate's bulletin this Thursday, from 1:30 - 3 p.m.

The audio conference will feature staff from the Department of Human Services reviewing the rate bulletin #09-69-02 and answering questions. To help you prepare for the conference, members are encouraged to read the bulletin, found at

[http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16\\_145129.pdf](http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_145129.pdf).

Members are also encouraged to invite the care coordinators they work with to sit in on the audio conference with them. Questions are welcomed in advance and they may be sent to Heidi Simpson [hsimpson@agingservicesmn.org](mailto:hsimpson@agingservicesmn.org) to pass along to the DHS presenters. Be sure to include "June 18 audio conference" question in the subject line. Registration information is posted on the Aging Services web site under "Events."

#### **For Further Information:**

Contact Kellie Carlson [atkcarlson@agingservicesmn.org](mailto:atkcarlson@agingservicesmn.org).

## June 25 Videoconference Will Provide Update EW Update

The Department of Human Services will provide an update on recent changes to the Elderly Waiver Customized Living Tool during a Thursday, June 25, videoconference.

The program will be presented at 9 a.m. and again at 1:30 p.m. at various locations around the state by Jolene Kohn, Strategic Planner, and Darlene Schroeder, Program Administrator, Aging and Adult Services Division, DHS.

### *Change to the tool include:*

- Provider input form has been streamlined and simplified;
- Additional fields have been added to the Screening Document Input form;
- The Individual CL Plan form has additional fields;
- Within the Individual CL Plan, the supervision section and basis for rate determination has been revamped; and
- Special emphasis will be placed on the new sections of the Individual CL Plan: "Personal Security" and Active Cognitive or Behavioral Support.

Aging Services staff has been reviewing these changes briefly at the June district meetings, but the videoconference will review DHS' most recent revisions to the tool in much more detail. This training will:

- Describe how 2009 legislation impacts EW customized living policy and is reflected in the tools
- Provide a brief overview of EW customized living tools
- Explain how to complete the simplified Provider Input form
- Describe how to complete the Individual CL Plan.

### *To Pre-Register:*

Visit <http://agingtraining.dhs.state.mn.us>

Aging Services is seeking feedback from members on possible ways that the rate for "supervision" could be determined. A form for gathering this feedback is being distributed at the June district meetings. We encourage members working with the EW Customized Living packages to fill out the form, found at

<http://www.agingervicesmn.org/inc/data/CLtoolmbrquestionnairerev6-3-09.doc> and fax it to Mary Youle at 651-645-0002.

### *For Further Information:*

Contact Mary Youle at [myoule@agingervicesmn.org](mailto:myoule@agingervicesmn.org).

## Webinar Friday Will Help Prepare for Electronic Claims Submission Law

An Aging Services webinar this Friday (June 19) will assist members in making the transition to the new electronic claims submission law which goes into effect next month.

The webinar will be held from 10 - 11:30 a.m. and cover the new law which states all health care providers (including care centers and home health) and all group purchasers (including DHS and health plans) will process health care claims electronically using a standard format.

For background purposes, this requirement, referred to as E3, consists of three parts. The first part, electronic eligibility transactions, went into effect on Jan. 1, 2009. The second, electronic claims transactions, goes into effect on July 15, 2009, and the third, electronic payment remittance advice goes into effect on Dec. 15, 2009.

### *Topics in the webinar include:*

- An overview of the electronic billing requirements, timeframes and enforcement;
- Information from DHS on submitting claims through MN-ITS for care centers, home health/EW;
- Information from the health plans on changes in submitting claims, issues with clearinghouses or billing

services and how to utilize ORBIT for free electronic claims processing;

- Claims processing for out-of-state payers including long-term care insurance and Medicare Advantage plans; and
- An overview of electronic billing options.

To register for the webinar click

<http://www.agingservicesmn.org/inc/data/GettingReadyforE3r.pdf> or visit the Aging Services website.

#### **For Further Information:**

Contact Lori Meyer at [lmeyer@agingservicesmn.org](mailto:lmeyer@agingservicesmn.org) or Jeff Bostic at [jbostic@agingservicesmn.org](mailto:jbostic@agingservicesmn.org).

### **Resources Available To Assist in Electronic Billing Transition**

To assist members during this electronic billing transition which goes into effect next month, Aging Services is providing resources.

#### **General Information on E3**

Information has been shared in previous issues of *Monday Mailing* and is located on the Aging Services website. (*Log in, look for Electronic Billing under Featured Topics in the right sidebar on the member home page.*)

#### **ORBIT**

Information on this new, free tool for submitting claims electronically to Minnesota health plans is also located on our website including instructions for registering for ORBIT.

#### **Electronic Billing Options**

Aging Services has developed a grid containing information on a variety of resources/vendors that members may utilize to comply with the electronic billing mandate. The grid includes contact information, types of transactions covered, how claims are submitted and product/service limitations. Members can access the grid by going to the Electronic Billing section of the Aging Services website. (*Log in, look for Electronic Billing under Featured Topics in the right sidebar on the member home page.*) We are aware that this is not a complete list of billing resources, so if you know of another product that allows your organization to comply with the electronic billing mandate please contact us and we will add it to the grid.

Last week, the Minnesota Department of Health released an Implementation and Compliance Update which includes some updated information on how they will handle compliance issues--especially during the transition to electronic claims processing.

#### **MDH noted the following:**

- MDH is to achieve voluntary compliance to the extent practicable, and may provide technical assistance;
- Enforcement will be complaint-driven;
- MDH may investigate complaints, and is to seek informal resolution of complaints, for example, through demonstrated compliance or a completed corrective action plan or other agreement;
- If informal resolution is not possible, MDH may impose civil money penalties of up to \$100 for each violation, but not to exceed \$25,000 for identical violations during a calendar year;
- Mitigating factors, such as whether attempts are being made to come into compliance, may be considered in determining any penalties; and,
- If a fine is levied, it may be appealed or a contested case hearing requested.

MDH acknowledges that even with the best communication and planning, providers and payers may still encounter possible problems during the initial implementation of standard, electronic administrative transactions. They indicated that they are committed to working with affected parties to help identify and solve problems as quickly as possible while also achieving the goals of more standard, efficient transactions.

According to the update, MDH will use its considerable regulatory flexibility to help minimize the possibility of delays or interruptions in routine business transactions during implementation of the rules. "We understand that it is impractical to assume that all current paper transactions will be eliminated immediately on the dates the rules become effective. MDH's enforcement goal is not to collect fines for noncompliance, but to help assure that routine health care business transactions can flow.

In enforcing the statute and related rules, MDH will be especially interested in whether good faith efforts are being made to comply; the extent of compliance efforts; and progress toward compliance.

***For Further Information:***

Contact Lori Meyer at [lmeyer@agingervicesmn.org](mailto:lmeyer@agingervicesmn.org) or Jeff Bostic at [jbostic@agingervicesmn.org](mailto:jbostic@agingervicesmn.org).

### **Submit Comments on Payment System Proposed Rule by June 30**

The Centers of Medicaid and Medicare (CMS) released a proposed rule for fiscal year (FY) 2010 updating payment rates used under the prospective payment system for skilled nursing facilities. These rates would take effect on Oct. 1.

The rule proposes a 2.1 percent (or \$660 million) increase from the market basket update and a 3.3 percent (or \$1.05 billion) reduction from the recalibration of the case-mix adjustment, thereby yielding a net decrease of 1.2 percent (or \$390 million) in payments to SNFs.

Although there is an overall decrease of 1.2 percent on average, the labor components of each facility's rates (about 60 percent of the total rate) are adjusted by the facility's wage index, which is recalculated each year. The nationwide wage adjustment is a zero sum game, but individual facilities can see increases or decreases in their rates. Because of the magnitude of the proposed recalibration of the case-mix adjustment, however, there will be few geographical areas in Minnesota where a positive adjustment to the wage index offsets the 1.2 percent reduction.

We are fortunate that AAHSA each year produces an Excel worksheet that members can use to estimate their proposed SNF rates. To see how your facility is affected by this proposed rule, use AAHSA's Rate Calculation Tool <<http://www.aahsa.org/article.aspx?id=6938>>. Instructions on how to calculate your payment for 2010 are available on the first worksheet.

We encourage you to submit comments to CMS on how the proposed rule will affect your facility on Oct. 1. (FY2010). Please send your comments to CMS via email. Submit them to: <http://regulations.gov>, and follow the instructions under the "More Search Options" tab. At the top of your comments, be sure to refer to file code "CMS-1410-P." Your email comments must be received by 4 p.m. on Tuesday, June 30. Be sure to emphasize that your facility is not-for-profit, and stress the adverse effects on resident care that will result from the cuts to your SNF PPS rates that will result from the recalibration of the case-mix rates.

***For Further Information:***

Contact Lara Woody, [lwoody@aaahsa.org](mailto:lwoody@aaahsa.org) <<mailto:lwoody@aaahsa.org>> (202) 508-9429, or Jeff Bostic at [jbostic@agingervicesmn.org](mailto:jbostic@agingervicesmn.org).

### **State Fire Marshall Revises Position on Garage Language Relating to CO Law**

In 2006, the Legislature passed a law (Minnesota Statutes 299F.50 and 299F.51) requiring owners of multi-family dwellings to provide and install carbon monoxide (CO) alarms within 10 feet of every bedroom in the building by Aug. 1, 2009.

The law applies if there is any production of carbon monoxide in the building--e.g., gas furnaces, gas hot water heaters, gas or wood-burning fireplaces. Senior housing buildings (but not care centers) are subject to the law.

The statute provides two potential exceptions, which we described in detail in Issues Update No. 128, Oct. 6, 2008. At that time, the state fire marshal's office indicated that underground and tuck-under garages would

qualify for the exception for "central fixtures and equipment," provided that there was an approved and operational CO monitor between 15 and 25 feet of the central fixtures and equipment that produce the CO and that the monitor was connected to an appropriate centralized alarm system. The exception is not available if there are CO-producing fixtures or appliances in the individual apartments.

We learned recently that the State Fire Marshal's office has revised its position on underground and tuck-under garages. The fire marshal's revised information sheet distinguishes between "separated" and "non-separated" garages. A "separated" garage is an attached and enclosed garage that is connected to the residential building by a hallway or corridor without sharing a common wall with the residential building. "Non-separated" garages are tuck-under or underground garages that are part of the residential building.

"Separated" garages can qualify for the exception, but **"non-separated" garages do not qualify for this exception**. The revised sheet states, "While there are CO detectors present in the garage area, these operate the ventilation system and are not considered life safety equipment. CO can still migrate from the garage space and travel through the building using the utility service lines."

In response to this revised interpretation, we sent two questions to the State Fire Marshal's office and received a response from a deputy state fire marshal.

The first question was, "If the building's system were set up so that the CO detectors would set off the building's alarm system at a higher threshold than what starts the exhaust system, would that be acceptable?" (No one would want the building alarm sounding every time the CO monitors activated the exhaust system, which could be several times a day.)

The response was, "In my opinion (this does not necessarily represent the opinion of the State Fire Marshal), this is an acceptable alternative. If the tuck under garage has a ventilation system and that system is connected to the fire alarm control panel as a supervisory signal and that activates when CO levels reach a certain level, I believe this would be an acceptable alternative and meet the intent of the Statute."

The second question was, "If not, would the building need CO detectors on all floors, or just the first?"

The response was, "I believe these situations need to be looked at on a case-by-case basis. It doesn't make sense for a high-rise apartment complex, for example, with 4 floors of parking and 20 levels of apartments to have to provide single station carbon monoxide alarms in every single unit simply because the building has an attached parking garage. So it's up to the local fire official, where ever this complex is located, to determine compliance with the Statute. This arrangement will ultimately have to be approved and accepted by them."

It appears that the State Fire Marshal's office recognizes that the intent of the exception for central fixtures and equipment is to permit building owners to install reasonable means to ensure that occupants of the building have adequate warning about the presence of carbon monoxide. The exception focuses on monitors close to the sources of the CO that trigger alarm systems.

The information sheet indicated that the alarm system must meet one of three conditions to satisfy the exception:

- The alarm system is capable of being heard by all residents throughout the building. This alarm must be distinct from the fire alarm system and must shutdown upon fire alarm activation, or
- The CO detector may ring to a constantly attended location such as a 24-hour staffed security or nurse's station, or
- The CO detector may be wired into the existing fire alarm system. This must be wired as a supervisory circuit, monitored as a CO alarm by a NFPA 72 compliant monitoring station, and must not ring throughout the building unless it is unique and distinct from the fire alarm signal.

Although not an official position of the State Fire Marshal's office, it appears there is an expectation that local fire inspectors will be flexible in their application of this statute. Members will want to discuss the intent of the statute with their local fire inspectors if they question the arrangements in a particular building.

Members may download the Issues Update by logging in, click on Regulations/All Providers/State section of our website. Click on "Carbon Monoxide." The revised information sheet is at:

<http://www.dps.state.mn.us/fmarshal/CO/CarbonMonoxideAlarmInfoSheet.pdf>.

***For Further Information:***

Contact Darrell Shreve at [dshreve@agingservicesmn.org](mailto:dshreve@agingservicesmn.org).

## **Rights and Safeguards for Consumers Living in Housing with Services Is Topic**

The Department of Human Services will offer a videoconference Thursday, July 9, on the rights and safeguards for consumers living in housing with services.

Presenters will be:

- Natasha Merz, Regional Ombudsman, Office of Ombudsman for Long Term Care
- Sherilyn Moe, Ombudsman Specialist, Office of Ombudsman for Long Term Care
- Sandra Newbauer, Regional Ombudsman, Office of Ombudsman for Long Term Care

The purpose of this training is to:

- Give an overview of the Housing with Services (HWS) registration law and the various home care bills of rights for home care clients who reside in HWS, with a focus on the importance of consumer participation in the planning and delivery of their home care and housing services;
- Outline the requirements of the home care service plan or service agreement and how they differ from the 17 points in the HWS housing contract;
- Explain the difference between the discontinuation of home care services and termination of tenancy;
- Review the consumer safeguards and regulations for assisted living services offered through a Class A or Class F home care license; and
- Delineate other regulations that impact HWS tenants.

Pre-registration is required for this videoconference. The locations available for the videoconference are available when you go to the registration site at <http://agingtraining.dhs.state.mn.us>. Presentation handouts and resource materials will be distributed to registered participants via email attachment 1-2 days before the scheduled session. Print and bring your own copies to the session. Those individuals interested in receiving handouts only, can make this request via the registration survey.

## **State Continuing To Track H1N1 Novel Influenza**

Most of the identified H1N1 cases in Minnesota, including hospitalizations, have been in children, although patients have ranged in age up to 66 years, the Minnesota Department of Health reported last week.

MDH issued the local update as the World Health Organization reclassified the outbreak as a Phase 6 pandemic. MDH officials are tracking what appears to be a rapidly growing number of confirmed H1N1 cases in the Minnesota and believe that the new virus has been widespread in the state since mid-May.

The number of confirmed H1N1 cases in Minnesota has more than doubled over the last week, including an increase in hospitalizations, with 221 cases identified and 46 hospitalizations, according to MDH.

An average of 30 H1N1 cases per day have been identified over a three-day period last week. Most cases are not severe, and testing is targeted at people who are hospitalized, have underlying medical conditions or are pregnant, so most cases identified in Minnesota will be hospitalized cases. Some hospitalizations in young children have been due to dehydration, and hospitalizations have occurred in people with asthma and other underlying medical conditions. However, some hospitalizations have also occurred in people without underlying conditions.

Standard prevention recommendations for influenza include:

- Cover your nose and mouth with your sleeve when you cough or sneeze.
- Clean your hands frequently and thoroughly - with soap and water or an alcohol-based hand rub solution.
- Clean your hands after shaking hands or having other close contact with other people - before eating or preparing food, or touching your eyes, nose or mouth.
- Limit your contact with others who may be ill.
- Stay home from work or school - and generally avoid going out in public - if you are sick, remain home for seven days, or until 24 hours after your symptoms resolve, whichever is longer.
- Make sure to take enough fluids while you're sick.
- If you are an employer, encourage your employees to stay home if they are sick.
- If you do develop possible flu symptoms and you want to consult your health care provider, call before going in for an office visit. You may not need to go in, and if you do need to be seen, a time should be set up when you will not risk exposing others to influenza in the waiting room.
- People at risk for severe flu or flu complications should contact their health care provider if they have flu symptoms or have been exposed to people with flu symptoms. Those individuals include people with an underlying medical condition, pregnant women, young children (especially under age two) and people 65 or older.

***For Further Information:***

Buddy Ferguson at MDH at 651-201-4997.

### **MDH Adds Web Page on Flu Centers**

The Minnesota Department of Health has added a new page to its website on flu centers.

The new page, Flu Centers, has a variety of resources for providers that wish to develop a center for the assessment, referral, and treatment center for pandemic influenza. Members can access this web page at:

<http://www.health.state.mn.us/oep/healthcare/flucenter/index.html>.

Members who wish to receive updates from MDH on emergency preparedness can sign up for automatic email messages at: <http://www.health.state.mn.us/oep/>. Click on the "Subscribe" link.

***For Further Information:***

Contact Darrell Shreve at [dshreve@agingservicesmn.org](mailto:dshreve@agingservicesmn.org).

### **Skin Products Are Recalled**

The Food and Drug Administration is asking health care providers not to use skin products made by Clarcon because of high levels of disease-causing bacteria found during a recent inspection.

Clarcon Biological Chemistry Laboratory Inc. of Roy, Utah, issued a voluntary recall of some skin sanitizers and skin protectants marketed under several different brand names, according to an FDA statement. The Clarcon products should be thrown away, the FDA added.

Analyses of several samples of over-the-counter topical antimicrobial skin sanitizer and skin products revealed high levels of various bacteria, including some associated with unsanitary conditions, according to the agency. Some of these bacteria can cause opportunistic infections of the skin and underlying tissues and could result in medical or surgical attention as well as permanent damage.

Examples of products that should be discarded include:

- Citrusshield Lotion
- Dermasentials DermaBarrier
- Dermasentials by Clarcon Antimicrobial Hand Sanitizer
- Iron Fist Barrier Hand Treatment
- Skin Shield Restaurant
- Skin Shield Industrial
- Skin Shield Beauty Salon Lotion
- Total Skin Care Beauty
- Total Skin Care Work

***For Further Information:***

Visit <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm164845.htm>.

**Revenue Reporting Notices Mailed to Members**

In preparation for developing the 2010 association budget, revenue reporting worksheets will be mailed to members this week and a response is requested by Friday, July 10.

Members are asked to provide revenue for 2008 for the purpose of calculating 2010 membership dues. Worksheets for multi-site organizations will be sent to corporate offices. For your convenience, revenue can be reported online at <http://apps.agingservicesmn.org/dues/dalogin.asp>.

***For Further Information:***

Contact Sarah LaRose-Holland at 651-645-4545 or [slarose-holland@agingservicesmn.org](mailto:slarose-holland@agingservicesmn.org).

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