

WAC 388-96-910 Safety net assessment. (1) Chapter 7, Laws of 2011 1st sp. sess. (the act) imposes a safety net assessment (SNA) on nonexempt nursing facilities in Washington. Each year, under section 16 of the act, the department of social and health services (the department) may adjust the amount(s) of the SNA to be paid for the next state fiscal year (SFY), beginning July 1. If necessary, the department may further adjust the amount(s) of the SNA at other times during the SFY. Although subject to change as necessary and as permitted under the act, the expectation is that each year the SNA will be imposed at two different levels: a higher level for most nonexempt facilities, and a significantly lower level for facilities that have either a high medicaid census on the prior year's cost report or a high number of licensed beds. For SFY 2012, those thresholds were thirty-two thousand medicaid resident days, and two hundred and three licensed beds. Those thresholds may change, as necessary and permitted under the act. Beginning July 1, 2012 the department will submit any adjustments to the SNA amount(s), along with the data supporting the adjustments, to the Washington health care association and the aging services of Washington for review and comment at least sixty calendar days prior to implementation of the adjusted assessment amounts. These submissions may be made electronically. If necessary to comply with the sixty-day notice requirement and still make the adjustment effective as of July 1, or another effective date, these notices may be made on a provisional, or potential, basis or bases.

(2) The status of each nursing facility under the act will be determined based on the facility's characteristics as of July 1 of each SFY, but using the information on resident days from the prior calendar year's cost report. For example, a facility's status for the SNA for SFY 2014 (beginning July 1, 2013) would be based on the resident day information from the 2012 cost report. The status of facilities will not be altered thereafter during the SFY. Facilities that become licensed throughout the SFY will be subject to the SNA as of the date of their licensing. The office of rates management (ORM) of the aging and disability services administration (ADSA) of the department will inform each nursing facility of its status under the act. A facility wishing to contest its status under the act as determined by ORM may seek review of the determination under WAC 388-96-904.

(3) An add-on to each nonexempt facility's medicaid daily rate will be paid to reimburse the facility for the SNA it owes in relation to residents whose care is funded by medicaid.

(4) The SNA is assessed and payable on a monthly basis. The SNA must be reported on a form supplied by ORM. The SNA owed for each month, and the reporting form for that month, must be mailed to the department and postmarked no later than the twentieth day of the following month. Payments of the SNA are subject to an interest penalty of one percent per month for any payment which is delinquent for any portion of a month. This interest penalty is in addition to any civil fine or other enforcement action that the department may seek as authorized by section 20 of the act. In addition to the remedies specifically listed in section 20 of the act, the department may also offset such delinquent SNA payments and related penalties and/or fines against the facility's medical assistance reimbursement payments.

(5) The department has applied for, and received a waiver related to the SNA from the federal centers for medicare and medicaid services (CMS). After issuance, such a waiver is subject to ongoing review for continued compliance. In the ongoing review process, it may be necessary for the department to modify the levels of the SNA, the stand-

ard(s) for designating facilities that pay the SNA at each level, and/or the categories of fully exempt facilities described in Sec. 17 of the act. In that case, each facility may: be obligated to pay the SNA or pay a different amount of the SNA; be reimbursed for SNA amounts previously paid; or be obligated to repay any SNA add-on it has received, all retroactive to the effective date of the modification contained in the waiver as approved by CMS.

[Statutory Authority: 2011 1st sp.s. c 7 and chapter 74.48 RCW. WSR 12-04-004, § 388-96-910, filed 1/23/12, effective 2/23/12.]