

The department shall calculate the difference between total payments to nursing facilities as a result of the calculation under paragraph (A)(1)(d)(ii) of this rule, and the total payments that would be made to nursing facilities if the prospective per diem rate for services rendered during the period beginning August 1, 1991, and ending June 30, 1992, were calculated under paragraph (A)(1)(d)(i) of this rule. The department may use funds up to an amount equal to that difference to fund adjustments for nursing facilities under paragraph (A)(1)(g) of this rule.

The department shall calculate the difference between total payments to intermediate care facilities for the mentally retarded as a result of the calculation under paragraph (A)(1)(d)(iv) of this rule, and the total payments that would be made to intermediate care facilities for the mentally retarded if the prospective per diem rate for services rendered during the period beginning August 1, 1991, and ending June 30, 1992, were calculated under paragraph (A)(1)(d)(iii) of this rule. The department may use funds up to an amount equal to that difference to fund adjustments for intermediate care facilities for the mentally retarded under paragraph (A)(1)(g) of this rule.

Rule 5101:3-3-25 ("Renovation rate adjustments") of the Administrative Code further defines how these adjustments shall be made.

- (2) For services rendered during the period beginning July 1, 1992, and ending June 30, 1993:
 - (a) For rate-setting purposes only, determine from the cost report covering the period beginning July 1, 1991, and ending December 31, 1991, the interim settlement total per diem rate for each nursing facility and intermediate care facility for the mentally retarded.
 - (b) For rate-setting purposes only, determine from the cost reports covering the period beginning July 1, 1991, and ending December 31, 1991, the statewide average interim settlement total per diem rate for all nursing facilities and the statewide average interim settlement total per diem rate for all intermediate care facilities for the mentally retarded.
 - (c) Calculation of the quotient is determined as follows:
 - (i) Divide \$84.63 by the statewide average total per diem rate determined for nursing facilities under paragraph (A)(2)(b) of this rule.

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- (ii) Divide \$142.05 by the statewide average total per diem rate determined for intermediate care facilities for the mentally retarded under paragraph (A)(2)(b) of this rule.
- (d) Prospective per diem rate is calculated as follows:
- (i) For each nursing facility, multiply the facility's interim settlement total per diem rate for the period beginning July 1, 1991, and ending December 31, 1991, as determined under paragraph (A)(2)(a) of this rule, by the quotient determined under paragraph (A)(2)(c)(i) of this rule. The resulting product is the facility's prospective per diem rate for services rendered during the period beginning July 1, 1992, and ending June 30, 1993. No adjustments shall be made in this per diem rate except in accordance with paragraphs (C), (D), and (H) of this rule.
 - (ii) For each intermediate care facility for the mentally retarded, multiply the facility's interim settlement total per diem rate for the period beginning July 1, 1991, and ending December 31, 1991, as determined under paragraph (A)(2)(a) of this rule, by the quotient determined under paragraph (A)(2)(c)(ii) of this rule. The resulting product is the facility's prospective per diem rate for services rendered during the period beginning July 1, 1992, and ending June 30, 1993. No adjustments shall be made in this per diem rate except in accordance with paragraphs (C),(D), and (H) of this rule.
- (e) Prospective per diem rate for beds new to the medical assistance program are as follows:
- (i) Except as provided in paragraph (A)(2)(e)(iii) of this rule, the prospective per diem rate for the nursing facility beds new to the medical assistance program that are added during the period beginning January 1, 1992, and ending June 30, 1993, whether added by facilities currently participating in the medical assistance program or by new participants, shall be \$84.63.

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- (ii) The prospective per diem rate for new intermediate care facility for the mentally retarded beds new to the medical assistance program that are added during the period beginning January 1, 1992, and ending June 30, 1993, whether added by facilities currently participating in the medical assistance program or by new participants, shall be \$142.05.
 - (iii) Beds licensed prior to January 1, 1992 and added to the medical assistance program between January 1, 1992 and January 22, 1992, shall have the interim settlement total per diem rate specified in paragraph (A)(2)(a) of this rule determined from a cost report filed for the period beginning on the later of July 1, 1991 or the date of licensure, and ending on December 31, 1991. This report shall be subject to all provisions of paragraphs (A)(2)(a) to (A)(2)(d) of this rule. For purposes of cost reporting under the provisions of rule 5101:3-3-26 of the Administrative Code, facilities licensed during this period shall file cost reports covering the period beginning the later of July 1, 1991, or the date the beds were licensed, and ending December 31, 1991. (SECTION FROM 92-13 MISSING)
 - (f) If a building, or any part thereof, that contains or is part of nursing facility or intermediate care facility for the mentally retarded is replaced and the provider agreement continues with the same entity, the replacement facility or part thereof shall be paid the prospective per diem rate established in paragraph (A)(2)(a) to (A)(2)(e) of this rule. If medicaid beds are transferred from one facility to another, the prospective per diem rate established under those paragraphs for the transferring facility shall be paid for the transferred beds.
- (B) For settlement purposes, all of the following apply:
- (1) Except as provided in paragraphs (C)(1)(b), (C)(2)(b), and (D) of this rule, the settlement per diem rate is the lower of the total allowable per diem cost, as determined under paragraph (B)(3) of this rule, or the facility's prospective per diem rate determined under paragraph (A) or (B)(4) of this rule for the applicable time period.

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- (2) No cost-center ceilings, as determined under sections 5111.222, 5111.23, 5111.24, and 5111.25 of the Revised Code, shall be applied to the total allowable per diem costs determined under sections 5111.20 to 5111.32 of the Revised Code, except that in accordance with section 23 of Am. Sub. H. B. 298 the department may continue to implement rules that provide for an owners' and administrators' salary screen.
- (3) Total allowable per diem cost is the sum of the following:
 - (a) The total of:
 - (i) Allowable per diem cost determined from the cost report;
 - (ii) Any efficiency incentives and return on equity as defined in sections 5111.222, 5111.24, and 5111.25 of the Revised Code. In fiscal year 1992, the maximum per diem efficiency incentives and return on equity a facility may earn are the per diem efficiency incentives and return on equity earned in the calendar year 1990 interim settlement. In fiscal year 1993, the maximum per diem efficiency incentives and return on equity a facility may earn are the per diem efficiency incentives and return on equity a facility would have earned in the interim settlement determined pursuant to paragraph (A)(2)(a) of this rule.
 - (b) An additional efficiency incentive, which may be earned by those facilities able to maintain their allowable per diem costs described in paragraph (B)(3)(a) of this rule below the prospective per diem rate determined under paragraph (A) or (B)(4) of this rule. The additional efficiency incentive is fifty per cent of the difference between the allowable per diem cost as described in paragraph (B)(3)(a) of this rule and the prospective per diem rate.
- (4) If a facility has been assigned two or more prospective per diem rates under paragraph (A) of this rule, the prospective per diem rate used for settlement purposes shall be a weighted average of those rates, determined by utilizing medicaid days. The settlement per diem rate for such facilities shall be determined in accordance with paragraphs (B)(1) to (B)(3) of this rule.

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(C) Notwithstanding sections 5111.27 and 5111.28 of the Revised Code:

- (1) The interim settlement for nursing facilities and intermediate care facilities for the mentally retarded for services rendered during the period beginning July 1, 1991, and ending June 30, 1992, shall be based on the cost reports covering that time period. Under the settlement:
 - (a) Except as provided in paragraph (C)(1)(c) of this rule, the department shall collect from each facility fifty per cent of any amount by which the facility's prospective per diem rate determined under paragraph (A)(1) or (B)(4) of this rule exceeds its allowable per diem cost as described in paragraph (B)(3)(a) of this rule. The facility shall retain the remaining fifty per cent as an efficiency incentive.
 - (b) The department shall make payments to facilities whose allowable per diem costs described in paragraph (B)(3)(a)(i) of this rule exceed their prospective per diem rates determined under paragraph (A)(1) or (B)(4) of this rule in amounts not exceeding, in the aggregate, the amount collected under ~~paragraph~~ PARAGRAPHS (C)(1)(a) AND (c) of this rule AND ANY OTHER AMOUNTS THAT REMAIN UNSPENT UNDER PARAGRAPH (A)(1)(g) OF THIS RULE. The payments shall be distributed among facilities in accordance with paragraph (D) of this rule. The department may make these payments only if federal financial participation is permitted.
 - (c) The department shall collect from each facility that received a rate adjustment under paragraph (A)(1)(g) of this rule one hundred per cent of the amount by which the rate adjustment exceeded the capital costs for which it was granted.
- (2) The interim settlement for nursing facilities and intermediate care facilities for the mentally retarded for services rendered during the period beginning July 1, 1992, and ending June 30, 1993, shall be based on the cost reports covering that time period. Under the settlement:
 - (a) The department shall collect from each facility fifty per cent of any amount by which the facility's prospective per diem rate determined under paragraph (A)(2) or (B)(4) of this rule exceeds its allowable per diem cost as described in paragraph (B)(3)(a) of this rule. The facility shall retain the remaining fifty per cent as an efficiency incentive.

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- (b) The department shall make payments to facilities whose allowable per diem costs described in paragraph (B)(3)(a)(i) of this rule exceed their prospective per diem rates determined under paragraph (A)(2) or (B)(4) of this rule in amounts not exceeding, in the aggregate, the amount collected under paragraph (C)(2)(a) of this rule. The payments shall be distributed among facilities in accordance with paragraph (D) of this rule. The department may make these payments only if federal financial participation is permitted.
- (D) The department shall make payments to nursing facilities under paragraph (C)(1)(b) of this rule using only the funds collected from nursing facilities under ~~paragraph~~ PARAGRAPHS (C)(1)(a) AND (c) of this rule AND ANY OTHER FUNDS AUTHORIZED FOR NURSING FACILITIES THAT REMAIN UNSPENT UNDER PARAGRAPH (A)(1)(g) OF THIS RULE, and shall make payments to nursing facilities under paragraph (C)(2)(b) of this rule using only the funds collected from nursing facilities under paragraph (C)(2)(a) of this rule. The department shall make payments to intermediate care facilities for the mentally retarded under paragraph (C)(1)(b) of this rule using only the funds collected from intermediate care facilities for the mentally retarded under ~~paragraph~~ PARAGRAPHS (C)(1)(a) AND (c) of this rule, AND ANY OTHER FUNDS AUTHORIZED FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED THAT REMAIN UNSPENT UNDER PARAGRAPH (A)(1)(g) OF THIS RULE, and shall make payments to intermediate care facilities for the mentally retarded under paragraph (C)(2)(b) of this rule using only the funds collected from intermediate care facilities for the mentally retarded under paragraph (C)(2)(a) of this rule.

The only portions of a facility's excess costs that are eligible for payment under paragraphs (C)(1)(b) and (C)(2)(b) of this rule are those described in paragraphs (D)(1)(a) to (D)(1)(c) and (D)(2)(a) to (D)(2)(~~e~~) (b) of this rule. Each facility claiming a payment for excess costs described in paragraph (D)(1)(~~a~~), (D)(1)(b)(i), (ii), or ~~(D)(1)(e)~~ (iii) or (D)(2)(a)(i) or ~~(D)(2)(e)~~ (iii) of this rule shall supply all necessary documentation as required by the cost report to show the facility's eligibility for the funds. Failure to provide the necessary documentation as part of a complete and timely cost report eliminates the facility's eligibility for any funds distributed under paragraph (D)(1)(~~a~~), ~~(D)(1)(b)(i), (ii), or (D)(1)(e)~~ (iii) or (D)(2)(a)(i) or ~~(D)(2)(e)~~ (iii) of this rule.

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- (1) For nursing facilities, funds shall be distributed, utilizing IN THE FOLLOWING ORDER OF PRIORITY:
- (a) UNDER THE INTERIM SETTLEMENT FOR SERVICES RENDERED DURING THE PERIOD BEGINNING JULY 1, 1991, AND ENDING JUNE 30, 1992, FUNDS FIRST SHALL BE DISTRIBUTED TO EACH NURSING FACILITY ELIGIBLE FOR PAYMENT UNDER PARAGRAPH (C)(1)(b) OF THIS RULE THAT CONTAINS BEDS WHOSE PROSPECTIVE PER DIEM RATE FOR THAT PERIOD WAS ESTABLISHED UNDER PARAGRAPH (A)(1)(e)(i) OF THIS RULE, IN AMOUNTS EQUAL TO THE LESSER OF THE FOLLOWING:
- (i) THE DIFFERENCE BETWEEN THE ALLOWABLE PER DIEM COST, AS DESCRIBED IN PARAGRAPH (B)(3)(a)(i) OF THIS RULE, FOR THOSE BEDS DURING THAT PERIOD AND THE PROSPECTIVE PER DIEM RATE ESTABLISHED UNDER PARAGRAPH (A)(1)(e)(i) OF THIS RULE, MULTIPLIED BY THE NUMBER OF PATIENT-DAYS PROVIDED WITH THOSE BEDS DURING THAT PERIOD;
- (ii) NINETEEN DOLLARS AND NINETY-TWO CENTS MULTIPLIED BY THE NUMBER OF PATIENT-DAYS PROVIDED WITH THOSE BEDS DURING THAT PERIOD.
- (b) UTILIZING a formula determined by the department which includes per diem cost as described in paragraph (B)(3)(a)(i) of this rule and medicaid days, for capital costs associated with any of the following
- ~~(a)~~ (i) Approved renovations for which the request for approval was received by the department on or before July 1, 1991, or renovations that do not require the department's approval if costs were incurred prior to July 1, 1991;
- ~~(b)~~ (ii) Renovations mandated by a governmental entity;
- ~~(c)~~ (iii) Additions to or replacements of existing facilities or beds.

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- (c) UNDER THE INTERIM SETTLEMENT FOR SERVICES RENDERED DURING THE PERIOD BEGINNING JULY 1, 1991, AND ENDING JUNE 30, 1992, THE DEPARTMENT SHALL DISTRIBUTE FUNDS TO EACH NURSING FACILITY, REGARDLESS OF WHETHER THE FACILITY IS ELIGIBLE FOR PAYMENT UNDER PARAGRAPH (C)(1)(b) OF THIS RULE, BASED ON A FORMULA DETERMINED BY THE DEPARTMENT, ON A PRO-RATA SHARE BASED ON EACH FACILITY'S CONTRIBUTION TO THE TOTAL AMOUNT AUTHORIZED TO BE SPENT ON NURSING FACILITIES UNDER PARAGRAPH (A)(1)(g) OF THIS PARAGRAPH, SUBJECT TO FEDERAL APPROVAL OF AN AMENDMENT TO THE STATE PLAN FOR THE MEDICAL ASSISTANCE PROGRAM IMPLEMENTING THIS DISTRIBUTION. THE TOTAL AMOUNT DISTRIBUTED UNDER PARAGRAPH (D)(1)(c) OF THIS RULE SHALL NOT EXCEED THE TOTAL AMOUNT OF FUNDS THAT REMAIN UNSPENT AFTER PAYMENTS ARE MADE TO NURSING FACILITIES PURSUANT TO PARAGRAPH (A)(1)(g) OF THIS RULE.

Any funds remaining after payments are made for the purposes described in paragraphs (D)(1)(a) to (D)(1)(c) of this rule shall be distributed among nursing facilities eligible for payments under paragraph (C)(1)(b) or (C)(2)(b) of this rule, based on a formula, determined by the department, that utilizes per diem cost as described in paragraph (B)(3)(a)(i) of this rule and medicaid days.

- (2) For intermediate care facilities for the mentally retarded, funds shall be distributed, ~~utilizing~~ IN THE FOLLOWING ORDER OF PRIORITY:

(a) UTILIZING a formula determined by the department which includes per diem cost described in paragraph (B)(3)(a)(i) of this rule and medicaid days, THE DEPARTMENT FIRST SHALL DISTRIBUTE FUNDS in the following order of priority:

~~(a)~~ (i) Capital costs associated with any of the following:

~~(i)~~ ~~Approved~~ APPROVED renovations for which the request for approval was received by the department on or before July 1, 1991, or renovations that do not require the department's approval if costs were incurred prior to July 1, 1991;

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- ~~(ii)~~ ~~Renovations~~ RENOVATIONS mandated by a governmental entity; OR
- ~~(iii)~~ ~~Additions~~ ADDITIONS to or replacements of existing facilities or beds.
- ~~(b)~~ ~~(ii)~~ In the case of facilities reimbursed under section 5111.222 of the Revised Code, changes in resident acuity as measured by the department pursuant to that section;
- ~~(c)~~ ~~(iii)~~ Facilities experiencing a per diem cost, as described in paragraph (B)(3)(a)(i) of this rule, greater than the prospective per diem rate as a result of a reduction in certified beds.
- ~~(b)~~ UNDER THE INTERIM SETTLEMENT FOR SERVICES RENDERED DURING THE PERIOD BEGINNING JULY 1, 1991, AND ENDING JUNE 30, 1992, THE DEPARTMENT SHALL DISTRIBUTE FUNDS TO EACH INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED, REGARDLESS OF WHETHER THE FACILITY IS ELIGIBLE FOR PAYMENT UNDER PARAGRAPH (C)(1)(b) OF THIS RULE, BASED ON A FORMULA DETERMINED BY THE DEPARTMENT, ON A PRO-RATA SHARE BASED ON EACH FACILITY'S CONTRIBUTION TO THE TOTAL AMOUNT AUTHORIZED TO BE SPENT ON INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED UNDER PARAGRAPH (A)(1)(g) OF THIS PARAGRAPH, SUBJECT TO FEDERAL APPROVAL OF AN AMENDMENT TO THE STATE PLAN FOR THE MEDICAL ASSISTANCE PROGRAM IMPLEMENTING THIS DISTRIBUTION. THE TOTAL AMOUNT DISTRIBUTED UNDER PARAGRAPH (D)(2)(b) OF THIS RULE SHALL NOT EXCEED THE TOTAL AMOUNT OF FUNDS THAT REMAIN UNSPENT AFTER PAYMENTS ARE MADE TO INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED PURSUANT TO PARAGRAPH (A)(1)(g) OF THIS RULE.

Any funds remaining after payments are made for the purposes described in paragraphs (D)(2)(a) ~~to (D)(2)(c)~~ AND ~~(b)~~ of this rule shall be distributed among intermediate care facilities for the mentally retarded eligible for payments under paragraph (C)(1)(b) or (C)(2)(b) of this rule based on a formula, determined by the department, that utilizes per diem cost as defined in paragraph (B)(3)(a)(i) of this rule and medicaid days.

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- (E) Notwithstanding division (D) of section 5111.23 and section 5111.29 of the Revised Code, the department shall not implement the patient assessment systems required by section 5111.29 of the Revised Code to determine the reasonableness of costs to be allowed for nursing and habilitation services rendered during the period beginning July 1, 1991, and ending June 30, 1993.
- (F) Notwithstanding section 5111.28 of the Revised Code, the department shall not increase the administrative and general services efficiency incentive by the consumer price index as required under that section for services rendered during the period beginning July 1, 1991, and ending June 30, 1993.
- (G) The prospective payment per diem rate for nursing facilities and intermediate care facilities for the mentally retarded that change ownership during the period beginning July 1, 1991, and ending June 30, 1993, shall be the prospective per diem rate determined under paragraph (A)(1)(d) or (A)(2)(d) of this rule for the previous owner for the appropriate fiscal year. The settlement per diem rate shall be computed under paragraphs (B) and (C) of these rules.
- (H) The department shall mail a written notice to each nursing facility and intermediate care facility for the mentally retarded of its calculation of the facility's prospective per diem rate under this rule. Each facility shall have thirty days after the department mails the notice to submit a written request to the director of the department of human services for a reconsideration of the prospective per diem rate. The request shall state the facility's reasons for its position that the rate was calculated incorrectly and may include any documentation in support of that position. The director shall mail to the facility his decision within sixty days after receiving the request. Any adjustment in the prospective per diem rate under this paragraph shall be effective from the date the director receives the facility's written request for a reconsideration.
- (I) Proposed final settlements for fiscal year 1992 shall be issued by the department within three years of the filing of the cost report for the period beginning January 1, 1992, and ending June 30, 1992. Proposed final settlements for fiscal year 1993 shall be issued by the department within three years of the filing of the cost report for the period beginning January 1, 1993, and ending June 30, 1993.

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