

TO BE RESCINDED

5123:2-3-18

Calculation of room and board payment for an individual residing in a residential facility.

(A) Purpose

The purpose of this rule is to identify components of room and board and to establish standards and procedures for determining the amount of retained earned and unearned income of an individual and the amount of room and board payment for which an individual is responsible when residing in a residential facility licensed under section 5123.19 of the Revised Code other than an intermediate care facility for the mentally retarded (ICF/MR) certified under Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., as amended.

(B) Definitions

- (1) "Earned income" has the same meaning as in rule 5101:1-39-15 of the Administrative Code.
- (2) "Patient liability" has the same meaning as in rule 5101:1-39-24 of the Administrative Code.
- (3) "Room and board" means the following items, costs, and/or expenses, which are not reimbursable through medicaid, that are allowable expenses incurred by the licensee in order to provide needed supports and services to an individual residing in a licensed facility. The total amount of monthly room and board cost attributable to each individual shall be based upon available resources of the county board, shall be identified in a written contract between the licensee and the county board, and shall be available for review by the department. The room and board amount shall be reviewed at least annually and amended as necessary. Room and board includes the provider's actual and reasonable cost of administration related to property management and the purchasing of goods and services.
 - (a) Supplies and household goods including:
 - (i) Non-food supplies and minor equipment used in the storage, preparation, serving, and delivery of food such as dishes, dish washing detergent, cooking utensils, silverware, wraps and containers to preserve food, and propane gas for grills.
 - (ii) Adaptive minor equipment as identified in an individual plan (IP), routine medical supplies including, but not limited to, first aid

supplies, support stockings, lubricating jellies, enema administering apparatus and enemas, and over-the-counter medications.

- (iii) Supplies required for the protection of individuals and staff while performing procedures that involve potential contact with bodily fluids including, but not limited to, gloves, gowns, goggles, and eye wash.
 - (iv) Non-medicaid covered expenses including, but not limited to, prescriptions, dental services, laboratory services, vision services, eyeglasses, ambulance and emergency services, hearing aids, respiratory therapy, oxygen, and incontinence supplies.
 - (v) Medical equipment not covered under medicaid or another payer including, but not limited to, wheelchairs, prosthetics, orthotics, enteral pumps, bed cradles, headgear, heat cradles, hernial appliances, splints, traction equipment, specialized mattresses and cushions, tracheotomy care sets, catheters, atomizers, nebulizers, tube feeding sets and supplies, hypodermic needles, and syringes.
 - (vi) Supplies needed to implement IPs and/or to assist in the performance and/or acquisition or maintenance of habilitation skills such as personal hygiene supplies. Examples include, but are not limited to, hair and nail care items, lotions, powder, dental hygiene supplies, shaving items, and the cost of haircuts.
 - (vii) Household supplies including, but not limited to, trash cans and bags, general household cleaning supplies, paper products, towels, bedding, laundry detergent, and minor equipment used for laundry and housekeeping.
 - (viii) Contracted janitorial and household cleaning and laundry services.
 - (ix) The cost of recreational and/or social activities (e.g., admission ticket and travel) for an individual and for staff, as specified in the IP, necessary to accompany the individual to recreational and/or social activities.
- (b) Utilities including fuel oil, natural and propane gas, metered electrical services, water and sewage expenses, local and long distance telephone service and equipment purchased or leased which is available for use by

residents, the cost of security services provided for the benefit of residents, and the cost of local television reception provided for the benefit of residents.

(c) Food including all raw, prepackaged, and prepared food (meals and/or snack items) eaten inside or outside the home (e.g., at restaurants) by the residents and like expenses for staff if consumed while providing supervision or services to the residents, and nutritional supplements, additives, and vitamins as identified in the IP.

(d) Housing including:

(i) Rental or lease costs (from non-related parties) for building and land, building depreciation (excluding the value of the land) using the straight line method of depreciation over forty years and interest expense as incurred, real property taxes, and insurance on content and property. Includes housing cost from related parties limited to the related parties' actual cost or fair market value, whichever is less. Excludes amortization expense, over the life of state property grants received by the provider for renovations.

(ii) Supplies for repair and maintenance of the home and lawn/yard and repair cost to the home's minor equipment or structure. Includes maintenance contracts for snow removal, lawn care, pest control, and carpet cleaning. Includes purchased services and personnel expenses, supplies, and equipment for personnel who perform maintenance or building repair and trash removal services, or for employees of the licensee performing maintenance duties.

(iii) Depreciation and current interest expense of facility equipment, furniture, and other furnishings that meet the provider's capitalization policy, using the straight line method of depreciation for all equipment, furniture, and furnishings. Guidelines established by the internal revenue service (IRS) shall be used to determine the number of years of useful life of the asset to be depreciated. Includes, but is not limited to, dietary equipment such as ranges, ovens, dishwashers, refrigerators, and food processors and household furnishings including, but not limited to, vacuum cleaners and lawn/yard care equipment.

(iv) Lease or rental of any item of facility equipment, furniture, and other furnishings and/or the cost of all furniture and equipment under the capitalization policy of the provider.

(v) Major maintenance to the facility to improve and/or maintain the structural integrity of the facility, and to maintain a safe and healthy living environment. Examples include, but are not limited to, roof replacement, repairs to the foundation, interior and exterior walls, floors, replacement/repair of electrical, heating and cooling, plumbing, septic and sewer systems, additions and/or renovations to the home that benefit the residents of the home. The straight line method of depreciation shall be used for depreciating all improvements. Improvements shall be depreciated over a period not less than the remaining useful life of the property and not more than the useful life of the improvement as determined by the IRS. Includes interest expense if funds were borrowed to complete the work.

(e) Clothing items for each resident residing in the facility.

(4) "Unearned income" has the same meaning as in rule 5101:1-39-16 of the Administrative Code.

(C) General provisions

(1) Items identified as room and board shall meet the requirements specified in Chapter 5123:2-3 of the Administrative Code.

(2) For the purpose of this rule, earned and unearned income shall be considered in the month it is received by the licensee.

(3) Each individual shall retain a minimum of seventy-five dollars per month from the total of any unearned source of income. Unearned income includes, but is not limited to, supplemental security income, social security disability income, railroad retirement, veteran's benefits, and trusts. Food stamps shall be included as unearned income but shall not be applied toward the minimum income to be retained by the individual.

(4) The amount of earned income to be retained by the individual shall equal, at a minimum, the first one hundred dollars of the net earned income received per month by the individual, plus one-half of any earned income in excess of one hundred dollars per month.

(5) Any one-time payment or reconciliation of earned or unearned income that exceeds the individual's regular monthly earned or unearned income may be applied to past months, not to exceed six months, for room and board

payments, including payments made by county boards in accordance with paragraph (D)(3) of this rule. Examples of one-time payments include, but are not limited to, social security back payments, tax refunds, and estate or inheritance income. The specific criteria for such payments shall be contained in the contract between the licensee and the county board. The individual shall not be assessed for future room and board costs as a result of receiving a one-time payment or reconciliation.

(D) Responsibilities of the county board

- (1) A county board and licensee shall provide sufficient information to each other in order to determine reasonable and appropriate room and board expenses. Unusual or atypical room and board expenses, resources, and responsible entities shall be identified in the individual's plan.
- (2) The county board shall identify assets of the individual, resources, and alternatives to pay for or otherwise provide services required by the individual to meet room and board expenses incurred.
- (3) When an individual receives no earned or unearned income in a month, the county board shall be responsible to provide the individual with a minimum monthly allowance of seventy-five dollars.
- (4) The county board is responsible for paying the licensee the amount owed to the licensee for room and board based on the contract established in accordance with paragraph (B)(3) of this rule, adjusted for earned and unearned income of the individual as calculated in accordance with paragraph (E)(2) of this rule.

(E) Responsibilities of the licensee

- (1) A licensee and county board shall provide sufficient information to each other in order to determine reasonable and appropriate room and board expenses. Unusual or atypical room and board expenses, resources, and responsible entities shall be identified in the individual's plan.
- (2) The licensee is responsible for calculating and documenting the sum of the individual's earned and unearned income available for room and board as determined in accordance with paragraph (C) of this rule and shall compare it to the room and board amount identified in the contract.
 - (a) If the amount of the individual's earned and unearned income available for

room and board following any deductions for patient liability is less than the contracted room and board cost for the month, the entire amount of the individual's earned and unearned income available for room and board shall be paid to the licensee. The balance of the room and board cost shall be billed to the county board by the licensee in accordance with the contract.

(b) If the amount of the individual's earned and unearned income available for room and board following any deductions for patient liability is greater than the contracted room and board cost for the month, the individual shall pay the entire cost of the room and board to the licensee. Any earned and unearned income received by the individual in excess of the amount paid for room and board for the month shall be retained by the individual and shall be documented in accordance with rule 5123:2-3-14 of the Administrative Code.

(c) Patient liability shall not be deducted from the individual's personal allowance and earned income retained by the individual, but shall be deducted from the earned and unearned income available to pay the licensee for the room and board cost.

(F) Responsibilities of the individual, guardian, and/or payee

(1) The individual, guardian, or payee of the individual, as applicable, is responsible for providing the licensee and/or county board with the information pertaining to the individual's earned and unearned income in order to determine the individual's obligation to pay for room and board.

(2) The individual, guardian, or payee of the individual, as applicable, is responsible for paying the licensee the amount owed to the licensee for room and board as determined in paragraph (E)(2) of this rule in a timely manner.

(G) For individuals residing in a non-ICF/MR licensed facility who are not receiving waiver services, the amount of room and board cost attributable to each individual shall be identified in a written contract between the licensee and the individual or parent, guardian, or payee, as applicable, and shall be determined as prescribed in paragraphs (E) and (F) of this rule.

Effective:

Five Year Review (FYR) Dates: 11/30/2016

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5123.04, 5123.19
Rule Amplifies: 5123.04, 5123.19
Prior Effective Dates: 09/20/2001, 07/01/2008