

9553.0061 LIFE SAFETY CODE ADJUSTMENT.

Subpart 1. **Determination of adjustment.** Adjustments to the special operating cost payment rate for actions taken to comply with the Code of Federal Regulations, title 42, section 442.508, as amended through October 1, 1986, shall be determined under subparts 2 to 9.

Subp. 2. **Conditions.** The commissioner shall allow an adjustment to a facility's special operating cost payment rate when the state fire marshal has issued a statement of deficiencies to the facility under the Code of Federal Regulations, title 42, section 442.508, as amended through October 1, 1986, if the criteria in items A to D are met.

A. The physical plant for which the statement of deficiencies was issued has 16 or fewer licensed beds.

B. The commissioner has determined that the most programmatically sound and cost-effective means of correcting the deficiencies is to modify the physical plant or add depreciable equipment.

C. The cost of the physical plant modification or additional depreciable equipment cannot be covered by reallocating facility staff and costs including funds accumulated in the facility's funded depreciation account and other savings or investment accounts of the provider.

D. The provider has complied with the requirements in subparts 3 and 4.

Subp. 3. **Request for life safety code adjustment.** The provider shall submit to the commissioner a written request for a life safety code adjustment to the special operating cost payment rate. The request must include:

A. a copy of the state fire marshal's statement of deficiencies;

B. a copy of the facility's plan of correction approved by the state fire marshal;
and

C. a description of the type of physical plant modifications or additional depreciable equipment required to meet the approved plan of correction including the estimated cost based on bids developed in accordance with subpart 4.

Subp. 4. **Bid requirements.** Bids must be obtained from nonrelated organizations. Only the costs of items required to correct the deficiencies may be included in a bid. Each bid must include:

A. a detailed description of the physical plant modifications needed to correct the deficiencies;

B. the cost of any depreciable equipment needed to correct the deficiencies;

C. the cost of materials and labor; and

D. the name, address, and phone number of the bidder.

If the commissioner determines that the bid submitted by the provider is excessive or includes items not required to correct the deficiencies, the commissioner may require a second bid and may recommend another organization that must supply the bid. This subpart shall not apply to a facility that has implemented a plan of correction before July 6, 1987.

Subp. 5. Evaluation of documents submitted. The commissioner shall evaluate the documents submitted under subpart 3. If the commissioner determines that the plan of correction is not programmatically sound or cost-effective, the commissioner may require the facility to submit an alternative plan of correction to the state fire marshal for approval. If the state fire marshal approves the alternative plan of correction, the commissioner may require the facility to resubmit bids under subpart 4.

Subp. 6. Computation of life safety code adjustment. If the request meets the criteria in subparts 2 to 5, the commissioner shall compute the life safety code adjustment to the special operating cost payment rate under items A to E.

A. Upon completion of the physical plant modifications and purchase of the additional depreciable equipment, the facility shall submit copies of invoices showing the total cost of the physical plant modifications and additional depreciable equipment to the commissioner.

B. The commissioner shall allow the lesser of the amount in item A or the final bid approved by the commissioner. The amount allowed shall be reduced by 75 percent of the funded depreciation that may be withdrawn for purchase or replacement of capital assets or payment of capitalized repairs as determined in part 9553.0060, subpart 1, item E, subitem (4), and other savings or investment accounts of the provider or the provider group.

C. If a facility is financed by the Minnesota Housing Finance Agency, the facility must use amounts deposited in the development cost escrow account required by the Minnesota Housing Finance Agency to purchase physical plant modifications or additional depreciable equipment allowed under this part. The amount withdrawn from the development cost escrow account must be reimbursed to the facility as provided in subpart 7. The facility must use the reimbursement to replace the amount withdrawn from the development cost escrow account as required by the Minnesota Housing Finance Agency.

D. If the amount determined in item B is less than \$500 per licensed bed, the amount must be divided by the resident days from the cost report that was used to set the facility's total payment rate in effect on the date the statement of deficiencies was issued.

E. If the amount determined in item B is equal to or greater than \$500 per licensed bed, the amount in excess of \$500 per licensed bed must be reimbursed during the rate year following the rate year in which the statement of deficiencies was issued. The amount in excess of \$500 per licensed bed must be divided by the resident days from the cost report

that was used to set the facility's total payment rate for the rate year following the rate year in which the statement of deficiencies was issued.

Subp. 7. **Adjustment of special operating cost payment rate.** If the amount in subpart 6, item B or C, is greater than zero, the commissioner shall adjust the facility's special operating cost payment rate under items A and B.

A. The per diem amount in subpart 6, item D, must be added to the facility's special operating cost payment rate for the rate year identified in subpart 6, item D, and will be effective on the first day of that rate year.

B. The per diem amount in subpart 6, item E, must be added to the facility's special operating cost payment rate for the rate year identified in subpart 6, item E, and shall be effective on the first day of that rate year.

Subp. 8. **Reimbursement limits.** If a life safety code adjustment to the special operating cost payment rate is allowed under this part, the cost of the physical plant modifications and additional depreciable equipment allowed in subpart 6, item B, must not be claimed for reimbursement under other provisions of parts 9553.0010 to 9553.0080. The cost of the physical plant modifications and additional depreciable equipment not allowed under subpart 6, item B, shall be capitalized and depreciated in accordance with part 9553.0060, subpart 1.

Subp. 9. **Changes in one time adjustment.** If a facility has been given a one time adjustment under part 9553.0050, subpart 3, and the commissioner determines under subpart 2, item A, that the life safety code deficiency should be corrected under this part, the facility's one time adjustment or the portion of that one time adjustment that related to the life safety code deficiency shall be subtracted from the facility's total payment rate on the date the life safety code adjustment under this part is effective. If more than 50 percent of the one time adjustment is subtracted from the facility's total payment rate under this subpart, the facility may apply for another one time adjustment within the three year period established in part 9553.0050, subpart 3, item G.

Statutory Authority: *MS s 256B.501*

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