

on or after the effective date of this rule, the return on equity shall be computed on the actual equity in allowable facilities and equipment up to a maximum of eighty percent (80%) of allowable historical cost of facilities and equipment.

(c) The return on equity factor shall be equal to the interest rate used in computing the use fee plus one percent (1%), or one percent (1%) below the United States Treasury bond, ten (10) year amortization, constant maturity rate on the last day of the reporting period, plus three percent (3%), whichever is higher.

(d) The return on equity determined under this section shall be subject to the limitations of section 15(b) of this rule.

405 IAC 1-12-15 Allowable costs; capital return factor; use fee; depreciable life; property basis

Sec. 15. (a) The following is a schedule of allowable use fee lives by property category:

Property Basis	Use Fee Life
Land	20 years
Land improvements	20 years
Buildings and building components	20 years
Building improvements	20 years
Movable equipment	7 years
Vehicles	7 years

The maximum property basis per bed at the time of acquisition, for all providers, except for providers of extensive support needs residences for adults, shall be in accordance with the following schedule:

Acquisition Maximum Property

Date	Basis Per Bed
7/1/76	\$12,650
4/1/77	\$13,255
10/1/77	\$13,695
4/1/78	\$14,080
10/1/78	\$14,630
4/1/79	\$15,290
10/1/79	\$16,115
4/1/80	\$16,610
10/1/80	\$17,490
4/1/81	\$18,370
10/1/81	\$19,140
4/1/82	\$19,690
9/1/82	\$20,000
3/1/83	\$20,100
9/1/83	\$20,600
3/1/84	\$20,600
9/1/84	\$21,200
3/1/85	\$21,200
9/1/85	\$21,200
3/1/86	\$21,400
9/1/86	\$21,500

TN 94-007
Supersedes:
None

Approval Date 2/13/95 Effective 7/1/94

3/1/87	\$21,900
9/1/87	\$22,400
3/1/88	\$22,600
9/1/88	\$23,000
3/1/89	\$23,100
9/1/89	\$23,300
3/1/90	\$23,600
9/1/90	\$23,900
3/1/91	\$24,500
9/1/91	\$24,700
3/1/92	\$24,900
9/1/92	\$25,300
3/1/93	\$25,400
9/1/93	\$25,700

The schedule shall be updated semiannually effective on March 1 and September 1 by the office and rounded to the nearest one hundred dollars (\$100) based on the change in the R.S. Means Construction Index.

(b) The capital return factor portion of a rate, for all providers, except for providers of extensive support needs residences for adults, that becomes effective after the acquisition date of an asset shall be limited to the maximum capital return factor, which shall be calculated as follows:

(1) The use fee portion of the maximum capital return factor is calculated based on the following:

(A) The maximum property basis per bed at the time of acquisition of each bed, plus one-half (1/2) of the difference between that amount and the maximum property basis per bed at the rate effective date.

(B) The term is determined per bed at the time of acquisition of each bed and is twenty (20) years for beds acquired on or after April 1, 1983, and twelve (12) years for beds acquired before April 1, 1983.

(C) The allowable interest rate is 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%) plus one and one-half percent (1.5%) at the earlier of the acquisition date of the beds or the commitment date of the attendant permanent financing.

(2) The equity portion of the maximum capital return factor is calculated based on the following:

(A) The allowable equity as established under section 14 of this rule.

(B) The rate of return on equity is the greater of 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%) on the last day of the reporting period minus one percent (1%), or the weighted average of 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%) plus one percent (1%) at the earlier of the acquisition date of the beds or the commitment date of the attendant permanent financing.

(c) For facilities with a change of provider status, the allowable capital return factor of the buyer/lessee shall be not greater than the capital return factor that the seller/lessor would have received on the date of the transaction, increased by one-half (1/2) of the percentage increase (as measured from the date of acquisition/lease commitment date by the seller/lessor to the date of the change in provider status) in the Consumer Price Index for All Urban Consumers (CPI-U) (United States city average). Any additional allowed capital expenditures incurred by the buyer/lessee shall be treated in the same manner as if the seller/lessor had incurred the additional capital expenditures.

(d) The following costs, which are 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 the Indiana Medicaid program, shall not be recognized as an allowable cost:

- (1) Legal fees.
- (2) Accounting and administrative costs.
- (3) Travel costs.
- (4) The costs of feasibility studies.

405 IAC 1-12-16 Capital return factor; basis; historical cost; mandatory record keeping; valuation

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. 16. (a) The basis used in computing the capital return factor and the average historical cost of property of the median bed shall be the historical cost of all assets used to deliver patient or resident-related services, provided they are:

- (1) in use;
- (2) identifiable to patient or resident care;
- (3) available for physical inspection; and
- (4) recorded in provider records.

If an asset does not meet all of the requirements prescribed in this section, the cost and any associated property financing or financings or capital lease or leases shall not be included in computing the capital return factor or the average historical cost of property of the median bed.

(b) The provider shall maintain detailed property schedules to provide a permanent record of all historical costs and balances of facilities and equipment. Summaries of such schedules shall be submitted with each annual or historical financial report, and the complete schedule shall be submitted to the office upon request.

(c) Assets used in computing the capital return factor and the average historical cost of property of the median bed shall include only items currently used in providing services customarily provided to patients or residents.

(d) When an asset is acquired by trading one (1) asset for another, or a betterment or improvement

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is acquired, the cost of the newly acquired asset, betterment, or improvement shall be added to the appropriate property category. All of the historical cost of the traded asset or replaced betterment or improvement shall be removed from the property category in which it was included.

(e) If a single asset or collection of like assets acquired in quantity, including permanent betterment or improvements, has at the time of acquisition an estimated useful life of at least three (3) years and a historical cost of at least five hundred dollars (\$500), the cost shall be included in the property basis for the approved useful life of the asset. Items that do not qualify under this subsection shall be expensed in the year acquired.

(f) The property basis of donated assets, except for donations between providers or related parties, shall be the fair market value defined as the price a prudent buyer would pay a seller in an arms-length sale, or if over two thousand dollars (\$2,000), the appraised value, whichever is lower. An asset is considered donated when the provider acquires the asset without making any payment for it in the form of cash, property, or services. If the provider and the donor are related parties, the net book value of the asset to the donor shall be the basis, not to exceed fair market value. Cash donations shall be treated as revenue items and not as offsets to expense accounts. (*Office of the Secretary of Family and Social Services; 405 IAC 1-12-16*)

405 IAC 1-12-17 Capital return factor; basis; sale or capital lease of facility; valuation; sale or lease among family members

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. 17. (a) If a facility is sold or leased within eight (8) years of the seller's or lessor's acquisition date and this transaction is recognized as a change of provider status, the buyer's or lessee's property basis in facilities and equipment shall be the seller's or lessor's historical cost basis plus one percent (1%) of the

TN 94-007
Supersedes:
None

Approval Date 2/13/95 Effective 7/1/94

difference between the purchase price, or appraised value if lower, and the seller's or lessor's historical cost basis, for each month the seller or lessor has owned or leased the property.

(b) Leases shall be subject to the following purchase equivalency test based on the maximum capital return factor. The provider shall supply sufficient information to the office so as to determine the terms and conditions of a purchase that would be equivalent to the lease agreement. Such information shall include the following:

- (1) Property basis and fair market value on the initial lease effective date.
- (2) Inception date of the initial agreement between lessee and lessor.
- (3) Imputed or stated interest rate.
- (4) Duration of payments.
- (5) Renewal options.

Such purchase equivalency terms and conditions shall be utilized to calculate the capital return factor as if it were a purchase. The provisions of section 15(c) through 15(d) of this rule shall apply. The lease payments determined under this section shall be subject to the limitations under section 15(b) of this rule.

(c) Where the imputed or stated interest rate is a variable rate, it shall be recognized only if the rate is reasonable and only if such arrangement was incorporated into the lease agreement at the time of acquisition.

FOOTNOTE TO SECTION 17(c) ABOVE BUT NOT PART OF THE PROMULGATED REIMBURSEMENT RULE: REASONABLE INTEREST RATES ARE THOSE RATES THAT ARE COMPARABLE TO CURRENT MARKET RATES.

(d) All leases, rental agreements, and contracts involving the use of property shall be subject to the same limitations as owners of property. The use fee calculation for variable rate leases will be calculated in the same manner as that set forth in section 13(k) of this rule. In no event shall the capital return factor be greater than the actual lease payment.

TN 94-007
Supersedes:
None

Approval Date 2/13/95 Effective 7/1/94

(e) If a provider rents, leases, or purchases facilities or equipment from a related party, the historical cost to the related party, not to exceed fair market value, shall be utilized in computing the capital return factor except as described in this section for the sale of facilities between family members.

(f) The sale of facilities between family members shall be eligible for consideration as a change of provider status transaction if all of the following requirements are met:

(1) There is no spousal relationship between parties.

(2) The following persons are considered family members:

(A) Natural parents, child, and sibling.

(B) Adopted child and adoptive parent.

(C) Stepparent, stepchild, stepsister, and stepbrother.

(D) Father-in-law, mother-in-law, sister-in-law, brother-in-law, and daughter-in-law.

(E) Grandparent and grandchild.

(3) The provider can demonstrate to the satisfaction of the office that the primary business purpose for the sale is other than increasing the established rate.

FOOTNOTE TO SECTION 17(f)(3) ABOVE BUT NOT PART OF THE PROMULGATED REIMBURSEMENT

RULE: A PROVIDER CAN DEMONSTRATE TO THE SATISFACTION OF THE OFFICE THAT THE PRIMARY PURPOSE OF THE SALE OF FACILITIES BETWEEN FAMILY MEMBERS IS FOR REASONS OTHER THAN INCREASING THE ESTABLISHED RATE BY POINTING OUT THAT THE RATE TREATMENT OFFERED THROUGH THIS PLAN AND THE RATE SETTING CRITERIA LIMITS THE RATE FOR A NEW PROVIDER IN A CHANGE OF PROVIDER STATUS TRANSACTION TO THE STATEWIDE MEDIAN RATE FOR LIKE TYPE PROVIDERS OR THE PREDECESSOR PROVIDER'S RATE, WHICHEVER IS GREATER. IN ANY CASE THERE IS LITTLE OR NO OPPORTUNITY FOR A PROVIDER TO USE A FAMILY SALE TRANSACTION AS A METHOD MEANT SOLELY TO INCREASE THE FACILITY'S RATE.

(4) The transfer is recognized and reported by all parties as a sale for federal income tax purposes.

TN 94-007
Supersedes:
None

Approval Date 2/13/95 Effective 7/1/94

(5) The seller and all parties with an ownership interest in the previous provider are not associated with the facility in any way after the sale other than as a passive creditor.

(6) The buyer is actively engaged in the operation of the facility after the sale with earnings from the facility accruing to at least one (1) principal buyer primarily as salaries or self-employment income and not as leases, rents, or other passive income.

(7) This family sale exception has not been utilized during the previous eight (8) years on this facility.

(8) None of the entities involved is a publicly held corporation as defined by the Securities and Exchange Commission.

(9) If any of the entities involved are corporations, they must be family owned corporations, where members of the same family control the corporations through ownership of fifty percent (50%) or more of the voting stock.

(g) In order to establish an historical cost basis in the sale of facilities between family members, the buyer shall obtain a Member Appraiser Institute (MAI) appraisal, which appraisal is subject to the approval of the office. The appraisal shall be done within ninety (90) days of the date of the sale. The historical cost basis shall be the lower of the historical cost basis of the buyer or ninety percent (90%) of the MAI appraisal of facilities and equipment.

(h) If the conditions of this section are met, the cost basis and financing arrangements of the facility shall be recognized for the purpose of computing the capital return factor in accordance with this rule for a bona fide sale arising from an arm's-length transaction.

(i) If a lease of facilities between family members under subsection (f)(2) qualifies as a capitalized lease under guidelines issued in November 1976 by the American Institute of Certified Public Accountants, the transaction shall be treated as a sale of facilities between family members, for purposes of determining the basis, cost, and valuation of the buyer's capital return factor component of the Medicaid rate.

TN: 02-017

Supersedes:

TN: 94-007

Approval Date: JAN 23 2003

Effective Date: November 9, 2002

405 IAC 1-12-18 Unallowable costs; cost adjustments; charity and courtesy allowances; discounts; rebates; refunds of expenses

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. 18. (a) Charity, courtesy allowances, discounts, refunds, rebates, and other similar items granted by a provider shall not be included in allowable costs. Bad debts incurred by a provider shall not be an allowable cost.

(b) Payments that must be reported on the annual or historical financial report form that are received by a provider, an owner, or other official of a provider in any form from a vendor shall be considered a reduction of the provider's costs for the goods or services from that vendor.

(c) The cost of goods or services sold to nonpatients or nonresidents shall be offset against the total cost of such service to determine the allowable patient or resident related expenses. If the provider has not determined the cost of such items, the revenue generated from such sales shall be used to offset the total cost of such services.

405 IAC 1-12-19 Allowable costs; wages; costs of employment; record keeping; owner or related party compensation

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. 19. (a) Reasonable compensation of individuals employed by a provider is an allowable cost, provided the:

(1) employees are engaged in patient or resident care-related functions; and

(2) compensation amounts are reasonable and allowable under this section and sections 20 through 22 of this rule.

(b) The provider shall report using the forms or in a format prescribed by the office all patient and resident-related staff costs and hours incurred to perform the function for which the provider was certified. Both total compensation and total hours worked shall be reported. Staffing limitations to determine Medicaid allowable cost shall be based on hours worked by employees. If a service is performed through a contractual agreement, imputed hours for contracted services are only required when the services obviate the need for staffing of a major function or department that is normally staffed by in-house personnel. For all providers, except for providers of extensive support needs residences for adults:

(1) hours for laundry services in CRF/DD or ICF/MR facilities that are properly documented through appropriate time studies, whether paid in-house or contracted, shall not be included in calculating the staffing limitation for the facility; and

(2) hours associated with the provision of day services and other ancillary services, except as specified in subsection (d), shall be excluded from the staffing limitation.

(c) Payroll records shall be maintained by the provider to substantiate the staffing costs reported to the office. The records shall indicate each employee's classification, hours worked, rate of pay, and the department or functional area to which the employee was assigned and actually worked. If an employee performs duties in more than one (1) department or functional area, the payroll records shall indicate the time allocations to the various assignments.

(d) When an owner or related party work assignment is at or below a department head level, the hours and compensation shall be included in the staffing hours reported using the forms prescribed by the office. Such hours and compensation must be reported separately and so identified. Compensation paid to owners or related parties for performing such duties shall be subject to the total staffing limitations and allowed if the compensation paid to owners or related parties does not exceed the price paid in the open market to obtain such services by nonowners or nonrelated parties. Such compensation to owners or related parties is not subject to the limitation found in section 20 of this rule.