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## Letter of Direction #118

**Date:** 04/07/2024

**To:** Centennial Care 2.0 Managed Care Organizations

**From:** Dana Flannery, Director, Medical Assistance Division 

**Subject:** Reimbursement for Tribal 638 Nursing Facilities (NFs)

**Title:** Implementation Tribal 638 Nursing Facilities

The purpose of this Letter of Direction (LOD) is to direct the MCOs and provide information for the Centers for Medicare and Medicaid (CMS) approved Tribal 638 Nursing Facilities (NFs) to be reimbursed for NF services at the Outpatient OMB rate. Approved NFs will have an IHS indicator on the provider enrollment file.

MCOs will not pay less than the current calendar year OMB rate for Tribal 638 nursing facilities under the authority of [42 CFR 438.14\(c\)\(2\)](#).

For approved NFs, there will be one single daily rate for both High Nursing Facility (HNF) and Low Nursing Facility (LNF). The rate is published annually by CMS as the Outpatient OMB rate. For an approved NF to receive the Outpatient OMB rate, the member must meet a LNF in accordance with the *NF LOC Criteria Instructions 2019* that may be found at <https://www.hsd.state.nm.us/providers/nursing-facility-level-of-care/>

The MCOs are to reimburse for reserve bed days at a rate of one-half of the Outpatient OMB rate in accordance with 8.312.2.16D NMAC.

The Outpatient OMB rate is approved by CMS effective 8/18/23 and claims must be adjusted accordingly. The MCOs must update their systems and re-process claims within 60 days of the date of the LOD. The MCOs must waive timely filing as needed to adjust claims. The MCOs will report on their progress to adjust claims thirty (30) days after the date of the LOD. The MCOs will confirm completion of claim adjustments sixty (60) days after the date of this LOD.

### Health Care Quality Surcharge (HCQS) Nursing Facility (NF) Historical Overview

The Health Care Quality Surcharge (HCQS) Act was created by Senate Bill 246 (SB246) in the 2019 Regular Legislative Session. (The legal citation is 7-41-1 to 7-41-8 NMSA 1978). The program imposes a daily surcharge on certain types of facilities for non-Medicare bed days. The purpose of the surcharge is to increase each facility's Medicaid reimbursement rates by at least the rate of nursing home inflation and to provide bonus payments to Medicaid facilities based on performance data.

The payment methodology has three payment mechanisms associated with the HCQS program.

- Surcharge Add-On
- MBI Increase
- Quality payment

Please refer to the most current year HCQS Letter of Direction for further details on the program. [https://www.hsd.state.nm.us/wp-content/uploads/Final-LOD-83-1-Health-Care-Quality-Surcharge-HCQS-SFY2024\\_wattach.pdf](https://www.hsd.state.nm.us/wp-content/uploads/Final-LOD-83-1-Health-Care-Quality-Surcharge-HCQS-SFY2024_wattach.pdf)

### **Health Care Quality Surcharge (HCQS) Tribal 638 Nursing Facility (NF) Participation**

Tribal 638 Nursing Facilities receive an all-inclusive outpatient OMB rate each calendar year from the New Mexico Department of Health (DOH) and New Mexico Human Services Department (HSD). With the all-inclusive outpatient OMB rate, approved Tribal 638 facilities will not participate in the HCQS surcharge add-on or receive the Market Basket Index (MBI) increase each July 1.

Tribal 638 NF's can participate in the Quality Component of HCQS under the following parameters:

- Must provide Minimum Data Sets (MDS) to CMS
- Must be contracted with all Medicaid MCO's
- Must be contracted with Data Vendor
- Must have non-Medicare bed days.

The approved NM State Plan Amendment (SPA) to allow for this reimbursement states:

*Effective August 18, 2023, the Human Services Department will reimburse Tribal 638 Nursing Facilities at the Office of Management and Budget (OMB) outpatient rate as published and specified in the Federal Register. This rate will be updated annually based on rates published each year in the Federal Register by the U.S. Department of Health and Human Services' Indian Health Service, under the authority of Sections 321 (a) and 322 (b) of the Public Health Service Act (42 U.S.C. 248 and 249 (b)), Public Law 83-568 (42 U.S.C. 2001 (a)), and the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).*

This LOD will sunset upon completion of the Centennial Care Program on June 30, 2024. If the policies and/or procedures in this LOD will continue to apply in Turquoise Care, HSD will reissue the LOD under Turquoise Care or will include the direction in one or more of the following: Turquoise Care Agreement, Policy Manual, NMAC, Systems Manual, or BHSD Billing and Systems Manual.