



GREATER NEW YORK HEALTH CARE FACILITIES ASSOCIATION

519 Eighth Avenue, 16th Floor, New York, NY, 10018
Phone: 212-643-2828 Fax: 212-643-2956 www.gnyhcfa.org

MEMO 23-14

TO: Owners, Administrators, DON

FROM: Michael Balboni, Executive Director

DATE: June 8, 2023

RE: Albany Updates

The legislation (A7328/S6897) passed by both houses provides nursing homes with significant relief from the 70/40 legislation passed and signed into law in 2021. The legislation outlines a demonstration program to incentivize a reduction in the use of temporary agency staff that would allow for certain reductions in penalties assessed against facilities related to excess revenues and failure to meet minimum spending requirements on resident care and staffing required under current law. These reductions in penalties would be conditioned on meeting metrics related to reduced temporary staffing agency usage, as follows:

- If a facility has 50% or less staffing agency usage and has reduced staffing agency usage by 30% or more during the year, they would be eligible for a 50% reduction in fees.
- If a facility has 50% or less staffing agency usage and has reduced staffing agency usage by at least 20%, but less than 30%, during the year they would be eligible for a 25% reduction in fees.
 - These reductions would run for the calendar years 2023-2026 and thereafter if the demonstration project is continued.

The legislation also allows certain facilities with minimal staffing agency usage to only have revenues from Medicaid considered when determining compliance with the 70/40 requirements. In order to achieve this, a facility would have to have agency staffing utilization as follows:

- For calendar year 2023: 10% or less;
- For calendar year 2024: 9% or less;
- For calendar years 2025, and 2026 (and thereafter if the demonstration project is continued): 8% or less.

The legislation also allows the capital portion of the Medicaid rate to be excluded from revenue spending calculations and establishes a nursing home staffing workgroup to review and assess the impact of the demonstration program.