

To: Provider Associations
Executive Directors of agencies operating ICF/DD programs
DDSOO Directors
DDRO Directors
IBR Director
Commissioner's Advisory Council
OPWDD Required Regulations Mailing List

From: Regulatory Affairs Unit

Date: November 13, 2014

Re: **Regulations – Amendments to Rate-Setting Methodology: Rates for Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD)**

<p>Effective date: November 1, 2014 Comments Due: Monday, January 5, 2015</p>

Suggested distribution: Agencies operating ICF/DD programs

Agency Administrators
Agency Financial Officers
Agency Program Administrators

Purpose:

OPWDD has filed emergency/proposed regulations that amend the rate-setting methodology that was adopted in July 2014. These regulations, effective November 1, 2014, amend the rate-setting methodology in conformance with changes mandated by CMS after July 1, 2014.

After July 1, CMS informed OPWDD and DOH that CMS would require changes in reimbursement for capital assets in ICFs/DD.

The emergency/proposed regulations are in response to the CMS mandates. The regulations comprise amendments to the rate-setting methodology described in 14 NYCRR Subpart 641-2, including the following changes:

- Definitions were added for "Capital costs," "Depreciation," and "Start-up costs."
- The "Capital component" requirements were revised to eliminate capital threshold schedules and to require that building acquisitions must be depreciated over 25 years.

**Emergency/Proposed Regulations:
Amendments to Rate-Setting Methodology:
Rates for Intermediate Care Facilities for Persons with Developmental Disabilities
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- Provisions were added to the "Capital component" to require providers to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule.

The text of the regulations is available on the OPWDD website at www.opwdd.ny.gov. Look under "Regulations & Guidance."

Please note that the Department of Health (DOH) has also adopted companion emergency/proposed regulations on this topic. Information about DOH regulations is posted at: <http://www.health.ny.gov/regulations/>. Look under "Rules & Regulations" in the appropriate category to access information about the DOH regulations.

Submission of public comments:

Written comments on the emergency/proposed amendments can be submitted to:

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The deadline for submission of public comments is the close of business, Monday, January 5, 2015. (Please note that this is earlier than the deadline for public comments on the emergency/proposed regulations to amend rate-setting for residential and day habilitation services.)

For questions about the rate-setting methodology, please contact Donna Cater, Director, DOH Bureau of Mental Hygiene Services Rate Setting, at Donna.Cater@Health.State.NY.US or (518) 486-7164.

Thank you.

cc: Ms. Doran
Ms. Howard
Ms. Cater
Mr. Leonardo
Ms. Coons
Ms. Felker