

Ohio Policy
 Prior to
 October 1, 1990

OBRA Mandates
 After
 October 1, 1990

Necessary Changes for Ohio

Fiscal Impact

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RESIDENT RIGHTS

Ohio already meets the requirements of OBRA for residents' rights protection through OAC 5101:3-3-08 entitled "Residents' Rights in Long Term Care Facilities" and through the Nursing Home Residents' Bill of Rights contained in Sections 3721.10-18 of the Ohio Revised Code. These provisions already comply with the specific mandates of OBRA.

A nursing facility must protect and promote the rights of each resident.

- A. Specific Rights
- B. Notice of Rights
- C. Orientation
- D. Notice on bed hold policy and Readmission.

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

No Fiscal Impact

CEILING CHANGE FOR INCENTIVE SUPPLIES

Separate ICF and SNF ceilings were established and applied for incentive supplies.

Elimination of distinction in facility certification of ICF, SNF and dually certified facilities. These facilities converted to nursing facilities.

Ceilings covering costs for ICF and SNF facilities for incentive/other program supplies were calculated for nursing facilities.

\$ (117,734)

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5101:3-3-173 OUT-OF-STATE PLACEMENT FOR RECIPIENTS WITH
TRAUMATIC BRAIN INJURY (TBI).

- (A) FOR THE PURPOSES OF THIS RULE, "TRAUMATIC BRAIN INJURY (TBI)" IS DEFINED AS A FORM OF CRANIOCEREBRAL INJURY INDUCED BY TRAUMA AS OPPOSED TO ANOXIC, METABOLIC, OR CEREBRAL VASCULAR INSULTS. CLASSIFICATION OF A TBI MAY BE ON THE BASIS OF HOW THE INJURY WAS INDUCED OR ON THE BASIS OF SOME OF ITS PATHOLOGIC CONSEQUENCES. WHEN CLASSIFYING ON THE BASIS OF THE ACUTE TRAUMATIC EVENT (HOW THE INJURY WAS INDUCED), THESE INJURIES ARE REFERRED TO AS A "MISSILE INJURY," SECONDARY TO EVENTS LIKE GUNSHOT WOUNDS; OR A "NONMISSILE" INJURY, SECONDARY TO BLUNT TRAUMA. CLASSIFICATION ON THE BASIS OF PATHOLOGY FREQUENTLY INVOLVES USING THE TERMS "CLOSED" VERSUS "OPEN" HEAD INJURY; THIS DISTINCTION IS LARGELY ON THE BASIS OF WHETHER THE DURA HAS BEEN PENETRATED BY, FOR EXAMPLE, A SKULL FRACTURE. A TBI, ESPECIALLY ONE RESULTING FROM NONMISSILE INJURIES, IS DIFFERENT THAN OTHER BRAIN INSULTS, SUCH AS STROKE, BECAUSE OF THE DIFFUSE NATURE OF THE INJURY. AFTER A STROKE, THE INJURY IS LIMITED TO THE BRAIN IN THE VICINITY OF THE DAMAGED BLOOD VESSEL, AND IS THEREFORE NOT A TBI.
- (B) PURSUANT TO RULE 5101:3-1-11 ("OUT-OF-STATE COVERAGE") OF THE ADMINISTRATIVE CODE, OUT-OF-STATE LONG-TERM CARE SERVICES FOR RECIPIENTS WITH TBI MAY BE PROVIDED BY MEDICAID-CERTIFIED LTCFS WHICH PROVIDE PRIOR-AUTHORIZED TBI SERVICES NOT PROVIDED IN OHIO, AND WHICH HAVE EXECUTED AN EFFECTIVE PROVIDER AGREEMENT WITH ODHS.
- (C) REIMBURSEMENT FOR LTC SERVICES PROVIDED TO RECIPIENTS WITH TBI AND WHO HAVE BEEN PRIOR-AUTHORIZED FOR PLACEMENT OUT-OF-STATE BY ODHS WILL BE BASED UPON THE RATES RECEIVED BY THE FACILITY FROM OTHER OUT-OF-STATE MEDICAID AGENCIES, AS THOSE RATES REFLECT SERVICES COVERED BY THE OHIO MEDICAID PROGRAM. ANY SUCH RATE SHALL FIRST BE APPROVED BY THE DIRECTOR OF ODHS.
- (D) OUT-OF-STATE LONG-TERM CARE SERVICES FOR RECIPIENTS WITH TBI MAY BE PRIOR-AUTHORIZED PURSUANT TO RULE 5101:3-1-31 ("PRIOR AUTHORIZATION") OF THE ADMINISTRATIVE CODE, WHEN:
- (1) THE SERVICES WILL BE PROVIDED IN A MEDICAID-CERTIFIED LTCF;
 - (2) THE SERVICES OR COMBINATION OF SERVICES WILL DIFFER FROM THAT WHICH IS CURRENTLY PROVIDED IN OHIO IN THE AREAS OF COGNITIVE REHABILITATION AND BEHAVIOR MODIFICATION, AND IN THE INTENSITY OF REHABILITATIVE CARE OFFERED;
 - (3) THE RECIPIENT IS ELIGIBLE FOR LTCF SERVICES IN OHIO; AND
 - (4) THE RECIPIENT IS INAPPROPRIATELY SERVED OR UNSERVED IN OHIO. A RECIPIENT WILL BE CONSIDERED INAPPROPRIATELY SERVED OR UNSERVED WHEN:

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- (a) THE RECIPIENT HAS CONSISTENTLY BEEN REFUSED SERVICES IN AN OHIO LTCF ON THE GROUNDS THAT HIS OR HER NEEDS CANNOT BE MET ~~ALTHOUGH~~ MEDICAL EVIDENCE INDICATES THAT A SPECIALIZED REHABILITATIVE PROGRAM WOULD RESULT IN MEASURABLE PROGRESS; OR
 - (b) THE RECIPIENT RESIDES IN AN LTCF BUT HAS NOT PROGRESSED AND THERE IS MEDICAL EVIDENCE THAT HE/SHE WOULD PROGRESS IF THE SERVICES FOR WHICH PRIOR AUTHORIZATION IS BEING SOUGHT WERE PROVIDED.
- (E) A RECIPIENT MAY CONTINUE TO RECEIVE PRIOR-AUTHORIZED SERVICES IN ANOTHER STATE IF THE RECIPIENT BOTH CONTINUES TO MEET CONDITIONS IN PARAGRAPHS (D)(1) TO (D)(3) OF THIS RULE AND CONTINUES TO MAKE MEASURABLE PROGRESS TOWARD SPECIFIC GOALS AS DOCUMENTED IN NURSING/REHABILITATION CHARTING. PROGRESS WILL BE MEASURED AGAINST THE PERFORMANCE OF SPECIFIC FUNCTIONS OR BY STANDARDIZED ASSESSMENT AS APPLICABLE TO SPECIFIC THERAPIES.
- (F) PROCESS FOR PRIOR AUTHORIZATION OF OUT-OF-STATE LONG-TERM CARE SERVICES FOR RECIPIENTS WITH TBI:
- (1) A REQUEST FOR OUT-OF-STATE SERVICES WILL BE SUBMITTED TO THE "REHABILITATION NURSE, POLICY UNIT, DIVISION OF LONG-TERM CARE, ODHS, 30 EAST BROAD STREET, COLUMBUS, OHIO 43215."
 - (2) THE REHABILITATION NURSE WILL CONDUCT A FACE-TO-FACE ASSESSMENT OF THE RECIPIENT FOR WHOM SERVICES ARE BEING REQUESTED AND SUBMIT FINDINGS TO THE TBI PLACEMENT COMMITTEE.
 - (3) THE TBI PLACEMENT COMMITTEE WILL DETERMINE ELIGIBILITY FOR OUT-OF-STATE SERVICES. PRIOR AUTHORIZATION WILL BE GIVEN WHEN:
 - (a) THE RECIPIENT'S INJURY FALLS WITHIN THE DEFINITION OF TBI AS SET FORTH IN PARAGRAPH (A) OF THIS RULE;
 - (b) THE RECIPIENT AND THE SERVICES REQUESTED MEET THE CRITERIA IN PARAGRAPH (D) OF THIS RULE;
 - (c) THE RECIPIENT IS PHYSICALLY ABLE ENOUGH TO PARTICIPATE IN A REHABILITATIVE PROGRAM;
 - (d) THE RECIPIENT MEASURES AT LEAST "4" ON THE "RANCHO LOS AMIGOS HOSPITAL LEVELS OF COGNITIVE FUNCTIONING SCALE" (SEE APPENDIX A OF THIS RULE); AND
 - (e) THERE IS CLINICAL EVIDENCE THAT A SPECIALIZED REHABILITATIVE PROGRAM WILL RESULT IN MEASURABLE PROGRESS.
 - (4) THE RECIPIENT'S LENGTH OF STAY IN AN OUT-OF-STATE LONG-TERM CARE FACILITY WILL BE DETERMINED, AFTER AN INITIAL NINETY-DAY BENEFIT, IN THIRTY-DAY INCREMENTS ON THE BASIS OF PARAGRAPHS (F)(3)(b) TO (F)(3)(e) OF THIS RULE, AND MONTHLY REPORTS FROM THE FACILITY WHICH INDICATE DOCUMENTED MEASURABLE PROGRESS TOWARD SPECIFIC GOALS.

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Rancho Los Amigos Hospital
Adult Head Trauma Service

LEVELS OF COGNITIVE FUNCTIONING

I. NO RESPONSE

Patient appears to be in a deep sleep and is completely unresponsive to any stimuli presented to him.

II. GENERALIZED RESPONSE

Patient reacts inconsistently and non-purposefully to stimuli in a non-specific manner. Responses are limited in nature and are often the same regardless of stimulus presented. Responses may be physiological changes, gross body movements and/or vocalization. Often the earliest response is to deep pain. Responses are likely to be delayed.

III. LOCALIZED RESPONSE

Patient reacts specifically but inconsistently to stimuli. Responses are directly related to the type of stimulus presented as in turning head toward a sound, focusing on an object presented. The patient may withdraw an extremity and/or vocalize when presented with a painful stimulus. He may follow simple commands in an inconsistent, delayed manner, such as closing his eyes, squeezing or extending an extremity. Once external stimuli are removed, he may lie quietly. He may also show a vague awareness of self and body by responding to discomfort by pulling at nasogastric tube or catheter or resisting restraints. He may show a bias toward responding to some persons (especially family, friends) but not to others.

IV. CONFUSED-AGITATED

Patient is in a heightened state of activity with severely decreased ability to process information. He is detached from the present and responds primarily to his own internal confusion. Behavior is frequently bizarre and non-purposeful relative to his immediate environment. He may cry out or scream out of proportion to stimuli even after removal, may show aggressive behavior, attempt to remove restraints or tubes or crawl out of bed in a purposeful manner. He does not, however, discriminate among persons or objects and is unable to cooperate directly with treatment efforts. Verbalization is frequently incoherent and/or inappropriate to the environment. Confabulation may be present; he may be euphoric or hostile. Thus gross attention to environment is very short

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and selective attention is often nonexistent. Being unaware of present events, patient lacks short-term recall and may be reacting to past events. He is unable to perform self-care (feeding, dressing) without maximum assistance. If not disabled physically, he may perform motor activities as sitting, reaching and ambulating, but as part of his agitated state and not as a purposeful act or on request necessarily.

Y. CONFUSED, INAPPROPRIATE
NON-AGITATED

Patient appears alert and is able to respond to simple commands fairly consistently. However, with increased complexity of commands or lack of any external structure, responses are non-purposeful, random, or at best, fragmented toward any desired goal. He may show agitated behavior, but not on an internal basis (as in Level IV), but rather as a result of external stimuli, and usually out of proportion to the stimulus. He has gross attention to the environment, but is highly distractible and lacks ability to focus attention to a specific task without frequent redirection back to it. With structure, he may be able to converse on a social-automatic level for short periods of time. Verbalization is often inappropriate; confabulation may be triggered by present events. His memory is severely impaired, with confusion of past and present in his reaction to ongoing activity. Patient lacks initiation of functional tasks and often shows inappropriate use of objects without external direction. He may be able to perform previously learned tasks when structured for him, but is unable to learn new information. He responds best to self, body, comfort and often family members. The patient can usually perform self-care activities with assistance and may accomplish feeding with maximum supervision. Management on the ward is often a problem if the patient is physically mobile, as he may wander off either randomly or with vague intention of "going home."

VI. CONFUSED-APPROPRIATE

Patient shows goal-directed behavior, but is dependent on external input for direction. Response to discomfort is appropriate and he is able to tolerate unpleasant stimuli (as NG tube) when need is explained. He follows simple directions consistently and shows carry-over for tasks he has relearned (as self-care). He is at least supervised with old learning; unable to maximally assisted for new learning with little or no carryover. Responses may be incorrect due to memory problems, but they are appropriate to the situation. They may be delayed to immediate and he shows decreased ability to process information with little or no anticipation or prediction of events.

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Past memories show more depth and detail than recent memory. The patient may show beginning immediate awareness of situation by realizing he doesn't know an answer. He no longer wanders and is inconsistently oriented to time and place. Selective attention to tasks may be impaired, especially with difficult tasks and in unstructured settings, but is now functional for common daily activities (30 min. with structure). He may show a vague recognition of some staff, has increased awareness of self, family and basic needs (as food), again in an appropriate manner as in contrast to Level V.

VII. AUTOMATIC-APPROPRIATE

Patient appears appropriate and oriented within hospital and home settings, goes through daily routine automatically, but frequently robot-like, with minimal-to-absent confusion, but has shallow recall of what he has been doing. He shows increased awareness of self, body, family, foods, people and interaction in the environment. He has superficial awareness of, but lacks insight into his condition, decreased judgment and problem-solving and lacks realistic planning for his future. He shows carry-over for new learning, but at a decreased rate. He requires at least minimal supervision for learning and for safety purposes. He is independent in self-care activities and supervised in home and community skills for safety. With structure he is able to initiate tasks as social or recreational activities in which he now has interest. His judgment remains impaired; such that he is unable to drive a car. Pre-vocational or avocational evaluation and counseling may be indicated.

VIII. PURPOSEFUL AND APPROPRIATE

Patient is alert and oriented, is able to recall and integrate past and recent events and is aware of and responsive to his culture. He shows carryover for new learning if acceptable to him and his life role, and needs no supervision once activities are learned. Within his physical capabilities, he is independent in home and community skills, including driving. Vocational rehabilitation, to determine ability to return as a contributor to society (perhaps in a new capacity), is indicated. He may continue to show a decreased ability, relative to premorbid abilities, in abstract reasoning, tolerance for stress, judgment in emergencies or unusual circumstances. His social, emotional and intellectual capacities may continue to be at a decreased level for him, but functional in society.

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REPLACES RULE 5101:3-3-171

EFFECTIVE DATE: _____

CERTIFICATION: _____

_____ DATE _____

PROMULGATED UNDER: RC CHAPTER 119

STATUTORY AUTHORITY: RC SECTION 5111.02

RULE AMPLIFIES: RC SECTIONS 5111.01, 5111.02, 5111.21, 5111.22

PRIOR EFFECTIVE DATE: 9/3/87 (EMER.), 12/28/87, 10/1/91 (EMER.)

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5101:3-3-174 INTERIM SETTLEMENT DISTRIBUTION FORMULA.

(A) THE ONLY PORTIONS OF EXCESS COSTS THAT ARE ELIGIBLE FOR PAYMENT UNDER THIS RULE FOR NURSING FACILITIES ARE THOSE DESCRIBED IN PARAGRAPHS (D)(1)(a) TO (D)(1)(c) OF RULE 5101:3-3-17 ("METHODS FOR ESTABLISHING PAYMENT AND SETTLEMENT RATES") OF THE ADMINISTRATIVE CODE.

(1) FOR NURSING FACILITIES MEETING THE CRITERIA ESTABLISHED IN PARAGRAPHS (D)(1)(a) TO (D)(1)(c) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE THE FOLLOWING APPLIES:

(a) FOR EACH NURSING FACILITY, MULTIPLY THE UNREIMBURSED PORTION OF THE CAPITAL PROJECT EXPENSE PER DIEM BY THE FACILITY'S FISCAL YEAR MEDICAID DAYS TO OBTAIN FOR EACH FACILITY THAT PORTION OF THE CAPITAL PROJECT EXPENSE QUALIFYING FOR THE DISTRIBUTION OF FUNDS DESCRIBED IN PARAGRAPH (C) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE.

(b) DIVIDE THE TOTAL FUNDS COLLECTED PURSUANT TO PARAGRAPH (C) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE BY THE SUM OF THE PRODUCTS CALCULATED IN PARAGRAPH (A)(1)(a) OF THIS RULE TO OBTAIN THE PERCENTAGE OF CAPITAL PROJECT EXPENSE EACH NURSING FACILITY SHALL BE REIMBURSED. THIS PERCENTAGE SHALL NOT EXCEED ONE HUNDRED PER CENT.

(c) FOR EACH NURSING FACILITY, MULTIPLY THE PERCENTAGE CALCULATED IN PARAGRAPH (A)(1)(b) OF THIS RULE BY THE FACILITY'S PORTION OF THE CAPITAL PROJECT EXPENSE AVAILABLE FOR THE DISTRIBUTION OF FUNDS CALCULATED IN PARAGRAPH (A)(1)(a) OF THIS RULE.

(d) DIVIDE THE PRODUCT IN PARAGRAPH (A)(1)(c) OF THIS RULE BY THE FACILITY'S FISCAL YEAR MEDICAID DAYS TO DETERMINE THE PER DIEM RATE ADJUSTMENT TO BE MADE TO THE FACILITY'S INTERIM SETTLEMENT RATE.

(2) ANY FUNDS REMAINING AFTER PAYMENTS ARE MADE PURSUANT TO PARAGRAPH (A)(1) OF THIS RULE SHALL BE DISTRIBUTED ACCORDING TO THE FOLLOWING FORMULA:

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- (a) FOR EACH NURSING FACILITY, MULTIPLY THE REMAINING EXCESS COST PER DIEM BY THE FACILITY'S FISCAL YEAR MEDICAID DAYS TO OBTAIN THAT PORTION OF EACH FACILITY'S REMAINING EXCESS COST QUALIFYING FOR THE DISTRIBUTION OF FUNDS DESCRIBED IN PARAGRAPH (C) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE.
- (b) DIVIDE THE REMAINING FUNDS COLLECTED PURSUANT TO PARAGRAPH (C) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE BY THE SUM OF THE PRODUCTS CALCULATED IN PARAGRAPH (A)(2)(a) OF THIS RULE TO OBTAIN THE PERCENTAGE OF REMAINING EXCESS COST EACH NURSING FACILITY SHALL BE REIMBURSED. THIS PERCENTAGE SHALL NOT EXCEED ONE HUNDRED PER CENT.
- (c) FOR EACH NURSING FACILITY, MULTIPLY THE PERCENTAGE CALCULATED IN PARAGRAPH (A)(2)(b) OF THIS RULE BY THE FACILITY'S REMAINING EXCESS COST AVAILABLE FOR THE DISTRIBUTION OF FUNDS CALCULATED IN PARAGRAPH (A)(2)(a) OF THIS RULE.
- (d) DIVIDE THE PRODUCT IN PARAGRAPH (A)(2)(c) OF THIS RULE BY THE FACILITY'S FISCAL YEAR MEDICAID DAYS TO DETERMINE THE PER DIEM RATE ADJUSTMENT TO BE MADE TO THE FACILITY'S INTERIM SETTLEMENT RATE.

(B) THE ONLY PORTIONS OF EXCESS COSTS THAT ARE ELIGIBLE FOR PAYMENT UNDER THIS RULE FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED ARE THOSE DESCRIBED IN PARAGRAPHS (D)(2)(a) TO (D)(2)(c) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE.

(1) FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED MEETING THE CRITERIA ESTABLISHED IN PARAGRAPH (D)(2)(a) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE THE FOLLOWING APPLIES:

(a) FOR EACH INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED, MULTIPLY THE UNREIMBURSED PORTION OF THE CAPITAL PROJECT EXPENSE PER DIEM BY THE FACILITY'S FISCAL YEAR MEDICAID DAYS TO OBTAIN FOR EACH FACILITY THAT PORTION OF THE CAPITAL PROJECT EXPENSE QUALIFYING FOR THE DISTRIBUTION OF FUNDS DESCRIBED IN PARAGRAPH (D)(2)(a) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE.

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- (b) DIVIDE THE TOTAL FUNDS COLLECTED PURSUANT TO PARAGRAPH (C) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE BY THE SUM OF THE PRODUCTS CALCULATED IN PARAGRAPH (B)(1)(a) OF THIS RULE TO OBTAIN THE PERCENTAGE OF CAPITAL PROJECT EXPENSE EACH INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED SHALL BE REIMBURSED. THIS PERCENTAGE SHALL NOT EXCEED ONE HUNDRED PER CENT.
 - (c) FOR EACH INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED, MULTIPLY THE PERCENTAGE CALCULATED IN PARAGRAPH (B)(1)(b) OF THIS RULE BY THE FACILITY'S PORTION OF THE CAPITAL PROJECT EXPENSE AVAILABLE FOR THE DISTRIBUTION OF FUNDS CALCULATED IN PARAGRAPH (B)(1)(a) OF THIS RULE.
 - (d) DIVIDE THE PRODUCT IN PARAGRAPH (B)(1)(c) OF THIS RULE BY THE FACILITY'S FISCAL YEAR MEDICAID DAYS TO DETERMINE THE PER DIEM RATE ADJUSTMENT TO BE MADE TO THE INTERIM SETTLEMENT RATE.
- (2) FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED MEETING THE CRITERIA ESTABLISHED IN SECTION 5111.222 OF THE REVISED CODE AND PARAGRAPH (D)(2)(b) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE THE FOLLOWING APPLIES:
- (a) FOR EACH FACILITY WITH INCREASES IN RESIDENT ACUITY ABOVE THE LEVEL ASSIGNED IN THE BASE RATE SETTING PERIOD, MULTIPLY THE DIFFERENCE BETWEEN THE PER DIEM EXPENSE WHICH EXCEEDS THE PROSPECTIVE PER DIEM RATE BY THE FACILITY'S FISCAL YEAR MEDICAID DAYS TO OBTAIN FOR EACH FACILITY THAT PORTION OF THE PER DIEM EXPENSE QUALIFYING FOR THE DISTRIBUTION OF FUNDS DESCRIBED IN PARAGRAPH (C) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE.

FOR FISCAL YEAR 1992, ANY SUCH INCREASES MUST OCCUR BETWEEN JANUARY 1, 1991 AND JUNE 30, 1992. FOR FISCAL YEAR 1993, ANY SUCH INCREASES MUST OCCUR BETWEEN JANUARY 1, 1992 AND JUNE 30, 1993.

- (b) DIVIDE THE TOTAL REMAINING FUNDS COLLECTED PURSUANT TO PARAGRAPH (C) OF RULE 5101:3-3-17 OF THE ADMINISTRATIVE CODE BY THE SUM OF THE PRODUCTS CALCULATED IN PARAGRAPH (B)(2)(a) OF THIS RULE TO OBTAIN THE PERCENTAGE OF PER DIEM EXPENSES EACH INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED SHALL BE REIMBURSED. THIS PERCENTAGE SHALL NOT EXCEED ONE HUNDRED PER CENT.

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