To whom it may concern:

This notice is intended to provide an advance notice of proposed rulemaking pursuant to N.J.A.C. 1:30-5.3(a) which allows an agency, prior to the initiation of a formal rulemaking proceeding, to solicit participation and/or comments from the regulated or interested public.

The Department of Human Services will propose new rules to be codified as N.J.A.C. N.J.A.C. 10:63, Nursing Facility Reimbursement (or some similar title), which will set forth the methodology to be used by the Division of Medical Assistance and Health Services to establish prospective per diem rates for the provision of nursing facility services to residents under the State's Medicaid/NJ FamilyCare program. These rules will provide the formula for the periodic calculation of the rates. The rules will establish how various expenses from cost reports are categorized and used to set rates. Expenses may be categorized into components such as direct care costs (case mix adjusted and non-case mix adjusted), patient-relating operating costs, administrative and operational costs, and fixed capital costs. And these components may be separately analyzed by facility type, characteristics and other factors. Facility type may include private, public, behavioral health, and special care (e.g., AIDS, behavioral management, pediatric, TBI/coma, ventilator, young adult). Facility characteristics may include facility size, profit or non-profit status, Medicaid volume, and payer mix. Following this analysis, cost components may be established based on medians, averages or actual nursing facility costs, potentially with ceilings, floors and add-ons for certain facility types and characteristics. The rule may also address deadlines, default rates, penalties, appeals, audits, inflation factors and rebasing frequency.

The Department intends for the rules to produce equitable rates for the payment of nursing facilities (NFs) and special care nursing facilities (SCNFs) for the reasonable cost of providing routine patient care services.

The nursing facility rate setting methodology will be developed to meet the following overall goals:

1. To comply with Federal requirements that rates are reasonable and adequate to meet the cost that efficiently and economically operated facilities must incur to provide care in conformity with applicable State and Federal laws, rules, regulations and quality and safety standards;
2. To provide rates that are sufficient for facilities to meet the needs of their Medicaid/NJ FamilyCare beneficiaries through a rate setting system based on the needs of individuals in their care; and
3. To control unnecessary costs, avoid duplicative cost reporting requirements, and prevent fraud and abuse.

This notice provides you with an opportunity to comment on the upcoming proposed rules by **January 22, 2024**.

NOTE: You will be notified of the publication date of the proposed rulemaking once the date is finalized by the Office of Administrative Law, which will include a 60-day public comment period during which formal comments will be accepted.

Please send any comments that you have regarding this advance notice of the upcoming proposed rulemaking by the date indicated above to:

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General feedback or comments on any Medicaid/NJ FamilyCare rule or program is always welcome and can be submitted in the manner described above for consideration and possible inclusion in future rulemakings.

Thank you for your interest in the Medicaid/NJ FamilyCare program.