

5123:2-7-24

**Intermediate care facilities - cost of ownership, efficiency incentive, and reporting of accumulated depreciation.**

(A) For the purposes of this rule, the following definitions shall apply:

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any items capitalized including:

(i) Buildings;

(ii) Building improvements;

(iii) Equipment;

(iv) Extensive renovation;

(v) Transportation equipment; and

(vi) Replacement beds.

(b) Amortization and interest on land improvements and leasehold improvements.

(c) Amortization of financing costs.

(d) Except as provided in table 7 of the appendix to rule 5123:2-7-16 of the Administrative Code, lease and rent of land, building, and equipment.

(2) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years. To calculate the per-bed cost of a renovation project for purposes of determining whether it is an extensive renovation, the allowable cost of the project shall be divided by the number of beds in the facility certified for participation in the medical assistance program, even if the project does not affect all medicaid-certified beds. Allowable extensive renovations are considered an integral part of cost of ownership.

(a) The cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for inflation from January 1, 1993 to the end of the calendar year during which the renovation is completed using the consumer price index for shelter costs for all urban consumers for the midwest region, as published by the United States bureau of labor statistics.

(b) The department may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation

if the department determines that the renovation is more prudent than construction of new beds

- (3) "Nonextensive renovation" means the betterment, improvement, or restoration of an intermediate care facility beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. To calculate the per-bed cost of a renovation project for purposes of determining whether it is a nonextensive renovation, the allowable cost of the project shall be divided by the number of beds in the facility certified for participation in the medical assistance program, even if the project does not affect all medicaid-certified beds. A nonextensive renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A nonextensive renovation may include costs that otherwise would be considered maintenance and repair expenses if they are included as part of the nonextensive renovation project and are an integral part of the structural change that makes up the nonextensive renovation project. Nonextensive renovation does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity. Allowable nonextensive renovation projects are not considered cost of ownership.

(B) Cost of ownership

- (1) The desk-reviewed, actual, allowable, per diem cost of ownership is based upon certified beds for property costs and equipment for the calendar year preceding the fiscal year in which the rate will be paid. The desk-reviewed, actual, allowable, per diem cost of ownership includes:

(a) The cost of ownership directly related to purchasing or acquiring capital assets including:

(i) Except as otherwise required by paragraph (F) of this rule, depreciation expense for the cost of building(s) equal to the actual cost depreciated under rule 5123:2-7-18 of the Administrative Code. The provider is not to change the accumulated depreciation that has been previously reported. This accumulated depreciation will be carried forward as previously reported and audited. The current depreciation will then be added to accumulated depreciation as recognized.

(ii) Except as otherwise required by paragraph (F) of this rule, depreciation expense for major components of property and fixed equipment equal to the actual cost depreciated under rule 5123:2-7-18 of the Administrative Code. The provider is not to change the accumulated depreciation that has been previously reported. This accumulated depreciation will be carried forward

as previously reported and audited. The current depreciation will then be added to accumulated depreciation as recognized.

(iii) Except as otherwise required by paragraph (F) of this rule, depreciation expense for major movable equipment equal to the actual cost depreciated under rule 5123:2-7-18 of the Administrative Code. The provider is not to change the accumulated depreciation that has been previously reported. This accumulated depreciation will be carried forward as previously reported and audited. The current depreciation will then be added to accumulated depreciation as recognized.

(iv) Interest expense incurred on money borrowed for construction or the purchase of real property, major components of that property, and equipment.

(v) Depreciation expense for costs paid or reimbursed by any government agency, if that part of the prospective per diem rate is used to reimburse the government agency and a loan provides for repayment over a time-limited period.

(vi) Amortization expense of financing costs.

(b) The cost of ownership directly related to renting or leasing capital assets is the desk-reviewed, actual, allowable rent or lease expense of property and equipment.

(c) The cost of ownership directly related to the amortization of leasehold improvements. These costs shall be expensed over the lesser of the remaining life of the lease, but not less than five years, or the useful life of the improvement as specified under rule 5123:2-7-18 of the Administrative Code. If the useful life of the improvement is less than five years, it may be amortized over its useful life. Options on leases will not be considered. Lessees who report leasehold improvements and who leave the program before the minimum amortization period is complete, will not receive reimbursement for the balance of unamortized costs.

(2) Cost of ownership payments to intermediate care facilities shall not exceed the ceilings established in section 5111.251 of the Revised Code.

(3) For intermediate care facilities that have dates of licensure or that have been granted project authorization by the department on or after July 1, 1993, for which substantial commitments of funds were not made before July 1, 1993, cost of ownership payments shall not exceed the ceilings established in section 5111.251 of the Revised Code, if the department gives prior approval for construction of the facility. The prior approval process for the purpose of

increasing cost of ownership payments for new beds or relocated beds is as follows:

(a) Prior to commencement of construction, the provider must submit a request in writing to the department. This request should include:

(i) The projected completion date for the new intermediate care facility.

(ii) A projected budget for the new intermediate care facility that includes a projected three month cost report that contains all cost centers and inpatient days so that an overall rate can be calculated. For beds relocated from an existing facility, the same information must be received for the existing facility and the facility to which the beds are to be relocated.

(b) The department shall review the proposal and the projected budget, comparing the projected cost per diem to the rate currently associated with the beds for cost neutrality to the Ohio medicaid program. Cost neutrality will be evaluated across beds transferred to the new facility (or facilities) and the beds remaining in the existing facility.

(c) Approval for the increased cost of ownership payments will be granted contingent upon the receipt by the department of the provider's filed actual cost report for the first three months of operation confirming cost neutrality to the Ohio medicaid program. Until a final determination is made by the department with regard to the request for increased cost of ownership payments, the lower cost of ownership ceiling will be effective.

(d) Written approval or denial of the preliminary request will be made by the department within sixty days of the date the initial request was made and the required documentation was received. Written documentation of the final determination will be provided by the department within sixty days from the date the new facility's actual three-month cost report is received.

(e) If the project continues to satisfy the cost neutrality standard, the higher cost of ownership ceiling will be implemented retroactively to the first day the new facility's medicaid provider agreement was effective. If the request is denied, the provider will continue to receive the lower cost of ownership ceiling.

(C) Intermediate care facilities which complete extensive renovations will receive a per diem for cost of ownership based upon the costs as specified under paragraph (B) of this rule.

(1) The date of licensure for an extensively renovated intermediate care facility

shall be considered to be the date of completion of the extensive renovation.

- (2) The current ceilings as calculated in accordance with section 5111.251 of the Revised Code shall be assigned to the extensively renovated facility using the date of licensure.
  - (3) An extensively renovated intermediate care facility which obtains new ceilings in accordance with this rule, shall not be permitted any reimbursement for nonextensive renovation under rule 5123:2-7-25 of the Administrative Code made prior to the extensive renovation project which resulted in the new ceilings. Thereafter, the cost and accumulated depreciation of the nonextensive renovation shall be included in cost of ownership.
  - (4) An extensively renovated intermediate care facility shall not be permitted to receive any reimbursement for nonextensive renovation under rule 5123:2-7-25 of the Administrative Code for a period of five years after the completion of the extensive renovations, with the exception of those nonextensive renovation projects necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.
- (D) The cost of ownership directly attributable to the purchase, rent, or lease of property and equipment costs from one related party to another through common ownership or control as defined in rule 5123:2-7-01 of the Administrative Code shall be based upon the lesser of the actual purchase, rent, or lease of property, and equipment costs or the actual costs of the related party.
- (1) If a provider leases or transfers an interest in a facility to another provider who is a related party, the related party's allowable cost of ownership shall include the lesser of the following:

    - (a) The annual lease expense or actual cost of ownership, whichever is applicable; or
    - (b) The reasonable cost to the lessor or provider making the transfer.
  - (2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, if all of the following conditions are met:

    - (a) The related party is a relative of the owner;
    - (b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in paragraph (D)(2)(d)(i)(b) of this rule, in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains, except as provided in paragraph (D)(2)(d)(ii)(b) of this rule, no ownership interest in the facility;

(d) The department determines that the lease or transfer is an arm's length transaction when the following apply:

(i) In the case of a lease:

(a) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in paragraph (D)(2)(b) of this rule, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(b) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(ii) In the case of a transfer:

(a) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor. If the provider making the transfer maintains an interest as a creditor, the interest rate of the creditor shall not exceed the lessor of:

(i) The prime rate, as published by the "Wall Street Journal" on the first business day of the calendar year plus four per cent; or

(ii) Fifteen per cent.

(b) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement

rates for capital costs.

- (e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently.
- (3) The provider proposing to lease or transfer an interest in a facility to a related party shall provide the department with a certified appraisal for each facility to be leased or transferred at least ninety days prior to the actual change of the provider agreement. The certified appraisal shall be conducted no earlier than one hundred eighty days prior to the actual change of the provider agreement for each facility leased or transferred to a related party.
- (4) The provider proposing to lease or transfer an interest in a facility to a related party shall notify the department in writing and shall supply sufficient documentation demonstrating compliance with the provisions of this rule no less than ninety days before the anticipated date of completion of the transfer or lease. A provider that fails to supply the required documentation shall not qualify for a rate adjustment. The department shall issue a written decision determining whether the lease or transfer meets the requirements of this rule within sixty days after receiving complete information as determined by the department.

(E) Efficiency incentive

The department shall pay each intermediate care facility an efficiency incentive that is equal to the amount calculated in accordance with section 5111.25 of the Revised Code.

(F) Reporting of accumulated depreciation

- (1) Upon the sale of an intermediate care facility, the allowable capital asset cost basis, depreciation expense, and interest expense for the new provider/buyer of the intermediate care facility shall be the new provider's/buyer's actual depreciation and interest expense subject to the ceilings set forth previously under this rule. If the operating rights are separately identified and valued in a sale that includes both the building and the operating rights, the operating rights shall be considered to be a part of the building for purposes of determining the allowable capital asset cost basis under this paragraph. If a new provider/buyer purchases only the operating rights to the intermediate care facility and uses the operating rights to create a new intermediate care facility or add beds to an existing intermediate care facility, the purchase price of the operating rights shall be added to the capital asset cost basis of the new intermediate care facility building or the additional beds.

(2) Upon the sale of an intermediate care facility, the initial accumulated depreciation for the new provider/buyer of the intermediate care facility shall be recalculated starting at zero.

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Certification

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