

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Reimbursement of
4 Intermediate Care Facilities for Persons with Mental Retardation
5 or Related Conditions

6

7 Rules as Adopted

8 9553.0020 DEFINITIONS.

9 Subpart 1. to 46. [Unchanged.]

10 Subp. 46a. Training and habilitation services costs.

11 Training and habilitation services costs means the costs charged
12 by a vendor licensed under parts 9525.1500 to 9525.1690 for
13 services provided to residents of an ICF/MR as specified in the
14 residents' individual service plans and in a manner consistent
15 with Minnesota Statutes, sections 252.40 to 252.47.

16 Subp. 47. to 50. [Unchanged.]

17 9553.0030 COST CLASSIFICATION AND ALLOCATION PROCEDURES.

18 Subpart 1. to 3. [Unchanged.]

19 Subp. 4. Central, affiliated, or corporate office costs.

20 Cost allocation for central, affiliated, or corporate offices
21 shall be governed by items A to F.

22 A. to E. [Unchanged.]

23 F. A governmental or nonprofit organization that has
24 a federally approved cost allocation plan may allocate
25 management fees or central office costs to a related
26 organization based on the governmental or nonprofit
27 organization's federal cost allocation plan. The provider must
28 document that the allocation plan has been approved by the
29 federal government.

30 Subp. 5. and 6. [Unchanged.]

31 9553.0035 DETERMINATION OF ALLOWABLE COSTS.

32 Subpart 1. to 15. [Unchanged.]

33 Subp. 16. Pass-through of training and habilitation
34 services costs. Training and habilitation services costs shall



1 be paid as a pass-through payment at the lowest rate paid to the
 2 training and habilitation services vendor by the county for
 3 comparable services at that site under Minnesota Statutes,
 4 sections 252.40 to 252.47. The pass-through payments for
 5 training and habilitation services are paid separately by the
 6 commissioner and are not included in the computation of the
 7 total payment rate.

8 9553.0040 REPORTING BY COST CATEGORY.

9 Subpart 1. to 5. [Unchanged.]

10 Subp. 6. **Special operating costs.** The facility costs
 11 listed in this subpart are included in the special operating
 12 cost category:

- 13 A. special assessments and real estate taxes;
- 14 B. license fees required by the Minnesota Department
 15 of Human Services and the Minnesota Department of Health;
- 16 C. real estate insurance;
- 17 D. professional liability insurance; and
- 18 E. the portion of preopening costs amortized as in
 19 part 9553.0035, subpart 12, item B;
- 20 F. training and habilitation services costs; and
- 21 G. physical plant modifications or additional
 22 depreciable equipment costs allowed under part 9553.0061.

23 9553.0050 DETERMINATION OF TOTAL OPERATING COST PAYMENT RATE.

24 Subpart 1. and 2. [Unchanged.]

25 Subp. 3. **One-time adjustment to program operating cost**
 26 **payment rate.** For the purposes of this subpart, "additional
 27 program staff" means staff in excess of the number included in
 28 the facility's total payment rate during the rate year covering
 29 the date of the finding of deficiency or need. The one-time
 30 adjustment shall be determined according to items A to H.

31 A. A facility is eligible for a one-time adjustment
 32 to the facility's program operating cost payment rate when the
 33 facility meets one of the conditions in subitems (1) to (4) and
 34 the conditions in item B.

35 (1) The commissioner or the commissioner of

1 health has issued a correction order to the facility under parts
2 9525.0210 to 9525.0430 or 4665.0100 to 4665.9900.

3 (2) The federal government has issued a
4 deficiency order under Code of Federal Regulations, title 42,
5 section 442, as amended through October 1, 1986, requiring the
6 facility to correct a deficiency in the number or type of
7 program staff necessary to implement the residents' individual
8 habilitation plans.

9 (3) The commissioner has determined a need exists
10 based on a determination or redetermination of need plan
11 approved under Minnesota Statutes, section 252.28 and parts
12 9525.0015 to 9525.0145.

13 (4) The commissioner has approved, under
14 Minnesota Statutes, section 252.28 and parts 9525.0015 to
15 9525.0145, a Class A facility's plan to substantially modify the
16 facility to serve persons who require a facility that meets the
17 standards for impractical evacuation capability as provided in
18 the Code of Federal Regulations, title 42, section 442.508, as
19 amended through October 1, 1986. For purposes of this subitem,
20 "substantially modify" means to modify the facility so that at
21 least 50 percent of the licensed beds may be used to serve
22 persons who meet the criteria in part 9510.1050, subpart 2,
23 items C and D.

24 B. To qualify for a one-time adjustment the facility
25 must document that:

26 (1) the deficiency or need cannot be corrected or
27 met by reallocating facility staff and costs including amounts
28 reimbursed for a change in ownership or reorganization of
29 provider entities between related organizations, and any
30 efficiency incentive or other allowance;

31 (2) the deficiency or need cannot be corrected or
32 met through a special needs rate exception as provided in parts
33 9510.1020 to 9510.1140; and

34 (3) the provisions in items C to H are met.

35 C. The facility must submit to the commissioner a
36 written request for the one-time adjustment to the program

1 operating cost payment rate. The request must include:

2 (1) documentation which indicates that the
3 deficiency or need could not be corrected or met through a
4 special needs rate as provided in parts 9510.1020 to 9510.1140;

5 (2) a copy of the order or determination which
6 cites the deficiency or need in the number and type of program
7 staff required to correct the deficiency or meet the need;

8 (3) a list of all staff positions during the rate
9 year covering the date of the deficiency order or need
10 determination, annual salaries and hours, related fringe
11 benefits and payroll taxes;

12 (4) a description of the facility's plan to
13 correct the deficiency or meet the need including the projected
14 cost of the salary and related fringe benefits and payroll taxes
15 for required additional program staff; and

16 (5) an explanation of the reasons the facility
17 was unable to meet staff ratios necessary to implement
18 individual resident habilitation plans under payment rates
19 established by current or prior reimbursement rules.

20 D. The commissioner shall evaluate the documents
21 submitted in item C using the criteria in items A and B. If the
22 request meets the criteria in items A and B, the commissioner
23 shall compute the one-time adjustment to the program operating
24 cost payment rate in accordance with subitems (1) to (4).

25 (1) ~~Only~~ The necessary and reasonable cost costs
26 of units (a) to (f) shall be determined by the commissioner:

27 (a) the salary and related fringe benefits
28 and payroll taxes for required additional program staff shall be
29 allowed unless the facility is eligible for a one-time
30 adjustment under item A, subitem (4). For a facility eligible
31 under item A, subitem (4), the commissioner shall allow the
32 reasonable costs of:

33 (a) (b) program supplies;

34 (b) (c) up to \$1,500 of equipment needed to
35 implement the program. The commissioner may approve an amount
36 which exceeds the \$1,500 equipment limit if the commissioner

1 determines that the cost of the equipment and the payment
2 schedule for the equipment are reasonable and the equipment is
3 necessary to implement the change in the program. The
4 commissioner's determination shall be final;

5 ~~(c)~~ (d) program consultants;

6 ~~(d)~~ (e) repairs to property damaged by the
7 residents; and

8 ~~(e)~~ (f) employee training needed to meet the
9 needs of the persons identified in the plan approved by the
10 commissioner.

11 (2) The amount determined in subitem (1) shall be
12 divided by the greater of resident days or 85 percent of
13 capacity days.

14 (3) Any efficiency incentive or portion of the
15 capital debt reduction allowance not used for capital debt
16 reduction, included in the facility's total payment rate in
17 effect on the date of the written request in item C shall be
18 subtracted from the amount computed in subitem (2).

19 (4) Any further reduction which would be possible
20 by reallocating the facility's staff and costs shall be
21 subtracted from the amount computed in subitem (2).

22 E. If the amount in item D, is greater than zero, the
23 commissioner shall allow a one-time adjustment to the facility's
24 total payment rate equal to that amount. The one-time
25 adjustment shall be effective on the first day of the month
26 following the commissioner's determination unless the facility
27 is eligible for a one-time adjustment under item A, subitem
28 (4). For a facility eligible under item A, subitem (4), the
29 one-time adjustment shall be effective on the first day of the
30 month in which any person identified in the plan approved by the
31 commissioner is admitted to the facility.

32 F. The one-time adjustment to the facility's total
33 payment rate shall remain in effect for a 12-month period. At
34 the end of the 12-month period, the commissioner shall conduct a
35 fiscal and program review. Based on the results of the fiscal
36 and program review, the commissioner shall implement either

1 subitem (1), (2), or (3).

2 (1) If the facility fails to implement the plan
3 specified in item C, subitem (4), the commissioner shall recover
4 the total amount paid under this subpart in accordance with part
5 9553.0041, subpart 13 and shall disallow any costs incurred by
6 the facility in establishing future payment rates.

7 (2) If the facility implements the plan specified
8 in item C, subitem (4) and the actual costs incurred during the
9 12-month period are below the payments made under this subpart,
10 the commissioner shall reduce the adjustment to the facility's
11 total payment rate accordingly and recover any overpayments in
12 accordance with part 9553.0041, subpart 13. The reduced
13 adjustment to the facility's total payment rate shall continue
14 to be paid to the facility until the September 30 following the
15 end of the reporting year which includes 12 months of the
16 additional program staff salaries and related fringe benefits
17 and payroll taxes.

18 (3) If the actual costs of implementing the plan
19 specified in item C, subitem (4) incurred during the 12-month
20 period exceed the payments made under this subpart, there shall
21 be no retroactive cost settle up. The one-time adjustment to
22 the facility's total payment rate shall continue to be paid to
23 the facility at the same level until the September 30 following
24 the end of the reporting year which includes 12 months of the
25 additional program staff salaries and related fringe benefits
26 and payroll taxes.

27 G. The facility must record the costs associated with
28 this subpart separately from other facility costs until the
29 commissioner's fiscal and program review establishes that the
30 facility has implemented the plan specified in item C, subitem
31 (4). To prevent duplicate payment, the program costs associated
32 with this subpart are nonallowable until after the commissioner
33 has reviewed and approved these costs in accordance with item
34 F. If the commissioner approves these costs, the costs incurred
35 during the reporting year which includes 12 months of the
36 additional costs identified in item D, subitem (1), shall be

1 allowable.

2 H. The commissioner shall authorize payments under
3 this subpart only once in a three-year period for a facility.

4 9553.0075 RATE SETTING PROCEDURES FOR NEWLY CONSTRUCTED OR NEWLY
5 ESTABLISHED FACILITIES OR APPROVED CLASS A TO CLASS B
6 CONVERSIONS.

7 Subpart 1. Interim payment rate. A provider may request
8 an interim payment rate for a newly constructed or newly
9 established facility or for a facility converting more than 50
10 percent of its licensed beds from Class A beds to Class B beds
11 provided that the conversion is approved by the commissioner.
12 To receive an interim payment rate, the provider must submit a
13 projected cost report in compliance with parts 9553.0010 to
14 9553.0080 to the extent applicable, for the year in which the
15 provider plans to begin operation or plans to convert beds.
16 Parts 9553.0050, subpart 1, item A, subitems (2), (3), and (4);
17 subpart 2, item E; and subpart 3; and part 9553.0060, subpart 6
18 shall not apply to interim payment rates. The interim property
19 related payment rate must be determined using projected resident
20 days but not less than 80 percent of licensed capacity days.
21 The effective date of the interim payment rate for a newly
22 constructed or newly established facility must be the later of
23 the first day a medical assistance recipient resides in the
24 newly constructed or established bed or the date of medical
25 assistance program certification. The effective date of the
26 interim payment rate for a facility converting more than 50
27 percent of its licensed beds from Class A beds to Class B beds
28 must be the later of the date on which 60 percent of the
29 converted beds are occupied by residents requiring a Class B bed
30 as determined by the commissioner or the date on which the beds
31 are licensed as Class B beds by the Minnesota Department of
32 Health. Prior to the effective date of the interim payment
33 rate, the provider may submit a request to update the interim
34 rate. After the effective date of the interim payment rate, no
35 adjustments shall be made in the interim payment rate until

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1 settle-up.

2 Subp. 2. to 4. [Unchanged.]