



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

SN 2005(5)

25 Sigourney Street
Hartford CT 06106-5032

SPECIAL NOTICE

2005 Legislation Imposing a Nursing Home User Fee

Purpose: This Special Notice describes the nursing home user fee enacted during the 2005 session of the Connecticut General Assembly.

Effective Date: Effective for calendar quarters commencing on or after July 1, 2005.

Statutory Authority: 2005 Conn. Pub. Acts 251, §§78 and 79.

Definitions: As used in this Special Notice:

- **Nursing home** means any chronic and convalescent nursing home or rest home with nursing supervision that is licensed as a nursing home by the Department of Public Health.
- **Resident day** means a day of nursing home care service provided to an individual and includes the day a resident is admitted and any day for which the nursing home is eligible for payment for reserving a resident's bed due to hospitalization or temporary leave. Resident day includes the day that a resident dies. **Resident day** does not include a day that is a Medicare day or the day that a resident is discharged.
- **Day of nursing home care** begins at the census-taking hour in a nursing home and ends at the census-taking hour in the nursing home on the next calendar day.
- **Medicare day** means a day of nursing home care service provided to an individual who is eligible for payment, in full or with a coinsurance requirement, under the federal Medicare program, including fee for service and managed care coverage. **Medicare day** means any day of nursing home care service for which room, board and ancillary services are eligible for full or partial payment under Part A of the Medicare program. **Medicare day** does not include any day

for which Medicare is billed for an ancillary service or services only, such as physical therapy or occupational therapy (or both).

- **User fee** means the daily fee, as determined by the Department of Social Services on or before July 1, 2005, and on or before July first of each succeeding calendar year.
- **DSS** means the Department of Social Services.
- **DRS** means the Department of Revenue Services.

Computation of the Quarterly Nursing Home User Fee Payment:

The nursing home user fee payment for a calendar quarter is the product of a nursing home's total resident days during the calendar quarter multiplied by the resident day user fee.

DSS will determine the amount of the user fee on or before each July 1 and will notify each nursing home of the amount. The amount will be in effect for the calendar quarter beginning on that July 1 and the three immediately succeeding calendar quarters.

Note: DSS has determined that the resident day user fee is \$15.90 for the calendar quarter beginning July 1, 2005.

Registration of Nursing Homes with DRS:

Every nursing home, if not presently assigned a Connecticut Tax Registration Number by DRS, will be assigned a Connecticut Tax Registration Number and be notified in writing of the same. If presently assigned a Connecticut Tax Registration Number by DRS, a nursing home will have its registration profile updated by DRS. No action by nursing homes is required at this time. Future changes in ownership or tax liabilities of a nursing home must be reported to DRS by representatives of the nursing home.

Due Date of Return and Payment: Form OP-336, Nursing Home User Fee Return, and payment of the nursing home user fee are due on or before the last day of the month following the end of each calendar quarter. Every nursing home will be required to electronically file its Form OP-336 and will be required to pay the nursing home user fee by electronic funds transfer. Use the DRS **Fast-File** system to electronically file Form OP-336 and pay the nursing home user fee. Every nursing home will be provided written instructions on how to use the DRS **Fast-File** system. There is no paper Form OP-336. You must use **Fast-File**. A paper form will be acceptable for an amended Form OP-336 only. (See *Amended Returns*.) All payments of the nursing home user fee must be made by electronic means.

Federal Approval of the Nursing Home User Fee a Prerequisite: DSS is seeking approval of the nursing home user fee by the Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services, because such approval is a prerequisite before the nursing home user fee becomes payable by nursing homes. Therefore, nursing homes are not required to begin filing Form OP-336 and paying the nursing home user fee until notified in writing by DRS.

Federal Approval of Provider User Fee Uniformity Waiver Request Also Being Sought: DSS will be requesting approval of a provider user fee uniformity waiver by the Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services. The waiver, if approved, is likely to exempt certain nursing homes from the nursing home user fee, to impose a decreased user fee on nursing homes that are licensed for more than 230 beds or that are owned by a municipality, and to impose an increased user fee on all other nursing homes. The approval, once granted, is likely to be retroactive to calendar quarters beginning on or after July 1, 2005, and to be in effect thereafter. Every nursing home is required to file Form OP-336 and to pay the nursing home user fee (based on the amount of the user fee provided by DSS) until notified in writing by DSS. However, the notification that a nursing home is exempt from the nursing home user fee, or that its user fee is decreased (because it is licensed for more than 230 beds or owned by a municipality), or that its user fee is increased (because it is not exempt and because it is not licensed for more than 230 beds or owned by a municipality) is likely to be retroactive.

Without requiring a nursing home to file an amended Form OP-336, DRS will automatically:

- Refund any nursing home user fee paid by a nursing home subsequently exempted from the nursing home user fee. No interest shall be payable on the amount of such refund.
 - Refund any nursing home user fee paid by a nursing home that is licensed for more than 230 beds or that is owned by a municipality that exceeds the amount that would have been due and payable had the subsequently decreased user fee been in effect from the outset. No interest shall be payable on the amount of such refund.
 - Send a notice of additional amount due to every other nursing home. Such additional amount due shall be the excess of the amount that would have been due and payable had the subsequently increased user fee been in effect from the outset over the nursing home user fee paid by the nursing home. No interest shall be payable on such additional amount due to the extent that such additional amount is paid on or before the last day of the month next succeeding the month during which DSS provides notice of such additional amount due to the nursing home.
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Amended Returns: If a nursing home understates or overstates the total resident days for a calendar quarter, the nursing home is required to file an amended Form OP-336. An amended Form OP-336 may not be filed using the DRS **Fast-File** system and must instead be filed using a paper form. (The paper amended return form will be available on the DRS Web site.) If the amended return reports a nursing home user fee that exceeds the nursing home user fee computed on the previously filed Form OP-336, payment of the additional nursing home user fee must be made using the DRS **Fast-File** system or electronic funds transfer.

Sale or Transfer of a Nursing Home: If a nursing home is sold or transferred, the transferee will be liable for the nursing home user fee for calendar quarter(s) for which the transferor filed or was required to file a Form OP-336 as follows:

- **Fee reported but not paid.** The transferee will be liable for the nursing home user fee for any calendar quarter for which the transferor filed a Form OP-336 where the calculation of such fee was based on the total resident days reported on the Form OP-336 filed for such quarter by the

transferor, but the fee so calculated was not paid by the transferor. DRS shall notify the transferee of the fee not paid, which notice shall not be treated as a notice of deficiency assessment by DRS. The transferee shall not have, based on such notice, any right of protest or appeal to DRS as in the case of a deficiency assessment.

- **Fee incorrectly reported.**

Too few days reported. Where the calculation of the nursing home user fee is erroneous because the total resident days reported on the Form OP-336 filed for a calendar quarter by the transferor were less than the correct number of total resident days, then, subject to provisions of Conn. Gen. Stat. §12-548, the transferee will be liable for such fee for such quarter.

Too many days reported. Where the calculation of the nursing home user fee is erroneous because the total resident days reported on the Form OP-336 filed for such quarter by the transferor were more than the correct number of total resident days, then, subject to the provisions of Conn. Gen. Stat. §12-550, the transferee (and not the transferor) will be entitled to be refunded any overpayment.

The liability of the transferee will be the same whether the incorrectly reported fee is disclosed by filing an amended Form OP-336 or is discovered during a DRS audit examination. Where a deficiency assessment is made, the transferee shall have a right to protest such assessment to DRS. Similarly, the entitlement of the transferee to be refunded any overpayment will be the same whether the incorrectly reported fee is corrected by the filing of an amended Form OP-336 or is discovered during a DRS audit examination.

- **Return not filed.** The transferee will be liable for the nursing home user fee for any calendar quarter where the transferor was required to file a Form OP-336 but did not do so. DRS shall make an estimate of the amount of the nursing home user fee that is due, based on the best information available to DRS, and shall notify the transferee of the transferor's failure to file a Form OP-336 and the amount of the fee estimated to be due, the notice shall be treated as a notice of deficiency assessment by DRS. The transferee shall have, based on such notice, a right to protest such assessment to DRS.

In these situations, the transferor will also remain liable for the nursing home user fee. DRS is not required to attempt collection of the nursing home user fee from the transferor before collecting such fee from the transferee. However, the amount of such fee will be collected only once by DRS, whether the entire amount is collected from the transferor, the entire amount is collected from the transferee, or a portion is collected from each.

Effect on Other Documents: None affected.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in State or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by the Department of Revenue Services (DRS).

For Further Information about the Computation of Total Resident Days: For further information on the computation of total resident days during a calendar quarter, call Theresa Messner at DSS during business hours, Monday through Friday, at 860-424-5107 or e-mail her at: theresa.messner@po.state.ct.us.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Preview and download forms and publications from the DRS Web site at www.ct.gov/DRS
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu. Only forms (not publications) are available through TAX-FAX.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.

Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use *Fast-File* to file nursing home user fees, sales and use taxes, business use tax, room occupancy tax, estimated corporation business tax, business entity tax, or withholding tax returns over the Internet. Visit the DRS Web site at www.ct.gov/DRS and click on *File/Register OnLine*.
- **For resident income tax returns:** Use *WebFile* to file personal income tax returns over the Internet. Visit the DRS Web site at www.ct.gov/DRS and click on *File/Register OnLine*.

DRS E-News Service: Get connected to the latest news from DRS. Receive notification by e-mail of changes to legislation, policies, and procedures. **DRS E-News** is easy to sign up for – visit www.ct.gov/DRS and follow the directions. Subscription services are available for employer's withholding tax, *Fast-File* information, Alerts, News – Press Releases, and Top 100 Delinquency List.

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