

Attachment 4.19D  
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5101:3-3-822  
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5101:3-3-822 Calculation of assessment on beds certified as intermediate care facility beds for the mentally retarded (ICFs-MR).

(A) For assessment purposes, ICFs-MR, as defined in rule 5101:3-3-01 of the Administrative Code, means facilities certified under Title XIX of the Social Security Act, excluding facilities operated by the Ohio department of mental retardation and developmental disabilities ODMR-DD.

(B) For the purpose of providing home and community-based services to mentally retarded and/or developmentally disabled persons, the Ohio department of human services (ODHS) shall annually assess each ICF-MR, ~~as defined in paragraph (A) of this rule, a per bed assessment calculated as follows: eight dollars and five cents a day times the number of beds certified under Title XIX of the Social Security Act in facilities defined under paragraph (A) of this rule, times the number of days in the fiscal year.~~ FOR THOSE FACILITIES REFERENCED IN PARAGRAPH (A) OF THIS RULE, THE ASSESSMENT FEE SHALL BE CALCULATED AS FOLLOWS: NUMBER OF BEDS CERTIFIED, AS REFERENCED IN PARAGRAPH (C) OF THIS RULE, MULTIPLIED BY THE NUMBER OF DAYS IN THE FISCAL YEAR MULTIPLIED BY THE PER BED ASSESSMENT RATE EQUALS THE ASSESSMENT FEE. THE PER BED ASSESSMENT RATE IS SET FORTH BELOW.

(1) FOR THE FISCAL YEAR BEGINNING JULY 1, 1993, THE ASSESSMENT RATE IS EIGHT DOLLARS AND FIVE CENTS.

(2) FOR THE FISCAL YEAR BEGINNING JULY 1, 1994, THE ASSESSMENT RATE IS EIGHT DOLLARS AND FOURTEEN CENTS.

(3) FOR THE FISCAL YEAR BEGINNING JULY 1, 1995, THE ASSESSMENT RATE IS NINE DOLLARS AND TWENTY-FOUR CENTS.\*

see below

(4) FOR THE FISCAL YEAR BEGINNING JULY 1, 1996, THE ASSESSMENT RATE IS NINE DOLLARS AND TWENTY-FOUR CENTS MULTIPLIED BY THE TWELVE-MONTH INFLATION RATE AS DETERMINED UNDER PARAGRAPH (D) OF THIS RULE.

(5) FOR THE FISCAL YEAR BEGINNING JULY 1, 1997, AND EACH FISCAL YEAR THEREAFTER, THE ASSESSMENT RATE IS THE PRODUCT OF THE PREVIOUS FISCAL YEAR'S ASSESSMENT RATE MULTIPLIED BY THE TWELVE-MONTH INFLATION RATE AS DETERMINED UNDER PARAGRAPH (D) OF THIS RULE.

(C) For assessment purposes, the number of beds defined CERTIFIED in paragraph (A)(B) of this rule shall be calculated as of the first of July MAY of each calendar year.

\* FFP will be claimed for this amount effective September 21, 1995. For the period July 1, 1995 - September 20, 1995, FFP will be claimed for the amount of \$ 8.77.

TN #9-09 APPROVAL DATE JUN 20 1996  
SUPERSEDES  
TN #95-22 EFFECTIVE DATE 1/12/96

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(D) ~~On July 1, 1994 and each July first thereafter, ODHS shall adjust the assessment, calculated according to paragraph (A) of this rule, by a composite inflation factor. ODHS shall estimate a one year inflation factor using the consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics. If the estimated inflation rate for the eighteen month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year.~~ ON JULY 1, 1996, AND EACH JULY FIRST THEREAFTER, ODHS SHALL ADJUST THE ASSESSMENT RATE BY A TWELVE-MONTH INFLATION FACTOR. ODHS SHALL ESTIMATE A ONE YEAR INFLATION FACTOR USING THE "CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS" FOR NONPRESCRIPTION DRUGS AND MEDICAL SUPPLIES, AS PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS. THE INFLATION FACTOR SHALL COVER THE TWELVE-MONTH PERIOD BEGINNING FROM THE MIDPOINT OF THE PRIOR FISCAL YEAR TO THE MIDPOINT OF THE SUBSEQUENT FISCAL YEAR.

EFFECTIVE DATE:

JAN 12 1996

CERTIFICATION DATE:

JAN 02 1996

DATE

PROMULGATED UNDER: RC CHAPTER 119

STATUTORY AUTHORITY: RC SECTION 5112.39

RULE AMPLIFIES: RC SECTIONS 5112.30 TO 5112.39

PRIOR EFFECTIVE DATES: 09/30/93 (EMER.), 01/01/94

JUN 20 1996  
TN #96-09 APPROVAL DATE  
SUPERSEDES  
TN #95-22 EFFECTIVE DATE 1/12/96

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5101:3-3-823 SCHEDULE FOR REPORTING ASSESSMENTS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICFs-MR).

- (A) IN ACCORDANCE WITH SECTION 5112.32 OF THE REVISED CODE, BY AUGUST FIRST OF EACH YEAR, THE OHIO DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES (ODMR-DD) SHALL PROVIDE THE OHIO DEPARTMENT OF HUMAN SERVICES WITH A LIST OF THE NUMBER OF MEDICAID CERTIFIED BEDS, AS OF THE PRECEDING JULY FIRST, IN EACH ICF-MR, AS DEFINED IN PARAGRAPH (A) OF RULE 5101:3-3-822 OF THE ADMINISTRATIVE CODE. THE LIST SHALL INCLUDE THE NAME AND ADDRESS OF EACH FACILITY, AS WELL AS THE MEDICAID PROVIDER NUMBER ASSIGNED BY THE ODHS.
- (B) BY AUGUST FIFTEENTH OF EACH YEAR, ODHS SHALL DETERMINE THE ANNUAL ASSESSMENT FOR EACH ICF-MR IN ACCORDANCE WITH RULE 5101:3-3-822 OF THE ADMINISTRATIVE CODE.
- (C) BY SEPTEMBER FIRST OF EACH YEAR, ODHS SHALL NOTIFY EACH ICF-MR OF THE AMOUNT OF THE ASSESSMENT.
- (D) EACH ICF-MR SHALL PAY ITS ASSESSMENT IN QUARTERLY INSTALLMENTS NOT LATER THAN FORTY-FIVE DAYS AFTER THE LAST DAY OF SEPTEMBER, DECEMBER, MARCH, AND JUNE, WITH A CHECK PAYABLE TO: TREASURER OF STATE OF OHIO, AND MAILED TO: THE OHIO DEPARTMENT OF HUMAN SERVICES, P.O. BOX 182367, COLUMBUS, OHIO 33218-2367.
- (E) ODHS MAY ESTABLISH AN ELECTRONIC METHOD TO COLLECT THE ASSESSMENT FROM EACH ICF-MR BY DEDUCTING THE AMOUNT DUE FROM THE FACILITY'S MEDICAID VENDOR PAYMENT. ODHS SHALL NOTIFY THE AFFECTED FACILITIES IN WRITING SIXTY DAYS PRIOR TO INITIATION OF ELECTRONIC COLLECTION OF THE FRANCHISE PERMIT FEE.
- (F) ODHS MAY IMPOSE A FIVE PER CENT PENALTY ON AN ICF-MR FOR EACH MONTH OR FRACTION THEREOF IN WHICH IT FAILS TO PAY ITS ASSESSMENT WHEN DUE.

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

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

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DATE

TNS # 94-07 APPROVAL DATE JUN 28 1994  
SUPERSEDES  
TNS # 83-024 EFFECTIVE DATE 10/1/94

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PROMULGATED UNDER: RC SECTION 111.15  
STATUTORY AUTHORITY: RC SECTION 5112.39  
RULE AMPLIFIES: RC SECTIONS 5112.30 TO 5112.39  
PRIOR EFFECTIVE DATE: 9/30/93(EMER)

TNS # 94-07 APPROVAL DATE JUN 28 19  
SUPERSEDES  
TNS # 93-024 EFFECTIVE DATE 10/1/14

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5101:3-3-824 APPEALS OF THE ASSESSMENT ON INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICFs-MR).

- (A) AN ICF-MR MAY APPEAL THE ASSESSMENT IMPOSED BY RULE 5101:3-3-823 OF THE ADMINISTRATIVE CODE ONLY ON THE BASIS THAT THE OHIO DEPARTMENT OF HUMAN SERVICES (ODHS) COMMITTED AN ERROR IN CALCULATING THE ASSESSMENT.
- (B) A REQUEST FOR AN APPEAL MUST BE RECEIVED BY THE ODHS WITHIN FIFTEEN DAYS AFTER THE DATE NOTICE OF THE ASSESSMENT IS MAILED. THE REQUEST FOR APPEAL MUST CONTAIN WRITTEN DOCUMENTATION DELINEATING THE BASIS FOR THE APPEAL.
- (C) UPON RECEIVING A TIMELY REQUEST FOR APPEAL, ODHS SHALL HOLD A PUBLIC HEARING IN COLUMBUS NOT LATER THAN THIRTY DAYS AFTER THE REQUEST FOR APPEAL HAS BEEN RECEIVED. ODHS SHALL NOTIFY EACH ICF-MR OF THE TIME, DATE AND LOCATION OF THE PUBLIC HEARING AT LEAST TEN DAYS PRIOR TO THE DATE OF THE HEARING. ALL REQUESTED APPEALS WILL BE HEARD AT THIS HEARING.
- (D) ODHS MAY ADJUST THE ASSESSMENT IMPOSED ON AN ICF-MR BASED ON THE EVIDENCE PRESENTED AT THE HEARING. THE DECISION OF ODHS IS FINAL.

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

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

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DATE

PROMULGATED UNDER: RC SECTION 111.15  
STATUTORY AUTHORITY: RC SECTION 5112.39  
RULE AMPLIFIES: RC SECTIONS 5112.30 TO 5112.39  
PRIOR EFFECTIVE DATE: 9/30/93 (EMER)

TNS # 94-07 APPROVAL DATE JUN 28 1994  
SUPERSEDES  
TNS # 93-824 EFFECTIVE DATE 10/1/94

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5101:3-3-825 METHOD OF DISTRIBUTION OF FUNDS DEPOSITED IN THE HOME AND COMMUNITY-BASED SERVICES FOR THE MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED FUND.

ALL PROCEEDS FROM COLLECTION OF THE ASSESSMENT ON ICFs-MR SHALL BE DEPOSITED IN THE "HOME AND COMMUNITY-BASED SERVICES FOR THE MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED FUND," AND SHALL BE USED TO FUND PROGRAMS AS FOLLOWS:

- (A) FIRST, TO FUND THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER CHAPTER 5111. OF THE REVISED CODE;
- (B) SECOND, TO PROVIDE HOME AND COMMUNITY-BASED SERVICES TO MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED PERSONS IN ACCORDANCE WITH RULES ADOPTED BY THE OHIO DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES (ODMR-DD) UNDER SECTION 3721.60 OF THE REVISED CODE.

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

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

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DATE

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STATUTORY AUTHORITY: RC SECTION 5112.39  
RULE AMPLIFIES: RC SECTIONS 5112.30 TO 5112.39  
PRIOR EFFECTIVE DATE: 9/30/93(EMER)

TNS # 9407 APPROVAL DATE JUN 28 1994  
SUPERSEDES  
TNS # 93024 EFFECTIVE DATE 10/1/94

5101:3-3-826  
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5101:3-3-826 ENFORCEMENT OF THE ASSESSMENT PROGRAM FOR  
INTERMEDIATE CARE FACILITIES FOR THE MENTALLY  
RETARDED (ICFs-MR).

- (A) THE OHIO DEPARTMENT OF HUMAN SERVICES (ODHS) MAY MAKE ANY INVESTIGATION IT CONSIDERS APPROPRIATE TO FULFILL THE RESPONSIBILITIES OF RULES 5101:3-3-822 TO 5101:3-3-828 OF THE ADMINISTRATIVE CODE.
- (B) IN ACCORDANCE WITH SECTION 5112.38 OF THE REVISED CODE, THE ATTORNEY GENERAL SHALL AID IN ANY SUCH INVESTIGATION AND SHALL INSTITUTE AND PROSECUTE ALL NECESSARY ACTIONS FOR THE ENFORCEMENT OF RULES 5101:3-3-822 TO 5101:3-3-828 OF THE ADMINISTRATIVE CODE, EXCEPT WHERE THE ATTORNEY GENERAL HAS REQUESTED THE COUNTY PROSECUTOR IN THE COUNTY IN WHICH THE ICF-MR IS LOCATED, TO INSTITUTE AND PROSECUTE ANY NECESSARY ACTION AGAINST A FACILITY THAT HAS FAILED TO COMPLY WITH RULES 5101:3-3-822 TO 5101:3-3-828 OF THE ADMINISTRATIVE CODE.

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

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

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DATE

PROMULGATED UNDER: RC SECTION 111.15  
STATUTORY AUTHORITY: RC SECTION 5112.39  
RULE AMPLIFIES: RC SECTIONS 5112.30 TO 5112.39  
PRIOR EFFECTIVE DATE: 9/30/93 (EMER)

TNS # 94-07 APPROVAL DATE JUN 23 1994  
SUPERSEDES  
TNS # 93-024 EFFECTIVE DATE 10/1/94

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5101:3-3-827 PROCEDURE FOR TERMINATING THE ASSESSMENT PROGRAM FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICFs-MR).

IF THE UNITED STATES HEALTH CARE FINANCING ADMINISTRATION (HCFA) DETERMINES THAT THE ASSESSMENT IS AN IMPERMISSIBLE HEALTH CARE RELATED TAX, ODHS SHALL TAKE THE FOLLOWING STEPS TO CEASE IMPLEMENTATION OF RULES 5101:3-3-822 TO 5101:3-3-826 OF THE ADMINISTRATIVE CODE.

- (A) ODHS SHALL NOTIFY EACH ICF-MR, PREVIOUSLY ASSESSED A FRANCHISE PERMIT FEE, OF THE EFFECTIVE DATE OF THE TERMINATION OF THE ASSESSMENT PROGRAM, AND WHAT IMPACT THIS CHANGE WILL HAVE ON THEIR FACILITY. THE EFFECTIVE DATE OF THE TERMINATION OF THE PROGRAM WILL BE THE DATE ON WHICH HCFA DETERMINES THAT THE ASSESSMENT DOES NOT QUALIFY FOR FEDERAL FINANCIAL PARTICIPATION.
- (B) ODHS SHALL CONDUCT AN ACCOUNTING OF THE FUNDS PAID TO OR COLLECTED FROM EACH ICF-MR AS A RESULT OF THE ASSESSMENT PROGRAM, FROM THE DATE STIPULATED IN PARAGRAPH (A) OF THIS RULE, AND DO THE FOLLOWING:
  - (1) ADJUST THE RATE OF EACH ICF-MR ASSESSED UNDER THIS PROGRAM TO REMOVE ANY FUNDING ASSOCIATED WITH THE ASSESSMENT.
  - (2) REFUND, IF NECESSARY, TO EACH ICF-MR ASSESSED UNDER THIS PROGRAM, THE PORTION OF THE ASSESSMENT, COLLECTED AFTER THE EFFECTIVE DATE STIPULATED IN PARAGRAPH (A) OF THIS RULE, THAT REPRESENTS FUNDING IN EXCESS OF THAT PROVIDED IN THE ICF-MR RATE FOR ASSESSMENT PURPOSES.
  - (3) COLLECT IF NECESSARY, AFTER THE EFFECTIVE DATE STIPULATED IN PARAGRAPH (A) OF THIS RULE, FROM EACH ICF-MR ASSESSED UNDER THIS PROGRAM, ANY FUNDING PREVIOUSLY INCLUDED IN THE RATE OF AN ICF-MR FOR ASSESSMENT PURPOSES.

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

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

\_\_\_\_\_  
DATE

PROMULGATED UNDER: RC SECTION 111.15  
STATUTORY AUTHORITY: RC SECTION 5112.39  
RULE AMPLIFIES: RC SECTIONS 5112.30 TO 5112.39  
PRIOR EFFECTIVE DATE: 9/30/93 (EMER)

TNS # 94-07 APPROVAL DATE JUN 23 1994  
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TNS # 93-024 EFFECTIVE DATE 10/1/94

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5101:3-3-823 SCHEDULE FOR REPORTING ASSESSMENTS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICFs-MR).

- (A) BY AUGUST FIRST OF EACH YEAR, THE OHIO DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES (ODMR-DD) SHALL PROVIDE THE OHIO DEPARTMENT OF HUMAN SERVICES WITH A LIST OF THE NUMBER OF MEDICAID CERTIFIED BEDS, AS OF THE PRECEDING JULY FIRST, IN EACH ICF-MR, AS DEFINED IN PARAGRAPH (A) OF RULE 5101:3-3-822 OF THE ADMINISTRATIVE CODE. THE LIST SHALL INCLUDE THE NAME AND ADDRESS OF EACH FACILITY, AS WELL AS THE MEDICAID PROVIDER NUMBER ASSIGNED BY THE ODHS.
- (B) BY AUGUST FIFTEENTH OF EACH YEAR, ODHS SHALL DETERMINE THE ANNUAL ASSESSMENT FOR EACH ICF-MR IN ACCORDANCE WITH RULE 5101:3-3-822 OF THE ADMINISTRATIVE CODE.
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- (E) ODHS MAY ESTABLISH AN ELECTRONIC METHOD TO COLLECT THE ASSESSMENT FROM EACH ICF-MR BY DEDUCTING THE AMOUNT DUE FROM THE FACILITY'S MEDICAID VENDOR PAYMENT. ODHS SHALL NOTIFY THE AFFECTED FACILITIES IN WRITING SIXTY DAYS PRIOR TO INITIATION OF ELECTRONIC COLLECTION OF THE FRANCHISE PERMIT FEE.
- (F) ODHS MAY IMPOSE A FIVE PERCENT PENALTY ON AN ICF-MR FOR EACH MONTH OR FRACTION THEREOF IN WHICH IT FAILS TO PAY ITS' ASSESSMENT WHEN DUE.

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

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

DATE

TN No. 93-24 APPROVAL DATE 3-24-94  
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 TN No. NEW EFFECTIVE DATE 7-1-93

PROMULGATED UNDER: CHAPTER 119.  
 STATUTORY AUTHORITY: RC SECTION 5111.02  
 RULE AMPLIFIES: RC SECTIONS 5111.01, 5111.02, 5112.30 TO 5112.39

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5101:3-3-824 APPEALS OF THE ASSESSMENT ON INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICFs-MR).

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- (D) ODHS MAY ADJUST THE ASSESSMENT IMPOSED ON AN ICF-MR BASED ON THE EVIDENCE PRESENTED AT THE HEARING. ODHS'S DECISION IS FINAL.

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

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

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DATE

PROMULGATED UNDER: CHAPTER 119.  
STATUTORY AUTHORITY: RC SECTION 5111.02  
RULE AMPLIFIES: RC SECTIONS 5111.01, 5111.02, 5112.30 TO 5112.39

TN No. 93-24 APPROVAL DATE 3-24-94  
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