

**Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services**

- **Section 641-1.1 is amended as follows:**

641-1.1. Applicability. On and after July [first, two thousand fourteen] 1, 2014, rates of reimbursement for residential habilitation services provided in community residences, including IRAs, and for day habilitation services, other than those provided by OPWDD, shall be determined in accordance with this Subpart.

- **Subdivision 641-1.2(c) is amended as follows:**

(c) Base year. The consolidated fiscal report period from which the initial period rate will be calculated. Such period shall be January [first, two thousand eleven] 1, 2011 through December [thirty first two thousand eleven] 31, 2011 for providers reporting on a calendar year basis and July [first, two thousand ten] 1, 2010 through June [thirtieth, two thousand eleven] 30, 2011 for providers reporting on a fiscal year basis.

- **Subdivision 641-1.2(d) is amended as follows:**

(d) Base operating rate. Reimbursement amount calculated by dividing annual reimbursement by applicable annual units of service, both in effect on June [thirtieth, two thousand fourteen] 30, 2014.

- **Subdivision 641-1.2(h) is amended as follows:**

(h) Developmental Disabilities Profile (DDP-2). The document titled [Developmental Disabilities Profile] Developmental Disabilities Profile (DDP-2), dated 7/10, and issued by OPWDD. This document, the Developmental Disabilities Profile (DDP-2) Users' Guide, and another document titled Scoring the DDP are available during business hours and by appointment at the following locations:

(1) the 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: New material is underlined; deleted material is in [brackets].

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Subdivision 641-1.2(i) is amended as follows:**

(i) Evacuation Score (E-Score). The score for a supervised community residence that is certified under Chapters 32 or 33 of the Residential Board and Care Occupancies of the NFPA 101 *Life Safety Code* (2000 edition) that is provided to DOH by OPWDD once a year. The E-score is described in the NFPA 101A, *Guide on Alternative Approaches to Life Safety*, 2001 edition. The [Life Safety Code is] *Life Safety Code* and *Guide on Alternative Approaches to Life Safety* are available from the National Fire Protection Association, One Batterymarch Park, Quincy, MA 02169-7471; or is available during business hours and by appointment at the following locations:

(1) the 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.

- **Subdivision 641-1.2(m) is amended as follows:**

(m) Initial period. July [first, two thousand fourteen] 1, 2014 through [December thirty-first two thousand fourteen for providers reporting on a calendar year basis or July first, two thousand fourteen through] June [thirtieth two thousand fifteen] 30, 2015. [for providers reporting on a fiscal year basis.]

- **Subdivision 641-1.2(o) is amended as follows:**

(o) Occupancy factor. Beginning July [first, two thousand fifteen] 1, 2015 such factor will be an adjustment made prospectively at the beginning of the applicable rate year, based upon the previous years' experience. Such adjustment shall be provider specific and shall be the lower of the provider's actual vacancy or five percent.

- **Subdivision 641-1.2(t) is amended as follows:**

(t) Residential habilitation. Residential habilitation services provided in a community residence, under the home and community based services waiver operated by OPWDD and pursuant to Subpart 635-10 and Part 671 of this Title.

- **A new subdivision 641-1.2(w) is added as follows and existing subdivision (w) is re-lettered to be (x):**

(w) Total reimbursement – The provider's final reimbursement as calculated on their rate sheets inclusive of SSI/SNAP adjustments and State Supplement add-on.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Subdivision 641-1.3(a) is amended as follows:**

(a) There shall be one provider-wide rate for each provider of residential habilitation service and one provider-wide rate for each provider of day habilitation services, except that rates for residential habilitation or day habilitation services provided to individuals identified as specialized populations by OPWDD shall [not] be determined under section 641-1.8 of this Subpart. Adjustments may be made to the rate resulting from any final audit findings or reviews.

- **Subdivision 641-1.3(c) is amended as follows:**

(c) Components of rates [Rates] for residential habilitation provided in supervised community residences.

Note: The rest of this subdivision is unchanged except for the provisions noted below.

- **Subparagraph 641-1.3(c)(1)(iii) is amended as follows:**

(iii) Regional average program support component, which shall mean the sum of transportation related-participant staff travel, participant incidentals, expensed adaptive equipment, sub-contract raw materials, participant wages-non-contract, participant wages-contract, participant fringe benefits, staff development, supplies and materials-non-household, other-OTPS, lease/rental vehicle, depreciation-vehicle, interest-vehicle, other-equipment, other than to/from transportation allocation, salaried support dollars (excluding housekeeping and maintenance staff) and salaried program administration dollars for the base year for each provider of a DOH region, aggregated by all such providers in such region. Such sum shall be divided by the total base year salaried direct care dollars of all providers in a DOH region, and then multiplied by the applicable regional average direct care wage as determined pursuant to subparagraph (i) of this paragraph.

- **Subparagraph 641-1.3(c)(1)(v) is amended as follows:**

(v) Regional average general and administrative component, which shall mean the sum of the insurance-general and [provider] agency administration allocation for the base year for each provider in a DOH region, aggregated for all such providers in such region, divided by (the sum of total program/site costs and other than to/from transportation allocation, less the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, total property-provider paid, housekeeping and maintenance staff, salaried clinical dollars and contracted clinical dollars [and program administration property] for the base year for each provider in a DOH region, aggregated for all providers in such region). The regional average direct care hourly rate-exclusive of general and administrative costs, as determined pursuant to subparagraph (iv) of this paragraph, shall then be divided by (one minus the applicable regional average general and administrative quotient), from which the applicable regional average direct care wage hourly rate-excluding

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

general and administrative, as computed in subparagraph (iv) of this paragraph shall be subtracted.

- **Subparagraph 641-1.3(c)(1)(xi) is amended as follows:**

(xi) Provider average general and administrative component, which shall mean the sum of insurance-general and [provider] agency administration allocation for the base year for a provider, such sum to be divided by (the sum of total program/site costs and other than to/from transportation allocation less the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, insurance – property and casualty, total property-provider paid, housekeeping and maintenance staff, salaried clinical dollars and contracted clinical dollars [and program administration property] for the base year for a[n] provider). The provider average direct care hourly rate-excluding general and administrative, as computed in subparagraph (x) of this paragraph, shall then be divided by (one minus the applicable [regional] provider average general and administrative quotient), from which the provider average direct care wage hourly rate-excluding general and administrative, as computed in subparagraph (x) of this paragraph, shall be subtracted.

- **Subparagraph 641-1.3(c)(1)(xiv) is amended as follows:**

(xiv) Statewide average direct hours per provider, which shall mean the product of the statewide average direct care hours per person, as determined pursuant to subparagraph (xiii) of this paragraph, the applicable E-Score factor of a[n] provider, the applicable provider acuity factor and the applicable provider rate sheet capacity for the base year, as pro-rated for partial year sites.

- **Subparagraph 641-1.3(c)(1)(xix) is amended as follows:**

(xix) Provider salaried clinical hours, which shall mean the quotient of base year salaried clinical hours of a[n] provider, divided by the rate sheet capacity for the base year, pro-rated for partial year sites, such quotient to be multiplied by the rate sheet capacity for the initial period for such provider.

- **Subparagraph 641-1.3(c)(1)(xxviii) is amended as follows:**

(xxviii) Statewide budget neutrality adjustment factor for operating dollars, which shall mean the quotient of the operating revenue from all provider rate sheets in effect on June [thirtieth, two thousand fourteen] 30, 2014, divided by provider operating revenue for all providers, as computed in subparagraph (xxvii) of this paragraph.

- **Paragraph 641-1.3(c)(2) is amended as follows:**

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

(2) Alternative operating cost component. For providers that did not submit a cost report, or submitted a cost report that was incomplete, for residential habilitation services for the base year, the final daily operating rate shall be a regional daily operating rate. This rate shall be the sum of:

(i) The product of the applicable regional average direct care hourly rate, as determined pursuant to subparagraph (vi) of paragraph (1) of this subdivision, and the applicable regional average direct care hours, which shall mean the quotient of salaried and contracted direct care hours for the base year for each provider of a DOH region, aggregated for all such providers in such region, divided by the rate sheet capacities for the base year, pro-rated for partial year sites for each provider of a DOH region, aggregated for all such providers in such region divided by three hundred sixty-five, or three hundred sixty-six in the case of a leap year.

(ii) The product should then be added to the product of the applicable regional average clinical hourly wage, as determined pursuant to subparagraph (xvii) of paragraph (1) of this subdivision and the applicable regional average clinical hours, which shall mean the quotient of salaried and contracted clinical hours for the base year for each provider of a DOH region, aggregated for all such providers in such region, divided by the rate sheet capacities for the base year, pro-rated for partial year sites for each provider of a DOH region, aggregated for all such providers in such region divided by three hundred sixty-five, or three hundred sixty-six, in the case of a leap year.

Such sum shall be multiplied by the statewide budget neutrality adjustment factor for operating dollars, as determined pursuant to subparagraph (xxviii) of paragraph (1) of this subdivision to determine the final regional daily operating rate.

- **Paragraph 641-1.3(c)(3) is amended by the deletion of subparagraphs (ii) and (ii), and as follows:**

(3) Facility cost component. The facility cost component shall include allowable facility costs identified in the consolidated fiscal reports, and shall be inclusive of the following components:

[(i)] Provider facility reimbursement, which shall mean the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, insurance – property and casualty, housekeeping and maintenance staff, and program administration property, for the base year for a[n] provider divided by rate sheet capacity for the base year, pro-rated for partial year sites and such quotient multiplied by rate sheet capacity for the initial period.

[(ii)] Statewide budget neutrality adjustment factor for facility reimbursement, which shall mean the quotient of total room and board reimbursement (excluding provider paid property) from all provider rate sheets in effect on June thirtieth, two thousand fourteen, divided by total provider facility reimbursement, as computed in subparagraph (i) of this paragraph.]

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

[(iii) Total provider facility revenue – adjusted, which shall mean the product of the provider facility reimbursement, as determined pursuant to subparagraph (i) of this paragraph and the statewide budget neutrality adjustment factor for facility reimbursement, as determined pursuant to subparagraph (ii) of this paragraph.]

The final monthly [facility rate] State supplement shall be [the total facility revenue-adjusted, as subject to adjustments made] calculated in accordance with paragraph (6) of this subdivision, divided by twelve.

(4) Alternative facility cost component. For providers that did not submit a cost report or submitted a cost report that was incomplete for residential habilitation services provided in a supervised community residence for the base year, the final monthly facility rate shall be a regional monthly facility rate which shall mean the quotient of the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation, insurance – property and casualty, housekeeping and maintenance staff, and program administration property for the base year divided by the rate sheet capacity for the base year, pro-rated for partial year sites for each provider of a DOH region, aggregated for all such providers in such region. Such quotient shall be multiplied by rate sheet capacity for the initial period. [Such product shall be multiplied by the statewide budget neutrality adjustment factor for facility reimbursement, as determined pursuant to subparagraph (ii) of paragraph (3) of this subdivision and divided by twelve.]

The final monthly State Supplement shall be calculated in accordance with paragraph (6) of this subdivision, divided by twelve.

- **Subparagraph 641-1.3(c)(5)(i) is amended as follows:**

(i) General principles. Capital costs shall be included in the rate at the lower of the amount determined pursuant to Subpart 635-6 of this Title or thresholds as determined pursuant to subparagraph (iv) of this paragraph. DOH may retroactively adjust the capital component.

Note: The provisions of this paragraph do not apply to capital approved by OPWDD prior to July 1, 2014.

- **Subparagraph 641-1.3(c)(5)(iii) is amended as follows:**

(iii) Cost verified rates. Actual costs shall be verified by OPWDD and supporting documentation of such costs shall be submitted to OPWDD, which shall transmit such information to DOH. 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 threshold rates established in subparagraph (iv) of this paragraph. Capital costs may be amortized over a maximum fifteen year period for acquisition

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

of properties or the life of the lease for leased sites, but in no circumstance shall the amortization exceed the length of the loan taken. Amortization shall begin upon certification by the provider of such costs. For community residences start-up costs may be amortized over a one year period [and for day habilitation sites start up costs may be amortized over a five year period] beginning with certification. Limitations on reimbursement for such costs shall be the following:

Note: The rest of this subparagraph is unchanged except for clauses (a), (d), (e), (g), (h), and (l).

- **Clause 641-1.3(c)(5)(iii)(a) is amended as follows:**

(a) Allowable acquisition, rehabilitation and new construction costs shall be determined in accordance with Subpart 635-6 of this Title. Acquisition costs are limited to the appraised value and acquisition and construction cannot exceed regionally based [Hard Caps and] thresholds; thresholds are based on number of individuals that reside in the residence. Residential Reserve for Replacement (RRR) funding is used for renovations/improvements in existing sites.]

- **Clause 641-1.3(c)(5)(iii)(d) is amended as follows:**

(d) Design [costs- architectural] fees. Design fees may not exceed five percent above the [DASNY architectural] fee schedule, [and is based on the lesser of the architect's estimated feasibility or actual bid plus approved change orders.]

- **Clause 641-1.3(c)(5)(iii)(e) is amended as follows:**

(e) Financing interest rates. Fixed rates are limited to prime plus four percent. Variable rates are limited to no more than five percent of the initial rate. Mortgages [which] that do not amortize over the nominal mortgage term are not allowable.

- **Clause 641-1.3(c)(5)(iii)(g) is amended as follows:**

(g) Loan closing costs. Reimbursement is limited to actual closing costs and cannot exceed more than twelve percent of the mortgage amount. Site survey or soil inspection costs [and] are not included.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Clause 641-1.3(c)(5)(iii)(h) is amended as follows:**

(h) Other costs. Maximum of \$20,000. [with defined threshold of other legal fees limited to five percent over the cost of bank attorney fees] Other costs may include but are not limited to legal and accounting fees.

- **Clause 641-1.3(c)(5)(iii)(l) is amended as follows:**

(l) Soft costs. Allowable soft costs may include site survey, soil inspection, builder's risk insurance, property casualty insurance, performance bond, clerks of the works, security and bank site inspection.

- **Subparagraph 641-1.3(c)(5)(iv), including charts below, is amended as follows:**

(iv) Thresholds. [Thresholds for renovations are not inclusive of renovations specific to maintaining an existing site. These renovations shall be funded through the Residential Reserve for Replacement (RRR). Thresholds shall be determined pursuant to the following [schedules]:

Residential rental sites

<i>Threshold for Residential Rental sites- leases less than 5-year term</i>				
Counties	certified capacity of 1	certified capacity of 2	certified capacity of 3	Each Increase in Certified Capacity by 1
Orange, Rockland, Putnam, Dutchess, Ulster	\$11,692	\$13,853	\$16,903	\$3,050
Nassau, Suffolk and Westchester Counties	\$15,251	\$18,809	\$22,495	\$3,686
New York City except Manhattan	\$21,351	\$24,909	\$28,468	\$3,558
Manhattan	\$28,341	\$32,153	\$35,585	\$3,431
All other Counties	\$9,023	\$10,548	\$12,200	\$1,652
<i>Heat Allowance For rentals which include Heat</i>	+ \$900	+ \$1,200	+ \$1,500	<i>4 or more + \$1,500 + \$300 additional</i>

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

<i>Threshold for leases greater than 5 years</i>	
New York City	\$13,217 per [unit of certified capacity] <u>bed</u>
Westchester, Nassau, Rockland and Suffolk Counties	\$10,548 per [unit of certified capacity] <u>bed</u>
Putnam, Orange, Dutchess and Ulster Counties	\$7,752 per [unit of certified capacity] <u>bed</u>
Upstate (all other counties)	\$5,465 per [unit of certified capacity] <u>bed</u>

Allowable renovation costs for new/relocating residential sites with leases less than 5- year term

<i>Renovation costs for residential leases less than 5 years</i>	
Counties	Threshold
New York City and the counties of Suffolk, Rockland Nassau, Westchester, Putnam, Orange, Dutchess and Ulster	Contract Costs for Renovation: The lesser of \$5,000 per [person] <u>bed</u> , or \$25,000 per unit[.]
	Contingency Allowance: where required by contract, an additional allowance for contingency funds to address cost overages with a limit of the lesser of actual cost overage or 10% of the contract cost
All other Counties	Contract Costs for Renovation: The lesser of \$3,000 per [person] <u>bed</u> , or \$15,000 per unit
	Contingency Allowance: where required by contract, an additional allowance for contingency funds to address cost overages with a limit of the lesser of actual cost overage or 10% of the contract cost

**Capital Thresholds for Residential Acquisitions- New or Relocation
(including Condominium and Cooperative Apartments)**

County	[Capital threshold Cost of UNIT OF Certified Capacity] [Average Needs Capacity]	Capital threshold Cost per [UNIT OF Certified Capacity] <u>Bed</u> [High Needs Threshold]
Manhattan	[\$212,021]	\$228,161
Bronx, Kings, Queens, Richmond, Nassau and Westchester	[\$145,645]	\$159,182
Putnam, Rockland, Suffolk	[\$123,835]	\$135,424
Columbia, Dutchess, Orange, Sullivan, Ulster	[\$109,010]	\$117,605
Albany, Greene, Rensselaer, Saratoga, Schenectady, Warren	[\$75,411]	\$84,343

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

Upstate (all other)	[\$69,397]	\$77,622
---------------------	------------	----------

Renovation costs in existing [leased] sites

County	Renovation Threshold - Existing [Leased] Sites Cost per [unit of Certified Capacity] <u>bed</u>
Manhattan	\$ 114,081
Bronx, Kings, Queens, Richmond, Nassau and Westchester	\$ 79,591
Putnam, Rockland, Suffolk	\$ 67,712
Columbia, Dutchess, Orange, Sullivan, Ulster	\$ 58,803
Albany, Greene, Rensselaer, Saratoga, Schenectady, Warren	\$ 42,172
Upstate (all other)	\$ 38,811

[Capital Review Guidelines for] Residential Start-Up Allowance

<i>Residential Start-up Allowance per bed</i>			
Counties	[Supportive]	[Supervised] <u>New</u>	Relocations
New York City, Suffolk, Nassau, Westchester, Putnam, Rockland	[5,100]	\$5,800	\$1,000
Rest of the State	[4,900]	\$5,500	\$900

Pre-Operational Rent Allowance

<i>Pre-operational rent allowance</i>		
Program type	[Supervised and Supportive Community Residences without] <u>Without Renovations</u>	[Supportive or Supervised with] <u>With Renovations</u>
Pre-operational rent allowance	1 month	[up to] 3 months

[DASNY Architect/Engineer Design Fee Schedule]

<i>[Design fees for New/Ground Up construction projects]</i>		
[Approved Construction Costs]	[Architect's Fee]	
[To \$70,000]	[\$6,125]	[8.75% of cost]
[\$70,001 to \$100,000]	[\$8,525]	[Plus 8.00% of cost over \$70,000]
[\$100,001-\$150,000]	[\$12,275]	[Plus 7.50% of cost over \$100,000]
[\$150,001 to \$250,000]	[\$19,275]	[Plus 7.00% of cost over \$150,000]

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

[\$250,001 to \$500,000]	[<u>\$35,525</u>]	[Plus 6.50% of cost over \$250,000]
[\$500,001 to \$1,000,000]	[<u>\$66,025</u>]	[Plus 6.10% of cost over \$500,000]
[\$1,000,001 to 2,000,000]	[<u>\$124,025</u>]	[Plus 5.80% of cost over \$1,000,000]
[\$2,000,001 to \$3,500,000]	[<u>\$205,025</u>]	[Plus 5.40% of cost over \$2,000,000]
[\$3,500,001 to \$5,000,000]	[<u>\$280,025</u>]	[Plus 5.00% of cost over \$3,500,000]
[\$5,000,001 to \$7,500,000]	[<u>\$392,525</u>]	[Plus 4.50% of cost over \$5,000,000]
[\$7,500,001 to \$9,999,999]		[Plus 4.30% of cost over \$7,500,000]

Design Fees

<i>[Design fees for rehabilitation /acquisition projects]</i>		
Approved Construction Costs	[Architect's] <u>Design Fee</u>	
\$0 to \$15,000	\$3,000	Subject to OPWDD approval
\$15,001 to \$50,000	\$3,000	Plus 17.50% of cost over \$15,000
\$50,001 to \$100,000	\$9,125	Plus 15.50% of cost over \$50,000
\$100,001 to \$150,000	\$16,875	Plus 12.50% of cost over \$100,000
\$150,001 to \$200,000	\$23,125	Plus 10.00% of cost over \$150,000
\$200,001 to \$250,000	\$28,125	Plus 8.0% of cost over \$200,000
\$250,001 to \$300,000	\$32,125	Plus 4.75% of cost over \$250,000
\$300,001 to \$350,000	\$34,500	Plus 10.80% of cost over \$300,000
\$350,001 to \$400,000	\$39,900	Plus 10.60% of cost over \$350,000
\$400,001 to \$450,000	\$45,200	Plus 10.40% of cost over \$400,000
\$450,001 to \$500,000	\$50,400	Plus 10.20% of cost over \$450,000
\$500,001 to \$550,000	\$55,500	Plus 10% of cost over \$500,000
\$550,001 to \$600,000	\$60,500	Plus 9.80% of cost over \$550,000
\$600,001 to \$650,000	\$65,400	Plus 9.60% of cost over \$600,000
\$650,001 to \$700,000	\$70,200	Plus 9.40% of cost over \$650,000
\$700,001 to \$750,000	\$74,900	Plus 9.20% of cost over \$700,000
\$750,001 to \$1,000,000	\$79,500	Plus 10.20% of cost over

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

		\$750,000
\$1,000,001 to \$1,500,000	\$105,000	Plus 9.90% of cost over \$1,000,000
\$1,500,001 to \$2,000,000	\$154,500	Plus 9.90% of cost over \$1,500,000
\$2,000,001 to \$2,500,000	\$204,000	Plus 9.20% of cost over \$2,000,000
\$2,500,001 to \$3,000,000	\$250,000	Plus 7.60% of cost over \$2,500,000
\$3,000,001 to \$3,500,000	\$288,000	Plus 7.50% of cost over \$3,000,000
\$3,500,001 to \$4,000,000	\$325,500	Plus 6.90% of cost over \$3,500,000
\$4,000,001 to \$4,500,000	\$360,000	Plus 6.30% of cost over \$4,000,000
\$4,500,001 to \$5,000,000	\$391,500	Plus 5.70% of cost over \$4,500,000
\$5,000,001 to \$5,500,000	\$420,000	Plus 5.10% of cost over \$5,000,000
\$5,500,001 to \$6,000,000	\$445,500	Plus 4.50% of cost over \$5,500,000
\$6,000,001 to \$7,000,000	\$468,000	Plus 5.70% of cost over \$6,000,000
\$7,000,001 to \$8,000,000	\$525,000	Plus 3.50% of cost over \$7,000,000
\$8,000,001 to \$9,000,000	\$566,000	Plus 2.50% of cost over \$8,000,000
\$9,000,001 to \$9,999,999	\$585,000	Plus 1.50% of cost over \$9,000,000

Soft costs

<i>[Soft costs] Limited to the lesser of actual cost or threshold</i>
Site survey \$500 for existing site or \$5,000 (new construction)
Builders risk insurance \$2,000 for existing site, or \$4,000 (new construction)
Property casualty insurance \$2,000
Bank site inspection \$5,100 (new construction)
Performance Bond at 3% of the approved rehabilitation costs over \$99,999
<u>Soil inspection at amount approved by OPWDD</u>
<u>Clerk of the works at amount approved by OPWDD</u>
<u>Security at amount approved by OPWDD</u>

Note: Clause 641-1.3(c)(5)(iv)(a) is unchanged

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

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Clause 641-1.3(c)(5)(iv)(b) is amended as follows:**

(b) Costs of residential acquisitions are included in the rate at the lesser of the provider's actual cost, or the thresholds [described below.] The threshold [is based on the number of units of certified capacity and] includes the costs of building, land and rehabilitation costs (excluding contingency). [The high needs threshold is limited to acquisitions involving rehabilitation of the property for populations needing specialized adaptations for physical and or behavioral health needs as determined by OPWDD.]

- **Clause 641-1.3(c)(5)(iv)(c) is amended as follows:**

(c) For renovation costs in existing leased sites, allowable costs are limited to the lesser of the provider's actual costs or the threshold values listed. In addition, where [required by contract] approved by OPWDD, the provider is eligible for an additional allowance for contingency funds to address renovation cost overages with a limit of the lesser of actual cost overage or ten percent of the contract cost.

- **Clause 641-1.3(c)(5)(iv)(d) is deleted as follows:**

[(d) Allowable soft costs may include site survey, soil inspection, builder's risk insurance, and performance bond and are limited to the thresholds described herein.]

- **A new subparagraph 641-1.3(c)(5)(v) is added as follows:**

(v) Renovations of existing provider owned residential programs shall be funded through the Residential Reserve for Replacement (RRR).

- **Subparagraph 641-1.3(c)(6)(ii) is amended as follows:**

(ii) Supplemental security income, as determined by subparagraph 671.7(a)(9)(xxi) of this Title, annualized and multiplied by [three-hundred sixty-five, or in the case of a leap year three hundred six, such product to be multiplied by] a provider's initial period rate sheet capacity.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Subparagraph 641-1.3(c)(6)(iv) is amended as follows:**

(iv) The sum of subparagraphs (ii) and (iii) of this paragraph shall be deducted from the amount determined pursuant to subparagraph (i) of this paragraph. If such amount is negative, the reimbursement offset amount will be added to a provider's total provider operating [reimbursement] revenue-adjusted, as calculated in [subparagraph (i) of this] subparagraph (1)(xxix) of this subdivision. [, shall be reduced by such amount.] If such amount is positive, a provider shall receive the state supplemental [dollars in that] amount multiplied by the statewide budget neutrality factor for state supplement as calculated below.

Statewide budget neutrality factor for state supplement, which shall mean the sum of the Total reimbursement from all provider rate sheets in effect on June 30, 2014 less the sum of total provider operating revenue-adjusted as calculated in subparagraph (1)(xxix) of this subdivision plus reimbursement offset amount as calculated in subparagraph (iv) of this paragraph for all providers, divided by the sum of the State Supplement for all providers, as calculated pursuant to subparagraph (iv) of this paragraph.

If the sum of the State Supplement from all provider rate sheets in effect on June 30, 2014 is lower than the sum of the state supplement for all providers as calculated pursuant to subparagraph (iv) of this paragraph then the Statewide budget neutrality factor shall be applied. If such sum is greater, then no statewide budget neutrality factor for state supplement shall be applied.

- **Subdivision 641-1.3(d) is amended as follows**

(d) Components of rates [Rates] for residential habilitation provided in supportive community residences.

Note: The rest of this subdivision is unchanged except for the provisions noted below.

- **Subparagraph 641-1.3(d)(1)(iii) is amended as follows:**

(iii) Regional average program support component, which shall mean the sum of transportation related-participant staff travel, participant incidentals, expensed adaptive equipment, sub-contract raw materials, participant wages-non-contract, participant wages-contract, participant fringe benefits, staff development, supplies and materials-non-household, other-OTPS, lease/rental vehicle, depreciation-vehicle, interest-vehicle, other-equipment, other than to/from transportation allocation, salaried support dollars (excluding housekeeping and maintenance staff) and salaried program administration dollars for the base year for each provider of a DOH region, aggregated by all such providers in such region. Such sum shall be divided by the total base year salaried direct care dollars for all providers in a DOH region, and then multiplied by the applicable regional average direct care wage as determined pursuant to subparagraph (i) of this paragraph.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Subparagraph 641-1.3(d)(1)(v) is amended as follows:**

(v) Regional average general and administrative component, which shall mean the sum of the insurance-general and [provider] agency administration allocation for the base year for each provider in a DOH region, aggregated for all such providers in such region, divided by (the sum of total program/site costs and other than to/from transportation allocation, less the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, total property-provider paid, housekeeping and maintenance staff, salaried clinical dollars and contracted clinical dollars [and program administration property] for the base year for each provider of a DOH region, aggregated for all such [facilities] providers in such region). The regional average direct care hourly rate-exclusive of general and administrative costs, as determined pursuant to subparagraph (iv) of this paragraph, shall then be divided by (one minus the applicable regional average general and administrative quotient), from which the applicable regional average direct care wage hourly rate-excluding general and administrative, as computed in subparagraph (iv) of this paragraph shall be subtracted.

- **Subparagraph 641-1.3(d)(1)(viii) is amended as follows:**

(viii) Provider average employee-related component, which shall mean the sum of vacation leave accruals and fringe benefits of each provider, divided by a[n] provider's salaried direct care dollars, such quotient to be multiplied by the provider average direct care wage as computed in subparagraph (vii) of this paragraph.

- **Subparagraph 641-1.3(d)(1)(ix) is amended as follows:**

(ix) Provider average program support component, which shall mean the sum of transportation related-participant, staff travel, participant incidentals, expensed adaptive equipment, sub-contract raw materials, participant wages-non-contract, participant wages-contract, participant fringe benefits, staff development, supplies and materials-non-household, other-OTPS, lease/rental vehicle, depreciation-vehicle, interest-vehicle, other-equipment, other than to/from transportation allocation, salaried support dollars (excluding housekeeping and maintenance staff) and salaried program administration dollars of a[n] provider. Such sum shall be divided by the salaried direct care dollars of such provider and such quotient shall be multiplied by the provider average direct care wage as computed in subparagraph (vii) of this paragraph.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Subparagraph 641-1.3(d)(1)(xi) is amended as follows:**

(xi) Provider average general and administrative component, which shall mean the sum of insurance-general and [provider] agency administration allocation for a provider, such sum to be divided by (the sum of total program/site costs and other than to/from transportation allocation less the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, insurance – property and casualty, total property-provider paid, housekeeping and maintenance staff, salaried clinical dollars and contracted clinical dollars [and program administration property for a facility] for the base year for a provider). The provider average direct care hourly rate-excluding general and administrative, as computed in subparagraph (x) of this paragraph, shall then be divided by (one minus the applicable [regional] provider average general and administrative quotient), from which the provider average direct care wage hourly rate-excluding general and administrative, as computed in subparagraph (x) of this paragraph, shall be subtracted.

- **Subparagraph 641-1.3(d)(1)(xiv) is amended as follows:**

(xiv) Statewide average direct hours per provider, which shall mean the product of the statewide average direct care hours per person, as determined pursuant to subparagraph (xiii) of this paragraph, the applicable E-Score factor of a[n] provider, the applicable provider acuity factor and the applicable provider rate sheet capacity for the base year, as pro-rated for partial year sites.

- **Subparagraph 641-1.3(d)(1)(xix) is amended as follows:**

(xix) Provider salaried clinical hours, which shall mean the quotient of base year salaried clinical hours of a[n] provider, divided by the rate sheet capacity for the base year, pro-rated for partial year sites, such quotient to be multiplied by the rate sheet capacity for the initial period for such provider.

- **Subparagraph 641-1.3(d)(1)(xxviii) is amended as follows:**

(xxviii) Statewide budget neutrality adjustment factor for operating dollars, which shall mean the quotient of the operating revenue from all provider rate sheets in effect on June [thirtieth, two thousand fourteen] 30, 2014, divided by provider operating revenue for all providers, as computed in subparagraph (xxvii) of this paragraph.

- **Paragraph 641-1.3(d)(2) is amended as follows:**

(2) Alternative operating cost component. For providers that did not submit a cost report or submitted a cost report that was incomplete for residential habilitation provided in a supportive

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

community residence for the base year, the final monthly operating rate shall be a regional monthly operating rate. This rate shall be the sum of:

- (i) The product of the applicable regional average direct care hourly rate, as determined pursuant to subparagraph (vi) of paragraph (1) of this subdivision, and the applicable regional average direct care hours, which shall mean the quotient of base year salaried and contracted direct care hours for each provider of a DOH region, aggregated for all such providers in such region, divided by the rate sheet capacities for the base year, pro-rated for partial year sites for each provider of a DOH region, aggregated for all such providers in such region divided by twelve.
- (ii) The product should then be added to the product of the applicable regional average clinical hourly wage, as determined pursuant to subparagraph (xvii) of paragraph (1) of this subdivision and the applicable regional average clinical hours, which shall mean the quotient of salaried and contracted clinical hours for the base year for each provider of a DOH region, aggregated for all such providers in such region, divided by the rate sheet capacities for the base year, pro-rated for partial year sites for each provider of a DOH region, aggregated for all such providers in such region divided by twelve.

Such sum shall be multiplied by the statewide budget neutrality adjustment factor for operating dollars, as determined pursuant to subparagraph (xxviii) of paragraph (1) of this subdivision to determine the final regional monthly operating rate.

- **Paragraph 641-1.3(d)(3) is amended as follows:**

(3) Facility cost component. The facility cost component shall include allowable facility costs identified in the consolidated fiscal reports and shall be inclusive of the following components:

(i) Provider facility reimbursement, which shall mean the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, insurance – property and casualty, housekeeping and maintenance staff, and program administration property from the base year, divided by rate sheet capacity for the base year, pro-rated for partial year sites and such sum multiplied by rate sheet capacity for the initial period.

[(ii) Statewide budget neutrality adjustment factor for facility reimbursement, which shall mean the quotient of total room and board reimbursement (excluding provider paid property) from all provider rate sheets in effect on June thirtieth, two thousand fourteen, divided by total provider facility reimbursement, as computed in subparagraph (i) of this paragraph.]

[(iii) Total provider facility revenue – adjusted, which shall mean the product of the provider facility reimbursement, as determined pursuant to subparagraph (i) of this paragraph and the

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

statewide budget neutrality adjustment factor for facility reimbursement, as determined pursuant to subparagraph (ii) of this paragraph.]

The final monthly [facility rate] State Supplement shall be [determined by dividing the total provider facility revenue-adjusted, as determined pursuant to subparagraph (iii) of this paragraph, by twelve] calculated in accordance with paragraph (6) of this subdivision, divided by the applicable rate sheet capacity for the initial period and such quotient to be further divided by twelve.

- **Paragraph 641-1.3(d)(4) is amended as follows:**

(4) Alternative facility cost component. For providers that did not submit a cost report or submitted a cost report that was incomplete for residential habilitation services provided in a supportive community residence for the base year, the final monthly facility rate shall be a regional monthly facility rate which shall mean the quotient of the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation, insurance – property and casualty, housekeeping and maintenance staff, and program administration property for the base year divided by the rate sheet capacity for the base year, prorated for partial year sites for each provider of a DOH region, aggregated for all such providers in such region. Such quotient shall be multiplied by rate sheet capacity for the initial year. [Such product shall be multiplied by the statewide budget neutrality adjustment factor for facility reimbursement, as determined pursuant to subparagraph (ii) of paragraph (3) of this subdivision and divided by twelve.]

The final monthly State Supplement shall be calculated in accordance with paragraph (6) of this subdivision, divided by twelve.

- **Subparagraph 641-1.3(d)(5)(i) is amended as follows:**

(i) General principles. Capital costs shall be included in the rate at the lower of the amount determined under Subpart 635-6 of this Title or the thresholds determined pursuant to subparagraph (iv) of this paragraph. DOH may retroactively adjust the capital component.

Note: The provisions of this paragraph do not apply to capital approved by OPWDD prior to July 1, 2014.

- **Subparagraph 641-1.3(d)(5)(iii) is amended as follows:**

(iii) Cost verified rates. Actual costs shall be verified by OPWDD and supporting documentation of such costs shall be submitted to OPWDD, which shall transmit such information to DOH. 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

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

under this subparagraph exceed the threshold rates established in subparagraph (iv) of this paragraph. Capital costs may be amortized over a maximum fifteen year period for acquisition of properties or the life of the lease for leased sites, but in no circumstance shall the amortization exceed the length of the loan taken. Amortization shall begin upon certification by the provider of such costs. For community residences start-up costs may be amortized over a one year period [and day habilitation start up costs may be amortized over a five year period] beginning with certification. Limitations on reimbursement for such costs shall be the following:

Note: The rest of this subparagraph is unchanged except for clauses (a), (d), (e), (g), (h), and (l).

- **Clause 641-1.3(d)(5)(iii)(a) is amended as follows:**

(a) Allowable acquisition, rehabilitation and new construction costs shall be determined in accordance with Subpart 635-6 of this Title. Acquisition costs are limited to the appraised value and acquisition and construction cannot exceed regionally based [Hard Caps and] thresholds. [; thresholds are based on number of individuals that reside in the residence. Residential Reserve for Replacement (RRR) funding is used for renovations/improvements in existing sites.]

- **Clause 641-1.3(d)(5)(iii)(d) is amended as follows:**

(d) Design [costs-architectural] fees. Design fees may not exceed five percent above the [DASNY architectural] fee schedule. [and is based on the lesser of the architect's estimated feasibility or actual bid plus approved change orders.]

- **Clause 641-1.3(d)(5)(iii)(e) is amended as follows:**

(e) Financing interest rates. Fixed rates are limited to prime plus four percent. Variable rates are limited to no more than 5% of the initial rate. Mortgages [which] that do not amortize over the nominal mortgage term are not allowable.

- **Clause 641-1.3(d)(5)(iii)(g) is amended as follows:**

(g) Loan closing costs. Reimbursement is limited to actual closing costs and cannot exceed more than twelve percent of the mortgage amount. Site survey or soil inspection costs [and] are not included.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Clause 641-1.3(d)(5)(iii)(h) is amended as follows:**

(h) Other costs. Maximum of \$20,000, [with defined threshold of other legal fees limited to five percent over the cost of bank attorney fees] Other costs may include but are not limited to legal and accounting fees.

- **Clause 641-1.3(d)(5)(iii)(l) is amended as follows:**

(l) Soft costs. Allowable soft costs may include site survey, soil inspection, builder's risk insurance, property casualty insurance, performance bond, clerks of the works, security and bank site inspection.

- **Subparagraph 641-1.3(d)(5)(iv), including charts below, is amended as follows:**

(iv) Thresholds. [Thresholds shall be the maximum allowable reimbursement for capital costs Thresholds for renovations are not inclusive of renovations specific to maintaining an existing site. These renovations shall be funded through the Residential Reserve for Replacement (RRR).] Thresholds shall be determined pursuant to the following [schedules]:

Residential rental sites

<i>Threshold for Residential Rental sites- leases less than 5-year term</i>				
Counties	certified capacity of 1	certified capacity of 2	certified capacity of 3	Each Increase in Certified Capacity by 1
Orange, Rockland, Putnam, Dutchess, Ulster	\$11,692	\$13,853	\$16,903	\$3,050
Nassau, Suffolk and Westchester Counties	\$15,251	\$18,809	\$22,495	\$3,686
New York City except Manhattan	\$21,351	\$24,909	\$28,468	\$3,558
Manhattan	\$28,341	\$32,153	\$35,585	\$3,431
All other Counties	\$9,023	\$10,548	\$12,200	\$1,652
<i>Heat Allowance For rentals which include Heat</i>	+ \$900	+ \$1,200	+ \$1,500	<i>4 or more + \$1,500 + \$300 additional</i>

<i>Threshold for leases greater than 5 years</i>	
New York City	\$13,217 per [unit of certified capacity] <u>bed</u>
Westchester, Nassau, Rockland and Suffolk Counties	\$10,548 per [unit of certified capacity] <u>bed</u>

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

Putnam, Orange, Dutchess and Ulster Counties	\$7,752 per [unit of certified capacity] <u>bed</u>
Upstate (all other counties)	\$5,465 per [unit of certified capacity] <u>bed</u>

Allowable renovation costs for new/relocating residential sites with leases less than 5- year term

<i>Renovation costs for residential leases less than 5 years</i>	
Counties	Threshold
New York City and the counties of Suffolk, Rockland Nassau, Westchester, Putnam, Orange, Dutchess and Ulster	Contract Costs for Renovation: The lesser of \$5,000 per [person] <u>bed</u> , or \$25,000 per unit[.]
	Contingency Allowance: where required by contract, an additional allowance for contingency funds to address cost overages with a limit of the lesser of actual cost overage or 10% of the contract cost
All other Counties	Contract Costs for Renovation: The lesser of \$3,000 per [person] <u>bed</u> , or \$15,000 per unit
	Contingency Allowance: where required by contract, an additional allowance for contingency funds to address cost overages with a limit of the lesser of actual cost overage or 10% of the contract cost

Capital Thresholds for Residential Acquisitions- New or Relocation
(including Condominium and Cooperative Apartments)

County	[Capital threshold Cost of UNIT OF Certified Capacity] [Average Needs Capacity]	Capital threshold Cost per [UNIT OF Certified Capacity] <u>Bed</u> [High Needs Threshold]
Manhattan	[\$212,021]	\$228,161
Bronx, Kings, Queens, Richmond, Nassau and Westchester	[\$145,645]	\$159,182
Putnam, Rockland, Suffolk	[\$123,835]	\$135,424
Columbia, Dutchess, Orange, Sullivan, Ulster	[\$109,010]	\$117,605
Albany, Greene, Rensselaer, Saratoga, Schenectady, Warren	[\$75,411]	\$84,343
Upstate (all other)	[\$69,397]	\$77,622

Renovation costs in existing [leased] sites

County	Renovation Threshold - Existing [Leased] Sites
--------	------------------------------------------------

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

	Cost per [unit of certified capacity] <u>Bed</u>
Manhattan	\$ 114,081
Bronx, Kings, Queens, Richmond, Nassau and Westchester	\$ 79,591
Putnam, Rockland, Suffolk	\$ 67,712
Columbia, Dutchess, Orange, Sullivan, Ulster	\$ 58,803
Albany, Greene, Rensselaer, Saratoga, Schenectady, Warren	\$ 42,172
Upstate (all other)	\$ 38,811

[Capital Review Guidelines for] Residential Start-Up Allowance

<i>Residential Start-up Allowance per bed</i>			
Counties	[Supportive] <u>New</u>	[Supervised]	Relocations
New York City, Suffolk, Nassau, Westchester, Putnam, Rockland	\$5,100	[5,800]	\$1,000
Rest of the State	\$4,900	[5,500]	\$900

Pre-Operational Rent Allowance

<i>Pre-operational rent allowance</i>		
Program type	[Supervised and Supportive Community Residences without] <u>Without Renovations</u>	[Supportive or Supervised with] <u>With Renovations</u>
Pre-operational rent allowance	1 month	[Up to] 3 months

[DASNY Architect/Engineer Design Fee Schedule]

<i>[Design fees for New/Ground Up construction projects]</i>		
[Approved Construction Costs]	[Architect's Fee]	
[To \$70,000]	[\$6,125]	[8.75% of cost]
[\$70,001 to \$100,000]	[\$8,525]	[Plus 8.00% of cost over \$70,000]
[\$100,001-\$150,000]	[\$12,275]	[Plus 7.50% of cost over \$100,000]
[\$150,001 to \$250,000]	[\$19,275]	[Plus 7.00% of cost over \$150,000]
[\$250,001 to \$500,000]	[\$35,525]	[Plus 6.50% of cost over \$250,000]
[\$500,001 to \$1,000,000]	[\$66,025]	[Plus 6.10% of cost over \$500,000]
[\$1,000,001 to	[\$124,025]	[Plus 5.80% of cost over

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

2,000,000]		\$1,000,000]
[\$2,000,001 to [\$3,500,000]	[\$205,025]	[Plus 5.40% of cost over \$2,000,000]
[\$3,500,001 to \$5,000,000]	[\$280,025]	[Plus 5.00% of cost over \$3,500,000]
[\$5,000,001 to \$7,500,000]	[\$392,525]	[Plus 4.50% of cost over \$5,000,000]
[\$7,500,001 to \$9,999,999]		[Plus 4.30% of cost over \$7,500,000]

Design Fees

<i>[Design fees for rehabilitation/acquisition projects]</i>		
Approved Construction Costs	[Architect's] <u>Design</u> Fee	
\$0 to \$15,000	\$3,000	Subject to OPWDD approval
\$15,001 to \$50,000	\$3,000	Plus 17.50% of cost over \$15,000
\$50,001 to \$100,000	\$9,125	Plus 15.50% of cost over \$50,000
\$100,001 to \$150,000	\$16,875	Plus 12.50% of cost over \$100,000
\$150,001 to \$200,000	\$23,125	Plus 10.00% of cost over \$150,000
\$200,001 to \$250,000	\$28,125	Plus 8.0% of cost over \$200,000
\$250,001 to \$300,000	\$32,125	Plus 4.75% of cost over \$250,000
\$300,001 to \$350,000	\$34,500	Plus 10.80% of cost over \$300,000
\$350,001 to \$400,000	\$39,900	Plus 10.60% of cost over \$350,000
\$400,001 to \$450,000	\$45,200	Plus 10.40% of cost over \$400,000
\$450,001 to \$500,000	\$50,400	Plus 10.20% of cost over \$450,000
\$500,001 to \$550,000	\$55,500	Plus 10% of cost over \$500,000
\$550,001 to \$600,000	\$60,500	Plus 9.80% of cost over \$550,000
\$600,001 to \$650,000	\$65,400	Plus 9.60% of cost over \$600,000
\$650,001 to \$700,000	\$70,200	Plus 9.40% of cost over \$650,000
\$700,001 to \$750,000	\$74,900	Plus 9.20% of cost over \$700,000
\$750,001 to \$1,000,000	\$79,500	Plus 10.20% of cost over \$750,000
\$1,000,001 to \$1,500,000	\$105,000	Plus 9.90% of cost over \$1,000,000
\$1,500,001 to \$2,000,000	\$154,500	Plus 9.90% of cost over \$1,500,000

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

\$2,000,001 to \$2,500,000	\$204,000	Plus 9.20% of cost over \$2,000,000
\$2,500,001 to \$3,000,000	\$250,000	Plus 7.60% of cost over \$2,500,000
\$3,000,001 to \$3,500,000	\$288,000	Plus 7.50% of cost over \$3,000,000
\$3,500,001 to \$4,000,000	\$325,500	Plus 6.90% of cost over \$3,500,000
\$4,000,001 to \$4,500,000	\$360,000	Plus 6.30% of cost over \$4,000,000
\$4,500,001 to \$5,000,000	\$391,500	Plus 5.70% of cost over \$4,500,000
\$5,000,001 to \$5,500,000	\$420,000	Plus 5.10% of cost over \$5,000,000
\$5,500,001 to \$6,000,000	\$445,500	Plus 4.50% of cost over \$5,500,000
\$6,000,001 to \$7,000,000	\$468,000	Plus 5.70% of cost over \$6,000,000
\$7,000,001 to \$8,000,000	\$525,000	Plus 3.50% of cost over \$7,000,000
\$8,000,001 to \$9,000,000	\$566,000	Plus 2.50% of cost over \$8,000,000
\$9,000,001 to \$9,999,999	\$585,000	Plus 1.50% of cost over \$9,000,000

Soft costs

<i>[Soft costs] Limited to the lesser of actual cost or threshold</i>
Site survey \$500 for existing site or \$5,000 (new construction)
Builders risk insurance \$2,000 for existing site, or \$4,000 (new construction)
Property casualty insurance \$2,000
Bank site inspection \$5,100 (new construction)
Performance Bond at 3% of the approved rehabilitation costs over \$99,999
<u>Soil inspection at amount approved by OPWDD</u>
<u>Clerk of the works at amount approved by OPWDD</u>
<u>Security at amount approved by OPWDD</u>

Note: Clause 641-1.3(d)(5)(iv)(a) is unchanged

- **Clause 641-1.3(d)(5)(iv)(b) is amended as follows:**

(b) Costs of residential acquisitions are included in the rate at the lesser of the provider's actual cost, or the thresholds, [described below.] The threshold [is based on the number of

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

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

units of certified capacity and] includes the costs of building, land and rehabilitation costs (excluding contingency). [The high needs threshold is limited to acquisitions involving rehabilitation of the property for populations needing specialized adaptations for physical and or behavioral health needs as determined by OPWDD.]

- **Clause 641-1.3(d)(5)(iv)(c) is amended as follows:**

(c) For renovation costs in existing leased sites, allowable costs are limited to the lesser of the provider's actual costs or the threshold values listed. In addition, where [required by contract] approved by OPWDD, the provider is eligible for an additional allowance for contingency funds to address renovation cost overages with a limit of the lesser of actual cost overage or ten percent of the contract cost.

- **Clause 641-1.3(d)(5)(iv)(d) is deleted as follows:**

[(d) Allowable soft costs may include site survey, soil inspection, builder's risk insurance, and performance bond and are limited to the thresholds described herein.]

- **A new subparagraph 641-1.3(d)(5)(v) is added as follows:**

(v) Renovations of existing provider owned residential programs shall be funded through the Residential Reserve for Replacement (RRR).

- **Subparagraph 641-1.3(d)(6)(ii) is amended as follows:**

(ii) Supplemental security income, as determined by subparagraph 671.7(a)(9)(xxi) of this Title, annualized and multiplied by [three-hundred sixty-five, or in the case of a leap year three hundred six, such product to be multiplied by] a provider's initial period rate sheet capacity.

- **Subparagraph 641-1.3(d)(6)(iv) is amended as follows:**

(iv) The sum of subparagraphs (ii) and (iii) of this paragraph shall be deducted from the amount determined pursuant to subparagraph (i) of this paragraph. If such amount is negative, the reimbursement offset amount will be added to a provider's total provider operating [reimbursement] revenue-adjusted, as calculated in [subparagraph (i)of this] subparagraph (1)(xxix) of this subdivision. [, shall be reduced by such amount.] If such amount is positive, a provider shall receive the state supplemental [dollars in that] amount multiplied by the statewide budget neutrality factor for state supplement as calculated below.

Statewide budget neutrality factor for state supplement, which shall mean the sum of the Total reimbursement from all provider rate sheets in effect on June 30, 2014 less the sum of total provider operating revenue-adjusted as calculated in subparagraph (1)(xxix) of this subdivision plus reimbursement offset amount as calculated in subparagraph (iv) of this paragraph for all

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

providers, divided by the sum of the State Supplement for all providers, as calculated pursuant to subparagraph (iv) of this paragraph.

If the sum of the State Supplement from all provider rate sheets in effect on June 30, 2014 is lower than the sum of the state supplement for all providers as calculated pursuant to subparagraph (iv) of this paragraph then the Statewide budget neutrality factor shall be applied. If such sum is greater, then no statewide budget neutrality factor for state supplement shall be applied.

- **Subparagraph 641-1.3(e)(1)(iii) is amended as follows:**

(iii) Regional average program support component, which shall mean the sum of transportation related-participant staff travel, participant incidentals, expensed adaptive equipment, sub-contract raw materials, participant wages-non-contract, participant wages-contract, participant fringe benefits, staff development, supplies and materials-non-household, other-OTPS, lease/rental vehicle, depreciation-vehicle, interest-vehicle, other-equipment, other than to/from transportation allocation, salaried support dollars (excluding housekeeping and maintenance staff) and salaried program administration dollars for the base year for each provider of a DOH region, aggregated by all such providers in such region. Such sum shall be divided by the total base year salaried direct care dollars of all providers in a DOH region, and then multiplied by the applicable regional average direct care wage as determined pursuant to subparagraph (i) of this paragraph.

- **Subparagraph 641-1.3(e)(1)(v) is amended as follows:**

(v) Regional average general and administrative component, which shall mean the sum of the insurance-general and [provider] agency administration allocation for the base year for each provider in a DOH region, aggregated for all such providers in such region, divided by (the sum of total program/site costs and other than to/from transportation allocation, less the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, total property-provider paid, housekeeping and maintenance staff, salaried clinical dollars and contracted clinical dollars [and program administration property] for the base year for each provider of a DOH region, aggregated for all providers in such region). The regional average direct care hourly rate-exclusive of general and administrative costs, as determined pursuant to subparagraph (iv) of this paragraph, shall then be divided by (one minus the applicable regional average general and administrative quotient), from which the applicable regional average direct care wage hourly rate-excluding general and administrative, as computed in subparagraph (iv) of this paragraph shall be subtracted.

- **Subparagraph 641-1.3(e)(1)(viii) is amended as follows:**

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

(viii) Provider average employee-related component, which shall mean the sum of vacation leave accruals and fringe benefits for the base year for each provider, divided by base year salaried direct care dollars of a[n] provider, such quotient to be multiplied by the provider average direct care wage as computed in subparagraph (vii) of this paragraph.

- **Subparagraph 641-1.3(e)(1)(ix) is amended as follows:**

(ix) Provider average program support component, which shall mean the sum of transportation related-participant, staff travel, participant incidentals, expensed adaptive equipment, sub-contract raw materials, participant wages-non-contract, participant wages-contract, participant fringe benefits, staff development, supplies and materials-non-household, other-OTPS, lease/rental vehicle, depreciation-vehicle, interest-vehicle, other-equipment, other than to/from transportation allocation, salaried support dollars (excluding housekeeping and maintenance staff) and salaried program administration dollars for the base year for a[n] provider. Such sum shall be divided by the base year salaried direct care dollars of such provider and such quotient shall be multiplied by the provider average direct care wage as computed in subparagraph (vii) of this paragraph.

- **Subparagraph 641-1.3(e)(1)(xi) is amended as follows:**

(xi) Provider average general and administrative component, which shall mean the sum of insurance-general and[provider] agency administration allocation for the base year for a[n] provider, such sum to be divided by (the sum of total program/site costs and other than to/from transportation allocation less the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, insurance – property and casualty, total property-provider paid, housekeeping and maintenance staff, salaried clinical dollars and contracted clinical dollars [and program administration property] for a provider) for the base year. The provider average direct care hourly rate-excluding general and administrative, as computed in subparagraph (x) of this paragraph, shall then be divided by (one minus the applicable [regional] provider average general and administrative quotient), from which the provider average direct care wage hourly rate-excluding general and administrative, as computed in subparagraph (x) of this paragraph, shall be subtracted.

- **Subparagraph 641-1.3(e)(1)(xvi) is amended as follows:**

(xvi) Provider salaried clinical hours, which shall mean the quotient of base year salaried clinical hours of a[n] provider, divided by the billed units for the base year, such quotient to be multiplied by the rate sheet units for the initial period for such provider.

- **Subparagraph 641-1.3(e)(1)(xxiv) is amended as follows:**

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

(xxiv) Provider facility reimbursement, which shall mean the sum of food, repairs and maintenance, utilities, expensed equipment, household supplies, telephone, lease/rental equipment, depreciation equipment, insurance – property and casualty, housekeeping and maintenance staff, and program administration property the base year for a[n] provider and such sum to be divided by provider billed units for the base year. Such sum to be multiplied by rate sheet units for the initial period.

- **Subparagraph 641-1.3(e)(1)(xxvi) is amended as follows:**

(xxvi) Provider operating revenue, which shall mean the sum of provider reimbursement from direct care hourly rate, as determined pursuant to subparagraph (xxi) of this paragraph, the provider reimbursement from clinical hourly wage, as determined pursuant to subparagraph (xxii) of this paragraph, the provider reimbursement from contracted clinical hourly wage, as determined pursuant to subparagraph (xxiii) of this paragraph, the provider facility [revenue] reimbursement, as determined pursuant to subparagraph (xxiv) of this paragraph, and provider to/from transportation reimbursement, as determined pursuant to subparagraph (xxv) of this paragraph.

- **Subparagraph 641-1.3(e)(1)(xxvii) is amended as follows:**

(xxvii) Statewide budget neutrality adjustment factor for operating dollars, which shall mean the quotient of all provider rate sheets in effect on June [thirtieth two thousand fourteen] 30, 2014, divided by provider operating revenue, as determined pursuant to subparagraph (xxvi) of this paragraph, for all providers.

(2) Alternative operating component. For providers that did not submit a cost report or submitted a cost report that was incomplete for day habilitation services for the base year, the final daily operating rate shall be a regional daily operating rate. This rate shall be the sum of:

Note: The rest of the paragraph is unchanged.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Subparagraph 641-1.3(e)(3)(i) is amended as follows:**

(i) General principles. The rate shall include capital costs at the lower of the amount determined under Subpart 635-6 of this Title or thresholds as determined pursuant to subparagraph (iv) of this paragraph. DOH may retroactively adjust the capital component.

Note: The provisions of this paragraph do not apply to capital approved by OPWDD prior to July 1, 2014.

- **Clause 641-1.3(e)(3)(iii)(d) is amended as follows:**

(d) Design [costs- architectural] fees. Design fees may not exceed five percent above the DASNY architectural] fee schedule. [and is based on the lesser of the architect's estimated feasibility or actual bid plus approved change orders.]

- **Clause 641-1.3(e)(3)(iii)(e) is amended as follows:**

(e) Equipment, furniture, supplies and miscellaneous. Based on the start-up allowance for [residential] day programs, and based on the threshold for day leased sites[)].

- **Clause 641-1.3(e)(3)(iii)(f) is amended as follows:**

(f) Financing interest rates. Fixed rates are limited to prime plus four percent. Variable rates are limited to no more than five percent of the initial rate. Mortgages [which] that do not amortize over the nominal mortgage term are not allowable.

- **Clause 641-1.3(e)(3)(iii)(h) is amended as follows:**

(h) Other costs. Maximum of \$20,000. [with defined threshold of other legal fees limited to five percent over the cost of bank attorney fees] Other costs may include but are not limited to legal and accounting fees.

- **Clause 641-1.3(e)(3)(iii)(h) is amended as follows:**

(l) Soft costs. Allowable soft costs may include site survey, soil inspection, builder's risk insurance, property casualty insurance, performance bond, clerks of the works, security and bank site inspection.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- **Subparagraph 641-1.3(e)(3)(iv), including charts and clauses (a) and (b) below, is amended as follows:**

(iv) Thresholds. [Thresholds for renovations are not inclusive of renovations specific to maintaining an existing site. These renovations shall be funded through the Residential Reserve for Replacement (RRR).] Thresholds shall be determined pursuant to the following [schedules]:

Capital Thresholds for Day Program Leased Space- New Space/Site

<i>Threshold for Day <u>Program</u> Leased Space (Rentals)</i>	
County	Rental cost per square foot
Upstate (except where specified below)	\$13.34 per square foot
Albany, Rensselaer, Saratoga, Schenectady, Sullivan, Orange, Rockland, Ulster, Dutchess, Putnam, Monroe, Onondaga, and Erie	\$18.43 per square foot
Suffolk	\$22.88 per square foot
Nassau and Westchester	\$24.78 per square foot
New York City except Manhattan	\$27.96 per square foot
Manhattan	\$30.50 per square foot

Note: Capital Thresholds for Day Program Leased Space- New Space/Site. The threshold level is based on the cost per square foot and does not include heat, utilities or renovations. When heat and utility costs are included in the lease and are required to be paid to the landlord, the contract costs for heat and utilities shall be paid to the provider in addition to such thresholds.

Day Program Leased Space Renovation Thresholds

New/Relocations	NYC , Westchester and Nassau	\$8,100 [in per unit of] <u>x</u> certified capacity
	All other counties	\$6,100 [per unit of] <u>x</u> certified capacity
Expansion	NYC, Westchester and Nassau	\$8,100 [per unit of] <u>x</u> increase[d] <u>in</u> certified capacity
	All Other Counties	\$6,100 [per unit of] <u>x</u> increase[d] <u>in</u> certified capacity

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

Capital Thresholds for Day Program Acquisitions including Relocations

<i>Day Program Acquisition and Rehabilitation/New Construction Costs, Including relocations</i>	
Counties	Acquisition Thresholds
New York City	\$187 per square foot
Monroe, Ulster, Dutchess, Rockland, Westchester, Nassau, Orange, Suffolk, and Sullivan	\$161 per square foot
All other Counties	\$136 per square foot

[Capital Thresholds for] Day Program Renovation for existing [leased or owned] sites

<i>[Day Program Renovations for Existing Sites]</i>	
Counties	Acquisition Thresholds
New York City	\$ 93.50 <u>per square foot</u>
Monroe, Ulster, Dutchess, Rockland, Westchester, Nassau, Orange, Suffolk and Sullivan	\$ 80.50 <u>per square foot</u>
All other Counties	\$ 68.00 <u>per square foot</u>

Capital Thresholds for Day Program Start-Up Costs

<i>Day Program Start-Up Allowance</i>	
Pre-Operational Rent	Up to 3 months (pre-operational)
Pre-Operational Utilities/Taxes	Up to 3 months, \$10,000 maximum
Pre- Operational Staffing, <u>including staff training</u>	\$350 [per individual trended] x <u>certified capacity</u>
Pre- Operational Staffing FTEs, <u>including staff training</u>	4 FTEs, 6 weeks for admin, 2 weeks other staff
[Pre-operational Staff Train dollars]	[Included in "Pre-operational Staffing"]
[Pre- Operational Training FRE]	[Included in "Pre-operational Staffing"]
Pre- Operational Advertising	Included in "Pre-Operational Staffing"
Pre-Op Travel	Included in "Pre-Operational Staffing"
Pre- Operational Security Services	Included in "Miscellaneous"
Pre- Operational Furniture	Up to \$500 [per person] x <u>certified capacity</u>
Pre- Operational Equipment/Supply	Up to \$500 [per person] x <u>certified capacity</u>
[Other Reasonable and Necessary Pre-operational] <u>Miscellaneous</u>	Up to [\$3,500] <u>\$5,000</u> per site

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

[DASNY Architect/Engineer Design Fee Schedule]

<i>[Design fees for New/Ground Up construction projects]</i>		
[Approved Construction Costs]	[Architect's Fee]	
[To \$70,000]	[\$6,125]	[8.75% of cost]
[\$70,001 to \$100,000]	[\$8,525]	[Plus 8.00% of cost over \$70,000]
[\$100,001-\$150,000]	[\$12,275]	[Plus 7.50% of cost over \$100,000]
[\$150,001 to \$250,000]	[\$19,275]	[Plus 7.00% of cost over \$150,000]
[\$250,001 to \$500,000]	[\$35,525]	[Plus 6.50% of cost over \$250,000]
[\$500,001 to \$1,000,000]	[\$66,025]	[Plus 6.10% of cost over \$500,000]
[\$1,000,001 to 2,000,000]	[\$124,025]	[Plus 5.80% of cost over \$1,000,000]
[\$2,000,001 to \$3,500,000]	[\$205,025]	[Plus 5.40% of cost over \$2,000,000]
[\$3,500,001 to \$5,000,000]	[\$280,025]	[Plus 5.00% of cost over \$3,500,000]
[\$5,000,001 to \$7,500,000]	[\$392,525]	[Plus 4.50% of cost over \$5,000,000]
[\$7,500,001 to \$9,999,999]		[Plus 4.30% of cost over \$7,500,000]

Design Fee

<i>[Design fees for rehabilitation/acquisition projects]</i>		
Approved Construction Costs	[Architect's] <u>Design Fee</u>	
\$0 to \$15,000	\$3,000	Subject to OPWDD approval
\$15,001 to \$50,000	\$3,000	Plus 17.50% of cost over \$15,000
\$50,001 to \$100,000	\$9,125	Plus 15.50% of cost over \$50,000
\$100,001 to \$150,000	\$16,875	Plus 12.50% of cost over \$100,000
\$150,001 to \$200,000	\$23,125	Plus 10.00% of cost over \$150,000
\$200,001 to \$250,000	\$28,125	Plus 8.0% of cost over \$200,000
\$250,001 to \$300,000	\$32,125	Plus 4.75% of cost over \$250,000
\$300,001 to \$350,000	\$34,500	Plus 10.80% of cost over \$300,000
\$350,001 to \$400,000		Plus 10.60% of cost over

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

	\$39,900	\$350,000
\$400,001 to \$450,000	\$45,200	Plus 10.40% of cost over \$400,000
\$450,001 to \$500,000	\$50,400	Plus 10.20% of cost over \$450,000
\$500,001 to \$550,000	\$55,500	Plus 10% of cost over \$500,000
\$550,001 to \$600,000	\$60,500	Plus 9.80% of cost over \$550,000
\$600,001 to \$650,000	\$65,400	Plus 9.60% of cost over \$600,000
\$650,001 to \$700,000	\$70,200	Plus 9.40% of cost over \$650,000
\$700,001 to \$750,000	\$74,900	Plus 9.20% of cost over \$700,000
\$750,001 to \$1,000,000	\$79,500	Plus 10.20% of cost over \$750,000
\$1,000,001 to \$1,500,000	\$105,000	Plus 9.90% of cost over \$1,000,000
\$1,500,001 to \$2,000,000	\$154,500	Plus 9.90% of cost over \$1,500,000
\$2,000,001 to \$2,500,000	\$204,000	Plus 9.20% of cost over \$2,000,000
\$2,500,001 to \$3,000,000	\$250,000	Plus 7.60% of cost over \$2,500,000
\$3,000,001 to \$3,500,000	\$288,000	Plus 7.50% of cost over \$3,000,000
\$3,500,001 to \$4,000,000	\$325,500	Plus 6.90% of cost over \$3,500,000
\$4,000,001 to \$4,500,000	\$360,000	Plus 6.30% of cost over \$4,000,000
\$4,500,001 to \$5,000,000	\$391,500	Plus 5.70% of cost over \$4,500,000
\$5,000,001 to \$5,500,000	\$420,000	Plus 5.10% of cost over \$5,000,000
\$5,500,001 to \$6,000,000	\$445,500	Plus 4.50% of cost over \$5,500,000
\$6,000,001 to \$7,000,000	\$468,000	Plus 5.70% of cost over \$6,000,000
\$7,000,001 to \$8,000,000	\$525,000	Plus 3.50% of cost over \$7,000,000
\$8,000,001 to	\$566,000	Plus 2.50% of cost over

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

\$9,000,000		\$8,000,000
\$9,000,001 to \$9,999,999	\$585,000	Plus 1.50% of cost over \$9,000,000
\$10,000,000	To be negotiated	

Soft costs

<i>Soft costs</i>
Site survey \$500 or \$5,000 (new construction)
Builders risk insurance \$2,000, or \$4,000 (new construction)
Property casualty insurance \$2,000
Bank site inspection \$5,100 (new construction)
Performance Bond at 3% of the approved rehab costs over \$99,999
Clerks of the works [determined locally] <u>at amount approved by OPWDD</u>
<u>Soil inspection at amount approved by OPWDD</u>
<u>Security at amount approved by OPWDD</u>

[(a) Capital Thresholds for Day Leased Space- New Space/Site. The threshold level is based on the cost per square foot and does not include heat, utilities or renovations. When heat and utility costs are included in the lease and are required to be paid to the landlord, the contract costs for heat and utilities shall be paid to the provider in addition to such thresholds].

[(b) The portion of the day lease space renovation threshold for design fees is limited to the design fee thresholds set forth above. There shall be no reimbursement for renovation costs when the site of a program does not change or expand, but the program converts from one model of day program to another model of day program.]

• **Subdivision 641-1.6(a) is amended as follows:**

(a) Transition to new methodology. The reimbursement methodology described in this subpart will be phased-in over a three-year period, with a year for purposes of the transition period meaning a twelve month period from July [first] 1st to the following June [thirtieth] 30th, and with full implementation in the beginning of the fourth year. During this transition period, the base operating rate will transition to the target rate as determined by the reimbursement methodology described in this subpart, according to the phase-in schedule immediately below. The base operating rate will remain fixed and the target rate, as determined by the reimbursement methodology in this subpart, will be updated to reflect rebasing of cost data, trend factors and other appropriate adjustments.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

Transition Year	Phase-in Percentage	
	Base operating rate	New Methodology
Year One (July 1, 2014 – June 30, 2015)	75%	25%
Year Two (July 1, 2015 – June 30, 2016)	50%	50%
Year Three (July 1, 2016 - June 30, 2017)	25%	75%
Year Four (July 1, 2017 – June 30, 2018)	0%	100%

• **Subdivision 641-1.6(b) is amended as follows:**

(b) Transition from monthly to daily units of service. Reimbursement for residential habilitation provided in supervised community residences shall be according to a daily unit of service. From the period beginning July [first, two thousand fourteen] 1, 2014 through June [thirtieth, two thousand fifteen] 30, 2015, providers [which] that receive reimbursement of residential habilitation in supervised community residences pursuant to [subdivision (c) of section 641-1.3 of] this Subpart shall determine and report to DOH retainer days, therapeutic leave days and vacant bed days.

(1) Retainer days shall mean days during which an individual is on medical leave from the community residence, or associated days [where] when any other institutional or in-patient Medicaid payment is made for providing services to the individual.

(i) Retainer days shall be reimbursed at zero dollars.

(ii) At the mid-point and again at the conclusion of the period ending June 30, 2015, DOH will reconcile the services recorded under the retainer days in order to determine the amount of reimbursement owed to the provider. Providers shall be paid for retainer days at the level described in subdivision (a) of this section.

(iii) Providers shall not be paid for more than fourteen retainer days per annual period for any one individual.

(2) Therapeutic leave days shall mean days during which an individual is away from the community residence and is not receiving services from residential habilitation staff, and the absence is for the purpose of visiting with family or friends, or a vacation. Therapeutic leave days shall be reimbursed at [zero dollars] the level described in subdivision (a) of this section.

(3) Vacant bed days shall mean days for which the provider is unable to bill due to a resident moving from one residential site to another, or due to a resident passing away. At the conclusion

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

of the period ending June 30, 2015, providers will be paid for vacant bed days at seventy five percent of the level described in subdivision (a) of this section up to a maximum of ninety days.

[At the conclusion of the period ending June 30, 2015, DOH will reconcile the services recorded under the retainer and therapeutic leave days in order to determine the amount of reimbursement owed to the provider. Providers shall be paid for retainer days and therapeutic leave days at the full daily operating rate as calculated pursuant to paragraph (1) of subdivision (c) of section 641-1.3 of this Subpart. Providers shall not be paid for more than fourteen retainer days for any one individual. Providers will be paid for vacant bed days at seventy five percent of the daily operating rate as calculated pursuant to paragraph (1) of subdivision (c) of section 641-1.3 of this Subpart up to a maximum of ninety days.]

- **Existing subdivision 641-1.6(c) is deleted and subdivision (d) is re-lettered to be (c) and amended as follows:**

[(c) At the conclusion of the period ending June 30, 2015, retainer days and therapeutic leave days shall be reconciled with the services recorded by the provider and reimbursed at the final daily rate, provided, however, that retainer days shall be limited to fourteen days.]

[(d)(c) For periods subsequent to June 30, 2015:

- (1) The daily rate, as determined pursuant to [paragraph (1) of subdivision(c) if section 641-1.3 of] this Subpart, excluding section 641-1.8, will be adjusted to include an occupancy factor.
- (2) Retainer days shall be reimbursed at the daily rate as determined pursuant to paragraph (1) of this subdivision. Such reimbursement shall be limited to fourteen days per individual.
- (3) Therapeutic leave days shall be reimbursed at the daily rate as determined pursuant to paragraph (1) of this subdivision.

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

- A new section 641-1.7 is added as follows and existing section 641-1.7 is re-lettered to be 641-1.9:

641-1.7. Rate corrections.

- (a) Arithmetic or calculation errors will be adjusted accordingly in instances that would result in a change of \$5,000 or more in a provider's annual reimbursement for either residential habilitation services provided in community residences or day habilitation services.
- (b) In order to request a rate correction in accordance with subdivision (a) of this section, the provider must send to Department of Health its request by certified mail, return receipt requested, within 90 days of the provider receiving the rate computation or within 90 days of the first day of the rate period in question, whichever is later.

- A new section 641-1.8 is added as follows:

641-1.8. Specialized template populations. Notwithstanding any other provision of this Subpart, rates for individuals identified by OPWDD as qualifying for specialized template populations funding shall be as follows:

- (a) For individuals initially identified as qualifying for specialized template populations funding between November 1, 2011 and March 31, 2014

<u>Residential – Specialized Level of Care</u>	
<u>Region</u>	<u>Gross Annual Funding Allocation Per Individual Operating only</u>
<u>Downstate</u>	<u>\$166,400</u>
<u>Upstate</u>	<u>\$150,500</u>

<u>Residential – Highly Complex Level of Care</u>	
<u>Region</u>	<u>Gross Annual Funding Allocation Per Individual Operating only</u>
<u>Downstate</u>	<u>\$189,500</u>
<u>Upstate</u>	<u>\$171,500</u>

<u>Residential – Auspice Change</u>

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
Rates for Residential Habilitation Delivered in IRAs & CRs and for
Day Habilitation Services
Effective: July 2, 2014**

<u>Region</u>	<u>Gross Annual Funding Allocation Per Individual Operating only</u>
<u>Downstate</u>	<u>\$136,500</u>
<u>Upstate</u>	<u>\$123,500</u>

<u>Day Hab – Specialized Level of Care</u>	
<u>Region</u>	<u>Gross Annual Funding Allocation Per Individual Operating only</u>
<u>Downstate</u>	<u>\$41,730</u>
<u>Upstate</u>	<u>\$37,562</u>

<u>Day Hab – Highly Complex Level of Care</u>	
<u>Region</u>	<u>Gross Annual Funding Allocation Per Individual Operating only</u>
<u>Downstate</u>	<u>\$46,433</u>
<u>Upstate</u>	<u>\$43,063</u>

(b) For individuals initially identified as qualifying for specialized template populations funding after March 31, 2014

<u>Residential – Highly Complex Level of Care</u>	
<u>Region</u>	<u>Gross Annual Funding Allocation Per Individual Operating only</u>
<u>Downstate</u>	<u>\$189,500</u>
<u>Upstate</u>	<u>\$171,500</u>

<u>Residential – Auspice Change</u>	
<u>Region</u>	<u>Gross Annual Funding Allocation Per Individual Operating only</u>
<u>Downstate</u>	<u>\$136,500</u>

**Final Regulations: Amendments to Rate Setting for Non-State Providers:
 Rates for Residential Habilitation Delivered in IRAs & CRs and for
 Day Habilitation Services
 Effective: July 2, 2014**

<u>Upstate</u>	<u>\$123,500</u>
----------------	------------------

<u>Day Hab – Highly Complex Level of Care</u>	
<u>Region</u>	<u>Gross Annual Funding Allocation Per Individual Operating only</u>
<u>Downstate</u>	<u>\$46,433</u>
<u>Upstate</u>	<u>\$43,063</u>