

- (c) IN FACILITIES WITH TWO RESIDENTS WHO MEET OR EXCEED CRITERIA SPECIFIED IN PARAGRAPH (D)(5)(b)(ii) OF THIS RULE WHERE AT LEAST ONE RESIDENT REQUIRES TWENTY-FOUR-HOUR SUPERVISION.
- (d) IN FACILITIES WITH ONE RESIDENT WHO MEETS OR EXCEEDS CRITERIA SPECIFIED IN PARAGRAPH (D)(5)(b)(ii) OF THIS RULE WHERE THAT RESIDENT REQUIRES TWENTY-FOUR-HOUR SUPERVISION.
- (ii) LEVEL "B" IS ESTABLISHED AT ONE HUNDRED FIFTEEN PER CENT OF THE STATEWIDE AVERAGE ICF-MR REIMBURSEMENT RATE (SEE RATE TABLE IN PARAGRAPH (D)(5)(b)(iii) OF THIS RULE). LEVEL "B" IS CALCULATED FOR FACILITIES WHERE TWO-THIRDS OR MORE OF THE RESIDENTS ARE BLIND, DEAF, ACTIVELY SEIZURE PRONE, NONAMBULATORY, MOBILE NONAMBULATORY, AGGRESSIVE, ASSAULTIVE, SECURITY RISKS OR SEVERELY HYPERACTIVE OR PSYCHOTIC-LIKE IN BEHAVIOR BASED UPON THE SPECIAL NEEDS OF THE RESIDENTS AND STAFF INTERVENTIONS DOCUMENTED BY AN ODHS 3406.
- "TWO-THIRDS" IS DEFINED AS ONE RESIDENT OUT OF A ONE- OR TWO-RESIDENT FACILITY; TWO RESIDENTS OUT OF A THREE-RESIDENT FACILITY, THREE RESIDENTS OUT OF A FOUR- OR FIVE-RESIDENT FACILITY, FOUR RESIDENTS OUT OF A SIX-RESIDENT FACILITY, FIVE RESIDENTS OUT OF A SEVEN- OR EIGHT-RESIDENT FACILITY.
- (iii) LEVEL "C" IS ESTABLISHED AT ONE HUNDRED PER CENT OF THE STATEWIDE AVERAGE REIMBURSEMENT RATE FOR ICFs-MR WHICH HAVE RESIDENTS WHO DO NOT HAVE SPECIAL NEEDS AND DO NOT MEET THE CRITERIA SPECIFIED IN PARAGRAPHS (D)(5)(b)(i) AND (D)(5)(b)(ii) OF THIS RULE.

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REIMBURSEMENT RATE TABLE FOR ICFs-MR WITH EIGHT BEDS AND UNDER

		NUMBER OF RESIDENTS WHO MEET THE TWENTY-FOUR-HOUR NEED STANDARDS									
		0	1	2	3	4	5	6	7	8	
NUMBER OF FACILITY RESIDENTS	1	B	A								
	2	B	A	A							
	3	B	B	A	A						
	4	B	B	A	A	A					
	5	B	B	B	A	A	A				
	6	B	B	B	A	A	A	A			
	7	B	B	B	A	A	A	A	A		
	8	B	B	B	A	A	A	A	A	A	

(iv) THE RATES ESTABLISHED IN PARAGRAPH (D)(5)(b)(i), (D)(5)(b)(ii), OR (D)(5)(b)(iii) OF THIS RULE ARE PAID AS INTERIM RATES TO NEW FACILITIES OR TO FACILITIES THAT HAVE ESTABLISHED COST IN EXCESS OF NINETY-THREE PER CENT OF LEVELS "A", "B", OR "C" WHICHEVER IS APPLICABLE. FACILITIES WITH PER DIEM COST BELOW OR EQUAL TO NINETY-THREE PER CENT OF LEVELS "A", "B", OR "C" WHICHEVER IS APPLICABLE, ARE PAID WITH RATES ESTABLISHED AT ONE-HUNDRED-SEVEN PER CENT OF FILED COST UPDATED WITH AN INFLATION FACTOR.

(v) FOR INTERIM SETTLEMENT PURPOSES, REPORTED COST IS COMPARED TO LEVELS "A", "B", OR "C". IF ALLOWABLE PER DIEM COST IS LESS THAN OR EQUAL TO NINETY-THREE PER CENT OF LEVELS "A", "B", OR "C", THE INTERIM SETTLEMENT RATE IS CALCULATED AT ONE-HUNDRED-SEVEN PER CENT OF ALLOWABLE COST. IF COSTS ARE ABOVE NINETY-THREE PER CENT, THE INTERIM SETTLEMENT RATE IS LEVEL "A", "B", OR "C" ESTABLISHED IN PARAGRAPH (D)(5)(b)(i), (D)(5)(b)(ii), OR (D)(5)(b)(iii) OF THIS RULE, WHICHEVER IS APPLICABLE.

(vi) EACH ICF-MR OF EIGHT BEDS OR LESS WILL BE DESIGNATED AS ELIGIBLE FOR THE RATE ESTABLISHED UNDER PARAGRAPH (D)(5)(b)(i), (D)(5)(b)(ii), OR (D)(5)(b)(iii) OF THIS RULE AT THE TIME OF CERTIFICATION AND TWICE EACH YEAR THEREAFTER WITHIN SIXTY DAYS OF EACH UTILIZATION CONTROL SURVEY PERFORMED UNDER

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RULE 5101:3-3-15 ("UTILIZATION CONTROL") DATE OF APPROVAL 11-8-92
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(vii) ALL FACILITIES IDENTIFIED UNDER PARAGRAPH (D)(3)(c) OF THIS RULE SHALL COMPLETE THE ADDITIONAL "SPECIALIZED SERVICES TOOL" (ODHS 3406) ON ALL RESIDENTS AT THE TIME OF ADMISSION OR BEFORE THE INITIAL CERTIFICATION SURVEY AND AT LEAST ONCE EVERY SIX MONTHS THEREAFTER. ODHS 3407 FORMS COMPLETED AT THE TIME OF ADMISSION OR BEFORE THE INITIAL CERTIFICATION SURVEY MAY BE SUBMITTED TO ODHS WITH THE PROJECTED COST REPORT. THESE FORMS WILL BE USED TO DETERMINE THE APPROPRIATE RATE PURSUANT TO PARAGRAPH (D)(5)(b) OF THIS RULE, SUBJECT TO VERIFICATION BY THE FIELD SERVICES SECTION OF THE BUREAU OF LONG-TERM CARE.

(viii) THE DEPARTMENT RESERVES THE RIGHT TO AUDIT THE ICFS-MR WHICH RECEIVED PAYMENT UNDER PARAGRAPH (D) AT ANY TIME.

REPLACES 5101:3-3-19, 5101:3-3-70

REPLACES PART OF 5101:3-3-21, 5101:3-3-22

EFFECTIVE DATE: _____
CERTIFICATION: _____
DATE _____

PROMULGATED UNDER: RC CHAPTER 119.

STATUTORY AUTHORITY: RC SECTIONS 5111.02, 5111.222, 5111.25, SECTION 23 OF AM. SUB. H. B. 298

RULE AMPLIFIES: RC SECTIONS 5111.01, 5111.02, 5111.20, 5111.222, 5111.23, 5111.24, 5111.25, 5111.27, SECTION 23 OF AM. SUB. H. B. 298

PRIOR EFFECTIVE DATES: 7/3/80, 7/7/80, 3/23/82 (Emer.), 9/1/82,
2/21/83, 3/4/83 (Emer.), 7/15/83, 6/3/83,
7/1/83 (Emer.), 7/15/83, (Emer.),
8/15/83 (EMER.), 9/29/83, 11/10/83 (EMER.),
12/25/83, 1/19/84, 3/1/84, 7/1/84,
2/12/85 (EMER.), 3/29/85, 6/1/85, 8/1/87,
9/30/87 (EMER.), 10/15/87 (EMER.), 12/28/87,
12/31/87, 7/1/88, 12/30/88 (EMER.)
3/31/89 (EMER.), 6/18/89, 7/7/89 (EMER.)
9/23/89, 10/1/90 (EMER.)

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COMPARISON OF SNF/ICF CEILINGS AND NF CEILING
 ON INCONTINENCE SUPPLIES PAYMENT, 1988 cost report data

	SNF/ICF ceilings SNF-\$1.25 (a) ICF-\$1.04 (b)	NF ceiling NF-\$1.17 (c)	Difference in Payment
SNF PAYMENT	\$9,404,196	\$9,051,816	(\$352,380)
ICF PAYMENT	\$4,986,814	\$5,221,460	\$234,646
TOTAL	\$14,391,010	\$14,273,276	(\$117,734)

- (a) SNF ceiling is set at 115% of the statewide average incontinence supplies cost for SNFs.
 - incontinence supplies cost for SNFs: \$17,647,121
 - inpatient days for SNFs: 16,255,957
 - 115% statewide average: $\$17,647,121 / 16,255,957 \times 115\% = \1.25
- (b) ICF ceiling is set at 115% of the statewide average incontinence supplies cost for ICFs.
 - incontinence supplies cost for ICFs: \$8,688,967
 - inpatient days for ICFs: 9,660,451
 - 115% statewide average: $\$8,688,967 / 9,660,451 \times 115\% = \1.04
- (c) NF ceiling is set at 115% of the statewide average incontinence supplies cost for SNFs and ICFs.
 - incontinence supplies cost for SNFs and ICFs: $\$17,647,121 + \$8,688,967 = \$26,336,088$
 - inpatient days for SNFs and ICFs: $16,255,957 + 9,660,451 = 25,916,408$
 - 115% statewide average: $\$26,336,088 / 25,916,408 \times 115\% = \1.17

Currently, incontinence supplies is the only cost center that has two different ceilings for SNF and ICF. The ceiling for SNF is calculated at 115% statewide average incontinence supplies cost for SNF. The same method applies to ICF.

With the implementation of OBRA, the current two ceilings need to be changed to one NF ceiling. The NF ceiling will be calculated by combining the SNF and ICF incontinence supplies cost together to come up with a statewide average.

Using 1988 data, it is estimated the NF ceiling as opposed to the SNF and ICF ceilings will result an overall decrease in payment of \$117,734.

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RN/LPN STAFFING REQUIREMENT ANALYSIS

-3 quarters additional cost for 64 ICFs out of 187 ICFs included in analysis:
\$962,225

-Annual additional cost for 89 ICFs out of 260 ICFs (187 plus 73 excluded in analysis):
 $260/187 \times \$962,225 / 0.75 = \$1,783,804$

ICFs with 50 beds or less are the only homes affected by the RN/LPN requirement as current minimum staffing requirements for licensure for larger homes already exceed the OBRA mandates. In 1989, there were 260 ICFs with 50 beds or less. Of the 260 homes, 187 were included in analysis, 73 were excluded because of inadequate information. Three quarters' cost data were analyzed.

The results indicate that 64 homes (34.2%) out of 187 homes would not meet the staffing requirement. Additional cost for the 64 homes to meet requirement is estimated to be \$962,225. 37 homes (57.8%) would be reimbursed under their rate and 27 homes (42.2%) could request a waiver.

When accounting for the 73 homes excluded from the analysis, 89 homes (34.2% of 260) would not meet the requirement which would cost them \$1,337,853 ($260/187 \times \$962,225$). Since only three quarters' data were used, annualized cost would be \$1,783,804 ($\$1,337,853 / .75$). 51 homes (57.8% of 89) would be covered under their rate and 38 (42.2% of 89) could request a waiver.

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SOCIAL WORKER STAFFING REQUIREMENT ANALYSIS

OBRA requires that a nursing home with more than 120 beds must employ a full time qualified social worker. There are 173 facilities certified for more than 120 beds in 1989. 137 facilities or 80% already have a full-time social worker employed. 36 facilities or 20% do not meet the social worker requirement.

Since 1989 cost data were not available at time of analysis, 1988 data were used for cost estimation. It is found that 32 facilities do not meet the requirement. Estimated cost to meet requirement is \$260,852. 37.5% facilities will be reimbursed by their rate for the additional cost. 62.5% facilities will have to request a waiver. Applying the cost estimation to 36 facilities, the cost to meet requirement is \$293,459 (\$260,852*36/32).

ATTACHMENT IV: NURSE AIDES CONTINUING EDUCATION REQUIREMENT

OBRA mandates 6 hours per quarter (24 per year) for nurse aides continuing education. There are approximately 35,000 nurse aides. The average wage rate for nurse aides is \$6.56 per hour. The annual wage expense for nurse aides is estimated at \$5,510,339.60 (35,000 aides*\$6.56*24 hours).

It is assumed RN provides the continuing education at 2.5 classes per year. There are approximately 900 RNs (1 from each 900 facilities) providing continuing education. The average wage rate for RN is \$17.32 per hour. The annual wage expense for RNs is estimated at \$935,250.30 (900 RNs*\$17.32*24 hours*2.5 classes).

Total continuing education cost is estimated at \$6,445,809.90 (\$5,510,339.60+\$935,250.30).

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S U M M A R Y

The following details cost changes related to the OBRA '87 Requirement for Long Term Care Facilities

CATEGORY	COST IMPACT	PER DIEM EFFECT
1. Continuing Education Nurse Aides	\$ 6,445,810	\$ 0.345
2. Nurse Staffing Requirements for Licensure	1,783,804	\$ 0.095
3. Social Worker	293,459	\$ 0.016
4. Resident Assessment (MDS/RAP's)	600,000	\$ 0.030
5. Incontinence/Other Program Supplies	(117,734)	\$ (0.006)
Overall Impact		<u>\$ 0.48</u>

AVERAGE MF RATE BEFORE AND AFTER OBRA

Before OBRA (June, 1990)	\$97,237,672/1,523,846 days =	\$63.81*
After OBRA	\$63.81 + \$0.48 =	\$64.29
Increase		<u>\$ 0.48</u>

*As calculated from the monthly vendor implementing new rates for state fiscal year 1991

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OBRA IMPLEMENTATION

Ohio Policy
Prior to
October 1, 1990

OBRA Mandates
Effective
October 1, 1990

Necessary Changes for Ohio

Fiscal Impact

CONTINUING EDUCATION FOR NURSE AIDES

Effective January 1, 1990 Ohio required 46 hours of continuing education for nurse aides per calendar quarter after successful completion of MATCEP.

The facility must provide regular in-service education and training for individuals providing nursing related services.

No changes are necessary because Ohio reimbursed nursing facilities through an interim allowance of 1.24 per resident per day since January 1990. This allowance incorporates continuing education. Following 10/1/90, reimbursement will be tied to industry cost.

\$ 6,445,810

NURSE STAFFING REQUIREMENTS

Based on Ohio's existing minimum staffing requirements, facilities of 50 beds or greater and facilities located in Cincinnati are currently meeting staffing requirements for OBRA mandates.

Minimum staffing requirements for license:

- A nursing facility must provide
- 24-hours of licensed nursing services
- must use the services of a registered professional nurse at least 8 consecutive hours per day 7 days per week.

Since facilities over 50 beds already meet new OBRA requirements, only facilities of 50 beds or less are affected. Based on our analysis:

- 260 facilities have 50 beds or less
- 171 facilities already meet new OBRA staffing requirements
- 89 facilities do not meet new staffing requirements. Out of this group of facilities:
- 51 facilities can meet new staffing requirements with our resident review system.
- 38 facilities will be accommodated through the waiver & variance system.

\$ 1,054,228

\$ 729,576

No Fiscal Impact

OTHER STAFFING

Dietitian
Ohio's licensure laws require dietitians to be licensed in order to provide professional services in nursing homes. This licensure requirement went into effect November 30, 1987.

Nursing facilities must employ a qualified dietitian either full-time, part-time or on a consultant basis.

OBRA regulations offer flexibility in full-time, part-time, and consulting services; the new standards were already met in our existing reimbursement system. No changes are necessary. Ohio already meets or exceeds OBRA requirements.

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PROFESSIONAL
 Nursing facilities have drugs reviewed under their plans of care and do not bear cost associated with the 30-day Drug Review. Pharmacists are reimbursed directly on a fee for service basis. Therefore, no nursing facility costs are incurred as a result of OBRA provision.

30-Day Review of drug regimen for each patient. Irregularities must be reported to the attending physician or director of nursing.

Since no costs are incurred by NF's, no changes are necessary. Ohio meets or exceeds OBRA requirements.

No Fiscal Impact

MENTAL

ICF and SNF facilities assist patients to arrange for routine and emergency dental care. The services from dentists to the extent they are allowable in the State plan are reimbursable directly only to the direct care provider. Nursing facilities do not bear any cost associated with this service.

A facility must assist residents to obtain from an outside resource routine and emergency dental care.

Since no costs are incurred by NF's, no changes are necessary. Ohio meets or exceeds OBRA requirements.

No Fiscal Impact

MEDICAL RECORDS

Requirements for OBRA mandate of maintaining medical records are already met or exceed standards within our current reimbursement system.

A facility must maintain clinical records with accepted professional standards.

No changes are necessary. Ohio already meets or exceeds OBRA requirements.

No Fiscal Impact

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Ohio Mandates
Effective
October 1, 1990

Necessary Changes for Ohio
October 1, 1990

Fiscal Impact

ACTIVITIES PERSONNEL

Requirements of OBRA for activities personnel are met. The expenditures are accommodated in the present reimbursement system through the Resident Review process.

The facility must provide an ongoing program of activities. The activities program must be directed by a qualified professional.

No changes necessary. Ohio meets or exceeds OBRA requirements.

No Fiscal Impact

SOCIAL WORKER

Approximately 60% of facilities in Ohio with 120 beds or more are already meeting the new OBRA requirements in regards to the employment of a full-time social worker.

A nursing home with more than 120 beds must employ a full-time qualified social worker.

An analysis of social workers indicates - 173 facilities are certified for more than 120 beds

\$ 293,459

137 facilities already have a full-time social worker employed

36 facilities do not meet new OBRA standards

Out of this group of facilities:

37.5% of these facilities can meet the social worker requirement through the Resident Review process

62.5% of these facilities can have their cost accommodated through the Waiver & Variance process.

RESIDENT ASSESSMENT

The Ohio Department of Health and Human Services have agreed to utilize the new Minimum Data Set (MDS) and the Resident Assessment Protocol's (RAPs) developed by the Research Triangle Institute. Our requirements for nursing home admission, development of care plans and the Resident Review process already require the capture of information contained in the new MDS and RAP's.

The State shall specify the instrument to be used for Resident Assessment.

The new tool will be implemented October 1, 1990. This process is not a new requirement for nursing homes, however, the new MDS implementation provides uniform patient review records for nursing homes. Additional completion that will initially be necessary until providers became more familiar with the form. After the first year, no additional cost is forecasted as facilities will be able to incorporate the MDS into current time requirements. At this time, we estimate 40 additional minutes per resident \$817/MN hr. = \$11.30 for 365 days =

\$ 600,000

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 Ohio Policy
 Prior to
 October 1, 1990

OSRA Mandates
 After
 October 1, 1990

Necessary Changes for Ohio

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PLAN OF CARE

Nursing facilities develop written plans of care to determine and implement the scope of services and activities for each resident. The new NRS/RAPS process will incorporate uniform documentation into the existing policies. All care plans are reviewed by the Resident Review process for reimbursement to ensure that the plan describes the medical, nursing and psychosocial needs of the resident and how such needs are met by the nursing facility.

A nursing facility must provide services and activities to attain and maintain the highest practicable physical, mental and psycho-social well-being of each resident in accordance with a written plan of care.

No changes necessary. Ohio already meets or exceeds OSRA mandates.

No Fiscal Impact

RESIDENT PERSONAL FUNDS

The expenditures for managing PMA accounts have already been accounted in our present reimbursement system. While there was no requirement in Ohio to manage PMA funds and to deposit funds into interest-bearing accounts, a market analysis indicates that 65% of Ohio providers are already managing and banking personal allowance funds. Therefore, the OSRA mandate does not constitute a new requirement.

Facilities must manage residents' funds upon request from residents.

Facilities must maintain funds under \$50 in petty cash funds and over \$50 in an interest-bearing account. Quarterly accounting of funds must be provided.

No changes necessary.

Ohio already meets or exceeds OSRA mandates.

No Fiscal Impact

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