



**Emergency/Proposed Amendments
Rate Setting for Non-State Providers:
Intermediate Care Facilities for Persons with Developmental Disabilities**

Effective: July 2, 2014

Comments due: Tuesday, Sept. 2, 2014

Amendment of 14 NYCRR Subpart 641-2

The emergency/proposed regulations amend the newly-adopted 14 NYCRR Subpart 641-2, concerning the rate methodology for ICF/DD facilities. (Note that the text of the newly adopted regulation is the same as the text of the proposed regulation published in the spring of 2014.) The changes include the following:

- A) A clarification that the “initial period” of the methodology is July 1, 2014 through June 30, 2015.
- B) A clarification in the definitions of the “regional average general and administrative component” and the “provider average general and administrative component” to specify that the administrative allocation for the base year is agency administration, that depreciation is equipment depreciation and that program administration property is not part of the formula.
- C) A clarification in the definition of “provider direct care hours”, “provider salary clinical hours” and the “provider contracted clinical hours” to indicate that the formulas are based on rate sheet capacities rather than billed units and that the formula quotient is multiplied by rate sheet capacities rather than units.
- D) A change in the “provider facility reimbursement” definition to indicate that depreciation is equipment depreciation and that the formula utilizes provider rate sheet capacities rather than billed units or units.
- E) A clarification to the “alternative operating component” to indicate that this section applies to providers that did not submit a cost report or submitted a cost report that was incomplete. The previous language applied the section in a more narrow set of circumstances, i.e., only when providers did not provide services during the base year.
- F) The “day program services component” was revised by changing the word “and” to “plus” to add clarity to the intent of the section.
- G) A note was added to the “capital component” section to indicate that the capital component language was not applicable to capital approved by OPWDD prior to July 1, 2014.

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- H) The “capital component” section was changed to clarify that start-up costs for ICFs/DD may be amortized over a one-year period beginning with certification.
- I) Numerous changes were made to the capital threshold schedules to add clarity including the elimination of references to non-ICF/DD programs; the elimination of the non-relevant “architect/engineer design fee schedule for ground-up construction”, and to standardize definitions, including that of soft costs.
- J) A clarification was made to the “transition to new methodology” section to indicate that the described base rate is specifically the base operating rate.
- K) A “rate correction” section was added to specify the policies and procedures for the correction of arithmetic or calculation errors.
- L) A new section is added governing funding for those individuals identified as qualifying for template or auspice funding. The funding for ICF/DD services provided to these individuals will be determined in accordance with that section instead of the methodology that is generally applicable.
- M) Various non-substantive technical corrections were added to correct inconsistencies, grammatical errors, etc.