

- (11) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1984, BUT PRIOR TO JANUARY 1, 1986, NOT EXCEEDING:
 - (a) TWELVE DOLLARS AND FIFTY-THREE CENTS PER RESIDENT DAY IF THE BEDS WERE ORIGINALLY LICENSED AS RESIDENTIAL FACILITY BEDS BY THE DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES;
 - (b) SEVEN DOLLARS AND FORTY CENTS PER RESIDENT DAY IF THE BEDS WERE ORIGINALLY LICENSED AS NURSING HOME BEDS BY THE DEPARTMENT OF HEALTH.

- (12) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1985, BUT PRIOR TO JANUARY 1, 1987, NOT EXCEEDING:
 - (a) TWELVE DOLLARS AND SEVENTY CENTS PER RESIDENT DAY IF THE BEDS WERE ORIGINALLY LICENSED AS RESIDENTIAL FACILITY BEDS BY THE DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES;
 - (b) SEVEN DOLLARS AND FIFTY CENTS PER RESIDENT DAY IF THE BEDS WERE ORIGINALLY LICENSED AS NURSING HOME BEDS BY THE DEPARTMENT OF HEALTH.

- (13) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1986, BUT PRIOR TO JANUARY 1, 1988, NOT EXCEEDING:
 - (a) TWELVE DOLLARS AND NINETY-NINE CENTS PER RESIDENT DAY IF THE BEDS WERE ORIGINALLY LICENSED AS RESIDENTIAL FACILITY BEDS BY THE DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES;
 - (b) SEVEN DOLLARS AND SIXTY-SEVEN CENTS PER RESIDENT DAY IF THE BEDS WERE ORIGINALLY LICENSED AS NURSING HOME BEDS BY THE DEPARTMENT OF HEALTH.

- (14) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1987, BUT PRIOR TO JANUARY 1, 1989, NOT EXCEEDING THIRTEEN DOLLARS AND TWENTY-SIX CENTS PER RESIDENT DAY;

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- (15) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1988, BUT PRIOR TO JANUARY 1, 1990, NOT EXCEEDING THIRTEEN DOLLARS AND FORTY-SIX CENTS PER RESIDENT DAY;
- (16) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1989, BUT PRIOR TO JANUARY 1, 1991, NOT EXCEEDING THIRTEEN DOLLARS AND SIXTY CENTS PER RESIDENT DAY;
- (17) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1990, BUT PRIOR TO JANUARY 1, 1992, NOT EXCEEDING THIRTEEN DOLLARS AND FORTY-NINE CENTS PER RESIDENT DAY;
- (18) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1991, BUT PRIOR TO JANUARY 1, 1993, NOT EXCEEDING THIRTEEN DOLLARS AND SIXTY-SEVEN CENTS PER RESIDENT DAY;
- (19) FOR FACILITIES WITH DATES OF LICENSURE AFTER DECEMBER 31, 1992, NOT EXCEEDING FOURTEEN DOLLARS AND TWENTY-EIGHT CENTS PER RESIDENT DAY.

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(C) Cost of ownership payments to ICFs-MR with eight or fewer beds shall not exceed the following ceilings:

- (1) For ICFs-MR that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities before July 1, 1993, and for ICFs-MR of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the ICF-MR demonstrates that it made substantial commitments of funds before July 1, 1993, cost of ownership payments shall not exceed the following ceilings:
 - (a) For the fiscal year beginning July 1, 1993, eighteen dollars and forty cents per resident day; and
 - (b) For the fiscal year beginning July 1, 1994, eighteen dollars and forty cents 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 Urban Consumers for the North Central Region," published by the United States bureau of labor statistics; and

- (c) For subsequent fiscal years, the limitation in effect during the previous fiscal year, adjusted to reflect the rate of inflation for the twelve-month period beginning on the first day of July for the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the "Consumer Price Index for Shelter Costs for All Urban Consumers for the North Central Region," published by the United States bureau of labor statistics.
 - (2) For ICFs-MR that have dates of licensure or that have been granted project authorization by the department of mental retardation and developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before July 1, 1993, cost of ownership payments shall not exceed the applicable amount calculated under paragraph (C)(1) of this rule, if ODHS gives prior approval for construction of the facility. If ODHS does not give prior approval, cost of ownership payments shall not exceed the amount specified in paragraph (B)(6) of this rule as adjusted for inflation under paragraph (E) of this rule.
 - (3) Notwithstanding the provisions of rule 5101:3-3-843 of the Administrative Code and paragraphs (C)(1) and (C)(2) of this rule, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for ICFs-MR with eight or fewer beds shall not exceed the sum of the ceilings as specified under paragraph (B)(6) of this rule as adjusted for inflation under paragraph (E) of this rule and the provisions of rule 5101:3-3-843 of the Administrative Code.
- (D) The Ohio department of human services (ODHS) shall pay each ICF-MR an efficiency incentive that is equal to fifty per cent of the difference between the following:
- (1) The ICF-MR's desk-reviewed, actual, allowable, per diem cost of ownership which includes depreciation for costs that are paid or reimbursed by any government agency; and
 - (2) The applicable efficiency incentive ceiling for each ICF-MR:
 - (a) For ICFs-MR with more than eight beds, the applicable ceiling as specified under paragraph (B) of this rule based upon each facility's own specific date of licensure and cost of construction updated for inflation under paragraph (E) of this rule; and

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- (b) For ICFs-MR with eight and fewer beds, the applicable ceiling as specified under paragraph (B) of this rule based upon each facility's own specific date of licensure and cost of construction updated for inflation under paragraph (E) of this rule.
 - (i) For fiscal year beginning July 1, 1993, the maximum efficiency incentive payment as calculated under paragraph (D) of this rule for ICFs-MR with eight or fewer beds shall not exceed a ceiling of three dollars per resident day; and
 - (ii) For fiscal year beginning July 1, 1994, and thereafter, the three dollars per resident day is updated for inflation under paragraph (E) of this rule.

- (E) For purposes of increasing the ceilings specified under paragraphs (B) and (D)(2) of this rule, the following applies:
 - (1) For fiscal year that begins July 1, 1993, adjust the ceilings specified under paragraphs (B) and (D)(2) of this rule to reflect the rate of inflation for the twelve month period beginning July 1, 1991 through June 30, 1992 using the "Consumer Price Index for Shelter Costs for All Urban Consumers for the North Central Region," published by the United States bureau of labor statistics.
 - (2) For subsequent fiscal years, each of the ceilings, as increased from the prior fiscal year, shall be adjusted to reflect the rate of inflation for the twelve-month period beginning on the first day of July for the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the "Consumer Price Index for Shelter Costs for All Urban Consumers for the North Central Region," published by the United States bureau of labor statistics.

- (F) ICFs-MR which complete extensive renovations as defined under rule 5101:3-3-01 of the Administrative Code, will receive a per diem for cost of ownership based upon the costs as specified under paragraph (A) of this rule. The per diem for cost of ownership reflects actual expenditures subject to the provisions under rule 5101:3-3-84 of the Administrative Code.
 - (1) The date of licensure for an extensively renovated ICF-MR shall be considered to be the date of completion of the extensive renovation.

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- (2) The current ceilings as calculated under paragraphs (B), (C), and (D)(2) of this rule shall be assigned to the extensively renovated facility using the date of licensure as determined under ~~paragraph~~ PARAGRAPHS (B) and (C) of this rule.
- (3) An extensively renovated ICF-MR, which obtains new ceilings as determined under paragraphs (B), (C), and (D)(2) of this rule, shall not be permitted any reimbursement for nonextensive renovations under rule 5101:3-3-843 of the Administrative Code made prior to the extensive renovation project which resulted in the new ceilings. Thereafter, the cost and accumulated depreciation of the nonextensive renovation shall be included in cost of ownership.
- (4) An extensively renovated ICF-MR shall not be permitted to receive any reimbursement for nonextensive renovations under rule 5101:3-3-843 of the Administrative Code for a period of five years after the completion of the extensive renovations, with the exception of those nonextensive renovations necessary to meet the requirements of federal, state or local statutes, ordinances, rules or policies.

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_____ Date

Promulgated under: RC Chapter 119.
 Statutory authority: RC section 5111.02
 Rule amplifies: RC sections 5111.01, 5111.02, 5111.251
 Prior effective dates: 7/3/80, 9/1/82, 2/21/83, 8/15/83 (emer.), 11/10/83 (emer.), 12/25/83, 2/12/85 (emer.), 6/1/85, 8/1/87, 9/30/87 (emer.), 12/28/87, 10/1/91 (emer.), 12/20/91, 9/30/93 (emer.), 12/30/93 (emer.), 3/31/94

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5101:3-3-843 NONEXTENSIVE RENOVATIONS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICFS-MR).

THE DESK-REVIEWED ACTUAL, ALLOWABLE, PER DIEM COST FOR NONEXTENSIVE RENOVATIONS ESTABLISHED IN THIS RULE IS SUBJECT TO THE PROVISIONS SET FORTH UNDER RULE 5101:3-3-84 OF THE ADMINISTRATIVE CODE. ICFS-MR WHICH COMPLETE RENOVATIONS AS DEFINED UNDER 5101:3-3-01 OF THE ADMINISTRATIVE CODE AND COMPLETED ALLOWABLE RENOVATIONS PRIOR TO JULY 1, 1993, WILL RECEIVE THE LESSER OF THE CEILING DETERMINED UNDER PARAGRAPH (H) OF THIS RULE OR AN AGGREGATE PER DIEM BASED UPON THE COSTS AS SPECIFIED IN THIS RULE. THE COST OF NONEXTENSIVE RENOVATION(S) DIRECTLY ATTRIBUTABLE TO THE PURCHASE OF PROPERTY AND EQUIPMENT COSTS FROM ONE RELATED PARTY TO ANOTHER THROUGH COMMON OWNERSHIP OR CONTROL AS DEFINED UNDER RULE 5101:3-3-01 OF THE ADMINISTRATIVE CODE SHALL BE BASED UPON THE LESSER OF THE ACTUAL PURCHASE OF PROPERTY AND EQUIPMENT COSTS OR THE ACTUAL COSTS OF THE RELATED PARTY. IN ORDER FOR COSTS TO QUALIFY FOR COST OF NONEXTENSIVE RENOVATIONS, THE FOLLOWING CIRCUMSTANCES MUST BE MET.

(A) THE DESK-REVIEWED ACTUAL, ALLOWABLE, PER DIEM COST OF NONEXTENSIVE RENOVATION IS BASED UPON CERTIFIED BEDS FOR PROPERTY COSTS AND ASSETS AFFIXED TO THE BUILDING AS SET FORTH UNDER PARAGRAPHS (A)(1) TO (A)(3) OF THIS RULE FOR THE CALENDAR YEAR PRECEDING THE FISCAL YEAR IN WHICH THE RATE WILL BE PAID. THE DESK-REVIEWED ACTUAL, ALLOWABLE, PER DIEM COST OF NONEXTENSIVE RENOVATION INCLUDES:

(1) THE COST OF PURCHASING OR ACQUIRING CAPITAL ASSETS THAT MEET THE REQUIREMENTS OF NONEXTENSIVE RENOVATION(S) SET FORTH UNDER THIS RULE INCLUDE:

(a) EXCEPT AS OTHERWISE REQUIRED BY RULES 5101:3-3-845 AND 5101:3-3-86 OF THE ADMINISTRATIVE CODE, DEPRECIATION EXPENSE FOR THE COST OF BUILDING(S) EQUAL TO THE ACTUAL COST DEPRECIATED UNDER RULE 5101:3-3-841 OF THE ADMINISTRATIVE CODE FOR NONEXTENSIVE RENOVATIONS. THE PROVIDER IS NOT TO CHANGE THE ACCUMULATED DEPRECIATION THAT HAS BEEN PREVIOUSLY REPORTED. THIS ACCUMULATED DEPRECIATION WILL BE CARRIED FORWARD AS PREVIOUSLY REPORTED AND AUDITED. THE CURRENT DEPRECIATION WILL THEN BE ADDED TO ACCUMULATED DEPRECIATION AS RECOGNIZED.

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- (b) EXCEPT AS OTHERWISE REQUIRED BY RULES 5101:3-3-845 AND 5101:3-3-86 OF THE ADMINISTRATIVE CODE, DEPRECIATION EXPENSE FOR MAJOR COMPONENTS OF PROPERTY AND FIXED EQUIPMENT EQUAL TO THE ACTUAL COST DEPRECIATED UNDER RULE 5101:3-3-841 OF THE ADMINISTRATIVE CODE FOR NONEXTENSIVE RENOVATIONS. THE PROVIDER IS NOT TO CHANGE THE ACCUMULATED DEPRECIATION THAT HAS BEEN PREVIOUSLY REPORTED. THIS ACCUMULATED DEPRECIATION WILL BE CARRIED FORWARD AS PREVIOUSLY REPORTED AND AUDITED. THE CURRENT DEPRECIATION WILL THEN BE ADDED TO ACCUMULATED DEPRECIATION AS RECOGNIZED.
 - (c) INTEREST EXPENSE INCURRED ON MONEY BORROWED FOR CAPITAL ASSETS THAT QUALIFY FOR NONEXTENSIVE RENOVATIONS.
 - (d) DEPRECIATION EXPENSE FOR COSTS PAID OR REIMBURSED BY ANY GOVERNMENT AGENCY, IF THAT PART OF THE PROSPECTIVE PER DIEM RATE IS USED TO REIMBURSE THE GOVERNMENT AGENCY AND A' LOAN PROVIDES FOR REPAYMENT OVER A TIME-LIMITED PERIOD. THESE CAPITAL ASSET(S) MUST QUALIFY FOR NONEXTENSIVE RENOVATION.
 - (e) AMORTIZATION EXPENSE OF FINANCING COSTS.
- (2) THE COST OF NONEXTENSIVE RENOVATION(S) DIRECTLY RELATED TO THE AMORTIZATION OF LEASEHOLD IMPROVEMENTS THAT MEET THE CRITERIA FOR NONEXTENSIVE RENOVATIONS UNDER THIS RULE. THESE COSTS SHALL BE EXPENSED OVER THE LESSER OF THE REMAINING LIFE OF THE LEASE, BUT NOT LESS THAN FIVE YEARS, OR THE USEFUL LIFE OF THE IMPROVEMENT AS SPECIFIED IN RULE 5101:3-3-841 OF THE ADMINISTRATIVE CODE. IF THE USEFUL LIFE OF THE IMPROVEMENT IS LESS THAN FIVE YEARS, IT MAY BE AMORTIZED OVER ITS USEFUL LIFE. OPTIONS ON LEASES WILL NOT BE CONSIDERED. EFFECTIVE JULY 1, 1993, LESSEES WHO REPORT LEASEHOLD IMPROVEMENTS AND WHO LEAVE THE PROGRAM BEFORE THE MINIMUM AMORTIZATION PERIOD IS COMPLETE, AS SET FORTH UNDER PARAGRAPH (A)(2) OF THIS RULE, WILL NOT RECEIVE REIMBURSEMENT FOR THE BALANCE OF UNAMORTIZED COSTS.

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- (B) FOR PROJECTS STARTED PRIOR TO JULY 1, 1993, ADMINISTRATIVE CODE RULES IN EFFECT ON DECEMBER 22, 1992, SHALL APPLY IN ORDER TO DETERMINE IF THE PROJECT QUALIFIES AS A NONEXTENSIVE RENOVATION. FOR PURPOSES OF PARAGRAPH (B) OF THIS RULE, "STARTED" MEANS THE PHYSICAL WORK HAS BEGUN ON THE PROJECT AT THE SITE OF THE FACILITY. PRELIMINARY WORK SUCH AS PLANNING, AGENCY APPROVAL, FEASIBILITY SURVEYS, AND ARCHITECTURAL DRAWINGS ARE NOT CONSIDERED "STARTED". THE PROJECT STARTED PRIOR TO JULY 1, 1993, MUST INCLUDE AT LEAST THE FOLLOWING:
- (1) THE COST OF THE PROJECT WAS MORE THAN TEN THOUSAND DOLLARS; AND
 - (2) THE PROJECT DOES NOT INCREASE THE NUMBER OF LICENSED BEDS; AND
 - (3) ALL OF THE COSTS OF THE PROJECT ARE INCURRED AFTER JULY 1, 1981.
- (C) FOR PROJECTS STARTED AFTER JUNE 30, 1993, THE FOLLOWING SHALL APPLY IN ORDER TO DETERMINE IF A PROJECT QUALIFIES AS A NONEXTENSIVE RENOVATION:
- (1) THE PROJECT RESULTS IN THE BETTERMENT, IMPROVEMENT, OR RESTORATION OF A ICF-MR BEYOND ITS CURRENT FUNCTIONAL CAPACITY THROUGH A STRUCTURAL CHANGE THAT COSTS AT LEAST FIVE HUNDRED DOLLARS PER BED; AND
 - (2) WHEN APPLYING THE FIVE HUNDRED DOLLARS PER BED REQUIREMENT THE FOLLOWING APPLY:
 - (a) IF THE PROJECT AFFECTS ONLY THE MEDICAID CERTIFIED PART OF A FACILITY, ALL MEDICAID CERTIFIED BEDS IN THE FACILITY WILL BE CONSIDERED WHEN APPLYING THE MINIMUM COST CRITERIA; OR
 - (b) IF THE PROJECT AFFECTS THE ENTIRE FACILITY, ALL LICENSED BEDS WILL BE CONSIDERED WHEN APPLYING THE MINIMUM COST CRITERIA; AND
 - (3) THE PROJECT DOES NOT INCREASE THE NUMBER OF LICENSED BEDS; AND

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- (4) IF THE FACILITY RELOCATES BEDS WITHIN THE CURRENT STRUCTURE OF THE BUILDING, THE CONSTRUCTION FOR THE RELOCATED BEDS SHALL BE CONSIDERED A NONEXTENSIVE RENOVATION IF IT MEETS THE OTHER CRITERIA SPECIFIED IN PARAGRAPH (C) OF THIS RULE UNLESS THE PROJECT MEETS THE DEFINITION OF EXTENSIVE RENOVATION AS DEFINED UNDER RULE 5101:3-3-01 OF THE ADMINISTRATIVE CODE; AND
 - (5) THE ICF-MR HAS OBTAINED PRIOR APPROVAL UNDER PARAGRAPH (E) OF THIS RULE; AND
 - (6) THE ICF-MR HAS SATISFIED ALL REQUIREMENTS FOR NOTICE TO OHIO DEPARTMENT OF HUMAN SERVICES (ODHS) UPON COMPLETION OF THE PROJECT AS SET FORTH UNDER PARAGRAPH (G)(1) OF THIS RULE; AND
 - (7) UNLESS THE PROJECT IS NECESSARY TO MEET THE REQUIREMENTS OF FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, RULES OR POLICES, ODHS WILL NOT APPROVE A PROJECT AS A NONEXTENSIVE RENOVATION IF FEWER THAN FIVE YEARS HAVE ELAPSED SINCE THE DATE OF LICENSURE OF THE PORTION OF THE ICF-MR THAT IS PROPOSED TO BE RENOVATED.
- (D) TO OBTAIN PRIOR APPROVAL FROM ODHS TO REPORT A PROJECT AS A NONEXTENSIVE RENOVATION, THE FOLLOWING INFORMATION MUST BE SUBMITTED BY THE ICF-MR PRIOR TO BEGINNING CONSTRUCTION OF THE PROPOSED NONEXTENSIVE RENOVATION.
- (1) A BRIEF DESCRIPTION OF THE PROJECT INCLUDING THE NEED FOR THE PROJECT; AND
 - (2) AN ESTIMATE OF THE COST OF THE PROJECT, A LIST OF WORK ITEMS SUMMARIZING THE SCOPE OF THE PROJECT, A COPY OF THE ESTIMATE FROM THE CONTRACTOR THAT WILL UNDERTAKE THE PROJECT, AND ESTIMATED TOTAL ANNUAL DEPRECIATION AND INTEREST EXPENSE FOR THE PROJECT; AND
 - (3) A SKETCH, DIAGRAM, OR ILLUSTRATION OF THE FACILITY PRIOR TO THE PROJECT; AND
 - (4) A SKETCH, DIAGRAM, OR ILLUSTRATION OF THE FACILITY SHOWING THE LAYOUT AFTER COMPLETION OF THE PROJECT; AND

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- (5) THE ESTIMATED START AND COMPLETION DATE OF THE PROJECT; AND
 - (6) IF THE ICF-MR IS REQUESTING AN APPROVAL OF A PROJECT UNDER PARAGRAPH (C)(7) OF THIS RULE, THE APPLICABLE STATUTE, ORDINANCE, RULES OR POLICY MUST BE SUBMITTED ALONG WITH AN EXPLANATION OF HOW THE PROJECT ADDRESSES THE GOVERNMENT MANDATE; AND
 - (7) THE REQUEST MUST SHOW THE NUMBER OF BEDS AFFECTED BY EACH COMPONENT OF THE PROJECT IN ORDER TO DETERMINE THE MINIMUM COST REQUIREMENT SET FORTH UNDER PARAGRAPH (C)(2) OF THIS RULE.
- (E) WHEN REVIEWING A REQUEST FOR PRIOR APPROVAL TO REPORT A PROJECT AS A NONEXTENSIVE RENOVATION, ODHS SHALL:
- (1) REQUEST IN WRITING ANY ADDITIONAL INFORMATION NEEDED TO REVIEW THE REQUEST FOR PRIOR APPROVAL; AND
 - (2) DETERMINE THAT THE PROJECT MEETS THE DEFINITION OF A RENOVATION UNDER RULE 5101:3-3-01 OF THE ADMINISTRATIVE CODE; AND
 - (3) DETERMINE THAT THE PROJECT SATISFIES ALL THE REQUIREMENTS OF A NONEXTENSIVE RENOVATION AS SET FORTH UNDER PARAGRAPH (C) OF THIS RULE; AND
 - (4) DETERMINE THAT THE ESTIMATED COSTS OF THE PROJECT ARE ALLOWABLE UNDER RULE 5101:3-3-01 OF THE ADMINISTRATIVE CODE; AND
 - (5) NOTIFY THE PROVIDER IN WRITING THAT THE REQUEST FOR PRIOR APPROVAL TO REPORT A PROJECT AS A NONEXTENSIVE RENOVATION HAS BEEN GRANTED OR DENIED. AFTER PRIOR APPROVAL IS GRANTED, THE PROVIDER SHALL COMPLY WITH THE FOLLOWING:
 - (a) THE NONEXTENSIVE RENOVATION PROJECT MUST BE STARTED WITHIN SIX MONTHS AFTER THE DATE ODHS GRANTS APPROVAL; AND

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