

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: <u>0 0 - 0 1 1</u>	2. STATE: Ohio
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) TITLE XIX	

TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE July 1, 2000
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5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

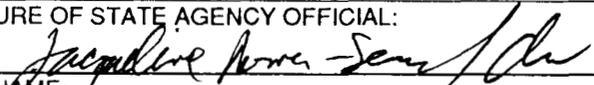
6. FEDERAL STATUTE/REGULATION CITATION: Section 1902 (a)(13)(A) of the Social Security Act	7. FEDERAL BUDGET IMPACT: a. FFY <u>2000</u> \$ <u>2,449,472.50</u> b. FFY <u>2001</u> \$ <u>9,797,890.00</u>
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19D: Rules 5101:3-3-01 5101:3-3-45	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19D: Rules 5101:3-3-01 5101:3-3-45
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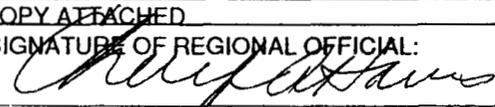
10. SUBJECT OF AMENDMENT: This amendment changes the imputed occupancy percentage used to calculate reimbursement for indirect costs and capital cost for NFs and ICFs-MR. This amendment also changes the reimbursement for purchased nursing in NFs.

11. GOVERNOR'S REVIEW (Check One):

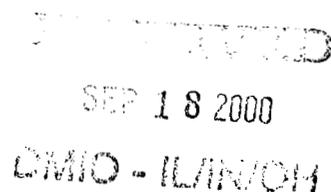
GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: Becky Jackson Bureau of Health Plan Policy Ohio Department of Job and Family Services 30 East Broad Street, 27 floor Columbus, Ohio 43266-0423
13. TYPED NAME: Jacqueline Romer-Sensky	
14. TITLE: Director	
15. DATE SUBMITTED: September 15, 2000	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED: 9/18/00	18. DATE APPROVED: <u>11/8/00</u>

PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: <u>July 1, 2000</u>	20. SIGNATURE OF REGIONAL OFFICIAL: 
21. TYPED NAME: Cheryl A. Harris	22. TITLE: Associate Regional Administrator Division of Medicaid and Insurance Oversight

23. REMARKS:


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 SEP 18 2000
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5101:3-3-01 Definitions.

Except as otherwise provided in Chapter 5101:3-3 of the Administrative Code:

(A) "Allowable costs" are those costs incurred for certified beds in a facility as determined by the ~~department of human services (ODHS)~~ OHIO DEPARTMENT OF JOBS AND FAMILY SERVICES (ODJFS) to be reasonable, as set forth under paragraph (AA) of this rule, and do not include fines paid under sections 5111.35 to 5111.62 and 5111.99 of the Revised Code. Unless otherwise enumerated in Chapter 5101:3-3 of the Administrative Code, allowable costs are also determined in accordance with the following reference material, as currently issued and updated, in the following priority:

- (1) Title 42 Code of Federal Regulations (C.F.R.) Chapter IV;
- (2) The provider reimbursement manual ("health care financing administration HCFA Publication 15-1,"); or
- (3) Generally accepted accounting principles.

(B) "Annual facility average case-mix score" is the score used to calculate the facility's cost per case-mix unit, and is calculated using the methodology described in rules 5101:3-3-42 and 5101:3-3-77 of the Administrative Code.

(C) "Capital costs" means costs of ownership and nonextensive renovation.

(1) "Cost of ownership" as set forth under rules 5101:3-3-512 and 5101:3-3-842 of the Administrative Code means the actual expense incurred for all of the following:

(a) Depreciation and interest on any items capitalized under rules 5101:3-3-511 and 5101:3-3-841 of the Administrative Code, including the following:

- (i) Buildings;
- (ii) Building improvements;
- (iii) Equipment;
- (iv) Extensive renovation;
- (v) Transportation equipment;
- (vi) Replacement beds;

(b) Amortization and interest on land improvements and leasehold improvements;

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- (c) Amortization of financing costs;
 - (d) Except as provided under paragraph (L) of this rule, lease and rent of land, building, and equipment.
- (2) "Costs of nonextensive renovation" as set forth under rules 5101:3-3-513 and 5101:3-3-843 of the Administrative Code means the actual expense incurred for depreciation or amortization and interest on renovations that are not extensive renovations.
- (D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.
- (E) "Case-mix score" means the measure determined under rules 5101:3-3-41, 5101:3-3-42, 5101:3-3-76, and 5101:3-3-77 of the Administrative Code of the relative direct-care resources needed to provide care and rehabilitation to a resident of a nursing facility (NFs) or intermediate care facility for the mentally retarded (ICFs-MR).
- (F) "Cost of construction" as set forth in rules 5101:3-3-512 and 5101:3-3-842 of the Administrative Code means the costs incurred for the construction of beds originally contained in the NF or ICF-MR and the costs incurred for the construction of beds added to the NF or ICF-MR after the construction of the original beds. In the case of NFs or ICFs-MR which extensively renovate, "cost of construction" includes the costs incurred for the extensive renovation.
- (G) "Cost per case-mix unit" is calculated by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for the calendar year preceding the fiscal year in which the rate will be paid by the annual case-mix score for the calendar year preceding the fiscal year in which the rate will be paid. The lesser of the facility's cost per case-mix unit or the maximum allowable cost per case-mix unit for the fiscal year shall be used to determine the facility's rate for direct care costs, under rules 5101:3-3-44 and 5101:3-3-79 of the Administrative Code.
- (H) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter. Regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.
- (1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not

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required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

- (2) If a facility adds nursing home or residential facility beds or in the case of an ICF-MR with more than eight beds or a NF, it extensively renovates the facility after its original date of licensure, it will have a different date of licensure for the additional beds or for the extensively renovated facility, unless, in the case of the addition of beds, the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time. The licensure date for additional beds or facilities which extensively renovate shall be the date the beds are placed into service.
- (I) "Desk reviewed" means that costs as reported on a cost report submitted under rule 5101:3-3-20 of the Administrative Code and have been subjected to a desk review under rule 5101:3-3-20 of the Administrative Code and preliminarily determined to be allowable costs.
- (J) "Direct care costs" means costs as defined under table 6 of rule 5101:3-3-201 of the Administrative Code.
- (K) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.
- (L) "Indirect care costs" means costs as defined under table 7 of rule 5101:3-3-201 of the Administrative Code.
- (M) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a NF or ICF-MR that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 49 stat. 620 (1935), 42 U.S.C.A. 301, ~~As~~ AS amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.
- (N) "Intermediate care facility for the mentally retarded" (ICF-MR) means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medical assistance program by the director of health in accordance with Title XIX of the "Social Security Act."
- (O) "Maintenance and repair expenses" means expenditures, except as provided in paragraph (EE) of this rule, that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more.

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Maintenance and repairs expense may include, but are not limited to, the cost of ordinary repairs such as painting and wallpapering.

- (P) "Minimum data set plus" (MDS+) is the resident assessment instrument selected by Ohio and approved by the United States health care financing administration (HCFA). The MDS+ provides the resident assessment data which is used to classify the resident into a resource utilization group in the RUG-III case-mix classification system.
- (Q) "Nursing facility" (NF) means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX of the "Social Security Act," and is not an intermediate care facility for the mentally retarded (ICF-MR). "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX of the "Social Security Act," and is certified as a skilled nursing facility by the director in accordance with Title XIX of the "Social Security Act."
- (R) "Other protected costs" means costs as defined under table 5 of rule 5101:3-3-201 of the Administrative Code.
- (S) "Outlier" means residents who have special care needs as defined under rule 5101:3-3-25 of the Administrative Code.
- (T) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in a NF or ICF-MR.
- (U) "Patient" includes "resident."
- (V) Except as provided in paragraphs (V)(1) and (V)(2) of this rule, "per diem" means a NF's or ICF-MR's actual, allowable, costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that reporting period.
- (1) When calculating indirect care costs for the purpose of establishing rates under rules 5101:3-3-50 and 5101:3-3-83 of the Administrative Code, "per diem" means a facility's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ~~eighty-five per cent~~:
- (a) SEVENTY-FIVE PER CENT DURING CALENDAR YEAR 1999 AND PAID EFFECTIVE JULY 1, 2000 THROUGH JUNE 30, 2001.
- (b) EIGHTY-FIVE PER CENT DURING CALENDAR YEAR 2000 AND PAID EFFECTIVE JULY 1, 2001 AND FORWARD.

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- (2) When calculating capital costs for the purpose of establishing rates under rules 5101:3-3-51 and 5101:3-3-84 of the Administrative Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have during that period if its occupancy rate had been ~~ninety-five percent~~:
- (a) EIGHTY-FIVE PER CENT DURING CALENDAR YEAR 1999 AND PAID EFFECTIVE JULY 1, 2000 THROUGH JUNE 30, 2001.
- (b) NINETY-FIVE PER CENT DURING CALENDAR YEAR 2000 AND PAID EFFECTIVE JULY 1, 2001 AND FORWARD.
- (W) "Provider" means a person or government entity that operates a NF or ICF-MR under a provider agreement.
- (X) "Provider agreement" means a contract between ~~ODHS~~ ODJFS and a NF or ICF-MR for the provision of NF or ICF-MR services under the medical assistance program.
- (Y) "Purchased nursing services" means services that are provided by registered nurses, licensed practical nurses, or nurse aides who are temporary personnel furnished by a nursing pool on behalf of the facility. These personnel are not considered to be employees of the facility.
- (Z) "Quarterly facility average case-mix score" is the facility average case-mix score based on data submitted for one reporting quarter and is calculated using the methodology described in rules 5101:3-3-42 and 5101:3-3-77 of the Administrative Code.
- (AA) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.
- (BB) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider, as detailed below:
- (1) An individual who is a relative of an owner is a related party.
- (2) Common ownership exists when an individual or individuals possess significant ownership or equity in both provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent

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ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

- (3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.
 - (4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all the following conditions are met:
 - (a) A supplier is a separate bona fide organization;
 - (b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes;
 - (c) The types of goods or services are commonly obtained by other NFs or ICFs-MR from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities;
 - (d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.
 - (5) The amount of indirect ownership is determined by multiplying the percentage of ownership interest at each level (e.g., forty per cent interest in corporation "A" which owns fifty per cent of corporation "B" results in a twenty per cent indirect interest in corporation "B").
- (CC) "Relative of owner" means an individual who is related to an owner of a NF or ICF-MR by one of the following relationships:
- (1) Spouse;
 - (2) Natural parent, child, or sibling;
 - (3) Adopted parent, child, or sibling;
 - (4) Step-parent, step-child, step-brother, or step-sister;

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- (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;
- (6) Grandparent or grandchild;
- (7) Foster parent, foster child, foster brother, or foster sister.
- (DD) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years. To calculate the per-bed cost of a renovation project for purposes of determining whether it is an extensive renovation, the allowable cost of the project shall be divided by the number of beds in the facility certified for participation in the medical assistance program, even if the project does not affect all medicaid-certified beds. Allowable extensive renovations are considered an integral part of cost of ownership as set forth under paragraph (C) of this rule.
- (1) For purposes of paragraph (DD) of this rule, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for inflation from January 1, 1993 to the end of the calendar year during which the renovation is completed using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.
- (2) ~~ODHS~~ ODJFS may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if ~~ODHS~~ ODJFS determines that the renovation is more prudent than construction of new beds.
- (EE) "Nonextensive renovation" means the betterment, improvement, or restoration of a NF or ICF-MR beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. To calculate the per-bed cost of a renovation project for purposes of determining whether it is a nonextensive renovation, the allowable cost of the project shall be divided by the number of beds in the facility certified for participation in the medical assistance program, even if the project does not affect all medicaid-certified beds. A nonextensive renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A nonextensive renovation may include costs that otherwise would be considered maintenance and repair expenses if they are included as part of the nonextensive renovation project and are an integral part of the structural change that makes up the nonextensive renovation project. Nonextensive renovation does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity. Allowable nonextensive renovations are not considered cost of ownership as set forth under paragraph (C) of this rule.
- (FF) The definitions established in paragraphs (DD) and (EE) of this rule apply to "extensive

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renovations" and "nonextensive renovations" approved by ~~ODHS~~ ODJFS under rule 5101:3-3-51 of the Administrative Code on or after July 1, 1993. Any betterments, improvements, or restorations of NFs or ICFs-MR for which construction is started before July 1, 1993, and that meet the definitions of extensive renovations or nonextensive renovations established by the rules of ~~ODHS~~ ODJFS in effect on December 22, 1992, shall be considered extensive renovations or nonextensive renovations. For purposes of renovations approved by ~~ODHS~~ ODJFS under rule 5101:3-3-51 of the Administrative Code, "construction is started" means the date in which the actual construction work begins at the facility site.

- (GG) "Replacement beds" are beds which are relocated to a new building or portion of a building attached to and/or constructed outside of the original licensed structure of a NF or ICF-MR. ~~replacement~~ REPLACEMENT beds may originate from within the licensed structure of a NF or ICF-MR from another NF or ICF-MR. Replacement beds are eligible for the cost of ownership efficiency incentive ceiling set forth under rules 5101:3-3-512 and 5101:3-3-842 of the Administrative Code which corresponds to the period the beds were replaced.
- (HH) "RUG III" is the resource utilization groups, version III system of classifying nursing facility (NF) residents into case-mix groups described in rule 5101:3-3-41 of the Administrative Code.

Effective Date: _____

Review Date: 14 JULY 2000, 14 JULY 2005

Certification: _____

Date

Promulgated Under: Chapter 119.

Statutory Authority: RC Section 5111.02

Rule Amplifies: RC Sections 5111.01, 5111.02, 5111.20

Prior Effective Dates: 7/1/80, 8/1/84, 9/30/93 (Emer.), 1/1/94, 11/1/95

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Purchased nursing services reimbursement for nursing facilities (NFs).

The purchased nursing services reimbursement calculation set forth under this rule shall be performed by the ~~Ohio department of human services (ODHS)~~ OHIO DEPARTMENT OF JOBS AND FAMILY SERVICES (ODJFS) under the provisions of rule 5101:3-3-43 of the Administrative Code.

- (A) Costs reported in NFs' cost reports for purchased nursing services, as defined under rule 5101:3-3-01 of the Administrative Code, shall be allowable direct care costs subject to the payment provisions of rule 5101:3-3-44 of the Administrative Code. "Employed nursing services" are those services provided by RNs, LPNs, and nurse aides that are not purchased nursing services. Purchased nursing services costs, as defined under rule 5101:3-3-01 of the Administrative Code, are reimbursable up to the following percentages of allowable employed nursing services costs:
- (1) Twenty per cent of employed nursing services costs incurred during calendar year 1992 and paid effective July 1, 1993 through June 30, 1994;
 - (2) Fifteen per cent of employed nursing services costs incurred during calendar year 1993 and paid effective July 1, 1994 through June 30, 1995;
 - (3) Ten per cent of employed nursing services costs incurred during calendar year 1994 ~~and each calendar year thereafter~~ and paid beginning July 1, 1995 ~~and forward~~. *Am's* THROUGH JUNE 30, 2000.
 - (4) SEVENTEEN PER CENT OF EMPLOYED NURSING SERVICES COSTS INCURRED DURING CALENDAR YEAR 1999 AND PAID EFFECTIVE JULY 1, 2000 THROUGH JUNE 30, 2001;
 - (5) TEN PER CENT OF EMPLOYED NURSING SERVICES COSTS INCURRED DURING CALENDAR YEAR 2000 AND EACH CALENDAR YEAR THEREAFTER AND PAID BEGINNING JULY 1, 2001 AND FORWARD.
- (B) Purchased nursing services costs in excess of percentages of allowable employed nursing services set forth in paragraphs (A)(1) to ~~(A)(3)~~ (A)(5) of this rule are reimbursed at fifty per cent. Purchased nursing services costs in excess of the fifty per cent reimbursement are nonallowable costs as set forth in rule 5101:3-3-56 of the Administrative Code.

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Effective Date: _____

Review Date: 14 JULY 2000, 14 JULY 2005

Certification: _____

Date

Promulgated Under: RC Chapter 119.
Statutory Authority: RC Section 5111.02
Rule Amplifies: RC Sections 5111.01, 5111.02, 5111.20, 5111.262
Prior Effective Dates: 9/30/93 (Emer.); 1/1/94

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