Effective April 1, 2013, the methodology described in the Rate Setting and Financial Reporting for Intermediate Care Facilities for Persons with Developmental Disabilities (ICF/DDs) section in this Attachment for government operated facilities will be terminated, with the exception of those sections outlined in Paragraph (m), which follows. The new methods and standards for establishing payment rates are described in Paragraph (m) of this section.

(m) Effective April 1, 2013, rate setting for Intermediate Care Facilities for the Developmentally Disabled operated by New York State will be governed by this section of Part II of Attachment 4.19-D. These facilities are Developmental Centers and Community-based State Operated Intermediate Care Facilities for the Developmentally Disabled (SOICF/DDs). The Developmental Centers' rate is an all inclusive rate. The rate for Community-based SOICF/DDs include services being provided in the ICF/DD with the addition of Day Services and Tax Assessment components which will be added to the calculated rate as set forth in paragraphs (6) and (7).

(1) **Reporting Requirements.** The State will report cost in accordance with Generally Accepted Accounting principles in a complete Consolidated Fiscal Report (CFR) format.

(2) **Definitions** applicable to this section:

(i) **Allowable Operating Costs -** Are all necessary and proper costs which are appropriate and helpful in developing and maintaining the operation of ICF/DDs. Necessary and proper costs are costs which are common and accepted occurrences in the field of intermediate care facilities for the developmentally disabled. These costs will be determined in accordance with the cost principles described in the Medicare Provider Reimbursement Manual (HIM-15). This will include allowable program administration, direct care, support, clinical, fringe benefits, and indirect personal service/non-personal service.

(ii) **Allowable Capital Costs -** Are all necessary capital costs incurred to provide covered services to beneficiaries determined in accordance with the cost principles described in the Medicare Provider Reimbursement Manual (HIM-15). This will include allowable lease/rental and ancillary payments; depreciation of equipment, vehicles, leasehold improvements and real property; financing expenditures associated with the purchase of equipment, vehicles and real property, and related expenditures and leasehold improvements.

(iii) **Base Period** – is the CFR period from which the Initial Period rate will be calculated.

(iv) **Base Period CFR** – is the CFR from three years prior to the initial rate period.

(v) **Beginning Census/Capacity** – is the beginning census/capacity on March 31st immediately prior to the beginning of the rate period.

(vi) **Capital Costs** – Costs that are related to the acquisition and/or long term use of land, buildings, construction, and equipment.

(vii) **Certified Capacity (Community-based SOICF/DDs)** – represents the total capacity of the Community-based SOICF/DDs in the Operating Certificates.

(viii) **Census (Developmental Centers)** – is the number of individuals in all Developmental Centers on a given day.

(ix) **Consolidated Fiscal Report (CFR)** – is the reporting tool utilized by all government and non-government providers to communicate annual costs incurred as a result of operating OPWDD programs and services, along with related utilization and staffing statistics.

(x) **Depreciation** – is the allowable cost based on historical costs and useful life of buildings, fixed equipment, capital improvements and/or acquisition of real property. The useful life shall be based on "The Estimated Useful Life of Depreciable Hospital Assets (2008 edition)." The depreciation method used shall be straight-line method.
(xi) **Facility** – the site or physical building where actual services are provided.
(xii) **Financing Expenditures** – interest expense and fees charged for financing of costs related to the purchase/acquisition, alteration, construction, rehabilitation and/or renovation of real property.
(xii) **Historic Utilization Factor** –For Community-based SOICF/DDs, the historic utilization factor shall be the number of reported units of service for all individuals residing in Community-based SOICF/DDs in the base period, divided by the maximum possible units of service. The maximum possible units of service shall be the product of the certified capacity for all Community-based SOICF/DDs on March 31 immediately prior to the first day of the base period and the number of days in the base period. For developmental centers, the historic utilization factor shall be the number of reported units of service for all individuals residing in all Developmental Centers in the base period who were not projected to move to the community during that base period, divided by the maximum possible units of service for such individuals. The maximum possible units of service for such individuals shall be the product of the number of individuals residing in all Developmental Centers on March 31 immediately prior to the first day of the base period who were not projected to move to the community during the base period and the number of days in the base period.
(xiv) **Individual –** a person who resides in a Developmental Center or a Community Based SOICF/DD.
(xv) **Initial Period** – is the first 12 months of the two-year rate cycle. Costs will be calculated by using the CFR from three years prior to the rate period.
(xvi) **Lease/Rental and Ancillary Payments** – a facility's annual rental payments for real property and ancillary outlays associated with the property, such as utilities and maintenance.
(xvii) **Operating Costs for Developmental Centers –** are all allowable operating costs with the exception of Tax Assessment and Capital.
(xviii) **Operating Costs for Community Based State Operated ICF/DDs** – are all allowable operating costs with the exception of Tax Assessment, Day Services and Capital.
(xix) **Phase Factor** – represents the projection of time during the rate period individuals will live in a Developmental Center prior to moving to the community. The phase factor is 60%.
(xx) **Projected Units of Service Developmental Centers** – is determined by multiplying the number of anticipated individuals moving to the community in the rate period by the calendar days in the rate period multiplied by the phase factor, and adding that value to the product of the number of individuals anticipated to remain in the Developmental Center for the entire rate period multiplied by the calendar days in the rate period multiplied by the historic utilization factor.
(xxi) **Projected Units of Service-Community SOICF/DDs** – is determined by multiplying the certified capacity on March 31 immediately prior to the rate period by the number of calendar days in the rate period by the historic utilization factor.
(xxii) **Rate Period** – is the annual time period that rates are effective, i.e. April 1st through March 31st.
(xxiii) **Rate Cycle** – the rate cycle is a 24 month period that consists of two rate periods beginning on April 1st of each year.
(xxiv) **Reimbursable Costs** – are the allowable costs calculated from the base period CFR.
(xxv) **Staffing Ratio** – is the calculated ratio between individuals and staff in the base period CFR.
(xxvi) **Subsequent Period** – is the second 12 months of the rate cycle.

(xxvii) **Trend Factor** – is a percentage applied to all applicable operating costs that represent inflations in the costs of goods and services as described in (m)(5).

(xxviii) **Unit of Service** – is the unit of measure denoting lodging and services rendered to one individual between the census taking hours of the facility on two successive days. The day of admission but not the day of discharge will be counted as a unit of service. Also, one unit of service will be counted if the individual is discharged on the same day he/she is admitted, providing there was an expectation that the admission would have at least 24-hour duration. Reserved bed days under Attachment 4.19-C are included in the units of service.

(3) **Computation of Rates (General).**

(i) There will be one Statewide rate for all Developmental Centers and one Statewide rate for all Community-based SOICF/DDs.

(ii) New York State will make an adjustment to the rate resulting from any final audit findings or reviews.

(iii) Developmental Center costs include any necessary transportation to and from physician, dentist, and other clinical services as well as any other transportation appropriate to the individual's participation in community-based activities planned for or sponsored by the facility. Developmental Center costs do not include emergency/nonemergency ambulance services which were separately billed to Medicaid.

(iv) The rate for the initial period will be computed on the basis of a full 12-month base period CFR , adjusted in accordance with (m)(3)(ii). If a facility closes or is no longer used as an ICF/DD during or subsequent to the base year, all costs and statistics for that facility will be removed from the base period before calculating the initial period rate. The computation of the base period staffing ratio using the end of year census/certified capacity is effective for the first rate cycle. The State will submit a State Plan Amendment to establish the staffing ratio that will be effective for the 2015-17 rate cycle.

(v) For a Community-based SOICF/DD that has been in operation less than four full years as the start of the initial period, the initial period rate will be the Statewide rate for Community- Based SOICF/DDs in effect during such initial period, and the subsequent period rate will be the Statewide rate for Community- Based SOICF/DDs in effect during such subsequent period, until the beginning of the next rate cycle.

(4) **Reimbursable Costs for the Initial Period of the 24-month Rate Cycle.**

(i) Program Administration Reimbursement is the Administration directly related to the provision of the service.

A per person average staffing ratio will be calculated using the direct personal service from the base period CFR-4. The total Program Administration FTE's (full time equivalents) is divided by the ending census (Developmental Centers)/certified capacity (Community-based SOICF/DD) from the base period CFR which will result in a Program Administration staffing ratio.

(a) An average Program Administration salary will be calculated by dividing the direct personal service from the base period CFR-4 total annual salary of all Program Administration employees by the total

Program Administration FTE's.

(b) The Program Administration staffing ratio is then multiplied by the census (Developmental Centers)/certified capacity (Community-based SOICF/DDs) of the March 31st date immediately prior to the beginning of the rate period. The product of this calculation is the total number of Program Administration FTE's.

(c) The calculated average Program Administration salary is then multiplied by the calculated Program Administration FTE's. The product of this calculation is the total Program Administration salary cost.

(d) The result of paragraph (4)(i)(c) is then trended in accordance with paragraph (5) of this section, then divided by the total projected units of service on March 31st immediately prior to the beginning of the rate period to arrive at the Program Administration salary cost per diem.

(ii) **Direct Care Reimbursement.**

A per person average staffing ratio will be calculated using the direct personal service from the base period CFR-4. The total Direct Care FTE's is divided by the ending census (Developmental Centers)/certified capacity (Community-based SOICF/DDs) from the base period CFR which will result in a Direct Care staffing ratio.

(a) An average Direct Care salary is calculated by dividing the direct personal service from the base period CFR-4 total annual salary of all Direct Care employees by the total Direct Care FTE's.

(b) The Direct Care staffing ratio is multiplied by the census (Developmental Centers)/certified capacity (Community-based SOICF/DDs) of the March 31st date immediately prior to the beginning of the rate period. The product of this calculation is the total number of Direct Care FTE's.

(c) The calculated average Direct Care salary is multiplied by the calculated Direct Care FTE's. The product of this calculation is the total Direct Care salary cost.

(d) The result of paragraph (4)(ii)(c) is trended in accordance with paragraph (5) of this section, then divided by the total projected units of service on March 31st immediately prior to the beginning of the rate period to arrive at the Direct Care salary per diem.

(iii) **Support Reimbursement.**

A per person average staffing ratio will be calculated using the direct personal service from the base period CFR-4. The total Support FTE's is divided by the ending census (Developmental Centers)/certified capacity (Community-based SOICF/DDs) from the base period CFR which will result in a Support staffing ratio.

(a) An average Support salary is calculated by dividing the direct personal service from the base period CFR-4 total annual salary of all Support employees by the total Support FTE's.

(b) The Support staffing ratio is then multiplied by the census (Developmental Centers)/certified capacity (Community-based SOICF/DDs) of the March 31st immediately prior to the beginning of the rate period. The product of this calculation is the total number of Support FTE's.

(c) The calculated average Support salary is multiplied by the calculated Support FTE's. The product of this calculation is the total Support salary cost.

(d) The result of paragraph (4)(iii)(c) is trended in accordance with paragraph (5) of this section, then divided by the total projected units of service on March 31st immediately prior to the beginning of the rate period to arrive at the Support salary per diem.

(iv) **Clinical Reimbursement.**

A per person average Clinical staffing ratio will be calculated using the direct personal service from the base period CFR-4. The total Clinical FTE's is divided by the ending census (Developmental Centers)/certified capacity (Community-based SOICF/DDs) from the base period CFR which will result in the Clinical staffing ratio.

(a) An average Clinical salary is calculated by dividing the direct personal service from the base period CFR-4 total annual salary of all Clinical employees by the total Clinical FTE's.

(b) The Clinical staffing ratio is multiplied by the census (Developmental Centers)/certified capacity (Community-based SOICF/DDs) of the March 31st date immediately prior to the beginning of the rate period. The product of this calculation is the total number of Clinical FTE's.

(c) The calculated average salary is then multiplied by the calculated Clinical FTE's. The product of this calculation is the total Clinical salary cost.

(d) The result of Paragraph (4)(iv)(c) is trended in accordance with Paragraph (5) of this section, then divided by the total projected units of service on March 31st immediately prior to the beginning of the rate period to arrive at the Clinical salary cost per diem.

(v) **Fringe Benefits** are calculated by multiplying the sum of trended allowable Personal Service dollars calculated in (m)(4)(i) through (m)(4)(iv) by the budgeted fringe factor of 55.48%. The result is divided by the total projected units of service as on March 31st immediately prior to the beginning of the rate period to arrive at the fringe per diem. Fringe benefit related accruals will also be included. Accruals are calculated as change between the end of the current benefit period and the next benefit period, for this period the accrual would be .25%. The computation of the base year fringe benefits is effective for the first rate cycle. The State will submit a State Plan Amendment to establish the fringe benefits factor that will be effective for the 2015-17 rate cycles.

(vi) **Indirect Personal Service and Non-Personal Service Costs** are calculated as follows:

(a) The Total Personal Service dollars from the base period CFR-1 less the total Direct Personal Service dollars from the base period CFR-4 results in the Indirect Personal Service dollars.

(b) The Indirect Personal Service amount is then multiplied by the fringe benefit percentage.

(c) The Indirect Personal Service dollars with associated fringe is added to Non-Personal Service dollars from the base period CFR. The product is Total Indirect Personal Service dollars and Non-Personal Service dollars.

(d) Total Indirect Personal Service and Non-Personal Service dollars are divided by the ending census/capacity on the base period CFR resulting in a per-person annual Non-Personal Service dollar amount.

(e) The per-person annual Non-Personal Service amount is multiplied by the beginning census/certified capacity , giving the annual Indirect Non-Personal Service dollars.

(f) The result of paragraph (4)(vi)(e) is trended in accordance with Paragraph (5) of this section, then divided by the total projected units of service on March 31st immediately prior to the beginning of the rate period to arrive at the Indirect Non-Personal Service cost per diem.

(vii) Sum products of paragraphs (4)(i)(d), (4)(ii)(d), (4)(iii)(d), (4)(iv)(d), (4)(v), and (4)(vi)(f) of this section to arrive at the total trended operating cost per diem.

(5) **Trend Factors.**

(i) The trend factor used will be the applicable years from the Medical Care Services Index for the period April to April of each year from www.BLS.gov/cpi; Table 1 Consumer Price Index for All Urban Consumers (CPI-U); U.S. city average, by expenditure category and commodity and service group.

(ii) Generally, actual index values will be used for all intervening years between the base period and the rate period. However, because the index value for the last year immediately preceding the current rate period will not be available when the current rate is calculated, an average of the previous five years actual known indexes will be calculated and used as a proxy for that one year.

(iii) A compounded trend factor will be calculated in order to bring base period costs to the appropriate rate period.

(6) **Day Service add-on for Community-based SOICF/DDs.** To reimburse Community-based SOICF/DDs that obtain day services from State and Voluntary providers, the State will calculate an interim amount that will approximate the costs Community-based SOICF/DDs will incur to obtain these services for the individuals they serve, and this interim amount will be reconciled to the actual rate year costs incurred. The interim amount included in the rate will be calculated as stated below:

(i) The Day Services from the base period CFR will be added to an approximate payment to be made to the day services providers for the individuals residing in Community-based SOICF/DDs and attending Day Services.

(ii) The result of paragraph (6)(i) is trended in accordance with paragraph (5) of this section, then divided by the total units of service as projected on March 31st immediately prior to the beginning of the rate period to arrive at the Day Services per diem.

(iii) The Day Services reconciliation to final rate - New York State will pay for SOICF Day Services at the same rate established by OWPDD under the comprehensive home and community based services waiver for the day habilitation program operated by the same provider and in the same location as such day services. Subsequent to the rate period OPWDD will determine the actual billings for day services for each individual and reconcile the interim amount in (II) to the amount of actual billings.

(7) **Tax Assessment costs** in the amount of a 5.5 percent assessment uniformly imposed on all SOICF/DD services of all such providers will be included in the rate.

(8) **Capital Add-on Cost**.

(i) The Capital add-on will be calculated using the Base Period CFR.

(ii) Capital costs are calculated by adding Base Period CFR Total Equipment and Total Property-Provider Paid.

(iii) The result of paragraph (8)(ii) of this section is divided by total projected units of service on March 31st immediately prior to beginning of rate period to arrive at the Capital cost per diem.

(9) **Total Per Diem** will be the sum products of paragraphs (4)(vii), (6)(ii), (7), and (8)(iii) of this section.

(10) **Computation of the Subsequent Period Rate.**

(i) The reimbursable costs contained in the subsequent period rate will be computed as follows:

(a) New York State will update the census (Developmental Center) and certified capacity (Community-based SOICF/DDs) based on the number of individuals in the facility as of March 31st of the immediately preceding rate period. Once these updates have been made OPWDD will increase the costs by the trend factor as described in Paragraph (5) of this section.

(b) An adjustment will be made to reflect the capital in the CFR three years prior to the rate period. The first full year after an institution is closed OPWDD will remove all related capital.

(ii) The computation of the subsequent period rate can also be represented by the following formula:

Trended Reimbursable Operating costs + Trended Adjusted Day Service costs + Adjusted Reimbursable Capital costs+ Tax Assessment = Total Reimbursable Costs.

(11) **Upper Payment Limit Assurance.**

(i) So that CMS may monitor the reasonableness of the methodology set forth in paragraph (4) on an ongoing basis, the State will report to CMS on a quarterly basis the current quarter's average salaries and the number of individuals that have been placed in the community that quarter. The State will also report to CMS annually beginning census information and the number of individuals who actually moved from Developmental Centers to the community and the State's anticipated placements for the next year.

(ii) When the cost data for each rate period is finalized, the State will calculate the aggregate upper payment limit in accordance with applicable federal law, regulations, and official guidance from CMS for all Developmental Centers and Community-based SOICF/DDs, and will provide CMS with its upper payment limit calculation. The State anticipates it will finalize the cost data for each rate period by completing a CFR in the normal course of business within 18 months of the end of the rate period. If the total payments received and expected to be received under this section (m) for all Developmental Centers and Community-based SOICF/DDs exceed the upper payment limit for such rate period as calculated by the State and accepted by CMS, the State will treat any overage as an overpayment the federal share of which will be refunded.