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- (b) THE NONEXTENSIVE RENOVATION PROJECT MUST BE COMPLETED WITHIN EIGHTEEN MONTHS AFTER IT IS STARTED. THE TOTAL COST OF ALL PORTIONS OF THE NONEXTENSIVE RENOVATION PROJECT COMPLETED WITHIN EIGHTEEN MONTHS AFTER IT IS STARTED MUST SATISFY THE COST PER BED REQUIREMENT UNDER PARAGRAPH (C)(1) OF THIS RULE.

FOR PURPOSES OF PARAGRAPH (E) 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". FAILURE TO SATISFY THE CONDITIONS UNDER THIS PARAGRAPH SHALL RESULT IN COSTS OF THE PROJECT BEING REPORTED AS COST OF OWNERSHIP IN LIEU OF NONEXTENSIVE RENOVATIONS IN ACCORDANCE WITH PARAGRAPH (G)(3) OF THIS RULE.

- (6) WRITTEN APPROVAL FROM ODHS OF A PROJECT AS A NONEXTENSIVE RENOVATION SHALL CLEARLY STATE THAT THE APPROVAL OF ANY ADDITIONAL COSTS AS SET FORTH UNDER PARAGRAPH (F) OF THIS RULE MUST BE APPROVED IN WRITING BY ODHS IN ORDER TO QUALIFY AS NONEXTENSIVE RENOVATION.
- (F) ADDITIONAL NOTICE TO ODHS IS REQUIRED DURING THE COURSE OF THE CONSTRUCTION OF THE APPROVED NONEXTENSIVE RENOVATION IF ANY OF THE FOLLOWING CIRCUMSTANCES OCCUR:
- (1) THE COMPLETION OF THE NONEXTENSIVE RENOVATION PROJECT IS DELAYED OR ACCELERATED BY MORE THAN FOUR MONTHS FROM THE ESTIMATED DATE OF COMPLETION.
- (2) THE ACTUAL COST OF CONSTRUCTION EXCEEDS THE APPROVED COST BY THE GREATER OF TEN PER CENT OR TWO THOUSAND DOLLARS.
- (a) UPON RECEIVING NOTICE OF THE COST INCREASE, ODHS MAY APPROVE THE ADDITIONAL COSTS FOR INCLUSION AS A NONEXTENSIVE RENOVATION. IN REVIEWING A PROJECT FOR APPROVAL UNDER PARAGRAPH (F)(2)(a) OF THIS RULE, ODHS SHALL APPLY THE CRITERIA SPECIFIED IN PARAGRAPH (E) OF THIS RULE; OR

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- (b) IF ODHS DOES NOT APPROVE THE ADDITIONAL COSTS, EXPENSES RELATED TO ALL COSTS IN EXCESS OF THE APPROVED AMOUNT WILL BE REIMBURSED AS COST OF OWNERSHIP PURSUANT TO RULE 5101:3-3-842 OF THE ADMINISTRATIVE CODE; OR
- (c) IF THE PROVIDER FAILS TO PROVIDE NOTICE TO ODHS OF THE INCREASED COSTS, EXPENSES RELATED TO ALL COSTS IN EXCESS OF THE APPROVED AMOUNT WILL BE REIMBURSED AS COST OF OWNERSHIP PURSUANT TO RULE 5101:3-3-842 OF THE ADMINISTRATIVE CODE.
- (3) THE ACTUAL AMOUNT FINANCED EXCEEDS THE APPROVED AMOUNT FINANCED BY THE GREATER OF TEN PER CENT OR TWO THOUSAND DOLLARS.
- (a) UPON RECEIVING NOTICE OF THE INCREASE IN THE AMOUNT FINANCED, ODHS MAY APPROVE THE INCREASE IN THE AMOUNT FINANCED FOR INCLUSION AS A NONEXTENSIVE RENOVATION. IN REVIEWING A PROJECT FOR APPROVAL UNDER PARAGRAPH (F)(3)(a) OF THIS RULE, ODHS SHALL APPLY THE CRITERIA SPECIFIED IN PARAGRAPH (E) OF THIS RULE; OR
- (b) IF ODHS DOES NOT APPROVE THE ADDITIONAL AMOUNT FINANCED, INTEREST EXPENSE RELATED TO ALL AMOUNTS FINANCED IN EXCESS OF THE APPROVED AMOUNT WILL BE REIMBURSED AS COST OF OWNERSHIP PURSUANT TO RULE 5101:3-3-842 OF THE ADMINISTRATIVE CODE; OR
- (c) IF THE PROVIDER FAILS TO PROVIDE NOTICE TO ODHS OF THE INCREASED AMOUNT FINANCED, INTEREST EXPENSE RELATED TO ALL AMOUNTS FINANCED IN EXCESS OF THE APPROVED AMOUNT WILL BE REIMBURSED AS COST OF OWNERSHIP PURSUANT TO RULE 5101:3-3-842 OF THE ADMINISTRATIVE CODE.
- (4) THE ACTUAL INTEREST RATE EXCEEDS THE PROJECTED INTEREST RATE BY TWO PERCENTAGE POINTS OR MORE.

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- (a) UPON RECEIVING NOTICE OF THE INCREASED INTEREST RATE, ODHS MAY APPROVE THE INTEREST EXPENSE ASSOCIATED WITH THE INCREASED INTEREST RATE FOR INCLUSION AS NONEXTENSIVE RENOVATIONS. IN REVIEWING A PROJECT FOR APPROVAL UNDER PARAGRAPH (F)(4)(a) OF THIS RULE, ODHS SHALL APPLY THE CRITERIA SPECIFIED IN PARAGRAPH (E) OF THIS RULE; OR
- (b) IF ODHS DOES NOT APPROVE THE INCREASED INTEREST RATE, THE INTEREST EXPENSE ASSOCIATED WITH THE INCREMENTAL INCREASE IN THE APPROVED INTEREST RATE WILL BE REIMBURSED AS COST OF OWNERSHIP PURSUANT TO RULE 5101:3-3-842 OF THE ADMINISTRATIVE CODE; OR
- (c) IF THE PROVIDER FAILS TO PROVIDE NOTICE TO ODHS OF THE INCREASED INTEREST RATE, THE INTEREST EXPENSE ASSOCIATED WITH THE INCREMENTAL INCREASE IN THE APPROVED INTEREST RATE WILL BE REIMBURSED AS COST OF OWNERSHIP PURSUANT TO RULE 5101:3-3-842 OF THE ADMINISTRATIVE CODE.
- (5) ANY INCREASE OR DECREASE IN THE SCOPE OF THE NONEXTENSIVE RENOVATION PROJECT.
- (a) UPON RECEIVING NOTICE OF THE CHANGE IN THE SCOPE OF THE NONEXTENSIVE RENOVATION PROJECT, ODHS MAY APPROVE THE PROJECT AS REVISED IF THE CHANGE IN SCOPE BEARS A REASONABLE RELATIONSHIP TO THE APPROVED NONEXTENSIVE RENOVATION PROJECT; OR
- (b) IF ODHS DOES NOT APPROVE THE PROJECT AS REVISED, THE ADDITIONAL COSTS ASSOCIATED WITH THE INCREASE IN SCOPE SHALL BE REIMBURSED AS COST OF OWNERSHIP PURSUANT TO RULE 5101:3-3-842 OF THE ADMINISTRATIVE CODE; OR
- (c) IF THE PROVIDER FAILS TO PROVIDE NOTICE TO ODHS OF THE CHANGE IN THE SCOPE OF THE PROJECT, THE ADDITIONAL COSTS ASSOCIATED WITH THE INCREASE IN SCOPE SHALL BE REIMBURSED AS COST OF OWNERSHIP PURSUANT TO RULE 5101:3-3-842 OF THE ADMINISTRATIVE CODE.

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- (6) ANY CHANGE OF COST THAT CAUSES THE PROJECT TO EXCEED THE THRESHOLD FOR BEING CONSIDERED AN EXTENSIVE RENOVATION OR TO FALL BELOW THE THRESHOLD FOR BEING CONSIDERED A NONEXTENSIVE RENOVATION.
- (G) AN APPROVED NONEXTENSIVE RENOVATION PROJECT SHALL BE REPORTED AS FOLLOWS:
- (1) BEFORE A NONEXTENSIVE RENOVATION OR PORTION THEREOF CAN BE REPORTED ON A COST REPORT, NOTICE OF COMPLETION MUST BE SUBMITTED TO ODHS. THE NOTICE OF COMPLETION MUST INCLUDE:
- (a) THE DATE THE PROJECT OR PORTION THEREOF WAS PLACED IN SERVICE; AND
- (b) DETAILED DEPRECIATION AND AMORTIZATION SCHEDULES AND A NARRATIVE EXPLANATION OF ANY MATERIAL DIFFERENCES BETWEEN THE EXPENSES STATED ON THE SCHEDULES AND THE ESTIMATED COSTS SUBMITTED FOR THE PROJECT UNDER PARAGRAPH (D)(2) OF THIS RULE; AND
- (c) A DETAILED RECONCILIATION OF ACTUAL FINANCING COSTS TO THE PROJECTED FINANCING COST IN THE REQUEST FOR APPROVAL OF A NONEXTENSIVE RENOVATION.
- (2) A NONEXTENSIVE RENOVATION MAY BE REPORTED ON THE COST REPORT AS EACH PORTION OF THE PROJECT IS PLACED INTO SERVICE AS LONG AS THE ANTICIPATED COMPLETION OF THE PORTIONS OF THE PROJECT IS STILL WITHIN THE PERIOD SET FORTH UNDER PARAGRAPH (E)(5) OF THIS RULE AND IN THE AGGREGATE SATISFY THE FIVE HUNDRED DOLLAR BED REQUIREMENT UNDER PARAGRAPH (C)(1) OF THIS RULE.
- (3) IF THE TOTAL COST OF ALL THE PORTIONS OF THE ENTIRE PROJECT THAT HAVE BEEN PLACED INTO SERVICE WITHIN THE PERIOD SET FORTH UNDER PARAGRAPH (E)(5) OF THIS RULE DO NOT SATISFY THE COST PER BED REQUIREMENT UNDER PARAGRAPH (C)(1) OF THIS RULE, THE COSTS AND RELATED EXPENSES FOR ALL THE PORTIONS OF THE PROJECT THAT HAVE BEEN REPORTED AS A NONEXTENSIVE RENOVATION SHALL BE REPORTED IN COST OF OWNERSHIP.

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(H) NONEXTENSIVE RENOVATION PAYMENT SHALL NOT EXCEED THE FOLLOWING CEILINGS:

- (1) FOR THE FISCAL YEAR BEGINNING JULY 1, 1993, EIGHT DOLLARS AND THIRTY-SIX CENTS PER RESIDENT DAY; AND
- (2) FOR THE FISCAL YEAR BEGINNING JULY 1, 1994, EIGHT DOLLARS AND THIRTY-SIX 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
- (3) 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.

REPLACES RULE 5101:3-3-22

EFFECTIVE DATE: _____

CERTIFICATION: _____

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.) |

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5101:3-3-844 INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICFS-MR): Return RETURN on equity for intermediate care facilities for the mentally retarded (ICFs-MR).

The Ohio department of human services (ODHS) shall pay each eligible proprietary ICF-MR a return on the facility's net equity COMPUTED from the COST REPORT OF THE calendar year ~~preceding~~ THAT PRECEDES the fiscal year in which the rate is paid at the rate of one and one-half times the average of interest ~~rates~~ RATE of ON special issues of public debt obligations issued to the federal hospital insurance trust fund for the ~~current~~ cost reporting period, ~~except that, no~~ NO facility's return on net equity shall exceed one dollar per patient RESIDENT day. When calculating the rate for return on net equity, ODHS shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

Effective Date: _____
Review Date: _____
Certification: _____
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.), 1/1/94.

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5101:3-3-845 NOTICE, ESCROW, AND RECOVERY OF EXCESS DEPRECIATION PAID, CHANGE IN THE MEDICAID PROVIDER AGREEMENT, OR VOLUNTARY TERMINATION IN THE MEDICAL ASSISTANCE PROGRAM, FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICES-MR).

- (A) FOR PURPOSES OF THIS RULE, THE SALE OF AN ICF-MR IS CONSIDERED THE SALE OF THE BUILDING, THE SALE OF THE OPERATING RIGHTS, OR THE SALE OF THE BUILDING AND THE OPERATING RIGHTS FROM AN UNRELATED PARTY REGARDLESS OF WHETHER THE ICF-MR IS PARTICIPATING IN THE MEDICAL ASSISTANCE PROGRAM.
- (B) THE FOLLOWING CIRCUMSTANCES SHALL RESULT IN A CHANGE IN MEDICAID PROVIDER AGREEMENT:
- (1) A SALE OF AN ICF-MR; OR
 - (2) IN THE CASE OF AN ICF-MR OPERATING AS A PARTNERSHIP, THE REMOVAL, ADDITION, OR SUBSTITUTION OF A PARTNER, UNLESS THE PARTNERS EXPRESSLY AGREE OTHERWISE, AS PERMITTED BY APPLICABLE STATE LAW; OR
 - (3) IN THE CASE OF A SOLE PROPRIETORSHIP, THE TRANSFER OF TITLE AND PROPERTY TO ANOTHER PARTY; OR
 - (4) IN THE CASE OF LEASES, THE LEASE OF ALL OR PART OF A PROVIDER FACILITY THAT INVOLVES AN INITIAL LEASE OR A CHANGE IN LESSEE; OR
 - (5) IN THE CASE OF A CORPORATION, THE MERGER OF THE PROVIDER CORPORATION INTO ANOTHER CORPORATION OR THE CONSOLIDATION OF TWO OR MORE CORPORATIONS RESULTING IN THE CREATION OF A NEW CORPORATION.
- (C) A PROVIDER OPERATING AN ICF-MR UNDER A MEDICAID PROVIDER AGREEMENT SHALL PROVIDE NOTICE TO OHIO DEPARTMENT OF HUMAN SERVICES (ODHS) AS FOLLOWS:

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- (1) ANY PROVIDER THAT OWNS AND OPERATES AN ICF-MR WHICH ANTICIPATES CHANGING ITS MEDICAID PROVIDER AGREEMENT AND THE ANTICIPATED CHANGE DOES NOT INVOLVE THE RELOCATION OF RESIDENTS, SHALL PROVIDE WRITTEN NOTICE AT LEAST FORTY-FIVE DAYS PRIOR TO THE CHANGE IN THE MEDICAID PROVIDER AGREEMENT; AND
- (2) ANY PROVIDER THAT OWNS AND OPERATES AN ICF-MR WHICH ANTICIPATES CHANGING ITS MEDICAID PROVIDER AGREEMENT OR ANTICIPATES VOLUNTARY TERMINATION OF ITS MEDICAID PROVIDER AGREEMENT AND EITHER INVOLVES THE RELOCATION OF RESIDENTS, SHALL PROVIDE WRITTEN NOTICE AT LEAST NINETY DAYS PRIOR TO THE CHANGE IN THE MEDICAID PROVIDER AGREEMENT OR THE EFFECTIVE DATE OF TERMINATION; AND
- (3) ANY PROVIDER OPERATING AN ICF-MR PURSUANT TO A LEASE WHICH CHANGES ITS MEDICAID PROVIDER AGREEMENT AND THE CHANGE DOES NOT INVOLVE THE RELOCATION OF RESIDENTS, SHALL PROVIDE WRITTEN NOTICE AT LEAST FORTY-FIVE DAYS PRIOR TO THE EXPIRATION OF ITS LEASE IF A NEW, EXTENDED OR RENEWED LEASE IS NOT IN PLACE AT THE TIME; AND
- (4) ANY PROVIDER OPERATING AN ICF-MR PURSUANT TO A LEASE WHICH CHANGES ITS MEDICAID PROVIDER AGREEMENT AND THE CHANGE INVOLVES THE RELOCATION OF RESIDENTS, SHALL PROVIDE WRITTEN NOTICE AT LEAST NINETY DAYS PRIOR TO THE EXPIRATION OF ITS LEASE IF A NEW, EXTENDED OR RENEWED LEASE IS NOT IN PLACE AT THE TIME; AND
- (5) NOTWITHSTANDING PARAGRAPHS (C)(1) TO (C)(4) OF THIS RULE ANY PROVIDER OPERATING AN ICF-MR SHALL PROVIDE IMMEDIATE NOTICE BY TELEPHONE OR FAX AND WRITTEN NOTICE WITHIN FIVE DAYS OF NOTIFICATION OF A GOVERNMENT MANDATE WHICH REQUIRES THE RELOCATION OF RESIDENTS.

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- (D) ODHS SHALL HOLD IN ESCROW IN A BANK, TRUST COMPANY, OR SAVINGS AND LOAN ASSOCIATION, THE AMOUNT OF THE LAST TWO MONTHLY VENDOR PAYMENTS TO AN ICF-MR BEFORE A CHANGE IN THE MEDICAID PROVIDER AGREEMENT OR VOLUNTARY TERMINATION FROM THE MEDICAID PROGRAM. THE ONLY EXCEPTION IS THAT IF THE AMOUNT THE ICF-MR WILL BE REQUIRED TO REFUND UNDER THIS RULE IS LIKELY TO BE LESS THAN THE AMOUNT OF THE LAST TWO MONTHLY VENDOR PAYMENTS, ODHS SHALL TAKE ONE OF THE FOLLOWING ACTIONS INSTEAD OF WITHHOLDING THE AMOUNT OF THE LAST TWO MONTHLY VENDOR PAYMENTS:
- (1) IN THE CASE OF AN ICF-MR THAT OWNS OTHER ICFS-MR OR NURSING FACILITIES THAT PARTICIPATE IN THE MEDICAL ASSISTANCE PROGRAM, OBTAIN A PROMISSORY NOTE IN AN AMOUNT SUFFICIENT TO COVER THE AMOUNT LIKELY TO BE REFUNDED; OR
 - (2) IN THE CASE OF ALL OTHER ICFS-MR, WITHHOLD THE AMOUNT OF THE LAST MONTHLY VENDOR PAYMENT TO THE ICF-MR.

IF THERE IS NO CHANGE IN THE MEDICAID PROVIDER AGREEMENT OR ITS PARTICIPATION IS NOT VOLUNTARILY TERMINATED AFTER NOTICE IS PROVIDED TO ODHS UNDER THIS RULE, ODHS SHALL ORDER ANY PAYMENTS HELD IN ESCROW RELEASED TO THE ICF-MR UPON RECEIVING WRITTEN NOTICE FROM THE ICF-MR THAT THERE WILL BE NO CHANGE IN THE MEDICAID PROVIDER AGREEMENT OR VOLUNTARY TERMINATION. AFTER WRITTEN NOTICE IS RECEIVED FROM AN ICF-MR THAT A CHANGE IN THE MEDICAID PROVIDER AGREEMENT OR VOLUNTARY TERMINATION WILL NOT TAKE PLACE, THE ICF-MR SHALL PROVIDE NOTICE TO ODHS AS SET FORTH UNDER PARAGRAPH (C) OF THIS RULE.

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- (E) WHEN AN ICF-MR CHANGES ITS MEDICAID PROVIDER AGREEMENT OR VOLUNTARILY TERMINATES ITS MEDICAID PROVIDER AGREEMENT, THE ICF-MR SHALL FILE A FINAL COST REPORT, AS SET FORTH UNDER RULE 5101:3-3-20 OF THE ADMINISTRATIVE CODE, WITHIN NINETY DAYS AFTER THE DATE ON WHICH THE TRANSACTION RESULTS IN A CHANGE IN THE MEDICAID PROVIDER AGREEMENT OR VOLUNTARY TERMINATION UNLESS ODHS GRANTS A WAIVER OF THE FINAL COST REPORT FILING REQUIREMENT. ANY WAIVER GRANTED BY ODHS SHALL APPLY TO ALL FACILITIES THAT OTHERWISE WOULD BE REQUIRED TO FILE A FINAL COST REPORT UNDER THIS PARAGRAPH EXCEPT FOR FACILITIES THAT ARE SOLD. FOR ICFS-MR WHICH CHANGE MEDICAID PROVIDER AGREEMENTS AS A RESULT OF A SALE, THE FINAL COST REPORT AND ADDITIONAL INFORMATION SHALL INCLUDE:
- (1) THE SALES AGREEMENT; AND
 - (2) THE SALES PRICE; AND
 - (3) THE HISTORICAL COST AND ACCUMULATED DEPRECIATION OF THE ASSETS SOLD; AND
 - (4) THE GAIN ON THE SALE, WHICH IS DETERMINED BY SUBTRACTING THE NET BOOK VALUE OF THE ASSETS FROM THE SALES PRICE LESS COSTS INCURRED FOR THE SALE; AND
 - (5) ANY OTHER INFORMATION REQUESTED BY ODHS.
- (F) IN ACCORDANCE WITH PARAGRAPH (I)(4) OF THIS RULE, AFTER THE DATE ON WHICH A TRANSACTION OF A SALE OF AN ICF-MR IS CLOSED, THE ICF-MR SHALL REFUND TO ODHS THE AMOUNT OF EXCESS DEPRECIATION PAID TO THE ICF-MR BY ODHS WHICH IS CALCULATED AS FOLLOWS:

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