



COMMONWEALTH of VIRGINIA  
*Department of Medical Assistance Services*

DIRECTOR

February 26, 2010

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[www.dmas.virginia.gov](http://www.dmas.virginia.gov)

Dear Nursing Facility Provider:

The Department of Medical Assistance Services (DMAS) is aware that some nursing facility (NF) providers are experiencing an increase in the number of Medicaid residents who are not paying their required patient pay amount. The patient pay amount is the financial contribution that residents must contribute toward the cost of their care. We understand that it may place a substantial financial burden on a facility which is unable to collect this payment.

As you are aware, the patient pay is the amount of the resident's income which must be paid as their share of the long-term care (LTC) services cost. It is typically the resident's income minus a \$40.00 personal needs allowance. All Medicaid-eligible NF residents must have a patient pay calculation completed by their local department of social services (DSS). Depending on income, the amount of the patient pay could be \$0. If a resident has a patient pay obligation, this payment is due to the NF at the beginning of each month.

Residents will not lose their Medicaid coverage if they do not make this payment; however, the NF may choose to transfer or discharge the resident.

DMAS is responsible for reimbursing the NF an amount up to the Medicaid rate after the patient pay has been deducted. DMAS is not responsible for paying the patient pay amount for any residents. DMAS and DSS do not have the authority to enforce, require or collect the patient pay amount. Neither DMAS nor DSS are responsible for any action taken against residents for failing to pay their patient pay.

In addition, some residents choose to manage their own financial affairs and they have the right to do so.<sup>1</sup> The NF may not require residents to deposit their personal funds with the facility; however, some residents choose to do this. If residents choose to deposit their funds with the facility, the facility cannot withdraw the patient pay amount from their personal accounts without their consent.

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<sup>1</sup> 42CFR 483.10(c)(1)

## Nursing Facility Options:

The NF is the only entity with the authority to take action when residents do not pay their patient pay amount. If a resident, or his authorized representative is negligent in paying his patient pay amount to your facility and you would like to collect this amount, you may take the following steps:

1. Provide written documentation regarding the requirement to pay the patient pay amount to the resident or authorized representative.
2. If it is determined that the authorized representative has access to the resident's funds and can pay on behalf of the resident, the authorized representative will be informed that the payment must be delivered immediately to the facility.<sup>2</sup>
3. Follow your normal collection procedures to collect the funds. Your collection procedures must consist of no fewer than three written statements.<sup>3</sup>
4. Report to the local department of social services Medicaid eligibility worker, the resident's negligence in paying the patient pay amount.

**If the above attempts to collect the patient pay amount are unsuccessful, you may elect to take one of the following allowable options:**

1. Notify the appropriate local DSS no later than 120 days from the due date of the payment. Include in this notification a copy of the third collection statement, a written notification of the situation, documentation of contacts made with the resident or authorized representative, and the reasons why payment has not been made. The local DSS will take the following steps:
  - Upon receipt of the written notice from the facility, the local DSS will review the case to determine if the individual's resources are within Medicaid eligibility limits or if a transfer of assets has occurred.
  - If the individual alleges that he does not receive sufficient income to pay his patient pay, the eligibility worker will review the patient pay amount and make any necessary adjustments.
2. Discharge or transfer the resident, including transferring the resident within the facility, except as prohibited by the *Virginia State Plan for Medical Assistance Services*. Prior to discharge or transfer, the facility must provide reasonable and appropriate notice of the required patient pay.<sup>4</sup> If this action is taken, the resident or authorized representative must be given at least 30 days written

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<sup>2</sup> Per the CFR at 42 CFR 483.12(d)(2), "the facility must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources."

<sup>3</sup> Medicaid Nursing Home Manual, Chapter VII, page 21

<sup>4</sup> 42 CFR 483.12(a)(1) and (a)(2)(v) and the *Code of Virginia* 32.1-138.1(A)(3)

notice prior to the discharge or transfer, which shall include appeal rights.<sup>5</sup> If the resident or authorized representative does not agree with this action, he may submit an appeal request to DMAS.

3. Allow the resident continue to reside in the facility and not collect the patient pay amount.

With this letter we are enclosing a Fact Sheet that you may share with residents and their authorized representatives that outline residents' responsibilities regarding payment for services received. We hope that this information will serve as an avenue to reinforce the importance of the patient pay responsibility to your residents and their authorized representatives.

Thank you for your continued participation in the Virginia Medicaid Program.

Sincerely,

A handwritten signature in black ink that reads "Cynthia B. Jones". The signature is written in a cursive, flowing style.

Cynthia B. Jones  
Acting Director

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<sup>5</sup> 42 CFR 483.12(a)(5)(i)