

Volume 44, Number 12
Pages 1657–1790
June 17, 2019

SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015 and 536.033, RSMo 2016. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or “official” without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

JOHN R. ASHCROFT

Administrative Rules Division

James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

EDITOR-IN-CHIEF

CURTIS W. TREAT

•

MANAGING EDITOR

AMANDA MCKAY

•

EDITOR

VONNE KILBOURN

•

ASSOCIATE EDITOR

JOHN C. STEGMANN

•

PUBLICATION SPECIALIST

JACQUELINE D. WHITE

•

ADMINISTRATIVE AIDE

TAMMY WINKELMAN

•

READER

THOMAS HUBER

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO

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

MISSOURI REGISTER
Office of the Secretary of State
Administrative Rules Division
PO Box 1767
Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are available on the Internet. The Register address is www.sos.mo.gov/adrules/moreg/moreg and the CSR is www.sos.mo.gov/adrules/csr/csr. These websites contain rulemakings and regulations as they appear in the paper copies of the Registers and CSR. The Administrative Rules Division may be contacted by email at rules@sos.mo.gov.

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



IN THIS ISSUE:

EMERGENCY RULES

Department of Social Services
 MO HealthNet Division1661

PROPOSED RULES

Department of Elementary and Secondary Education
 Division of Learning Services1665

Department of Social Services
 MO HealthNet Division1666

Retirement Systems
 Missouri Local Government Employees’ Retirement System (LAGERS)1682

Department of Insurance, Financial Institutions and Professional Registration
 Insurer Conduct1684
 Insurance Solvency and Company Regulation1688
 Life, Annuities and Health1692
 Statistical Reporting1724
 Insurance Licensing1725
 State Board of Pharmacy1726
 State Board of Podiatric Medicine1735

ORDERS OF RULEMAKING

Office of Administration
 Division of Facilities Management, Design and Construction1736
 Division of Facilities Management1737

Department of Conservation
 Conservation Commission1738

Department of Economic Development
 Public Service Commission1738

Department of Elementary and Secondary Education
 Division of Learning Services1738

Department of Higher Education
 Commissioner of Higher Education1739

Missouri Department of Transportation
 Missouri Highways and Transportation Commission1740

Department of Public Safety
 Missouri State Highway Patrol1740

Department of Social Services
 MO HealthNet Division1741
 Division of Youth Services1743

Elected Officials
 Secretary of State1743
 State Auditor1744

Department of Health and Senior Services
 Missouri State Public Health Laboratory1756
 Division of Regulation and Licensure1756

Department of Insurance, Financial Institutions and Professional Registration
 Division of Professional Registration1756

IN ADDITIONS

Department of Economic Development
 Division of Energy1758

Department of Natural Resources
 Hazardous Waste Management Commission1758

DISSOLUTIONS1760

SOURCE GUIDES

RULE CHANGES SINCE UPDATE1765
EMERGENCY RULES IN EFFECT1774
EXECUTIVE ORDERS1777
REGISTER INDEX1778

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
February 1, 2019 February 15, 2019	March 1, 2019 March 15, 2019	March 31, 2019 March 31, 2019	April 30, 2019 April 30, 2019
March 1, 2019 March 15, 2019	April 1, 2019 April 15, 2019	April 30, 2019 April 30, 2019	May 30, 2019 May 30, 2019
April 1, 2019 April 15, 2019	May 1, 2019 May 15, 2019	May 31, 2019 May 31, 2019	June 30, 2019 June 30, 2019
May 1, 2019 May 15, 2019	June 3, 2019 June 17, 2019	June 30, 2019 June 30, 2019	July 30, 2019 July 30, 2019
June 3, 2019 June 17, 2019	July 1, 2019 July 15, 2019	July 31, 2019 July 31, 2019	August 30, 2019 August 30, 2019
July 1, 2019 July 15, 2019	August 1, 2019 August 15, 2019	August 31, 2019 August 31, 2019	September 30, 2019 September 30, 2019
August 1, 2019 August 15, 2019	September 2, 2019 September 16, 2019	September 30, 2019 September 30, 2019	October 30, 2019 October 30, 2019

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 www.sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

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

Title		Division	Chapter	Rule
3	CSR	10-	4	.115
Department	<i>Code of State Regulations</i>	Agency Division	General area regulated	Specific area regulated

and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in 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 paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation, for example, 3 CSR 10-4.115 NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and Register on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is www.sos.mo.gov/adrules/csr/csr

The *Register* address is www.sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2016. 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the Department of Social Services, MO HealthNet Division under section 536.025, RSMo, the division hereby terminates an emergency amendment effective May 31, 2019.

13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on February 1, 2019 (44 MoReg 494-496).

**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)23.

PURPOSE: This amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of one dollar and twenty-nine cents (\$1.29) effective for dates of service February 1, 2019 through June 30, 2019. The per diem increase shall be reduced to fifty-four cents (\$0.54) effective for dates of service beginning July 1, 2019. These per diem adjustments correspond to the state fiscal year (SFY) 2019 supplemental appropriation for nursing facilities and are contingent upon approval by the Centers for Medicare and Medicaid Services (CMS).

*EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division, by regulation, must define the reasonable costs, manner, extent, quantity, quality, charges, and fees of medical assistance. The General Assembly included additional funds to nursing facilities' and HIV nursing facilities' reimbursements to account for an additional trend adjustment for State Fiscal Year (SFY) 2019 in the SFY 2019 supplemental appropriation. The MO HealthNet Division is carrying out the General Assembly's intent by providing for a per diem increase to nursing facility and HIV nursing facility reimbursement rates by implementing an additional trend adjustment of one dollar and twenty-nine cents (\$1.29) effective for dates of service February 1, 2019 through June 30, 2019. The per diem increase shall be reduced to fifty-four cents (\$0.54) effective for dates of service beginning July 1, 2019. The additional trend adjustment is necessary to ensure that payments for nursing facility and HIV nursing facility per diem rates are in line with the funds appropriated for that purpose. An early effective date is required in order to utilize the appropriated funds in the current SFY 2019. There are a total of five hundred ten (510) nursing facilities and HIV nursing facilities currently enrolled in MO HealthNet that will receive a per diem increase to its reimbursement rate effective for dates of service beginning February 1, 2019. This emergency amendment will ensure payment for nursing facility and HIV nursing facility services to approximately twenty-four thousand (24,000) MO HealthNet participants in accordance with the appropriation authority. For the SFY 2019 payment to be made, a Medicaid State Plan Amendment was required to be submitted and approved by the Centers for Medicare and Medicaid Services (CMS). The State Plan Amendment was approved by CMS on March 21, 2019. This emergency amendment is necessary to protect the public health and welfare of MO HealthNet participants in nursing facilities and HIV nursing facilities. This emergency amendment is necessary to protect a governmental interest to reimburse nursing facilities and HIV nursing facilities as required by the General Assembly, and to provide MO HealthNet participants with quality nursing facility services. 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 this same material is published in this issue of the *Missouri Register*. This emergency amendment was filed May 9, 2019, becomes effective June 1, 2019, and expires December 30, 2019.*

(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); and

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; and

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; and

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; and

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; and

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; and

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; and

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.

16. FY-2013 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2012, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2012, 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, 2012, and is effective for dates of service beginning July 1, 2012; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

17. FY-2014 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2013, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2013, of three percent (3.0%) of their current rate, less certain fixed cost items. The fixed cost items are the per diem amounts included in the facility's current rate from the following: subsection (2)(O) of 13 CSR 70-10.110, paragraphs (11)(D)1., (11)(D)2., (11)(D)3., (11)(D)4., (13)(B)3., and (13)(B)10. of 13 CSR 70-10.015;

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2013, and is effective for dates of service beginning July 1, 2013; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

18. FY-2015 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2014, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2014, of one dollar and twenty-five cents (\$1.25) 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, 2014, and is effective for dates of service beginning July 1, 2014; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

19. January 1, 2016 – June 30, 2016 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on January 1, 2016, shall be granted an increase to their per diem rate effective for dates of services beginning January 1, 2016, of two dollars and nine cents (\$2.09) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment will not be added to the facility's rate after June 30, 2016; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services and sufficient funding available through the Tax Amnesty Fund.

20. Continuation of FY-2016 trend adjustment and FY-2017 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2016, shall continue to be granted an increase to their per diem rate effective for dates of service beginning July 1, 2016, of two dollars and nine cents (\$2.09);

B. Facilities with either an interim rate or a prospective rate in effect on July 1, 2016, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2016, of two dollars and eighty-three cents (\$2.83) to allow for a trend adjustment to ensure quality nursing facility services;

C. The trend adjustment of two dollars and eighty-three cents (\$2.83) shall be added to the facility's rate as of June 30, 2016, which includes the two dollars and nine cents (\$2.09) increase, and is effective for dates of service beginning July 1, 2016; and

D. These increases are contingent upon approval by the Centers for Medicare and Medicaid Services.

21. FY-2018 per diem adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on August 1, 2017, shall be subject to a decrease in their per diem rate effective for dates of services August 1, 2017 through June 30, 2018, of five dollars and thirty-seven cents (\$5.37);

B. The per diem adjustment of five dollars and thirty-seven cents (\$5.37) shall be deducted from the facility's current rate as of July 31, 2017, and is effective for dates of service beginning August 1, 2017;

C. Effective for dates of service beginning July 1, 2018, the per diem decrease shall be reduced to four dollars and eighty-three cents (\$4.83). A per diem adjustment of fifty-four cents (\$0.54) shall be added to the facilities current rate as of June 30, 2018, which includes the five dollars and thirty-seven cents (\$5.37) decrease, and is effective for dates of service beginning July 1, 2018; and

D. This decrease is contingent upon approval by the Centers for Medicare and Medicaid Services.

22. FY-2019 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2018, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2018, of seven dollars and seventy-six cents (\$7.76) to allow for a trend adjustment to ensure quality nursing facility services;

B. The rate to which the FY-2019 trend adjustment of seven dollars and seventy-six cents (\$7.76) shall be added is the facilities' rate as of July 1, 2018 set forth in subparagraph (3)(A)21.C. and is effective for dates of service beginning July 1, 2018. This trend adjustment shall result in a rate no greater than eight dollars and thirty cents (\$8.30) higher than the rate in effect on January 1, 2018; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

23. FY-2019 additional trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2019, shall be granted an increase to their per diem rate effective for dates of service February 1, 2019 through June 30, 2019, of one dollar and twenty-nine cents (\$1.29) to allow for a trend adjustment to ensure quality nursing facility services;

B. The per diem adjustment of one dollar and twenty-nine cents (\$1.29) shall be added to the facility's rate as of January 31, 2019, and is effective for dates of service beginning February 1, 2019 through June 30, 2019;

C. Effective for dates of service beginning July 1, 2019, the per diem increase shall be reduced to fifty-four cents (\$0.54). A per diem adjustment of seventy-five cents (\$0.75) shall be deducted from the facility's rate as of June 30, 2019, which includes the one dollar and twenty-nine cents (\$1.29) increase, and is effective for dates of service beginning July 1, 2019.

D. These per diem adjustments are contingent upon approval by the Centers for Medicare and Medicaid Services.

AUTHORITY: sections 208.153, 208.159, 208.201, and 660.017, RSMo 2016. Original rule filed July 1, 2008, effective Jan. 30, 2009. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 9, 2019, effective June 1, 2019, expires Dec. 30, 2019. 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 (Q) to section (2) and amending subsections (2)(O) and (P).

PURPOSE: This amendment provides for a change in the Nursing Facility Reimbursement Allowance (NFRA) rate to twelve dollars and ninety-three cents (\$12.93) effective July 1, 2018.

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 thirteen dollars and forty cents (\$13.40) to twelve dollars and ninety-three cents (\$12.93) effective July 1, 2018. The NFRA needs to be established at an appropriate level in order to collect state revenues and to ensure funds are available to pay for MO HealthNet participants in participating MO HealthNet nursing facilities. The NFRA is being reduced to a level that is appropriate and sufficient to reimburse the services provided by MO HealthNet nursing facilities without collecting more funds than are needed to pay the nursing facilities. An early effective date is required in order to collect the appropriate level of funds in SFY 2019. The reduction in the NFRA will provide additional cash flow to the nursing facilities, allowing the nursing facilities to retain more funds on which to operate. The reduction in the NFRA assessment will provide additional cash flow to approximately five hundred twenty-nine (529) nursing facilities, including five hundred ten (510) nursing facilities that participate in the MO HealthNet program and provide nursing facility services to approximately twenty-four thousand (24,000) MO HealthNet participants. This emergency amendment is necessary to protect the public health and welfare of senior Missourians in nursing facilities. This emergency amendment is necessary to protect a governmental interest in collecting the appropriate level of NFRA assessments to reimburse nursing facilities and to provide MO HealthNet participants with quality nursing facility services. 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 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 is published in this issue of the Missouri Register. This emergency amendment was filed May 9, 2019, becomes effective June 1, 2019, and expires December 30, 2019.

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

(O) Effective July 1, 2012, the NFRA will be twelve dollars and eleven cents (\$12.11) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K); *and*

(P) Effective July 1, 2015, the NFRA will be thirteen dollars and forty cents (\$13.40) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K).; **and**

(Q) Effective July 1, 2018, the NFRA will be twelve dollars and ninety-three cents (\$12.93) 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, 198.424, 198.427, 198.431, 198.433, 198.436, [and] 208.153, 208.159, [RSMo 2000, sections 208.153] and 208.201, RSMo [Supp. 2013] 2016, and sections 198.421[, RSMo Supp. 2014,] and [section] 198.439, RSMo Supp. [2015] 2018. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 9, 2019, effective June 1, 2019, expires Dec. 30, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality**

PROPOSED AMENDMENT

5 CSR 20-400.220 Application for Substitute Certificate of License to Teach. The State Board of Education is proposing to amend sections (1)-(5).

PURPOSE: This amendment is to update the requirements for a Substitute Certificate of License to Teach.

(1) An applicant for a substitute Missouri certificate of license to teach who has successfully completed sixty (60) semester hours or more of **college level credit from a/n] regionally-accredited** academic degree granting institution *[which is contained within the United States Department of Education's Directory of Post-*

Secondary Institutions, or approved by the commissioner of education, and possesses good moral character] **recognized by the Department of Elementary and Secondary Education (department)** may be granted a substitute Missouri certificate of license to teach pursuant to the rules promulgated by the State Board of Education (board).

(2) An applicant for a career/technical substitute Missouri certificate of license to teach who has successfully completed **the following may be granted a substitute Missouri certificate of license to teach pursuant to the rules promulgated by the board:**

(A) A bachelor's degree in an area appropriate for the career/technical area sought and four thousand (4,000) hours of *[locally]* **department** approved, related occupational experience; or

(B) An associate's degree in an area appropriate for the career/technical area sought and five thousand (5,000) hours of *[locally]* **department** approved, related **occupational** experience; or

(C) Six thousand (6,000) hours of *[locally]* **department** approved, related occupational experience; *[or].*

[(D) Approved by the commissioner of education and possesses good moral character may be granted a career/technical substitute Missouri certificate of license to teach for a period of four (4) years.]

(3) *[An applicant for a substitute Missouri certificate of license to teach who holds a valid Missouri certificate of license to teach in a content or career/technical area; or approved by the commissioner of education and possesses good moral character may be granted a substitute Missouri certificate of license to teach for a period of four (4) years.]* Applicants may renew the substitute certificate of license to teach by completing *[a new fingerprint report every four (4) years or when employed by a new school district's required fingerprinting.]* **the following requirements:**

(A) **A new fingerprint background check clearance every four (4) years or when employed by a new school district; and**

(B) **One (1) hour of professional development and/or district training annually.**

[(4) Applications for a substitute Missouri certificate of license to teach shall be confirmed by the hiring school district in a manner designated by the Department of Elementary and Secondary Education (DESE).]

[(5)](4) An application is not considered officially filed with the *[State Board of Education (board)]* until it has been determined by the board or *[DESE]* **department** staff to be completed and the application is submitted on the forms provided by the board, signed, and accompanied by two (2) full sets of fingerprints with the appropriate fee as set by the Missouri State Highway Patrol (Highway Patrol) and/or Federal Bureau of Investigation (FBI) and any other applicable forms and/or fees. All information should be received by the board within ninety (90) days of the date of the application.

(A) The applicant is responsible for submitting the fingerprints in the manner acceptable to the Highway Patrol and/or FBI and the payment of any fees required by the Highway Patrol and/or FBI.

AUTHORITY: sections 161.092, [168.021] 168.011, 168.071, and 168.081, RSMo [Supp.] 2016, and section [168.011] 168.021, RSMo [2000] Supp. 2018. This rule previously filed as 5 CSR 80-800.290. Emergency rule filed July 30, 1999, effective Aug. 9, 1999, expired Jan. 26, 2000. Original rule filed July 30, 1999, effective Feb. 29, 2000. For intervening history, please consult the Code of State Regulations. Amended: Filed May 2, 2019.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500)

in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

PROPOSED RULE

13 CSR 70-3.310 Chiropractic Services

PURPOSE: The purpose of this rule is to establish the Department of Social Services' MO HealthNet Division guidelines regarding coverage and reimbursement for chiropractic services as mandated in House Bill 1516, 99th General Assembly, section 208.152 RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Administration. The Chiropractic Program shall be administered by the MO HealthNet Division, Department of Social Services. The chiropractic services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the MO HealthNet Division and shall be included in the MO HealthNet *Physician Provider Manual*, which is incorporated by reference and made 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, <http://manuals.momed.com/manuals/>, May 15, 2019. This rule does not incorporate any subsequent amendments or additions. Chiropractic services covered by the MO HealthNet program shall include only those which are clearly shown to be medically necessary. The MO HealthNet Division considers medically necessary when all of the following criteria are met: The member has a neuromusculoskeletal disorder; and the medical necessity for treatment is clearly documented; and improvement is documented within the initial two (2) weeks of chiropractic care. If no improvement is documented within the initial two (2) weeks, additional chiropractic treatment is considered not medically necessary unless the chiropractic treatment is modified. If no improvement is documented within thirty (30) days despite modification of chiropractic treatment, continued chiropractic treatment is considered not medically necessary. The division reserves the right to effect changes in services, limitations, and fees with proper notification to MO HealthNet chiropractic providers.

(2) Provider Participation. To be eligible for participation in the MO

HealthNet Chiropractic Program, a provider must be licensed to practice chiropractic by complying with the provisions of Chapter 331, RSMo and shall have signed a participation agreement to provide chiropractic services under the MO HealthNet program.

(3) Participant Eligibility. Any person who is eligible for Title XIX benefits from the Family Support Division and who is found to be in need of chiropractic services in accordance with the procedures described in this rule shall be deemed eligible to receive these services.

(4) Chiropractic Services. Up to twenty (20) visits per year are covered for services limited to examinations, diagnoses, adjustments, manipulations and treatments of malpositioned articulations, and structures of the body provided by licensed chiropractic physicians practicing within their scope of practice.

(5) Records Retention. Providers who provide chiropractic services must follow section 13 CSR 70-3.030.

AUTHORITY: section[s] 208.152, **RSMo Supp 2018**, and section 660.017, **RSMo 2016**. Original rule filed May 15, 2019.

PUBLIC COST: This proposed rule will cost state agencies or political divisions \$5.8 million in the first year of the program, but will save money once the program is established.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Social Services
Division Title: MO HealthNet Division
Chapter Title: Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

Rule Number and Name:	13 CSR 70-3.310 Chiropractic Services
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
MO HealthNet Division	\$5.8 million (GR + FED)

III. WORKSHEET

One Time Costs		
new provider type (FFS)	50/50 match	\$200,000.00
actuarial cost (MC)	50/50 match	\$50,000.00
TOTAL		\$250,000.00

Total Cost				
	TOTAL	FF		GR
FY20	\$ 10,896,482	\$ 7,104,833	\$	3,791,649
FY21	\$ 11,210,478	\$ 7,309,568	\$	3,900,910
FY22	\$ 11,636,476	\$ 7,587,331	\$	4,049,145

Alternative treatments such as: chiropractic services, physical therapy, and acupuncture as well as cognitive-behavioral therapy in lieu of prescribing opioids for pain.				
	TOTAL	FF		GR
FY20	\$5,300,000	\$3,455,759		\$1,844,241
FY21	\$27,900,000	\$18,191,637		\$9,708,363
FY22	\$29,400,000	\$19,169,682		\$10,230,318

Total Cost in lieu of opioids			
	TOTAL	FF	GR
FY20	\$5,846,482	\$3,774,074	\$2,072,408
FY21	(\$16,689,523)	(\$10,882,069)	(\$5,807,454)
FY22	(\$17,763,524)	(\$11,582,351)	(\$6,181,173)

IV. ASSUMPTIONS

The first year of the chiropractic program will result in a fiscal impact, however in following years, adding chiropractic services may prevent opioid and other prescription pain reliever abuse and the costs associated with it, resulting in a savings to MO HealthNet.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 6—Emergency Ambulance Program**

PROPOSED AMENDMENT

13 CSR 70-6.010—[Emergency] Ambulance [Program] Treat No Transport

PURPOSE: This amendment establishes the regulatory basis for the administration of the emergency ambulance program when services are provided on-site by a licensed emergency medical technician or by a paramedic and transportation is not required.

(1) Administration. The MO HealthNet ambulance program shall be administered by the Department of Social Services, MO HealthNet Division. The ambulance program services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the MO HealthNet Division and shall be included in the ambulance program provider manual, which is incorporated by reference *[in this rule]* and made 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, *[October 1, 2007] May 15, 2019*. This rule does not incorporate any subsequent amendments or additions.

(3) Participant Eligibility. The ambulance provider must ascertain the patient's MO HealthNet status before billing for services. The participant's MO HealthNet//MC + /Managed Care eligibility is determined by the Family Support Division. The participant must be eligible for MO HealthNet on the date that a service is provided in order for a provider to receive MO HealthNet reimbursement. It is the provider's responsibility to determine the coverage benefits for a participant based on their type of assistance as outlined in the ambulance program manual. The participant's eligibility shall be verified in accordance with methodology outlined in the ambulance program manual.

(5) Services Covered and Service Limitations. The MO HealthNet ambulance manual shall provide the detailed listing of procedure codes and pricing information covered by the MO HealthNet ambulance program.

(A) Covered [A]ambulance services are *[covered if they are emergency services and transportation is made to the nearest appropriate hospital]—*

1. Transportation is made to the nearest appropriate hospital when the criteria for emergency services is met (see (5)(B) below);

2. On-site treatment provided by an emergency medical technician or by a paramedic that meets the following criteria:

A. The treatment is a result of an emergent or immediate response made by a licensed ambulance service;

B. The emergency medical technician (EMT) or paramedic provides an assessment to determine the MO HealthNet participant's medical condition;

C. Medically necessary treatment is provided to the participant on-site; and

D. The participant is not transported by the responding service provider to an emergency department; and

3. On-site referral for further treatment that meets the following criteria:

A. The referral is a result of an emergent or immediate response made by a licensed ambulance services;

B. The EMT or paramedic provides an assessment to determine the MO HealthNet participants medical condition;

C. The referral is provided to the participant; and

D. The participant is not transported by the responding service provider to an emergency department.

(11) Records Retention. The enrolled MO HealthNet ambulance provider shall *[agree to]* keep any records necessary to *[disclose the extent of]* fully document compliance with this regulation and the services the provider furnishes to participants. These records must be retained for *[five (5)] seven (7)* years from the date of service. Fiscal and medical records must coincide with and fully document services billed to the MO HealthNet agency. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal or retain adequate documentation for services billed to the MO HealthNet program, as specified above, is a violation of this regulation.

AUTHORITY: sections *[208.152,] 208.201[,] and 660.017, RSMo [Supp. 2007] 2016, and section 208.152, RSMo Supp. 2018. Original rule filed Feb. 10, 2006, effective Sept. 30, 2006. Amended: Filed Aug. 1, 2006, effective Feb. 28, 2007. Amended: Filed Aug. 23, 2007, effective March 30, 2008. Amended: Filed July 31, 2008, effective Feb. 28, 2009. Amended: Filed May 15, 2019.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division—Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

PROPOSED 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)23.

PURPOSE: This proposed amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of one dollar and twenty-nine cents (\$1.29) effective for dates of service February 1, 2019 through June 30, 2019. The per diem increase shall be reduced to fifty-four cents (\$0.54) effective for dates of service beginning July 1, 2019. These per diem adjustments correspond to the state fiscal year (SFY) 2019 supplemental appropriation for nursing facilities and are contingent upon approval by the Centers for Medicare and Medicaid Services (CMS).

(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 adjust-

ments 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); and

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; and

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; and

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; and

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; and

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; and

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; and

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.

16. FY-2013 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2012, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2012, 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, 2012, and is effective for dates of service beginning July 1, 2012; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

17. FY-2014 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2013, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2013, of three percent (3.0%) of their current rate, less certain fixed cost items. The fixed cost items are the per diem amounts included in the facility's current rate from the following: subsection (2)(O) of 13 CSR 70-10.110, paragraphs (11)(D)1., (11)(D)2., (11)(D)3., (11)(D)4., (13)(B)3., and (13)(B)10. of 13 CSR 70-10.015;

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2013, and is effective for dates of service beginning July 1, 2013; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

18. FY-2015 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2014, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2014, of one dollar and twenty-five cents (\$1.25) 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, 2014, and is effective for dates of service beginning July 1, 2014; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

19. January 1, 2016 – June 30, 2016 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on January 1, 2016, shall be granted an increase to their per diem rate effective for dates of services beginning January 1, 2016, of two dollars and nine cents (\$2.09) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment will not be added to the facility's rate after June 30, 2016; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services and sufficient funding available through the Tax Amnesty Fund.

20. Continuation of FY-2016 trend adjustment and FY-2017 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2016, shall continue to be granted an increase to their per diem rate effective for dates of service beginning July 1, 2016, of two dollars and nine cents (\$2.09);

B. Facilities with either an interim rate or a prospective rate in effect on July 1, 2016, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2016, of two dollars and eighty-three cents (\$2.83) to allow for a trend adjustment to ensure quality nursing facility services;

C. The trend adjustment of two dollars and eighty-three cents (\$2.83) shall be added to the facility's rate as of June 30, 2016, which includes the two dollars and nine cents (\$2.09) increase, and is effective for dates of service beginning July 1, 2016; and

D. These increases are contingent upon approval by the Centers for Medicare and Medicaid Services.

21. FY-2018 per diem adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on August 1, 2017, shall be subject to a decrease in their per diem rate effective for dates of services August 1, 2017 through June 30, 2018, of five dollars and thirty-seven cents (\$5.37);

B. The per diem adjustment of five dollars and thirty-seven cents (\$5.37) shall be deducted from the facility's current rate as of July 31, 2017, and is effective for dates of service beginning August 1, 2017;

C. Effective for dates of service beginning July 1, 2018, the per diem decrease shall be reduced to four dollars and eighty-three cents (\$4.83). A per diem adjustment of fifty-four cents (\$0.54) shall be added to the facilities current rate as of June 30, 2018, which includes the five dollars and thirty-seven cents (\$5.37) decrease, and is effective for dates of service beginning July 1, 2018; and

D. This decrease is contingent upon approval by the Centers for Medicare and Medicaid Services.

22. FY-2019 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2018, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2018, of seven dollars and seventy-six cents (\$7.76) to allow for a trend adjustment to ensure quality nursing facility services;

B. The rate to which the FY-2019 trend adjustment of seven dollars and seventy-six cents (\$7.76) shall be added is the facilities' rate as of July 1, 2018 set forth in subparagraph (3)(A)21.C. and is effective for dates of service beginning July 1, 2018. This trend adjustment shall result in a rate no greater than eight dollars and thirty cents (\$8.30) higher than the rate in effect on January 1, 2018; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

23. FY-2019 additional trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2019, shall be granted an increase to their per diem rate effective for dates of service February 1, 2019 through June 30, 2019, of one dollar and twenty-nine cents (\$1.29) to allow for a trend adjustment to ensure quality nursing facility services;

B. The per diem adjustment of one dollar and twenty-nine cents (\$1.29) shall be added to the facility's rate as of January 31, 2019, and is effective for dates of service beginning February 1, 2019 through June 30, 2019;

C. Effective for dates of service beginning July 1, 2019, the per diem increase shall be reduced to fifty-four cents (\$0.54). A per diem adjustment of seventy-five cents (\$0.75) shall be deducted from the facility's rate as of June 30, 2019, which includes the one dollar and twenty-nine cents (\$1.29) increase, and is effective for dates of service beginning July 1, 2019.

D. These per diem adjustments are contingent upon approval by the Centers for Medicare and Medicaid Services.

*AUTHORITY: sections 208.153, 208.159, 208.201, and 660.017, RSMo 2016. Original rule filed July 1, 2008, effective Jan. 30, 2009. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed May 9, 2019, effective June 1, 2019, expires Dec. 30, 2019. Amended: Filed May 9, 2019.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$5,038,694 in SFY 2019.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 10 - Nursing Home Program

Rule Number and Name:	13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated Cost for SFY 2019 = \$5,038,694
Non-State Government Owned Nursing Facilities (46)	No estimated costs of compliance for SFY 2019.

III. WORKSHEET

Description	Nursing Facility Rate Increase	Hospice Nursing Home Room & Board	Total Impact
Estimated Paid Days – February 1, 2019 – June 30, 2019	3,640,930	277,963	
Per Diem Increase – Effective February 1, 2019 – June 30, 2019	\$1.29	\$1.23	
Estimated Impact – SFY 2019	\$4,696,799	\$341,895	\$5,038,694
State Share (34.797%)	\$1,634,345	\$118,969	\$1,753,314
Federal Share (65.203%)	\$3,062,454	\$222,923	\$3,285,380

IV. ASSUMPTIONS

Department of Social Services, MO HealthNet Division: The above impact to DSS, MHD was calculated using the following assumptions:

Estimated Paid Days:

Nursing Facility:

The estimated paid days for February 2019 – June 2019 for nursing facilities are based on the average Medicaid days paid for nursing facility services from August 2018 – January 2019.

Hospice:

The estimated paid days for February 2019 – June 2019 for hospice are based on the actual hospice days provided in nursing facilities from January 2018 through December 2018 and prorated for February 2019 – June 2019.

Non-State Government Owned Nursing Facilities (46): This proposed amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of one dollar and twenty-nine cents (\$1.29) effective for dates of service February 1, 2019 through June 30, 2019, so there are no costs of compliance to Medicaid enrolled non-state government owned nursing facilities.

Hospice: Hospice providers may be impacted by this regulation because reimbursement for hospice services provided in nursing facilities are based on the nursing facility per diem rate. MHD conducted a fiscal analysis using 13 CSR 70-50.010 to estimate the impact to hospice. Please note this is an estimated analysis with the assumption of hospice appropriation authority.

Hospice Nursing Home Room and Board services are reimbursed 95% of the nursing facility per diem rate. The per diem increase of \$1.29 to the nursing facility rate effective for dates of service beginning February 1, 2019 through June 30, 2019 computes to an increase to hospice reimbursement rates resulting from this amendment of \$1.23 ($\$1.29 \times 95\%$).

Impact on Home and Community Based Services (HCBS):

HCBS provided on a monthly basis are limited to a percentage of the average monthly nursing facility payment (referred to as the HCBS cost cap). The HCBS cost cap for a given SFY is based on the average monthly nursing facility payments for the 12 months ending in April of the previous SFY. Therefore, the per diem increase of \$1.29 to the nursing facility rate effective for dates of service February 1, 2019 through June 30, 2019 will not impact the HCBS cost cap for SFY 2019 but may impact the HCBS cost cap for SFY 2020. The HCBS cost cap is estimated to increase in SFY 2020 by 0.29% as a result of this amendment. This may increase the amount of services, and the payments, for MO HealthNet participants that are at the cap.

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

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance.
The division is adding subsection (Q) to section (2) and amending subsections (2)(O) and (P).

PURPOSE: This amendment provides for a change in the Nursing Facility Reimbursement Allowance (NFRA) rate to twelve dollars and ninety-three cents (\$12.93) effective July 1, 2018.

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

(O) Effective July 1, 2012, the NFRA will be twelve dollars and eleven cents (\$12.11) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K); *[and]*

(P) Effective July 1, 2015, the NFRA will be thirteen dollars and forty cents (\$13.40) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K).; **and**

(Q) Effective July 1, 2018, the NFRA will be twelve dollars and ninety-three cents (\$12.93) 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, 198.424, 198.427, 198.431, 198.433, 198.436, [and] 208.153, 208.159, [RSMo 2000, sections 208.153] and 208.201, RSMo [Supp. 2013] 2016, and sections 198.421[, RSMo Supp. 2014,] and [section] 198.439, RSMo Supp. [2015] 2018. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 9, 2019, effective June 1, 2019, expires Dec. 30, 2019. Amended: Filed May 9, 2019.

PUBLIC COST: In SFY 2019, for public state agencies this proposed amendment will result in a reduction of NFRA assessment revenue of approximately \$6.8 million and a reduction in expenditures of \$4.4 million for a net impact of \$2.4 million. For non-state government nursing facilities this proposed amendment will result in a reduction of NFRA assessments of approximately \$0.5 million and a reduction of nursing facility reimbursements of approximately \$0.3 million for a net impact of \$0.2 million.

PRIVATE COST: In SFY 2019, for private nursing facilities this proposed amendment will result in a reduction in nursing facility reimbursements of \$3.8 million and a reduction in NFRA assessments of \$6.3 million for a net impact of \$2.5 million. For private hospice providers this proposed amendment will result in a reduction of hospice nursing home room and board reimbursements of \$0.3 million.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services**
Division Title: MO HealthNet Division
Chapter Title: Nursing Home Program

Rule Number and Name:	13 CSR 70-10.110 Nursing Facility Reimbursement Allowance (NFRA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	
- NFRA Assessment	Estimated decrease in NFRA Assessment Revenues for SFY 2019: \$6,864,350
- Nursing Facility Services	Estimated decrease in Nursing Facility Expenditures for SFY 2019: \$4,092,801
- Hospice Nursing Home Room & Board Services	Estimated decrease in Hospice Expenditures for SFY 2019: \$302,699
Non-State Government Owned Nursing Facilities (46)	
- NFRA Assessment	Estimated decrease in NFRA Assessment for SFY 2019: \$517,276
- Nursing Facility Services	Estimated decrease in Nursing Facility Reimbursement for SFY 2019: \$281,647

III. WORKSHEET

Description	Gov't NFs	Non-Gov't NFs	Total NFs
Estimated Annual Assessment Days: SFY 2019	1,100,588	13,504,411	14,604,999
Proposed NFRA Rate	\$12.93	\$12.93	\$12.93
Current NFRA Rate	\$13.40	\$13.40	\$13.40
Decrease in NFRA Rate	(\$0.47)	(\$0.47)	(\$0.47)
Estimated Decrease in NFRA Assessment for SFY 2019 (Estimated Days times Decrease in the NFRA)	(\$517,276)	(\$6,347,073)	(\$6,864,350)
Less: Decrease in Nursing Facility Reimbursement due to NFRA being an Allowable Cost (per 13 CSR 70-10.015)	(\$281,647)	(\$3,811,154)	(\$4,092,801)
Net Impact	(\$235,630)	(\$2,535,919)	(\$2,771,549)

IV. ASSUMPTIONS

This proposed amendment provides for a change to the Nursing Facility Reimbursement Allowance (NFRA) assessment rate per patient day. Effective July 1, 2018, the NFRA rate decreases from \$13.40 per patient day to \$12.93 per patient day, resulting in a decrease to the NFRA assessment owed by nursing facilities. This results in a savings to the nursing facilities and a reduction in assessment revenue to the state.

The estimated annual assessment days for SFY 2019 is based on the annualized days from each facility's December 2017 CON Survey, as set forth in regulation. These days were multiplied by the difference between the proposed NFRA rate of \$12.93 and the current NFRA rate of \$13.40 to determine the impact of the NFRA rate change.

Impact on Nursing Facility Reimbursement:

The NFRA rate change will also change the per diem reimbursement rates for nursing facilities since the NFRA is an allowable cost for reimbursement under 13 CSR 70-10.015. To account for the NFRA being an allowable cost, the current NFRA rate is included as part of the nursing facility's total per diem reimbursement rate. Since the NFRA rate is decreasing by \$0.47, the nursing facility per diem rate will also decrease by \$0.47, resulting in decreased reimbursement to the nursing facilities and decreased expenditures to the state.

Impact on Hospice Reimbursement:

Hospice providers will be impacted by this regulation because reimbursement for hospice nursing home room and board is based on the reimbursement to nursing facilities. Therefore, MHD conducted a fiscal analysis using 13 CSR 70-50.010 to estimate the impact to hospice. Please note this is an estimated analysis with the assumption of hospice appropriation authority.

Hospice Nursing Home Room and Board services are reimbursed 95% of the nursing facility per diem rate. The per diem decrease of \$0.47 to the nursing facility per diem rate effective

for dates of service beginning July 1, 2018 computes to a decrease to hospice reimbursement rates resulting from this amendment of \$0.45 ($\$0.47 \times 95\%$).

MHD used the following methodology to determine the decrease in reimbursement to nursing facilities and hospice nursing home room and board services:

Description	Gov't NFs	Non-Gov't NFs	Total NFs	Hospice NH Room & Board	Total Impact
Estimated Paid Days – SFY 2019	599,248	8,108,839	8,708,087	672,664	
Per Diem Decrease – July 1, 2018	(\$0.47)	(\$0.47)	(\$0.47)	(\$0.45)	
Estimated Decrease in Nursing Facility Reimbursement – SFY 2019	(\$281,647)	(\$3,811,154)	(\$4,092,801)	(\$302,699)	(\$4,395,500)
State Share (34.797%)	(\$98,005)	(\$1,326,167)	(\$1,424,172)	(\$105,330)	(\$1,529,502)
Federal Share (65.203%)	(\$183,642)	(\$2,484,987)	(\$2,668,629)	(\$197,369)	(\$2,865,998)

Estimated Paid Days:

Nursing Facility:

The estimated paid days for SFY 2019 for nursing facilities are based on the average Medicaid days paid for nursing facility services from August 2018 – January 2019.

Hospice:

The estimated paid days for SFY 2019 for hospice are based on the actual hospice days provided in nursing facilities from January 2018 through December 2018.

Impact on Home and Community Based Services (HCBS):

HCBS provided on a monthly basis are limited to a percentage of the average monthly nursing facility payment (referred to as the HCBS cost cap). The HCBS cost cap for a given SFY is based on the average monthly nursing facility payments for the 12 months ending in April of the previous SFY. Therefore, the per diem decrease of \$0.47 to the nursing facility rate effective for dates of service beginning July 1, 2018 will not impact the HCBS cost cap for SFY 2019 but may impact the HCBS cost cap for SFY 2020. This may decrease the amount of services, and the payments, for MO HealthNet participants that are at the cap. The HCBS cost cap is estimated to decrease in SFY 2020 by 0.36%. This will decrease the amount of services, and the payments, for MO HealthNet participants that are at the cap.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Nursing Facility Program

Rule Number and Title:	13 CSR 70-10.110 Nursing Facility Reimbursement Allowance (NFRA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
483	Nursing Facilities	Estimated savings for SFY 2019: \$2,535,919
116	Hospice Providers	Estimated cost for SFY 2019: \$302,699

III. WORKSHEET

Description	Gov't NFs	Non-Gov't NFs	Total NFs
Estimated Annual Assessment Days: SFY 2019	1,100,588	13,504,411	14,604,999
Proposed NFRA Rate	\$12.93	\$12.93	\$12.93
Current NFRA Rate	\$13.40	\$13.40	\$13.40
Decrease in NFRA Rate	(\$0.47)	(\$0.47)	(\$0.47)
Estimated Decrease in NFRA Assessment for SFY 2019 (Estimated Days times Decrease in the NFRA)	(\$517,276)	(\$6,347,073)	(\$6,864,350)
Less: Decrease in Nursing Facility Reimbursement due to NFRA being an Allowable Cost (per 13 CSR 70-10.015)	(\$281,647)	(\$3,811,154)	(\$4,092,801)
Net Impact	(\$235,630)	(\$2,535,919)	(\$2,771,549)

IV. ASSUMPTIONS

This proposed amendment provides for a change to the Nursing Facility Reimbursement Allowance (NFRA) assessment rate per patient day. Effective July 1, 2018, the NFRA rate decreases from \$13.40 per patient day to \$12.93 per patient day, resulting in a decrease to the NFRA assessment owed by nursing facilities. This results in a savings to the nursing facilities and a reduction in assessment revenue to the state.

The estimated annual assessment days for SFY 2019 is based on the annualized days from each facility's December 2017 CON Survey, as set forth in regulation. These days were multiplied by the difference between the proposed NFRA rate of \$12.93 and the current NFRA rate of \$13.40 to determine the impact of the NFRA rate change.

Impact on Nursing Facility Reimbursement:

The NFRA rate change will also change the per diem reimbursement rates for nursing facilities since the NFRA is an allowable cost for reimbursement under 13 CSR 70-10.015. To account for the NFRA being an allowable cost, the current NFRA rate is included as part of the nursing facility's total per diem reimbursement rate. Since the NFRA rate is decreasing by \$0.47, the nursing facility per diem rate will also decrease by \$0.47, resulting in decreased reimbursement to the nursing facilities and decreased expenditures to the state.

Impact on Hospice Reimbursement:

Hospice providers will be impacted by this regulation because reimbursement for hospice nursing home room and board is based on the reimbursement to nursing facilities. Therefore, MHD conducted a fiscal analysis using 13 CSR 70-50.010 to estimate the impact to hospice. Please note this is an estimated analysis with the assumption of hospice appropriation authority.

Hospice Nursing Home Room and Board services are reimbursed 95% of the nursing facility per diem rate. The per diem decrease of \$0.47 to the nursing facility per diem rate effective for dates of service beginning July 1, 2018 computes to a decrease to hospice reimbursement rates resulting from this amendment of \$0.45 ($\$0.47 \times 95\%$).

MHD used the following methodology to determine the decrease in reimbursement to nursing facilities and hospice nursing home room and board services:

Description	Gov't NFs	Non-Gov't NFs	Total NFs	Hospice NH Room & Board	Total Impact
Estimated Paid Days – SFY 2019	599,248	8,108,839	8,708,087	672,664	
Per Diem Decrease – July 1, 2018	(\$0.47)	(\$0.47)	(\$0.47)	(\$0.45)	
Estimated Decrease in Nursing Facility Reimbursement – SFY 2019	(\$281,647)	(\$3,811,154)	(\$4,092,801)	(\$302,699)	(\$4,395,500)
State Share (34.797%)	(\$98,005)	(\$1,326,167)	(\$1,424,172)	(\$105,330)	(\$1,529,502)
Federal Share (65.203%)	(\$183,642)	(\$2,484,987)	(\$2,668,629)	(\$197,369)	(\$2,865,998)

Estimated Paid Days:

Nursing Facility:

The estimated paid days for SFY 2019 for nursing facilities are based on the average Medicaid days paid for nursing facility services from August 2018 – January 2019.

Hospice:

The estimated paid days for SFY 2019 for hospice are based on the actual hospice days provided in nursing facilities from January 2018 through December 2018.

Impact on Home and Community Based Services (HCBS):

HCBS provided on a monthly basis are limited to a percentage of the average monthly nursing facility payment (referred to as the HCBS cost cap). The HCBS cost cap for a given SFY is based on the average monthly nursing facility payments for the 12 months ending in April of the previous SFY. Therefore, the per diem decrease of \$0.47 to the nursing facility rate effective for dates of service beginning July 1, 2018 will not impact the HCBS cost cap for SFY 2019 but may impact the HCBS cost cap for SFY 2020. This may decrease the amount of services, and the payments, for MO HealthNet participants that are at the cap. The HCBS cost cap is estimated to decrease in SFY 2020 by 0.36%. This will decrease the amount of services, and the payments, for MO HealthNet participants that are at the cap.