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- (9) If ODHS grants a rate reconsideration due to extreme circumstances for asset additions to renovations pursuant to 5111.251 of the Revised Code or cost of ownership, the facility receiving the rate adjustment shall report double accumulated depreciation for the amount of depreciation for the period for which the expense is reported on the cost report reflecting operations in the year of acquisition.
  
- (D) ODHS may increase a facility's rate as calculated under ~~sections 5111.23 to 5111.28 of the Revised~~ RULES SET FORTH UNDER CHAPTER 5101:3-3 OF THE ADMINISTRATIVE Code if ODHS, in its sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility. A rate adjustment pursuant to a request for rate reconsideration due to extreme hardship shall be granted only once for a particular circumstance to a particular facility.
  - (1) A request for a rate reconsideration due to extreme hardship must be filed before the end of the fiscal year for which the rate is paid.
  - (2) A request for rate reconsideration due to extreme hardship shall be filed only when one of the following circumstances have been satisfied:
    - (a) A request for relief pursuant to paragraph (C) of this rule due to extreme circumstances has been denied; or
    - (b) The basis for the request for rate reconsideration is specifically not eligible for relief due to extreme circumstances pursuant to paragraph (C) of this rule; or
    - (c) The facility can demonstrate that the request for rate reconsideration due to extreme circumstances would be denied because it already has costs equal to or exceeding the ceiling in the cost center at issue; ~~or.~~
  - (3) A request for a rate reconsideration due to extreme hardship must be filed in accordance with the following procedures:
    - (a) The request for rate reconsideration shall be in writing; and
    - (b) The request shall be addressed to long term care, office of medicaid, rate reconsiderations; and
    - (c) The request for a rate reconsideration must indicate that it is a request for a rate reconsideration due to extreme hardship; and

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- (d) The request for a rate reconsideration must give a detailed explanation as to why a rate adjustment is warranted. This explanation must include a description of efforts the facility has made to address the circumstances outside the rate reconsideration process; and
- (e) A full and complete three-month cost report which includes schedules, attachments, a trial balance, and other documentation supporting the cost component increase must be filed in accordance with the following requirements:
  - (i) If the rate adjustment affects renovations or cost of ownership reimbursement, the cost data can be projected using actual depreciation and amortization schedules. The amortization and depreciation schedules that support the information on the cost report shall be filed with the cost report.
  - (ii) If the rate adjustment affects any other cost center, actual data must be filed on the three-month cost report.
- (4) A rate reconsideration due to extreme hardship shall be granted only to the extent that payment for efficiency incentives and return on equity payments included in the prospective rate payment are not sufficient to prevent the hardship. Justification for a rate adjustment in excess of applicable ceilings must be provided by the facility in writing.
- (5) The effective date of a rate adjustment granted due to extreme hardship shall be determined in the sole discretion of ODHS.
- ~~(7)~~(6) ODHS shall respond in writing within sixty days of receiving each written request for reconsideration of a prospective rate due to extreme hardship. If ODHS requests additional information to determine whether a rate adjustment is warranted, ODHS shall respond in writing within sixty days of receiving the additional information to the request for rate reconsideration due to extreme hardship.

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(E) When beds certified for the medicaid program are added to an existing facility, replaced at the same site, or subject to a change of ~~ownership~~ PROVIDER AGREEMENT or lease, ODHS shall increase the facility's rate for capital costs based upon a weighted average of the existing, added, and replaced beds as limited by any applicable limitation under ~~section 5111.25 or 5111.251 of the Revised~~ RULE 5101:3-3-51 OR 5101:3-3-84 OF THE ADMINISTRATIVE Code, to account for the costs of the beds that are added, replaced, or subject to a change of ~~ownership~~ PROVIDER AGREEMENT or lease.

(1) The provider must file the following information with ODHS. The information should be sent to long term care, office of medicaid, rate reconsiderations.

(a) A three-month cost report with all property schedules completed. The cost report must ALSO include schedules A; AND A-1, ~~and F~~ of the ODHS 2524 "Medicaid Long-Term Care Cost Report." The cost report data may be projected using actual amortization and depreciation schedules; and

(b) Depreciation schedules and amortization schedules supporting the information reported on the cost report; and

(c) A copy of the complete sales agreement signed by all parties to the transaction. The sales agreement should include an allocation of the purchase price to the assets purchased; and

(d) A copy of any notes payable that relate to the interest expense on the cost report; and

(e) In the case of a change of ownership, the complete step up calculation for each asset purchased.

(2) A rate adjustment pursuant to paragraph (E) of this rule shall be implemented one month after the first day of the month after the department receives sufficient documentation of the costs.

(3) ODHS shall respond in writing within sixty days to each request for rate reconsideration due to added beds, replacement beds, or a change of ~~ownership~~ PROVIDER AGREEMENT. If ODHS requests additional information to determine whether a rate adjustment is warranted, ODHS shall respond in writing within sixty days of receiving the additional information to the request for reconsideration of a prospective rate due to additional beds, replacement beds, or a change of ~~ownership~~ PROVIDER AGREEMENT.

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(4) The facility shall report double accumulated depreciation for the amount of depreciation for the period for which the expense is reported on the cost report reflecting operations in the year of the rate adjustment.

(5) ANY RATE INCREASE GRANTED UNDER PARAGRAPH (E)(2) OF THIS RULE SHALL REMAIN IN EFFECT UNTIL THE EFFECTIVE DATE OF THE RATE CALCULATED UNDER RULE 5101:3-3-51 OR 5101:3-3-84 OF THE ADMINISTRATIVE CODE THAT INCLUDES COSTS INCURRED FOR A FULL CALENDAR YEAR FOR THE BED ADDITION, BED REPLACEMENT, OR CHANGE IN PROVIDER AGREEMENT OR LEASE. DURING THE TERM OF ANY LOAN USED TO FINANCE A PROJECT FOR WHICH A RATE ADJUSTMENT IS GRANTED UNDER PARAGRAPH (E)(2) OF THIS RULE, IF THE FACILITY IS OPERATED BY THE SAME PROVIDER, THE FACILITY SHALL SUBTRACT FROM THE INTEREST COSTS IT REPORTS ON ITS COST REPORT AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE FOLLOWING:

(a) THE ACTUAL, ALLOWABLE INTEREST COSTS FOR THE LOAN DURING THE CALENDAR YEAR FOR WHICH THE COSTS ARE BEING REPORTED;

(b) THE ACTUAL, ALLOWABLE INTEREST COSTS ATTRIBUTABLE TO THE LOAN THAT WERE USED TO CALCULATE THE RATES PAID TO THE FACILITY DURING THE SAME CALENDAR YEAR.

(F) ODHS's decision at the conclusion of the rate reconsideration process shall not be subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

*Proposed Effective date September 1, 1995*

Effective date: \_\_\_\_\_

Certification: \_\_\_\_\_

\_\_\_\_\_  
Date

Promulgated under: Chapter 119.

Statutory authority: RC section 5111.02

Rule amplifies: RC sections 5111.01, 5111.02, 5111.27, 5111.29

Prior effective dates: 7/1/93 (emer.), 9/30/93

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SUPERSEDES

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5101:3-3-241      RATE ADJUSTMENTS FOR NURSING FACILITIES (NF) AND  
INTERMEDIATE CARE FACILITIES FOR THE MENTALLY  
RETARDED (ICF-MR): GOVERNMENT MANDATES.

A NE, ICF-MR, OR A GROUP OR ASSOCIATION OF FACILITIES MAY REQUEST ADJUSTMENT OF A PROSPECTIVE RATE ESTABLISHED UNDER RULES 5101:3-3-01 TO 5101:3-3-99 OF THE ADMINISTRATIVE CODE TO ACCOUNT FOR THE REASONABLE, ADDITIONAL COSTS THAT MUST BE INCURRED BY A FACILITY OR FACILITIES TO COMPLY WITH THE REQUIREMENTS OF A GOVERNMENT MANDATE.

(A) A GOVERNMENT MANDATE INCLUDES AND IS LIMITED TO THE FOLLOWING:

- (1) FEDERAL STATUTES, RULES, OR POLICIES ENACTED OR AMENDED AFTER JANUARY 1, 1992; AND
- (2) STATE STATUTES, RULES OR POLICIES ENACTED OR AMENDED AFTER JANUARY 1, 1992; AND
- (3) ORDERS ISSUED BY THE STATE OF OHIO FIRE AUTHORITIES; AND
- (4) ORDERS ISSUED BY THE APPLICABLE LOCAL FIRE AUTHORITIES.

(B) FOR ORDERS ISSUED BY STATE OR LOCAL FIRE AUTHORITIES, THE FOLLOWING PROVISIONS SHALL APPLY:

- (1) A RATE ADJUSTMENT SHALL BE REQUESTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:
  - (a) THE REQUEST FOR A RATE ADJUSTMENT SHALL BE FILED IN WRITING; AND
  - (b) THE REQUEST FOR A RATE ADJUSTMENT SHALL BE FILED BEFORE THE END OF THE FISCAL YEAR IN WHICH THE RATE IS PAID; AND
  - (c) THE REQUEST FOR A RATE ADJUSTMENT SHALL BE ADDRESSED TO LONG TERM CARE, OFFICE OF MEDICAID, RATE ADJUSTMENTS; AND

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- (d) THE REQUEST FOR A RATE ADJUSTMENT SHALL INCLUDE A COPY OF THE ORDER OF THE STATE OR LOCAL FIRE AUTHORITIES; AND
- (e) THE REQUEST FOR A RATE ADJUSTMENT SHALL INCLUDE APPROPRIATE DOCUMENTATION OF THE COSTS THAT ARE INCURRED AS A RESULT OF THE GOVERNMENT MANDATE. A THREE-MONTH COST REPORT COVERING THE APPLICABLE COST CENTER AND REFLECTING THE ADDITIONAL COSTS TO BE INCURRED MUST BE FILED IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:
- (i) THE THREE-MONTH COST REPORT FILED MUST INCLUDE A TRIAL BALANCE; AND
- (ii) IF THE REQUESTED RATE ADJUSTMENT AFFECTS COST OF OWNERSHIP OR RENOVATIONS REIMBURSEMENT ACTUAL COST DATA FOR THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE ASSETS ARE PLACED IN SERVICE MUST BE REPORTED ON THE THREE MONTH COST REPORT. CAPITAL COSTS MUST BE RESTATED TO REFLECT THE IMPACT OF THE CAPITAL ADDITIONS USING ACTUAL DEPRECIATION AND AMORTIZATION TABLES. THE DEPRECIATION AND AMORTIZATION TABLES THAT SUPPORT THE INFORMATION ON THE COST REPORT SHALL BE FILED WITH THE COST REPORT. THE COMPUTATION RESTATING CAPITAL COSTS SHALL BE FILED WITH THE COST REPORT; AND
- (iii) IF THE COST INCREASE AFFECTS ANY OTHER COST CENTER, ACTUAL DATA MUST BE FILED ON THE THREE-MONTH COST REPORT.
- (2) A RATE ADJUSTMENT WILL NOT BE GRANTED IF THE ADDITIONAL COSTS TO BE INCURRED SHOULD HAVE BEEN INCURRED PREVIOUSLY TO COMPLY WITH EXISTING LICENSURE AND CERTIFICATION STANDARDS UNLESS THE FACILITY CAN DEMONSTRATE A CHANGE IN THE ON-GOING INTERPRETATION OF THE APPLICABLE STANDARD; AND

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- (3) ODHS SHALL RESPOND IN WRITING TO EACH REQUEST FOR A RATE ADJUSTMENT PURSUANT TO PARAGRAPH (B) OF THIS RULE WITHIN SIXTY DAYS OF THE RECEIPT OF THE WRITTEN REQUEST. IF ODHS REQUESTS ADDITIONAL INFORMATION TO DETERMINE WHETHER A RATE ADJUSTMENT IS WARRANTED, ODHS SHALL RESPOND IN WRITING WITHIN SIXTY DAYS OF THE RECEIPT OF THE ADDITIONAL INFORMATION; AND
- (4) THE EFFECTIVE DATE OF A RATE ADJUSTMENT PURSUANT TO PARAGRAPH (B) OF THIS RULE SHALL BE DETERMINED AT THE DISCRETION OF ODHS, BUT NO LATER THAN THE FIRST DAY OF THE FIRST MONTH AFTER THE REIMBURSABLE EXPENSES BEGIN TO BE INCURRED.
- (C) FOR GOVERNMENT MANDATES WHICH AFFECT A SPECIFIC CLASS OF NES OR ICFS-MR OPERATING IN THE STATE OF OHIO, THE PROVISIONS SET FORTH UNDER PARAGRAPH (C) OF THIS RULE SHALL APPLY. FOR PURPOSES OF THIS RULE, A "SPECIFIC CLASS OF NE'S OR ICF'S-MR" IS A GROUP OF FACILITIES WITH A COMMON CHARACTERISTIC OR SET OF CHARACTERISTICS THAT IS THE FOCUS OF THE GOVERNMENT MANDATE.
- (1) A RATE ADJUSTMENT SHALL BE REQUESTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:
- (a) THE REQUEST FOR A RATE ADJUSTMENT SHALL BE FILED IN WRITING; AND
- (b) THE REQUEST FOR A RATE ADJUSTMENT SHALL BE FILED BEFORE THE END OF THE FISCAL YEAR IN WHICH THE RATE IS PAID; AND
- (c) THE REQUEST FOR A RATE ADJUSTMENT SHALL BE ADDRESSED TO LONG TERM CARE, OFFICE OF MEDICAID, RATE ADJUSTMENTS; AND

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- (d) THE REQUEST FOR A RATE ADJUSTMENT SHALL INCLUDE APPROPRIATE DOCUMENTATION OF THE LEGAL REQUIREMENT NECESSITATING THE RATE ADJUSTMENT. IF THE LEGAL REQUIREMENT IS THE RESULT OF A NEW FEDERAL OR STATE STATUTE OR RULE, A COMPLETE CITATION TO THE APPLICABLE PROVISION OR PROVISIONS SHALL CONSTITUTE APPROPRIATE DOCUMENTATION OF THE LEGAL REQUIREMENT; AND
- (e) THE REQUEST FOR A RATE ADJUSTMENT SHALL INCLUDE APPROPRIATE DOCUMENTATION OF THE COSTS THAT ARE INCURRED AS A RESULT OF THE GOVERNMENT MANDATE. THIS DOCUMENTATION SHALL DETAIL ACTIONS TO BE TAKEN IN RESPONSE TO THE GOVERNMENT MANDATE, THE RELATIONSHIP OF THESE ACTIONS TO THE GOVERNMENT MANDATE, AND THE COSTS OF THESE ACTIONS.
- (2) A RATE ADJUSTMENT WILL NOT BE GRANTED IF THE ADDITIONAL COSTS TO BE INCURRED SHOULD HAVE BEEN INCURRED PREVIOUSLY TO COMPLY WITH EXISTING LICENSURE AND CERTIFICATION STANDARDS UNLESS THE FACILITY CAN DEMONSTRATE A CHANGE IN THE ON-GOING INTERPRETATION OF THE APPLICABLE STANDARD; AND
- (3) ODHS SHALL RESPOND IN WRITING TO EACH REQUEST FOR A RATE ADJUSTMENT PURSUANT TO PARAGRAPH (C) OF THIS RULE WITHIN SIXTY DAYS OF THE RECEIPT OF THE WRITTEN REQUEST. IF ODHS REQUESTS ADDITIONAL INFORMATION TO DETERMINE WHETHER A RATE ADJUSTMENT IS WARRANTED, ODHS SHALL RESPOND IN WRITING WITHIN SIXTY DAYS OF THE RECEIPT OF THE ADDITIONAL INFORMATION; AND
- (4) THE EFFECTIVE DATE OF A RATE ADJUSTMENT PURSUANT TO PARAGRAPH (C) OF THIS RULE SHALL BE DETERMINED AT THE DISCRETION OF ODHS.

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(D) THE DECISION OF THE ODHS IN RESPONSE TO A REQUEST FOR RATE ADJUSTMENT IS SUBJECT TO APPEAL TO THE DIRECTOR OF ODHS WITHIN THIRTY DAYS OF NOTIFICATION TO THE PROVIDER OR GROUP OF PROVIDER'S OF THE DECISION MADE BY ODHS. THE DECISION OF ODHS IS NOT SUBJECT TO APPEAL PURSUANT TO CHAPTER 119. OF THE REVISED CODE.

EFFECTIVE DATE: \_\_\_\_\_

CERTIFICATION: \_\_\_\_\_

\_\_\_\_\_  
DATE

PROMULGATED UNDER: RC CHAPTER 119.  
STATUTORY AUTHORITY: RC SECTION 5111.02  
RULE AMPLIFIES: RC SECTIONS 5111.01, 5111.02, 5111.27, 5111.29  
PRIOR EFFECTIVE DATES: 9/30/93 (EMER.), 12/30/93 (EMER.)

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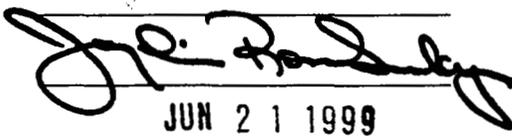
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5101:3-3-242 BUREAU OF WORKER'S COMPENSATION PREMIUM INCREASES.

THE OHIO DEPARTMENT OF HUMAN SERVICES SHALL NOT GRANT EXTREME CIRCUMSTANCE OR EXTREME HARDSHIP RATE INCREASES PURSUANT TO SECTION 5111.29 OF THE REVISED CODE TO OTHERWISE QUALIFYING FACILITIES AS A RESULT OF WORKERS' COMPENSATION PREMIUM INCREASES INCURRED DURING THE PERIOD JANUARY 1, 1999 THROUGH DECEMBER 31, 2000, UNLESS THE DEPARTMENT FIRST OFFSETS THE AMOUNT OF ANY WORKERS' COMPENSATION REBATE RECEIVED BY THE FACILITY IN CALENDAR YEAR 1998 AGAINST THE AMOUNT OF THE WORKERS' COMPENSATION PREMIUM PROMPTING THE REQUEST.

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Review Date: 01 JUL 2004

Certification:   
JUN 2 1 1999

Date

Promulgated under: RC Chapter 119.  
Statutory authority: RC Section 5111.02  
Rule amplifies: RC Sections 5111.01, 5111.02, 5111.27, 5111.29

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