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1**1905(a)(1) Inpatient Hospital Services**

1. Rates for specialty hospitals for services delivered on and after July 1, 2011, will be determined in accordance with the following described methodology.
  - (a) "**Specialty hospital**" as used in this Part of this Attachment is the program and site for which OPWDD has issued an operating certificate to operate as a specialty hospital for persons with developmental disabilities. "**Provider**" as used in this Part of this Attachment is the corporation or other organization operating a specialty hospital.
  - (b) **Unit of service** - The unit of service will be a day.
  - (c) **Rates** will be as follows:

Rate period	Rate
07/01/2011-12/31/2014	\$895.16
01/01/2015-03/31/2015	\$898.93
04/01/2015-12/31/ <u>2017</u>	\$910.94
01/01/2018-03/31/2018	\$919.09
On and After 04/01/2018	\$939.32

The rates for the period 7/1/2021 through 3/31/2022 will be increased for a Cost-of-Living Adjustment (COLA), calculated to support a one percent (1.0%) annual aggregate payment to be paid out over the 9 month period between July 1, 2021 and March 31, 2022, if, upon review of the provider's CFR for the period it is determined the Medicaid revenues the provider would have otherwise received for the period were less than the Medicaid cost the provider incurred over the same period.

The rates for the period 4/1/2022 through 3/31/2023 will be increased by up to 5.4% for a cost-of-living adjustment, if, upon review of the provider's CFR for the period it is determined the Medicaid revenues the provider would have otherwise received for the period were less than the Medicaid cost the provider incurred over the same period.

The rates for the period 4/1/2023 through 3/31/2024 will be increased by up to 4% for a cost-of-living adjustment, if, upon review of the provider's CFR for the period it is determined the Medicaid revenues the provider would have otherwise received for the period were less than the Medicaid cost the provider incurred over the same period.

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(d) **Rate appeals** - A provider will appeal for an adjustment to its rate that would result in an annual increase of \$5,000 or more in the provider's allowable costs and that is needed because of bed vacancies. A bed vacancy appeal will be requested when the occupancy rate of the specialty hospital is less than 100 percent. The appeal request must be made within one year of the close of the rate period in which the bed vacancies occurred or within six months of the notification to the provider of the rate amount, whichever is later. OPWDD will only grant the appeal if the provider has demonstrated that the vacancies were unavoidable. No amount granted on appeal will result in Medicaid payments exceeding the provider's specialty hospital costs of providing Medicaid services for the rate period.

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- [(b)] Costs (including legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) for which any payment has been previously made under Medicaid, shall not be allowable for reimbursement.
- (c) If a facility's real property assets are sold or leased, or subject to any other transaction which results in a net decrease in the real property cost to the provider, the real property cost portion of a facility's rate shall be prorated accordingly. For the purpose of this section, real property assets refer to buildings, building improvements and fixed equipment. Real property costs are the costs directly related to real property assets.
- (ix) A facility's annual rental payments for real property may be considered an allowable cost subject to the following conditions:
  - (a) The lease is reviewed by and acceptable to Office of Mental Retardation and Developmental Disabilities and any other State agency which must by law or regulation review and approve reimbursement rates.
  - (b) The lease agreement must be considered 'an arm's-length transaction' not involving either an affiliate controlling person, immediate family or principal stockholder.
  - (c) The arm's-length transaction requirement may be waived by the commissioner upon application for those corporations holding title to the specialty hospital's physical plant, created pursuant to the Not-for-Profit Corporation Law with the approval of the commissioner.
  - (d) For the purposes of this section, affiliate means:
    - (1) With respect to a partnership, each partner thereof.
    - (2) With respect to a corporation, each officer, director, principal stockholder and controlling person thereof.

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- (3) With respect to a natural person, each member of said person's immediate family or each partnership and each partner of such person or each corporation in which said person or any affiliate of said person is an officer, director, principal stockholder or controlling person.
- (e) For the purposes of this section, controlling person of any corporation, partnership, or other entity means any person who by reason of a direct or indirect ownership interest (whether of record or beneficial) has the ability, acting either alone or in concert with others with ownership interest, to direct or exert a controlling influence on the direction of the management policies of said corporation, partnership or other entity. Neither the commissioner, nor any employee of the OMRDD, nor any member of a local legislative body of a county or municipality, nor any county or municipal official except when acting as the administrator of a facility, shall by reason of his or her official position be deemed a controlling person of any corporation, partnership or other entity. Nor shall any person who serves as an executive director, officer, administrator, principal employee or other employee of any corporation, partnership or other entity or as a member of a board of directors or trustees of any corporation be deemed to be a controlling person of such corporation, partnership or other entity solely as a result of such position or his or her official actions in such position.
- (f) For the purposes of this section, immediate family means brother, sister, grandparent, grandchild, first cousin, aunt or uncle, spouse, parent or child of such person whether such relationship arises by reason of birth, marriage or adoption.
- (g) For the purposes of this section, principal stockholder of a corporation means any person who beneficially owns, holds or has the power to vote, 10 percent or more of any class of securities issued by said corporation.
- (h) The rental amount is comparable to similar leases for properties with similar functions in the same geographical area.

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- (i) If the above criteria are not met, reimbursement for lease costs will be determined in accordance with section (d)(8)(x) and (xii).
- (j) Lease options to renew shall not be exercised without review and approval of the parties listed in section (d)(8)(ix)(a). Such review and decision shall occur whenever possible more than 30 days before the last date the option may be exercised, the date of which the facility has notified OMRDD in accordance with section (d)(8)(ix)(k).
- (k) Request for approval of lease renewals shall be submitted whenever possible at least 120 days prior to the last date for the exercise of the lease renewal option.
- (x) Depreciation shall be an allowable cost when based upon factors of historical costs and useful life of buildings, fixed equipment and/or capital improvements. For the purposes of this section:
  - (a) Unless an exception is made by the commissioner, the useful life shall be the higher of the reported useful life or those from the Estimated Useful Lives of Depreciable Hospital Assets (1983 edition), published by the American Hospital Association and available by writing the American Hospital Association, 840 Lake Shore Drive, Chicago, IL 60611. On an exception basis, a useful life that is based upon historical experience as shown by documentary evidence and approved by OMRDD may be allowed.
  - (b) The depreciation method used shall be the straight-line method.
  - (c) In the event that the historical cost of the facility cannot be adequately determined by the commissioner, an appraisal value shall be the basis for depreciation. The appraisal shall produce a value approximating the cost of reproducing substantially identical assets of like type, quality and quantity at a price level in a reasonably competitive market as of the date of acquisition. Such appraisal shall be conducted by an appraiser approved by OMRDD and pursuant to a method approved by OMRDD and the cost of the appraisal is also allowable.

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- (xi) Costs related to moveable equipment, furniture and fixtures may be considered an allowable cost subject to the following:
- (a) Depreciation based upon historical cost of moveable equipment, furniture and fixtures is considered an allowable cost. The useful life shall be the higher of the reported useful life, or those from the Estimate Useful Lives of Depreciable Hospital Assets (1983 edition), published by the American Hospital Association and available by writing to the American Hospital Association, 840 Lake Shore Drive, Chicago, IL 60611. On an exception basis, a useful life that is based upon historical experiences as shown by documentary evidence and approved by OMRDD may be allowed.
  - (b) The facility shall use the straight-line, double-declining balance or sum-of-the-year's digits depreciation method. The depreciation method utilized must remain consistent throughout the useful life of an asset.
  - (c) Lease payments may be an allowable cost if the payments are made under a lease which is an arm's-length transaction as described in section (d)(8)(ix)(b).
  - (d) Any personal property and equipment transactions shall be through a multiple bid process and entered into at a fair market value price.
  - (e) If lease payments are not made pursuant to an arm's-length agreement, allowable costs will include allowable depreciation, the associated interest expense, if any, and other related expenses, including but not limited to maintenance costs.
- (xii) Interest cost may be considered an allowable cost subject to the following:
- (a) Interest for capital indebtedness, where the capital indebtedness does not exceed the current Office of Mental Retardation and Developmental Disabilities approved value of the property, will be considered allowable.
  - (b) An interest rate shall not be in excess of the amount a prudent borrower would pay at the time the loan was incurred.

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- (c) The loan agreement must be entered into between parties not related through control, ownership, affiliation, or personal relationship as defined in section (d)(8)(ix)(d), unless this provision is waived by the commissioner. Such waiver shall be based on, but not limited to, a demonstration of need for the program and cost savings resulting from the transaction.
- (d) Interest income generated from the facility's revenues for the operation of the facility shall be used to offset interest expense incurred during the same reporting period.  
Notwithstanding the foregoing, a facility is not required to use the following to offset interest expense: income earned on qualified pension funds, income from gifts or grants which is donor-restricted, or income earned on secure investments pursuant to section (d) (10).
- (e) Interest on working capital indebtedness in accordance with standards contained herein will be considered allowable. In the event that a loan is not in accordance with the standards listed above, the approval of the commissioner is required.
- (xiii) Costs of related organizations, other than costs incurred pursuant to a lease, rent or purchase of real property, may be considered an allowable cost subject to the following:
- (a) A "related organization" means any entity of which the provider is in control or which the provider is controlled by (subject to the limitations in section (d)(8)(ix)(e), either directly or indirectly, or where a common ownership or financial interest exists in an entity which supplies goods and/or services to the facility.
- (b) The costs of goods and/or services furnished to a facility, within the course of normal business operations, by a related organization are allowable at the cost to the related organization, or the market price of comparable goods and/or services available in the facility's region, whichever is lower.]