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SALUS POPULI SUPREMA LEX ESTO

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



JOHN R. ASHCROFT  
SECRETARY OF STATE

MISSOURI  
REGISTER

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November 1, 2019 November 15, 2019	<b>December 2, 2019</b> <b>December 16, 2019</b>	December 31, 2019 December 31, 2019	January 30, 2020 January 30, 2020
December 2, 2019 December 16, 2019	<b>January 2, 2020</b> <b>January 15, 2020</b>	January 30, 2020 January 30, 2020	February 29, 2020 February 29, 2020
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February 3, 2020 February 18, 2020	<b>March 2, 2020</b> <b>March 16, 2020</b>	March 31, 2020 March 31, 2020	April 30, 2020 April 30, 2020
March 2, 2020 March 16, 2020	<b>April 1, 2020</b> <b>April 15, 2020</b>	April 30, 2020 April 30, 2020	May 30, 2020 May 30, 2020
April 1, 2020 April 15, 2020	<b>May 1, 2020</b> <b>May 15, 2020</b>	May 31, 2020 May 31, 2020	June 30, 2020 June 30, 2020
May 1, 2020 May 15, 2020	<b>June 1, 2020</b> <b>June 15, 2020</b>	June 30, 2020 June 30, 2020	July 30, 2020 July 30, 2020

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 [sos.mo.gov/adrules/pubsched](http://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–

<b>Title</b>		<b>Division</b>	<b>Chapter</b>	<b>Rule</b>
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 [sos.mo.gov/adrules/csr/csr](http://sos.mo.gov/adrules/csr/csr)

The *Register* address is [sos.mo.gov/adrules/moreg/moreg](http://sos.mo.gov/adrules/moreg/moreg)

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

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo. 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.

**R**ules filed as emergency rules may be effective not less than ten (10) business 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.

**A**ll 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**

**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)24.

*PURPOSE: This amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of one dollar and sixty-one cents (\$1.61) effective for dates of service August 1, 2019 through June 30, 2020. The per diem increase shall be reduced to one dollar and forty-nine cents (\$1.49) effective for dates of service beginning July 1, 2020. These per diem adjustments correspond to the state fiscal year (SFY) 2020 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 rule and regulation, must define the reasonable costs, manner, extent, quantity, quality, charges, and fees of medical assistance provided to MO HealthNet participants. The General Assembly included additional funds to nursing facilities' and HIV nursing facilities' reimbursements to account for a trend adjustment for State Fiscal Year (SFY) 2020. 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 a trend adjustment of one dollar and sixty-one cents (\$1.61) effective for dates of service beginning August 1, 2019 through June 30, 2020. The per diem increase shall be reduced to one dollar and forty-nine cents (\$1.49) effective for dates of service beginning July 1, 2020. The 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. 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 August 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 2020 payment to be made, the MO HealthNet Division was required to submit a Medicaid State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services (CMS). CMS approved the SPA on December 24, 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 government 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 government 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 will be published in this issue of the *Missouri Register*. This emergency amendment was filed January 16, 2020, becomes effective January 31, 2020, and expires July 28, 2020.*

(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 facility's 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.

24. FY-2020 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on August 1, 2019, shall be granted an increase to their per diem rate effective for dates of service August 1, 2019 through June 30, 2020, of one dollar and sixty-one cents (\$1.61) to allow for a trend adjustment to ensure quality nursing facility services;

B. The rate to which the FY-2020 trend adjustment of one dollar and sixty-one cents (\$1.61) shall be added is the facility's rate as of July 31, 2019 set forth in subparagraph (13)(A)23.C. The FY-2020 trend adjustment shall be effective for dates of service beginning August 1, 2019 through June 30, 2020.

C. Effective for dates of service beginning July 1, 2020, the per diem increase shall be reduced to one dollar and forty-nine cents (\$1.49). A per diem adjustment of twelve cents (\$0.12) shall be deducted from the facility's rate as of June 30, 2020, which includes the one dollar and sixty-one cents (\$1.61) increase, and is effective for dates of service beginning July 1, 2020.

**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 Jan. 16, 2020, effective Jan. 31, 2020, expires July 28, 2020. A proposed amendment covering this same material will be published in this issue of the **Missouri Register**.*

*PUBLIC COST: This emergency amendment will cost state agencies or political subdivisions approximately \$12.0 million in the time the emergency is effective.*

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this emergency 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](mailto: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

<b>Rule Number and Name:</b>	13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates
<b>Type of Rulemaking:</b>	Emergency 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 the time the Emergency is Effective = \$11,950,500
Non-State Government Owned Nursing Facilities (49)	No Estimated Costs of Compliance for the time the Emergency is Effective

**III. WORKSHEET**

Description	Nursing Facility Rate Increase	Hospice Nursing Home Room & Board	Total Impact
Estimated Paid Days – SFY <sup>1</sup> 2020	8,025,724	927,574	
Per Diem Increase – Effective August 1, 2019	\$1.61	\$1.53	
Estimated Impact – SFY 2020	\$12,921,416	\$ 1,419,188	\$ 14,340,604
State Share (34.412%)	\$ 4,446,518	\$ 488,371	\$ 4,934,889
Federal Share (65.588%)	\$ 8,474,898	\$ 930,817	\$ 9,405,715
Total Annual Cost			\$14,340,604
Divided by 12 Months			÷ 12
Monthly Cost			\$1,195,050
Months Paid in the Time the Emergency is Effective: August 2019 – May 2020			x 10
Cost in the Time the Emergency is Effective			<u>\$11,950,500</u>

**IV. ASSUMPTIONS**

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

<sup>1</sup> State Fiscal Year.

Estimated Paid Days:**Nursing Facility:**

The estimated paid days for SFY 2020 for nursing facilities are based on the Medicaid days paid for nursing facility services during SFY 2019 increased by 0.5% for SFY 2020 and prorated for August 2019 – June 2020.

**Hospice:**

The estimated paid days for SFY 2020 for hospice are based on the actual hospice days provided in nursing facilities from January 2018 through December 2018 and prorated for August 2019 – June 2020.

**Non-State Government Owned Nursing Facilities (49):** This emergency amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of one dollar and sixty-one cents (\$1.61) effective for dates of service beginning August 1, 2019, through June 30, 2020. The per diem increase is reduced to one dollar and forty-nine cents (\$1.49) effective for dates of service beginning July 1, 2020. Therefore, 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 is 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 that 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 \$1.61 to the nursing facility rate effective for dates of service beginning August 1, 2019 through June 30, 2020 computes to an increase to hospice reimbursement rates resulting from this amendment of \$1.53 ( $\$1.61 \times 95\%$ ).

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 \$1.61 to the nursing facility rate effective for dates of service beginning August 1, 2019, through June 30, 2020, will not impact the HCBS cost cap for SFY 2020, but may impact the HCBS cost cap for SFY 2021. For SFY 2021, the HCBS cost cap is estimated to increase by approximately 3.42% 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 20—Division of Community and Public Health  
Chapter 20—Communicable Diseases**

**ORDER TERMINATING EMERGENCY AMENDMENT**

By the authority vested in the Missouri Department of Health and Senior Services under section 192.006, RSMo 2016, and section 192.020, RSMo Supp. 2019, the department hereby terminates an emergency amendment effective January 30, 2020, as follows:

**19 CSR 20-20.020 Reporting [Communicable, Environmental, and Occupational] Infectious, Contagious, Communicable, or Dangerous Diseases is terminated.**

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on August 1, 2019 (44 MoReg 2081-2082).

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 20—Division of Community and Public Health  
Chapter 20—Communicable Diseases**

**EMERGENCY AMENDMENT**

**19 CSR 20-20.020 Reporting Infectious, Contagious, Communicable, or Dangerous Diseases.** The department is amending section (1).

*PURPOSE:* This amendment adds the 2019 Novel Coronavirus (2019-nCoV) to the list of diseases or findings that must be immediately reported.

*EMERGENCY STATEMENT:* The Department of Health and Senior Services (“DHSS”) determined that this emergency amendment is necessary to protect the public health, safety, and welfare of Missouri residents and visitors.

This emergency amendment is necessary to ensure that the 2019 Novel Coronavirus (2019-nCoV) is reported to the local health authority or DHSS immediately upon detection. The Center for Disease Control and Prevention (CDC) is closely monitoring an outbreak of respiratory illness caused by a novel coronavirus first identified in Wuhan, Hubei Province, China. There are currently over 2,900 estimated cases with at least 82 deaths linked to this novel coronavirus (2019-nCoV). As of January 26, 2020, five cases have been confirmed in the United States (Arizona, California, Illinois, and Washington) of individuals traveling from Wuhan. Due to its severity and the rapid increase in the number of cases of this novel coronavirus, it is imperative for the local health authority or DHSS to be notified immediately upon detection in order to take appropriate measures. Finally, since 19 CSR 20-20.040 assigns duties, responsibilities, and actions to the DHSS director as well as local health authorities that are explicitly triggered by the detection of a condition listed in 19 CSR 20-20.020, the 2019 Novel Coronavirus (2019-nCoV) must be immediately added to 19 CSR 20-20.020.

DHSS needs this emergency amendment to ensure that the presence of the 2019 Novel Coronavirus (2019-nCoV) is reported to the local health authority or it immediately upon detection. This emergency amendment designates the diseases which are infectious, contagious, communicable or dangerous and must be reported to the local health authority or the Department of Health and Senior Services. It also establishes when they must be reported.

DHSS finds that there is an immediate danger to the public health, safety or welfare, which requires this emergency action. A proposed amendment, which covers the same material, is published in this

issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. DHSS believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed January 27, 2020, becomes effective February 10, 2020, and expires August 7, 2020.

(1) The diseases within the immediately reportable disease category pose a risk to national security because they: can be easily disseminated or transmitted from person to person; result in high mortality rates and have the potential for major public health impact; might cause public panic and social disruption; and require special action for public health preparedness. Immediately reportable diseases or findings shall be reported to the local health authority or to the Department of Health and Senior Services immediately upon knowledge or suspicion by telephone (1 (800) 392-0272), facsimile, or other rapid communication. Immediately reportable diseases or findings are—

(A) Selected high priority diseases, findings or agents that occur naturally, from accidental exposure, or as the result of a bioterrorism event:

**2019 Novel Coronavirus (2019-nCoV)**

Anthrax  
Botulism  
Paralytic poliomyelitis  
Plague

Rabies (Human)

Ricin toxin

Severe Acute Respiratory syndrome associated Coronavirus (SARS-CoV) Disease

Smallpox

Tularemia (suspected intentional release)

Viral hemorrhagic fevers, suspected intentional (e.g., Viral hemorrhagic fever diseases: Ebola, Marburg, Lassa, Lujo, new world Arenavirus (Guanarito, Machupo, Junin, and Sabia viruses), or Crimean-Congo);

(B) Instances, clusters, or outbreaks of unusual diseases or manifestations of illness and clusters or instances of unexplained deaths which appear to be a result of a terrorist act or the intentional or deliberate release of biological, chemical, radiological, or physical agents, including exposures through food, water, or air;

(C) Instances, clusters, or outbreaks of unusual, novel, and/or emerging diseases or findings not otherwise named in this rule, appearing to be naturally occurring, but posing a substantial risk to public health and/or social and economic stability due to their ease of dissemination or transmittal, associated mortality rates, or the need for special public health actions to control.

*AUTHORITY:* sections 192.006, 192.020, 210.040, and 210.050, RSMo 2016. This rule was previously filed as 13 CSR 50-101.020. Original rule filed July 15, 1948, effective Sept. 13, 1948. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed June 28, 2019, effective July 8, 2019, [expired Feb. 27,] terminated Jan. 30, 2020. Amended: Filed June 28, 2019, effective Jan. 30, 2020. Emergency amendment filed Jan. 27, 2020, effective Feb. 10, 2020, expires Aug. 7, 2020. A proposed amendment covering this same material will be published in this issue of the *Missouri Register*.

*PUBLIC COST:* This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

*PRIVATE COST:* This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo.

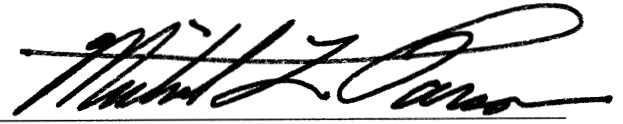
## EXECUTIVE ORDER 20-01

WHEREAS, Section 105.454(5), RSMo, requires the Governor to designate those members of his staff who have supervisory authority over each department, division, or agency of state government for purposes of the application of such subdivision.

NOW THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby designate the following members of my staff as having supervisory authority over the following departments, divisions, or agencies of state government for the purposes of Section 105.454(5), RSMo:

Office of Administration	Christopher K. Limbaugh
Department of Agriculture	Kayla Hahn
Department of Conservation	Kayla Hahn
Department of Corrections	Jeff Earl
Department of Economic Development	Aaron Willard
Department of Elementary and Secondary Education	Robert Knodell
Department of Health and Senior Services	Jeff Earl
Department of Higher Education and Workforce Development	Robert Knodell
Department of Commerce and Insurance	Jeff Earl
Department of Labor and Industrial Relations	Jeff Earl
Department of Mental Health	Jeff Earl
Department of Natural Resources	Christopher K. Limbaugh
Department of Public Safety	Christopher K. Limbaugh
Department of Revenue	Jeff Earl
Department of Social Services	Robert Knodell
Department of Transportation	Aaron Willard
Missouri Housing Development Commission	Kayla Hahn
Boards Assigned to the Governor	Robert Knodell
Unassigned Boards and Commissions	Kyle Aubuchon

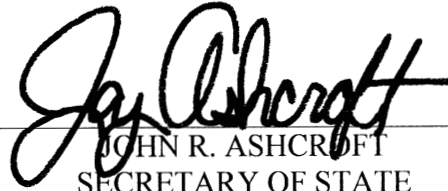
IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 3<sup>rd</sup> day of February, 2020.



MICHAEL L. PARSON  
GOVERNOR



ATTEST:



JOHN R. ASHCROFT  
SECRETARY OF STATE