

November 25, 1969

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter 5 (1969)

TO ALL HOSPITAL SERVICE CORPORATIONS OPERATING UNDER ARTICLE IX-C OF THE INSURANCE LAW:

Attached is a copy of a memorandum describing the procedures which will be applicable after January 1, 1970, to the approval of hospital payments pursuant to Section 254 (2) of the Insurance Law, as amended by Chapter 957 of the Laws of 1969.

Approvals of existing hospital reimbursement formulas and payment rates are hereby withdrawn, effective January 1, 1970. Payments to hospitals for services rendered by hospitals after January 1, 1970 will require a new approval pursuant to Section 254 (2), in accordance with the attached memorandum.

Please acknowledge receipt of this letter.

Very truly yours,

[SIGNATURE]

Superintendent of Insurance

ATTACHMENT

MEMORANDUM

The following is a memorandum prepared by the Department of Health and the Insurance Department with respect to the implementation of Chapter 957 of the Laws of 1969.

The Department of Health has promulgated rules and regulations (Part 86 of the Commissioner's Administrative Rules and Regulations) governing reporting and rate certification under the new law. Pursuant to such rules and regulations, and beginning effective January 1, 1970:

- (1) Specific payment rates (rather than only a formula pursuant to which a payment rate can be determined) will be certified and approved for each particular hospital.
- (2) Payment rates will be determined prospectively (rather than after the period of time to which they are applicable).

The procedure by which this is to be accomplished is two-fold:

- (1) Each Article IX-C corporation shall submit to the Health Department a proposed reimbursement

formula not inconsistent with the rules set forth in Part 86. Such formula must be (a) certified by the Health Department as in compliance with the laws and rules and calculated to lead to payment rates reasonably related to the cost of efficient production of hospital services, and (b) thereafter approved as to reasonableness by the Insurance Department.

(2) Thereafter, each Article IX-C corporation will compute, on the basis of its approved formula, proposed specific rates of payment for each hospital. Such rates of payment must then be certified and approved by the Health and Insurance Departments as in the case of the formula.

These steps must be accomplished by January 1, 1970. Notwithstanding any existing contracts between Article IX-C corporations and hospitals, no Article IX-C corporation shall make any payment for hospital service rendered after January 1, 1970, except at a specific rate which has been certified and approved as above provided.

In the case of institutions subject to regulation by the Department of Health under Article 28, where payment rates are to be certified by the Department of Health as "reasonably related to the cost of efficient production" of hospital service, the Insurance Department's approval "as to reasonableness" will follow automatically upon certification by the Department of Health, since (a) the standard of "efficient production" is a standard which could not result in higher rates than the standard of "reasonableness", and (b) it is not believed that Chapter 957 was intended to empower the Insurance Department to disapprove proposed payment rates on the ground that such rates are "unreasonable" as too low.

In the case of institutions not subject to regulation under Article 28, for which there can be no certification by the Department of Health, Insurance Department approval is required, solely under the standard of reasonableness, and such approval must be obtained prior to payment.