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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: _____

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
SUPERSEDES
TN No. NEW EFFECTIVE DATE 7-1-93

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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) THE ATTORNEY GENERAL SHALL AID IN ANY SUCH INVESTIGATION AND SHALL INSTITUTE AND PROSECUTE ALL ACTIONS FOR 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 ALL 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: _____

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
SUPERSEDES
TN No. NEW EFFECTIVE DATE 7-1-93

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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

TNS # 97-24 APPROVAL DATE 3-24-94
SUPERSEDES
TNS # ~~new~~ EFFECTIVE DATE 7-1-93

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5101:3-3-83 Method for establishing the indirect care costs component of the prospective rate for intermediate care facilities for the mentally retarded (ICFs-MR).

- (A) The Ohio department of human services (ODHS) shall pay each eligible ICF-MR a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each ICF-MR shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group:
- (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 (D)(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 following amount:
 - (i) In the case of an ICF-MR with more than eight beds, seven and one tenth per cent of the maximum rate calculated under paragraph (B) of this rule.
 - (ii) In the case of an ICF-MR with eight or fewer beds, seven per cent of the maximum rate calculated under paragraph (C) 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 of ICFs-MR with more than eight beds 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 of ICFs-MR as follows:

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- (a) Calculate the per diem indirect care cost under paragraph (A)(1) of this rule for each ICF-MR EXCLUDING ANY ICF-MR 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
 - (c) Calculate three standard deviations from the mean established in paragraph (B)(1)(b) of this rule; and
 - (d) Determine each ICF-MR 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 ICF-MR 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) Array the per diem indirect care cost from the calculation under paragraph (B)(1)(a) of this rule excluding the ICFs-MR 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
 - (f) Multiply the median as calculated under paragraph (B)(1)(e) of this rule times one hundred twelve and four-tenths per cent to obtain the maximum rate for indirect care costs.
- (2) For fiscal years ending in odd-numbered calendar years, the maximum rate for indirect care costs is the maximum rate for the previous fiscal year as established under paragraph (B)(1)(f) of this rule, adjusted for the inflation rate estimated under paragraph (D)(2) of this rule.
 - (3) ODHS shall not recalculate a maximum rate for indirect care costs set under paragraph (B) of this rule based on additional information that ODHS receives after the maximum rate is set. ODHS shall recalculate a 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.

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- (4) The maximum rate for indirect care costs for ICFs-MR calculated under this rule shall be increased by ten cents in the fiscal years that begin July 1, 1993 and July 1, 1994 only. The increase shall not be used to calculate the efficiency incentive under paragraph (A)(2) of this rule.
- (C) Except as specified under paragraph (C)(4) of this rule, the maximum rate for indirect care costs of ICFs-MR with eight or fewer beds shall be determined as illustrated in appendix B of this rule and as follows:
- (1) For fiscal years that end in even-numbered calendar years, set the maximum rate of ICFs-MR as follows:
- (a) Calculate the per diem indirect care cost under paragraph (A)(1) of this rule for each ICF-MR EXCLUDING ANY ICF-MR 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 (C)(1)(a) of this rule; and
 - (c) Calculate three standard deviations from the mean established in paragraph (C)(1)(b) of this rule; and
 - (d) Determine each ICF-MR in which the per diem indirect care cost is more or less than three standard deviations from the mean calculated under paragraph (C)(1)(c) of this rule any ICF-MR that serves residents who have special care needs pursuant to rule 5101:3-3-25 of the Administrative Code; and
 - (e) Array the per diem indirect care cost from the calculation under paragraph (C)(1)(a) of this rule excluding the ICFs-MR determined under paragraph (C)(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
 - (f) Multiply the median as calculated under paragraph (C)(1)(e) of this rule times one hundred ten and three-tenths per cent to obtain the maximum rate for indirect care costs.

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- (2) For fiscal years ending in odd-numbered calendar years, the maximum rate for indirect care costs is the maximum rate for the previous fiscal year as established under paragraph (C)(1)(f) of this rule, adjusted for the inflation rate estimated under paragraph (D)(2) of this rule.
 - (3) ODHS shall not recalculate a maximum rate for indirect care costs set under paragraph (C) of this rule based on additional information that ODHS receives after the maximum rate is set. ODHS shall recalculate a 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 indirect care costs for ICFs-MR calculated under this rule shall be increased by ten cents in the fiscal years that begin July 1, 1993 and July 1, 1994 only. The increase shall not be used to calculate the efficiency incentive under paragraph (A)(2) of this rule.
- (D) For purposes of estimating the inflation rates for ICFs-MR 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) or (C)(2) of this rule, ODHS shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal 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.
 - (3) If the inflation rate estimated under paragraph (D)(1) or (D)(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.

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- (E) FOR THE ICFS-MR EXCLUDED UNDER PARAGRAPHS (B)(1)(a) AND (C)(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 5101:3-3-86 OF THE ADMINISTRATIVE CODE.

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5101:3-3-83 MAXIMUM INDIRECT CARE COST CALCULATION - ALL ICFs-MR 9 BEDS & GREATER

ALL ICFs-MR 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
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
79	\$18	12,000	850,000 (Median Medicaid Day)
*	*	*	*
82	\$20 (Median Facility)	36,500	900,000
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
164	\$28	20,000	1,700,000
		1,700,000	

Median Medicaid Day = 850,000th Medicaid Day [paragraph (B)(1)(e)]

\$18 Per Diem Indirect Care Costs which reflects the Median Medicaid Day [paragraph (B)(1)(e)]
~~\$18~~ x ~~112.5%~~ 112.4% = ~~\$20.25~~ \$20.23 Maximum Rate for Indirect Care Cost, even FYs [paragraph (B)(1)(f)]
~~\$20.25~~ \$20.23 x 4.00% = ~~\$21.06~~ \$21.04 Maximum Rate for Indirect Care Cost, 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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5101:3-3-83 MAXIMUM INDIRECT CARE COST CALCULATION - ALL ICFs-MR 8 BEDS & LESS

ALL ICFs-MR FACILITIES	PER DIEM INDIRECT CARE COST	FACILITY MEDICAID DAYS	ACCUMULATED MEDICAID DAYS
1	\$12	2,000	2,000
2	\$12	2,000	4,000
3	\$12	1,500	5,500
4	\$13	1,000	6,500
5	\$13	2,900	9,400
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
62	\$18	2,900	175,000 (Median Medicaid Day)
*	*	*	*
65	\$20 (Median Facility)	2,000	200,000
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*
129	\$28	2,900	350,000
		350,000	

Median Medicaid Day = 175,000th Medicaid Day [paragraph (C)(1)(e)]

\$18 Per Diem Indirect Care Costs which reflects the Median Medicaid Day [paragraph (C)(1)(e)]
 \$18 x ~~112.5%~~ 110.3% = ~~\$20.25~~ \$19.85 Maximum Rate for Indirect Care Cost, even FYs [paragraph (C)(1)(f)]
~~\$20.25~~ \$19.85 x 4.00% = ~~\$21.06~~ \$20.64 Maximum Rate for Indirect Care Cost, odd FYs [paragraph (C)(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 (C)(1)(d) of this rule are not included in the calculation of the Maximum Rate for Indirect Care Cost.

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