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New Jersey, Commission of Investigation.

INTERIM
REPORT (OF THE
NEW JERSEY STATE COMMISSION OF INVESTIGATION)
ON NEW JERSEY'S SYSTEM OF
REIMBURSEMENT OF RENT AND CARRYING COSTS TO
NURSING HOMES PARTICIPATING IN THE
MEDICAID PROGRAM.

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INTRODUCTION

At the request of Governor Brendan T. Byrne, the New Jersey State Commission of Investigation has undertaken an investigation to evaluate the operation of the Medicaid system in New Jersey for assistance to the indigent in obtaining proper health care. The investigation has been proceeding on a priority basis since January 3, 1975 on which date the Commission, in accord with the Governor's suggestion, met with the Attorney General and established close liaison on this matter with his office.

The Medicaid system in this state is one of considerable magnitude and complexity, involving hundreds of institutions, thousands of individuals, and the total expenditure annually of more than \$400 million in federal and state funds. To best investigate effectively such a massive system, the Commission established three investigative teams, each directed by a Counsel and staffed by accountants and special agents. The teams are investigating the flow of Medicaid dollars to respectively nursing homes, hospitals and other health care institutions exclusive of nursing homes, and the purveyors of services (doctors, pharmacists, medical laboratories etc.) compensable through Medicaid.

Because of the magnitude and complexity of the subject matter and the natural sense of urgency to detect, halt and correct any abuses in a system involving such large outlays of taxpayer dollars, the Commission notified the Governor by letter on March 4, 1975 that it would, when meaningful and well documented sets of facts have been developed, report to him and the public on an interim basis. This is the first such report, and it represents only one

relatively narrow but important facet of the total of many facets of the system which the SCI has had under investigation in past months and continues to investigate and which will form the subjects of further public actions by the Commission. The matter of New Jersey's schedules for reimbursement of nursing homes, which is the subject of this interim report, quite logically was subjected to priority examination by the Commission, since those schedules provide for a substantial portion of Medicaid dollars going to those homes.

Haste Makes Waste

Because of the federal statutory deadline for states to implement a Medicaid program in order to be eligible to receive matching federal dollars, Medicaid came upon New Jersey relatively quickly, a pace conducive to hasty action. One hasty, ill-advised and imprudent approach taken in that atmosphere, as documented in detail on subsequent pages of this report, was for New Jersey to adopt virtually in toto and without any critical analysis or any thorough economic evaluation whatsoever the schedules which had been previously established for Medicaid reimbursement of nursing homes in upper New York State. Indeed, the facts presented in this report show that that schedule was at its creation so unnecessarily inflated that it established inflated Medicaid property cost reimbursements ceilings and inflated imputed rent factors in arriving at reimbursement figures.

To compound matters, as this report documents, the only change made by New Jersey in those New York schedules was to increase by 10 per cent certain carrying charge subsidies above the New York figures, thereby providing greater profits for the

nursing home owners. The report demonstrates conclusively that this was an arbitrary decision with no valid underlying rationale whatsoever and that that decision was made at a time when state officials were consulting with representatives of the nursing home industry.

The Commission in the body of the report and the recommendations section (Pages 46 to 51) notes that an immediate saving of \$300,000 to \$350,000 per year could be effected by doing away with the extraneous and never justified 10 per cent in the New Jersey schedule.

Other Corrective Avenues

Any thorough discussion of the nature and effects of New Jersey's schedules and practices for reimbursing nursing homes must perforce be in considerable part quite technically complex. Such a discussion is presented on the subsequent pages of this report, and they should, of course, be read to gain a full understanding of the schedules and the costly abuses which may flourish under them. Suffice it to state here that the Commission is of the opinion that this report demonstrates that the present system is so fundamentally flawed that several corrective steps, in addition to the 10 per cent reduction and enumerated in brief below, should be considered to effect possible savings in Medicaid expenditures of more than \$1 million per year and that longer term consideration should be given to devising and putting into effect a simpler and more realistic reimbursement system which might afford more equitable and effective method for disbursing Medicaid millions to nursing homes in New Jersey.

In calling for consideration of the taking of the following possible corrective steps, the Commission states that while the interest of protecting the integrity and effectiveness of each taxpayer dollar expended is of extreme importance, that interest must, of course, be balanced against any fully justifiable and supportable financial levels of reimbursement necessary to insure maintenance of standards of high quality of health care and living conditions at nursing homes in the state:

.Possible abrogation of the imputed rent concept in setting reimbursement rates for certain types of nursing homes. The Commission finds that concept has the incongruous effect of granting profit in a system which is ostensibly cost-based and that the originators of the concept now concede there is no reason to retain it. New York State has this type of abrogation under consideration. Such abrogation would effect annual savings in Medicaid disbursements of approximately \$1 million per year.

.A possible thirty per cent reduction of the imputed rentals for nursing homes which were converted from some other type structure. The facts presented in this report demonstrate that such a reduction could well be in order since costs of renovation are much less than costs of construction. A savings estimate in this area may not immediately be made because New Jersey does not now isolate in its files renovated homes as compared to newly constructed ones.

.A possible 10 per cent reduction in the amounts permitted under the reimbursement schedule in instances where nursing homes are not in compliance with appropriate building and fire codes, thereby providing the impetus for complete reimbursement for homes in full compliance.

.Possibly requiring nursing homes to adopt separate reserve accounts comprised of the amounts reimbursed for depreciation which would have to be debited solely for the refurbishment and renovation of the homes. Withdrawals from the reserve accounts would be subject to state approval to deter inflated and/or unnecessary improvements. Savings in Medicaid expenditures for this step would depend on the actual amounts of depreciation.

.A more concrete definition of non-arms length leases between related parties to add an additional control in order to prevent collusive agreements.

The Commission continues to press forward its investigation of the entire Medicaid system on a day-to-day basis and expects that a number of additional public actions will be prompted by completion of the development of further sets of meaningful and well documented facts in the weeks and months ahead. Where the facts are highly technical in nature as in this nursing home reimbursement area, the Commission will find it again most suitable to act publicly through a written report. In instances where the Commission finds public hearings will be a

more suitable and effective format, it will hold such hearings.

NEW JERSEY'S REIMBURSEMENT FORMULA

The most publicized aspect of New Jersey's Medicaid reimbursement formula is that, unlike some of its sister states, this state does not use an administrative ceiling on the amount which a nursing home may receive per patient per day of care. These administrative ceilings are set out in Chart I below:

CHART I

<u>Level of Care</u>	<u>Maximum Per Day Reimbursement Rate Per Patient</u>
Skilled Nursing Care (Level III)	\$27.50
Intermediate Care (Level IV A)	\$23.75
Skilled Care (Level IV B)	\$21.56

It should be remembered, however, that the foregoing amounts are not the only amounts a nursing home may receive. The Division of Medical Services and Health Services (MSHS), however, may award particular nursing homes a reimbursement rate less than the maximum. Simply stated, the Division computes the total operating expenses claimed by the institution in question and then divides by the total number of patient days recorded by the nursing home in the previous year. (Patient days are defined as the total number of beds occupied in the institution over the course of a year.) The product of this calculation is the rate reimbursed for Level IV A patients; provided, the maximum is not exceeded. To arrive at the reimbursement rate for Level III patients, the Division adds 5% of Level IV A. To establish the Level IV B rate, 10% is deducted from

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CHART I

<u>Level of Care</u>	<u>Maximum Per Diem Reimbursement Rate Per Patient</u>
Skilled Nursing Care (Level III)	\$27.60
Intermediate Care (Level IV A)	\$26.29
Intermediate Care (Level IV B)	\$23.66

It should be remembered, however, that the foregoing amounts are maximums which a nursing home may receive. The Division of Medical Assistance and Health Services (DMAHS), however, may award particular nursing homes a reimbursement rate less than the maximum. Simply stated, the Division computes the total operating expenses claimed by the institution in question and then divides by the total number of patient days recorded by the nursing home in the previous year. (Patient days are defined as the total number of beds occupied in the institution over the course of a year.) The product of this calculation is the rate reimbursed for Level IV A patients provided the maximum is not exceeded. To arrive at the reimbursement rate for Level III patients, the Division adds 5% of Level IV A; to establish the Level IV B rate, 10% is deducted from

Level IV A. Again, however, the maximum amounts for the aforesaid levels may not be exceeded.

Example:

Nursing home X has an operating expense for fiscal 1974 of \$2 million. Nursing home X has a constant census of 274 patients per day for that entire fiscal year. Multiplying 274 x 365 gives a total patient days of 100,000 (approx.). Dividing \$2 million (the operating expense) by 100,000 (the total patient days) gives a mid-level rate of reimbursement of \$20 per patient per day. Adding 5% of \$20 to the mid level produces the high level of \$21 per day. Subtracting 10% of \$20 from \$20 produces the low level of \$18 per patient per day. Thus, for fiscal 1975, nursing home X will be reimbursed at these rates for each patient at each level per day.

The SCI is of the opinion, however, that the critical consideration relating to the reimbursement formula is that New Jersey reimburses operating expenses on a dollar for dollar basis up to the maximum amount. Therefore, if any of the component figures of operating expenses are inflated or excessive, there exists the same inherent potential for abuse as in other states. The only function of the administrative ceiling is to quantitatively reduce the magnitude of abuse.

One of the major components of nursing home operating expenses reimbursed by the state is the carrying costs or rental payments of nursing home enterprises. The SCI decided at the outset of the instant investigation that it would be erroneous to probe for abuses within the system without first critically examining the rent and operating cost reimbursement system itself.

If the system itself allows or invites excessive reimbursement payments for such costs then it is self-evident that total reimbursement payments to nursing homes will also be excessive. Thus, this interim report will examine the facts surrounding the genesis of the rent and carrying cost regulations, the practical effect of those regulations, the weaknesses of which they admit, the abuses which they foster and possible alternatives which could possibly reduce abuses and monetary outlay by the State as a result of those weaknesses.

The Maximum Rental and Imputed Rental Schedule

Because carrying costs and rent are a major component of operating expenses, DMAHS determined to place some control over and limit upon the amounts which any particular nursing home could include in its cost report as a reimbursable expense. What follows is an explanation of the regulations and formulas utilized by New Jersey in reimbursing claimed carrying costs and rents. It will be illustrated that there are essentially three categories of operators of nursing homes for the purposes of reimbursement by the state: 1) The operator may be operating under a lease from an unrelated third party; 2) The operator may be operating under a lease from a lessor to whom he is related by a business tie; 3) The operator may himself be the owner of the home. Because of the difference in treatment between 1) and 2) above, it becomes material to discuss the procedures and guidelines employed in determining whether a lease is the product of an arms-length agreement between unrelated parties or a non-arms-length agreement between related parties. This problem of definition will be

discussed later in this report.

1. "Arms-Length" Leases

The underlying basis of the maximum rents appearing in Column "a" of exhibit 1 is that the market value of a lease on a particular nursing home building increases with the newness of the structure. For example, referring to exhibit 1, a nursing home constructed in 1971 may receive a maximum of \$1,440 per bed under a lease arrived at between arms-length parties. Thus if this nursing home contained 100 beds, the maximum reimbursable rental in the arms-length situation would be \$144,000 (100 x \$1440). On the other hand, a nursing home built in 1934 containing the same number of beds would be subject to a cutoff at \$25,600 for rental costs (100 x \$256).

2. "Non-Arms-Length" Leases

Column "b" of exhibit 1 supplies similar allowances for rental in "non-arms-length" leases and sets amounts for "imputed rentals." As is apparent, however, the lessee under the non-arms-length or related lease is reimbursed 10% less per bed per year than his counterpart. Thus, for an institution constructed in 1971, the lessee in a related lease operating a 100 bed home would receive \$129,600 (100 x \$1296). The probable reason for the reduction in the rental ceilings in Column "b" of exhibit 1 is that related parties may arrive at agreements on rental which, due to the relationship, may not be reflective of the true market

value of a lease on the premises in question. The related lessee is also given the additional option of employing actual carrying charges. This will be discussed at length later in this report.

3. Imputed Rents

The second function of Column "b" in exhibit 1 is that it prescribes amounts for imputed rents. This concept attempts to compensate owner-operators for their decision not to lease the home by granting or "imputing" a prescribed schedule amount for rent. Where a nursing home is owned by the operator there is, of course, no rent involved. In such a situation, the owner-operator is allowed his carrying costs (mortgage interest plus depreciation plus insurance costs plus a 10.5% return on equity). There are situations, however, wherein owners' carrying charges are insubstantial. This occurs most often with older homes which are almost fully depreciated. In these situations, there was a concern that these kinds of owner-operators would sell to an entity which they controlled and then lease back to themselves. Thus, even though they would be governed by the lower non-arms-length figures, they would realize a substantial increase in reimbursements for building costs. To prevent this "sale and leaseback" situation the imputed rental vehicle was conceived. The basic underlying concept is that the owner-operator is treated in the same manner as the related lessee thereby removing impetus to become involved in the "sale and leaseback" subterfuge. The validity of this approach will be examined later on in this report.

4. The Schedule in Operation

The operator-lessee, pursuant to an arms-length lease, may not claim reimbursement for any rental payments in excess of the maximum rates dictated by the schedule. Any rental payments in excess of the schedule amount may not be reimbursed.

Example

Mr. X operates nursing home Y which he leases from Mr. Z for \$145,000. The lease is an unrelated one. Nursing home Y is located in Essex County, was constructed in 1970 and contains 100 beds. Referring to exhibit 1, the maximum rental allowable would be \$128,000 (\$1280 from column A on exhibit 1 times 100 beds). Thus, Mr. X could include only \$128,000 in his cost report and would have to absorb the difference between \$128,000 and \$145,000.

Owner-operators and lessees under related leases are controlled by a somewhat more complex system. They have the option of choosing either their actual carrying charges or an amount from the schedule, whichever is more.

Example

Mr. W owns nursing home V which is located in Bergen County. Nursing home V was built in 1960 and contains 100 beds. Nursing home V's mortgage interest equals \$21,000, its insurance premiums total \$14,000, its total depreciation is \$35,000 and it is credited with a \$10,000 return on equity. Thus the total carrying charges are \$80,000. The appropriate amount from the schedule (column b of exhibit 1) would be \$63,400 (\$634 x 100). In this case, however, Mr. W, on owner-operator, has the option of costing the higher figure and will thus employ \$80,000, his actual carrying charges, even though he will exceed the schedule figure.

The related lessee, on the other hand, is treated in the same manner as the owner-operator on the theory that the lease agreement between related parties is a fiction. That is, the related lessee has the option of employing actual carrying charges or the schedule amount. Thus, DMAHS completely disregards the actual rental pursuant to the lease and compels the related lessee to claim either the appropriate figure from exhibit 1, column "b" or the actual carrying charges of the related lessor (owner), whichever is greater.

Example

Mr. R rents nursing home S from corporation T in which he has a 40% interest. Nursing home S was built in 1950 and contains 100 beds. Since the lease is disregarded, DMAHS looks to the carrying charges of corporation T. The mortgage interest amounts to \$9,000 per year, depreciation totals \$16,000, insurance premiums are \$4,000 and a return on equity of \$11,000 is credited. Total actual carrying charges, therefore, equal \$40,000. The appropriate amount from exhibit 1, column b, however, totals \$46,000 ($\461×100) and Mr. R will therefore use that figure on his cost report.

EVALUATION OF THE RENTAL SYSTEM

1. The basis of the Schedule

After gaining a rudimentary understanding of how the building costs control system functions, several questions present themselves. It is readily apparent from an examination of exhibit 1 that columns "b", "c" and "d" are all products of percentage reductions of column "a". Column "b" is the result of a 10% reduction of column "a" as is column "c". Column "d" represents

a 10% reduction of column "c". Thus, the pivotal question is how did the state establish the figures appearing in column "a".

Mr. William Metcalf, Deputy Director of DMAHS who had the responsibility of suggesting a system of reimbursement at the outset of the Medicaid program in New Jersey, testified before the SCI on this topic as follows:

Q. If I can return, Mr. Metcalf, again, directing your attention back to '71, as a result of the feeling on your part and your staff's part that perhaps a schedule would be instituted, what did you do? Did you travel to New York?

A. Yes. Mr. Glover and I went up to Albany for an overnight period. We spent two days up there. We talked to the people in New York that had been working with this schedule.

Q. Would you remember to whom you spoke?

A. Not by name, no.

Q. Did you speak to a Mr. McCann?

A. No. He was absent at the time we were there. I spoke to him by phone subsequent to that time, but I didn't speak to him while I was there.

Q. He did have some input into their schedule; is that right? Mr. McCann.

A. Yes. I talked to some woman who worked for Mr. McCann I believe.

Q. And what was the general basis of your discussions during those two days that you spent in Albany?

A. More or less trying to find out how they applied the chart. How they handled appeals from nursing homes. There is a difference in the application of the chart between New York City and Upstate New York. I tried to find out where the chart came from; what the background of it was.

Q. Unsuccessfully, correct?

A. Yeah. I got into some discussion as to how many people on the staff they had to review nursing home appeals versus the staff that I expected to have, that type of thing. Administrative problems with the chart more or less.

* * *

COMMISSIONER BERTINI: So all we did, then, was took something that New York produced and copied it?

THE WITNESS: Yes.

EXAMINATION BY COMMISSIONER BERTINI:

Q. Now, you say there's no--

A. Copied with modifications.

Q. Was there any attempt made on our part to independently try to verify the accuracy of that table?

A. Yes, there was.

Q. And can you tell us whether you feel that

that independent research was adequate or inadequate or superficial?

A. There was an attempt--

I don't know the exact date, but it was approximately a year or so ago where I asked Mr. Glover and another member of our research and economics section to go to Albany, again, to try and find out how these figures were arrived at, what the mathematical formula was, and they were unsuccessful. No one up there could tell them.

A comparison of exhibit 2, page 2 and exhibit 1 discloses that New Jersey employed the exact figures which New York utilizes for upstate nursing homes. The upstate figures for New York, however, are a simple adjustment (80%) of the figures for metropolitan New York. The real question, then, is what is the basis for the figures in column I of page 1 of exhibit 2.

The SCI made contacts in the New York medicaid system, therefore, to attempt to locate a person or persons who had worked on the formulation of the New York schedule. The testimony of Mr. William McCann, Assistant Commissioner of the New York Department of Health, was taken on March 11, 1975. Mr. McCann, at the time of the creation of the New York Maximum schedule (1967) was an Associate Administrator in the Office of Health Economics with the specific assignment of developing such a schedule. On the issue of the figures in column I, Mr. McCann testified as follows:

Q. Did the Column II for imputed rental and non-arm's-length leases, did that come into existence as Column I?

A. Yes, it did.

Q. Do you recall meeting with the Metropolitan Nursing Home Association--

A. Yes.

Q. --via a Mr. Stanley Lowell with respect to those figures?

A. Yes.

Q. What kind of input did the Nursing Home Association have into those figures?

A. The Nursing Home Association in New York City had done a study of their own in New York because they were well aware of the fact that we were going to establish maximums on leases, and they looked at the leases in existence in New York City among their members and came up with similar maximum and said, well, this is what the leases are going for that were entered into in 1958, '62, '63 and so forth, and we checked these out.

I don't recall whether they came up with a figure for Column II. I think that the position at the association at that point was that everybody should receive Column I, which is our maximum. Of course, we said no. Maximum is a maximum. It doesn't mean that everybody should be at the maximum. And we, the department, came up with Column II, Column III, Column IV, and then the 30% reduction and then the restriction on totals. And the Nursing Home Association, I would say, had very little input, if any, into those columns.

Q. Was Column I then a product of their study and the division then made the reductions that they thought were appropriate?

A. I think Column I-it's very difficult to answer your question because they had the same leases that we had.

Q. I understand.

A. We were looking at the same pieces of paper, actually. So we had some, incidentally, that were over the maximum back in 1966 and '67, and we said that, all right, for those homes that entered into leases prior to 1967 back that were over the maximum, we would allow 120% of the maximum. I think there were two homes or three homes in the State of New York that fell under this category.

Q. But, essentially, if they went through the same mathematical computations as you did with the same leases as the base of those computations, they would come up with the same figures you did?

A. Yes.

Q. Is that basically what you are saying?

A. That's correct.

Having established that the basis of the New York and, consequently, the New Jersey schedule for maximum and imputed rentals was founded upon figures submitted by the metropolitan New York nursing home operators, the SCI sought to determine whether anyone had ever completed an independent evaluation of that basis. To that end, the SCI invited the testimony of Mr. Terrence Moan, Executive Director of the New York Temporary State Commission on Living Costs and the Economy (TSCLCE). TSCLCE has employed the services of Mr. Moan and a staff of ten persons for the past eighteen months to work on the specific issue of Medicaid reimbursements to nursing homes and possible abuses.

During the course of its investigation, TSCLCE had occasion to examine a large number of nursing home titles in metropolitan New York. According to Mr. Moan, the result of that inquiry was that many of the purported values of those institutions were highly inflated via various sales and mortgages to and from related

parties. To exemplify such a situation, Mr. Moan testified about the Willoughby Nursing Home in New York City as follows:

Q. What did that--

A. One, one which sticks in my mind and one which I explained before the Senate Subcommittee on Long-Term Care when they held a hearing in New York, their opening hearing, involved the Willoughby Nursing Home, and this nursing home was purchased for originally a price of somewhere in the neighborhood of \$300,000; between 250 and 300. The nursing home was subsequently transferred back and forth between the owner, his wife and various companies that his wife owned or was doing business under, and amongst the transfers there were also mortgages entered into. The mortgages, the biggest mortgage was entered into between the owner and the corporation that was wholly-owned by her or her husband, and the value of that mortgage was \$800,000, and again we are starting with the premise that it's worth less than, or worth somewhat in the neighborhood of that \$300,000.

In addition to the \$800,000, another \$317,000--and I'm not absolutely positive of all these numbers--another 317,000 was borrowed from a bank to make certain renovations.

At a subsequent period in time--all of this is before 1966. At a subsequent period in time an additional \$200,000 was borrowed.

By the time the 1966 rental was entered into, there was over \$1,000,000 in mortgages in excess of the value of the building entered into between the owner and companies that he wholly owned. In other words, the owner, Mr. Bergman and his wife, Ann Weis, owned it in various, various corporate or personal forms. She entered into mortgages of \$1,000,000 with herself or with himself.

The exact linkages here are very difficult to ferret out, but we know that was a Bergman company; that he entered into a mortgage with another Bergman company; the value of the building--the total value of the mortgages was 1.3 million; the value of the building was somewhere around 300,000. The mortgages to Bergman companies is \$1,000,000 in mortgages. To a bank, 300,000.

At this point in time the parties entered into a lease. The lease was then--this is 1966. The lease was then incorporated and was part of the basis, to the best of my knowledge, of this imputed rent formula and it was sufficient, the rental under this agreement, under that formula was sufficient to cover the debt service on that 1.3 million, and again we're dealing with a building that was only worth 300,000.

So we're talking about a formula which permitted \$1,000,000 of excess mortgages to be carried for, actually, indefinitely, until the formula would be changed or until the building would be torn down. So it seemed to me at that point in time to

be absolutely ludicrous to be using this formula, this arm's-length maximum rental, as any basis for reimbursement.

Q. There was no question in your mind, then, that the excess mortgages had a definite effect on the amount agreed upon for the lease?

A. No question at all.

Perhaps more importantly, Mr. Moan also testified that there were several other nursing homes in metropolitan New York whose title searches admitted of the same doubtfulness as Willoughby's and that the leases on these homes were also employed in the sample used as the basis for the maximum and imputed rental schedule:

Q. Do you have any knowledge as to how many of the forty other nursing homes which you examined were included in the Metropolitan Nursing Association basis for the rental schedules?

A. Most of them were; most.

Q. Most of that forty were included?

A. Yes. We concentrated on the New York Metropolitan area, and the New York Metropolitan area has one association. I believe that almost all of the nursing homes, proprietary nursing homes, belong to that association, and I know that when we subpoenaed the records of these persons, that Jack Hoffinger, the attorney for the association, re-

presented them. So I believe that most of them were in the association at that time and their rents were the basis of the numbers.

Q. Perhaps to simplify your conclusion, then, your conclusion would be that the rental figures upon which the New York schedule was based were pre-inflated at the time that schedule came about?

A. Yes.

In view of the foregoing, it is the considered opinion of the SCI that the figures appearing on exhibit 1, New Jersey's maximum and imputed rental schedule, are highly suspect in that they are based upon a New York schedule which is, in turn, based upon figures submitted by the industry sought to be regulated and has been proven to be inflated. The recommendations of the SCI which address this problem are set forth later in this report.

2. The Imputed Rental Schedule

Quite apart from the fact that the foundation of the maximum rental schedule seems to be faulty, the SCI noted that the New York schedule and the New Jersey schedule are disparate in one critical area - imputed rent. For convenience, the first two columns of both schedules since 1950 are set out below. They appear, for clarity, as they existed in 1971, the time of New Jersey's adoption.

CHART II

	<u>Rental Allowance Schedule Upstate New York</u>		<u>Rental Allowance Schedule New Jersey</u>	
	I	II	(a)	(b)
	<u>Arms-Length Rental Maximum</u>	<u>Non-Arms-Length & Imputed Rental</u>	<u>Arms-Length Rental Maximum</u>	<u>Non-Arms-Length & Imputed Rental</u>
971	1440	1152	1440	1296
970	1280	1024	1280	1152
969	1120	896	1120	1008
968	1040	832	1040	936
967	960	768	960	864
966	920	736	920	828
965	880	704	880	792
964	840	672	840	756
963	800	640	800	720
962	768	614	768	691
961	736	589	736	662
960	704	563	704	634
959	672	538	672	605
958	640	512	640	576
957	624	499	624	562
956	608	486	608	547
955	592	474	592	533
954	576	461	576	518
953	560	448	560	504
952	544	435	544	490
951	528	422	528	475
950	512	410	512	461

Chart II illustrates that New Jersey's column "a" is identical to column I in New York. Comparison of column II in New York's schedule with column "b" of the New Jersey schedule, however, discloses that New Jersey allows the operator a higher imputed rental and a higher ceiling for non-arms-length rentals. Expressed in terms of percentages, New York reduces column I by 20% to arrive at the figures appearing in column II while New Jersey reduces its column "a" by only 10% to arrive at the figures appearing in column "b".

The SCI was acutely interested in this discrepancy, especially in view of the fact that New Jersey DMAHS officials testified that they did not know the basis of the schedule at the time of its adoption. Mr. Metcalf of DMAHS was questioned on the issue of the decision to increase the imputed rental allowable:

Q. What I'd like to discuss is the difference between Column B and Column A, which I think would be a decision which would be made based on the fact that either the lease was related or the fact that an imputed rental would be taken. Would that be correct?

A. Repeat that, please.

Q. Sure. If my figures are correct and my mathematics is correct, if the figures in Column B represent ninety per cent of the figures in Column A--

A. Yes.

Q. --what is the reason for that ten per cent difference?

A. I think the reason for it was that New York made that same distinction between the imputed and the maximum. I'm not sure.

Q. The theory behind it--

A. Yeah. New York did make the same distinction, and I guess we followed the New York guidelines.

Q. The reason, of course, in a related lease that in essence is a penalty for entering into a related lease. Your ceiling would be reduced by ten per cent. Would that be correct?

A. No. I don't think so. I think more or less what it recognizes is that if you're talking about a building, you're going to have one valuation what the building is actually worth, and, of course, the person who owns it obviously expects a profit on his investment also. So if it's an unrelated lease, you're dealing with a person who not only expects to get his costs back, but a profit. When you're dealing with a lease. We did not build profit into our cost study, built on a cost-related basis. So I think that's probably what New York was trying to recognize and what we also were trying to recognize was that the profit motive should not be involved in the allowable on a related basis.

COMMISSIONER FARLEY: Weren't you also discounting what, in fact, was not an arm's-length transaction?

THE WITNESS: Well, a normal arm's-length transaction we were looking through didn't even exist and we were considering a holding company being an owner-operator company and placing it in the same position as we would any other owner that didn't have a holding company. We were looking right through the lease in that case. We were looking right back to the original records.

Q. Now, you say New York made the same distinction, that is, they had two columns also in these situations.

A. Yes.

Q. Do you know if New York made the same distinction and used the same percentage?

In other words, was Column B ten per cent less than Column A or was it different?

A. I think it was different.

Q. And what was theirs?

A. I believe it was eighty per cent.

Q. And do you know the reason why ours is ninety per cent rather than New York's which is eighty per cent?

A. I think we scaled down the original figures from New York, you know, to scale it down to eighty per cent and then take another twenty per cent off I think would have resulted in inequity. So I think we went with the scaling down of New York's rate and then we sort of lessened it a little bit on the other.

Q. I don't mean to be argumentative and I would never argue with a good administrator. But wouldn't it be more logical if you're going to scale Column A down to be consistent and also scale Column B to the same percentages New York did because Column B has built in differences for New Jersey? That would be my thinking.

A. It may be, but it may have negated what we were trying to accomplish. It may have resulted, you know in rentals that were so low we would end up in the sale and leasebacks.

The above testimony was the sole explanation received by the SCI for the 10% difference in the schedules. The problem with this reasoning is that, if an owner-operator did engage in a sale to a related party and a lease back from that party, his carrying costs would be computed in accordance with column "b" or actual carrying charges. The owner operator who does not engage in a sale and lease back, however, is treated, under the present system, in exactly the same manner as ones who do. Thus, in order to prevent what it deems to be an undesirable situation, DMAHS has taken the tack of granting carrying charges which are the same as they would have been if that situation had already occurred. There is, therefore, no effective deterrent.

In order to determine the net effect of this difference in the aforesaid schedules, the SCI examined the cost analyses for

every nursing home in New Jersey. Exhibit 3 is the product of that effort; it lists each nursing home in New Jersey, specifies the type of carrying cost formula employed by the home and sets forth the monetary amount of carrying costs granted to each home per the last available cost report.

This examination disclosed that seventy out of the two hundred and sixteen nursing homes examined employ the figures in column "b" to arrive at their reimbursable property expenses. Fourteen of these homes are lessees in the related situation who are utilizing an amount from the schedule and fifty-six are owner-operators using imputed rentals. The total figure for all homes is \$4,011,335. If column "b" of New Jersey's rental schedule was conformed to New York's schedule, the schedule amount would be reduced by 10% which, after adjustment*, would result in an approximate savings of \$345,091. The SCI is of the opinion that such an adjustment is both warranted and feasible; that topic will be specifically treated in the recommendations which follow.

3. The Concept of Imputed Rentals

As a prior section of this report stated, related lessees and owner-operators have an option of taking an appropriate

*The adjustment is based upon the fact that, because the owner-operators and related lessees have the option of using actual carrying charges or the schedule amount, whichever is larger, some of them would thereafter elect to claim actual carrying charges if column "b" was reduced by 10%. Thus, the SCI adjusted either 10% or downward to actual carrying charges. The figure, however, is an approximation because eleven of the homes did not supply the actual carrying charge figure. It is the considered opinion of the SCI, however, that the deviation would be less than \$15,000.

amount from the schedule or their actual carrying charges, whichever is higher, as a component of their operating expenses. Where the actual carrying charges of the home are lower than the appropriate schedule amount, of course, the fact that the nursing home claims an amount from the imputed rental schedule results in a built-in profit to that nursing home.

Mr. Metcalf of DMAHS testified that the theory behind granting imputed rent was that that decision would be a deterrent to the sale and lease back arrangement. See Mr. Metcalf's testimony at p.22 supra. The SCI had determined, however, after contacting the New York officials who initially conceived the concept of imputed rentals, that New Jersey officials erroneously concluded the purpose of imputed rentals was to prevent sale and lease back. The actual reason was that New York knowingly devised a system which would be attractive to owners of older nursing homes so that as many homes as possible would be persuaded to participate in the program. Mr. McCann, the New York official who worked on the rental schedule which first contained the imputed rental proposition explained the original reason for the concept as follows:

THE WITNESS: That's it.

May I add something to this. Our intent was to place a control on the costs of nursing homes in New York State. We would insist that they meet the state construction code. We would further insist that any lease that we honored be bargained be-

tween unrelated parties, and that our maximums were intended to tell all parties that came to build and lease in New York State that you had to be able to build within these levels if you wanted to come out whole. Some were able to and some were not, incidentally. We did not honor those that were not. It was a control.

COMMISSIONER BERTINI: But you're satisfied that what he did then resulted in satisfying the need that existed at the time for getting nursing homes available for those who needed them in New York State, at least, right?

THW WITNESS: Yes. I think the imputed rental and the maximum leases--

COMMISSIONER BERTINI: Brought about the result you wanted?

THE WITNESS: Yes. I think, actually, it did keep the older homes open. It kept them in business. It also served as a control. I could not say that at times that there was no collusion between the lessor and the lessee, which is extremely difficult to identify.

Subsequent to the above explanatory statements, Mr. McCann was questioned on the continuing viability of imputed rentals as a necessary inducement to older nursing homes. He testified as follows:

Q. Is it your opinion that it (the schedule) continues as viable today as it did then with respect to imputed rentals?

A. No.

Q. Do you answer no because there's a feeling on the figures that exist to you or because of the concept of imputed rent itself?

A. I would say that the imputed rental schedule of New York served its purpose well from 1967 through 1971 and '72. I think it did exactly what we wanted it to do. With the older homes that are closing in New York State, and they are numerous, most of them were receiving imputed rentals. The need for the imputed rental concept is slowly disappearing.

In fact, in New York State in 1975, when we discount those homes that will close probably during 1975, we have fifty-three facilities that are receiving imputed rentals. That's our Column II or III or IV. Some of these may close. But that's fifty-three proprietary facilities out of a total of somewhere in the neighborhood of 350, which is, you know, a very small percentage. At one time it was much higher when we had the 20-30-40 bedders in existence.

So that part of the objective or the phase of the imputed rental concept is slowly disappearing, and the homes that have been closing, going out of business, are

those homes that were fully depreciated, no mortgage, or obtained under some sort of unusual circumstances; trading an apartment house for a nursing home, the apartment house had a low cost base and that's carried over into the nursing home; buying property at bid when no one wanted it, so forth and so on.

Primarily, in New York State we will have in the next couple of years all fully conforming, reasonable new nursing home facilities. Since 1971 through the present time I think there are probably only two homes that were built during that period that come under our imputed rental schedule because the costs are high. There is no, no way. It still has some value as a deterrent, and that's hard to measure, obviously.

We have new rules in New York State at the present time, that have recently been promulgated, that provide for the virtual elimination of all leases whether they're arm's-length or not and that all facilities would be reimbursed on the basis of interest, depreciation and on a return on the equity that the man has.

The rules also require in the proprietary field that the depreciation be funded, which is a new step.

In New York we have always required that voluntaries fund their depreciation, but these rules move into the area of funding for proprietary facilities, the reason being that the period for which refinancing is required is extended.

Q. As a matter of fact, Mr. McCann, it's in the area of imputed rentals where they apply to homes which are almost fully depreciated that they bear the least rational relationship to the actual carrying charges of the homes?

A. Correct.

Q. And then also, they would probably correspond to homes which were older, in other words, which were not providing the service, say, of the newer homes?

A. In some instances, true.

Therefore, New York officials have concluded that it is no longer necessary to offer nursing homes the lucrative imputed rental payments. For the same reasons as those expressed by Mr. McCann, the SCI questions whether New Jersey should retain such a concept.

Because of the benefit to the nursing home operators, the SCI was interested in ascertaining the motivation for New Jersey officials to adopt the New York schedule for reimbursement. More importantly, the SCI sought to discover what prompted New Jersey officials to implement a reimbursement formula which was even more lucrative than the one upon which it was based. Upon this issue Mr. Metcalf testified as follows:

Q. Going back, then, to early 1971 when the schedule was introduced, where did the impetus come from to establish a schedule? Did it come from the division?

A. Yes and no. At that time, during 1970, we had what we called a liaison committee which involved certain members of the what was then the New Jersey Nursing

Association, and I believe members of the corresponding units for the homes for the aged, the voluntary homes. And this group used to meet on a--I don't think it was on a prescribed basis, but on a as-needed basis. And at that point, as I recollect it, now, I think it was them that brought to my attention the fact that New York had this schedule; that the reason for its being was that New York was more or less forced to adopt it because prior to that time, when homes depreciated in value and this depreciation in value was not reflected by just claiming the ordinary expenses in your cost, that what a nursing home operator would be doing was to sell to a member of the family and lease back. They got involved in so many sales and leasebacks that were completely uncontrolled that they were forced into adopting some form of imputed rental or recognize that appraisal or that appreciation to the owner. So it was brought to my attention, although this problem did not exist in New Jersey at that time, it could conceivably become a problem in New Jersey if we didn't do something similar.

Q. Now, why, in your opinion, would the Nursing Home Association who, let's be frank about it, would have the interest of nursing home operators at heart, why would they want to institute a control upon themselves?

A. Well, this was not introduced from the control point of view, but this was introduced on behalf of, let's say, an owner that has a nursing home that was built in 1942 at next to no construction cost, and by 1970 was maybe fully depreciated, had no mortgage on it, and the only expenses that we were recognizing were depreciation, mortgage, interest, insurance et cetera. So this facility, the value of that facility would not be recognized at all in our reimbursement rates since there were no expenses.

If this owner could sell that 1942 home for say a million dollars and then lease it back his full rental would be computed into the reimbursement rate, and in addition to that he would have a million dollars that was represented by a million-dollar home that we weren't recognizing in his hand earning interest for him.

Q. So what you're saying, in the bottom line, they were more interested in the imputed rental figures or the ability to take them than they were in the maximums for the actual leases.

A. That's right.

Because of Mr. Metcalf's statement that the New Jersey Nursing Home Association had considerable input into the adoption of the imputed rental concept, the SCI was prompted to subpoena relevant correspondence from the Association, request the correspondence from DMAHS on the same issue and take the testimony of James E.

Cunningham, Executive Director of the New Jersey Association of Health Care Facilities (successor entity to the Nursing Home Association) and Leonard A. Coyle, present counsel to and former Executive Director of the Association. The correspondence relevant to that input of the Nursing Home Association is included herein as exhibits 4 through 7.

Mr. Cunningham testified that he had no knowledge of the workings of the liaison committee during the period in question. Mr. Coyle, however, who held the position of Executive Director at the time, testified as follows concerning imputed rents:

Q. As executive director, do you remember dealing with the Division of Health Services and Medical Assistance in the Department of Institutions and Agencies when they were gearing up, as it were, for the Medicaid program?

A. Yes, I do.

Q. Do you remember being a member of a liaison committee from the Nursing Home Association to the Division of Medical Assistance?

A. No, I was never a member of the committee. I was always a staff member.

Q. Did you accompany the committee members at their meetings with the division?

A. Very frequently. I accompanied most committees to most meetings in every area at that time.

Q. Do you remember the prime areas of concern

of that committee on behalf of the association at that time?

A. You are referring to a Medicaid committee?

Q. Yes.

A. In--back in what year?

Q. In 1970-71.

A. Offhand, I don't remember the specifics, but I would venture to say that the primary thing at that time was the standards for certification and reimbursement and the methodologies to be used for reimbursement.

Q. You became involved in making suggestions to the division on what the parameters and principles for reimbursement would be on behalf of the association?

A. Yes, I was an advocate for the association in that respect through their committees, uh-huh.

Q. Do you remember making suggestions to the Division of Medical Assistance with respect to certain rent ceilings and ceilings for imputed rent?

A. Well, I don't make recommendations relating to ceilings. I think I originally recommended the--I think you may be referring to imputed rentals, and I think I originally recommended that to the department.

Q. Why on behalf of the association would that be a good idea, imputed rentals?

A. As I recall, I had a meeting in Chicago with a group of nursing home administrators through the American Nursing

Home Association, at a meeting which was sponsored in Chicago, at which time there were a number of New York people there and I at that time discussed with them their reimbursement records that we used in New York. New York State and New York City had gone into the Medicaid program, and California had gone into the program, long before New Jersey did. So they much more experience in that area than we had. We were--had no experience whatsoever, and it was first there that I learned of the concept of imputed rentals and I obtained from the New York State Association their list of imputed rentals, how it worked and submitted that data to the Medicaid Department for their review.

Thereafter, Mr. Coyle submitted the figures appearing at p. 4 of exhibit 4 to DMAHS. He testified as to further meetings between the liaison committee and DMAHS as follows:

Q. Do you recall why your members of your association at that time were interested in the concept of imputed rent?

A. Because many of them had older facilities where they had already paid their mortgages off, they had very little depreciation costs, and the imputed rental would give them a better position reimbursementwise than a stated depreciation and cost factor.

On the other hand, of course, it worked, could work to the detriment of those people on the other end of the line who had newer facilities, you know.

Q. Did the division make you aware that they came up with their own figures, in other words, completely threw out what they had heard up in New York but they had done their own surveys and come up with their own figures?

A. That was my understanding, yes.

Q. One more schedule, Mr. Coyle. That's what has been previously marked C-4 for purposes of identification. It purports to be a copy of New Jersey's maximum rental schedule in unrelated and related leases and imputed rents, which is Column B. Now, again we have a problem with the years because the other schedule I'm going to show you, which is the schedule for Upstate New York, which is Page 5 of C-5, only goes to 1971. But if you will compare it with New Jersey's figures for '71 and down, you will see that Column A comports with I in New York for Upstate facilities.

A. Yes, sir, uh-huh.

Q. That would tend to suggest, would it not, that New Jersey did not conduct their own evaluation of figures, but instead used those for New York-Upstate rather than Metropolitan?

A. I don't know, because, as I said, I didn't advocate the use of these figures for rentals and I did not discuss

with the department how they arrived at their figures for rentals.

Q. Did your discussions with the department concerning imputed rentals end after they informed you they were going to use New York figures or enter into their own evaluation of figures in New Jersey and come up with a schedule?

A. Would you repeat that again?

Q. I'll rephrase it, as a matter of fact.

Did the division ever present you with the schedules which they were going to employ as part of the reimbursement rate?

A. Provide them to me?

Q. Provide them to you, yes.

A. I don't recall that they did, although I'm sure that we had an opportunity to review them before they were adopted.

Q. Did you ask them at that time where those figures came from?

A. We may have. You have to remember, it wasn't me personally. You're asking me if I did these things. I may have been present at a committee meeting.

Q. I show you what's been marked Exhibit C-11 for the purposes of identification, which is a response to your letter of December 16th, 1970, which I'm also showing you, which has been marked C-10 for the purposes of identification.

The substance of those two letters is that you, after requesting under December 16th two schedules, one for administrative salaries and one for imputed rentals, are sent two schedules on December 24th?

A. Uh-huh.

Q. Mr. Cunningham did give us the correspondence from the Nursing Home Association, but the two schedules which you were sent on the 24th were not included in there. Do you recall yourself whether those two schedules are the same as those now being used or were different?

A. What two schedules?

Q. The two schedules which you were sent on December 24th, 1970.

A. Oh, I don't remember.

Q. Could you produce those for us? Do you have them in your personal records?

A. No.

Q. Or would they--only in the Nursing Home Association?

A. Yes.

Q. Do you recall whether there was any input by yourself on behalf of the Nursing Home Association, subsequent to December 24, 1970, with respect to those schedules?

A. What was December 24? This letter you mean?

Q. Yes. You see by virtue of that letter you are invited to meet with the division again if you like. That's

why I'm asking that question.

A. Well, this was again dealing through a committee. It's quite possible a committee may have met. I may or may not have been present at a committee meeting.

Q. Are you familiar with the fact that, again if I can refer back to the schedules, in New York, and I'm referring, now, to Page 5 of Exhibit C-5, II, the column under II represents 80% of the column under I? This is New Jersey, here's New York. I don't know whether you ever made that determination.

A. No, sir, I did not.

Q. Did you know in New Jersey, as a correlary, that Column B, imputed rentals, represents 90% of Column A?

A. No, sir.

Q. Did you have any input with the Division of Medical Assistance on the difference in those percentages, in other words, that New Jersey's Column B represents 90% of New Jersey's Column A?

A. Oh, I may have. I don't remember.

Q. Do you recall having any meeting whatsoever between December, 1970 and February or March of 1971 with respect to either what was garnered by the State of New Jersey when they made a trip to the State of New York or any input whatsoever on the schedules that were going to be employed by the State of New Jersey?

A. I seem to recall attending a meeting where it was reported that I think it was Mr. Metcalf and some other people went up to New York to study their system of imputed rentals and they came back and made mention of the fact that they had been in New York and reviewed the system and it seemed to be working, but it would have to be adjusted to New Jersey's needs.

Q. Did you have the meeting, or any meeting, subsequent to the December 24th letter with respect either specifically to imputed rents or with respect to a general number of things?

A. Subsequent?

Q. Where imputed rents--yes.

A. Certainly could have had. You know, that's a long time. 19 what? '70, you're asking me from February of '71 to the present time.?

Q. Yes.

A. Well, certainly could have had.

Q. Do you recall during that two-month period, February and March of 1971, whether there was any meeting?

A. No, I don't remember.

Q. Was this an important issue of the Nursing Home Association at the time?

A. I don't think it assumed a great degree of importance. It was important in reimbursement, but I don't think in

comparison to the entire program it assumed any--it was important on reimbursement, yes, for particularly the older homes and to provide, I think, a greater degree of equity to those homes to participate in the program. Other than that, I don't think it was that great.

Q. Do you have any idea what percentage of the reimbursement would be based on that schedule, in other words, how much of the Medicaid dollar would be controlled by this schedule going to nursing homes?

A. No. It would be very difficult for me to know, or anyone else to know that information, other than people who had access to the computers that are in possession of the state.

Q. As an aggressive advocate for the Nursing Home Association, would you be satisfied with knowing that the division was going to adopt a schedule in New York and then not have any input after they received those schedules? In other words, wouldn't you want to talk to the division after they got a proposal together and with those schedules?

A. If they had something concrete, yes.

Q. But you are telling us that you don't remember whether this ever happened; is that it?

A. No, I said it probably did.

Q. But you don't remember the substance of the discussion?

A. No, I don't remember, no.

Q. Do you have any idea in your own mind as a man whose knowledge about this area why New Jersey's imputed

rental would be 90% rather than 80% of their maximum rental?

A. That was arrived at by the department, and why they, you know, arrived at those percentages I don't recall. I don't even know if I ever knew.

Q. Excuse me. I didn't hear the last answer.

A. I don't even know if I ever knew why they arrived at it. I certainly don't recall.

Based upon the foregoing testimony, the SCI is of the opinion that the continuing viability of imputed rentals for the purpose of New Jersey's Medicaid reimbursement system is open to serious doubt. The question of savings, therefore, arises. There are seventy homes in New Jersey which employ the imputed rental concept. The savings to be realized via the abrogation of imputed rent would be the difference between the total imputed rent now being granted to these seventy homes and the total actual carrying charges of these homes. However, only fifty-nine homes provided both figures and that number is used as the sample. The total figures as per the last available cost report was \$3,496,562 and the total actual carrying charges for the same group was \$2,565,067. Thus, if this group was directed to employ only their actual carrying charges, the state would experience an annual savings of \$931,495. The specific recommendations of the SCI with respect to the reform imputed rent concept are set forth later in this report.

4. The Lack of a Definition of Relationship to be handled

Because of the difference in amounts granted for reimbursement by the schedule with respect to arms-length versus non-arms-length leases, it becomes material to examine the administrative definition of the relationship which would give rise to a non-arms length lease. Mr. Metcalf, when questioned upon this topic, testified as follows:

Q. We have discussed several classifications.

Within those was a lease which we have termed unrelated and one that we have termed related. Could you define for us how your division defines relationship?

A. Well, in the beginning we used to use ten per cent as a dividing line.

Q. Could you explain that.

A. Well, we figured if an operator owned less than ten per cent of the holding company, that could be considered as an unrelated lease. We were challenged on this a while back. We went to the Attorney General for an opinion. The Attorney General researched it, and, as I recall, quoted from the Medicare regulations. The Medicare regulations did not specifically define it in the matter of per cent, but more or less in the matter of control and influence. So from that point on I would say tht we don't really have a clear distinction as to when it's unrelated or related.

Now, it's a matter that would have to be handled on an individual basis. But prior to that time we used to use ten per cent as a dividing line.

Q. And that would work both ways, an operator owned ten per cent of a holding company or the holding company investor owned ten per cent of the operating corporation?

A. Yes.

Q. But, now, as I understand you to say that there may be a one per cent interest and you may consider it related or there may be a fifty per cent interest and you may consider it unrelated?

A. I believe there were test cases. There were cases under Medicare where the courts have indicated that a rigid percentage would not be a valid--

COMMISSIONER BERTINI: Test?

A. Test. That you would have to look at other things besides that.

There may be merit to avoid rigidity in attempting to define a relationship for the purposes of reimbursement, but it is the opinion of the SCI that a set of concrete guidelines which addresses this issue should be developed. More specifically, in addition to promulgating realistic regulations with respect to ownership and control, serious consideration should be given to

including within the definition of a relationship lessees who have familial or prior business ties to the lessor. This suggestion will be included in the section on recommendations.

5. The Lack of Updating of the Schedule

Mr. Metcalf testified that members of his staff had only one additional contact with New York officials subsequent to the adoption of the maximum rental schedule. It became apparent to the SCI via the testimony of Mr. Metcalf and Mr. McCann that New York had initiated several salutary devices with respect to their schedule which New Jersey had not. Again, because New Jersey's schedule is based upon New York's, the SCI is of the opinion that a change instituted by New York which results in a savings to the state should be given immediate consideration by New Jersey. Some of the adjustments in the New York schedule are discussed below.

Some time ago, according to Mr. McCann, New York realized that, where a nursing home was not originally built for that purpose (that is, was converted from some other type of facility) the carrying costs were less than those of homes built as nursing homes. This is partially due to the fact that the figures appearing in column "b" of the formula are supposed to be indicative of the actual cost of construction of a nursing home. As a result of the realization that the actual costs of converting an existing building are less than the actual costs of construction of a new home, New York decided that it would reduce its column II (the

imputed rental and maximum related lease amounts) by an additional 30% in cases wherein an existing structure had been converted into a nursing home. The practical effect of such a reduction, of course, would be a 30% savings to the state on the reimbursement of carrying charges to renovated homes. A similar reform in New Jersey, of course, would create the similar savings. This revision will be included in the recommendations set forth at the end of this report.

Reference to exhibit 2 discloses further that New York reduces the allowable schedule amounts for carrying charges whenever the nursing home is not in full compliance with either the building or fire codes originally created under the Medicare regulations. Such non-compliance in New Jersey does not result in reduced reimbursement. New Jersey officials have the option of granting a probational license or under certain circumstances, closing the home via the revocation of the license. Such a procedure is an acceptable course to follow where most of the New Jersey nursing homes are in substantial compliance. If there exists a large number of homes not in compliance, however, revocation of the licenses becomes an overly ambitious avenue. New York, in recognition of the practicalities and scope of the problem, has adjusted its program. The SCI is of the opinion that New Jersey should at least consider the same approach. Again, this subject will be dealt with in the recommendations section of this report.

Finally, New York has recently promulgated a regulation which would require nursing home operators employing actual carrying costs

to fund their depreciation. Depreciation is, of course, an allowable cost component of actual carrying charges and the state thus reimburses each home in accordance with the amount allowed. The absence of a fund for depreciation transforms this reimbursement into profit. Additionally, when depreciation is not funded, the state finds itself in the unenviable position of having reimbursed funds which should be earmarked for improvement or replacement and are never used for that purpose. Thus, at the end of the useful life of the nursing home the state is supporting a worthless (at least from an accounting standpoint) institution to which it has reimbursed sufficient funds for complete replacement or substantial renovation. If adopted, this proposed revision would require nursing homes to actually establish a fund comprised of the monies reimbursed by the state for depreciation, which fund could not be utilized except for expenditures relating to improvements and renovation. Such an approach retains what should be the initial intent of the depreciation reimbursement. This suggestion will also be discussed below.

As has been stated in the body of the report, conforming column "b" to its counterpart in New York would create a savings of between \$100,000 and \$350,000 per annum and would have a comparatively minimal effect upon the industry as a whole.

The SUI therefore recommends that column "b" of New Jersey's schedule of maximum rents and imputed rents be reduced by 10% as soon as is feasibly possible.

RECOMMENDATIONS

Introduction

The SCI is of the opinion that the foregoing analysis has given rise to several serious questions relating to the rental and carrying costs reimbursement system utilized by New Jersey. The Commission has the responsibility to suggest changes and revisions where it recognizes a need. What the SCI suggests is an integrated plan of modification that accomplishes the goal of bringing the rental and carrying costs reimbursement system within the realm of economic reality.

1. Immediate Adjustment of the Imputed Rental and Maximum Non-Arms-Length Rental Schedule

As has been stated in the body of the report, the SCI is of the opinion that there was no rational basis for the decision to raise column "b" to 90% of column "a" rather than to employ the same figures appearing in the New York schedule upon which New Jersey's schedule was based. Furthermore, the result of that decision was to further inflate an already inflated rental schedule. As has been stated in the body of the report, conforming column "b" to its counterpart in New York would create a savings of between \$300,000 and \$350,000 per annum and would have a comparatively minimal effect upon the industry as a whole.

The SCI therefore recommends that column "b" of New Jersey's schedule of maximum rents and imputed rents be reduced by 10% as soon as is feasibly possible.

2. Abrogation of Imputed Rentals

Because the concept of imputed rent grants a profit in a system which is ostensibly cost-based, because the concept cannot logically perform the function which it was supposedly instituted to perform and because the originators of the idea now candidly admit that there no longer exists any viable reason to retain it, the SCI is of the opinion that New Jersey should give serious consideration to the complete abrogation of the imputed rental concept. Such a recommendation becomes particularly important when it is realized that a savings of approximately \$1,000,000 per annum would be experienced.

Specifically, the SCI suggests that all owner-operators and related leasees who are presently being reimbursed pursuant to an amount from the schedule and whose actual carrying charges are less than the schedule amount be reimbursed only for those actual carrying charges.

The question of effect upon the industry, however, becomes somewhat more important with respect to this recommendation.

Mr. McCann of New York testified that he did not believe that the abrogation of the imputed rental system would have a devastating effect upon the New York nursing home industry because many of the older homes which benefit from it were closing for other reasons and because the bed capacity represented by these homes was not significant. New Jersey's decision to remove imputed rental as an option should be the result of examination of similar factors.

3. A Thirty Percent Reduction of Imputed Rentals for Converted Homes

The suggestion that column "b" should be decreased by 30% where a nursing home has been converted from some other type of structure also merits serious consideration as an added measure. This reduction, as has been stated, is based upon the fact that costs of renovation are much less than costs of construction and since the schedule is intended to reflect costs of construction, it cannot be logically applied to renovated homes.

As was stated in the body of the foregoing report, the SCI was unable to determine the precise amount of savings which would be realized as a result of such a reduction since it is not presently known how many homes are renovated ones, but such a savings, it is safe to say, would not be insubstantial.

4. Reductions in Schedule Amounts Reflecting Non-Compliance With Building and Fire Codes

As an additional measure, DMAHS should consider a 10% reduction in the amounts of the schedule where the nursing home is not in compliance with the appropriate building and fire codes. This determination could be made in conjunction with the Department of Health which has responsibility for enforcement of these regulations and surveillance of the nursing homes. This reduction recognizes that it is inappropriate to revoke licenses where there is a technical non-compliance while at the same time fostering full compliance by supplying the impetus of complete reimbursement for homes in complete compliance.

5. Funding of Depreciation

Because New Jersey now reimburses nursing homes for depreciation and because the state presently receives no benefit from that reimbursement, the SCI is of the opinion that the state should require the adoption of separate reserve accounts comprised of amounts reimbursed for depreciation which could only be debited for the purposes of refurbishment and renovation.

Specifically the SCI recommends that nursing home operators be required to set up special interest bearing accounts to be comprised of amounts reimbursed for depreciation which exceed required amortization on capital debt. The facet of this approach which requires funding of the depreciation reserve only with reimbursements which exceed required amortization recognizes the fact that mortgage amortization is, in actuality, a necessary cost of operation. Withdrawals from the reserve account should be controlled by the state (either DMAHS or the Department of Health) via the approval of the renovation and the amount. This facet of the recommendation would avoid inflated and/or unnecessary improvements. Finally, the fund should be considered in the nature of a trust fund and not be available for such purposes as collateral for loans.

6. A Return on Capital

There are several alternatives to making adjustments in the existing schedule as means to modifying an inflated rental reimbursement system. One such alternative which New Jersey could evaluate is the return of capital system. Such an approach was

suggested by Mr. McCann of New York in his testimony before the SCI. The following is a suggestion on the manner in which such a system could be implemented and function:

Over the next two to three years, state officials (DMAHS with whatever additional aid required) would examine each nursing home in the state and determine, for reimbursement purposes, true value. Several factors should be taken into consideration and assessed value, market value, replacement costs and depreciation are among them. More importantly, however, certain factors such as sales, mortgages and leases consummated subsequent to the advent of Medicaid should be disregarded. These disregards are important in the opinion of the SCI because all sales, mortgages and leases entered into subsequent to the institution of the schedule have necessarily taken into consideration a guaranteed cash flow at the level dictated by the schedule. Since the schedule is inflated, leases, sales and mortgages dependent upon it are likewise inflated.

Subsequent to establishing these true values, DMAHS would establish a fair rate of return on capital expressed as a percentage and this rate would thereafter be applied to the true value to determine the return on capital per annum for each institution. The return on capital would replace the interest on capital debt and return on equity components of the actual carrying charges. The operator would continue to receive reimbursement for insurance, depreciation and real estate taxes.

Because the above approach ignores the amount of the lease and/or the amount of the mortgage on the home it would avoid problems of sale and lease backs, related leases, inflated carrying charges, inflated rental schedules, collusive leases and mortgages and inbred profits.

Before embarking upon such an approach, however, serious consideration should be given to its feasibility. Expert economists should be presented with the idea and asked for their opinion on the effect on the Medicaid program. The SCI does note, however, that such an approach does have at least the prima facie attractiveness of simplicity and economy.

7. An Improved Definition of Non-Arms-Length Transactions

As was stated in the body of the report, there exists in New Jersey no concrete definition of a non-arms-length lease. Because the classification of leases is highly material to the reimbursement rate, the SCI is of the opinion that such a concrete definition should be developed.

Furthermore, the SCI believes that said definition should take into account other factors in addition to the mere ownership relationship between lessor and lessee. Such additional factors include familial ties and other related business associations. The SCI suggests that DMAHS give serious consideration to these recommendations in conjunction with and with the advice of the Attorney General.

MAXIMUM RENTAL ALLOWABLE RELATED LEASES	EXCESSIVE RENTAL ALLOW. RELATED LEASES	MAXIMUM RENTAL ALLOW. RELATED LEASES	EXCESSIVE RENTAL ALLOW. RELATED LEASES
1735	1543		
1618	1434		
1526	1374		
1440	1294		
1360	1231		
1275	1098		
1190	934		
1100	854		
1010	782		
920	714		
830	654		
740	594		
650	534		
560	474		
470	414		
380	354		
290	294		
200	234		
110	174		
20	114		
10	54		
0	0		
10	64		
20	124		
30	184		
40	244		
50	304		
60	364		
70	424		
80	484		
90	544		
100	604		
110	664		
120	724		
130	784		
140	844		
150	904		
160	964		
170	1024		
180	1084		
190	1144		
200	1204		
210	1264		
220	1324		
230	1384		
240	1444		
250	1504		
260	1564		
270	1624		
280	1684		
290	1744		
300	1804		
310	1864		
320	1924		
330	1984		
340	2044		
350	2104		
360	2164		
370	2224		
380	2284		
390	2344		
400	2404		
410	2464		
420	2524		
430	2584		
440	2644		
450	2704		
460	2764		
470	2824		
480	2884		
490	2944		
500	3004		
510	3064		
520	3124		
530	3184		
540	3244		
550	3304		
560	3364		
570	3424		
580	3484		
590	3544		
600	3604		
610	3664		
620	3724		
630	3784		
640	3844		
650	3904		
660	3964		
670	4024		
680	4084		
690	4144		
700	4204		
710	4264		
720	4324		
730	4384		
740	4444		
750	4504		
760	4564		
770	4624		
780	4684		
790	4744		
800	4804		
810	4864		
820	4924		
830	4984		
840	5044		
850	5104		
860	5164		
870	5224		
880	5284		
890	5344		
900	5404		
910	5464		
920	5524		
930	5584		
940	5644		
950	5704		
960	5764		
970	5824		
980	5884		
990	5944		
1000	6004		

EXHIBIT I

1	Atlantic City	11	1964	11	1964
2	Beggs	23	1964	23	1964
3	Darlington	23	1964	23	1964
4	Cumec	24	1964	24	1964
7	Yves	28	1964	28	1964
9	Holton	28	1964	28	1964

URBAN - GROUP I AREAS

RURAL - GROUP II AREAS

DATE OF CONST.	MAXIMUM RENTAL ALLOWABLE UNRELATED LEASES	IMPUTED RENTAL ALLOWABLE and MAXIMUM RENTAL ALLOW. RELATED LEASES	MAXIMUM RENTAL ALLOWABLE UNRELATED LEASES	IMPUTED RENTAL ALLOWABLE and MAXIMUM RENTAL ALLOW. RELATED LEASES
	(a)	(b)	(c)	(d)
1974	1715	1543	1543	1389
1973	1618	1456	1456	1310
1972	1526	1374	1374	1236
1971	1440	1296	1296	1166
1970	1280	1152	1152	1037
1969	1120	1008	1008	907
1968	1040	936	936	842
1967	960	864	864	778
1966	920	828	828	745
1965	880	792	792	713
1964	840	756	756	680
1963	800	720	720	648
1962	768	691	691	622
1961	736	662	662	596
1960	704	634	634	571
1959	672	605	605	545
1958	640	576	576	518
1957	624	562	562	506
1956	608	547	547	492
1955	592	533	533	480
1954	576	518	518	466
1953	560	504	504	454
1952	544	490	490	441
1951	528	475	475	428
1950	512	461	461	415
1949	496	446	446	401
1948	480	432	432	389
1947	464	418	418	376
1946	448	403	403	363
1945	432	389	389	350
1944	416	374	374	337
1943	400	360	360	324
1942	384	346	346	311
1941	368	331	331	298
1940	352	317	317	285
1939	336	302	302	272
1938	320	288	288	259
1937	304	274	274	247
1936	288	259	259	233
1935	272	245	245	221
1934	256	230	230	207

URBAN - GROUP I AREAS

RURAL - GROUP II AREAS

1 Atlantic City	11 Mercer	1 Atlantic	15 Ocean
2 Bergen	12 Middlesex	5 Cape May	17 Salem
3 Burlington	13 Monmouth	6 Cumberland	18 Somerset
4 Camden	14 Morris	8 Gloucester	19 Sussex
7 Essex	16 Passaic	10 Hunterdon	21 Warren
9 Hudson	20 Union		

Year	Number of	Number of	Number of	Number of

EXHIBIT 2

1600
1500
1400
1300
1200
1100
1050
1000
950
920
880
840
820
780
760
740
720
700
680
660
640
620
600
580
560
540
520
500
480
460
440
420
400
380
360
340

IMPUTED RENTAL ALLOWANCE SCHEDULE
 (New York City, Nassau, Suffolk, Rockland and Westchester Counties)

<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>
<u>Arms Length</u> <u>Rental Maximum</u>	<u>Non-Arms Length</u> <u>Imputed Rental</u>	<u>Imputed Rent for</u> <u>Homes Not in</u> <u>Compliance with</u> <u>Structural Code</u> <u>Non-fire Resistive -</u> <u>Sprinklered</u> <u>(90% of Col. I or II)</u>	<u>Imputed Rent for</u> <u>Home Not in</u> <u>Compliance with</u> <u>Structural Code</u> <u>Non-fire Resistive</u> <u>Not Sprinklered</u> <u>(80% of Col. I or</u>
1800	1440		
1600	1280		
1400	1120		
1300	1040		
1200	960	864	768
1150	920	828	736
1100	880	792	704
1050	840	756	672
1000	800	720	640
960	768	691	614
920	736	662	589
880	704	634	563
840	672	605	538
800	640	576	512
780	624	562	499
760	608	547	486
740	592	533	474
720	576	518	461
700	560	504	448
680	544	490	435
660	528	475	422
640	512	461	410
620	496	446	397
600	480	432	384
580	464	418	371
560	448	403	358
540	432	389	346
520	416	374	333
500	400	360	320
480	384	346	307
460	368	331	294
440	352	317	282
420	336	302	269
400	320	288	256
380	304	274	243
360	288	259	230
340	272	245	218
320	256	230	205

Rental Allowance for homes built prior to 1934 will be established at 1934 allowances.

IMPUTED RENTAL ALLOWANCE SCHEDULE
 (New York City, Nassau, Suffolk, Rockland and Westchester Counties)

<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>
Arms Length Rental Maximum	Non-Arms Length Imputed Rental	Imputed Rent for Homes Not in Compliance with Structural Code Non-fire Resistive - Sprinklered (90% of Col. I or II)	Imputed Rent for Home Not in Compliance with Structural Code Non-fire Resistive Not Sprinklered (80% of Col. I or II)
75			
74			
73			
72			
71	1800	1440	
70	1600	1280	
69	1400	1120	
68	1300	1040	
67	1200	960	864
66	1150	920	828
65	1100	880	792
64	1050	840	756
63	1000	800	720
62	960	768	691
61	920	736	662
60	880	704	634
59	840	672	605
58	800	640	576
57	780	624	562
56	760	608	547
55	740	592	533
54	720	576	518
53	700	560	504
52	680	544	490
51	660	528	475
50	640	512	461
49	620	496	446
48	600	480	432
47	580	464	418
46	560	448	403
45	540	432	389
44	520	416	374
43	500	400	360
42	480	384	346
41	460	368	331
40	440	352	317
39	420	336	302
38	400	320	288
37	380	304	274
36	360	288	259
35	340	272	245
34	320	256	230

Rental Allowance for homes built prior to 1934 will be established at 1934 allowances.

IMPUTED RENTAL ALLOWANCE SCHEDULE
Upstate New York

<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>
Arms Length Rental Maximum	Non-Arms Length Imputed Rental	Imputed Rent for Homes Not in Compliance with Structural Code Non-fire Resistive - Sprinklered (90% of Col. I or II)	Imputed Rent for Homes Not in Compliance with Structural Code Non-fire Resistive Not Sprinklered (80% of Col. I)
75			
74			
73			
72			
71	1440	1152	
70	1280	1024	
69	1120	896	
68	1040	832	
67	960	768	691
66	920	736	662
65	880	704	634
64	840	672	605
63	800	640	576
62	768	614	553
61	736	589	530
60	704	563	507
59	672	538	484
58	640	512	461
57	624	499	449
56	608	486	437
55	592	474	427
54	576	461	415
53	560	448	403
52	544	435	392
51	528	422	380
50	512	410	369
49	496	397	357
48	480	384	346
47	464	371	334
46	448	358	322
45	432	346	311
44	416	333	300
43	400	320	288
42	384	307	276
41	368	294	265
40	352	282	254
39	336	269	242
38	320	256	230
37	304	243	219
36	288	230	207
35	272	218	196
34	256	205	185

Date of Construction is to be used for upstate homes.

PLANNING SERVICES ADMINISTRATION

Based on cost reports of the Adult Short-Term Services of Children's Accounts, Division of Medical Administration & Health Services

Summary of Costs by Facility

Facility	County Charges	Imputed Rent	Actual Rental	Materials	Carrying Charges	Imputed Rent
Allenale Nursing Home	570,312*	-	-	-	-	-
Alva Manor Nursing Home	59,851	4,47,549*	-	120,432	-	-
Bobby Care Center	153,713*	83,498	-	-	-	-
Andrews Nursing Home	-	94,372*	-	-	-	-
Northwest Rest Center	201,137*	152,064	-	-	-	-
Arnold Walker Nursing Home	13,796*	8,050	-	-	-	-
Avery Lodge, Inc. (1973)	55,067	82,317*	-	-	-	-
Ashtock Nursing Home, Inc.	-0-	-0-	-	-	-	-
Ashtock Children's Found.	-0-	-0-	-	-	-	-
Atlantic County Home	31,030*	15,959*	-	-	-	-
Atlantic Highlands N.H.	-	-	-	-	-	-
Baptist Home of So. Jersey	128,367	133,488*	-	-	-	-
Barrett Conv. Ctr.	-	23,960*	-	-	-	-
Beverly Nursing & Conv. Ctr.	-	-	30,000	19,200*	-	-
Beverly Nursing Co., Inc.	20,641	49,548*	-	-	-	-
Bonchview Nursing Home	-	-	-	-	-	-
Bonchview Rest Home	-	-	-	-	-	-
Boulevard N.H. (1973)	-	-	-	-	24,312	94,489*
Buller Care Center	-	-	-	-	126,862	129,600*
Burnside Care Center	162,500*	15,632	-	-	-	-
Burnside County Hospital	25,749*	-	-	-	-	-
Burnside Convalescent Center	-	-	105,743	51,800*	-	-
Burnside Nursing Center	-	-	-	-	-	-
Burnside Conv. Home	3,990	49,550*	-	-	-	-
Burnside Nursing Home	-	-	56,420	45,760*	-	-
Burnside Conv. Home	-	-	134,020	116,000*	-	-
Burnside Park N.H. Corp.	-0-	-0-	-	-	-	-
Burnside Hall	-0-	-0-	-	-	-	-
Burnside County Conv. Hosp.	83,118*	87,964	-	-	-	-
Burnside Hill Conv. Ctr., Inc.	6,434*	-	-	-	-	-
Burnside Nursing Home	-	-	-	-	-	-

EXHIBIT 3

Costs compiled by the Division of Medical Administration and Health Services in most recent cost analysis.

PROPERTY EXPENSE ANALYSIS*

*Based on cost reports of the Audit Section, Bureau of Claims and Accounts,
Division of Medical Assistance & Health Services

Facility	Owner-Operated		Arms Length Lease		Related Leases	
	Actual Carrying Charges	Imputed Rent	Actual Rental	Maximum Rent	Actual Carrying Charges.	Imputed Rent
Allendale Nursing Home	\$219,332*	-	-	-	-	-
Alps Manor Nursing Home	-	-	\$101,396*	120,032	-	-
Amboy Care Center	59,881	\$ 67,548*	-	-	-	-
Andover Nursing Home	153,713*	82,695	-	-	-	-
Applegarth Rest Center	-	94,572*	-	-	-	-
Arnold Walter Nursing Home	201,137*	152,064	-	-	-	-
Asbury Lodge, Inc. (1973)	13,796*	8,050	-	-	-	-
Ashbrook Nursing Home, Inc.	56,067	82,317*	-	-	-	-
Asthmatic Children's Found.	-0-	-0-	-	-	-	-
Atlantic County Home	-0-	-0-	-	-	-	-
Atlantic Highlands N.H.	-	45,959*	-	-	-	-
Baptist Home of So. Jersey	31,030*	-	-	-	-	-
Barnhill Conv. Ctr.	128,367	133,488*	-	-	-	-
Bayview Nursing & Conv. Ctr.	-	-	-	-	\$114,238*	\$ 83,917
Bayview Nursing Co., Inc.	-	23,966*	-	-	-	-
Beachview Nursing Home	-	-	30,000	19,200*	-	-
Beachview Rest Home	20,641	49,548*	-	-	-	-
BelAir Manor N.H. (1973)	-	-	-	-	24,312	34,488*
Bellevue Care Center	-	-	-	-	126,862	129,600*
Bergen Pines County Hospital	162,589*	-	-	-	-	-
Birchwood Convalescent Center	25,789*	16,632	-	-	-	-
Bridgeton Nursing Center	-	-	105,743	91,800*	-	-
Brookbend Conv. Home	-	15,350*	-	-	-	-
Brookdale Nursing Home	3,900	49,956*	-	-	-	-
Brookwood Conv. Home	-	-	56,420	45,760*	-	-
Brunswick Park N.H. Corp.	-	-	134,000	110,000*	-	-
Buttonwood Hall	-0-	-0-	-	-	-	-
Camden County Gen. Hosp.	-0-	-0-	-	-	-	-
Chestnut Hill Conv. Ctr., Inc.	88,118*	87,984	-	-	-	-
Christian Nursing Home	6,434*	-	-	-	-	-

*Figure employed by the Division of Medical Assistance and Health Services in most recent cost analysis.

PROPERTY EXPENSE ANALYSIS, cont'd

Facility	Owner-Operated		Arms Length Lease		Related Leases	
	Actual Carrying Charges	Imputed Rent	Actual Rental	Maximum Rent	Actual Carrying Charges	Imputed Rent
Cinnaminson Manor, Inc. (1973)	-	-	\$105,900*	\$119,600	-	-
Claremont N.H., Inc.	\$ 95,239	\$123,600*	-	-	-	-
Cliff House N.H.	18,455	23,865*	-	-	-	-
Clover Rest Home	-0-	-0-	-	-	-	-
Collingswood Manor	2,707*	-	-	-	-	-
Columbia Nursing Home	12,742	20,240*	-	-	-	-
Community Med. Ctr.	-0-	-0-	-	-	-	-
Convacenter	40,326	85,807*	-	-	-	-
Cooper River Conv. Ctr.	-	-	-	-	\$ 90,111*	\$ 81,824
Countryside Nursing Home	-	5,750*	-	-	-	-
Cornell Hall Conv. Ctr.	-	-	-	-	-	100,498*
Cranford Hall Nursing Home (1973)	73,190*	50,239	-	-	-	-
Cranford Health & E.C.F.	-	-	193,519	133,120*	-	-
Crest Haven	-0-	-0-	-	-	-	-
Crestview Nursing Home	63,338	64,128*	-	-	-	-
Cumberland Manor	-0-	-0-	-	-	-	-
Daughters of Miriam Ctr.	128,708*	-	-	-	-	-
Daughters of Israel	96,191*	-	-	-	-	-
Dellridge Nursing Home	-	-	-	-	118,906*	101,088
Dolly Mount Nursing Home	-	-	-	-	7,942	8,393*
Donnelly Mem. Hospital	-0-	-0-	-	-	-	-
Dover Christian N.H.	45,830*	-	-	144,182*	-	-
Dream Hill Nursing Home (1972)	8,081	9,600*	-	-	-	-
Edison Nursing Home	-	-	-	-	276,823*	239,184
East Orange Nursing Home	-	-	333,248	297,570*	-	-
Elizabeth Nursing Home	87,337*	77,142	-	-	-	-
The Evergreens	-0-	-0-	-	-	-	-
Emery Manor	70,214	79,200*	-	-	-	-
Essex County Geriatrics	-0-	-0-	-	-	-	-
Ewing Parkway N.H.	-	-	120,000	96,000*	-	-
Florence Nursing Home	3,946*	3,450	-	-	-	-
Foothill Acres	67,190	122,940*	-	-	-	-

*Figure employed by the Division of Medical Assistance and Health Services in most recent cost analysis.

PROPERTY EXPENSE ANALYSIS, cont'd

Facility	Owner-Operated		Arms Length Lease		Related Leases	
	Actual Carrying Charges	Imputed Rent	Actual Rental	Maximum Rent	Actual Carrying Charges	Imputed Rent
Francis Asbury Manor	\$ 8,701*	-	-	-	-	-
Franklin Conv. Center (1973)	197,584*	\$157,200	-	-	-	-
Freehold ConvaCenter	N/A	-	-	-	-	-
Garden Nursing Home	N/A	-	-	-	-	-
Garden State Manor	8,838	6,678*	-	-	-	-
Glenside Nursing Home	63,924	79,527*	-	-	-	-
Golden Crest Conv. Center	-	-	\$180,000*	\$270,400	-	-
Greenbriar Nursing Home	132,467	167,346*	-	-	-	-
Greenbrook Manor	-	-	241,482	67,304*	-	-
Greenfield N. & C. Center	218,412*	188,892	-	-	-	-
Green Grove N. & C. Ctr. (1973)	59,970	100,188*	-	-	-	-
Greenwood House	-0-	-	-	-	-	-
Hartwyck West Nursing Home	86,383	93,564*	-	-	-	-
Hartwyck N.H., Inc.	20,183	21,636*	-	-	-	-
Hartwyck at Plainfield	75,567*	63,651	-	-	-	-
Heath Village, Inc.	199,619*	51,840	-	-	-	-
Hebrew Old Age Center	27,019*	-	-	-	-	-
H.G.H. Nursing Home, Inc.	-	-	140,000	110,400*	-	-
Hillcrest Conv. Ctr.	-	-	139,800*	144,000	-	-
Hilltop Private N. H.	-	-	-	-	-	23,901*
Holly Manor Nursing Home	221,310*	156,636	-	-	-	-
Holmdel Conv. Ctr.	-	-	-	-	\$ 95,677	102,028*
Holmdel Nursing Home	-	-	-	-	16,483*	14,754
Home for Armenian Aged	-0-	-	-	-	-	-
Homestead Nursing Home	-0-	-	-	-	-	-
House of Good Shephard	32,070*	-	-	-	-	-
Hudson Manor E.C.F.	369,905*	254,016	-	-	-	-
Hunterdon Hills	23,416*	17,454	-	-	-	-
Idylease, Inc. (1973)	Out of program	-	-	-	-	-
Irvington Nursing Home	-	-	-	-	32,843	48,124*
Ivy Hall Nursing Home (1973)	10,217*	-	-	-	-	-
Ivy Haven Nursing Home (1972)	14,414*	-	-	-	-	-
Ivy House Nursing Home	20,895	32,891*	-	-	-	-

*Figure employed by the Division of Medical Assistance and Health Services in most recent cost analysis.

PROPERTY EXPENSE ANALYSIS, cont'd

Facility	Owner-Operated		Arms Length Lease		Related Leases	
	Actual Carrying Charges	Imputed Rent	Actual Rental	Maximum Rent	Actual Carrying Charges	Imputed Rent
Jewish Geriatric Home	\$ 96,833*	-	-	-	-	-
Jewish Hosp. & Rehab.	207,799*	-	-	-	-	-
Jewish Hosp. & Rehab.	61,989*	-	-	-	-	-
F. L. King Memorial (1973)	19,441	\$ 26,936*	-	-	-	-
King James	245,139*	209,880	-	-	-	-
King James II	103,921	114,351*	-	-	-	-
Lagoon of Lambertville	7,244*	5,589	-	-	-	-
Lakeview Conv. Center	-	-	\$144,000	\$134,400*	-	-
Lakewood Pine Aire N.H.	10,715	13,136*	-	-	-	-
Lakewood House	N/A	-	-	-	-	-
Laurelview Manor	-	-	-	-	\$ 35,507	\$ 99,792*
Lawrenceville N. H.	101,954*	100,800	-	-	-	-
Liberty House	-	-	216,000	187,200*	-	-
Linwood Conv. Center	162,745*	134,774	-	-	-	-
Lincoln Park Nursing Home	139,798*	87,912	-	-	-	-
Lincoln Park I.C.F.	-	-	-	-	822,525*	765,856
Littlebrook N. & C. Home	-	-	-	-	5,508	16,027*
Little Sisters - Paterson	-0-	-	-	-	-	-
Little Sisters - Newark	-0-	-	-	-	-	-
Lutheran Home, Ocean View	-0-	-	-	-	-	-
Lutheran Home, Moorsetown	62,414*	-	-	-	-	-
Lutheran Home, Jersey City	-0-	-	-	-	-	-
MacFarland Nursing Home	19,974*	19,884	-	-	-	-
Magda Erikson	8,447	14,525*	-	-	-	-
Manor Care Nursing Home	38,371	74,844*	-	-	-	-
Manor at Tenafly	54,027	55,296*	-	-	-	-
Maple Shade N. & C. Center	145,821*	130,464	-	-	-	-
Mapleton Nursing Home	5,593	8,101*	-	-	-	-
Mater Dei Nursing Home	98,315*	-	-	-	-	-
Meadow Lakes Nursing Home	-0-	-	-	-	-	-
Meadow View Hospital	161,188*	-	-	-	-	-
Medford Leas	-0-	-	-	-	-	-
Medicenter - Lakewood	105,278	126,514*	-	-	-	-
Medicenter - Neptune (1973)	95,475	100,800*	-	-	-	-
Medicenter - Red Bank	141,434	142,896*	-	-	-	-

*Figure employed by the Division of Medical Assistance and Health Services in most recent cost analysis.

PROPERTY EXPENSE ANALYSIS, cont'd

Facility	Owner-Operated		Arms Length Lease		Related Leases	
	Actual Carrying Charges	Imputed Rent	Actual Rental	Maximum Rent	Actual Carrying Charges	Imputed Rent
Mercer Care Center	\$ 98,865	\$117,116*	-	-	-	-
Mercerville N. & C. Center	-	-	\$105,900*	\$135,200	-	-
Merry Heart Nursing Home	54,223*	35,487	-	-	-	-
Merwick - Matthew	94,407*	69,096	-	-	-	-
Methodist Manor	2,127*	-	-	-	-	-
Meyer Sanitarium	17,891*	13,693	-	-	-	-
Middlesex County Hospital	-0-	-	-	-	-	-
Milford Manor Nursing Home	-	152,707*	-	-	-	-
Monmouth Conv. Ctr.	37,943	88,596*	-	-	-	-
John L. Montgomery Med. Home	-0-	-	-	-	-	-
Moorsetown Nursing Home (1973)	19,963	43,112*	-	-	-	-
Morris Hall H. & R. Center	-0-	-	-	-	-	-
Morristown Rehab. Center	-	-	-	-	\$ 27,008	\$ 29,041*
Morris View	-0-	-	-	-	-	-
Mountainview Nursing Home	1,869	16,680*	-	-	-	-
Mount Laurel Conv. Ctr.	-	-	-	-	49,316	91,730*
Mount Pleasant Manor	-	-	-	-	4,772	7,491*
Navesink House	299,020*	-	-	-	-	-
Newark Health	-	-	480,690*	640,920	-	-
N. J. Eastern Star Home	13,757*	-	-	-	-	-
Newmans Lakewood N. H.	-	-	13,000*	19,624	-	-
Northfield Manor	201,780*	99,036	-	-	-	-
North Jersey N. & C. Home	-	-	139,982*	140,000	-	-
Oakview Nursing Home	-	-	-	-	178,060*	168,624
Ocean Grove Nursing Home	-	26,723*	-	-	-	-
Ocean Park Nursing Home	8,170	9,108*	-	-	-	-
Ocean Point N. & C. Center	226,182*	-	-	-	-	-
Oddfellows Home	-0-	-	-	-	-	-
Our Lady's Residence	60,134*	-	-	-	-	-
Palmer Nursing Home	N/A	-	-	-	-	-
Palisade Nursing Home	-	-	120,392	84,800*	-	-
Paramus Nursing Home (1972)	8,043*	-	-	-	-	-
Park Ave. Nursing Home	-	-	252,000*	302,400	-	-

*Figure employed by the Division of Medical Assistance and Health Services in most recent cost analysis.

PROPERTY EXPENSE ANALYSIS, cont'd

Facility	Owner-Operated		Arms Length Lease		Related Leases	
	Actual Carrying Charges	Imputed Rent	Actual Rental	Maximum Rent	Actual Carrying Charges	Imputed Rent
Parkview Nursing Home	\$ 10,717	\$ 18,442*	-	-	-	-
Passaic-Clifton N. & C. Home	21,363*	20,470	-	-	-	-
Perth Amboy Nursing Home	-	-	\$381,500*	\$381,500	-	-
Pine Acres Nursing Home	-	-	80,325	67,744*	-	-
Pinebrook Nursing Home	-	-	80,000	62,728*	-	-
Pinecrest Nursing Home	-	-	176,658*	202,608	-	-
Pineland Nursing Home	-	-	-	-	\$ 7,158*	\$ 3,726
Pinewood Acres N. & C., Inc.	50,189	84,318*	-	-	-	-
Plainfield Conv. Center (1972)	7,814	14,400*	-	-	-	-
Bert S. Pollack Hospital	-0-	-	-	-	-	-
Point Pleasant Beach N. H.	-	-	-	-	10,010*	7,660
Pompton Lakes N. H.	10,068	24,547*	-	-	-	-
Preakness Hospital	-0-	-	-	-	-	-
Presbyterian Home of A.C.	N/A	-	-	-	-	-
Princeton Nursing Home	-	-	-	-	130,125*	-
Queen of Carmel Nursing Home	-	18,880*	-	-	-	-
Rainbow Conv. Center	47,355	54,432*	-	-	-	-
Raritan Health & E.C.F.	-	-	155,755*	165,888	-	-
Red Bank Conv. Center	-	-	180,000*	216,000	-	-
Reformed Church Home	-0-	-	-	-	-	-
Roosevelt Hospital	302,467*	-	-	-	-	-
John E. Runnels Hospital	-0-	-	-	-	-	-
Saddlebrook Conv. Center	-	-	48,304	43,680*	-	-
Salem County Home	-0-	-	-	-	-	-
Senator Conv. Center	-	-	552,400	312,320*	-	-
St. Ann's Home	-0-	-	-	-	-	-
St. Joseph Home	118,200*	-	-	-	-	-
St. Mary's Catholic Home	77,525*	-	-	-	-	-
Shrewsbury Manor	16,096	21,743*	-	-	-	-
Stratford N. & C. Center	-	-	119,600*	119,600	-	-
South Cape Nursing Home	6,079	22,698*	-	-	-	-
Summerhill Nursing Home	-	-	184,000	183,120*	-	-
Sunnyfield Nursing Home	-	6,440*	-	-	-	-
Summit Nursing Home	110,018*	96,636	-	-	-	-

*Figure employed by the Division of Medical Assistance and Health Services in most recent cost analysis.

PROPERTY EXPENSE ANALYSIS, cont'd

Facility	Owner-Operated		Arms Length Lease		Related Leases	
	Actual Carrying Charges	Imputed Rent	Actual Rental	Maximum Rent	Actual Carrying Charges	Imputed Rent
Swainton Nursing Center	-	-	\$ 37,500*	- (Budget)	-	-
Teaneck Nursing Home	-	-	129,752	98,440*	-	-
Theresa Grotta Nursing Home	\$ 44,790*	-	-	-	-	-
Geraldine Thompson Home	-0-	-	-	-	-	-
Tower Lodge (1973)	44,160	51,840*	-	-	-	-
Toms River Conv. Center	N/A	-	-	-	-	-
Troy Hills Nursing Home	-	-	148,136	117,760*	-	-
Union Forge Nursing Home	47,036*	29,635	-	-	-	-
Valley Rest Nursing Home	5,515	16,800*	-	-	-	-
Vineland Center	119,052*	89,182	-	-	-	-
Warren Haven	-0-	-	-	-	-	-
Waterview Nursing Home	-	-	-	-	\$269,600*	\$ 57,708
Wedgewood Nursing Home	-	-	168,000	147,200*	-	-
Wesley Manor Nursing Home	5,801*	-	-	-	-	-
Westfield Conv. Center	205,927*	172,800	-	-	-	-
Westside Conv. Center	10,152	17,609*	-	-	-	-
Westwood Hall Nursing Home	39,518	42,660*	-	-	-	-
White Horse Nursing Home	-	-	299,200	189,845*	-	-
White Birch Nursing Home	-	-	-	-	27,494	36,288*
Wickatunk Nursing Home	7,925*	4,830	-	-	-	-
Wiley Mission, Inc.	-0-	-	-	-	-	-
Whittmer House, Inc.	17,197	70,848*	-	-	-	-
Woodcrest Center	367,458*	236,360	-	-	-	-
Workman's Circle Home	19,868*	-	-	-	-	-
Wanfair House	-	-	-	-	66,373	87,172*

*Figure employed by the Division of Medical Assistance and Health Services in most recent cost analysis.

April 22, 1976

EX-107
3/25
2/1

Honorable Lloyd W. McCorkle
Commissioner
Department of Institutions & Agencies
135 West Sawyer Street
Trenton, New Jersey 08625

Dear Commissioner McCorkle: **EXHIBIT 4**

The Nursing Home Association has had opportunity to review various facets of the Medicaid Program as they apply to nursing homes in New Jersey and we are now prepared to meet with you and staff members of the Department to discuss those areas which we believe to be subject to further adjustment in light of continuing changing circumstances.

Consequently, we would appreciate receiving from you a date convenient to you and members of your staff so that our committee can spend sufficient time in conference to discuss the many matters which we feel should be reviewed. For your advance information, I am including a list of items for discussion. Most of these items deal with reimbursement under the Medicaid Program. A few items deal with ancillary problems involving Medicaid inspections and decertification procedures. The agenda which we propose is as follows:

1. Minimum and maximum administrative payrolls recognized by the Department in determining per stem reimbursement rates. We would most appreciate advance data from the Department as to what the minimum and maximum administrative payroll rates, insofar as they constitute recognizable reimbursable costs, are and the manner in which they have been determined.
2. It appears that some arbitrary allocation of "family" payroll costs have been recognized by the Department as reimbursable although this item was not carefully spelled out in the instructions which accompanied cost reimbursement forms forwarded to each nursing home participating in the Medicaid Program. Apparently, some "family" payroll costs were not recognized for reimbursement purposes although the family member was in fact employed not in an administrative capacity but as a registered nurse, housekeeper, maintenance or some other employed capacity.

April 22, 1970

EX C-7
3-11-75
JP

Honorable Lloyd W. McCorkle
Commissioner
Department of Institutions & Agencies
135 West Hanover Street
Trenton, New Jersey 08625

Dear Commissioner McCorkle:

The Nursing Home Association has had opportunity to review various facets of the Medicaid Program as they apply to nursing homes in New Jersey and we are now prepared to meet with you and staff members of the Department to discuss those areas which we believe to be subject to further adjustment in light of continuing changing circumstances.

Consequently, we would appreciate receiving from you a date convenient to you and members of your staff so that our committee can spend sufficient time in conference to discuss the many matters which we feel should be reviewed. For your advance information, I am including a list of items for discussion. Most of these items deal with reimbursement under the Medicaid Program. A few items deal with ancillary problems involving Medicaid inspections and decertification procedures. The agenda which we propose is as follows:

1. Minimum and maximum administrative payrolls recognized by the Department in determining per diem reimbursement rates. We would most appreciate advance data from the Department as to what the minimum and maximum administrative payroll rates, insofar as they constitute recognizable reimburseable costs, are and the manner in which they have been determined.
2. It appears that some arbitrary allocation of "family" payroll costs have been recognized by the Department as reimburseable although this item was not carefully spelled out in the instructions which accompanied cost reimbursement forms forwarded to each nursing home participating in the Medicaid Program. Apparently, some "family" payroll costs were not recognized for reimbursement purposes although the family member was in fact employed not in an administrative capacity but as a registered nurse, housekeeper, maintenance or some other employed capacity.

April 22, 1970

3. No problem seems to exist where a lessor-lessee relationship exists and such relationship was an arm's length transaction. However, where the relationship was not at arm's length it appears the Medicare concept of directly passing through the direct cost of the property was applied to cost. We are of the opinion this is neither fair or equitable and believe that another method of determining rental cost could be applied which would be more equitable and just. We will discuss the theory of "imputed rentals" for purposes of recognized cost reimbursement as presently used in the State of New York.
4. An 8% allowance was made for increase in cost for 1970. Cost data recently published by the United States Department of Labor indicates a general increase in the cost of providing medical services in excess of 10%. Furthermore, we do not believe the 8% allowance takes into consideration the substantial payroll increases currently taking place as a result of union contract negotiations with many of our nursing homes.
5. The 7.5% return on average equity applied for the year 1970 appears to be a reversion to the formula used under Medicare two years ago. At the present time the Medicare rate of return on invested capital is reportedly in excess of 10% and we believe this matter should be revised upward.
6. While the Department has announced a maximum allowable rate of \$19.50 regardless of actual cost, we have not been able to ascertain the manner in which the Department arrived at this figure and consequently, we would further wish to discuss this matter with the viewpoint of increasing the maximum allowable rate.
7. At the present time there is no provision for flexibility in the existing concept of rate reimbursement. Because of increasing and continuing pressures due to union contracts being renegotiated and other relevant sharp increase in cost, we believe the concept of interim adjustments should be recognized and approved by the Department.

April 22, 1970

8. The reimbursement formula apparently works a hardship against those nursing homes which during the past fiscal period operated at a high or 100% occupancy level. Consequently, those nursing homes having a low occupancy level received a higher per diem rate for the care of Medicaid patients. We believe the formula for reimbursement should be changed to allow for a varying percentage of occupancy rather than merely using the previous years experience as to occupancy.
9. The "flexible payment plan" previously mentioned in this letter has been proposed in several other states, and will allow for variations in the rate paid to a nursing home depending upon the nature of improvement in the facility or in the facility services.
10. We believe a review of the payment schedule for Medicaid reimbursement is also in order. We suggest that a similar basis for payment be adopted by New Jersey as it presently exists in New York where reimbursement consists of a payment of 45% of the amount that would be due based on the previous months census payable on the first of each month. An additional 45% will then be payable on the fifteenth of each month. The remainder of 10% can then be settled against the actual census approximately four to five months after the end of the month involved. We do not believe this would create any additional work or expenditure of time on the part of the Department nor would it conflict with the recent transition of the pre-payment concept to the post-payment concept under Medicare.
11. The problem of contract negotiations and renegotiations with unions is one of a continuing nature. Naturally every time a contract is renegotiated the nursing home is faced with substantial increased cost and the present method of reimbursement does not provide for any interim relief as a result of such increased cost. We therefore suggest a formula be adopted which will represent a "Pass-Through" of the actual cost involved in the rate of payroll change including increased cost of all fringe benefits; payroll taxes; and workmen's compensation insurance cost reflecting the increase over the base year as compared to the new contract year.

12. To substantiate the "Pass-Through" principle, if adopted by the Department, we suggest that each nursing home submit a copy of the old and new union contracts so that all increased cost can be verified by the Department.
13. Should the "Pass-Through" principle be recognized by the Department we, of course, understand that the present 8% allowance for increased cost should be offset to the extent that it was a recognizable cost item in increased cost of payrolls.
14. Some cost consideration should also be given to the effect of percentage of occupancy in determining the overall affect of any payroll increases.
15. We suggest that the theory of "imputed rentals" be allowed where an arm's length transaction exists. If there is no arm's length transaction, then 80% of that amount should be included in the operating overhead in lieu of depreciation, insurance, and interest on mortgage. If the actual rental cost is above the imputed rental, the actual rental may be used. Imputed rental schedules now in use are as follows:

1967	\$1,200.00 per bed per year
1966	\$1,150.00 per bed per year
1965	\$1,100.00 per bed per year
1964	\$1,050.00 per bed per year
1963	\$1,000.00 per bed per year
1962	\$ 960.00 per bed per year
1961	\$ 920.00 per bed per year
1960	\$ 880.00 per bed per year
1959	\$ 840.00 per bed per year
1958	\$ 800.00 per bed per year
1957	\$ 780.00 per bed per year
1956	\$ 760.00 per bed per year
1955	\$ 740.00 per bed per year
1954	\$ 720.00 per bed per year
1953	\$ 700.00 per bed per year
1952	\$ 680.00 per bed per year
1951	\$ 660.00 per bed per year
1950	\$ 640.00 per bed per year
1949	\$ 620.00 per bed per year
1948	\$ 600.00 per bed per year
1947	\$ 580.00 per bed per year
1946	\$ 560.00 per bed per year

April 22, 1970

1945	\$ 540.00 per bed per year
1944	\$ 520.00 per bed per year
1943 & Prior	\$ 500.00 per bed per year

16. If time permits, we will also anticipate discussing the Department's present procedure in decertifying a nursing home under Title 19 for failure to make physical plant changes within a 30 day period after notification by the Department that such a deficiency exists.
17. In addition, we would also like to discuss the application of existing regulations as they apply to Medicare certification and licensure; particularly a recent innovation by the Department citing nursing homes as being in violation of the retail food establishment code provisions and other regulations which personnel of the Department allege are not regulations published by the Department as approved by the State Board of Control but are regulations which are being applied by implication from existing regulations.

Very truly yours,

LEONARD A. COYLE

LAC:jpr

cc: Mr. Edward F. Hann
Mr. Eugene J. Friedman, President
New Jersey Nursing Home Association

DEPARTMENT OF INSTITUTIONS AND AGENCIES

INTER-OFFICE COMMUNICATION

TO New Jersey Nursing Home Association File

Date 12/22/70

EX. C-9
3-11-75
JH

FROM William H. Metcalf, Chief
Bureau of Claims & Accounts

12-16-70

SUBJECT Meeting Held in Mr. Jones's Office on December 16, 1970

The following attended representing the Division of Medical Assistance and Health Services: William J. Jones, A. Wright Poinsett, William H. Metcalf, Herbert Glover, Willard G. Rainey, M.D., Harry A. Kaplan, M.D., Mrs. Patricia Hanna and Leonard O. Nierenberg.

Representing the New Jersey Nursing Home Association were: Mr. Leonard Coyle, Mr. E. Friedman, Mr. Katz, Mr. Tatz

Mr. Jones turned the meeting over to Mr. Coyle after making the opening remarks. Mr. Coyle then proceeded to make recommendations concerning the points expanded below:

1. POLICIES AND PROCEDURES:

The Association requested that all policies and procedures regarding the establishment of reimbursement rates for Nursing facilities be compiled and available to Nursing Homes so that they know exactly how their rate was determined. I accepted this by saying it is now thought that the Division is in agreement with Mr. Coyle's request and that these policies and procedures would be made a part of the Nursing Home manual in the near future.

2. ADMINISTRATORS' SALARIES

Mr. Coyle requested that the Association be informed of the guidelines used in determining allowable salaries for administrators. I responded that it was my recommendation that the Division adopt New York's schedule of administrators' salaries dated 10/21/69. A review of the New York schedule subsequent to this meeting revealed that the New York schedule probably requires some modification upward for administrators' salaries for Nursing Homes having over 75 beds and possibly a slight adjustment determined for their Nursing Homes for an excess of 300 beds. It is not contemplated that these modifications would be opposed by the New Jersey Nursing Home Association.

3. SOCIAL SERVICES

Mr. Coyle stated that many Nursing Homes could not understand why expenses for social services were considered as unallowable by the Division. I replied that this was done due to the fact that the Division took the position that the social work necessary was provided by county social workers. Therefore, the inclusion of this expense represented a duplication of costs for our recipients. Mr. Tatz and others made the statement that county social workers were not providing the required services. After much discussion back and forth, it was decided that the Division would research this problem before making a decision.

4. REHABILITATION SERVICES

Again the Nursing Home Association could not understand why expenses in this category were considered insolvent in completing the per diem cost. It was explained to Mr. Coyle that this was done so that physical therapy could be paid as a separate item. Mr. Coyle stated that he was not aware that the Division had been making payments for physical therapy on a separate basis. It was developed during the conversation that the Division was contemplating a change in paying for physical therapy services effective January 1, 1971. The change would result in a per diem add on for those facilities having salaried physical therapist. Mr. Friedman and others during the conversation on this point questioned the availability of making such a change. They stated that salaried physical therapist could not be obtained on a full time basis. Therefore, it was necessary for many Nursing Homes to contract with therapist on a part time basis. Mr. Jones stated that probably some contractual relationship could be accepted by the Division if they meet our criteria. This could only be determined by copies of the contracts being submitted to this Division for our review and approval. Mr. Friedman stated that having salaried or contractual agreement with therapist may not always be economically feasible. It was decided to postpone the implementation of the change in payment methods to a future date so that further study could be given to this subject.

5. IMPUTED RENTALS

It was explained to the members of the Association that as a result of their requests during the past year, the Division had considered the imputed rentals and was prepared to make a recommendation that the Department adopt the schedule for upstate New York as being appropriate for urban Nursing facilities in New Jersey. Urban Nursing Homes would be those counties in New Jersey having more than 200,000 population as per the 1960 census plus Atlantic City. An amount of 10% less would be used for rural counties. The imputed rental would be in lieu of depreciation on structure, mortgage interest, insurance on real property and return on equity. The adoption of imputed rentals by the Department would be subject to the qualifications and made a part of the schedule by this Division.

6. INFLATION FACTOR

Mr. Nierenberg gave a resume of the procedures used by the Division to arrive at the inflation factor for 1971. Mr. Nierenberg study resulted in inflation factor of 6.2 which is less than the inflation factor used last year. Members of the Association questioned the fact that the study was related to specific circumstances in this State. It was requested that Mr. Nierenberg review actual increase as reflected in cost studies from year to year to determine if the suggested factor was reasonable. Mr. Nierenberg agreed to do this and the cost studies will be made available to him upon request.

7. REASONABLE COSTS

Mr. Coyle made the statement that the State was obligated to reimburse Nursing Homes on a reasonable cost basis without regard to administrative ceiling. Mr. Jones replied that to the best of his knowledge the State was only required to reimburse reasonable costs on inpatient hospital service. Mr. Coyle disagreed and stated that in many States law suits had been instituted and were being upheld in favor of the plaintiffs in this matter. It was also stated that there

December 16, 1970

EX C-10
3-11-71

Mr. William Jones
Acting Director
Division of Medical Assistance and Health Services
36 West State Street
Trenton, New Jersey 08625

Dear Mr. Jones:

In reference to our conference today regarding the procedure, methods, and reimbursement rate to be established for services rendered for skilled nursing homes, would you be kind enough to forward to me a copy of the proposed schedule of administrative salaries which will be used as a basis for recommending cost reimbursement and also the amounts to be used in implementing the imputed rental concept.

EXHIBIT 6

As soon as I have an opportunity to review these schedules, I would like to confer with you regarding their reasonableness as a guide and in their application to specific instances.

While we are in basic agreement that information relating to recognition of these issues should be mutually exchanged, particularly as such relates to administrative salaries and household interests. In view of this, I trust that we can meet these issues in the near future in the event some questions have been left unanswered as a result of this information not having been submitted to us in writing for our review prior to today's meeting.

May I take this opportunity to thank you and your staff members for the very cordial reception which you extended to me and the members of the Nursing Home Association.

Very truly yours,

LEONARD A. COLE
Executive Director and
Council

LAC:cl

cc: Mr. William Metcalf
Mr. Philip Tarr
Mr. Eugene Friedman

December 16, 1970

EX C-10
3-11-75
JP

Mr. William Jones
Acting Director
Division of Medical Assistance and Health Services
36 West State Street
Trenton, New Jersey 08625

Dear Mr. Jones

In reference to our conference today regarding the procedure, methods, and reimbursement rate to be established for services rendered for skilled nursing homes, would you be kind enough to forward to me a copy of the proposed schedule of administrative salaries which will be used as a basis for recognizable cost reimbursement and also the schedule to be used in implementing the imputed rental concept.

As soon as I have an opportunity to review these schedules, I would like to confer with you regarding their reasonableness as a guide and in their application to specific instances.

While we are in basic agreement that information relating to recognizable cost items should be mutually exchanged, particularly as such relates to administrative salaries and leasehold interest. We must, of course, first review the proposed schedules prior to our formal approval of them. I trust that we can meet these issues in the near future in the event some questions have been left unanswered as a result of this information not having been submitted to us in writing for our review prior to today's meeting.

May I take this opportunity to thank you and your staff members for the very cordial reception which you extended to me and the members of the nursing home association.

Very truly yours,

LEONARD A. COYLE
Executive Director and
Counsel

LAC:od

cc: Mr. William Metcalf
Mr. Philip Tatz
Mr. Eugene Friedman

DEPARTMENT OF INSTITUTIONS AND AGENCIES
DIVISION OF MEDICAL AFFAIRS AND HEALTH SERVICES

ADDRESS ONLY
POST OFFICE BOX 1415
TRENTON, NEW JERSEY 08646



December 24, 1970

EXC-11
F H 25
B

Frank A. Coyle, Esq.
Executive Director & Counsel
New Jersey Nursing Home Association
311 West State Street
Trenton, New Jersey 08618

Dear Mr. Coyle:

In response to your letter of December 16 which was addressed to Mr. [Name],

EXHIBIT 7

As requested, I am attaching a copy of the two schedules which were discussed at the recent meeting. We were pleased that the Committee members present at the meeting had accepted this concept for use in the new nursing home cost study.

In order that the Division might be in a position to complete the cost studies for presentation of the results in January we are using the schedules. As you know, we must present the results to the Commissioner and to other State Officials for approval of the new rates to be used in 1971.

It would be appreciated if you would consider our release of the schedules at this time as limited to the Committee members. If otherwise approved we will arrange for release and publication of the material as deemed to be necessary for all skilled nursing homes.

In conclusion, we are prepared and willing to meet on these issues if there appear to be any unanswered questions. Your advice would be appreciated. It would be appreciated if you could arrange for another meeting.

Very truly yours,

A. Wright [Name], Acting Director
Division of Medical Affairs and Health Services

cc: Mr. [Name]
Mr. [Name]
Mr. [Name]
Mr. [Name]

DEPARTMENT OF INSTITUTIONS AND AGENCIES
DIVISION MEDICAL ASSISTANCE AND HEALTH SERVICES

ADDRESS REPLY TO:

POST OFFICE BOX 7123
TRENTON, NEW JERSEY 08646

ADMINISTRATIVE OFFICES
332 WEST STATE STREET
TRENTON, NEW JERSEY 08625

Telephone
Area Code 609



December 24, 1970

FX C-11
5-11-75
JP

Leonard A. Coyle, Esq.
Executive Director & Counsel
New Jersey Nursing Home Association
332 West State Street
Trenton, New Jersey 08618

Dear Mr. Coyle:

This is in response to your letter of December 16 which was addressed to Mr. Jones.

As requested, I am attaching a copy of the two schedules which were discussed at the recent meeting. We were pleased that the Committee members present at the meeting had accepted this concept for use in the new nursing home cost study.

In order that the Division might be in a position to complete the cost studies for presentation of the results in January we are using the schedules. As you know, we must present the results to the Commissioner and to other State Officers for approval of the new rates to be used in January.

It would be appreciated if you would consider our release of the schedules at this time as limited to the Committee members. If otherwise approved we will arrange for release and publication of the material as deemed to be necessary for all skilled nursing homes.

In any event, we are prepared and willing to meet on these issues if there appear to be some unanswered questions. Your advice would be appreciated if you wish to arrange for another meeting.

Very truly yours,

A. Wright Poinsett, Acting Director
Division of Medical Assistance and
Health Services

AWP:np

cc: Mr. Jones
Mr. Metcalf
Mr. Patz
Mr. Friedman

