GREATER NEW YORK HEALTH CARE FACILITIES ASSOCIATION
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MEMO 24-03

TO: Administrator, DON, CFO's, Owners & Operators

FROM: **Mary Gracey- White RN, BSN, QCP Director of Regulatory Compliance**

DATE: January 16, 2024

RE: Nursing Home Four-Year Demonstration Project

GNYHCFA asked our colleagues at Parkside Group for a Memo to explain/streamline the Governors four-year demonstration project that will reduce the use of temporary staff in residential healthcare facilities **and provide relief from excessive penalties for not meeting the minimum revenue spending thresholds of 70% on direct resident care and 40% on resident-facing staff.** Please see below.

We anticipate that this bill will move forward quickly, we've been informed that it is on this week's Assembly Health Committee. GNYHCFA will be sure to keep our members updated as it proceeds. Should you need additional information, please contact the Association.

TO: GNYHCFA

FROM: Kathryn Gordon, VP Government Affairs, The Parkside Group

DATE: January 9, 2024

RE: S.6897 / A.7328 Nursing Home Demonstration bill- Chapter Amendment

In December 2023, Governor Hochul signed into law a four-year demonstration project that will reduce the use of temporary staff in residential healthcare facilities and provide relief from excessive penalties for not meeting the minimum revenue spending thresholds of 70% on direct resident care and 40% on resident-facing staff. However, prior to approval the Executive requested additional changes that were negotiated and agreed to by all parties to provide acceptable levels of relief to nursing homes. The final program's structure will take significant steps to ensure the viability of long-term care facilities by providing two paths for a reduction in the penalties imposed for not meeting minimum spending thresholds.

For the reporting periods beginning on January 1, 2023, through December 31, 2026, nursing homes that fail to meet the prescribed minimum spending on direct care and resident-facing staff may be eligible for reduced penalties if it can demonstrate a decrease in the use/dependence on temporary staffing[i] for services provided by RNs, LPNs, and CNAs. Facilities that use temporary staffing agencies for 50% or less of their nursing staff **AND** have reduced the use of temporary staff in a year that penalties are incurred for failure to meet minimum spending thresholds the following penalty reductions will be provided:

- 30% reduction in temporary staffing = 50% penalty reduction, and
- 20% reduction in temporary staffing = 25% penalty reduction.

Alternatively, facilities with minimal use of temporary staffing for direct and resident-facing care are afforded the ability to have ***only total Medicaid operating revenues considered when determining minimum spending thresholds,*** reducing their total penalty incurred. To be eligible facilities must meet the following temporary staffing levels:

- In 2023 temporary staffing usage must be 10% or less,
- In 2024 temporary staffing usage must be 9% or less, and
- In 2005 and 2026 temporary staffing usage must be 8% or less.

Additionally provided for under this demonstration program the ***capitol portion of the Medicaid rate is excluded when calculating revenue*** and the elimination of the nursing home staffing workgroup.

Should a facility incur penalties for not meeting minimum spending thresholds, ***prior to payment,*** *the facility must submit documentation to DOH verified by a certified public accountant proving eligibility*. Upon receipt DOH will review and verify

[i] Note- Temporary staffing reductions are required to be measured using CMS Payroll Based Journal (PBJ) facility reported data