

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850



Marie Zimmerman
State Medicaid Director
Minnesota Department of Human Services 540 Cedar Street
P.O. Box 64983
St. Paul, MN 55164-0983

SEP 25 2015

RE: Minnesota State Plan Amendment (SPA) 14-0013

Dear Ms. Zimmerman:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 14-0013. Effective for services on or after October 1, 2014, this amendment revises methodologies and standards for determining payment rates for nursing facilities provided services based on the RUG class in effect.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a), and 1923 of the Social Security Act. We hereby inform you that Medicaid State plan amendment 14-0013 is approved effective October 1, 2014. We are enclosing the HCFA-179 and the amended plan pages.

If you have any questions, please call Tom Caughey at (517) 487-8598.

Sincerely,

A black rectangular box redacting the signature of Timothy Hill.

Timothy Hill
Director

Enclosure

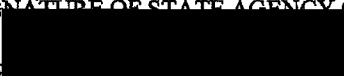
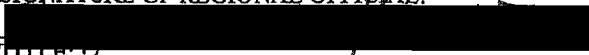

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 14-13	2. STATE Minnesota
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE October 1, 2014	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR §440.155		7. FEDERAL BUDGET IMPACT (in thousands) a. FFY '15: \$3,035 b. FFY '16: \$3,819	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Att. 4.19-D (Non-State Government-Owned or Operated NF), pp.1-192		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Same	
10. SUBJECT OF AMENDMENT: Methods and Standards for Determining Payment Rates for Services Provided by Nursing Facilities			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Sean Barrett Minnesota Department of Human Services Federal Relations Unit PO Box 64983 St. Paul, MN 55164-0983	
13. TYPED NAME: Ann Berg			
14. TITLE: Deputy Medicaid Director			
15. DATE SUBMITTED: December 29, 2014			
17. DATE RECEIVED:			
		18. DATE APPROVED: SEP 25 2015	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 10/1/14		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: 		22. TITLE: 6	
23. REMARKS:			

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State/Territory Name: Minnesota

State Plan Amendment (SPA) #: MN 14-0013

This file contains the following documents in the order listed:

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- 2) CMS 179 Form
- 3) Approved SPA Pages

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**METHODS AND STANDARDS FOR DETERMINING PAYMENT RATES
FOR SERVICES PROVIDED BY NURSING FACILITIES
(NOT STATE GOVERNMENT-OWNED OR OPERATED)**

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**METHODS AND STANDARDS FOR DETERMINING PAYMENT RATES
FOR SERVICES PROVIDED BY NURSING FACILITIES
(NOT STATE-GOVERNMENT OWNED OR OPERATED)**

SECTION 1.000 INTRODUCTIONS

SECTION 1.010 General Purpose. The purpose of the Minnesota Medicaid methods and standards for determining payment rates for nursing facilities, which are not owned or operated by the state, is to provide for payment of rates in conformity with applicable state and federal laws, regulations and quality and safety standards. In determining the rates, the Commissioner of the Department of Human Services will take into account the mix of resident needs, geographic location, and other factors. Minnesota has in place a public process which complies with the requirements of Section 1902(a) (13) (A) of the Social Security Act.

Through September 30, 2006, nursing facilities participating in the Minnesota Medical Assistance program could choose to be paid by the prospective rate-setting methodology described in Sections 1.000 to 21.000 or the contractual rate-setting methodology described in Section 22.000. Effective October 1, 2006, all nursing facilities were paid by the contractual rate-setting methodology described in Section 22.000. Effective October 1, 2008, nursing facilities are paid by a combination of the contractual rate-setting methodology in Section 22.000 and a new rebasing rate-setting methodology described in Section 23.000.

SECTION 1.020 Overview. A very brief description of the overall rate setting mechanism may be helpful. Cost reports are submitted annually. Nursing facilities have a common reporting year of October 1 to September 30. The rate year of October 1 to September 30, lags the report year by one year. The submitted cost reports are desk audited to determine allowable costs and then subject to various other cost category limitations. The rates that are set are subject to appeal. Rates may be adjusted retrospectively for field audit and appeal resolutions. Nursing facilities in

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Minnesota cannot charge private paying residents rates which exceed the rate for medical assistance recipients receiving similar services in multiple bed rooms. The rate-setting systems can be summarized as follows:

A. Care Related Costs Until July 1, 1999

1. This type of cost is based on allowable care related costs from prior reporting years for each nursing facility. Only the nursing component varies with a resident's case mix.
2. Resident days and nursing care costs are adjusted using case mix weights to determine proportion of costs allocable to each of eleven payment classes.
3. There are eleven rates for each nursing facility based on the relative resource use and case mix needs of the resident.
4. Until July 1, 1999, homes are grouped by three geographic locations which set limits on rates. Special purpose or characteristic homes may be treated differently for purposes of applying rate limits.
5. Homes can also trade off nursing and other care related expenditures within the combined limits for those two cost categories. Beginning July 1, 1998, these two limitations do not apply, except for purposes of determining a facility's efficiency incentive.
6. The care related costs include nursing salaries and supplies and non-prescription drugs.
7. The other care related costs include food costs, social services, activities etc.

B. Overall Spending Limits Until July 1, 1999

1. Pursuant to Section 11.047, the operating rate paid to a nursing facility will not be more than its prior year's allowed operating costs plus inflation plus a factor above inflation (on a per diem basis).
2. Pursuant to Section 11.047, a nursing facility determined to be high cost when compared to similar nursing facilities shall have its per diem costs reduced.

C. Other Operating Costs Until July 1, 1999

1. These costs are grouped by geographic location to set limits. Beginning July 1, 1998,

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nursing and other care related expenditures do not apply, except for purposes of determining a facility's efficiency incentive. Similarly, the maintenance and administrative cost categories no longer apply.

2. There is an efficiency incentive. Homes can receive an additional payment if costs are under the Other Operating Cost limit.

3. The other operating costs include such costs as remaining dietary, laundry and linen, housekeeping, plant operations and maintenance, general and administrative, and the remaining payroll taxes and fringe benefits.

D. Adjustment Factor

1. Until July 1, 1999, all operating costs are updated annually by a 21 month inflation factor. The 21 month inflation factor accounts for the 9 month lag between the end of the reporting year (9/30) and the beginning of the rate year (the following 7/1). The Department contracts with an econometric firm to provide economic change indices for use in determining operation cost payment rates.

2. Until July 1, 1999, limits are established for a base year and are adjusted annually by a 12 month inflation index for the time period between the midpoints of cost reporting years. The process of indexing limits now extends to the overall spending limits.

3. Certain costs such as real estate taxes, special assessments, licensing fees, Public Employee Retirement Act pension contributions, and preadmission screening fees are passed through.

E. Property Payment

1. For the period July 1, 1992, to September 30, 1992, property rates continued as established under the current plan; that is, they will continue to be "frozen" with certain exceptions.

2. After September 30, 1992, a new property system took effect. That system establishes a minimum property rate equal to the greater of their current "frozen" property-related payment rate or \$4.00 per resident day. This rate may be subject to adjustment due to several factors which include:

a. An incremental increase as determined utilizing the State's former rental system with certain modifications such as a higher equipment allowance, adding the actual cost of a major projects with the application of a limit on investment, or the sale of the nursing facility.

b. An equity incentive payment which will encourage equity rather than debt

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financing of major projects. (effective 7/1/93)

c. A capital asset repair or replacement payment for purchases up to \$150 per licensed bed per year with a carryover of any excess. (effective 7/1/93)

d. A refinancing incentive for a refinancing that saves on annual interest expense payments (effective 7/1/93).

3. For sales occurring before October 1, 2005, the sale of a nursing facility after June 30, 1992, may result in an increase in the nursing facility's property rate. The amount of that increase will be measured by the modified rental recalculation. An increase in interest expense is allowed within certain limitations. The amount of the "step-up" in the nursing facility's capital asset basis, if any, does not result in a property rate increase since depreciation is not a component of property rate computation.

4. After September 1, 1992, nursing facility appraisals will no longer be needed except to resolve appraisal appeals. The nursing facility's appraised value will be indexed for inflation annually. Also, capital asset additions or deletions will be deducted from the indexed appraised values.

F. Contractual Rate-setting Alternative Method After August 1, 1995

1. A nursing facility may apply to be paid a contractual alternative payment rate instead of the cost-based payment rate established under Sections 1.000 to 21.000. Proposal requirements, selection criteria, limits, exemptions, and consumer protections are described in Section 22.000.

2. A nursing facility electing to receive an alternative payment rate must enter into a contract with the Department. All contracts entered into are for a term not to exceed four years.

3. Different contract provisions may be negotiated for different facilities if required due to legislative changes or if negotiated based on facility proposals.

4. A nursing facility's case mix payment rates for the first rate year of a facility's contract is the payment rate the facility would have received under Sections 1.000 to 21.000.

5. Until July 1, 1999, a nursing facility's case mix payment rates for the second and subsequent years of a facility's contract are the previous rate year's contract payment rates plus an inflation adjustment.

6. A Medicare certified nursing facility electing to receive an alternative payment rate filing a Medicare cost report must comply with Section 22.080, item A. A nursing facility that is not

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Medicare certified does not have to file a Medicare cost report, but must file a cost report as described in Section 2.000.

7. Certain other exemptions, such as an exemption from auditing requirements under applicable state laws, are outlined in Section 22.000.

8. Participation in the contractual alternative payment rate setting method is voluntary. Participating facilities must continue to comply with all state and federal requirements relating to quality assurances, vulnerable adults protections, residents' rights, and OBRA requirements.

G. Rebasing

Effective October 1, 2008, the nursing facility rate methodology was changed to phase in a new payment system. The rebasing law considers costs, establishes definitions, distinguishes between facility types and peer (or geographic) groups with consideration of facilities in different peer groups but in close proximity, sets limits on spending that can be recognized in the rates, incorporates new case mix indices, rewards efficiency, provides for pass-through of certain costs, and provides that the total payment rate will consist of operating, external fixed, and property payment rates. The new system will be phased in over eight years.

SECTION 1.030 Definitions.

Actual allowable historical operating cost. "Actual allowable historical operating cost" means the operating costs incurred by the nursing home and allowed by the Commissioner for the most recent reporting year.

Addition. "Addition" means an extension, enlargement, or expansion of the nursing home for the purpose of increasing the number of licensed beds or improving resident care.

Applicable credit. "Applicable credit" means a receipt or expense reduction as a result of a purchase discount, rebate, refund, allowance, public grant, beauty shop income, guest meals income, adjustment for overcharges, insurance claims settlement, recovered bad debts, or any other adjustment or income reducing the costs claimed by a nursing home.

Appraised value. "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used directly for resident care as determined under Section 17.000.

Assessment form. "Assessment form" means the form developed by the Department of Health as adopted and used for performing resident assessments.

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Attached fixtures. "Attached fixtures" means equipment used directly for resident care affixed to the building and not easily movable as specified in the fixed equipment table of the depreciation guidelines.

Buildings. "Buildings" means the physical plant used directly for resident care and licensed and auxiliary buildings in the nature of sheds, garages, and storage buildings located on the site if used directly for resident care. This definition does not include buildings or portions of buildings used by central, affiliated, or corporate offices.

Building capital allowance. "Building capital allowance" means the component of the property-related payment rate which is denominated as a payment for the use of building, attached fixtures, and land improvements.

Capital assets. "Capital assets" means a nursing home's buildings, attached fixtures, land improvements, depreciable equipment, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.

Case mix operating costs. "Case mix operating costs" means the operating costs listed in Section 6.050 and the portion of fringe benefits and payroll taxes allocated to the nursing services cost category under Section 8.000.

Commenced construction. "Commenced construction" means the date on which a newly-constructed nursing home, or nursing home with an increase in licensed beds of 50 percent or more, meets all the following conditions:

- A. The final working drawings and specifications were approved by the Commissioner of health.
- B. The construction contracts were let.
- C. A timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction.
- D. All zoning and building permits have been issued.
- E. Financing for the project was secured as evidenced by the issuance of a binding letter of commitment by the financial institution, sale of bonds, or other similarly binding agreements.

Commissioner. "Commissioner" means the Commissioner of the Minnesota Department of Human Services.

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Consulting agreement. means any agreement the purpose of which is for a central, affiliated, or corporate office to advise, counsel recommend, or suggest to the owner or operator of the nonrelated long-term care facility measures and methods for improving the operation of the facility.

Cost category. "Cost category" means the classification or grouping of similar or related costs for purposes of reporting, audit, cost control, and the determination of cost limitations.

Cost report. "Cost report" means the document and supporting material specified by the Commissioner and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information for rate determination.

Deletion. "Deletion" means the sale, destruction, or dismantling of a nursing home capital asset or a portion of a nursing home capital asset without subsequent replacement.

Department. "Department" means the Minnesota Department of Human Services.

Depreciated replacement cost method. "Depreciated replacement cost method" means the method of property appraisal which determines the value of a capital asset by establishing the replacement cost new reduced by depreciation.

A. "Replacement cost new" means the amount required to obtain a new asset of equivalent utility to that which exists, but built at current prices, with modern materials and according to current standards, designs, and layout.

B. "Depreciation" means a loss of utility and hence value caused by deterioration or physical depreciation such as wear and tear, decay, dry rot, cracks, encrustations, or structural defects; and functional obsolescence such as poor plan, mechanical inadequacy or overadequacy, and functional inadequacy or overadequacy due to size, style, or age.

Depreciable equipment. "Depreciable equipment" means the standard movable care equipment and support service equipment generally used in nursing homes. Depreciable equipment includes that equipment specified in the major movable equipment table of the depreciation guidelines.

Depreciation guidelines. "Depreciation guidelines" means the most recent "The Estimated Useful Lives of Depreciable Hospital Assets," issued by the American Hospital Association, 840 North Lake Shore Drive, Chicago, Illinois. Except as provided in Section 3.040, the useful lives in the depreciation guidelines must not be used in the determination of the total payment rate. The depreciation guidelines are incorporated by reference and are available for reference at the Minnesota State Law Library, Minnesota Judicial Center, 25 Constitution Avenue, Saint Paul, Minnesota, 55155.

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Desk audit. "Desk audit" means the establishment of the payment rate based on the Commissioner's review and analysis of required reports, supporting documentation, and work sheets submitted by the nursing home.

Direct cost. "Direct cost" means a cost that can be identified within a specific cost category without the use of allocation methods.

Discharge. "Discharge" means a termination of placement in the nursing home that is documented in the discharge summary signed by the physician. For the purposes of this definition, discharge does not include:

A. a transfer within the nursing home unless the transfer is to a different licensure level;
or

B. a leave of absence from the nursing home for treatment, therapeutic, or personal purposes when the resident is expected to return to the same nursing home.

Equipment allowance. "Equipment allowance" means the component of the property-related payment rate which is denominated as a payment for the use of depreciable equipment.

Field audit. "Field audit" means the on-site examination, verification, and review of the financial records, statistical records, and related supporting documentation of the nursing home and any related organization.

Fringe benefits. "Fringe benefits" means workers' compensation insurance, group health or dental insurance, group life insurance, retirement benefits or plans, and an allowance for uniforms.

General and administrative costs. "General and administrative costs" means the costs of administering the nursing home as specified in Section 6.000.

Historical operating costs. "Historical operating costs" means the allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective, after the Commissioner has reviewed those costs and determined them to be allowable costs under the medical assistance program, and after the Commissioner has applied the limit on general and administrative costs.

Hospital-attached nursing home. "Hospital-attached nursing home" means a nursing home which is: 1) under common ownership and operation with a licensed hospital and shares with the hospital the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or

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administrative services; 2) is recognized by the Medicare Program as a hospital-based nursing facility; and 3) is required to use the stepdown method of allocation by the Medicare program, title XVIII of the Social Security Act, provided that the stepdown results in part of the cost of the shared areas to be allocated between the hospital and the nursing home, and that the stepdown numbers are the numbers used for Medicare reimbursement, except that direct identification of costs to the nursing facility cost center will be permitted only when the comparable hospital costs have also been directly identified to a cost center which is not allocated to the nursing facility.

Indirect cost. "Indirect cost" means a cost that is incurred for a common or joint purpose and is identified with more than one cost category but is not readily identified with a specific cost category.

Land improvement. "Land improvement" means an improvement to the land surrounding the nursing home directly used for resident care as specified in the land improvements table of the depreciation guidelines, if replacement of the land improvement is the responsibility of the nursing home.

Management agreement. Is an agreement in which one or more of the following criteria exist:

A. The central affiliated, or corporate office has or is authorized to assume day-to-day operation control of the long-term care facility for any six-month period within a 24-month period. "Day-to-day operational control" means that the central affiliated, or corporate office has the authority to require, mandate, direct, or compel the employees of the facility to perform or refrain from performing certain acts, or to supplant or take the place to the top management of the facility. "Day-to-day operational control" includes the authority to hire or terminate employees or to provide an employee of the central, affiliated, or corporate office to serve as administrator of the facility;

B. The central, affiliated, or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the facility to use the group or volume purchasing services of the central, affiliated, or corporate office; or the authority to make annual capital expenditures for the facility exceeding \$50,000, or \$500 per licensed bed, whichever is less, without first securing the approval of the facility board of directors;

C. The central, affiliated, or corporate office becomes or is required to become the licensee under applicable state law;

D. The agreement provides that the compensation for services provided under the agreement is directly related to any profits made by the facility;

E. The long-term care facility entering into the agreement is governed by a governing

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body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

Medical plan of care. "Medical plan of care" means documentation signed by the resident's physician which includes the resident's primary diagnoses, secondary diagnoses, orders for treatment and medications, rehabilitation potential, rehabilitation procedures if ordered, clinical monitoring procedures, and discharge potential.

Moratorium exception: A "moratorium exception" results when nursing facilities are permitted to obtain licensure and medical assistance certification of new nursing home beds and construction projects that exceed the threshold in section 16.1374, item F. contingent upon appropriation of funds by the legislature. Appropriated funds are distributed through a competitive process. Rates for moratorium exception projects are determined as stated in section 22.061.

Necessary service. "Necessary service" means a function pertinent to the nursing home's operation which if not performed by the assigned individual would have required the nursing home to employ or assign another individual to perform it.

Nursing facility. "Nursing facility" means a facility licensed by the Department of Health as a Medical Assistance nursing home or a boarding care facility which meets federal certification requirements for a nursing facility.

Operating costs. "Operating costs" means the costs of operating the nursing home in compliance with licensure and certification standards. Operating cost categories are:

- A. nursing, including nurses and nursing assistants training;
- B. dietary;
- C. laundry and linen;
- D. housekeeping;
- E. plant operation and maintenance;
- F. other care-related services;
- G. general and administrative;
- H. payroll taxes, fringe benefits, and clerical training;

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- I. workers' compensation self-insurance;
- J. group health, dental, or life insurance; and
- K. real estate taxes and actual special assessments paid.

Other care-related operating costs. "Other care-related operating costs" means the operating costs listed in Section 6.060, and the portion of fringe benefits and payroll taxes allocated to the other care-related cost category, the cost of food, and the dietician consulting fees calculated under Section 8.000.

Other operating costs. "Other operating costs" means the operating costs listed in Sections 6.010-6.040 and 6.070, excluding the cost of food and dietician consulting fees, and the portion of fringe benefits and payroll taxes allocated to each of these operating costs categories under Section 8.000.

Payroll taxes. "Payroll taxes" means the employer's share of social security withholding taxes, governmentally required retirement contributions, and state and federal unemployment compensation taxes or costs.

Preopening costs. "Preopening costs" means the operating costs incurred prior to the admission of a resident to a newly-constructed nursing home.

Private paying resident. "Private paying resident" means a nursing home resident who is not a medical assistance program recipient for the date of service and whose payment rate is not established by another third party, including the Veterans Administration or Medicare.

Productive nursing hours. "Productive nursing hours" means all on-duty hours of nurses, aides, orderlies, and attendants. The on-duty hours of the director of nursing for facilities with more than 60 licensed beds and the on-duty hours of any medical records personnel are not included. Vacation, holidays, sick leave, classroom training, and lunches are not included in productive nursing hours.

Rate year. "Rate year" means the state of Minnesota's fiscal year for which a payment rate is effective, from July 1 through the following June 30. The July 1, 2004 rate year extends through September 30, 2005. As of October 1, 2005, "rate year" means October 1 through the following September 30.

Real estate taxes and special assessments. "Real estate taxes and special assessments" means the real estate tax liability shown on the annual property tax statement of the nursing home for the calendar year during which the rate year begins and the actual special assessments and related interest paid during the reporting year. The term does not include personnel costs or fees for late payment.

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Related organization. "Related organization" means a person that furnishes goods or services to a nursing home and that is a close relative of a nursing home, an affiliate of a nursing home, a close relative of an affiliate of a nursing home, or an affiliate of a close relative of an affiliate of a nursing home.

A. An "affiliate" is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

B. A "person" is an individual, a corporation, a partnership, an association, a trust, an unincorporated organization, or a government or political subdivision.

C. A "close relative of an affiliate of a nursing home" is an individual whose relationship by blood, marriage, or adoption to an individual who is an affiliate of a nursing home is no more remote than first cousin.

D. "Control" including the terms "controlling," "controlled by," and "under common control with" is the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Repair. "Repair" means the cost of labor and materials needed to restore an existing capital asset to sound condition after damage or malfunction or to maintain an existing capital asset in a usable condition.

Replacement. "Replacement" means a renovation or substitution of an existing capital asset to improve its function or extend its useful life.

Reporting year. "Reporting year" means the period from October 1 to September 30, immediately preceding the rate year, for which the nursing home submits its cost report, and which is the basis for the determination of the payment rate for the following rate year.

Resident day or actual resident day. "Resident day" or "actual resident day" means a day for which nursing services are rendered and billable, or a day for which a bed is held and billed.

Resident class. "Resident class" means each of the 11 categories established in Section 13.000.

Short length of stay facility. "Short length of stay facility" has the meaning given in Section 20.025.

Standardized resident days. "Standardized resident days" means the sum of the number of resident

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days in the nursing home in each resident class multiplied by the weight for that resident class.

Top management personnel. "Top management personnel" means owners, board members, corporate officers, general, regional, and district managers, administrators and the nursing home administrator, and any other person performing the function of such personnel. Persons performing functions only as nursing home department heads are not included in this definition.

Total payment rate. "Total payment rate" means the addition of the operating cost payment rate, the property-related payment rate, and the real estate tax and special assessments payment rate as established by the Commissioner to pay for the care of residents in nursing homes.

Useful life. "Useful life" means the length of time an asset is expected to provide economic service before needing replacement.

Utility vehicle. "Utility vehicle" means a vehicle specially equipped for purposes of nursing home operations and not readily adaptable to personal use.

Vested. "Vested" means the existence of a legally fixed unconditional right to a present or future benefit.

Working capital debt. "Working capital debt" means debt incurred to finance nursing home operating costs. Working capital debt does not include debt incurred to acquire or refinance a capital asset.

Working capital interest expense. "Working capital interest expense" means the interest expense incurred on working capital debt during the reporting year.

SECTION 2.000

SECTION 2.010

Treble Damages. Any vendor of medical care who willfully submits a cost report, rate application or claim for reimbursement for medical care which the vendor knows is false representation and which results in the payment of public funds for which the vendor is ineligible shall, in addition to other provisions of Minnesota law, be subject to an action by the State of Minnesota for civil damages. The damages awarded shall include three times the payments which result from the false representation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent.

SECTION 3.000 COST ALLOCATION PROCEDURES

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SECTION 3.010 Classification. Classification of costs is the process of charging costs to the appropriate cost categories and compiling a total for each cost category to be recorded on the cost report. Nursing facilities shall classify their costs in accordance with established cost categories. Costs that cannot be specifically classified in a cost category, such as the cost of generic supplies, must be classified in the general and administrative cost category.

SECTION 3.020 Identification. Except for the salary costs of individuals with multiple duties, costs must be directly identified, without allocation, by routine classification of transactions when costs are recorded in the books and records of the nursing facility.

SECTION 3.030 Personnel with multiple duties. When a person other than top management personnel has multiple duties, the person's salary cost must be allocated to the cost categories on the basis of time distribution records that show actual time spent, or an accurate estimate of time spent on various activities. In a nursing facility of 60 or fewer beds, part of the salary or salaries of top management personnel may be allocated to other cost categories to the extent justified in time distribution records which show the actual time spent, or an accurate estimate of time spent on various activities. A nursing facility that chooses to estimate time spent must use a statistically valid method. Persons who serve in a dual capacity, including those who have only nominal top management responsibilities, shall directly identify their salaries to the appropriate cost categories. The salary of any person having more than nominal top management responsibilities must not be allocated.

SECTION 3.040 Central, affiliated, or corporate office costs. Cost allocation for central, affiliated, or corporate offices shall be governed by items A to F.

A. Central, affiliated, or corporate office costs representing services of consultants required by law or rule in areas including dietary, pharmacy, social services, or other resident care related activities may be allocated to the appropriate cost category, but only to the extent that those costs are directly identified by the nursing facility.

1. Definitions. For purposes of item B, the following have the meaning given them.

a. "Management agreement" means an agreement in which one or more of the following criteria exist:

i. The central, affiliated, or corporate office has or is authorized to assume day-to-day operation control of the long-term care facility for any six-month period within a 24-month period. "Day-to-day operation control" means that the central, affiliated, or corporate office has the authority to require, mandate, direct, or compel the employees of the long-term care facility to perform or refrain from performing certain acts, or to supplant or take the place of the top management of the long-term care facility. Day-to-day operational control includes the authority to

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hire or terminate employees or to provide an employee of the central, affiliated, or corporate office to serve as administrator of the long-term care facility;

ii. The central, affiliated, or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the long-term care facility to use the group or volume purchasing services of the central, affiliated, or corporate office; or the authority to make annual capital expenditures for the long-term care facility exceeding \$50,000 or \$500 per licensed bed, whichever is less, without first securing the approval of the long-term care facility board of directors;

iii. The central, affiliated, or corporate office becomes or is required to become the licensee under applicable state law;

iv. The agreement provides that the compensation for services provided under the agreement is directly related to any profits made by the long-term care facility; or

v. The long-term care facility entering into the agreement is governed by a governing body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

b. "Consulting agreement" means any agreement the purpose of which is for a central, affiliated, or corporate office to advise, counsel, recommend, or suggest to the owner or operator of the nonrelated long-term care facility measures and methods for improving the operations of the long-term care facility.

B. For rate years beginning on or after July 1, 1990, the central, affiliated or corporate office cost allocation in subitems (1) to (6) must be used when determining rates under Sections 1.000 through 22.000.

(1) All costs that can be directly identified with a specific nursing facility that is a related organization to the central, affiliated, or corporate office, or that is controlled by the central, affiliated, or corporate office under a management agreement, must be allocated to that nursing facility.

(2) All costs that can be directly identified with any other activity or function not described in subitem (1) must be allocated to that activity or function.

(3) Costs that have not been directly identified must be allocated to nursing facilities on a basis designed to equitably allocate the costs to the nursing facilities or activities receiving the

benefits of the costs. This allocation must be made in a manner reasonably related to the services received by the nursing facilities. Where practical and when the amount is material, these costs must be allocated on a functional basis. The functions, or cost centers used to allocate central office costs, and the unit bases used to allocate the costs, including those central office costs allocated according to subitem 4, must be used consistently from one central office accounting period to another. If the central office wishes to change its allocation bases and believes the change will result in more appropriate and more accurate allocations, the central office must make a written request, with its justification, to the commissioner for approval of the change no later than 120 days after the beginning of the central office accounting period to which the change is to apply. The commissioner's approval of a central office request will be furnished to the central office in writing. Where the commissioner approves the central office request, the change must be applied to the accounting period for which the request was made, and to all subsequent central office accounting periods unless the commissioner approves a subsequent request for change by the central office. The effective date of the change will be the beginning of the accounting period for which the request was made.

(4) After the costs that can be directly identified according to subitems (1) and (2) have been allocated, the remaining central, affiliated, or corporate office costs must be allocated between the nursing facility operations and other activities or facilities unrelated to the nursing facility operations based on the ratio of total operating costs, determined as follows:

a. The numerator for the allocation ratio shall be determined as follows:

i. For nursing facilities that are related organizations or are controlled by a central, affiliated, or corporate office under a management agreement, the numerator of the allocation ratio shall be equal to the sum of the total costs incurred by each related organization or controlled nursing facility.

ii. For a central, affiliated, or corporate office providing goods or services to related organizations that are not nursing facilities, the numerator of the allocation ratio shall be equal to the sum of the total costs incurred by the non-nursing facility related organizations.

iii. For a central, affiliated, or corporate office providing goods or services to unrelated nursing facilities under a consulting agreement, the numerator of the allocation ratio shall be equal to the greater of directly identified central affiliated or corporate costs or the contracted amount.

iv. For business activities that involve the providing of goods or services to unrelated parties which are not nursing facilities, the numerator of the allocation ratio shall be equal to the greater of directly identified costs or revenues generated by the facility or function.

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b. The denominator for the allocation ratio is the sum of the numerators in clauses i to iv of a.

(5) Those long term care operations that have nursing facilities both in Minnesota and outside of Minnesota must:

a. Allocate the nursing facility operation's central, affiliated or corporate office costs identified in item C to Minnesota based on the ratio of total resident days in Minnesota nursing facilities to the total resident days in all facilities.

b. Allocate the Minnesota nursing facility operation's central, affiliated or corporate office costs identified in a to each Minnesota nursing facility on the basis of resident days.

(6) This section does not apply to payment rates determined under Section 20.040, except that any additional directly identified costs associated with the Department of Human Services' or the Department of Health's managing agent under a receivership agreement must be allocated to the facility under receivership, and are nonallowable costs to the managing agent on the facility's cost report.

C. Central, affiliated, or corporate office property-related costs of capital assets used directly by the nursing facility in the provision of nursing facility services must be allocated to the nursing facilities which use the capital asset. Central, affiliated, or corporate office property-related costs of capital assets which are not used directly by the nursing facility in the provision of nursing facility services must be allocated to the general and administrative cost category of each nursing facility using the methods described in item B.

D. The useful life of a new capital asset maintained by a central, affiliated, or corporate office must be determined by applying one of the following schedules in subitem (1) or (2):

(1) the useful life of a building is 35 years; of land improvement is 20 years; of a major building improvement is the greater of 15 years or the remaining life of the principal capital asset; of depreciable equipment except vehicles is ten years; and of a vehicle is four years; or

(2) the depreciation guidelines.

E. The useful life of used capital assets maintained by a central, affiliated, or corporate office must be determined based on the physical condition of the used capital asset but the useful life of the used capital asset must not be less than one-half the useful life determined under item D.

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F. The useful life of leasehold improvements maintained by a central, affiliated, or corporate office must be either the useful life of the improvement determined under item D or the remaining term of the lease, including renewal periods, whichever is shorter.

SECTION 3.050 General and administrative costs. Except as provided above, general and administrative costs must not be allocated as direct or indirect costs to other cost categories.

SECTION 3.060 Related organization costs. Costs applicable to services, capital assets, and supplies directly or indirectly furnished to the nursing facility by any related organization may be included in the allowable cost of the nursing facility at the purchase price paid by the related organization for capital assets or supplies and at the cost incurred by the related organization for the provision of services to the nursing facility if these prices or costs do not exceed the price of comparable services, capital assets, or supplies that could be purchased elsewhere. For this purpose, the related organization's costs must not include an amount for markup or profit.

If the related organization in the normal course of business sells services, capital assets, or supplies to nonrelated organizations, the cost to the nursing facility shall be the nonrelated organization's price provided that sales to nonrelated organizations constitute at least 50 percent of total annual sales of similar services, or capital assets, or supplies. The cost of ownership of a capital asset which is used by the nursing facility must be included in the allowable cost of the nursing facility even though it is owned by a related organization.

SECTION 4.000 DETERMINATION OF ALLOWABLE COSTS

SECTION 4.010 Allowable costs. Only costs determined to be allowable under the methods used to determine payment shall be used to compute the total payment rate for nursing facilities participating in the medical assistance program.

SECTION 4.020 Applicable credits. Applicable credits must be used to offset or reduce the expenses of the nursing facility to the extent that the cost to which the credits apply was claimed as a nursing facility cost. Interest income, dividend income, and other investment income of the nursing facility or related organization are not applicable credits except to the extent that the interest expense on working capital debt is incurred and claimed as a reimbursable expense by the nursing facility or related organization. Interest income must not be offset against working capital interest expense if it relates to a bond sinking fund or a restricted fund if the income is not available to the nursing facility or related organization. Gains or losses on the sales of capital assets used by the nursing facility must not be applicable credits.

SECTION 4.030 Adequate documentation. A nursing facility shall keep adequate documentation.

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A. In order to be adequate, documentation must:

(1) Be maintained in orderly, well-organized files.

(2) Not include documentation of more than one nursing facility in one set of files unless transactions may be traced by the Department to the nursing facility's annual cost report.

(3) Include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing facilities. If any of the information is not available, the nursing facility shall document its good faith attempt to obtain the information.

(4) Include contracts, agreements, amortization schedules, mortgages, other debt instruments, and all other documents necessary to explain the nursing facility's costs or revenues.

(5) Be retained by the nursing facility to support the five most recent annual cost reports. The Department may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practices, the records are necessary to resolve a pending appeal, or are required for the enforcement of Minnesota's conditions for participation.

(6) Beginning July 1, 1998, payroll records supporting compensation costs claimed by long-term care facilities must be supported by affirmative time and attendance records prepared by each individual at intervals of not more than one month. The requirements of this subitem are met when documentation is provided under either clause a or b as follows:

a. the affirmative time and attendance record must identify the individual's name; the days worked during each pay period; the number of hours worked each day; and the number of hours taken each day by the individual for vacation, sick, and other leave. The affirmative time and attendance record must include a signed verification by the individual and the individual's supervisor, if any, that the entries reported on the record are correct; or

b. if the affirmative time and attendance records identifying the individual's name, the days worked each pay period, the number of hours worked each day, and the number of hours taken each day by the individual for vacation, sick, and other leave are placed on microfilm, equipment must be made available for viewing and printing them, or if the records are stored as automated data, summary data must be available for viewing and printing.

B. Compensation for personal services, regardless of whether treated as direct or indirect costs, must be documented on payroll records. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees which are allocated to

more than one cost category must be supported by time distribution records. The method used must produce a proportional distribution of actual time spent, or an accurate estimate of time spent performing assigned duties. The nursing facility that chooses to estimate time spent must use a statistically valid method. The compensation must reflect an amount proportionate to a full-time basis if the services are rendered on less than a full-time basis.

C. Except for vehicles used exclusively for nursing facility business, the nursing facility or related organization must maintain a motor vehicle log that shows nursing facility mileage for the reporting year. Mileage paid for the use of a personal vehicle must be documented.

D. Complete and orderly records must be maintained for cost allocations made to cost categories.

E. If the Commissioner requests supporting documentation during an audit for an item of cost reported by a long-term care facility, and the long-term care facility's response does not adequately document the item of cost, the Commissioner may make reasoned assumptions considered appropriate in the absence of the requested documentation to reasonably establish a payment rate rather than disallow the entire item of cost. This provision shall not diminish the long-term care facility's appeal rights.

SECTION 4.040 Compensation for personal services. Compensation for personal services includes all the remuneration paid currently, accrued or deferred, for services rendered by the nursing facility's owners or employees. Only valid compensation costs for the current reporting period are allowable.

A. Compensation includes:

(1) salaries, wages, bonuses, vested vacations, vested sick leave, and fringe benefits paid for managerial, administrative, professional, and other services;

(2) amounts paid by the nursing facility for the personal benefit of the owners or employees;

(3) the costs of assets and services which the owner or employee receives from the nursing facility;

(4) deferred compensation, individual retirement plans such as individual retirement accounts, pension plans, and profit-sharing plans;

(5) the annual cost of supplies, use of capital assets, services for personal use, or any

other in-kind benefits received by the owners or employees; and

(6) payment to organizations of unpaid workers, that have arrangements with the nursing facility for the performance of services by the unpaid workers.

B. The nursing facility must have a written policy for payment of compensation for personal services. The policy must relate the individual's compensation to the performance of specified duties and to the number of hours worked. Compensation payable under the plan must be consistent with the compensation paid to persons performing similar duties in the nursing facility industry. Employees covered by collective bargaining agreements are not required to be covered by the policy if the collective bargaining agreement otherwise meets the essentials of the policy required by this item.

C. Only necessary services shall be compensated.

D. Except for accrued vested vacation, accrued vested sick leave, or compensation claims subject to litigation or employer-employee dispute resolution, compensation must be actually paid, whether by cash or negotiable instrument, within 107 days after the close of the reporting period. If payment is not made within 107 days, the unpaid compensation shall be disallowed in that reporting year.

SECTION 4.050 Licensure and certification costs. Operating costs of meeting the licensure and certification standards in items A to C are allowable operating costs for the purpose of setting nursing facility payment rates. The standards are:

A. standards set by federal regulations for skilled nursing facilities and intermediate care facilities;

B. requirements established by the Minnesota Department of Health for meeting health standards as set out by state rules and federal regulations; and

C. other requirements for licensing under state and federal law, state rules, or federal regulations that must be met to provide nursing and boarding care services.

SECTION 4.060 Routine service costs. Operating costs of routine services including nursing, dietary, and support services are allowable operating costs for the purpose of setting nursing facility payment rates.

SECTION 4.080 General cost principles. For rate-setting purposes, a cost must satisfy the

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following criteria:

- A. the cost is ordinary, necessary, and related to resident care;
- B. the cost is what a prudent and cost conscious business person would pay for the specific good or service in the open market in an arm's length transaction;
- C. the cost is for goods or services actually provided in the nursing facility;
- D. the cost effects of transactions that have the effect of circumventing these rules are not allowable under the principle that the substance of the transaction shall prevail over form; and
- E. costs that are incurred due to management inefficiency, unnecessary care or facilities, agreements not to compete, or activities not commonly accepted in the nursing facility care field are not allowable.

SECTION 5.000 NONALLOWABLE COSTS

The costs listed in items A to EE are not allowable for purposes of setting payment rates but must be identified on the nursing facility's cost report.

- A. All contributions, including charitable contributions, and contributions to political action committees or campaigns.
- B. Salaries and expenses of a lobbyist.
- C. Legal and related expenses for unsuccessful challenges to decisions by governmental agencies.
- D. Assessments made by or the portion of dues charged by associations or professional organizations for litigation except for successful challenges to decisions by agencies of the State of Minnesota; lobbying costs; or contributions to political action committees or campaigns. Where the breakdown of dues charged to a nursing facility is not provided, the entire cost shall be disallowed.
- E. Advertising designed to encourage potential residents to select a particular nursing facility. This item does not apply to a total expenditure of \$2,000 for all notices placed in the telephone yellow pages for the purpose of stating the nursing facility's name, location, phone number, and general information about services in the nursing facility.
- F. Assessments levied by the Minnesota Department of Health for uncorrected violations.

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G. Employee or owner's membership or other fees for social, fraternal, sports, health, or similar organizations.

H. Cost incurred for activities directly related to influencing employees with respect to unionization.

I. Costs of activities not related to resident care such as flowers or gifts for employees or owners, employee parties, and business meals except for the cost of meals incurred as a result of required overnight business related travel.

J. Costs related to purchase of and care for pets in excess of \$5 per year per licensed bed.

K. Penalties including interest charged on the penalty, interest charges which result from an overpayment, and bank overdraft or late payment charges.

L. Costs of sponsoring employee, youth, or adult activities such as athletic teams and beauty contests.

M. Premiums on owner's or board member's life insurance policies, except that such premiums shall be allowed if the policy is included within a group policy provided for all employees, or if such a policy is required as a condition of mortgage or loan and the mortgagee or lending institution is listed as the beneficiary.

N. Personal expenses of owners and employees, such as vacations, boats, airplanes, personal travel or vehicles, and entertainment.

O. Costs of training programs for anyone other than employees or volunteers in the nursing facility.

P. Costs of training programs to meet the minimum educational requirements of a position, education that leads to a degree, or education that qualifies the employee for a new trade or profession. This item does not apply to training or education of nursing aides or training to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position or to maintain or update skills needed in performing the employee's present duties.

Q. Bad debts and related bad debt collection fees except for the four types found in the general and administrative services section.

R. Costs of fund raising activities.

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S. Costs associated with the management of investments which may produce interest income, dividend income, or other investment income or losses.

T. Costs of functions normally paid by charges to residents, employees, visitors, or others such as the direct and indirect costs of operating a pharmacy, congregate dining program, home delivered meals program, gift shop, coffee shop, apartment, or day care center.

U. Operating costs for activities to the extent that the activities are financed by gifts or grants from public funds. A transfer of funds from a local governmental unit to its governmental-owned nursing facility is not a gift or grant under this item.

V. Telephone, television, and radio service provided in a resident's room except for these services provided in areas designated for use by the general resident population, and the charge of transferring a resident's phone from one room to another within the same nursing facility.

W. Costs of covenants not to compete.

X. Identifiable costs of services provided by a licensed medical therapeutic or rehabilitation practitioner or any other vendor of medical care which are billed separately on a fee for service basis, including:

(1) the purchase of service fees paid to the vendor or his or her agent who is not an employee of the nursing facility or the compensation of the practitioner who is an employee of the nursing facility;

(2) allocated compensation and related costs of any nursing facility personnel assisting in providing these services; and

(3) allocated operating or property cost for providing these services such as housekeeping, laundry, maintenance, medical records, payroll taxes, space, utilities, equipment, supplies, bookkeeping, secretarial, insurance, supervision and administration, and real estate taxes and special assessments.

If any of the costs in subitems (1) to (3) are incurred by the nursing facility, these costs must be reported as nonreimbursable expenses, together with any of the income received or anticipated by the nursing facility including any charges by the nursing facility to the vendor.

Y. Costs for which adequate documentation is not maintained or provided.

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Z. Fringe benefits or payroll taxes associated with disallowed salary costs.

AA. Costs associated with sales or reorganizations of nursing facilities.

BB. Accruals of vacation and sick leave for employees which are not fully vested.

CC. Payments made in lieu of real estate taxes, unless such payments are made under a legally enforceable irrevocable written contract entered into prior to August 31, 1983.

DD. Adverse judgments, settlements, and repayments of escrow accounts resulting from the enforcement of Minnesota's Conditions for Participation Statute.

EE. Costs including legal fees, accounting fees, administrative costs, travel costs, and the costs of feasibility studies attributed to the negotiation or settlement of a sale or purchase of any capital asset by acquisition or merger for which any payment has previously been made under Minnesota's procedures for determining payment rates.

SECTION 6.000 REPORTING BY COST CATEGORY

SECTION 6.010 Dietary services. The costs listed in items A to D are to be reported in the dietary services cost category:

A. Direct costs of normal and special diet food including raw food, dietary supplies, food preparation and serving, and special dietary supplements used for tube feeding or oral feeding, such as elemental high nitrogen diet, even if written as a prescription item by a physician;

B. The salaries and wages of the supervisor, dietitians, chefs, cooks, dishwashers, and other employees assigned to the kitchen and dining room including the salaries or fees of dietary consultants;

C. The costs of training including the cost of lodging and meals to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position or to maintain or update skills needed in performing the employee's present duties; and

D. The costs of travel necessary for training programs for dietitians required to maintain licensure, certification, or professional standards.

SECTION 6.020 Laundry and linen services. The costs listed in items A and B are to be reported in the laundry and linen services cost category:

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- A. Direct costs of housekeeping supplies, including cleaning and lavatory supplies; and
- B. The salaries and wages of the supervisor, housekeepers, and other cleaning personnel.

SECTION 6.030 Housekeeping services. The costs listed in items A and B are to be reported in the housekeeping services cost category:

- A. Direct costs of housekeeping supplies, including cleaning and lavatory supplies; and
- B. The salaries and wages of the supervisor, housekeepers, and other cleaning personnel.

SECTION 6.040 Plant operation and maintenance services. The costs listed in items A to D are to be reported in the plant operations and maintenance cost category:

- A. Direct costs for maintenance and operation of the building and grounds, including fuel, electricity, water, sewer, supplies, tools, and repairs which are not capitalized;
- B. The salaries and wages of the supervisor, engineers, heating-plant employees, independent contractors, and other maintenance personnel;
- C. The cost of required licenses and permits required for operation of the nursing facility; and
- D. Cost of the provider surcharge.

SECTION 6.050 Nursing services. Direct costs associated with nursing services identified in items A to Y, are to be included in the nursing services cost category:

- A. Nursing assessment of the health status of the resident and planning of appropriate interventions to overcome identified problems and maximize resident strengths;
- B. Bedside care and services;
- C. Care and services according to the order of the attending physicians;
- D. Monitoring procedures such as vital signs, urine testing, weight, intake and output, and observation of the body system;
- E. Administration of oral, sublingual, rectal, and local medications topically applied, and appropriate recording of the resident's responses;

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- F. Drawing blood and collecting specimens for submission to laboratories;
- G. Prevention of skin irritation and decubitus ulcers;
- H. Routine changing of dressings;
- I. Training, assistance, and encouragement for self-care as required for feeding, grooming, ambulation, toilet, and other activities of daily living including movement within the nursing facility;
- J. Supportive assistance and training in resident transfer techniques including transfer from bed to wheelchair or wheelchair to commode;
- K. Care of residents with casts, braces, splints, and other appliances requiring nursing care or supervision;
- L. Care of residents with behavior problems and severe emotional problems requiring nursing care or supervision;
- M. Administration of oxygen;
- N. Use of nebulizers;
- O. Maintenance care of resident's colostomy, ileostomy, and urostomy;
- P. Administration of parenteral medications, including intravenous solutions;
- Q. Administration of tube feedings;
- R. Nasopharyngeal aspiration required for maintenance of a clean airway;
- S. Care of suprapubic catheters and urethral catheters;
- T. Care of tracheostomy, gastrostomy, and other tubes in a body;
- U. Costs of equipment and supplies that are used to complement the services in the nursing services cost category, including items stocked at nursing stations or on the floor and distributed or used individually, including: alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, soap and water, medication cups, diapers, plastic waste bags, sanitary products, thermometers, hypodermic needles and syringes, and clinical reagents or similar diagnostic agents,

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and drugs which are not paid on a separate fee schedule by the medical assistance program or any other payer;

V. Costs for education or training including the cost of lodging and meals of nursing service personnel. Educational costs are limited to either meeting the requirements of laws or rules or keeping an employee's salary, status, or position or for maintaining or updating skills needed in performing the employee's present duties, except that training to become a nurses aid is an allowable cost;

W. The salaries and wages of persons performing nursing services including salaries of the director, and assistant director of nursing, supervising nurses, medical records personnel, registered professional nurses, licensed practical nurses, nurses aides, orderlies, and attendants;

X. The salaries of fees of medical director, physicians, or other professionals performing consulting services on medical care which are not reimbursed separately on a fee for service basis; and

Y. The costs of travel necessary for training programs for nursing personnel required to maintain licensure, certification, or professional standards.

SECTION 6.060 Other care-related services. The costs listed in items A to D are to be reported in the other care-related services cost category:

A. Direct costs of other care-related services, such as recreational or religious activities, arts and crafts, pets, and social services which are not reimbursed separately on a fee for service basis;

B. The salaries and wages of recreational therapists and aides, rehabilitation therapists and aides, chaplains, arts and crafts instructors and aides, social workers and aides, and other care-related personnel including salaries or fees of professional performing consultation services in these areas which are not reimbursed separately on a fee for service basis;

C. The costs of training including the cost of lodging and meals to meet the requirements of laws or rules for keeping an employee's salary, status, or position, or to maintain or update skills needed in performing the employee's present duties; and

D. Telephone, television, and radio services provided in areas designated for use by the general resident population, such as lounges and recreation rooms and the charge of transferring a resident's phone from one room to another within the same nursing facility.

SECTION 6.070 General and administrative services. Direct costs for administering the overall activities of the nursing facility are included in the general and administrative cost category. These

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direct costs include:

- A. Business office functions;
- B. Travel expenses other than travel expenses reported under dietary services and those under nursing services.
- C. All motor vehicle operating expenses;
- D. Telephone and telegraph charges;
- E. Office supplies;
- F. Insurance, except as included as a fringe benefit;
- G. Personnel recruitment costs including help wanted advertising;
- H. The salaries, wages, or fees of administrators, assistant administrators, accounting and clerical personnel, data processing personnel, and receptionists;
- I. Professional fees for services such as legal, accounting, and data processing services;
- J. Management fees, and the cost of management and administrative consultants;
- K. Central, affiliated, or corporate office costs excluding the cost of depreciable equipment used by individual nursing facilities which are included in the computation of the property-related payment rate and those costs specified in Section 3.040, items A and B;
- L. Business meetings and seminars;
- M. Postage;
- N. Training including the cost of lodging and meals for management personnel and personnel not related to direct resident care if the training either meets the requirements of laws, rules, or regulations to keep an employee's salary, status, or position or maintains or updates skills needed to perform the employee's present duties;
- O. Membership fees for associations and professional organizations which are directly related to resident care;

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P. Subscriptions to periodicals which are directly related to the operation of the nursing facility;

Q. Security services or security personnel;

R. Joint commission on accreditation of hospitals survey;

S. Advertising;

T. Board of director's fees;

U. Interest on working capital debt;

V. Bad debts and fees paid for collection of bad debts provided that the conditions in subitems (1) to (4) are met:

(1) the bad debt results from nonpayment of the payment rate or part of the payment rate;

(2) the nursing facility documents that reasonable collection efforts have been made, the debt was uncollectible, and there is no likelihood of future recovery;

(3) the collection fee does not exceed the amount of the bad debt; and

(4) the debt does not result from the nursing facility's failure to comply with federal and state laws, state rules, and federal regulations.

W. The portion of preopening costs capitalized as a deferred charge and amortized over a period of 120 consecutive months beginning with the month in which a resident first resides in a newly-constructed nursing facility;

X. The cost of meals incurred as a result of required overnight business related travel; and

Y. Any costs which cannot be specifically classified to another cost category.

SECTION 6.080 Payroll taxes, fringe benefits, and clerical training. Only the costs identified in items A to I are to be reported in the payroll taxes, fringe benefits, and clerical training cost category;

A. The employer's share of the social security withholding tax;

B. State and federal unemployment compensation taxes or costs;

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- C. Group life insurance;
- D. Group health and dental insurance;
- E. Workers' compensation insurance including self-insured plans specified in Section 6.083;
- F. Either a pension plan or profit-sharing plan, approved by the United States Internal Revenue Service including IRS Section 403 (b) and 408 (k), but not both for the same employee;
- G. Governmental required retirement contributions;
- H. Uniform allowance; and
- I. Costs of training clerical personnel including the cost of meals and lodging.

SECTION 6.083 Workers compensation self-insurance. The Department shall allow as workers' compensation insurance costs the costs of workers' compensation coverage obtained under the following conditions:

- A. A plan approved by the Commissioner of commerce as a Minnesota group or individual self-insurance plan.
- B. A plan in which:
 - (1) The nursing facility, directly or indirectly, purchases workers' compensation coverage from an authorized insurance carrier;
 - (2) A related organization to the nursing facility reinsures the workers' compensation coverage purchased, directly or indirectly, by the nursing facility; and
 - (3) All of the conditions in item D are met;
- C. A plan in which:
 - (1) the nursing facility, directly or indirectly, purchases workers' compensation coverage from an authorized insurance carrier;
 - (2) the insurance premium is calculated retrospectively, including a maximum premium limit, and paid using the paid loss retro method; and

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(3) all of the conditions in item D are met ;

D. Additional conditions are:

(1) the costs of the plan are allowable under the federal Medicare program;

(2) the reserves for the plan are maintained in an account controlled and administered by a person which is not a related organization to the nursing facility;

(3) the reserves for the plan cannot be used, directly or indirectly, as collateral for debts incurred or other obligations of the nursing facility or related organizations to the nursing facility;

(4) if the plan provides workers' compensation coverage for non-Minnesota nursing facilities, the plan's cost methodology must be consistent among all nursing facilities covered by the plan, and if reasonable, is allowed notwithstanding any reimbursement laws regarding cost allocation to the contrary;

(5) central, affiliated, corporate, or nursing facility costs related to their administration of the plan are costs which must remain in the nursing facility's administrative cost category and must not be allocated to other cost categories;

(6) required security deposits, whether in the form of cash, investments, securities, assets, letters of credit, or in any other form are not allowable costs for purposes of establishing the facilities payment rate; and

(7) for the rate year beginning on July 1, 1998, a group of nursing facilities related by common ownership that self-insures workers' compensation may allocate its directly identified costs of self-insuring its Minnesota nursing facility workers among those nursing facilities in the group that are paid under this section or Section 22.000. The method of cost allocation is based on the ratio of each nursing facility's total allowable salaries and wages to that of the nursing facility group's total allowable salaries and wages, then similarly allocated within each nursing facility's operated cost categories. The costs associated with the administration of the group's self-insurance plan must remain classified in the nursing facility's administrative cost category. A written request of the nursing facility group's election to use this alternative method of allocation of self-insurance costs must have been received by the Department no later than May 1, 1998, to take effect on July 1, 1998, or such costs will continue to be allocated under the existing cost allocation methods. Once a nursing facility group elects this method of cost allocation for its workers' compensation self-insurance costs, it remains in effect until such time as the group no longer self-insures these costs.

E. Any costs allowed pursuant to items A to C are subject to the following requirements:

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(1) If the nursing facility is sold or otherwise ceases operations, the plan's reserves must be subject to an actuarially based settle-up after 36 months from the date of sale or the date on which operations ceased. The facility's medical assistance portion of the total excess plan reserves must be paid to the State within 30 days following the date on which excess plan reserves are determined.

(2) Any distribution of excess plan reserves made to or withdrawals made by the nursing facility or a related organization are applicable credits and must be used to reduce the nursing facility's workers' compensation costs in the reporting period in which a distribution or withdrawal is received.

(3) If reimbursement for the plan is sought under the federal Medicare program, and is audited pursuant to the Medicare Program, the nursing facility must provide a copy of Medicare's final audit report, including attachments and exhibits, to the Commissioner within 30 days of receipt by the nursing facility or any related organization. The Department shall implement the audit findings associated with the plan upon receipt of Medicare's final audit report. The Department's authority to implement the audit findings is independent of its authority to conduct a field audit.

F. The Department shall have authority to adopt emergency rules to implement this Section.

SECTION 6.084. Group health, dental, or life insurance. For the rate year beginning on July 1, 1998, a group of nursing facilities related by common ownership that self-insures group health, dental or life insurance may allocate its directly identified costs of self-insuring its Minnesota nursing facility workers pursuant to Section 6.083, item D, subitem (7). The method of cost allocation is the same as in Section 6.083, item D, subitem (7). The costs associated with the administration of the group's self-insurance plan must remain classified in the nursing facility's administrative cost category. A written request of the nursing facility group's election to use this alternate method of allocation of self-insurance costs must be received by the Department no later than May 1, 1998, to take effect on July 1, 1998, or such costs will continue to be allocated under the existing cost allocation methods. Once a nursing facility group elects this method of cost allocation for its group health, dental, or life insurance self-insurance costs, it remains in effect until such time as the group no longer self-insures these costs.

SECTION 6.090 Real estate taxes and special assessments. Real estate taxes and special assessments for each nursing facility are to be reported in the real estate taxes and special assessments cost category. In addition, payments made in lieu of real estate taxes, unless such payments were made under a legally enforceable irrevocable written contract entered into prior to August 31, 1983, must be reported in this cost category.

SECTION 7.000 ESTABLISHMENT OF GEOGRAPHIC GROUPS

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SECTION 7.010 Classification process. The Commissioner shall classify Minnesota nursing facilities according to their geographic location.

SECTION 7.020 Group 1. All nursing facilities in Beltrami, Big Stone, Cass, Chippewa, Clearwater, Cottonwood, Crow Wing, Hubbard, Jackson, Kandiyohi, Lac Qui Parle, Lake of the Woods, Lincoln, Lyon, Mahnommen, Meeker, Morrison, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Swift, Todd, Yellow Medicine, and Wadena counties must be placed in geographic group 1.

SECTION 7.030 Group 2. All nursing facilities in counties other than the counties listed in group 1 and group 3 must be placed in geographic group 2.

SECTION 7.040 Group 3. All nursing facilities in Aitkin, Anoka, Carlton, Carver, Cook, Dakota, Hennepin, Itasca, Koochiching, Lake, Ramsey, St. Louis, Scott, and Washington counties must be placed in geographic group 3.

SECTION 7.050 Exceptions.

A. Facilities in geographic Group 1 (lowest cost) may have their rates calculated based on the highest of the limits within Group 2 (middle cost) or Group 1. This exception is granted if it is to the facility's benefit and is done automatically at the time of ratesetting. In the event an exception is granted, efficiency payments are based on Group 1 limits.

B. Effective July 1, 2006, nursing facilities in Benton, Sherburne, and Stearns counties shall receive an operating rate increase to the median rate of Group 3 facilities.

SECTION 8.000 DETERMINATION AND ALLOCATION OF FRINGE BENEFITS AND PAYROLL TAXES, FOOD COSTS, AND DIETICIAN CONSULTING FEES

SECTION 8.010 Fringe benefits and payroll taxes until July 1, 2001. Fringe benefits and payroll taxes must be allocated to case mix, other care-related costs, and other operating costs according to items A to E.

A. For the rate years beginning on or after July 1, 1988, all of the nursing facility's fringe benefits and payroll taxes must be classified to the operating cost categories, based on direct identification. If direct identification cannot be used for all the nursing facility's fringe benefits and payroll taxes, the allocation method in items B to E must be used.

B. Fringe benefits and payroll taxes must be allocated to case mix operating costs in the same

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proportion to salaries reported under the nursing service category.

C. Fringe benefits and payroll taxes must be allocated to other care-related costs in the same proportion to salaries reported under the other care-related services category.

D. Fringe benefits and payroll taxes must be allocated to other operating costs in the same proportion to salaries reported under dietary, laundry and linen, housekeeping, plant operation and maintenance services, and the general and administrative categories.

E. For any nursing facility that cannot separately report each salary component of an operating cost category, the Department shall determine the fringe benefits and payroll taxes to be allocated under this subpart according to the following: (1) The Department shall sum the allowable salaries for all nursing facilities separately reporting allowable salaries in each cost category, by cost category and in total.

(2) The Department shall determine the ratio of the total allowable salaries in each cost category to the total allowable salaries in all cost categories, based on the totals in subitem (1).

(3) The nursing facility's total allowable fringe benefits and payroll taxes must be multiplied by each ratio determined in subitem (2) to determine the amount of payroll taxes and fringe benefits allocated to each cost category for the nursing facility under this item.

(4) If a nursing facility's salary for any nursing, dietary, laundry, housekeeping, plant operation and maintenance, other care-related services and general and administrative operating cost categories, is zero and the services provided to the nursing facility in that operating cost category are not performed by a related organization, the nursing facility must reclassify one dollar to a salary cost line in the operating cost category. For rate years beginning on or after July 1, 1989, the Department shall include a nursing facility's reported public employee retirement act contribution for the reporting year as apportioned to the care-related operating cost categories multiplied by the appropriate composite index.

SECTION 8.020 Determination of food costs until July 1, 1999. The Department shall determine the costs of food to be included in other care-related costs according to items A and B.

A. For any nursing facility separately reporting food costs, food costs shall be the allowable food costs as reported under the dietary services cost category.

B. For any nursing facility that cannot separately report the cost of food under the dietary services cost category, the Department shall determine the average ratio of food costs to total dietary costs for all nursing facilities that separately reported food costs. The nursing facility's total allowable dietary costs must be multiplied by the average ratio to determine the food costs for the nursing

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facility.

For rate years beginning on or after July 1, 1987 the Department shall adjust the rates of a nursing facility that meets the criteria for the special dietary needs of its residents. The adjustment for raw food cost shall be the difference between the nursing facility's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

SECTION 8.030 Determination of dietician consulting fees until July 1, 1999. The Department shall determine the dietician consulting fees to be included in other care-related costs according to items A and B.

A. For any nursing facility separately reporting dietician consulting fees, the dietician consulting fees shall be the allowable dietician consulting fees reported under the dietary services cost category.

B. For any nursing facility that has not separately reported dietician consulting fees, the Department shall determine the average cost per licensed bed of allowable dietician consulting fees for all nursing facilities that separately reported dietician consulting fees. The nursing facility's total number of licensed beds must be multiplied by the average cost per bed to determine the dietician consulting fees for the nursing facility.

SECTION 9.000 DETERMINATION OF THE ALLOWABLE HISTORICAL OPERATING COST PER DIEMS

SECTION 9.010 Review and adjustment of costs. The Department shall annually review and adjust the operating costs reported by the nursing facility during the reporting year preceding the rate year to determine the nursing facility's actual allowable historical operating costs.

SECTION 9.020 Standardized resident days. Each nursing facility's standardized resident days must be determined in accordance with items A to B.

A. The nursing facility's resident days for the reporting year in each resident class must be multiplied by the weight for that resident class.

B. The amounts determined in item A must be summed to determine the nursing facility's standardized resident days for the reporting year.

SECTION 9.030 Allowable historical case mix operating cost standardized per diem. Until July 1, 1999, the allowable historical case mix operating cost standardized per diem must be computed by

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the standardized resident days determined in Section 9.020.

SECTION 9.040 Allowable historical other care-related operating cost per diem. Until July 1, 1999, the allowable historical other care-related operating cost per diem must be computed by dividing the allowable historical other care-related operating costs by the number of resident days in the nursing facility's reporting year.

SECTION 9.050 Allowable historical other operating cost per diem. Until July 1, 1999, the allowable historical other operating cost per diem must be computed by dividing the allowable historical other operating costs by the number of resident days in the nursing facility's reporting year.

SECTION 10.000 DETERMINATION OF OPERATING COST ADJUSTMENT FACTORS AND LIMITS

SECTION 10.010 Annual adjustment factors through June 30, 1999. The annual adjustment factors will be determined according to items A and C.

A. The forecasted consumer price index for a nursing facility's allowable operating cost per diems shall be determined using Data Resources, Inc. forecast for the change in the nursing facility market basket between the mid point of the reporting year and the mid point of the rate year. For these purposes, the indices as forecasted by Data Resources, Inc. in the fourth quarter of the calendar year preceding the rate year will be utilized.

B. For rate years beginning on or after July 1, 1994, the Department will index the prior year's operating cost limits by the percentage change in the Data Resources, Inc., nursing home market basket between the midpoint of the current reporting year and the midpoint of the previous reporting year. The Department will use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

C. For the nine month rate period beginning October 1, 1992, the 21-month inflation factor for operating costs in item B shall be increased by an annualization of seven-tenths of one percent rounded to the nearest tenth percent.

SECTION 10.020 Base year limits. Until July 1, 1999, for each geographic group the base year operating costs limits must be determined according to items A and B. No redetermination of the base year operating costs limits shall be made due to audit adjustments or appeal settlement. For purposes of this section, a new base year is established for the rate year beginning July 1, 1992, and July 1, 1993.

A. The adjusted care-related limits must be indexed as in Sections 11.010 and 11.020. The adjusted other operating cost limits must be indexed as in Sections 11.030 and 11.040.

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B. The Department shall disallow any portion of the general and administrative cost category, exclusive of fringe benefits and payroll taxes, that exceeds the percent of the allowable expenditures in all operating cost categories except fringe benefits, payroll taxes, and general and administrative as in subitems (1) to (3). For the purpose of computing the amount of disallowed general and administrative cost, the nursing facility's professional liability and property insurance must be excluded from the general and administrative cost category. For purposes of this item, the term property insurance means general liability coverage for personal injury incurred on the nursing facility property and coverage against loss or damage to the building, building contents, and the property of others on the premises of the nursing facility. Property insurance does not include any coverage for items such as automobiles, loss of earnings, and extra expenses.

(1) If the nursing facility's licensed beds exceed 195 licensed beds, the general and administrative cost category limitation shall be 13 percent.

(2) If the nursing facility's licensed beds are more than 150 licensed beds, but less than 196 licensed beds, the general and administrative cost category limitation shall be 14 percent; or

(3) If the nursing facility's licensed beds is less than 151 licensed beds, the general and administrative cost category limitation shall remain at 15 percent.

SECTION 10.030 Indexed limits. Until July 1, 1999, the total care related operating cost limit and the other operating cost limit must be determined under items A and B.

A. The annual adjustment factor for case mix and other care related operating costs for the current reporting year as determined in Section 10.010 must be divided by the corresponding annual adjustment factor for the previous reporting year.

B. The annual adjustment factor for other operating costs for the current reporting year as determined in Section 10.010 must be divided by the corresponding annual adjustment factor for the previous reporting year.

SECTION 11.000 DETERMINATION OF OPERATING COST PAYMENT RATE

SECTION 11.010 Nonadjusted case mix and other care-related payment rate. Until July 1, 1999, for each nursing facility, the nonadjusted case mix and other care-related payment rate for each resident class must be determined according to items A to D.

A. The nursing home's allowable historical case mix operating cost standardized per diem must be multiplied by the weight for each resident class.

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B. The allowable historical other care-related operating cost per diem must be added to each weighted per diem established in item A.

C. If the amount determined in item B for each resident class is below the limit for that resident class and group item C, the nursing facility's nonadjusted case mix and other care-related payment rate must be the amount determined in item B for each resident class.

D. If the amount determined in item B for each resident class is at or above the limit for that resident class and group, the nursing facility's nonadjusted case mix and other care-related payment rate must be set at the limit.

SECTION 11.020 Adjusted prospective case mix and other care-related payment rate. Until July 1, 1999, for each nursing facility, the adjusted prospective case mix and other care-related payment rate for each resident class must be the nonadjusted case mix and other care-related payment rate multiplied by the case mix and other care-related adjustment factor.

SECTION 11.030 Nonadjusted other operating cost payment rate. Until July 1, 1999, the nonadjusted other operating cost payment rate must be determined according to items A and B.

A. If the allowable historical other operating cost per diem is below the limit for that group the nursing facility's nonadjusted other operating cost payment rate must be the allowable historical other operating cost per diem.

B. If the allowable historical other operating cost per diem is at or above the limit for that group the nursing facility's nonadjusted other operating cost payment rate must be set at that limit.

SECTION 11.040 Adjusted prospective other operating cost payment rate until July 1, 1999. The adjusted prospective other operating cost payment rate must be determined according to items A to C.

A. Except as provided in item B, if the nursing facility's nonadjusted other operating cost payment rate is below the limit for that group, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030, item A, multiplied by the other operating cost adjustment factor plus, for the rate years before July 1, 1999, an efficiency incentive equal to the difference between the other operating cost limits in each geographic group and the nonadjusted other operating cost payment rate in Section 11.030, up to the maximum set forth in Section 11.047, item C.

B. For any short length of stay facility and any nursing facility licensed on June 1, 1983 by

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the Department to provide residential services for the physically handicapped that is under the limits, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030, item A, multiplied by the other operating cost adjustment factor determined in Section 10.010, item B, plus, for the rate years before July 1, 1999, an efficiency incentive equal to the difference between the other operating cost limits for hospital attached nursing facilities in each geographic group, and the nonadjusted other operating cost payment rate in Section 11.030, up to the maximum set forth in Section 11.047, item C.

C. If the nursing facility's nonadjusted other operating cost payment rate is at or above the limit for that group, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030, item B, multiplied by the other operating cost adjustment factor determined in Section 10.010, item B.

SECTION 11.042 Efficiency incentive reductions for substandard care. For rate years beginning on or after July 1, 1991, the efficiency incentive established in Section 11.047, item C, shall be reduced or eliminated for nursing facilities determined by the Commissioner of health to have uncorrected or repeated violations which create a risk to resident care, safety, or rights, except for uncorrected or repeated violations relating to a facility's physical plant. Upon being notified by the Commissioner of health of uncorrected or repeated violations, the Commissioner of human services shall require the nursing facility to use efficiency incentive payments to correct the violations. The Commissioner of human services shall require the nursing facility to forfeit efficiency incentive payments for failure to correct the violations. Any forfeiture shall be limited to the amount necessary to correct the violation.

SECTION 11.046 Changes to nursing facility reimbursement beginning July 1, 1996. The nursing facility reimbursement changes in items A through G are effective for one rate year beginning July 1, 1996. In addition, the Department must determine nursing facility payment rates for this rate year without regard to the changes in this section, the results of which will serve as the basis for allowed costs in the following rate years.

A. Except for purposes of the computation of the efficiency incentive in approved State plan amendment TN 99-10, Section 11.045, item D, which described the methodology for computing a nursing facility's efficiency incentive for rates on or after July 1, 1995, the operating cost limits in Section 10.020, items A and B, and Section 16.138 do not apply.

B. Notwithstanding approved State plan amendment TN 99-10, Section 11.045, item E, subitem (2), which specified that the Nursing Home Market Basket forecasted index for allowable operating costs and per diems was based on the 12-month period between the midpoints of the two reporting years preceding the July 1, 1995 rate year, the operating cost limits in Section 10.020, items A and B are indexed for inflation as in Section 10.010, item B.