

**Amendments to 14 NYCRR Subparts 621, Financial Assistance for Capital Construction and Financing; 641-2, Rate Setting for non-state providers; Subpart 676.11 and 690.7, fee setting and financial Reporting Regulations; Subpart 680.12, Specialty Hospital; and Subpart 681.14, Rate setting for immediate care facilities for persons with developmental disabilities (ICF/DD)**

## **PROPOSED REGULATIONS**

**Effective Date: Upon Adoption**

- **Subsection 621.10(g) is amended as follows:**

(g) At the discretion of the commissioner, the voluntary agency must execute, at the time the FDC loan is made or at any time during the term of such loan:

(1) an assignment to OPWDD of a portion of the facility's periodic rate or fee reimbursement which it receives [ pursuant to section 681.12, 686.13 or 690.12 of this Title] as a result of services rendered to OPWDD and/or the New York State Medicaid program; or

(2) an assignment of all or a portion of any other periodic rate or fee reimbursement receivable by such voluntary agency [pursuant to this Chapter] as a result of services rendered to OPWDD and/or the New York State Medicaid program; or

- **Existing clause 621.11(a)(8) is amended as follows:**

(8) costs incurred prior to the date of the first admission, during the period described in section[s] [681.12(c)(5)(i),] 686.13(c)(4)(i) [and 690.12(d)(2)(viii)(a)] of this Chapter, including personal service, utilities, taxes, insurance, employee training, housekeeping, repair and maintenance, security, and administrative expenses;

Note: New material is underlined and deleted material is in [brackets].

- **Existing clause 621.11 (a)(9) is amended as follows:**

(9) operational costs for up to three months from the date of the first admission, subject to the immediate repayment, at the discretion of the commissioner, of any or all of that portion of the loan principal attributable to such costs. For facilities for which the voluntary agency receives reimbursement rates or fees [pursuant to Part 681, 686, or 690 of this Chapter] as a result of services rendered to OPWDD and/or the New York State Medicaid program, such repayment may be based on an assignment to OPWDD of the voluntary agency's rate or fee reimbursement for operational costs during such period, which may, at the discretion of the commissioner, be required from the voluntary agency in the format prescribed by the commissioner;

- **Existing clause 621.11 (a)(13)**

(13) such other costs as the commissioner may determine to be reasonable and necessary; provided that such costs are allowable pursuant to the Medicare Provider Reimbursement Manual. [The availability of that document is set forth in section 681.12 (c)(10)(i) of this Chapter.]

- **Subsection 621.12 (b) is amended as follows:**

(b) *Charges for operational period.* The charge payable to OPWDD by the voluntary agency during the period from the occupancy date to the end of the loan term shall be an annual charge of .2 of one percent of the mortgage loan, payable on a monthly or other periodic basis pursuant to an assignment which shall be required from the voluntary agency to OPWDD to be made in the format prescribed by the commissioner. For facilities for which the voluntary agency receives reimbursement rates or fees [pursuant to Part 681, 686, or 690 of this Chapter] as a result of services rendered to OPWDD and/or the New York State Medicaid program, such assignment may require the annual charge to be paid from the periodic payment of the voluntary agency's rate or fee reimbursement.

- **Subsection 621.12 (d) is amended as follows:**

(d) *MCFFA annual administrative charges.* The annual administrative charges imposed by MCFFA shall be payable to OPWDD by the voluntary agency from the date of the mortgage

loan closing, on a monthly or other periodic basis pursuant to an assignment which shall be required from the voluntary agency to OPWDD to be made in the format prescribed by the Commissioner. For facilities for which the voluntary agency receives reimbursement rates or fees [pursuant to Part 681, 686, or 690 of this Chapter] as a result of services rendered to OPWDD and/or the New York State Medicaid program, such assignment may require the annual charge to be paid from the periodic payment of the voluntary agency's rate or fee reimbursement.

- **Subsection Section 641-2.1 is amended as follows:**

[On and after July 1, 2014, r] Rates of reimbursement for intermediate care facilities for persons with developmental disabilities (ICF/DD), other than those operated by OPWDD, shall be determined in accordance with 10 NYCRR Part 86-11. The rates of payment made for services rendered to title XIX recipients established in accordance with the methodology contained in 10 NYCRR Part 86-11 shall be contingent upon Federal financial participation (FPP) and approval. [this Subpart.]

- **Subsections 641-2.2 – 641-2.10 are repealed in their entirety.**
- **Subpart 676.11 is repealed and reserved**
- **Subpart 690.7 is repealed and a new Section (a) shall be inserted as follows:**

Rates of payment made for day treatment services rendered to title XIX recipients shall be at the levels set forth in the approved New York Medicaid State Plan. The rates shall be contingent upon Federal financial participation (FPP) and approval.

- **Existing Sections (d) and (e) of Part 680.12 are repealed and a new Section (d) shall be inserted as follows:**

Rates of payment made for specialty hospital services rendered to title XIX recipients shall be at the levels set forth in the approved New York Medicaid State Plan. The rates shall be contingent upon Federal financial participation (FPP) and approval.

- **Existing section (f) of Part 680.12 is re-lettered to (e) and reads as follows:**

- [(f)] (e) *Audits*.

- **Existing Subpart 681.14 (a) is deleted**
- **New Subpart 681.14 (a) is added to read as follows:**

(a) Rates of reimbursement for intermediate care facilities for persons with developmental disabilities (ICF/DD), other than those operated by OPWDD, shall be determined in accordance with Title 10 NYCRR Part 86-11. The rates of payment made for services rendered to title XIX recipients established in accordance with the methodology contained in 10 NYCRR Part 86-11 shall be contingent upon Federal financial participation (FFP) and approval.

- **Remainder of Subpart 681.14 is repealed**