

CHAPTER 9549
DEPARTMENT OF HUMAN SERVICES
NURSING HOME PAYMENT RATE
DETERMINATION

9549.0010	SCOPE.	9549.0060	DETERMINATION OF THE PROPERTY-RELATED PAYMENT RATE.
9549.0020	DEFINITIONS.	9549.0061	PAYMENT FOR REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.
9549.0030	COST ALLOCATION PROCEDURES.	9549.0070	COMPUTATION OF TOTAL PAYMENT RATE.
9549.0035	DETERMINATION OF ALLOWABLE COSTS.	9549.0080	APPEAL PROCEDURES.
9549.0036	NONALLOWABLE COSTS.		
9549.0040	REPORTING BY COST CATEGORY.		
9549.0041	GENERAL REPORTING REQUIREMENTS.		

9549.0010 SCOPE.

Parts 9549.0010 to 9549.0080 establish procedures for determining the payment rates for nursing homes participating in the medical assistance program.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: 9 SR 2659

9549.0020 DEFINITIONS.

Subpart 1. **Applicability.** As used in parts 9549.0010 to 9549.0080 the following terms have the meanings given them.

Subp. 2. **Actual allowable historical operating cost.** "Actual allowable historical operating cost" means the operating costs incurred by the nursing home and allowed by the commissioner for the most recent reporting year.

Subp. 3. **Addition.** "Addition" means an extension, enlargement, or expansion of the nursing home for the purpose of increasing the number of licensed beds or improving resident care.

Subp. 4. **Applicable credit.** "Applicable credit" means a receipt or expense reduction as a result of a purchase discount, rebate, refund, allowance, public grant, beauty shop income, guest meals income, adjustment for overcharges, insurance claims settlement, recovered bad debts, or any other adjustment or income reducing the costs claimed by a nursing home.

Subp. 5. **Appraised value.** "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used directly for resident care as determined under part 9549.0060.

Subp. 6. **Attached fixtures.** "Attached fixtures" means equipment used directly for resident care affixed to the building and not easily movable as specified in the fixed equipment table of the depreciation guidelines.

Subp. 7. **Buildings.** "Buildings" means the physical plant used directly for resident care and licensed under Minnesota Statutes, chapter 144A or Minnesota Statutes, sections 144.50 to 144.56, and auxiliary buildings in the nature of sheds, garages, and storage buildings located on the site if used directly for resident care. This definition does not include buildings or portions of buildings used by central, affiliated, or corporate offices.

Subp. 8. **Building capital allowance.** "Building capital allowance" means the component of the property-related payment rate which is denominated as a payment for the use of buildings, attached fixtures, and land improvements.

Subp. 9. **Capital assets.** "Capital assets" means a nursing home's buildings, attached fixtures, land improvements, depreciable equipment, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.

MINNESOTA RULES 1987

8901 NURSING HOME PAYMENT RATE DETERMINATION 9549.0020

Subp. 10. **Commenced construction.** "Commenced construction" means the date on which a newly-constructed nursing home, or nursing home with an increase in licensed beds of 50 percent or more, meets all the following conditions:

A. The final working drawings and specifications were approved by the commissioner of health.

B. The construction contracts were let.

C. A timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction:

D. All zoning and building permits have been issued.

E. Financing for the project was secured as evidenced by the issuance of a binding letter of commitment by the financial institution, sale of bonds, or other similarly binding agreements.

Subp. 11. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services.

Subp. 12. **Cost category.** "Cost category" means the classification or grouping of similar or related costs for purposes of reporting, audit, cost control, and the determination of cost limitations.

Subp. 13. **Cost report.** "Cost report" means the document and supporting material specified by the commissioner and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate determination.

Subp. 14. **Deletion.** "Deletion" means the sale, destruction, or dismantling of a nursing home capital asset or a portion of a nursing home capital asset without subsequent replacement.

Subp. 15. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 16. **Depreciated replacement cost method.** "Depreciated replacement cost method" means the method of property appraisal which determines the value of a capital asset by establishing the replacement cost new reduced by depreciation. As used in this subpart and part 9549.0060:

A. "Replacement cost new" means the amount required to obtain a new asset of equivalent utility to that which exists, but built at current prices, with modern materials and according to current standards, designs, and layout.

B. "Depreciation" means a loss of utility and hence value caused by deterioration or physical depreciation such as wear and tear, decay, dry rot, cracks, encrustations, or structural defects; and functional obsolescence such as poor plan, mechanical inadequacy or overadequacy, and functional inadequacy or overadequacy due to size, style, or age.

Subp. 17. **Depreciable equipment.** "Depreciable equipment" means the standard movable care equipment and support service equipment generally used in nursing homes. Depreciable equipment includes that equipment specified in the major movable equipment table of the depreciation guidelines.

Subp. 18. **Depreciation guidelines.** "Depreciation guidelines" means "The Estimated Useful Lives of Depreciable Hospital Assets," issued by the American Hospital Association, 840 North Lake Shore Drive, Chicago, Illinois (Chicago: 1983). Except as provided in part 9549.0030, subpart 4, the useful lives in the depreciation guidelines must not be used in the determination of the total payment rate. The depreciation guidelines are incorporated by reference and are available for reference at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota.

Subp. 19. **Desk audit.** "Desk audit" means the establishment of the payment rate based on the commissioner's review and analysis of required reports, supporting documentation, and work sheets submitted by the nursing home.

MINNESOTA RULES 1987

9549.0020 NURSING HOME PAYMENT RATE DETERMINATION 8902

Subp. 20. **Direct cost.** "Direct cost" means a cost that can be identified within a specific cost category without the use of allocation methods.

Subp. 21. **Equipment allowance.** "Equipment allowance" means the component of the property-related payment rate which is denominated as a payment for the use of depreciable equipment.

Subp. 22. **Field audit.** "Field audit" means the on-site examination, verification, and review of the financial records, statistical records, and related supporting documentation of the nursing home and any related organization.

Subp. 23. **Fringe benefits.** "Fringe benefits" means workers' compensation insurance, group health or dental insurance, group life insurance, retirement benefits or plans, and an allowance for uniforms.

Subp. 24. **General and administrative costs.** "General and administrative costs" means the costs of administering the nursing home as specified in part 9549.0040.

Subp. 25. **Historical operating costs.** "Historical operating costs" means the allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective, after the commissioner has reviewed those costs and determined them to be allowable costs under the medical assistance program, and after the commissioner has applied the limit on general and administrative costs.

Subp. 26. **Hospital-attached nursing home.** "Hospital-attached nursing home" means a nursing home which is under common ownership and operation with a licensed hospital and shares with the hospital the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services and which is required to use the stepdown method of allocation by the Medicare program, title XVIII of the Social Security Act, provided that the stepdown results in part of the cost of the shared areas to be allocated between the hospital and the nursing home, and that the stepdown numbers are the numbers used for Medicare reimbursement.

Subp. 27. **Indirect cost.** "Indirect cost" means a cost that is incurred for a common or joint purpose and is identified with more than one cost category but is not readily identified with a specific cost category.

Subp. 28. **Land improvement.** "Land improvement" means an improvement to the land surrounding the nursing home directly used for resident care as specified in the land improvements table of the depreciation guidelines, if replacement of the land improvement is the responsibility of the nursing home.

Subp. 29. **Medical assistance program.** "Medical assistance program" means the program which reimburses the cost of health care provided to eligible recipients pursuant to Minnesota Statutes, chapter 256B and United States Code, title 42, section 1396 et seq.

Subp. 30. **Necessary service.** "Necessary service" means a function pertinent to the nursing home's operation which if not performed by the assigned individual would have required the nursing home to employ or assign another individual to perform it.

Subp. 31. **Nursing home.** "Nursing home" means a facility licensed under Minnesota Statutes, chapter 144A or a boarding care facility licensed under Minnesota Statutes, sections 144.50 to 144.56.

Subp. 32. **Operating costs.** "Operating costs" means the costs of operating the nursing home in compliance with licensure and certification standards. Operating cost categories are:

- A. nursing, including nurses and nursing assistants training;
- B. dietary;
- C. laundry and linen;
- D. housekeeping;

MINNESOTA RULES 1987

8903 NURSING HOME PAYMENT RATE DETERMINATION 9549.0020

- E. plant operation and maintenance;
- F. other care-related services;
- G. general and administrative;
- H. payroll taxes, fringe benefits, and clerical training; and
- I. real estate taxes and actual special assessments paid.

Subp. 33. **Payroll taxes.** "Payroll taxes" means the employer's share of social security withholding taxes, governmentally required retirement contributions, and state and federal unemployment compensation taxes or costs.

Subp. 34. **Preopening costs.** "Preopening costs" means the operating costs incurred prior to the admission of a resident to a newly-constructed nursing home.

Subp. 35. **Private paying resident.** "Private paying resident" means a nursing home resident who is not a medical assistance program recipient for the date of service and whose payment rate is not established by another third party, including the Veterans Administration or Medicare.

Subp. 36. **Rate year.** "Rate year" means the state of Minnesota's fiscal year for which a payment rate is effective, from July 1 through the following June 30.

Subp. 37. **Real estate taxes and special assessments.** "Real estate taxes and special assessments" means the real estate tax liability shown on the annual property tax statement of the nursing home for the calendar year during which the rate year begins and the actual special assessments and related interest paid during the reporting year. The term does not include personnel costs or fees for late payment.

Subp. 38. **Related organization.** "Related organization" means a person that furnishes goods or services to a nursing home and that is a close relative of a nursing home, an affiliate of a nursing home, a close relative of an affiliate of a nursing home, or an affiliate of a close relative of an affiliate of a nursing home. As used in this subpart:

A. An "affiliate" is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

B. A "person" is an individual, a corporation, a partnership, an association, a trust, an unincorporated organization, or a government or political subdivision.

C. A "close relative of an affiliate of a nursing home" is an individual whose relationship by blood, marriage, or adoption to an individual who is an affiliate of a nursing home is no more remote than first cousin.

D. "Control" including the terms "controlling," "controlled by," and "under common control with" is the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Subp. 39. **Repair.** "Repair" means the cost of labor and materials needed to restore an existing capital asset to sound condition after damage or malfunction or to maintain an existing capital asset in a usable condition.

Subp. 40. **Replacement.** "Replacement" means a renovation or substitution of an existing capital asset to improve its function or extend its useful life.

Subp. 41. **Reporting year.** "Reporting year" means the period from October 1 to September 30, immediately preceding the rate year, for which the nursing home submits its cost report, and which is the basis for the determination of the payment rate for the following rate year.

Subp. 42. **Resident day or actual resident day.** "Resident day" or "actual resident day" means a day for which nursing services are rendered and billable, or a day for which a bed is held and billed.

MINNESOTA RULES 1987

9549.0020 NURSING HOME PAYMENT RATE DETERMINATION 8904

Subp. 43. **Top management personnel.** "Top management personnel" means owners, board members, corporate officers, general, regional, and district managers, administrators and the nursing home administrator, according to Minnesota Statutes, section 144A.04, subdivision 5 and any other person performing the function of such personnel. Persons performing functions only as nursing home department heads are not included in this definition.

Subp. 44. **Total payment rate.** "Total payment rate" means the addition of the operating cost payment rate, the property-related payment rate, and the real estate tax and special assessments payment rate as established by the commissioner to pay for the care of residents in nursing homes.

Subp. 45. **Useful life.** "Useful life" means the length of time an asset is expected to provide economic service before needing replacement.

Subp. 46. **Utility vehicle.** "Utility vehicle" means a vehicle specially equipped for purposes of nursing home operations and not readily adaptable to personal use.

Subp. 47. **Vested.** "Vested" means the existence of a legally fixed unconditional right to a present or future benefit.

Subp. 48. **Working capital debt.** "Working capital debt" means debt incurred to finance nursing home operating costs. Working capital debt does not include debt incurred to acquire or refinance a capital asset.

Subp. 49. **Working capital interest expense.** "Working capital interest expense" means the interest expense incurred on working capital debt during the reporting year.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: *9 SR 2659*

9549.0030 COST ALLOCATION PROCEDURES.

Subpart 1. **Classification.** Classification of costs is the process of charging costs to the appropriate cost categories and compiling a total for each cost category to be recorded on the cost report. Nursing homes shall classify their costs in accordance with the cost categories in part 9549.0040. Costs that cannot be specifically classified in a cost category, such as the cost of generic supplies, must be classified in the general and administrative cost category.

Subp. 2. **Identification.** Except for the salary costs of individuals with multiple duties, costs must be directly identified, without allocation, by routine classification of transactions when costs are recorded in the books and records of the nursing home.

Subp. 3. **Personnel with multiple duties.** When a person other than top management personnel has multiple duties, the person's salary cost must be allocated to the cost categories on the basis of time distribution records that show actual time spent, or an accurate estimate of time spent on various activities. In a nursing home of 60 or fewer beds, part of the salary or salaries of top management personnel may be allocated to other cost categories to the extent justified in time distribution records which show the actual time spent, or an accurate estimate of time spent on various activities. A nursing home that chooses to estimate time spent must use a statistically valid method. Persons who serve in a dual capacity, including those who have only nominal top management responsibilities, shall directly identify their salaries to the appropriate cost categories. The salary of any person having more than nominal top management responsibilities must not be allocated.

Subp. 4. **Central, affiliated, or corporate office costs.** Cost allocation for central, affiliated, or corporate offices shall be governed by items A to F.

A. Central, affiliated, or corporate office costs representing services of consultants required by law or rule in areas including dietary, pharmacy, social services, or other resident care related activities may be allocated to the appropri-

MINNESOTA RULES 1987

8905 NURSING HOME PAYMENT RATE DETERMINATION 9549.0035

ate cost category, but only to the extent that those costs are directly identified by the nursing home.

B. Except as provided in item A, central, affiliated, or corporate office costs must be allocated to the general and administrative cost category of each nursing home within the group served by the central, affiliated, or corporate office according to subitems (1) to (5).

(1) All costs which can be directly identified with a specific nursing home must be allocated to that nursing home.

(2) All costs which can be directly identified with an operation unrelated to the nursing home operations must be allocated to that unrelated operation.

(3) After the costs which can be directly identified pursuant to subitems (1) and (2) have been allocated, the remaining central, affiliated, or corporate office costs must be allocated between nursing home operations and unrelated operations based on the ratio of expenses.

(4) Next, operations which have nursing homes both in Minnesota and outside of Minnesota must allocate the central, affiliated, or corporate office costs to Minnesota based on the ratio of total resident days in Minnesota nursing homes to the total resident days in all nursing home operations.

(5) Finally, the central, affiliated, or corporate costs allocated to all Minnesota nursing homes must be allocated to each nursing home based on resident days.

C. Central, affiliated, or corporate office property-related costs of capital assets used directly by the nursing home in the provision of nursing home services must be allocated to the nursing homes which use the capital asset and must be reimbursed under part 9549.0060. Central, affiliated, or corporate office property-related costs of capital assets which are not used directly by the nursing home in the provision of nursing home services must be allocated to the general and administrative cost category of each nursing home using the methods described in item B.

D. The useful life of a new capital asset maintained by a central, affiliated, or corporate office must be determined by applying one of the following schedules in subitem (1) or (2):

(1) the useful life of a building is 35 years; of land improvement is 20 years; of a major building improvement is the greater of 15 years or the remaining life of the principal capital asset; of depreciable equipment except vehicles is ten years; and of a vehicle is four years; or

(2) the depreciation guidelines.

E. The useful life of used capital assets maintained by a central, affiliated, or corporate office must be determined based on the physical condition of the used capital asset but the useful life of the used capital asset must not be less than one-half the useful life determined under item D.

F. The useful life of leasehold improvements maintained by a central, affiliated, or corporate office must be either the useful life of the improvement determined under item D or the remaining term of the lease, including renewal periods, whichever is shorter.

Subp. 5. **General and administrative costs.** Except as provided in subparts 3 and 4, general and administrative costs must not be allocated as direct or indirect costs to other cost categories.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: *9 SR 2659; 11 SR 866*

9549.0035 DETERMINATION OF ALLOWABLE COSTS.

Subpart 1. **Allowable costs.** Only costs determined to be allowable under

MINNESOTA RULES 1987

9549.0035 NURSING HOME PAYMENT RATE DETERMINATION 8906

parts 9549.0010 to 9549.0080 shall be used to compute the total payment rate for nursing homes participating in the medical assistance program.

Subp. 2. Applicable credits. Applicable credits must be used to offset or reduce the expenses of the nursing home to the extent that the cost to which the credits apply was claimed as a nursing home cost. Interest income, dividend income, and other investment income of the nursing home or related organization are not applicable credits except to the extent that the interest expense on working capital debt is incurred and claimed as a reimbursable expense by the nursing home or related organization. Interest income must not be offset against working capital interest expense if it relates to a bond sinking fund or a restricted fund as defined in part 9549.0060, subpart 7, item B, or other restricted fund if the income is not available to the nursing home or related organization. Gains or losses on the sales of capital assets used by the nursing home must not be applicable credits.

Subp. 3. Adequate documentation. A nursing home shall keep adequate documentation.

A. In order to be adequate, documentation must:

- (1) Be maintained in orderly, well-organized files.
- (2) Not include documentation of more than one nursing home in one set of files unless transactions may be traced by the department to the nursing home's annual cost report.
- (3) Include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing homes. If any of the information is not available, the nursing home shall document its good faith attempt to obtain the information.
- (4) Include contracts, agreements, amortization schedules, mortgages, other debt instruments, and all other documents necessary to explain the nursing home's costs or revenues.
- (5) Be retained by the nursing home to support the five most recent annual cost reports. The commissioner may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practices as in part 9549.0041, subpart 13, item A, the records are necessary to resolve a pending appeal, or are required for the enforcement of Minnesota Statutes, section 256B.48.

B. Compensation for personal services, regardless of whether treated as direct or indirect costs, must be documented on payroll records. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees which are allocated to more than one cost category must be supported by time distribution records. The method used must produce a proportional distribution of actual time spent, or an accurate estimate of time spent performing assigned duties. The nursing home that chooses to estimate time spent must use a statistically valid method. The compensation must reflect an amount proportionate to a full-time basis if the services are rendered on less than a full-time basis.

C. Except for vehicles used exclusively for nursing home business, the nursing home or related organization must maintain a motor vehicle log that shows nursing home mileage for the reporting year. Mileage paid for the use of a personal vehicle must be documented.

D. Complete and orderly records must be maintained for cost allocations made to cost categories.

Subp. 4. Compensation for personal services. Compensation for personal services includes all the remuneration paid currently, accrued or deferred, for

MINNESOTA RULES 1987

8907 NURSING HOME PAYMENT RATE DETERMINATION 9549.0035

services rendered by the nursing home's owners or employees. Only compensation costs for the current reporting period are allowable subject to the requirements of parts 9549.0010 to 9549.0080.

A. Compensation includes:

(1) salaries, wages, bonuses, vested vacations, vested sick leave, and fringe benefits paid for managerial, administrative, professional, and other services;

(2) amounts paid by the nursing home for the personal benefit of the owners or employees;

(3) the costs of assets and services which the owner or employee receives from the nursing home;

(4) deferred compensation, individual retirement plans such as individual retirement accounts, pension plans, and profit-sharing plans;

(5) the annual cost of supplies, use of capital assets, services for personal use, or any other in-kind benefits received by the owners or employees; and

(6) payment to organizations of nonpaid workers, that have arrangements with the nursing home for the performance of services by the nonpaid workers.

B. The nursing home must have a written policy for payment of compensation for personal services. The policy must relate the individual's compensation to the performance of specified duties and to the number of hours worked. Compensation payable under the plan must be consistent with the compensation paid to persons performing similar duties in the nursing home industry. Employees covered by collective bargaining agreements are not required to be covered by the policy if the collective bargaining agreement otherwise meets the essentials of the policy required by this item.

C. Only necessary services shall be compensated.

D. Except for accrued vested vacation, accrued vested sick leave, or compensation claims subject to litigation or employer-employee dispute resolution, compensation must be actually paid, whether by cash or negotiable instrument, within 107 days after the close of the reporting period. If payment is not made within the 107 days, the unpaid compensation shall be disallowed in that reporting year.

Subp. 5. **Licensure and certification costs.** Subject to parts 9549.0010 to 9549.0080 all operating costs of meeting the licensure and certification standards in items A to C are allowable operating costs for the purpose of setting nursing home payment rates. The standards are:

A. standards set by federal regulations for skilled nursing facilities and intermediate care facilities;

B. requirements established by the Minnesota Department of Health for meeting health standards as set out by state rules and federal regulations; and

C. other requirements for licensing under state and federal law, state rules, or federal regulations that must be met to provide nursing and boarding care services.

Subp. 6. **Routine service costs.** Subject to parts 9549.0010 to 9549.0080 all operating costs of routine services including nursing, dietary, and support services are allowable operating costs for the purpose of setting nursing home payment rates.

Subp. 7. **Related organization costs.** Costs applicable to services, capital assets, and supplies directly or indirectly furnished to the nursing home by any related organization are includable in the allowable cost of the nursing home at the purchase price paid by the related organization for capital assets or supplies and at the cost incurred by the related organization for the provision of services

MINNESOTA RULES 1987

9549.0035 NURSING HOME PAYMENT RATE DETERMINATION 8908

to the nursing home if these prices or costs do not exceed the price of comparable services, capital assets, or supplies that could be purchased elsewhere. For this purpose, the related organization's costs must not include an amount for markup or profit.

If the related organization in the normal course of business sells services, capital assets, or supplies to nonrelated organizations, the cost to the nursing home shall be the nonrelated organization's price provided that sales to nonrelated organizations constitute at least 50 percent of total annual sales of similar services, or capital assets, or supplies.

Subject to parts 9549.0010 to 9549.0080, the cost of ownership of a capital asset which is used by the nursing home must be included in the allowable cost of the nursing home even though it is owned by a related organization.

Subp. 8. General cost principles. For rate-setting purposes, a cost must satisfy the following criteria:

- A. the cost is ordinary, necessary, and related to resident care;
- B. the cost is what a prudent and cost conscious business person would pay for the specific good or service in the open market in an arm's length transaction;
- C. the cost is for goods or services actually provided in the nursing home;
- D. the cost effects of transactions that have the effect of circumventing these rules are not allowable under the principle that the substance of the transaction shall prevail over form; and
- E. costs that are incurred due to management inefficiency, unnecessary care or facilities, agreements not to compete, or activities not commonly accepted in the nursing home care field are not allowable.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: 9 SR 2659

9549.0036 NONALLOWABLE COSTS.

The costs listed in items A to EE are not allowable for purposes of setting payment rates but must be identified on the nursing home's cost report.

- A. All contributions, including charitable contributions, and contributions to political action committees or campaigns.
- B. Salaries and expenses of a lobbyist.
- C. Legal and related expenses for unsuccessful challenges to decisions by governmental agencies.
- D. Assessments made by or the portion of dues charged by associations or professional organizations for litigation except for successful challenges to decisions by agencies of the state of Minnesota; lobbying costs; or contributions to political action committees or campaigns. Where the breakdown of dues charged to a nursing home is not provided, the entire cost shall be disallowed.
- E. Advertising designed to encourage potential residents to select a particular nursing home. This item does not apply to a total expenditure of \$2,000 for all notices placed in the telephone yellow pages for the purpose of stating the nursing home's name, location, phone number, and general information about services in the nursing home.
- F. Assessments levied by the commissioner of the Minnesota Department of Health for uncorrected violations.
- G. Employee or owner's membership or other fees for social, fraternal, sports, health, or similar organizations.
- H. Cost incurred for activities directly related to influencing employees with respect to unionization.

MINNESOTA RULES 1987

8909 NURSING HOME PAYMENT RATE DETERMINATION 9549.0036

I. Costs of activities not related to resident care such as flowers or gifts for employees or owners, employee parties, and business meals except as in part 9549.0040, subpart 7, item X.

J. Costs related to purchase of and care for pets in excess of \$5 per year per licensed bed.

K. Penalties including interest charged on the penalty, interest charges which result from an overpayment, and bank overdraft or late payment charges.

L. Costs of sponsoring employee, youth, or adult activities such as athletic teams and beauty contests.

M. Premiums on owner's or board member's life insurance policies, except that such premiums shall be allowed if the policy is included within a group policy provided for all employees, or if such a policy is required as a condition of mortgage or loan and the mortgagee or lending institution is listed as the beneficiary.

N. Personal expenses of owners and employees, such as vacations, boats, airplanes, personal travel or vehicles, and entertainment.

O. Costs of training programs for anyone other than employees or volunteers in the nursing home.

P. Costs of training programs to meet the minimum educational requirements of a position, education that leads to a degree, or education that qualifies the employee for a new trade or profession. This item does not apply to training or education of nursing aides or training to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position or to maintain or update skills needed in performing the employee's present duties.

Q. Bad debts and related bad debt collection fees except as provided in part 9549.0040, subpart 7, item V.

R. Costs of fund raising activities.

S. Costs associated with the management of investments which may produce interest income, dividend income, or other investment income or losses.

T. Costs of functions normally paid by charges to residents, employees, visitors, or others such as the direct and indirect costs of operating a pharmacy, congregate dining program, home delivered meals program, gift shop, coffee shop, apartment, or day care center.

U. Operating costs for activities to the extent that the activities are financed by gifts or grants from public funds. A transfer of funds from a local governmental unit to its governmentally-owned nursing home is not a gift or grant under this item.

V. Telephone, television, and radio service provided in a resident's room except as in part 9549.0040, subpart 6, item D.

W. Costs of covenants not to compete.

X. Identifiable costs of services provided by a licensed medical therapeutic or rehabilitation practitioner or any other vendor of medical care which are billed separately on a fee for service basis, including:

(1) the purchase of service fees paid to the vendor or his or her agent who is not an employee of the nursing home or the compensation of the practitioner who is an employee of the nursing home;

(2) allocated compensation and related costs of any nursing home personnel assisting in providing these services; and

(3) allocated operating or property cost for providing these services such as housekeeping, laundry, maintenance, medical records, payroll taxes, space, utilities, equipment, supplies, bookkeeping, secretarial, insurance, supervision and administration, and real estate taxes and special assessments.

If any of the costs in subitems (1) to (3) are incurred by the nursing home,

MINNESOTA RULES 1987

9549.0036 NURSING HOME PAYMENT RATE DETERMINATION 8910

these costs must be reported as nonreimbursable expenses, together with any of the income received or anticipated by the nursing home including any charges by the nursing home to the vendor.

Y. Costs for which adequate documentation is not maintained or provided as required by parts 9549.0010 to 9549.0080.

Z. Fringe benefits or payroll taxes associated with disallowed salary costs.

AA. Costs associated with sales or reorganizations of nursing homes.

BB. Accruals of vacation and sick leave for employees which are not fully vested.

CC. Payments made in lieu of real estate taxes, unless such payments are made under a legally enforceable irrevocable written contract entered into prior to the effective date of parts 9549.0010 to 9549.0080.

DD. Adverse judgments, settlements, and repayments of escrow accounts resulting from the enforcement of Minnesota Statutes, section 256B.48 and related costs and expenses.

EE. Costs including legal fees, accounting fees, administrative costs, travel costs, and the costs of feasibility studies attributed to the negotiation or settlement of a sale or purchase of any capital asset by acquisition or merger for which any payment has previously been made under parts 9549.0010 to 9549.0080.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: *9 SR 2659; 11 SR 866*

9549.0040 REPORTING BY COST CATEGORY.

Subpart 1. **Dietary services.** The costs listed in items A to D are to be reported in the dietary services cost category:

A. direct costs of normal and special diet food including raw food, dietary supplies, food preparation and serving, and special dietary supplements used for tube feeding or oral feeding, such as elemental high nitrogen diet, even if written as a prescription item by a physician;

B. the salaries and wages of the supervisor, dietitians, chefs, cooks, dishwashers, and other employees assigned to the kitchen and dining room including the salaries or fees of dietary consultants;

C. the costs of training including the cost of lodging and meals to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position or to maintain or update skills needed in performing the employee's present duties; and

D. the costs of travel necessary for training programs for dietitians required to maintain licensure, certification, or professional standards.

Subp. 2. **Laundry and linen services.** The costs listed in items A and B are to be reported in the laundry and linen services cost category:

A. direct costs of linen and bedding, the laundering of resident clothing, other laundering, and laundry supplies; and

B. the salaries and wages of the supervisor, menders, ironers, and other laundry employees.

Subp. 3. **Housekeeping services.** The costs listed in items A and B are to be reported in the housekeeping services cost category:

A. direct costs of housekeeping supplies, including cleaning and lavatory supplies; and

B. the salaries and wages of the supervisor, housekeepers, and other cleaning personnel.

Subp. 4. **Plant operation and maintenance services.** The costs listed in items A to C are to be reported in the plant operations and maintenance cost category:

MINNESOTA RULES 1987

8911. NURSING HOME PAYMENT RATE DETERMINATION 9549.0040

A. direct costs for maintenance and operation of the building and grounds, including fuel, electricity, water, sewer, supplies, tools, and repairs which are not capitalized;

B. the salaries and wages of the supervisor, engineers, heating-plant employees, independent contractors, and other maintenance personnel; and

C. the cost of required licenses and permits required for operation of the nursing home.

Subp. 5. **Nursing services.** Direct costs associated with nursing services identified in items A to Y, are to be included in the nursing services cost category:

A. nursing assessment of the health status of the resident and planning of appropriate interventions to overcome identified problems and maximize resident strengths;

B. bedside care and services;

C. care and services according to the order of the attending physicians;

D. monitoring procedures such as vital signs, urine testing, weight, intake and output, and observation of the body system;

E. administration of oral, sublingual, rectal, and local medications topically applied, and appropriate recording of the resident's responses;

F. drawing blood and collecting specimens for submission to laboratories;

G. prevention of skin irritation and decubitus ulcers;

H. routine changing of dressings;

I. training, assistance, and encouragement for self-care as required for feeding, grooming, ambulation, toilet, and other activities of daily living including movement within the nursing home facility;

J. supportive assistance and training in resident transfer techniques including transfer from bed to wheelchair or wheelchair to commode;

K. care of residents with casts, braces, splints, and other appliances requiring nursing care or supervision;

L. care of residents with behavior problems and severe emotional problems requiring nursing care or supervision;

M. administration of oxygen;

N. use of nebulizers;

O. maintenance care of resident's colostomy, ileostomy, and urostomy;

P. administration of parenteral medications, including intravenous solutions;

Q. administration of tube feedings;

R. nasopharyngeal aspiration required for maintenance of a clean airway;

S. care of suprapubic catheters and urethral catheters;

T. care of tracheostomy, gastrostomy, and other tubes in a body;

U. costs of equipment and supplies that are used to complement the services in the nursing services cost category, including items stocked at nursing stations or on the floor and distributed or used individually, including: alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, soap and water, medication cups, diapers, plastic waste bags, sanitary products, thermometers, hypodermic needles and syringes, and clinical reagents or similar diagnostic agents, and drugs which are not paid on a separate fee schedule by the medical assistance program or any other payer;

V. costs for education or training including the cost of lodging and meals of nursing service personnel. Educational costs are limited to either meeting the

MINNESOTA RULES 1987

9549.0040 NURSING HOME PAYMENT RATE DETERMINATION 8912

requirements of laws or rules or keeping an employee's salary, status, or position or for maintaining or updating skills needed in performing the employee's present duties, except that training to become a nurses aid is an allowable cost;

W. the salaries and wages of persons performing nursing services including salaries of the director, and assistant director of nursing, supervising nurses, medical records personnel, registered professional nurses, licensed practical nurses, nurses aides, orderlies, and attendants;

X. the salaries or fees of medical director, physicians, or other professionals performing consulting services on medical care which are not reimbursed separately on a fee for service basis; and

Y. the costs of travel necessary for training programs for nursing personnel required to maintain licensure, certification, or professional standards.

Subp. 6. Other care-related services. The costs listed in items A to D are to be reported in the other care-related services cost category:

A. direct costs of other care-related services, such as recreational or religious activities, arts and crafts, pets, and social services which are not reimbursed separately on a fee for service basis;

B. the salaries and wages of recreational therapists and aides, rehabilitation therapists and aides, chaplains, arts and crafts instructors and aides, social workers and aides, and other care-related personnel including salaries or fees of professionals performing consultation services in these areas which are not reimbursed separately on a fee for service basis;

C. the costs of training including the cost of lodging and meals to meet the requirements of laws or rules for keeping an employee's salary, status, or position, or to maintain or update skills needed in performing the employee's present duties; and

D. telephone, television, and radio services provided in areas designated for use by the general resident population, such as lounges and recreation rooms and the charge of transferring a resident's phone from one room to another within the same nursing home.

Subp. 7. General and administrative services. Direct costs for administering the overall activities of the nursing home are included in the general and administrative cost category. These direct costs include:

A. business office functions;

B. travel expenses other than travel expenses reported under subparts 1, item D, and 5, item Y;

C. all motor vehicle operating expenses;

D. telephone and telegraph charges;

E. office supplies;

F. insurance, except as included as a fringe benefit;

G. personnel recruitment costs including help wanted advertising;

H. the salaries, wages, or fees of administrators, assistant administrators, accounting and clerical personnel, data processing personnel, and receptionists;

I. professional fees for services such as legal, accounting, and data processing services;

J. management fees, and the cost of management and administrative consultants;

K. central, affiliated, or corporate office costs excluding the cost of depreciable equipment used by individual nursing homes which are included in the computation of the property-related payment rate under part 9549.0060 and those costs specified in part 9549.0030, subpart 4, items A and B;

L. business meetings and seminars;

MINNESOTA RULES 1987

8913 NURSING HOME PAYMENT RATE DETERMINATION 9549.0040

M. postage;

N. training including the cost of lodging and meals for management personnel and personnel not related to direct resident care if the training either meets the requirements of laws, rules, or regulations to keep an employee's salary, status, or position or maintains or updates skills needed to perform the employee's present duties;

O. membership fees for associations and professional organizations which are directly related to resident care;

P. subscriptions to periodicals which are directly related to the operation of the nursing home;

Q. security services or security personnel;

R. joint commission on accreditation of hospitals survey;

S. advertising;

T. board of director's fees;

U. interest on working capital debt;

V. bad debts and fees paid for collection of bad debts provided that the conditions in subitems (1) to (4) are met:

(1) the bad debt results from nonpayment of the payment rate or part of the payment rate;

(2) the nursing home documents that reasonable collection efforts have been made, the debt was uncollectable, and there is no likelihood of future recovery;

(3) the collection fee does not exceed the amount of the bad debt; and

(4) the debt does not result from the nursing home's failure to comply with federal and state laws, state rules, and federal regulations.

W. the portion of preopening costs capitalized as a deferred charge and amortized over a period of 120 consecutive months beginning with the month in which a resident first resides in a newly-constructed nursing home;

X. the cost of meals incurred as a result of required overnight business related travel; and

Y. any costs which cannot be specifically classified to another cost category.

Subp. 8. Payroll taxes, fringe benefits, and clerical training. Only the costs identified in items A to I are to be reported in the payroll taxes, fringe benefits, and clerical training cost category:

A. the employer's share of the social security withholding tax;

B. state and federal unemployment compensation taxes or costs;

C. group life insurance;

D. group health and dental insurance;

E. workers' compensation insurance;

F. either a pension plan or profit-sharing plan, approved by the United States Internal Revenue Service, but not both for the same employee;

G. governmentally required retirement contributions;

H. uniform allowance; and

I. costs of training clerical personnel including the cost of meals and lodging.

Subp. 9. Real estate taxes and special assessments. Real estate taxes and special assessments for each nursing home are to be reported in the real estate taxes and special assessments cost category. In addition, payments permitted under part 9549.0036, item CC must be reported in this cost category.

MINNESOTA RULES 1987

9549.0040 NURSING HOME PAYMENT RATE DETERMINATION 8914

Statutory Authority: *MS s 256B.41 to 256B.502*

History: 9 SR 2659

9549.0041 GENERAL REPORTING REQUIREMENTS.

Subpart 1. Required cost reports. No later than December 31 of each year, the nursing home shall submit an annual cost report for the reporting year ending September 30 on forms supplied by the commissioner in order to receive medical assistance program payments. In addition, the nursing home shall obtain an annual audit of its financial records from an independent certified public accountant or licensed public accountant. The examination must be conducted in accordance with generally accepted auditing standards as adopted by the American Institute of Certified Public Accountants and generally accepted accounting principles. A governmentally-owned nursing home may comply with these auditing requirements by submitting the audit report prepared by the state auditor.

Subp. 2. Required information. A complete annual report must include the following items.

A. General nursing home information and statistical data as requested on the cost report form.

B. Reports of historical costs with supporting calculations, worksheets, and an explanation of the historical costs as requested on the cost report form.

C. A complete statement of fees and charges, including the rate or rates charged to private paying residents, as audited by a certified or licensed public accountant as defined by Minnesota Statutes, section 412.222 for the fiscal year of the nursing home.

D. A copy of the nursing home's audited financial statements for its fiscal year ending during the reporting year. The audited financial statements must include a balance sheet, income statement, statement of retained earnings, statement of changes in financial position (cash and working capital methods), appropriate notes to the financial statements, any applicable supplemental information, and the certified or licensed public accountant's opinion. If the financial statements are not sufficiently detailed or the nursing home's fiscal year is different from the reporting year, the nursing home shall provide supplemental information that reconciles costs on the financial statements with the cost report.

E. A statement of ownership for the nursing home, including the name, address, and proportion of ownership of each owner.

If a privately-held or closely-held corporation or partnership has an ownership interest in the nursing home, the nursing home must report the name, address, and proportion of ownership of all owners of the corporation or partnership who have an ownership interest of five percent or more, except that any owner whose compensation or portion of compensation is claimed for reimbursement in the nursing home's cost report must be identified regardless of the proportion of ownership interest.

If a publicly-held corporation has an ownership interest of 15 percent or more in the nursing home, the nursing home must report the name, address, and proportion of ownership of all owners of the publicly-held corporation who have an ownership interest of ten percent or more.

F. Copies of leases, purchase agreements, and other documents related to the lease or purchase of the nursing home if not previously submitted.

G. A listing of nursing home debt outstanding during the reporting year, and the name of the lender, the term of debt, interest rate of debt, interest and principal payments for the current year and all remaining years, and the original amount of debt and any portion of debt as required by part 9549.0060, subpart 5.

H. An explanation of all adjustments to the historical costs.

I. The nursing home's statement of property tax payable according to subpart 5.

MINNESOTA RULES 1987

8915 NURSING HOME PAYMENT RATE DETERMINATION 9549.0041

Subp. 3. **Information which may be required.** In addition to the reports required in subpart 2, the commissioner may require the following:

A. Access to certified and licensed public accountant's audit workpapers which support the audited financial statements and cost reports.

B. Separate audited financial statements that correspond to the fiscal year ended during the reporting year for any other Minnesota nursing home owned in whole or part by the same owners.

C. Separate audited financial statements which correspond to the fiscal year ended during the reporting year for any related organization doing business with the nursing home if the related organization has not previously had an audited financial statement. At the commissioner's request, the related organization shall provide audited financial statements within 90 days after the end of the related organization's fiscal year in which the request is made.

D. Copies of leases, purchase agreements, or other documents related to the purchase or acquisition of equipment, goods, and services which are claimed as allowable costs.

E. Access to federal and state income tax returns for the nursing home, related organization, and any individual or corporation having an ownership interest in the nursing home as specified in subpart 2, item E.

F. Other relevant information necessary to support a payment request.

Subp. 4. **Additional information required from hospital attached nursing homes.** In addition to the reports required in subparts 2 and 3, hospital-attached nursing homes shall provide a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year. If the Medicare cost report covers a period other than the nursing home's reporting year, the nursing home shall provide a copy of the Medicare cost report prepared using costs for the nursing home's reporting period in addition to supplemental information which reconciles costs on the financial statements with the reporting period costs. The nursing home must provide individual stepdowns for each cost category in part 9549.0040. The individual stepdowns must be prepared in accordance with instructions provided by the commissioner.

Subp. 5. **Reporting real estate taxes and special assessments.** The nursing home shall submit a copy of its statement of property tax payable for the calendar year in which the rate year begins by April 5 of that calendar year. Except as provided in this subpart, the commissioner shall disallow the costs of real estate taxes if the documentation is not submitted by April 5. The disallowance shall remain in effect until the nursing home provides the documentation and amends the cost report under subpart 14. If the county has not provided to the nursing home a statement of property tax payable by April 5, the commissioner shall use the property tax payable during the previous reporting year until the statement is received by the department. Upon receipt of the statement of property tax payable, the commissioner shall adjust the payment rate accordingly. Special assessments and related interest paid during the reporting year must be shown on the cost report.

Subp. 6. **Method of accounting.** The accrual method of accounting in accordance with generally accepted accounting principles is the only method acceptable for purposes of satisfying reporting requirements. If a governmentally-owned nursing home demonstrates that the accrual method of accounting is not applicable to its accounts and that a cash or modified accrual method of accounting more accurately reports the nursing home's financial operations, the commissioner shall permit the governmentally-owned nursing home to use a cash or modified accrual method of accounting.

Subp. 7. **Records.** The nursing home shall maintain statistical and accounting records in sufficient detail to support information contained in the nursing home's cost reports and audited statement for at least five years including the year following submission of an annual cost report.

MINNESOTA RULES 1987

9549.0041 NURSING HOME PAYMENT RATE DETERMINATION 8916

Subp. 8. Conflicts. If conflicts occur between parts 9549.0010 to 9549.0080 and generally accepted accounting principles, parts 9549.0010 to 9549.0080 shall prevail.

Subp. 9. Certification of reports. Reports required in this part must be accompanied by a certification of the person having over 50 percent effective ownership or the chief financial officer if there is no majority owner, and the administrator or chief operating executive. If reports have been prepared by a person other than these individuals, a separate statement signed by the preparer must accompany the report.

Subp. 10. Deadlines and extensions. The deadline for submission of reports and the extension of the deadline is governed by items A to C.

A. The nursing home shall submit the required annual cost report to the commissioner by December 31. The annual cost report must cover the reporting year ending on September 30 of that year.

B. The commissioner may reject any annual cost report filed by a nursing home that is incomplete or inaccurate or may require additional information necessary to support the payment rate request. The corrected report or the additional information requested must be returned to the commissioner within 20 days of the request or the report must be rejected. The commissioner may extend this time if the nursing home makes a showing of good cause in writing and if the commissioner determines that the delay in receipt of the information will not prevent the commissioner from establishing rates in a timely manner as required by law. Failure to file the required cost report and other required information or to correct the form of an incomplete or inaccurate report shall result in its rejection and in a reduction of the payment rate in subpart 12. The failure to provide additional information shall also result in a reduction of the payment rate in subpart 12 unless the total payment rate can be calculated by the disallowance of the cost for which additional information was requested, in which case no rate reduction as specified in subpart 12 shall occur.

C. The commissioner may grant one 15-day extension of the reporting deadline. To receive an extension, a nursing home must submit a written request by December 1. The commissioner must notify the nursing home of the decision to grant or deny an extension by December 15.

Subp. 11. Effective date of total payment rate. The commissioner shall provide to all nursing homes notice of the total payment rate by May 1 of each year. The total payment rate is effective from July 1 of that year to June 30 of the following year.

Subp. 12. Noncompliance. A nursing home's failure to comply with reporting requirements subjects the nursing home to items A to C.

A. If a nursing home fails to provide reports, documentation, and worksheets required in this part, the commissioner shall reduce the nursing home's total payment rate to 80 percent of the total payment rate as provided in item B.

B. The reduced total payment rate is effective:

(1) 21 days after a written request for additional information under subpart 3, items A to D, is sent by the commissioner or at the expiration of any additional time period the commissioner may allow under subpart 10, item B.

(2) For failure to provide the information required in subpart 1, 2, 4, or 9. On January 1, if no extension has been granted; on January 15, if the extension was granted; or 21 days after a written request for the correction or completion of inaccurate reports of financial statements, or at the expiration of a further time period that the commissioner allows under subpart 10, item B.

C. Reinstatement of the total payment rate upon remedy of the failure or inadequacy is not retroactive.

Subp. 13. Audits. Nursing home audits are subject to items A to D:

MINNESOTA RULES 1987

8917 NURSING HOME PAYMENT RATE DETERMINATION 9549.0041

A. The department shall subject all reports and supporting documentation to desk and field audits to determine compliance with parts 9549.0010 to 9549.0080. Retroactive adjustments may be made as a result of desk or field audit findings. If a field audit reveals inadequacies in a nursing home's record keeping or accounting practices, the commissioner may require the nursing home to engage competent professional assistance to correct those inadequacies within 90 days so that the field audit may proceed.

B. Field audits may cover the four most recent annual cost reports for which desk audits have been completed and payment rates have been established. The field audit must be an independent review of the nursing home's cost report. All transactions, invoices, or other documentation that support or relate to the costs claimed on the annual cost reports are subject to review by the field auditor. If the provider fails to provide the field auditor access to supporting documentation related to the information reported on the cost report within the time period specified by the commissioner, the commissioner may calculate the total payment rate by disallowing the cost of the items for which access to the supporting documentation is not provided or apply the penalty in subpart 12, item A, whichever would result in the least amount of change in the total payment rate.

C. Changes in the total payment rate which result from desk or field audit adjustments to cost reports for reporting years beyond the four most recent annual cost reports must be made to the four most recent annual cost reports, the current cost report, and future cost reports to the extent that those adjustments affect the total payment rate established by those reporting years.

D. The commissioner may extend the period for retention of records under part 9549.0035, subpart 3, item A, subitem (5) for purposes of performing field audits as necessary to enforce Minnesota Statutes, section 256B.48.

Subp. 14. Amended reports. Amendments to previously filed annual cost reports are governed by items A and B.

A. Nursing homes may file amendments to previously filed annual cost reports when:

(1) Errors or omissions in the annual cost report are discovered and an amendment would result in at least a five-cent per resident day or \$2,000 adjustment, whichever is less for each reporting year. The commissioner shall make retroactive adjustments to the total payment rate of an individual nursing home if the amendment is filed within 14 months of the original cost report to be amended. An error or omission for purposes of this item does not include a nursing home's determination that a prior election between alternative methods of reporting costs permitted under parts 9549.0010 to 9549.0080 was not advantageous and should be changed. Errors or omissions that do not meet the threshold amount required for amended cost reports, or errors or omissions discovered after the 14-month time limitation specified in this item, may be claimed at the time of the field audit.

(2) A nursing home which qualifies for a special reappraisal under part 9549.0060, subpart 3 to adjust its property related payment rate.

B. Nursing homes must not amend a previously filed cost report for the purpose of removing costs of services for which the nursing home seeks separate billing.

Subp. 15. False reports. If a nursing home knowingly supplies inaccurate or false information in a required report that results in an overpayment, the commissioner shall:

A. immediately adjust the nursing home's payment rate to recover the entire overpayment within the rate year;

B. terminate the commissioner's agreement with the nursing home;

C. prosecute under applicable state or federal law; or

D. use any combination of items A, B, and C.

MINNESOTA RULES 1987

9549.0041 NURSING HOME PAYMENT RATE DETERMINATION 8918

Statutory Authority: *MS s 256B.41 to 256B.502*

History: *9 SR 2659; 11 SR 866*

9549.0060 DETERMINATION OF THE PROPERTY-RELATED PAYMENT RATE.

Subpart 1. Initial appraised value. For the rate year beginning July 1, 1985, the commissioner shall contract with a property appraisal firm which shall use the depreciated replacement cost method to determine the appraised value of each nursing home participating in the medical assistance program as of June 30, 1985. The initial appraised value of each nursing home and any subsequent reappraisal under subparts 2 and 3 must be limited to the value of buildings, attached fixtures, and land improvements used by the nursing home and must be subject to the limits in subpart 4.

For hospital-attached nursing homes, the commissioner shall require the appraisal of those portions of buildings, attached fixtures, and land improvements in service areas shared between the nursing home and the hospital. The appraised value of the shared service areas must be allocated between the nursing home and the hospital or other nonnursing home areas using the Medicare worksheet B-1 statistics in effect on September 30, 1984. The appraised value of the shared service areas must be allocated by stepdown placing the appraised values on the appropriate line of column 1 on the Medicare worksheet B. The appraised value of the shared service areas allocated to the nursing home shall be added to the appraised value of the nursing home's buildings, attached fixtures, and land improvements.

For a newly-constructed nursing home applying to participate in the medical assistance program which commenced construction after June 30, 1985, or a nursing home with an increase in licensed beds of 50 percent or more, the commissioner shall require an initial appraisal upon completion of the construction. The construction is considered complete upon issuance of a certificate of occupancy or, if no certification of occupancy is required, when available for resident use. The property-related payment rate is effective on the earlier of either the first day a resident is admitted or on the date the nursing home is certified for medical assistance.

Subp. 2. Routine updating of appraised value. For rate years beginning after June 30, 1986, the commissioner shall routinely update the appraised value according to items A to C.

A. The commissioner shall contract with a property appraisal firm which shall use the depreciated replacement cost method to perform reappraisals. Each calendar year, the commissioner shall select a random sample of not less than 15 percent of the total number of nursing homes participating in the medical assistance program as of July 1 of that year. The sample must not include nursing homes receiving an interim payment rate under subpart 14. All nursing homes in the sample must be reappraised during the last six months of the calendar year. Incomplete additions or replacements must not be included in the reappraisals. An incomplete addition or replacement is one for which a certificate of occupancy is not yet issued, or if a certificate of occupancy is not required, the addition or replacement is not available for use.

The updated appraised value for hospital-attached nursing homes resulting from a reappraisal of shared service areas must be allocated to the nursing home in the same ratio indicated by the Medicare stepdown in effect on September 30 of the rate year in which the reappraisal is conducted. The method described in subpart 1, is to be used to determine allocation of the updated appraised value. The reappraised value of the shared service areas allocated to the nursing home must be added to the reappraised value of the nursing home's buildings, attached fixtures, and land improvements.

B. The commissioner shall compute the average percentage change in

MINNESOTA RULES 1987

8919 NURSING HOME PAYMENT RATE DETERMINATION 9549.0060

appraised values for the nursing homes in the sample. The appraised value of each nursing home not in the sample, and not reappraised under subpart 3, must be increased or decreased by the average percentage change subject to the limits in subpart 4. No redetermination of the average percentage change in appraised values shall be made as a result of changes in the appraised value of individual nursing homes in the sample made after the commissioner's computation of the average percentage change.

C. For hospital-attached nursing homes not in the sample, the allocation of the appraised value of the shared service areas must be recomputed if the hospital involved experiences a cumulative change in total patient days as defined by the Medicare program of more than 15 percent from the reporting year in which the most recently used set of allocation statistics were determined. The allocation using the method described in subpart 1 must be based on the Medicare stepdown in effect on September 30 of the rate year in which the updating of the appraised value is performed.

D. The adjustment to the property-related payment rate which results from updating the appraised value is effective for the rate year immediately following the rate year in which the updating takes place except as provided in subpart 14.

E. Each calendar year that a random sample is selected in item A to compute the average percentage change in appraised values in item B, the commissioner shall evaluate the adequacy of the sample size according to subitems (1) to (6).

(1) The tolerance level for an acceptable error rate must be plus or minus three percentage points.

(2) The confidence level for evaluating the sample size must be 95 percent.

(3) The sample size required to be within the tolerance level in subitem (1) must be computed using standard statistical methods for determination of a sample size.

(4) If the required sample size in subitem (3) is greater than the sample size used in item A, additional appraisals must be performed until the number of appraisals is equal to the required sample size in subitem (3). The additional nursing homes needed to complete the required sample size must be randomly selected. A nursing home that received a special reappraisal under subpart 3, or one that is receiving an interim payment rate under subpart 14, or one that was appraised in the original sample in item A must be excluded. The average percentage change in appraised values in item B must be recomputed based on the increased sample size in subitem (3).

(5) If the tolerance level in subitem (1) continues to be exceeded after applying the procedures in subitems (3) and (4), the procedures in subitems (3) and (4) must be repeated until the error rate is within the tolerance level.

(6) If the required sample size in subitem (3) is equal to or less than the sample size used in item A, the average percentage change in appraised values must be the percentage determined in item B.

Subp. 3. Special reappraisals. Special reappraisals are subject to the requirements of items A to F.

A. A nursing home which makes an addition to or replacement of buildings, attached fixtures, or land improvements may request the commissioner to conduct a reappraisal upon project completion.

Upon receipt of a written request, the commissioner shall conduct a reappraisal within 60 days provided that all conditions of this subpart are met. The total historical cost of the addition or replacement, exclusive of the proceeds from disposals of capital assets or applicable credits such as public grants and insurance proceeds, must exceed the lesser of \$200,000 or ten percent of the most

MINNESOTA RULES 1987

9549.0060 NURSING HOME PAYMENT RATE DETERMINATION 8920

recent appraised value determined under subparts 1 to 4. The addition or replacement must be complete and a certificate of occupancy issued, or if a certificate of occupancy is not required, the addition or replacement must be available for use. Special reappraisals under this item are limited to one per 12-month period.

B. A nursing home which retires buildings, attached fixtures, land improvements, or portions thereof without replacement, shall report the deletion to the commissioner within 30 days if the historical cost of the deletion exceeds \$200,000. The commissioner shall conduct a reappraisal of the nursing home to establish the new appraised value and adjust the property-related payment rate accordingly.

C. The adjusted property-related payment rate computed as a result of reappraisals in items A and B is effective on the first day of the month following the month in which the addition or replacement was completed or when the deletion occurred.

D. The commissioner shall reappraise every nursing home at least once every seven calendar years following the initial appraisal. The commissioner shall reappraise a nursing home if at the end of seven calendar years the nursing home has not been reappraised at least once under subpart 2 or 3. The commissioner shall adjust the property-related payment rate to reflect the change in appraised value. The adjustment of the property-related payment rate is effective on the first day of the rate year immediately following the reappraisal.

E. The commissioner may require the reappraisal of a nursing home within 60 days of receipt of information provided by the Minnesota Department of Health regarding the violation of standards and rules relating to the condition of capital assets.

F. Changes in appraised value computed in this subpart must not be used to compute the average percentage change in subpart 2, item B.

Subp. 4. Determination of allowable appraised value. A nursing home's appraised value must be limited by items A to C.

A. For rate years beginning after June 30, 1985, the replacement cost new per bed limit for licensed beds in single bedrooms and multiple bedrooms is determined according to subitems (1) to (4):

(1) Effective January 1, 1984, the replacement cost new per bed limit for licensed beds in single bedrooms is \$41,251 and for licensed beds in multiple bedrooms is \$27,500. On January 1, 1985, the commissioner shall adjust the replacement cost new per bed limit by the percentage change in the composite cost of construction index published by the Bureau of Economic Analysis of the United States Department of Commerce in the Survey of Current Business Statistics for the two previous Octobers. The index is incorporated by reference and is available at the James J. Hill Reference Library, Saint Paul, Minnesota.

(2) The average historical cost per bed for depreciable equipment is computed by adding the historical cost of depreciable equipment for each nursing home as determined in subpart 10, item A and dividing the sum by the total number of licensed beds in those nursing homes. The amount is then subtracted from the replacement cost new per bed limits determined in subitem (1).

(3) The differences computed in subitem (2) are the replacement cost new per bed limits for licensed beds in single bedrooms and multiple bedrooms effective for the rate year beginning on July 1, 1985.

(4) On January 1, 1986, and each succeeding January 1, the commissioner shall adjust the limit in subitem (3) by the percentage change in the composite cost of construction index published by the Bureau of Economic Analysis of the United States Department of Commerce in the Survey of Current Business Statistics for the two previous Octobers.

MINNESOTA RULES 1987

8921 NURSING HOME PAYMENT RATE DETERMINATION 9549.0060

B. Each nursing home's maximum allowable replacement cost new is determined annually according to subitems (1) to (3):

(1) The multiple bedroom replacement cost new per bed limit in item A must be multiplied by the number of licensed beds in multiple bedrooms.

(2) The single bedroom replacement cost new per bed limit in item A must be multiplied by the number of licensed beds in single bedrooms except as provided in subpart 11, item C, subitem (2).

(3) The nursing home's maximum allowable replacement cost new is the sum of subitems (1) and (2).

C. The nursing home's replacement cost new determined in subparts 1 to 3 must be reduced by the replacement cost new of portions of the nursing home used for functions whose costs are disallowed under parts 9549.0010 to 9549.0080.

D. The adjusted replacement cost new is the lesser of item B or C.

E. The adjusted depreciation is determined by subtracting from the depreciation in subparts 1 to 3 the amount of depreciation, if any, related to the portion of the nursing home's replacement cost new disallowed in item C or D.

F. The nursing home's allowable appraised value is determined by subtracting the amount determined in item E from the amount in item D. If no adjustment to the replacement cost new is required in items C and D, then the nursing home's allowable appraised value is the appraised value determined in subparts 1 to 3.

Subp. 5. Allowable debt. For purposes of determining the property-related payment rate, the commissioner shall allow or disallow debt according to items A to D.

A. Debt shall be limited as follows:

(1) Debt incurred for the purchase of land directly used for resident care and the purchase or construction of nursing home buildings, attached fixtures, or land improvements or the capitalized replacement or capitalized repair of existing buildings, attached fixtures, or land improvements shall be allowed. Debt incurred for any other purpose shall not be allowed.

(2) Working capital debt shall not be allowed.

(3) An increase in the amount of a debt as a result of refinancing of capital assets which occurs after May 22, 1983, shall not be allowed except to the extent that the increase in debt is the result of refinancing costs such as points, loan origination fees, or title searches.

(4) An increase in the amount of total outstanding debt incurred after May 22, 1983, as a result of a change in ownership or reorganization of provider entities, shall not be allowed and the previous owner's allowable debt as of May 22, 1983, shall be allowed under item B.

(5) Any portion of the total allowable debt exceeding the appraised value as determined in subpart 4 shall not be allowed.

(6) Any portion of a debt of which the proceeds exceed the historical cost of the capital asset acquired shall not be allowed.

B. The nursing home shall apportion debts incurred before October 1, 1984, among land and buildings, attached fixtures, land improvements, depreciable equipment and working capital by direct identification. If direct identification of any part of the debt is not possible, that portion of the debt which cannot be directly identified shall be apportioned to each component, except working capital debt, based on the ratio of the historical cost of the component to the total historical cost of all components. The portion of debt assigned to land and buildings, attached fixtures, and land improvements is allowable debt.

A hospital-attached nursing home that has debts that are not directly identifiable to the hospital or the nursing home shall allocate the portion of allowable debt computed according to subpart 5, and allowable interest expense computed

MINNESOTA RULES 1987

9549.0060 NURSING HOME PAYMENT RATE DETERMINATION 8922

according to subpart 7 assigned to land and buildings, attached fixtures, and land improvements using the Medicare stepdown method described in subpart 1.

C. For debts incurred after September 30, 1984, the nursing home shall directly identify the proceeds of the debt associated with specific land and buildings, attached fixtures, and land improvements, and keep records that separate such debt proceeds from all other debt. Only the debt identified with specific land and buildings, attached fixtures, and land improvement shall be allowed.

D. For reporting years ending on or after September 30, 1984, the total amount of allowable debt shall be the sum of all allowable debts at the beginning of the reporting year plus all allowable debts at the end of the reporting year divided by two. Nursing homes which have a debt with a zero balance at the beginning or end of the reporting year must use a monthly average for the reporting year.

E. Debt incurred as a result of loans between related organizations must not be allowed.

Subp. 6. Limitations on interest rates. The commissioner shall limit interest rates according to items A to C.

A. Except as provided in item B, the effective interest rate of each allowable debt, including points, financing charges, and amortization bond premiums or discounts, entered into after September 30, 1984, is limited to the lesser of:

- (1) the effective interest rate on the debt; or
- (2) 16 percent.

B. Variable or adjustable rates for allowable debt are allowed subject to item A. For each allowable debt with a variable or adjustable rate, the effective interest rate must be computed by dividing the interest expense for the reporting year by the average allowable debt computed under subpart 5, item D.

C. For rate years beginning on July 1, 1985, and July 1, 1986, the effective interest rate for debts incurred before October 1, 1984, is allowed if the interest rate is not in excess of what the borrower would have had to pay in an arms-length transaction in the market in which the debt was incurred. For rate years beginning after June 30, 1987, the effective interest rate for debts incurred before October 1, 1984, is allowed subject to item A.

Subp. 7. Allowable interest expense. The commissioner shall allow or disallow interest expense including points, finance charges, and amortization bond premiums or discounts under items A to G.

A. Interest expense is allowed only on the debt which is allowed under subpart 5 and within the interest rate limits in subpart 6.

B. A nonprofit nursing home shall use its restricted funds to purchase or replace capital assets to the extent of the cost of those capital assets before it borrows funds for the purchase or replacement of those capital assets. For purposes of this item and part 9549.0035, subpart 2, a restricted fund is a fund for which use is restricted to the purchase or replacement of capital assets by the donor or by the nonprofit nursing home's board.

C. Construction period interest expense must be capitalized as a part of the cost of the building. The period of construction extends to the earlier of either the first day a resident is admitted to the nursing home, or the date the nursing home is certified to receive medical assistance recipients.

D. Interest expense for allowable debts entered into after May 22, 1983, is allowed for the portion of the debt which together with all outstanding allowable debt does not exceed 100 percent of the most recent allowable appraised value as determined in subparts 1 to 4.

E. Increases in interest expense after May 22, 1983, which are the result of changes in ownership or reorganization of provider entities, are not allowable.

MINNESOTA RULES 1987

8923 NURSING HOME PAYMENT RATE DETERMINATION 9549.0060

F. Except as provided in item G, increases in total interest expense which are the result of refinancing of debt after May 22, 1983, are not allowed. The total interest expense must be computed as the sum of the annual interest expense over the remaining term of the debt refinanced.

G. Increases in total interest expense which result from refinancing a balloon payment on allowable debt after May 22, 1983, shall be allowed according to subitems (1) to (3):

(1) The interest rate on the refinanced debt shall be limited under subpart 6, item A.

(2) The refinanced debt shall not exceed the balloon payment.

(3) The term of the refinanced debt must not exceed the term of the original debt computed as though the balloon payment did not exist.

Subp. 8. Building capital allowance for owner-operated nursing homes or nursing homes with capital leases. Except as provided in subpart 14, for the rate years beginning after June 30, 1985, the building capital allowance for owner-operated nursing homes or nursing homes with capital leases must be computed as follows:

A. The rental factor is 5.33 percent.

B. The difference between the nursing home's allowable appraised value determined under subparts 1 to 4 and the allowable debt determined in subpart 5 is multiplied by the rental factor.

C. The amount determined in item B must be added to the total allowable interest expense determined under subparts 6 and 7.

D. Except as in item E, the amount determined in item C must be divided by 96 percent of capacity days.

E. If the average length of stay in the skilled level of care within a nursing home is 180 days or less, the nursing home shall divide the amount in item C by the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 96 percent of capacity days.

For purposes of this item, the nursing home shall compute its average length of stay for the skilled level of care by dividing the nursing home's skilled resident days for the reporting year by the nursing home's total skilled level of care discharges for that reporting year.

Subp. 9. Building capital allowance for nursing homes with operating leases. Except as provided in subpart 14, for rate years beginning after June 30, 1985, the building capital allowance for nursing homes with operating lease costs incurred for buildings must be paid as determined by items A to C.

A. The allowable appraised value of the nursing home must be established according to subparts 1 to 4.

B. The allowable interest expense determined under subparts 6 and 7 and the allowable debt determined under subpart 5 for the leased nursing home must be considered zero.

C. Except as in item D, the building capital allowance must be the lesser of the operating lease expense divided by 96 percent of capacity days, or the allowable appraised value multiplied by the rental factor and then divided by 96 percent of capacity days.

D. A nursing home with an average length of stay of 180 days or less as defined in subpart 8, item E, shall use the divisor determined in subpart 8, item E, instead of 96 percent of capacity days.

Subp. 10. Equipment allowance. For rate years beginning after June 30, 1985, the equipment allowance must be computed according to items A to E.

A. The historical cost of depreciable equipment for nursing homes which do not have costs for operating leases for depreciable equipment in excess of \$10,000 during the reporting year ending September 30, 1984, is determined under subitems (1) or (2):

MINNESOTA RULES 1987

9549.0060 NURSING HOME PAYMENT RATE DETERMINATION 8924

(1) The total historical cost of depreciable equipment reported on the nursing home's audited financial statement for the reporting year ending September 30, 1984, must be multiplied by 70 percent. The product is the historical cost of depreciable equipment.

(2) The nursing home may submit an analysis which classifies the historical cost of each item of depreciable equipment reported on September 30, 1984. The analysis must include an itemized description of each piece of depreciable equipment and its historical cost. The sum of the historical cost of each piece of equipment is the total historical cost of depreciable equipment for that nursing home.

For purposes of this item, a hospital-attached nursing home shall use the allocation method in subpart 1 to stepdown the historical cost of depreciable equipment.

B. The historical cost per bed of depreciable equipment for each nursing home must be computed by dividing the total historical cost of depreciable equipment determined in item A by the nursing home's total number of licensed beds on September 30, 1984.

C. All nursing homes must be grouped in one of the following:

- (1) nursing homes with total licensed beds of less than 61 beds;
- (2) nursing homes with total licensed beds of more than 60 beds and less than 101 beds; or
- (3) nursing homes with more than 100 total licensed beds.

D. Within each group determined in item C, the historical cost per bed for each nursing home determined in item B must be ranked and the median historical cost per bed established.

E. The median historical cost per bed for each group in item C as determined in item D must be increased by ten percent. For rate years beginning after June 30, 1986, this amount shall be adjusted annually by the percentage change indicated by the urban consumer price index for Minneapolis-Saint Paul, as published by the Bureau of Labor Statistics, new series index (1967=100) for the two previous Decembers. This index is incorporated by reference and available at the James J. Hill Reference Library, Saint Paul, Minnesota.

F. The equipment allowance for each group in item C shall be the amount computed in item E multiplied by 15 percent and divided by 350.

Subp. 11. **Capacity days.** The number of capacity days is determined under items A to C.

A. The number of capacity days is determined by multiplying the number of licensed beds in the nursing home by the number of days in the nursing home's reporting period.

B. Except as in item C, nursing homes shall increase the number of capacity days by multiplying the number of licensed single bedrooms by 0.5 and by the number of days in the nursing home's reporting period.

C. The commissioner shall waive the requirements of item B if a nursing home agrees in writing to subitems (1) to (3).

(1) The nursing home shall agree not to request a private room payment in part 9549.0070, subpart 3 for any of its medical assistance residents in licensed single bedrooms.

(2) The nursing home shall agree not to use the single bedroom replacement cost new limit for any of its licensed single bedrooms in the computation of the allowable appraised value in subpart 4.

(3) The nursing home shall agree not to charge any private paying resident in a single bedroom a payment rate that exceeds the total payment rate established in part 9549.0070, subpart 1 by more than ten percent.

Subp. 12. **Capitalization.** For rate years after June 30, 1985, the cost of purchasing or repairing capital assets shall be capitalized under items A to D.

MINNESOTA RULES 1987

8925 NURSING HOME PAYMENT RATE DETERMINATION 9549.0060

A. The cost of purchasing a capital asset listed in the depreciation guidelines must be capitalized. The cost of purchasing any other capital asset not included in the depreciation guidelines must be capitalized if the asset has a useful life of more than two years and costs more than \$500.

B. The nursing home may consider as an expense a repair that costs \$500 or less. Repairs that are considered as an expense must be classified in the plant operation and maintenance cost category. If the cost of a repair to a capital asset is \$500 or more, and the estimated useful life of the capital asset is extended beyond its original estimated useful life by at least two years, or if the productivity of the capital asset is increased significantly over its original productivity, then the cost of the repair must be capitalized.

C. The property-related expenditures related to capital assets such as lease or depreciation, interest, and real estate taxes which are used by central, affiliated, or corporate offices must be classified in the nursing home's general and administrative cost category.

D. Construction period interest expense, feasibility studies, and other costs related to the construction period must be capitalized.

Subp. 13. Determination of the property-related payment rate. The commissioner shall determine the property-related payment rate according to items A to H.

A. Except as provided in subpart 14, the building capital allowance of each nursing home shall be added to the equipment allowance.

B. The allowable historical property-related per diem shall be established according to subitems (1) and (2).

(1) For the rate year beginning July 1, 1985, the nursing home's historical property-related per diem shall be determined by adding the allowable historical property-related costs used to compute the property-related payment rate effective on June 30, 1985, and dividing the sum by 96 percent capacity days. A nursing home with an average length of stay of 180 days or less as defined in subpart 8, item E, shall use the divisor determined in subpart 8, item E, instead of 96 percent of capacity days.

(2) For rate years beginning after June 30, 1986, the historical property-related cost per diem shall be the property-related payment rate established for the previous rate year.

C. For rate years beginning after June 30, 1985, the property-related payment rate shall be the lesser of the amount computed in item A or the historical property-related per diem in item B increased by six percent for each rate year beginning July 1, 1985 through July 1, 1989, except as provided in items D to G.

D. A nursing home whose allowable historical property-related per diem determined in item B is less than or equal to \$2.25 shall receive a property-related payment rate equal to the greater of \$2.25 or its allowable historical property-related per diem increased by six percent for each rate year beginning July 1, 1985 through July 1, 1989, except that the property-related payment rate shall not exceed the amount determined in item A.

E. A nursing home whose allowable historical property-related per diem determined in item B is greater than the amount determined in item A shall receive a property-related payment rate equal to its allowable historical property-related per diem.

F. In the event of a change of ownership or reorganization of the provider entity occurring after June 30, 1985, the nursing home's property-related payment rate must be the lesser of the property-related payment rate in effect at the time of sale or reorganization or the amount determined in item A. Changes in the property-related payment rate as a result of this item shall be effective on the date of the sale or reorganization of the provider entity.

MINNESOTA RULES 1987

9549.0060 NURSING HOME PAYMENT RATE DETERMINATION 8926

G. The property-related payment rate for a nursing home which qualifies for the special reappraisal in subpart 3, item A shall be determined according to subitems (1) to (2).

(1) If the amount computed according to item A using the reappraised value is equal to or less than the property-related payment rate in effect prior to the reappraisal, the property-related payment rate in effect prior to the reappraisal shall not be adjusted.

(2) If the amount computed according to item A using the reappraised value is greater than the property-related payment rate in effect prior to the reappraisal, the property-related payment in effect prior to the reappraisal shall be added to the difference between the amount computed according to item A using the reappraised value and the amount computed according to item A using the most recent appraised value prior to the reappraisal. This sum must not exceed the amount computed in item A using the reappraised value. If the difference between the amount computed according to item A using the reappraised value and the amount computed according to item A using the most recent appraised value prior to the reappraisal is equal to or less than zero, the difference shall be considered zero.

H. For rate years beginning after June 30, 1990, the property-related payment rate shall be the sum of the building capital allowance and the equipment allowance.

Subp. 14. Determination of interim and settle-up payment rates. The commissioner shall determine interim and settle-up payment rates according to items A to J.

A. A newly-constructed nursing home, or one with a capacity increase of 50 percent or more, may submit a written application to the commissioner to receive an interim payment rate. The nursing home shall submit cost reports and other supporting information as required in parts 9549.0010 to 9549.0080 for the reporting year in which the nursing home plans to begin operation at least 60 days before the first day a resident is admitted to the newly-constructed nursing home bed. The nursing home shall state the reasons for noncompliance with parts 9549.0010 to 9549.0080. The effective date of the interim payment rate is the earlier of either the first day a resident is admitted to the newly-constructed nursing home or the date the nursing home bed is certified for medical assistance. The interim payment rate for a newly-constructed nursing home, or a nursing home with a capacity increase of 50 percent or more, is determined under items B to D.

B. The interim payment rate must not be in effect more than 17 months. When the interim payment rate begins between May 1 and September 30, the nursing home shall file settle-up cost reports for the period from the beginning of the interim payment rate through September 30 of the following year. When the interim payment rate begins between October 1 and April 30, the nursing home shall file settle-up cost reports for the period from the beginning of the interim payment rate to the first September 30 following the beginning of the interim payment rate.

C. The interim payment rate for a nursing home which commenced construction prior to July 1, 1985, is determined by 12 MCAR S 2.05014 [Temporary] except that capital assets must be classified under parts 9549.0010 to 9549.0080.

D. The interim property-related payment rate for a nursing home which commences construction after June 30, 1985, is determined as follows:

(1) At least 60 days before the first day a resident is admitted to the newly-constructed nursing home bed and upon receipt of written application from the nursing home, the commissioner shall establish the nursing home's appraised value according to subparts 1 and 4.

MINNESOTA RULES 1987

8927 NURSING HOME PAYMENT RATE DETERMINATION 9549.0060

(2) The nursing home shall project the allowable debt and the allowable interest expense according to subparts 5 and 7.

(3) The interim building capital allowance must be determined under subpart 8 or 9.

(4) The equipment allowance during the interim period must be the equipment allowance computed in accordance with subpart 10 which is in effect on the effective date of the interim property-related payment rate.

(5) The interim property-related payment rate must be the sum of subitems (3) and (4).

(6) Anticipated resident days may be used instead of 96 percent capacity days.

E. The settle-up property-related payment rate and the property-related payment rate for the nine months following the settle-up for a nursing home which commenced construction before July 1, 1985, is determined under 12 MCAR S 2.05014 [Temporary]. The property-related payment rate for the rate year beginning July 1 following the nine-month period is determined under part 9549.0060.

F. The settle-up property-related payment rate for a nursing home which commenced construction after June 30, 1985, shall be established as follows:

(1) The appraised value determined in item D, subitem (1) must be updated in accordance with subpart 2, item B prorated for each rate year, or portion of a rate year, included in the interim payment rate period.

(2) The nursing home's allowable debt, allowable interest rate, and allowable interest expense for the interim rate period shall be computed in accordance with subparts 5, 6, and 7.

(3) The settle-up building capital allowance shall be determined in accordance with subpart 8 or 9.

(4) The equipment allowance shall be updated in accordance with subpart 10 prorated for each rate year, or portion of a rate year, included in the interim payment rate period.

(5) The settle-up property-related payment rate must be the sum of subitems (3) and (4).

(6) Resident days may be used instead of 96 percent capacity days.

G. The property-related payment rate for the nine months following the settle-up for a nursing home which commenced construction after June 30, 1985, shall be established in accordance with item F except that 96 percent capacity days must be used.

H. The property-related payment rate for the rate year beginning July 1 following the nine-month period in item G must be determined under this part.

I. A newly-constructed nursing home or one with a capacity increase of 50 percent or more must continue to receive the interim property-related payment rate until the settle-up property-related payment rate is determined under this subpart.

J. The interim real estate taxes and special assessments payment rate shall be established using the projected real estate taxes and special assessments cost divided by anticipated resident days. The settle-up real estate taxes and special assessments payment rate shall be established using the real estate taxes and special assessments divided by resident days. The real estate and special assessments payment rate for the nine months following the settle-up shall be equal to the settle-up real estate taxes and special assessments payment rate.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: *9 SR 2659; 11 SR 866*

MINNESOTA RULES 1987

9549.0061 NURSING HOME PAYMENT RATE DETERMINATION 8928

9549.0061 PAYMENT FOR REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.

The total real estate taxes and actual special assessments and payments permitted under part 9549.0036, item CC must be divided by actual resident days to compute the payment rate for real estate taxes and special assessments.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: 9 SR 2659

9549.0070 COMPUTATION OF TOTAL PAYMENT RATE.

Subpart 1. **Total payment rate.** The total payment rate is the sum of the operating cost payment rate, the property-related payment rate, and the real estate tax and special assessments payment rate. The total payment rate becomes effective on July 1 of the rate year following the reporting year.

Subp. 2. **Private payment rate limitation.** The total payment rate must not exceed the rate paid by private paying residents for similar services for the same period. The private payment rate limitation shall not apply to retroactive adjustments to the total payment rate established in parts 9549.0010 to 9549.0080 unless the total payment rate being adjusted was subject to the private payment rate limitation.

Subp. 3. **Private room payment rate.** A private room payment rate of 115 percent of the established total payment rate for a resident must be allowed if the resident is a medical assistance recipient and the private room is considered as a medical necessity for the resident or others who are affected by the resident's condition except as in part 9549.0060, subpart 11, item C. Conditions requiring a private room must be determined by the resident's attending physician and submitted to the department for approval or denial by the commissioner on the basis of medical necessity.

Subp. 4. **Adjustment of total payment rate.** If the commissioner finds nonallowable costs, errors, or omissions in the nursing home's historical costs, the nursing home's affected total payment rates must be adjusted. If the adjustment results in an underpayment to the nursing home, the commissioner shall pay to the nursing home the underpayment amount within 120 days of written notification to the nursing home. If the adjustment results in an overpayment to the nursing home, the nursing home shall pay to the commissioner the entire overpayment within 120 days of receiving the written notification from the commissioner. Interest charges must be assessed on underpayment or overpayment balances outstanding after 120 days written notification of the total payment rate determination.

If an appeal has been filed under part 9549.0080, any payments owed by the nursing home or by the commissioner must be made within 120 days of written notification to the nursing home of the commissioner's ruling on the appeal. Interest charges must be assessed on balances outstanding after 120 days of written notification of the commissioner's ruling on the appeal. The annual interest rate charged must be the rate charged by the commissioner of the department of revenue for late payment of taxes, which is in effect on the 121st day after the written notification.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: 9 SR 2659

9549.0080 APPEAL PROCEDURES.

Subpart 1. **Scope of appeals.** A decision by the commissioner may be appealed by the nursing home or a county welfare or human services board where all of the following conditions are met:

A. The appeal, if successful, would result in a change in the nursing home's total payment rate.

MINNESOTA RULES 1987

8929 NURSING HOME PAYMENT RATE DETERMINATION 9549.0080

B. The appeal arises from application of the provisions of parts 9549.0010 to 9549.0080, or 12 MCAR SS 2.05001-2.05016 [Temporary], or parts 9510.0010 to 9510.0480.

C. The dispute over the decision is not resolved informally between the commissioner and the appealing party within 30 days of filing the written notice of intent to appeal under subpart 2, item A.

Subp. 2. Filing of appeal. To be effective, an appeal must meet the following criteria:

A. The nursing home must notify the commissioner of its intent to appeal in writing within 30 days of receiving the payment rate determination or decision which is being appealed. The written appeal must be filed within 60 days of receiving the payment rate determination or decision being disputed.

B. The appeal must specify:

- (1) each disputed item and the reason for the dispute;
- (2) the computation and the amount that the appealing party believes to be correct;
- (3) an estimate of the dollar amount involved in each disputed item;
- (4) the authority in statute or rule upon which the appealing party is relying in each dispute; and
- (5) the name and address of the person or firm with whom contacts may be made regarding the appeal.

Subp. 3. Resolution of appeal. The appeal must be heard according to the contested case provisions in Minnesota Statutes, chapter 14 and the rules of the Office of Administrative Hearings. Upon agreement of both parties, the dispute may be resolved informally through settlement or through modified appeal procedures established by agreement between the commissioner and the chief administrative law judge.

Subp. 4. Payment rate during appeal period. Notwithstanding any appeal filed under parts 9549.0010 to 9549.0080, the total payment rate established by the commissioner shall be the rate paid to the nursing home while the appeal is pending. A nursing home appealing under this part is subject to the limitation in part 9549.0070, subpart 2 pending resolution of the appeal. The nursing home must give private paying residents notice, as required by Minnesota Statutes, section 256B.47, subdivision 2, of the total payment rate established by the commissioner that will be charged pending appeal. The nursing home may give private paying residents notice, as required by Minnesota Statutes, section 256B.47, subdivision 2, of the total payment rate that will be charged if the nursing home prevails in the appeal. If notice is given and the nursing home prevails in the appeal, the nursing home may adjust the private payment rate retroactive to the first day of the period covered by the appeal or to the 31st day after giving the notice, whichever is later.

Subp. 5. Payments after resolution of appeal. Upon resolution of the appeal, any overpayments or underpayments must be made according to part 9549.0070.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: 9 SR 2659