

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 0 - 0 1 5

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

October 1, 2000

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 2001 \$ 38,428

b. FFY 2002 \$ 153,713

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19D: Rules 5101:3-3-01
5101:3-3-201

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):

Attachment 4.19D: Rules 5101:3-3-01
5101:3-3-201

10. SUBJECT OF AMENDMENT: Rule 5101:3-3-01 is being amended in accordance with permanent provisions of Sub. H. B. 403 to change the definition of an arm's-length transaction in paragraph (B). Rule 5101:3-3-201 is being amended in accordance with permanent provisions of Sub. H. B. 403 to include fees for the "customer Satisfaction surveys" under cost report account 7270.

GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

"The Governor's Office has delegated review to the Director of ODJFS"

12. SIGNATURE OF STATE AGENCY OFFICIAL:



13. TYPED NAME:

Jacqueline Romer-Sensky

14. TITLE:

Director

15. DATE SUBMITTED:

December 22, 2000

16. RETURN TO:

Becky Jackson
Bureau of Health Plan Policy
Office of Ohio Health Plans
Ohio Department of Job and Family Services
Columbus, Ohio 43266-0423

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

12/28/00

18. DATE APPROVED:

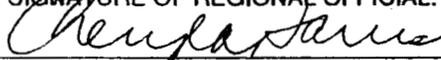
2/16/00 *cat*

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

October 1, 2000

20. SIGNATURE OF REGIONAL OFFICIAL:



21. TYPED NAME:

Cheryl A. Harris

22. TITLE: Associate Regional Administrator
Division of Medicaid and Children's Health

23. REMARKS:

RECEIVED

DEC 28 2000

DMIO - IL/IN/OH

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 Ohio department of jobs JOB 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.

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- (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 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 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."

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- (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. 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:
- (a) Seventy-five per cent during calendar year 1999 and paid effective July 1, 2000 through June 30, 2001.

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- (b) Eighty-five per cent during calendar year 2000 and paid effective July 1, 2001 and forward.
- (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:
 - (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 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.

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- (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 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").
- (6) IF A PROVIDER TRANSFERS AN INTEREST OR LEASES AN INTEREST IN A FACILITY TO ANOTHER PROVIDER WHO IS A RELATED PARTY, THE CAPITAL COST BASIS SHALL BE ADJUSTED IN ACCORDANCE WITH RULES 5101-3-3-515, 5101:3-3-516 AND 5101:3-3-845 FOR A SALE OF A FACILITY TO OR A LEASE TO A PROVIDER THAT IS NOT A RELATED PARTY IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

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(a) FOR A NF TRANSFER:

- (i) THE RELATED PARTY IS A RELATIVE OF OWNER.
- (ii) THE PROVIDER MAKING THE TRANSFER RETAINS NO INTEREST IN THE FACILITY EXCEPT THROUGH THE EXERCISE OF THE CREDITOR'S RIGHTS IN THE EVENT OF DEFAULT.
- (iii) ODJFS DETERMINES THAT THE TRANSFER IS AN ARM'S LENGTH TRANSACTION IF ALL THE FOLLOWING APPLY:

(a) ONCE THE TRANSFER GOES INTO EFFECT, THE PROVIDER THAT MADE THE TRANSFER HAS NO DIRECT OR INDIRECT INTEREST IN THE PROVIDER THAT ACQUIRES THE FACILITY OR THE FACILITY ITSELF, INCLUDING INTEREST AS AN OWNER, OFFICER, DIRECTOR, EMPLOYEE, INDEPENDENT CONTRACTOR, OR CONSULTANT, BUT EXCLUDING INTEREST AS A CREDITOR. IF THE PROVIDER MAKING THE TRANSFER MAINTAINS AN INTEREST AS A CREDITOR, THE INTEREST RATE OF THE CREDITOR SHALL NOT EXCEED THE LESSER OF:

(i) THE PRIME RATE, AS PUBLISHED BY THE "WALL STREET JOURNAL" ON THE FIRST BUSINESS DAY OF THE CALENDAR YEAR, PLUS FOUR PER CENT; OR

(ii) FIFTEEN PER CENT.

(b) THE PROVIDER THAT MADE THE TRANSFER DOES NOT REACQUIRE AN INTEREST IN THE FACILITY EXCEPT THROUGH THE EXERCISE OF A CREDITOR'S RIGHTS IN THE EVENT OF A DEFAULT. IF THE PROVIDER REACQUIRES AN INTEREST IN THE FACILITY IN THIS MANNER, ODJFS SHALL TREAT THE FACILITY AS IF THE TRANSFER NEVER OCCURRED WHEN ODJFS CALCULATES ITS REIMBURSEMENT RATES FOR CAPITAL COSTS.

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- (c) THE PROVIDER TRANSFERRING THEIR FACILITY SHALL PROVIDE ODJFS WITH CERTIFIED APPRAISAL(S) AT LEAST NINETY DAYS PRIOR TO THE ACTUAL CHANGE OF PROVIDER AGREEMENT(S). THE CERTIFIED APPRAISAL(S) SHALL BE CONDUCTED NO EARLIER THAN ONE HUNDRED EIGHTY DAYS PRIOR TO THE ACTUAL CHANGE OF PROVIDER AGREEMENT(S) FOR EACH FACILITY TRANSFERRED TO A RELATED PARTY.
- (iv) EXCEPT IN THE CASE OF HARDSHIP CAUSED BY A CATASTROPHIC EVENT, AS DETERMINED BY ODJFS, OR IN THE CASE OF A PROVIDER MAKING THE TRANSFER WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE, NOT LESS THAN TWENTY YEARS HAVE ELAPSED SINCE, FOR THE SAME FACILITY, THE CAPITAL COST BASIS WAS DETERMINED OR ADJUSTED MOST RECENTLY UNDER RULE 5101:3-3-516 OF THE ADMINISTRATIVE CODE; OR ACTUAL, ALLOWABLE COST OF OWNERSHIP WAS DETERMINED MOST RECENTLY UNDER RULE 5101:3-3-516 OF THE ADMINISTRATIVE CODE.
- (b) FOR A NF LEASE:
- (i) THE RELATED PARTY IS A RELATIVE OF OWNER.
- (ii) THE LESSOR RETAINS AN OWNERSHIP INTEREST IN ONLY REAL PROPERTY AND ANY IMPROVEMENTS ON THE REAL PROPERTY EXCEPT WHEN A LESSOR RETAINS OWNERSHIP INTEREST THROUGH THE EXERCISE OF A LESSOR'S RIGHTS IN THE EVENT OF DEFAULT.
- (iii) ODJFS DETERMINES THAT THE LEASE IS AN ARM'S LENGTH TRANSACTION IF ALL THE FOLLOWING APPLY:
- (a) ONCE THE LEASE GOES INTO EFFECT, THE LESSOR HAS NO DIRECT OR INDIRECT INTEREST IN THE LESSEE OR, EXCEPT AS PROVIDED IN THIS RULE, THE FACILITY ITSELF, INCLUDING INTEREST AS AN OWNER, OFFICER, DIRECTOR, EMPLOYEE, INDEPENDENT CONTRACTOR, OR CONSULTANT, BUT EXCLUDING INTEREST AS A LESSOR.

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- (b) THE LESSOR DOES NOT REACQUIRE AN INTEREST IN THE FACILITY EXCEPT THROUGH THE EXERCISE OF A LESSOR'S RIGHTS IN THE EVENT OF A DEFAULT. IF THE LESSOR REACQUIRES AN INTEREST IN THE FACILITY IN THIS MANNER, ODJFS SHALL TREAT THE FACILITY AS IF THE LEASE NEVER OCCURRED WHEN ODJFS CALCULATES ITS REIMBURSEMENT RATES FOR CAPITAL COSTS.
- (c) A LESSOR THAT PROPOSES TO LEASE A FACILITY TO A RELATIVE OF OWNER SHALL OBTAIN A CERTIFIED APPRAISAL(S) FOR EACH FACILITY LEASED. THE LESSOR OF THE FACILITY SHALL PROVIDE ODJFS WITH CERTIFIED APPRAISAL(S) AT LEAST NINETY DAYS PRIOR TO THE ACTUAL CHANGE OF PROVIDER AGREEMENT(S). THE CERTIFIED APPRAISAL(S) SHALL BE CONDUCTED NO EARLIER THAN ONE HUNDRED EIGHTY DAYS PRIOR TO THE ACTUAL CHANGE OF PROVIDER AGREEMENT(S) FOR EACH FACILITY LEASED TO A RELATED PARTY.
- (iv) EXCEPT IN THE CASE OF HARDSHIP CAUSED BY A CATASTROPHIC EVENT, AS DETERMINED BY ODJFS, OR IN THE CASE OF A LESSOR WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE, NOT LESS THAN TWENTY YEARS HAVE ELAPSED SINCE, FOR THE SAME FACILITY, THE CAPITAL COST BASIS WAS DETERMINED OR ADJUSTED MOST RECENTLY UNDER RULE 5101:3-3-515 OF THE ADMINISTRATIVE CODE; OR ACTUAL, ALLOWABLE COST OF OWNERSHIP WAS DETERMINED MOST RECENTLY UNDER RULE 5101:3-3-515 OF THE ADMINISTRATIVE CODE.
- (v) THE PROVISIONS SET FORTH IN THIS PARAGRAPH DO NOT APPLY TO LEASES OF SPECIFIC ITEMS OF EQUIPMENT.
- (c) FOR AN ICF-MR TRANSFER:
- (i) THE RELATED PARTY IS A RELATIVE OF OWNER.

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- (ii) THE PROVIDER MAKING THE TRANSFER RETAINS NO INTEREST IN THE FACILITY EXCEPT THROUGH THE EXERCISE OF THE CREDITOR'S RIGHTS IN THE EVENT OF DEFAULT.
- (iii) ODJFS DETERMINES THAT THE TRANSFER IS AN ARM'S LENGTH TRANSACTION IF ALL THE FOLLOWING APPLY:
- (a) ONCE THE TRANSFER GOES INTO EFFECT, THE PROVIDER THAT MADE THE TRANSFER HAS NO DIRECT OR INDIRECT INTEREST IN THE PROVIDER THAT ACQUIRES THE FACILITY OR THE FACILITY ITSELF, INCLUDING INTEREST AS AN OWNER, OFFICER, DIRECTOR, EMPLOYEE, INDEPENDENT CONTRACTOR, OR CONSULTANT, BUT EXCLUDING INTEREST AS A CREDITOR. IF THE PROVIDER MAKING THE TRANSFER MAINTAINS AN INTEREST AS A CREDITOR, THE INTEREST RATE OF THE CREDITOR SHALL NOT EXCEED THE LESSER OF:
- (i) THE PRIME RATE, AS PUBLISHED BY THE "WALL STREET JOURNAL" ON THE FIRST BUSINESS DAY OF THE CALENDAR YEAR PLUS FOUR PER CENT; OR
- (ii) FIFTEEN PER CENT.
- (b) THE PROVIDER THAT MADE THE TRANSFER DOES NOT REACQUIRE AN INTEREST IN THE FACILITY EXCEPT THROUGH THE EXERCISE OF A CREDITOR'S RIGHTS IN THE EVENT OF A DEFAULT. IF THE PROVIDER REACQUIRES AN INTEREST IN THE FACILITY IN THIS MANNER, ODJFS SHALL TREAT THE FACILITY AS IF THE TRANSFER NEVER OCCURRED WHEN ODJFS CALCULATES ITS REIMBURSEMENT RATES FOR CAPITAL COSTS.

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- (c) THE PROVIDER TRANSFERRING THEIR FACILITY SHALL PROVIDE ODJFS WITH CERTIFIED APPRAISAL(S) AT LEAST NINETY DAYS PRIOR TO THE ACTUAL CHANGE OF PROVIDER AGREEMENT(S). THE CERTIFIED APPRAISAL(S) SHALL BE CONDUCTED NO EARLIER THAN ONE HUNDRED EIGHTY DAYS PRIOR TO THE ACTUAL CHANGE OF PROVIDER AGREEMENT(S) FOR EACH FACILITY TRANSFERRED TO A RELATED PARTY.
- (iv) EXCEPT IN THE CASE OF HARDSHIP CAUSED BY A CATASTROPHIC EVENT, AS DETERMINED BY ODJFS, OR IN THE CASE OF A PROVIDER MAKING THE TRANSFER WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE, NOT LESS THAN TWENTY YEARS HAVE ELAPSED SINCE, FOR THE SAME FACILITY, THE CAPITAL COST BASIS WAS DETERMINED OR ADJUSTED MOST RECENTLY UNDER RULE 5101:3-3-845 OF THE ADMINISTRATIVE CODE; OR ACTUAL, ALLOWABLE COST OF OWNERSHIP WAS DETERMINED MOST RECENTLY UNDER RULE 5101:3-3-845 OF THE ADMINISTRATIVE CODE.
- (d) FOR AN ICF-MR LEASE:
- (i) THE RELATED PARTY IS A RELATIVE OF OWNER.
- (ii) THE LESSOR RETAINS AN OWNERSHIP INTEREST IN ONLY REAL PROPERTY AND ANY IMPROVEMENTS ON THE REAL PROPERTY EXCEPT WHEN A LESSOR RETAINS OWNERSHIP INTEREST THROUGH THE EXERCISE OF A LESSOR'S RIGHTS IN THE EVENT OF DEFAULT.
- (iii) ODJFS DETERMINES THAT THE LEASE IS AN ARM'S LENGTH TRANSACTION IF ALL THE FOLLOWING APPLY:
- (a) ONCE THE LEASE GOES INTO EFFECT, THE LESSOR HAS NO DIRECT OR INDIRECT INTEREST IN THE LESSEE OR, EXCEPT AS PROVIDED IN THIS RULE, THE FACILITY ITSELF, INCLUDING INTEREST AS AN OWNER, OFFICER, DIRECTOR, EMPLOYEE, INDEPENDENT CONTRACTOR, OR CONSULTANT, BUT EXCLUDING INTEREST AS A LESSOR.

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(b) THE LESSOR DOES NOT REACQUIRE AN INTEREST IN THE FACILITY EXCEPT THROUGH THE EXERCISE OF A LESSOR'S RIGHTS IN THE EVENT OF A DEFAULT. IF THE LESSOR REACQUIRES AN INTEREST IN THE FACILITY IN THIS MANNER, ODJFS SHALL TREAT THE FACILITY AS IF THE LEASE NEVER OCCURRED WHEN ODJFS CALCULATES ITS REIMBURSEMENT RATES FOR CAPITAL COSTS.

(c) A LESSOR THAT PROPOSES TO LEASE A FACILITY TO A RELATIVE OF OWNER SHALL OBTAIN A CERTIFIED APPRAISAL(S) FOR EACH FACILITY LEASED. THE LESSOR OF THE FACILITY SHALL PROVIDE ODJFS WITH CERTIFIED APPRAISAL(S) AT LEAST NINETY DAYS PRIOR TO THE ACTUAL CHANGE OF PROVIDER AGREEMENT(S). THE CERTIFIED APPRAISAL(S) SHALL BE CONDUCTED NO EARLIER THAN ONE HUNDRED EIGHTY DAYS PRIOR TO THE ACTUAL CHANGE OF PROVIDER AGREEMENT(S) FOR EACH FACILITY LEASED TO A RELATED PARTY.

(iv) EXCEPT IN THE CASE OF HARDSHIP CAUSED BY A CATASTROPHIC EVENT, AS DETERMINED BY ODJFS, OR IN THE CASE OF A LESSOR WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE, NOT LESS THAN TWENTY YEARS HAVE ELAPSED SINCE, FOR THE SAME FACILITY, THE CAPITAL COST BASIS WAS DETERMINED OR ADJUSTED MOST RECENTLY UNDER RULE 5101:3-3-845 OF THE ADMINISTRATIVE CODE; OR ACTUAL, ALLOWABLE COST OF OWNERSHIP WAS DETERMINED MOST RECENTLY UNDER RULE 5101:3-3-845 OF THE ADMINISTRATIVE CODE.

(v) THE PROVISIONS SET FORTH IN THIS PARAGRAPH DO NOT APPLY TO LEASES OF SPECIFIC ITEMS OF EQUIPMENT.

(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;

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- (3) Adopted parent, child, or sibling;
 - (4) ~~Step-parent, step-child, step-brother, or step-sister;~~ STEPPARENT, STEPCHILD, STEPBROTHER, OR STEPSISTER;
 - (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) 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 ODJFS determines that the renovation is more prudent than construction of new beds.

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- (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 renovations" and "nonextensive renovations" approved by 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 ODJFS in effect on December 22, 1992, shall be considered extensive renovations or nonextensive renovations. For purposes of renovations approved by 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 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.

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(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: _____

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, 7/1/00

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5101:3-3-201 Nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR): Chart of Accounts.

The Ohio department of human services (~~ODHS~~) OHIO DEPARTMENT OF JOB AND FAMILY SERVICES (ODJFS) requires that all facilities file semiannual cost reports through December 31, 1993, and annually thereafter, to comply with section 5111.26 of the Revised Code. The use of the chart of accounts in table 1 through table 8 of this rule is recommended to establish the minimum level of detail to allow for cost report preparation. If the recommended chart of accounts is not used by the provider, it is the responsibility of the provider to relate its chart of accounts directly to the cost report. Where a chart of account number has sub-accounts, it is recommended that the sub-accounts capture the information requested so that the information will be broken out for cost reporting purposes. For example, when revenue accounts appear by payor type, it is required that those charges be reported by payor type where applicable; when salary accounts are differentiated between "supervisory" and "other", it is required that this level OF detail be reported on the cost report where applicable.

While the following chart of accounts facilitates the level of detail necessary for medicaid cost reporting purposes, providers may find it desirable or necessary to maintain their records in a manner that allows for greater detail than is contained in the recommended chart of accounts. For that reason, the recommended chart of accounts allows for a range of account numbers for a specified account. For example, account 1001 is listed for petty cash, with the next account, cash, beginning at account 1010. Therefore, a provider could delineate sub-accounts 1010-1, 1010-2, 1010-3, 1010-4, through 1010-9 as separate petty cash accounts. Providers need only use the sub-accounts applicable for their facility.

Within the ~~expense~~ section (tables 5, 6, and 7), accounts identified as "salary" accounts are only to be used to report wages for facility employees. Wages are to include wages for sick pay, vacation pay and other paid time off, as well as any other compensation to be paid to the employee. Expense accounts identified as "contract" accounts are only to be used for reporting the costs incurred for services performed by contracted personnel employed by the facility to do a service that would otherwise be performed by personnel on the facility's payroll. Expense accounts identified as "purchased nursing services" are only to be used for reporting the costs incurred for personnel acquired through a nursing pool agency. Expense accounts designated as "other" can be used for reporting any appropriate nonwage expenses, including contract services and supplies.

Completion of the cost report as required in section 5111.26 of the Revised Code will require that the number of hours paid be reported (depending on facility type of control, on an accrual or cash basis) for all salary expense accounts. Thus, providers' record keeping should include accumulating hours paid consistent with the salary accounts included within the recommended chart of accounts.

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