

## **Sanction Policy for Inaccurate Case Mix Assessments**

### A. Assessments Used to Compute a Facility's Average Case Mix Score.

All resident assessments completed per a calendar quarter will be used to compute the quarterly case mix average for a facility. These will include the last assessment from the previous calendar quarter. Bed Hold days, which are therapeutic leave and hospital leave days, will be calculated at the lower of the case mix weight as computed for the resident on leave using the assessment being utilized for payment at the point in time the resident starts the leave, or a case mix score of 1.000. Policies adopted by the Division of Medicaid will be used as a basis for changes in reviews of the MDS, the sample selection process, and the acceptable error rate. If MDS data is not available, the Division may temporarily cease performing reviews.

### B. Assessment and Imposition of Sanctions for Inaccurate Case Mix Assessments.

Pursuant to its authority under Attachment 4.19-D to the State Plan, specifically, Section 1-7, Subsection B., paragraphs 17. and 18., the Division of Medicaid may assess and impose a sanction against any nursing facility which submits untimely, inaccurate or false resident assessments in order to increase reimbursement above what is allowed under the State Plan. Sanctions will be assessed and imposed on the following basis.

(1) If twenty-five percent (25%) or more of the sample assessments are found to have errors which change the classification of the resident, a sanction shall be imposed and withheld in an amount equal to, at a minimum, 10 times the prevailing per diem rate approved for the facility in the last quarter prior to the assessment of the sanction. The sanction shall be imposed in the form of a reduction in the next payment due the nursing facility after the assessment of the sanction. The actual amount of the sanction assessed will be determined in incremental amounts on the basis of the following schedule:

- 25%-34%, a sanction in an amount equal to 10 times the then prevailing per diem rate for the facility;
- 35%-44%, a sanction in an amount equal to 15 times the then prevailing per diem rate for the facility;
- 45%-54%, a sanction in an amount equal to 20 times the then prevailing per diem rate for the facility;

- 55%-64%, a sanction in an amount equal to 25 times the then prevailing per diem rate for the facility;
- 65% or greater, a sanction in an amount equal to 30 times the then prevailing per diem rate for the facility.

(2) If, in a follow-up case mix review conducted after the prior review, twenty-five percent (25%) or more of the sample assessments are still found to have errors which change the classification of the resident, an additional sanction will be withheld in an amount equal to, at a minimum, 20 times the prevailing per diem rate approved for the facility in the last quarter prior to the assessment of the sanction imposed for the follow-up case mix review. The actual amount of the sanction assessed will be determined in incremental amounts on the basis of the following schedule for follow-up case mix reviews which continue to have errors:

- 25%-34%, a sanction in an amount equal to 20 times the then prevailing per diem rate for the facility;
- 35%-44%, a sanction in an amount equal to 30 times the then prevailing per diem rate for the facility;
- 45%-54%, a sanction in an amount equal to 40 times the then prevailing per diem rate for the facility;
- 55%-64%, a sanction in an amount equal to 50 times the then prevailing per diem rate for the facility;
- 65% or greater, a sanction in an amount equal to 60 times the then prevailing per diem rate for the facility.

C. Sanctions Non-Allowable Costs.

All sanctions assessed to the facility and all costs assessed related to any unsuccessful appeal of sanctions are considered non-allowable costs.

D. Appeals of Sanction Assessments.

The provider may appeal the decision of the Division of Medicaid in matters related to the Minimum Data Set (MDS), including but not limited to assessments of a sanction under this policy, in accordance with Medicaid policy for provider appeals. The same deadlines for provider appeals shall apply to appeals of any sanction assessed under this

policy and the Division of Medicaid may, if the nursing facility does not prevail in its appeal, assess the costs of the administrative hearing to the nursing facility.