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5101:3-3-50 Method for establishing the indirect care costs component of the prospective rate for nursing facilities (NFs).

(A) The Ohio department of human services (ODHS) shall pay each eligible NF a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each NF shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under paragraph (B) of this rule:

(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under paragraph (C)(1) of this rule; and

(2) An efficiency incentive of the following amount:

(a) For fiscal years that end in even-numbered calendar years, the difference between the maximum rate established for the facility's peer group under paragraph (B)(1)(g) of this rule and the median actual, allowable, per diem indirect care cost for the facility's peer group under paragraph (B)(1)(f) of this rule.

(b) For fiscal years that end in odd-numbered calendar years, the amount calculated for the preceding fiscal year under paragraph (A)(2)(a) of this rule.

(B) Except as specified under paragraph (B)(4) of this rule, the maximum rate for indirect care costs for each peer group of NFs specified under paragraph (D) of this rule shall be determined as illustrated in appendix A of this rule and as follows:

(1) For fiscal years that end in even-numbered calendar years, set the maximum rate for each peer group of NFs as follows:

(a) Calculate the per diem indirect care cost under paragraph (A)(1) of this rule for each NF EXCLUDING ANY NF THAT PARTICIPATED IN THE MEDICAL ASSISTANCE PROGRAM UNDER THE SAME OPERATOR FOR LESS THAN TWELVE MONTHS DURING THE CALENDAR YEAR PRECEDING THE FISCAL YEAR IN WHICH THE RATE WILL BE PAID; and

(b) Calculate the mean and standard deviation from the per diem indirect care cost established under paragraph (B)(1)(a) of this rule; and

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- (c) Calculate three standard deviations from the mean established in paragraph (B)(1)(b) of this rule; and
 - (d) Determine each NF in which the per diem indirect care cost is more than three standard deviations above or below the mean calculated under paragraph (B)(1)(c) of this rule any NF that serves residents who have outlier service needs and for which rates have been set pursuant to rule 5101:3-3-25 of the Administrative Code; and
 - (e) Group the NFs for which the per diem indirect care cost is calculated under paragraph (B)(1)(a) of this rule into each peer group under paragraph (D) of this rule; and
 - (f) Array the per diem indirect care cost from the calculation under paragraph (B)(1)(a) of this rule for each peer group excluding the NFs determined under paragraph (B)(1)(d) of this rule in ascending order for each facility and calculate the per diem indirect care cost which reflects the median medicaid day; and
 - (g) Multiply the median as calculated under paragraph (B)(1)(f) of this rule times one hundred twelve and one-half per cent to obtain the maximum rate for indirect care costs for each peer group.
- (2) For fiscal years that end in odd-numbered calendar years, the maximum rate for indirect care costs for each peer group is the group's maximum rate for the previous fiscal year as established under paragraph (B)(1)(g) of this rule, adjusted for the inflation rate estimated under paragraph (C)(2) of this rule.
 - (3) ODHS shall not recalculate a maximum rate for indirect care costs set under paragraph (B)(1) or (B)(2) of this rule based on additional information that ODHS receives after the maximum rate is set. ODHS shall recalculate the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available at the time of the original calculation.
 - (4) The maximum rate for per diem indirect care costs for NFs calculated under this rule shall be increased by ten cents in the fiscal years that begin July 1, 1993 and July 1, 1994 only. This increase shall not be used to calculate the efficiency incentive under paragraph (A)(2) of this rule.

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- (C) For purposes of estimating the inflation rates for NFs under the provisions of this rule, the following applies:
- (1) When adjusting rates for inflation under paragraph (A)(1) of this rule, ODHS shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.
 - (2) When adjusting rates for inflation under paragraph (B)(2) of this rule, ODHS shall estimate the rate of inflation for the twelve-month period beginning on the first day of January preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.
 - (3) If the inflation rate estimated under paragraph (C)(1) or (C)(2) of this rule is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated pursuant to this paragraph for the following fiscal year.
- (D) Peer groups used to calculate the indirect care costs component of the prospective rate for NFs beginning July 1, 1993 shall be based upon the bed size of the facility and on the geographic location of the county in which the facility resides as follows:
- (1) The bed size variable of the peer group is based on the following two groupings:
 - (a) Facilities that have from one to ninety-nine beds; or
 - (b) Facilities that have one hundred beds or more.
 - (2) The geographic variable of the peer group is based on the following four groupings:

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- (a) A metropolitan statistical area (MSA): an "MSA" is a county or a group of contiguous counties which encompasses a principal city in Ohio and as defined by the federal office of management and budget (OMB). For purposes of this rule, the MSA peer group includes the following counties: Allen, Auglaize, Carroll, Clark, Columbiana, Crawford, Delaware, Fairfield, Franklin, Fulton, Greene, Jefferson, Licking, Lucas, Madison, Mahoning, Miami, Montgomery, Pickaway, Richland, Stark, Trumbull, and Wood.
- (b) A consolidated metropolitan statistical area (CMSA): a "CMSA" is two or more contiguous MSAs which encompasses a principal city in Ohio and as defined by the federal OMB. The two CMSAs in Ohio shall be separate peer groups as follows:
- (i) For purposes of this rule, the "northeastern CMSA peer group" includes the following counties: Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit.
- (ii) For purposes of this rule, the "southwestern CMSA peer group" includes the following counties: Brown, Butler, Clermont, Hamilton, and Warren.
- (c) "Other area": "other area" is defined as an area not located in either the MSA or the CMSAs specified in paragraphs (D)(2)(a) and (D)(2)(b) of this rule.
- (3) Following the release of changes to MSAs or CMSAs, as defined by the federal OMB, peer groups will be redefined on the following July first rate setting calculation.
- (4) Each NF will be classified into a peer group for the calendar year preceding the fiscal year in which the rate is paid. Once a classification is set, it remains in effect throughout the fiscal year in which the rate is paid.
- (5) A maximum rate for indirect care costs will be set for each peer group for the calendar year preceding the fiscal year in which the rate is paid. Once the maximum rate for indirect care costs is set, it remains in effect throughout the fiscal year in which the rate is paid.

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(6) If a new NF is established at a time other than when ODHS rebases the payment system, ODHS will assign that NF to a peer group for payment purposes, but will not recalculate the maximum rate for indirect care costs for that peer group.

(E) FOR THE NFS EXCLUDED UNDER PARAGRAPH (B)(1)(a) OF THIS RULE THAT PARTICIPATED IN THE MEDICAL ASSISTANCE PROGRAM UNDER THE SAME OPERATOR FOR LESS THAN TWELVE MONTHS DURING THE CALENDAR YEAR PRECEDING THE FISCAL YEAR IN WHICH THE RATE WILL BE PAID, REIMBURSEMENT SHALL BE MADE IN ACCORDANCE WITH RULE 5101:3-3-53 OF THE ADMINISTRATIVE CODE.

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PEER GROUP NURSING FACILITIES	PER DIEM INDIRECT CARE COST	FACILITY MEDICAID DAYS	ACCUMULATED MEDICAID DAYS
1	\$12	2,000	2,000
2	\$12	20,000	22,000
3	\$12	35,000	57,000
4	\$13	10,000	67,000
5	\$13	45,000	112,000
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
75	\$18	12,000	1,650,000 (Median Medicaid Day)
*	*	*	*
77	\$20 (Median Facility)	36,500	2,200,000
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
154	\$28	20,000	3,300,000
		3,300,000	

Median Medicaid Day = 1,650,000th Medicaid Day [paragraph (B)(1)(f)]

\$18 Per Diem Indirect Care Costs which reflects the Median Medicaid Day [paragraph (B)(1)(f)]
 \$18 x 112.5% = \$20.25 Maximum Rate for Indirect Care Cost for Peer Group 1, even FYs [paragraph (B)(1)(g)]
 \$20.25 x 4.00% = \$21.06 Maximum Rate for Indirect Care Cost for Peer Group 1, odd FYs [paragraph (B)(2)]

*The "Median Facility" is not used in the calculation of the maximum rate for Indirect Care Cost.
 All the information represented on this appendix is for illustration purposes only. Facilities specified in paragraph (B)(1)(d) of this rule are not included in the calculation of the Maximum Rate for Indirect Care Cost.

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Certification: _____

Date

Promulgated under: Chapter 119.
Statutory authority: RC Section 5111.02
Rule amplifies: RC Sections 5111.01, 5111.02, 5111.20, 5111.24, Section 128 of Am.
Sub. H. B. 904
Prior effective dates: 7/1/93 (Emer.), 9/30/93

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5101:3-3-501 METHOD FOR ESTABLISHING THE OUT-OF-FACILITY MEAL COST LIMITS FOR NURSING FACILITIES (NFS).

THE DEPARTMENT OF HUMAN SERVICES (ODHS) SHALL SET A COST LIMIT FOR OUT-OF-FACILITY MEAL COSTS EACH FISCAL YEAR FOR ALL NURSING FACILITIES. COST LIMITS FOR RESIDENT MEALS PREPARED AND CONSUMED OUTSIDE THE FACILITY SHALL BE BASED ON THE STATEWIDE AVERAGE COST OF SERVING AND PREPARING MEALS IN NURSING FACILITIES, AS REPORTED ON THE FACILITY COST REPORTS. EXCLUDED FROM THE CALCULATION OF THE CEILING IS ANY NF WITH LESS THAN A CALENDAR YEAR COST REPORT AND ANY NF THAT SERVES RESIDENTS WHO HAVE OUTLIER NEEDS PURSUANT TO RULES 5101:3-3-25, 5101:3-3-541 AND 5101:3-3-545 OF THE ADMINISTRATIVE CODE.

- (A) THE AVERAGE STATEWIDE IN-FACILITY PER MEAL DIETARY COST LIMIT IS THE DESK REVIEWED, ACTUAL, ALLOWABLE DIETARY COST FOR NFS FROM THE CALENDAR YEAR PRECEDING THE FISCAL YEAR IN WHICH THE RATE WILL BE PAID, DIVIDED BY TOTAL INPATIENT DAYS FOR THE CORRESPONDING PERIOD, DIVIDED BY THREE MEALS PER DAY.
- (B) BEGINNING JULY FIRST OF EACH FISCAL YEAR BASED UPON THE CALENDAR YEAR PRECEDING THE FISCAL YEAR IN WHICH THE RATE IS PAID, THE AVERAGE STATEWIDE IN-FACILITY PER MEAL DIETARY COST ESTABLISHED UNDER PARAGRAPH (A) OF THIS RULE IS DETERMINED FROM THE SUM OF THE COSTS REFLECTED IN THE ODHS 2524 MEDICAID COST REPORT ACCOUNTS 7000 DIETITIAN; 7005 FOOD SERVICE SUPERVISOR; 7015 DIETARY PERSONNEL; 7025 DIETARY SUPPLIES AND EXPENSES; 7030 DIETARY MINOR EQUIPMENT; 7035 DIETARY MAINTENANCE AND REPAIR; 7040 FOOD IN-FACILITY; 7060 PAYROLL TAXES-DIETARY; 7065 WORKERS' COMPENSATION-DIETARY; 7070 EMPLOYEE FRINGE BENEFITS-DIETARY; 7075 EMPLOYEE ASSISTANCE PROGRAM ADMINISTRATOR-DIETARY; 7080 SELF FUNDED PROGRAMS ADMINISTRATOR-DIETARY; AND 7090 STAFF DEVELOPMENT-DIETARY; FOR ALL NFS AS SET FORTH UNDER RULE 5101:3-3-201 OF THE ADMINISTRATIVE CODE.
- (C) FOR COST REPORTING PURPOSES SPECIFIED UNDER RULE 5101:3-3-20 OF THE ADMINISTRATIVE CODE, PROVIDERS MUST REPORT THE TOTAL NUMBER OF MEALS WHICH CORRESPOND TO THE TOTAL COST FOR "FOOD OUT-OF-FACILITY" MEALS IN COST REPORT ACCOUNT 7041 OF RULE 5101:3-3-201 OF THE ADMINISTRATIVE CODE.

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- (D) THE MAXIMUM ALLOWABLE COST FOR EACH NE FOR THE FOOD OUT-OF-FACILITY COST CENTER CALCULATED AT RATE SETTING EACH FISCAL YEAR SHALL BE THE LESSER OF THE ACTUAL COST PER MEAL OR THE STATEWIDE COST LIMIT ESTABLISHED IN PARAGRAPH (A) OF THIS RULE, MULTIPLIED BY THE NUMBER OF MEALS ESTABLISHED IN PARAGRAPH (C) OF THIS RULE.
- (E) ODHS SHALL NOT RECALCULATE THE RATE FOR OUT-OF-FACILITY MEAL ALLOWANCE COSTS BASED ON ADDITIONAL INFORMATION THAT IT RECEIVES AFTER THE RATE IS SET. ODHS SHALL RECALCULATE THE RATE FOR OUT-OF-FACILITY MEAL ALLOWANCE COSTS ONLY IF IT MADE AN ERROR IN COMPUTING THE RATE BASED ON THE INFORMATION AVAILABLE AT THE TIME OF THE ORIGINAL CALCULATION.

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DATE

PROMULGATED UNDER RC: CHAPTER 119.
STATUTORY AUTHORITY: RC SECTION 5111.02
RULE AMPLIFIES RC: SECTIONS 5111.01, 5111.02, 5111.24, 5111.261

PRIOR EFFECTIVE DATES: 7/1/93 (Emer.), 9/30/93

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FOR STATE PLAN PURPOSES ONLY

5101:3-3-51 Method for establishing capital reimbursement for nursing facilities (NFs).

The Ohio department of human services (ODHS) shall pay each eligible nursing facility a per resident per day rate for its reasonable capital costs established prospectively each fiscal year for each facility. Except as otherwise provided in ~~sections 5111.20 to 5111.32 of the Revised RULES SET FORTH UNDER CHAPTER 5101:3-3 OF THE ADMINISTRATIVE Code~~, the rate shall be based upon the facility's DESK-REVIEWED, ACTUAL, ALLOWABLE, PER DIEM capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of paragraphs (A) to (C) of this rule.

(A) The rate shall equal the lesser of the following:

(1) Eighty-eight and sixty-five one hundredths per cent of the facility's desk-reviewed, actual, allowable, per diem cost of ownership and eighty-five per cent of the ~~facility's~~ FACILITY'S DESK-REVIEWED, actual, allowable, per diem nonextensive renovation; or

(2) ~~Eighty-five per cent of the~~ THE following limitation FOR THE APPROPRIATE TIME PERIOD:

(a) For the fiscal year beginning July 1, 1993, EIGHTY-FIVE PER CENT OF sixteen dollars per resident day.

(b) For the fiscal year beginning July 1, 1994, EIGHTY-FIVE PER CENT OF sixteen dollars per resident day, adjusted to reflect the rate of inflation for the twelve-month period beginning July 1, 1992, and ending June 30, 1993, using the consumer price index for shelter costs for all consumers for the north central region, published by the United States bureau of labor statistics.

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 1995 THROUGH AUGUST 31, 1995, EIGHTY-FIVE PER CENT OF THE LIMITATION CALCULATED FOR THE PRECEDING FISCAL YEAR UNDER PARAGRAPH (A) (2) (b) OF THIS RULE, ADJUSTED TO REFLECT THE RATE OF INFLATION FOR THE TWELVE-MONTH PERIOD BEGINNING JULY 1, 1993, AND ENDING JUNE 30, 1994, USING THE CONSUMER PRICE INDEX FOR SHELTER COSTS FOR ALL CONSUMERS FOR THE NORTH CENTRAL REGION, PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS.

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