

OPWDD ASSESSMENT OF PUBLIC COMMENT

Cost Report Submission and Penalty Changes

This document contains responses to public comments submitted during the public comment period for proposed regulations concerning cost report submission and penalty changes.

Comment: Commenters expressed an understanding of, and agreement with, the need for providers to file annual certified cost reports (CFRs) timely and accurately.

Response: OPWDD appreciates the commenters' support.

Comment: Commenters recommended that OPWDD give providers an additional month to complete the CFR accurately, prior to the commencement of the 2% penalty, while retaining the date in the proposed regulations for the commencement of the 50% penalty.

Response: The proposed amendments extended the due date to incorporate the 30 day extension period in the current regulations. By eliminating requirements to request an extension and incorporating the additional 30 days into the due date, OPWDD considers this sufficient time for providers to submit cost reports. OPWDD is promulgating the regulations as proposed.

Comment: A commenter expressed that, for fairness, the 2% penalty should be calculated by day, not by month. The commenter added that the provider should not be penalized if its CFR is late by one or more days as most providers try very hard to submit their CFR on time but there may be certain uncontrollable obstacle(s) to doing so.

Response: Implementation of the 2% penalty is not a component of the proposed regulations. The 2% penalty parameters were part of a previously adopted regulation. OPWDD is promulgating the regulations as proposed.

Comment: Commenters expressed concern that the proposed regulations do not contain any provision committing OPWDD to promulgating rates on-time and prior to the beginning of the rate period. Commenters stated that it is not only an issue of basic fairness that dictates timeframes should apply equally to both providers and government rate setting parties, but such a provision would permit providers to plan their budgets in a timely and appropriate manner, and eliminate the environment of fiscal uncertainty that currently exists.

Response: OPWDD no longer has rulemaking authority to promulgate provider rate methodology and rates. In 2015, a provision of the Mental Hygiene Law was amended to designate the commissioner of the Department of Health with such rulemaking authority. OPWDD will share this comment with the Department of Health. Since OPWDD does not have the rulemaking authority necessary to

address this comment, OPWDD is promulgating the regulations as proposed.