

**Amendments to Rate-Setting Methodology:  
Rates for Intermediate Care Facilities for Persons with  
Developmental Disabilities**

Amendment of 14 NYCRR Subpart 641-2

**Effective Date: November 1, 2014**

- **Section 641-2.2 is amended by the addition of new subdivisions (e) and (g) to read as follows:**
  - (e) Capital costs. Costs that are related to the acquisition, lease, construction and/or long-term use of land, building and fixed equipment, leasehold improvements and vehicles.
  - (g) Depreciation. The allowable cost based on historical costs and useful life of buildings, fixed equipment, capital improvements and /or acquisition of real property. The useful life shall be based on “The Estimated Useful Life of Depreciable Hospital Assets” (2008 edition). This document is available from the American Hospital Association, 840 Lake Shore Drive, Chicago, IL 60611; or is available during business hours and by appointment at the following locations:
    - (1) Department of State, Division of Administrative Rules, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001
    - (2) OPWDD, Attention Public Access Officer, 44 Holland Avenue, Albany, NY 12229.

**Note: existing subdivision (e) is re-lettered subdivision (f), and existing subdivisions (f) through (n) are re-lettered subdivisions (h) through (p).**

- **Section 641-2.2 is amended by the addition of new subdivision (q) to read as follows:**
  - (q) Start-up Costs. Those costs associated with the opening of a new facility or program. Start-up costs include pre-operational rent, utilities, staffing, staff training, advertizing for staff, travel, security services, furniture, equipment and supplies

Note: All new text

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**Note: existing subdivision (o) is re-lettered subdivision (r).**

- **Current paragraph 641-2.3(c)(4) is deleted and a new paragraph 641-2.3(c)(4) is added to read as follows:**

(4) Capital component.

- (i) For Capital Assets Approved on or after July 1, 2014. OPWDD regulations at Subpart 635-6 of this Title establish standards and criteria for calculating provider reimbursement for the acquisition and lease of real property assets which require approval by OPWDD. The regulations also address associated depreciation and related financing expenses. The rate will include costs for actual straight line depreciation, interest expense, financing expenses, and lease cost.

In no case will the total capital reimbursement associated with the capital asset exceed the total acquisition, renovation and financing cost associated with a capital asset. The asset life for building acquisitions shall be 25 years.

- (ii) For Capital Assets Approved Prior to July 1, 2014. The State will identify each asset by provider, and provide a schedule of these assets identifying: total actual cost, reimbursable cost determined by the prior approval, total financing cost, allowable depreciation and allowable interest for the remaining useful life as determined by the prior approval, and the allowable reimbursement for each year of the remaining useful lives.

In no case will the total reimbursable depreciation or principal amortization and total interest associated with the capital asset exceed the total acquisition, renovation and financing cost associated with a capital asset.

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- (iii) Notification to Providers. Subpart 635-6 of this Title contains the criteria and standards associated with capital costs and reimbursement. Each provider will receive a schedule of prior approved assets that is being used to establish the real property capital component of the provider's reimbursement rate.
  
- (iv) Initial rate for capital assets approved on or after July 1, 2014. The rate shall include the approved appraised costs of an acquisition or fair market value of a lease, and estimated costs for renovations, interest, soft costs and start-up expenses. Such costs shall be included in the rate as of the date of certification of the site, continuing until such time as actual costs are submitted to the State. Estimated costs shall be submitted in lieu of actual costs for a period no greater than two years. If actual costs are not submitted to the State within two years from the date of site certification, the amount of capital costs included in the rate shall be zero for each period in which actual costs are not submitted. DOH may retroactively adjust the capital component.
  
- (v) Cost verified rates for capital assets approved on or after July 1, 2014. The provider shall submit to the State supporting documentation of actual costs. Actual costs shall be verified by the State reviewing the supporting documentation of such costs. A provider submitting such actual costs shall certify that the reimbursement requested reflects allowable capital costs, and that such costs were actually expended by such provider. Under no circumstances shall the amount included in the rate under this subparagraph exceed the amount authorized in the approval process. Capital costs shall be depreciated over a 25 year period for acquisition of properties or amortized over the life of the lease for leased sites. Capital improvements shall be depreciated over the life of the asset. The amortization of interest shall not exceed the life of the loan taken. Amortization or depreciation shall begin upon certification by the provider of such costs. Start-up costs may

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be amortized over a one year period beginning with site certification. If actual costs are not submitted to the State within two years from the date of site certification, the amount of capital costs included in the rate shall be zero for each period in which actual costs are not submitted.

- (vi) Capital reimbursement reconciliation schedule. Beginning with the cost reporting period ending December 31, 2014, each provider shall submit to OPWDD, as part of the annual cost report, a capital reimbursement reconciliation schedule.

This schedule will specifically identify the differences, by capital reimbursement item, between the amounts reported on the certified cost report, and the reimbursable items, including depreciation, interest and lease cost from the schedule of approved reimbursable capital costs.

The provider's independent auditor will apply procedures to verify the accuracy and completeness of the capital reimbursement reconciliation schedule.

DOH will retroactively adjust capital reimbursement based on the actual cost verification process as described in subparagraph (iv) of this paragraph.

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