

DOH REVISES METHODOLOGY FOR CASE MIX ADJUSTMENT

CHALLENGED BY NURSING HOMES

On October 9, 2019, New York State Department of Health (DOH) announced that it will be implementing a new methodology for adjusting nursing home Medicaid reimbursement rates, commonly referred to as the “case mix adjustment.” The revised methodology will apply retroactively to July 1, 2019. Under DOH’s revised methodology, adjustments will continue to be made in January and July of each calendar year based on the (Medicaid-only) case mix data for the previous case mix period. However, the calculation for the initial adjustment will be made using the case mix data submitted by nursing homes to Centers for Medicare & Medicaid Services (CMS) for the August 2018 - March 2019 period. All future case mix adjustments (i.e., post July 2019) will be made based on the case mix data submitted to CMS for the previous six month period (e.g., April – September for the January case mix adjustment; October – March for the July case mix adjustment). This represents a departure from DOH’s previous practice which relied on data for two specific days each year (January 25 and July 25), to calculate the adjustment. This change in methodology is expected to provide the State with savings of approximately \$350 million in the upcoming budget year.

In response to the announced change, a coalition of nursing home provider associations has filed a lawsuit on behalf of over 100 nursing homes. The lawsuit seeks both preliminary and permanent injunctions enjoining DOH from implementing the new case mix adjustment methodology. The lawsuit claims, among other things, that the change poses an immediate threat to nursing home residents and employee staffing levels and impermissibly bypasses CMS’s prior approval process. A ruling has not yet been issued on the request for a preliminary injunction.

* * * * *

If you have any questions about this alert, please contact the [Garfunkel Wild attorney](#) with whom you regularly work.

Contact Information:

111 Great Neck Road Great Neck, NY 11021 516.393.2200	411 Hackensack Avenue Hackensack, NJ 07601 201.883.1030	350 Bedford Street Stamford, CT 06901 203.316.0483	677 Broadway Albany, NY 12207 518.242.7582
---	---	--	--

If you would like to receive Legal Alert mailings from Garfunkel Wild, P.C. electronically in the future, or if you would like to be removed from the mailing list, please contact us at info@garfunkelwild.com. This material is intended as informational only and the content should not be construed as legal advice. Readers should not act upon information in this material without first seeking professional advice. This material may be considered Attorney Advertising under certain rules of professional conduct. © 2019 Garfunkel Wild, P.C.