

TABLE II  
Overall Rate Limit

Level of Care	(A) Percent
Sheltered living	115%
Intensive training	120%
Child rearing	130%
Developmental training	120%
Child rearing with a specialized program	120%
Small behavior management residences for children	120%
Basic developmental	120%
Small extensive medical needs residences for adults	120%
Extensive support needs residences for adults	120%
Nonstate-operated ICF/MR	107%

405 IAC 1-12-10 Computation of rate; allowable costs; review of cost reasonableness  
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

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Affected: IC 12-13-7-3; IC 12-15

Sec. 10. (a) The per diem rate shall be an all-inclusive rate. The office shall not set a rate for more than one (1) level of care for each CRF/DD provider.

(b) Costs and revenues shall be reported as required on the financial report forms. Patient or resident care costs shall be clearly identified.

(c) The provider shall report as patient or resident care costs only costs that have been incurred in the providing of patient or resident care services. The provider shall certify on all financial reports that costs not related to patient or resident care have been separately identified on the financial report.

(d) In determining reasonableness of costs, the office may compare line items, cost centers, or total costs of providers with like levels of care throughout the state. The office may request satisfactory documentation from providers whose costs do not appear to be accurate and allowable.

FOOTNOTE TO SECTION 10(d) ABOVE BUT NOT PART OF THE PROMULGATED REIMBURSEMENT RULE: THIS SECTION AUTHORIZES THE STATE TO COMPARE LINE ITEM, COST CENTERS OR TOTAL COSTS OF PROVIDERS WITH LIKE LEVELS OF CARE THROUGHOUT THE STATE. SUCH COMPARISONS WILL OCCUR DURING THE NORMAL DESK REVIEW AND AUDIT PROCESSES. THIS ACTIVITY NATURALLY REQUIRES THE USE OF PROFESSIONAL JUDGMENT. COSTS THAT APPEAR TO BE OUT OF LINE WITH PROVIDERS WITH LIKE LEVELS OF CARE WILL BE QUESTIONED IN MUCH THE SAME WAY THAT COSTS ARE QUESTIONED UNDER THE CURRENT APPROVED PLAN. SPECIFYING THE PRECISE CONDITIONS WHEN THESE ACTIONS MUST OCCUR IS NOT FEASIBLE.

(e) Indiana state taxes, including local taxes, shall be considered an allowable cost. Federal income taxes are not considered allowable costs. (*Office of the Secretary of Family and Social Services; 405 IAC 1-12-10*)

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405 IAC 1-12-11 Allowable costs; services provided by parties related to provider

Sec. 11. (a) Costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control may be included in the allowable cost in the unit of service of the provider at the cost to the related organization. However, such cost must not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere in an arm's-length transaction.

(b) Common ownership exists when an individual, individuals, or any legal entity possesses ownership or equity of at least five percent (5%) in the provider as well as the institution or organization serving the provider. An individual is considered to own the interest of immediate family for the determination of percentage of ownership. The following persons are considered immediate family:

- (1) Husband and wife.
- (2) Natural parent, child, and sibling.
- (3) Adopted child and adoptive parent.
- (4) Stepparent, stepchild, stepsister, and stepbrother.
- (5) Father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, and daughter-in-law, stepson-in-law, stepdaughter-in-law.
- (6) Grandparent and grandchild.

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(c) Control exists where an individual or an organization has the power, directly or indirectly, to influence or direct the actions or policies of an organization or institution, whether or not actually exercised.

(d) Transactions between related parties are not considered to have arisen through arm's-length negotiations. Costs applicable to services, facilities, and supplies furnished to a provider by related parties shall not exceed the lower of the cost to the related party or the price of comparable services, facilities, or supplies purchased elsewhere. An exception to this subsection may be granted by the office if requested in writing by the provider before the annual rate review effective date to which the exception is to apply. The provider's request shall include a comprehensive representation that every condition in subsection (e) has been met. This representation shall include, but not be limited to, the percentage of business the provider transacts with related and nonrelated parties based upon revenue. When requested by the office, documentation to substantiate the provider's charges for services, facilities, or supplies to related and nonrelated parties, such as invoices, standard charge master listings, and remittances must be submitted.

(e) The office shall grant an exception when a related organization meets all of the following conditions:

(1) The supplying organization is a bona fide separate organization whose services, facilities, and supplies are made available to the public on an open competitive market.

(2) A sufficient part of the supplying organization's business activity is transacted with other than the provider and organizations related to the supplier in common ownership or control, and there is an open competitive market for the type of services, facilities, or supplies furnished by the organization. Transactions with residents of facilities that are owned, operated, or managed by the provider or organizations related to the provider shall not be considered a business activity for purposes of meeting this requirement.

(3) The services, supplies, or facilities are those which commonly are obtained by institutions, such as the provider, from other organizations and are not a basic element of patient or resident care ordinarily furnished directly to patients or residents by such institutions.

(4) The organization actually furnishes such services, facilities, or supplies to other non-related party organizations, and the charge to the provider is in line with the charge for such services, facilities, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for such services, facilities, or supplies.

(f) The related party exception shall be for any period of time, up to the maximum term of two (2) years.

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405 IAC 1-12-12 Allowable costs; capital return factor

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

Affected: IC 12-13-7-3; IC 12-15

Sec. 12. (a) Providers, other than extensive support needs residences for adults, shall be reimbursed for the use of facilities and equipment, regardless of whether they are owned or leased, by means of a capital return factor. The capital return factor shall be composed of a use fee to cover the use of facilities, land and equipment, and a return on equity. Such reimbursement shall be in lieu of the costs of all depreciation, interest, lease, rent, or other consideration paid for the use of property. This includes all central office facilities and equipment whose patient or resident care-related depreciation, interest, or lease expense is allocated to the facility.

(b) The capital return factor portion of the established rate during rebasing years is the sum of the allowed use fee, return on equity, and rent payments.

(c) Allowable patient or resident care-related rent, lease payments, and fair rental value of property used through contractual arrangement shall be subjected to limitations of the capital return factor as described in this section.

405 IAC 1-12-13 Allowable costs; capital return factor; computation of use fee component; interest; allocation of loan to facilities and parties

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

Affected: IC 12-13-7-3; IC 12-15

Sec. 13. (a) The use fee limitation is based on the following:

- (1) The assumption that facilities and equipment are prudently acquired and financed.
- (2) Providers will obtain independent financing in accordance with a sound financial plan.
- (3) Owner capital will be used for the balance of capital requirements.

(b) The amortization period to be used in computing the use fee shall be the greater of twenty (20) years or the actual amortization period for the facility and for facilities and equipment where a single lending arrangement covers both. Where equipment is specifically financed by means of a separate lending arrangement, a minimum of seven (7) years shall be the amortization period. Provided, however, that a mortgage existing on April 1, 1983, has a fully amortizing life of less than twenty (20) years, the use fee will be calculated using the actual life of the lending arrangement, but not less than twelve (12) years. If the facility payments toward the principal loan amount are less than the amount derived from a standard loan amortization during the reporting period, the computation of the use fee shall be limited to the principal and interest amounts actually paid during the reporting period, unless the financing arrangement specifically requires that amortized payments to be made to a sinking fund, or its equivalent, for future principal payments and the provider can demonstrate that payments from the sinking fund are actually made.

(c) The use fee component of the capital return factor shall be limited by the lessor of:

- (1) the original loan balance at the time of acquisition;
- (2) eighty percent (80%) of historical cost of the facilities and equipment; or
- (3) eighty percent (80%) of the maximum allowable property basis at the time of the acquisition plus one-half (1/2) of the difference between that amount and the maximum property basis per bed on the rate effective date.

(d) The maximum interest rate allowed in computing the use fee shall not exceed one and one-half percent (1.5%) above the United States Treasury bond, ten (10) year amortization, constant maturity rate plus three percent (3%), rounded to the nearest one-half percent (0.5%) or the actual interest rate, whichever is lower. For property financing with a fixed interest rate, the date that the financing commitment was signed by the lender and borrower shall be the date upon which the allowable rate shall be determined. For property financing with a variable interest rate, the allowable interest rate shall be determined each year at the provider's report year end.

(e) The use fee determined under this section shall be subject to the limitations under section 15(b) of this rule.

(f) Refinancing of mortgages shall be amortized over the amortization period of the refinancing; however, the amortization period for the refinanced mortgage shall not be less than twenty (20) years. Refinancing arrangements shall be recognized only when the interest rate is less than the original financing,

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and the interest rate on the refinancing shall not be allowable in excess of the interest rate limit established on the date the refinancing commitment was signed and the interest rate fixed by the lender and borrower.

(g) Variable interest debt will be recognized for the purpose of calculation of the use fee if the variable rate is a function of an arrangement entered into and incorporated in the lending arrangement at the time of the acquisition of the facility or as part of an allowable refinancing arrangement under subsection (f).

(h) Interest costs on borrowed funds used to construct facilities or enlarge existing facilities which are incurred during the period of construction shall be capitalized as part of the cost of the facility or addition.

(i) Interest costs on operating loans each reporting period shall be limited to interest costs of principal amounts that do not exceed a value equal to two (2) months of actual revenues. Interest on such loans shall be recognized only if the provider can demonstrate that such loans were reasonable and necessary in providing patient or resident related services. Working capital interest must be reduced by investment income. Working capital interest is an operating cost and will not be included in calculating the use fee.

(j) Loans covering more than one (1) facility or asset shall apply to the several facilities or assets acquired in proportion to the cost that each item bears to the total cost. Accordingly, if any building or asset covered by the loan is used for purposes other than patient or resident care, the use fee applicable to such assets will be determined based upon its proportionate share of the total asset cost.

(k) Loans from a related party must be identified and reported separately on the annual or historical financial report. Such loans shall be allowable if they meet all other requirements, the interest does not exceed the rate available in the open market, and such loans are repaid in accordance with an established repayment schedule.

(l) Use fee for variable interest rate mortgages will be calculated as follows:

(1) Recalculate the use fee for the reporting year based upon the provider's average actual rate of interest paid.

(2) Compare the use fee allowed in the reporting year and the recalculated use fee and determine the variance (amount by which the amount allowed in the prior rate case exceeded or was less than the amount earned under the recalculation in subdivision (1)).

(3) Calculate the prospective use fee based upon the interest rate in effect at the end of the provider's reporting year.

(4) The use fee on the prospective rate is the amount determined in subdivision (3) plus or minus the variance in subdivision (2).

*(Office of the Secretary of Family and Social Services; 405 IAC 1-12-13)*

**405 IAC 1-12-14 Allowable costs; capital return factor; computation of return on equity component**

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2

Affected: IC 12-13-7-3; IC 12-15

Sec. 14. (a) For a provider with an initial interim rate resulting from:

- (1) a change of provider status; or
- (2) a new operation;

before the effective date of this rule, the return on equity shall be computed on the higher of twenty percent (20%) of the allowable historical cost of facilities and equipment or actual equity in allowable facilities and equipment up to sixty percent (60%) of allowable historical cost of facilities and equipment. Allowable historical cost of facilities and equipment is the lesser of the provider's actual historical costs of facilities and equipment, or the maximum allowable property basis at the time of the acquisition plus one-half (1/2) of the difference between that amount and the maximum allowable property basis per bed on the rate effective date.

(b) For a provider with an initial interim rate resulting from:

- (1) a change of provider status; or
- (2) a new operation;

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