

**CHAPTER 6211. ALLOWABLE COST REIMBURSEMENT FOR  
NON-STATE OPERATED INTERMEDIATE CARE FACILITIES  
FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY**

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#### Authority

The provisions of this Chapter 6211 issued under section 443.1(2) and (3) of the Public Welfare Code (62 P.S. § 443.1(2) and (3)), unless otherwise noted.

#### Source

The provisions of this Chapter 6211 adopted October 28, 1994, effective immediately and apply retroactively to July 1, 1994, 24 Pa.B. 5523, unless otherwise noted.

#### Cross References

This chapter cited in 55 Pa. Code § 6000.821 (relating to criteria for approval of new intermediate care facilities for people with mental retardation); 55 Pa. Code § 6210.2 (relating to applicability); 55 Pa. Code § 6210.11 (relating to county program); 55 Pa. Code § 6210.21 (relating to categorically needy and medically needy recipients); 55 Pa. Code § 6210.33 (relating to budgets and cost reports for non-State operated facilities); 55 Pa. Code § 6210.75 (relating to noncompensable services); 55 Pa. Code § 6210.78 (relating to allowable costs); 55 Pa. Code § 6210.79 (relating to setting interim per diem rates); 55 Pa. Code § 6210.81 (relating to upper limits of payment); and 55 Pa. Code § 6210.93 (relating to auditing requirements related to cost reports).

### GENERAL PROVISIONS

#### § 6211.1. Purpose.

This chapter specifies the requirements for MA reimbursement and allowable costs for non-State operated intermediate care facilities for individuals with an intellectual disability.

#### Authority

The provisions of this § 6211.1 amended under sections 201(2), 403.1 and 443.1(2) and (3) of the Human Services Code (62 P.S. §§ 201(2), 403.1 and 443.1(2) and (3)).

#### Source

The provisions of this § 6211.1 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (361405).

#### § 6211.2. Applicability.

(a) This chapter applies to non-State operated intermediate care facilities for persons with an intellectual disability and non-State operated intermediate care facilities for persons with other related conditions.

(b) The following chapters apply to non-State operated intermediate care facilities for persons with an intellectual disability and non-State operated intermediate care facilities for persons with other related conditions: Chapters 1101 and 6210 (relating to general provisions; and participation requirements for the intermediate care facilities for the intellectual disability program).

(c) In addition to this chapter, the Medicare Provider Reimbursement Manual (HIM-15) applies for costs that are included in this chapter as allowable and for reimbursable costs that are not specifically addressed in this chapter.

(d) If this subchapter is inconsistent with Chapter 6210 or HIM-15, this chapter prevails.

#### Authority

The provisions of this § 6211.2 amended under sections 201(2), 403.1 and 443.1(2) and (3) of the Human Services Code (62 P.S. §§ 201(2), 403.1 and 443.1(2) and (3)).

#### Source

The provisions of this § 6211.2 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (361406).

### § 6211.3. Legal.

The legal authority for this subchapter is section 443.1(2) and (3) of the Public Welfare Code (62 P.S. § 443.1(2) and (3)).

### § 6211.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Allocate*—To designate a specific task, service or supply to a specific cost center because of its direct relationship to client care and identifiable measure of application.

*Allowable cost*—The cost reimbursed under MA, that is the facility's actual audited allowable cost after appropriate adjustments are certified by Commonwealth auditors.

*Apportion*—To divide costs that are necessary to program operation but that cannot be directly or entirely charged to a specific cost center.

*Arms-length transaction*—A transaction including independent unrelated parties (no interest such as equity, control, contracts, interlocking directorates, officers, and the like); and, a willing buyer and a willing seller.

*Assets*—Economic resources that are owned by a business and are expected to benefit future operations.

*Budget*—A plan of financial operation for some future period expressed in monetary terms.

*Capital asset*—An item with a useful life of more than 1 year or that would not meet Internal Revenue Service standards for nondepreciable assets. The term includes buildings, renovations and building improvements, and moveable items such as furniture and fixtures, computers and transportation equipment. Land is not a depreciable capital asset.

*Change of ownership*—The sale or transfer of a facility and all of its assets to another person, corporation, organization or partnership, with the expectation that the facility will continue to operate for the same purpose for which it is currently being used.

*Closed audit*—An audit is closed when the written audit report has been distributed and one of the following occurs:

- (i) The period for appeal has passed.
- (ii) An appeal has been concluded and finalized. The closed audit results in final settlement, which is either additional payments due to the provider or a repayment of funds dispersed to the provider for disallowed costs.

*Compensation*—The total remuneration paid to an individual employee, including wages or salaries and benefits.

*Competitive bidding process*—The method used to procure goods or services by obtaining three or more vendor cost proposals and selecting the proposal with the lowest responsible bid.

*Cost center*—A group of services or employees, or both, or another unit or type of activity into which functions of a facility are divided for purposes of expense assignment and allocations.

*Cost report*—A summary of client occupancy, income and expenses for a given period, presented in a manner prescribed by the Department.

*Cost settlement*—A retroactive adjustment based on a cost report, made at the end of a reporting period, to bring the interim payments made to the provider during that reporting period into agreement with the reimbursable amount payable to the provider for the allowable services actually rendered to program beneficiaries during that period. Final adjustment is made after an audit is closed.

*Current fiscal year*—The fiscal year in which the interim per diem rate is to be used.

*Depreciable assets*—Equipment, buildings and fixtures that have a purchase price of more than \$500 and are expected to have a useful life of more than 1 year.

*Depreciation*—Apportionment of the value of an asset over its useful life.

*Direct care staff*—Staff assigned to perform direct responsibilities related to activities of daily living, self-help and socialization skills. Staff involved in regularly scheduled specialized developmental programs with clients are not included in direct care staff. Professional staff may be included in direct care staff.

*Efficiency incentive*—A remuneration to a provider that may be earned by spending less than projected operating expenses within specified guidelines.

*Facility*—A non-State operated intermediate care facility for persons with an intellectual disability or a non-State operated intermediate care facility for persons with other related conditions.

*Fair market rental appraisal*—The determination of reasonable payment to a lessor for a rented space by a qualified real estate appraiser.

*Interest*—The direct cost incurred for the use of borrowed funds.

*Interest on capital indebtedness*—The direct cost incurred for funds borrowed for capital purposes. Examples of interest on capital indebtedness include acquisition of facilities, equipment and capital improvements. Generally, loans for capital purposes are long term loans.

*Interest on current indebtedness*—The direct cost incurred for funds borrowed for a relatively short term, usually for purposes such as working capital for normal operating expenses.

*Investment income*—Return on funds not expended by the facility and placed with a third party. The term includes interest income from bonds and savings accounts, premiums and dividends on stock purchases, and income from trust agreements.

*Major object of expenditure*—A generic classification of costs within cost centers including personnel, equipment, operating costs, depreciation and interest, and apportioned costs.

*Management fee*—A charge for general administrative services incurred for a common or joint purpose not readily assignable to a specific cost center.

*Practitioner*—Salaried or contracted practitioners including physicians, dentists, podiatrists, occupational therapists and physical therapists.

*Prudent buyer*—A term for the price paid for items by a cost-conscious purchaser in the open market under competitive conditions.

*Reasonable costs*—Necessary and proper costs incurred by the provider, based on the expectation that the facility is operated efficiently and economically.

*Related party*—An organization related to the provider by common ownership or control. Related to the provider means that the provider, to a significant extent, is associated with, affiliated with or has control of or is controlled by the organization furnishing the services. Common ownership exists when an individual possesses significant ownership or equity in the provider and the institution or organization serving the provider. Control exists where an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

*Request for proposal*—A formal document describing services requested that is provided to interested contractors along with information to enable the preparation and submission of proposals for evaluation and selection.

*Service contract*—An obligation between a provider and supplier in which the nature and cost of service is specified, and reimbursement is not based upon actual units of service provided.

*Standard interim per diem rate*—The rate established by the Department in accordance with § 6211.16 (relating to establishment of standard interim per diem rate) for the purpose of making interim payments to the facility pending a year-end cost settlement.

*Start-up costs*—Costs incurred by the provider in developing its ability to furnish client care services prior to certification of the facility or admission of the first client.

*Unit of service contract*—An obligation between a provider and supplier in which the unit is defined, a price for the unit is stipulated, the basis for the price and unit is justified, and reimbursement is based upon actual units of service provided.

#### Authority

The provisions of this § 6211.4 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

#### Source

The provisions of this § 6211.4 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial pages (213308) to (213311).

### STANDARD INTERIM PER DIEM RATE

#### § 6211.11. Basis for standard interim per diem rate.

The standard interim per diem rate for each provider is based upon the cost report submitted to the Department by the provider.

#### Authority

The provisions of this § 6211.11 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

#### Source

The provisions of this § 6211.11 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213311).

#### Cross References

This section cited in 55 Pa. Code § 6211.41 (relating to cost reimbursement).

#### § 6211.12. Submission of cost report.

(a) The provider shall submit a written report of the costs for the previous Fiscal Year to the Department by September 30 of each year, unless an extension is granted in accordance with procedures in the cost report.

(b) The cost report shall reflect at least 12 months of operation.

(c) The cost report shall be submitted on the form prescribed by the Department.

**Authority**

The provisions of this § 6211.12 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

**Source**

The provisions of this § 6211.12 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213311).

**Cross References**

This section cited in 55 Pa. Code § 6211.14 (relating to adjustments to cost report); and 55 Pa. Code § 6211.41 (relating to cost reimbursement).

**§ 6211.13. Review of cost report.**

The Department will review the cost report submitted by the provider for correctness, consistency with previous audits and cost reports, and compliance with the instructions for the cost report.

**Authority**

The provisions of this § 6211.13 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

**Source**

The provisions of this § 6211.13 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213311).

**Cross References**

This section cited in 55 Pa. Code § 6211.41 (relating to cost reimbursement).

**§ 6211.14. Adjustments to cost report.**

(a) The Department will adjust the cost report based upon the findings of closed audits and cost settlements.

(b) The Department will inform the provider in writing of adjustments to the submitted cost report by January 1 of each year, unless an extension is granted under § 6211.12(a) (relating to submission of cost report).

(c) If the Department does not inform the provider in writing of adjustments to the submitted cost report by January 1 of each year, the cost report submitted by the provider is accepted by the Department.

**Authority**

The provisions of this § 6211.14 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).



**Source**

The provisions of this § 6211.14 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial pages (213311) to (213312).

**Cross References**

This section cited in 55 Pa. Code § 6211.16 (relating to establishment of standard interim per diem rate); and 55 Pa. Code § 6211.41 (relating to cost reimbursement).

**§ 6211.15. Failure to submit cost report.**

If the provider does not submit a cost report by September 30 of each year, or later if an extension is granted by the Department under the procedures of the cost report, the Department will establish an interim per diem rate for the provider equal to the lowest interim rate for any non-State operated intermediate care facility for persons with an intellectual disability issued for the current fiscal year.

**Authority**

The provisions of this § 6211.15 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

**Source**

The provisions of this § 6211.15 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213312).

**Cross References**

This section cited in 55 Pa. Code § 6211.31 (relating to request for waiver); and 55 Pa. Code § 6211.41 (relating to cost reimbursement).

**§ 6211.16. Establishment of standard interim per diem rate.**

(a) The standard interim per diem rate shall be used for billing purposes throughout the current fiscal year.

(b) The standard interim per diem rate shall be established by dividing the total projected operating cost by 98% of the maximum possible number of days based on the number of certified beds of the facility.

(c) The total projected operating cost is derived under the following procedures:

(1) Taking the total MA allowable costs, including adjustments for income, and comparing this to the approved budget total, or the total projected operating costs if applicable, for the same fiscal year in order to determine the lesser amount. From the lesser amount, subtract depreciation on capital assets, limited to buildings and fixed equipment, and interest on capital indebtedness.

(2) The Department may apply a cost of living adjustment to the interim per diem rate during the rate development process.

- (3) Adding depreciation on capital assets, limited to buildings and fixed equipment, and interest on capital indebtedness to the total projected cost to result in the total projected operating cost.
- (d) The cost report submitted by the provider, in addition to adjustments made by the Department, as specified in § 6211.14 (relating to adjustments to cost report), shall be used for the calculation of the standard interim per diem rate.
- (e) The Department may apply a downward rate adjustment factor to the standard interim per diem rate for each provider to remain within the amount appropriated by the General Assembly, including those providers who request a waiver of the standard interim per diem rate as specified in § 6211.31 (relating to request for waiver). The amount of funds resulting from the application of the rate adjustment factor cannot be requested as a waiver of the standard interim per diem rate as identified under § 6211.31.

#### Authority

The provisions of this § 6211.16 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

#### Source

The provisions of this § 6211.16 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial pages (213312) to (213313).

#### Cross References

This section cited in 55 Pa. Code § 6211.18 (relating to upper limits of payment if the standard interim per diem rate is used); and 55 Pa. Code § 6211.41 (relating to cost reimbursement).

### § 6211.17. Efficiency incentive.

- (a) An efficiency incentive is allowable if the facility's actual allowable costs are less than the total projected operating costs, audit exceptions total no more than 6% of the facility's total projected operating costs, and if the standard interim per diem rate was used in the previous fiscal year. If the standard interim per diem rate was not used in the previous fiscal year, no efficiency incentive is allowed.
- (b) Efficiency incentives shall be based upon actual audited allowable costs. Efficiency incentives shall be equal to 50% of the difference between actual and total projected operating costs up to a maximum of 6% of the total actual audited costs for the facility for the fiscal year.
- (c) The Department will not require that the efficiency incentive to be used to offset allowable costs.

#### Cross References

This section cited in 55 Pa. Code § 6211.41 (relating to cost reimbursement).

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**§ 6211.18. Upper limits of payment if the standard interim per diem rate is used.**

If the standard interim per diem rate is used, the provider shall operate within the total projected operating cost as defined in § 6211.16(c) (relating to establishment of standard interim per diem rate). Actual, allowable and reasonable costs shall be determined at the time of audit, in accordance with this subchapter and HIM-15. Total reimbursement is limited to the sum of verified actual, allowable costs plus the efficiency incentive payment, if applicable, or the total projected operating cost, whichever is lower.

**Cross References**

This section cited in 55 Pa. Code § 6211.41 (relating to cost reimbursement).

**WAIVER OF STANDARD INTERIM PER DIEM RATE**

**§ 6211.31. Request for waiver.**

(a) To request additional funds for the fiscal year, the provider shall submit a request for a waiver of the standard interim per diem rate in accordance with the requirements of this section. A request can only be submitted if one or more of the following conditions exist:

(1) The facility has been certified as an ICF/ID for less than 18 months prior to the closing date of the most recently submitted cost report.

(2) There has been an increase or decrease in the certified capacity of a facility during the current fiscal year.

(3) An increase or decrease in the certified capacity is anticipated for the next fiscal year.

(4) The characteristics of a client have changed significantly causing significant program changes, resulting in demonstrably different costs.

(5) An unforeseen circumstance has resulted in demonstrably different costs.

(6) The facility has changed ownership.

(b) The request for waiver shall be submitted to the Department in writing by October 31 of the fiscal year for which the waiver is being requested.

(c) A waiver request may not be submitted for more than 1 fiscal year at a time.

(d) If there is an unforeseen circumstance that affects the providers' cost, the request for waiver shall occur during the current fiscal year. The provider shall request a budget review in writing immediately after the change occurs.

(e) A written request for a waiver of the standard interim per diem rate shall include all of the following:

(1) Identification of the specific condition in subsection (a) that exists.

(2) A proposed budget and a proposed per diem rate, on forms and in accordance with the budget instructions prescribed by the Department.

- (3) A detailed profile of the providers' costs prior to and after the change.
- (4) Detailed justification for the waiver.
- (5) The fiscal year for which the waiver is being requested.
- (f) For a provider with less than a 12-month cost report who does not submit a request for waiver of the standard interim per diem rate based under subsection (a)(1), an interim per diem rate will be established based upon § 6211.15 (relating to failure to submit cost report).

**Authority**

The provisions of this § 6211.31 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

**Source**

The provisions of this § 6211.31 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial pages (213313) to (213314).

**Cross References**

This section cited in 55 Pa. Code § 6211.121 (relating to submission of the budget).

**§ 6211.32. Approved waiver.**

- (a) After the Department has notified the provider that a waiver has been granted, the Department will establish the total approved revised budget level.
- (b) If a waiver is granted, the Department will establish budget levels by major object of expenditure and cost center. The budget level will be based on this chapter and HIM-15.
- (c) If a waiver is granted, the Department will establish an interim per diem rate by dividing the total approved budget level minus offsetting income, by 98% of the maximum potential certified occupancy or the occupancy percentage requested by the provider in the budget, whichever is higher.
- (d) If a waiver is granted, the interim per diem rate shall be used for billing purposes throughout the fiscal year.

**Authority**

The provisions of this § 6211.32 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

**Source**

The provisions of this § 6211.32 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213314).

**§ 6211.33. Denied waiver.**

- (a) After the Department has notified the provider that a waiver has been denied, the provider shall use the standard interim per diem rate, as specified in § 6211.15 (relating to establishment of standard per diem rate).

(b) If a waiver is denied, the provider may appeal the denial within 30 calendar days of the mailing date of the Department's notice of the waiver denial.

#### Notes of Decisions

##### *Appeal*

Health care provider that provided care and services to persons with mental retardation have an administrative remedy that could address its claims that Department of Public Welfare failed to reimburse it on cost-related basis for direct care staff costs, and reimbursed State-operated facilities more than non-State providers for same services; therefore, it must first pursue that avenue of relief before seeking judicial review. *Network v. Department of Public Welfare*, 833 A.2d 271, 275 (Pa. Cmwlth. 2003)

#### § 6211.34. Upper limits of payment if a waiver is granted.

(a) If a waiver is granted and the budget is used to establish the interim per diem rate, the provider shall operate within 10% of the approved budget levels for major object of expenditure and cost center as defined in § 6211.123 (relating to major objects of expenditure and cost centers within the budget).

(b) Actual, allowable, and reasonable costs shall be determined at the time of the audit in accordance with this subchapter. Total reimbursement is limited to the sum of audited actual allowable costs or the total approved budget level, whichever is lower.

(c) An efficiency incentive is not available if a waiver of the standard interim per diem rate is granted.

### REIMBURSEMENT

#### § 6211.41. Cost reimbursement.

(a) Subject to the limitations specified in §§ 6211.11—6211.18 (relating to standard interim per diem rate), the facility will be reimbursed allowable operating costs, including allowable depreciation and interest on capital indebtedness, up to the established total projected operating cost. If a waiver is granted and a budget is used to establish the interim per diem rate, the facility will be reimbursed for allowable costs up to the limits of an approved budget.

(b) The amount of reimbursement for allowable operating costs, including depreciation and interest, may not exceed the level of operating costs the Department determines to be reasonable and adequate to meet the costs that an efficiently and economically operated facility incurs in meeting applicable State and Federal law and quality and safety standards.

(c) Costs that are not recognized as allowable costs in a fiscal year shall not be carried forward or backward to other fiscal years for inclusion in allowable costs.

#### § 6211.42. Allowable costs.

(a) A facility's direct or indirect allowable costs related to client care are considered in the finding and allocation of costs to the MA Program for its eligible recipients.

(b) Total allowable costs of a facility shall be apportioned between third-party payors and other clients so that, within the limits of this subchapter, the share borne by MA under Title XIX of the Social Security Act (42 U.S.C.A. §§ 1396—

1396p) is based upon those actual services and costs related to MA clients. Allowable costs shall be apportioned by multiplying the interim per diem cost by the number of eligible client days for MA clients.

(c) The provider is responsible for the accounting of all costs and services. All miscellaneous costs shall be documented and justified to the Department. Allowable costs do not include charity, in-kind and courtesy allowances.

(d) If, under MA principles, there is more than one method for handling a cost item, the method initially elected by the provider shall be followed consistently in subsequent reporting periods, unless there is prior written justification and approval from the Department for using a different method.

#### **§ 6211.43. Cost reporting.**

(a) The facility shall identify, for cost finding, allowable direct, indirect, ancillary, and related organization costs that apply to client care.

(b) The facility shall submit a cost report, to the Department in accordance with Departmental requirements. The cost report must be based on financial and statistical records maintained by the facility. The cost information contained in the cost report must be current, accurate, and in sufficient detail to support the claim for reimbursement. If any of the cost report instructions are inconsistent with the subchapter, the provisions of this subchapter shall apply.

(c) A cost report must be submitted to include any costs in a fiscal year.

#### **§ 6211.44. Financial records.**

(a) The facility shall maintain adequate financial and statistical records and for determination of costs payable under the MA Program.

(b) The facility shall maintain at least all of the following records:

(1) General financial ledgers, journals, and books.

(2) Original evidence of cost, such as purchase requisitions, purchase orders, vouchers, vendor invoices, requisitions for supplies, inventories, time cards, payrolls and bases for apportioning costs, that relate to the determination of reasonable costs and that are auditable.

(3) Allocated administrative costs.

(4) Records relating to each cost report for the past 4 years a cost report was submitted to the Department.

(5) Cash disbursement journal.

(6) Cash receipts journal.

(7) Payroll journal or computer printout.

(8) Fixed asset ledger or equivalent.

(9) Inventory control record.

(10) Chart of accounts that parallels or cross-walks to the budget format issued by the Department.

(11) Statement listing all sources of revenue to the facility, including Federal, State, local, and private sources.

(12) Accounting records for the past 4 years.

(13) Documentation of employe compensation, by facility positions and functionally equivalent Commonwealth positions.

**§ 6211.45. Disclosure.**

(a) If costs have been allocated between programs and supporting services, disclosure shall be made in accordance with generally accepted accounting principles.

(b) If the facility is a controlling organization, disclosure of the affiliate existence and its relationship to the established intermediate care facility for individuals with an intellectual disability shall be made, including the nature of any financial transaction between the affiliate and the facility.

**Authority**

The provisions of this § 6211.45 amended under sections 201(2) and 443.1(2) and (3) of the Human Services Code (62 P.S. §§ 201(2) and 443.1(2) and (3)).

**Source**

The provisions of this § 6211.45 amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (361417).

**§ 6211.46. Financial statement.**

(a) Agencies operating facilities in different locations with a consolidated financial report shall designate cost centers for each location in the statement of financial activities. In addition, information accompanying the financial statement shall include the basis used in allocating income and expenses to each location.

(b) Financial statements are subject to field audits by the auditing staff from the Department or other responsible State and Federal auditing units.

**§ 6211.47. Operation of multiple program types.**

(a) If a provider operates intermediate care facilities for persons with an intellectual disability as well as other types of programs, the provider shall document at the time of audit, or if a waiver is requested the provider shall submit with the budget a detailed account of how various costs are allocated between the multiple programs, under § 6211.72 (relating to administrative costs).

(b) The detailed account of the allocation shall include at least all of the following:

- (1) All salary costs for individuals responsible for more than one program.
- (2) Employee fringe benefits for individuals responsible for more than one program.
- (3) All rental costs that apply to multiple programs.
- (4) All motor vehicles that are used by multiple programs.
- (5) All other related expenses shared by multiple programs.

**Authority**

The provisions of this § 6211.47 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

**Source**

The provisions of this § 6211.47 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213317).

**§ 6211.48. Changing the basis for allocating cost centers.**

(a) If a provider wants to use an allocation basis for a particular cost center that is different from that required by the cost report, the provider shall submit a written request and justification for the change to the Department. The written request and justification shall be submitted prior to the beginning of the cost reporting period for which the change is to apply.

(b) The Department will approve or deny the provider's request for change of the allocation basis in writing. If the Department approves the provider's request, the change must be applied to the cost reporting period for which the request was made, and to all subsequent cost reporting periods, unless the Department approves a subsequent request for change by the provider.

**BED OCCUPANCY****§ 6211.61. Minimum occupancy rate.**

A facility shall maintain a minimum average annual rate of occupancy of 98% of its available certified bed capacity.

**§ 6211.62. Computing the minimum occupancy rate.**

The average annual rate of occupancy is computed by dividing the total actual days provided by the total certified bed days available during the fiscal period. The total actual days provided include all days of service actually provided plus reserve bed days including therapeutic leave and medical leave days in full up to the limits allowed by § 1181.56 (relating to limitations on payment for reserved beds). Reserved beds counted as actual days of service shall not be filled.

**§ 6211.63. Occupancy level adjustment.**

(a) An occupancy level adjustment to reimbursements for fixed costs will be made for facilities with less than 98% occupancy in the absence of an approved waiver under § 6211.64 (relating to waiver of minimum occupancy rate).

(b) The occupancy level adjustment will be computed by subtracting the average annual rate of occupancy from 98% of the available certified bed occupancy. Fixed costs will be reduced by the resulting percentage. Fixed costs include the cost of general administration, rent, utilities, communications, other interest, insurance, real estate taxes and depreciation and interest on capital indebtedness. Fixed costs do not include variable costs such as staffing and food.



**§ 6211.64. Waiver of minimum occupancy rate.**

A provider may request a waiver of the minimum occupancy requirement at the time that a final cost report is submitted to the Department. The request for waiver of the minimum occupancy requirement shall be submitted in writing to the Deputy Secretary for Office of Developmental Programs. Documentation shall be submitted related to one or more of the following conditions:

- (1) The facility is in its first year of operation.
- (2) The facility is increasing or decreasing the number of certified beds.
- (3) The facility operates less than 16 beds.

**Authority**

The provisions of this § 6211.64 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

**Source**

The provisions of this § 6211.64 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial pages (213318) to (213319).

**Cross References**

This section cited in 55 Pa. Code § 6211.63 (relating to occupancy level adjustment).

**ALLOWABLE COSTS****§ 6211.71. Determination of allowable costs.**

The Department will determine allowable costs in accordance with the following:

- (1) The requirements of this subchapter.
- (2) The limits of the provider's total projected operating cost, or if a waiver is granted, the limits of an approved budget.

**§ 6211.72. Administrative costs.**

(a) Administrative costs include costs incurred for a common or joint purpose and are associated with supportive activities that are necessary to maintain the direct effort involved in providing the program services.

(b) Administrative costs shall be apportioned as general administration or allocated to other cost centers.

(c) Allowable administrative costs include:

- (1) Compensation of the facility's administrator, controller, purchasing agent, personnel director, and other persons performing general supervision or management duties.
- (2) Costs associated with the provision of supporting services such as bookkeeping, data processing, and auditing.

- (3) Costs of space used for administrative purposes, including depreciation and interest or rental.
- (4) Purchase of supplies and equipment used for administrative purposes.
- (5) Operating costs associated with administrative purposes, such as travel and communications.
- (d) Administrative costs include costs associated with the owners or operators of the facility in accordance with the following:
  - (1) The salary or compensation cost of owners, operators or persons other than facility employees may be included only if their time and involvement is documented, and they are required for the management of the facility.
  - (2) The allowable cost for a person performing necessary duties may not exceed the customary compensation and fringe benefits in accordance with the methodology established by the facility that an employee would normally receive while performing that work.
- (e) The following requirements apply for general administrative costs:
  - (1) General administrative costs include costs that are incurred for a common or joint purpose but are not readily assignable to a specific cost center or program unit.
  - (2) General administrative costs must include compensation, fringe benefits, and payroll taxes for the facility's administrator, controller, purchasing agent, personnel director; compensation for owners, officers, or persons other than facility employees; personnel services; procurement; accounting; auditing; office services and supplies; telephone and travel supporting administrative costs specified in subsection (a); licenses; association dues; legal costs, including attorney's fees if the provider prevails; management fees; and advertising.
  - (3) Rental costs for all offices used for administrative purposes shall be included as general administrative costs. In programs of 15 beds or less, if an office is located within the program unit, these costs may be allocated to the specific program unit.
  - (4) General administrative costs are limited to 13% of the total MA eligible costs less general administrative costs and less depreciation and interest on capital indebtedness.
- (f) The following requirements apply for other administrative costs:
  - (1) Costs associated with administrative purposes, not associated with those costs identified in subsection (e) that have a direct and demonstrable impact upon program services, are allocated to specific other cost centers.
  - (2) Other administrative costs must be specifically documented and supported.
  - (3) The 13% limitation on general administrative costs does not include these other administrative costs that are allocated to specific units.

#### **Cross References**

This section cited in 55 Pa. Code § 6211.47 (relating to operation of multiple program types).

**§ 6211.73. Compensation and staffing costs.**

(a) Compensation for direct care, administrative, and support staff are allowable costs. Compensation is allowable up to the combined prevailing Commonwealth salaries and benefits for functionally equivalent positions.

(b) Payment will not be made to exceed an overall ratio of one direct care staff to one certified bed, unless documentation supports the need to exceed the ratio to establish and maintain certification. The overall ratio shall be calculated based upon the average fulltime equivalent direct care staff for the fiscal year and the average number of certified beds for this period. Staff are counted in the overall ratio for the percentage of time they are assigned to the facility in performing a direct care function.

(c) Various personnel costs that are not provided through salaried complement for the provision of necessary services for individual clients are allowable. Contracts that specify the nature of the service and define the unit and cost of the service shall be maintained by the facility, in addition to documentation of services rendered.

**§ 6211.74. Service contracts.**

Costs necessary for the operation of the facility and the establishment and maintenance of intermediate care facilities for persons with an intellectual disability certification are allowable to the extent that the costs do not duplicate services performed by staff on complement. Service contracts shall specify the nature and cost of the service. Documentation of service contracts shall be maintained by the facility with all documentation of services rendered.

**Authority**

The provisions of this § 6211.74 amended under sections 201(2), 403(b) and 403.1 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 403.1).

**Source**

The provisions of this § 6211.74 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the Human Services Code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213321).

**§ 6211.75. Unit of service contracts.**

Costs associated with unit of service contracts are allowable if the following conditions apply:

- (1) Units of service for which costs are claimed have been delivered.
- (2) The unit of service arrangement is more economical and efficient than other contractual relationships.
- (3) Services do not duplicate those provided by staff on complement.
- (4) The service is not otherwise available and accessible through the Medical Assistance Program.

**§ 6211.76. Day habilitation costs.**

Costs associated with day programs providing habilitative services as required by the clients' individual program plans, will be reimbursed subject to other applicable requirements of this subchapter.

**§ 6211.77. Cost of drug services.**

(a) Detailed and itemized documentation of the claimed expense must be maintained in order for drug services to be allowable.

(b) Drug services costs are allowable for nonlegend drugs such as laxatives, aspirin, and antacids if the drugs are provided directly to the resident from the facility's own drug supply.

(c) The provision of nonlegend drugs by a facility to its medical assistance clients shall be based on a physician's written order or prescription, be administered judiciously, and be limited to those that are medically necessary for the client.

(d) Costs related to legend drugs for which payment will be made under the MA Program to an enrolled pharmacy or costs related to legend drugs that are noncompensable under the MA Program are not considered as allowable costs for a facility. The Department will directly reimburse licensed pharmacies for compensable prescribed drugs furnished to eligible medical assistance clients.

(e) Medically needy residents are not eligible to receive prescription drugs under the MA Program. If the facility acts as an agent for residents in purchasing drugs, the facility shall act as a prudent buyer.

(f) The facility shall not solicit or receive any remuneration directly or indirectly in cash or in kind from a person in connection with the furnishing of drugs or in connection with referring a recipient to a person for the furnishing of drugs.

**§ 6211.78. Staff development and training costs.**

(a) Costs associated with staff development and training costs are allowable if the training and development is associated with the individual program goals and objectives of the intermediate care facilities for the intellectual disability program.

(b) Staff development and training costs are allowable in accordance with intermediate care facilities for individuals with an intellectual disability certification requirements.

**Authority**

The provisions of this § 6211.78 amended under sections 201(2), and 443.1(2) and (3) of the Human Services Code (62 P.S. §§ 201(2), and 443.1(2) and (3)).

**Source**

The provisions of this § 6211.78 amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (361423).

**§ 6211.79. Depreciation allowance.**

(a) Depreciation on capital assets used to provide compensable services to medical assistance clients, including assets for normal, standby or emergency use, and specialized equipment such as wheelchairs, is allowable.

(b) Except as specified in subsections (c) and (d), a facility will be reimbursed for allowable depreciation costs only if the facility is the recorded holder of legal title.

(c) Facilities that participated in the MA Program prior to July 1, 1984, that are not part of a related organization and that are not the recorded holder of legal title to the facility, are considered to meet the recorded holder of legal title requirement and will be reimbursed for allowable depreciation on a particular project, if, at the time services were rendered, the following existed:

(1) The particular project was primarily funded through an Industrial Development Authority bond issue, or tax exempt funding sources established under State statute.

(2) The facility provided the Department with all documents relating to the ownership and financial obligations relating to the facility.

(3) The facility met the standards of HIM-15, Section 110-B, with respect to virtual purchases.

(d) Facilities that participated in the MA Program prior to July 1, 1984, that are part of a related organization and that are not the recorded holder of legal title to the facility, are considered to meet the recorded holder of legal title requirement and will be reimbursed for allowable depreciation on a particular project, if, at the time services were rendered, the following existed:

(1) The particular project was primarily funded through an Industrial Development Authority bond issue, or tax exempt funding sources established under State statute.

(2) The facility was a related organization to a corporation, person, or company which, if it operated the facility, could qualify for reimbursement for allowable depreciation costs under subsection (c).

(3) Documentation necessary to substantiate that the facility meets the requirements of subsection (c) and documentation and statement of the fact that the two entities are related organizations were supplied to the Department.

(4) The related organization agreed in writing as required by the Department that it and its successors will be responsible for any overpayment that the Department is unable to collect directly from the facility.

(e) The straight-line method of depreciation shall be used. Accelerated methods of depreciation are not acceptable. The amount of annual depreciation shall be determined by first reducing the cost of the asset by any salvage value and

then dividing by the number of years of useful life of the asset. The useful life may be shorter than the physical life depending upon the usefulness of the particular asset to the provider. A useful life may not be less than the relevant useful life published by the Internal Revenue Service or the Uniform Chart of Accounts and Definitions for Hospitals published by the American Hospital Association for the particular asset on which the depreciation is claimed. However, the accelerated cost recovery system under section 168(c) of the Internal Revenue Code (26 U.S.C.A. § 168(c)) and any other accelerated filing system will not be permitted.

(f) Depreciation expense for the year of acquisition and the year of disposal is computed by using either the half-year or actual time method of accounting. The number of months of depreciation expense may not exceed the number of months that the asset was in service. If the first year of operation is less than 12 months, depreciation is allowed only for the actual number of months in the first year of operation.

(g) The method and procedure, including the assigned useful lives, for computing depreciation shall be applied from year-to-year on a consistent basis from the date of the facility's first filed cost report after July 1, 1975, and may not be changed, even if the facility is purchased as an ongoing operation.

(h) Assets shall be recorded at cost. Donated assets shall be recorded at the current appraisal value or the lower of the following if available: the construction cost, the original purchase price or the donor's original purchase price. Costs incurred during the construction of an asset, such as architectural, consulting and legal fees, interest, and fund raising shall be capitalized as part of the cost of the asset. If an asset is acquired by a trade-in, the cost of the new asset is the sum of the book value of the old asset and any cash or issuance of debt as consideration paid.

(i) Facilities that previously did not maintain fixed asset records and did not record depreciation in prior years shall be entitled to any straight-line depreciation of the remaining useful life of the asset. The depreciation shall be based on the cost of the asset at the time of original purchase or construction. Depreciation may not be taken on an asset that would have been fully depreciated if it had been properly recorded at the time of acquisition.

(j) Depreciation on facilities that have no fixed asset records and are sold will be recognized to the extent to which the prior owner would have been entitled to depreciation.

(k) Leasehold improvements shall be depreciated over the useful life of the asset.

(l) Gains on the sale of fixed and movable assets are considered to be equal to the salvage value which shall be established prior to the sale of the item. Gains on the sale of fixed and movable assets shall offset allowable costs for the period in which the gain was realized, but the offset may not exceed the amount of the facility's total depreciation expense for the last 12 months prior to the date that the asset was either sold, retired from service, or otherwise permanently taken out

of services. If the amount of the offset is greater than the total allowable cost for the period in which the gain was realized, the difference shall be refunded to the Department. Losses incurred on the sale or disposal of fixed or movable assets will not be reimbursed under the program.

(m) The cost basis for depreciable assets is determined as follows:

(1) Except as provided otherwise in this section, the cost basis of the depreciable assets of a facility that are acquired as used, shall be computed by the following method:

(i) The lower of the purchase price or the fair market value shall be established at the time of sale based on the lowest of two or more bona fide appraisals at the time of sale.

(ii) Depreciation that was taken or could have been taken by all prior owners shall be subtracted.

(iii) Subsections (r) and (s) will establish the Department's extent of participation in the payment of allowable depreciation.

(2) The cost basis for depreciable assets of a facility transferred between related parties shall be the net book value of the seller at the date of the transfer as recognized under this subchapter.

(3) The cost basis for depreciable assets of a facility acquired through stock purchase will remain unchanged from the cost basis of the previous owner.

(4) The cost basis for depreciable assets of a facility purchased in types of transactions other than those specified in paragraphs (1)—(3) and (5) may not exceed the seller's basis under this subchapter, less all depreciation that was taken or could have been taken by all prior owners.

(5) The cost basis for depreciation on any asset the ownership of which changes on or after July 18, 1984, shall be the lesser of the remaining allowable cost basis of the asset to the first owner of record on or after July 18, 1984, or the allowable cost basis to the new owner; however, the cost basis shall exclude costs, including legal fees, accounting and administrative costs, travel costs, or the cost of feasibility studies, attributable to the negotiation or settlement of the sale or purchase (by acquisition or merger) for which payment was previously made under Title XIX of the Social Security Act (42 U.S.C.A. §§ 1396—1396u). This paragraph does not apply to changes in ownership under an enforceable agreement entered into prior to July 18, 1984.

(n) The reasonable cost of depreciation will be recognized for the construction and renovation of buildings to meet applicable Federal, State or local laws and building codes for intermediate care facilities for individuals with an intellectual disability. Costs are allowable if the facility has either a certificate of need or a letter of nonreviewability for the project from the Department of Health under subsection (r)(1) and (2). In accordance with Federal and State regulations, the facility shall submit to the Department the certificate of need or letter of non-

reviewability, as appropriate, or the provider will not receive reimbursement for interest on capital indebtedness, depreciation and operating expenses.

(o) If the purchase of a facility or improvements to the facility are financed by tax exempt bonds, the acquired property, plant or equipment shall be capitalized and depreciated over the life of the assets. The acquired property, plant or equipment are the only items that may be capitalized. If the principal amount of the bond issue was expended in whole or in part on capital assets that fail to meet the requirements of the subsections (m) and (n) regarding eligibility for depreciation, the includable depreciation will be proportionately reduced.

(p) The fixed asset records shall include all of the following:

- (1) The depreciation method used.
- (2) A description of the asset.
- (3) The date the asset was acquired.
- (4) The cost of the asset.
- (5) The salvage value of the asset.
- (6) The depreciation cost.
- (7) The estimated useful life of the asset.
- (8) The depreciation for the year.
- (9) The accumulated depreciation.

(q) Effective July 1, 1984, for non-State ICF/ID providers, the funding of depreciation is recommended so that funds may be available for the acquisition and future replacement of assets by the facility. To qualify for treatment as a funded depreciation account, the funds shall be clearly designated in the provider's records as funded depreciation accounts and shall be maintained in accordance with the provisions of HIM-15.

(r) The Department will recognize depreciation as an allowable cost subject to the following conditions:

(1) Depreciation on new or additional beds is an allowable cost only if both of the following apply:

(i) The facility was issued either a Section 1122 approval or letter of nonreviewability in accordance with 28 Pa. Code Chapter 301 (relating to limitation on Federal participation for capital expenditures) or a certificate of need or letter of nonreviewability in accordance with 28 Pa. Code Chapter 401 (relating to certificate of need program) for the project by the Department of Health.

(ii) The facility substantially implements the project as defined at 28 Pa. Code § 401.5(j)(2) (relating to certificate of need) within the effective period of the original Section 1122 approval or the original certificate of need.

(2) Depreciation on replacement beds is allowable only if the facility was issued a certificate of need or a letter of nonreviewability for the project by the Department of Health.



(s) After July 1, 1984, allowable depreciation and interest costs for new, renovated, or purchased facilities shall be held to a per bed limitation based on construction standards obtained from published standards.

(1) For facilities governed by the Institutional Occupancy Section of the National Fire Protection Association's Life Safety Code, depreciation costs are limited to a maximum cost per bed based upon the "*Repair and Remodel Quarterly*" published by Marshall and Swift, Post Office Box 26307, Los Angeles, California, 90026-9954, current at the time of construction or acquisition, except as limited by other provisions of this chapter.

(2) For facilities governed by the Lodging and Rooming Houses Section of the National Fire Protection Association Life Safety Code, depreciation costs are limited to a maximum cost per bed based upon the *Marshall Valuation for Single Family Residences—Type D*, published by Marshall and Swift, Post Office Box 26307, Los Angeles, California 90026-0307, current at the time of construction or acquisition, except as limited by other provisions of this subchapter.

(t) Depreciation cost is not allowable for assets expensed under another State or Federal funding stream.

#### Authority

The provisions of this § 6211.79 amended under sections 201(2) and 443.1(2) and (3) of the Human Services Code (62 P.S. §§ 201(2) and 443.1(2) and (3)).

#### Source

The provisions of this § 6211.79 amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial pages (361423) to (361427).

#### Cross References

This section cited in 55 Pa. Code § 1181.259a (relating to elimination of funded depreciation—statement of policy); 55 Pa. Code § 6211.80 (relating to elimination of funded depreciation requirement—statement of policy); 55 Pa. Code § 6211.81 (relating to interest); 55 Pa. Code § 6211.88 (relating to start-up costs); and 55 Pa. Code § 6211.101 (relating to costs that are not allowable).

### § 6211.80. Elimination of funded depreciation requirement—statement of policy.

The provisions of § 1181.259a (relating to elimination of funded depreciation—statement of policy) are applicable to § 6211.79(q) (relating to depreciation allowance).

### § 6211.81. Interest.

(a) Necessary and proper interest on capital and current indebtedness is allowable. The Department will recognize interest as an allowable cost subject to the following conditions:

(1) Interest on new or additional beds is an allowable cost only if both of the following apply.

(i) The facility was issued either a Section 1122 approval or letter of nonreviewability in accordance with 28 Pa. Code Chapter 301 (relating to limitation on Federal participation for capital expenditures) or a certificate of need or letter of nonreviewability in accordance with 28 Pa. Code Chapter 401 (relating to certificate of need program) for the project by the Department of Health.

(ii) The facility substantially implements the project as defined at 28 Pa. Code § 401.5(j)(2) (relating to certificate of need) within the effective period of the original Section 1122 approval or the original certificate of need.

(2) Interest on replacement beds shall be an allowable cost only if the facility was issued a certificate of need or a letter of nonreviewability by the Department of Health.

(b) Except as specified in subsections (c) and (d), a facility will be reimbursed for allowable interest on capital indebtedness with respect to assets only if the facility is the recorded holder of legal title of the assets involved.

(c) Facilities that participated in the MA Program prior to July 1, 1984, that are not part of a related organization and that are not the recorded holder of legal title to the facility are considered to meet the recorded holder of legal title requirement and will be reimbursed for allowable interest on a particular project, if, at the time services were rendered, all of the following existed:

(1) The particular project was primarily funded through an Industrial Development Authority bond issue, or tax exempt funding sources established under State statute.

(2) The facility provided the Department with all documents relating to ownership and financial obligations relating to the facility.

(3) The facility met the standards of HIM-15, Section 110-B, with respect to virtual purchases.

(d) Facilities that participated in the MA Program prior to July 1, 1984, that are part of a related organization and that are not the recorded holder of legal title to the facility, are considered to meet the recorded holder of legal title requirement and will be reimbursed for allowable interest on a particular project, if, at the time services were rendered the following existed:

(1) The particular project was primarily funded through an Industrial Development Authority bond issue, or tax exempt funding sources established under State statute.

(2) The facility was a related organization to a corporation, person, or company which, if it operated the facility, could qualify for reimbursement for allowable interest costs under subsection (c).

(3) All of the documentation necessary to substantiate that the facility meets the requirements of subsection (c) and documentation and a statement of the fact that the two entities are related organizations was supplied to the Department.

(4) The related organization agreed in writing as required by the Department that it and its successors will be responsible for any overpayment that the Department is unable to collect directly from the facility.

(e) Allowable interest on capital indebtedness shall not exceed the amount that a prudent borrower would pay. Interest on capital indebtedness will not be considered prudent if the provider cannot demonstrate that the rate does not exceed the rate available from lenders in this Commonwealth to similar borrowers at the time that the funds were borrowed. For the purpose of this section, the time that the funds were borrowed is the date of the loan commitment.

(f) To be considered allowable, necessary and proper, the interest expense shall be incurred and paid within 90 days of the close of the cost reporting period on a loan made to satisfy a financial need of the facility and for a purpose reasonably related to client care.

(g) Necessary interest on capital indebtedness applying to mortgages, bonds, notes, or other securities on the property and plant of the facility will be recognized subject to the limitation of the amount recognized for depreciation purposes. The total value of mortgages, bonds, notes, or other securities on which interest on capital indebtedness is allowed may not exceed the depreciation basis of the assets as set forth at § 6211.79(m)—(o) (relating to depreciation allowance).

(h) Investment income shall be used to reduce allowable interest expense on capital and current indebtedness unless the investment income is from one of the following:

- (1) Gifts, donations and grants that are not restricted by the donor for payment of allowable costs.
- (2) Funded depreciation if the interest earned remains in the funds.
- (3) The facility's qualified pension fund if the interest earned remains in the fund.
- (4) Interest income from gifts, if the funds on which the interest is derived are not comingled with funds that offset allowable costs.
- (5) Fund raising efforts.

(i) Investment income that reduces allowable costs, including income on operating capital, shall be used to reduce interest expense on capital indebtedness first, then used to reduce noncapital indebtedness.

(j) Interest income on unused debt proceed funds or bond debt reserve funds shall be used first to reduce interest payable on those funds, shall be used second to reduce interest on capital indebtedness, and shall be used last to reduce non-capital indebtedness.

(k) Interest expense shall be allowable if paid on loans from the facility's donor-restricted funds, the funded depreciation account, or the facility's qualified pension fund. The upper limit on allowable interest may not exceed the prime interest rate charged at the time funds are borrowed.

(l) Interest on capital indebtedness will be recognized on debt services incurred to finance a maximum cost per bed as defined in § 6211.79(m) and (s). If the cost exceeds the per bed limit, the interest on the portion of the cost that exceeds the limit is not allowable.

(m) Moneys borrowed for the purchase or redemption of capital stock will be considered as a loan for investment purposes, and the interest paid on those borrowed funds is not an allowable cost.

(n) Interest expense on funds borrowed for capital purchases will not be allowed until all funds in the facility's funded depreciation account are fully expended.

#### § 6211.82. Rental costs.

(a) Space that is justified by the program is allowable.

(b) Leasing or rental costs for buildings is allowable if parties are unrelated and the facility demonstrates that the rental or lease is an arm's length transaction and continues as such.

(c) Exceptions to subsection (b) are allowed only upon advance approval from the Deputy Secretary for the Office of Developmental Programs or a designee. Approval will be based on a fair market rental appraisal as outlined in subsection (e), or documented costs of ownership, except that return on equity is not permitted. The provider is permitted to include documented mortgage interest charges and depreciation.

(d) The provider shall maintain adequate documentation to substantiate rental costs. Documentation shall include copies of the Deputy Secretary's approval specified in subsection (c), the lease, and bills for taxes, insurance, and interest.

(e) The facility shall maintain documentation of a fair market rental appraisal for all rental properties, from an individual who holds at least one of the following designations awarded by the Society of Real Estate Appraisers:

- (1) Senior Real Property Appraiser.
- (2) Senior Residential Appraiser.
- (3) Senior Real Estate Analyst.
- (4) Member of the American Institute of Real Estate Appraisers.

(f) A maximum allowable annual rental shall be computed in the following manner:

- (1) The property value is based upon the documented market value of three similar properties including land in the same geographic area.
- (2) Net equity is obtained by reducing the property value by the estimated selling costs and any outstanding debt.
- (3) The rate for return on equity capital as contained in Section 5782 of HIM-15, for the beginning of the current fiscal year, will be applied to net equity.
- (4) The actual cost of real estate taxes, insurance and interest on any debt, for the current fiscal year, are included.
- (5) The maximum annual rental may not exceed the sum of paragraphs (3) and (4).
- (g) Providers shall maintain documentation related to subsection (f).
- (h) Rent is allowable up to the maximum allowable reimbursement for annual rental value.
- (i) If there is a multiple year lease, rentals are determined by new appraisals or by updating the existing appraisals using the HIM-15, interest rate, current costs for taxes, insurance, and interest.
- (j) Facilities certified on or before July 1, 1984, shall comply with this section beginning July 1, 1987, or at the expiration of the current lease agreement, whichever occurs first. Facilities certified after July 1, 1984, shall comply with this section as of the initial date of certification.

#### Authority

The provisions of this § 6211.82 amended under sections 201(2), 403(b) and 403.1 of the Public Welfare Code (code) (62 P.S. §§ 201(2), 403(b) and 403.1), as amended by the act of June 30, 2011, (P.L. 80, No. 22) (Act 22).

#### Source

The provisions of this § 6211.82 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the code, 42 Pa.B. 3261. Immediately preceding text appears at serial pages (213329) to (213330).

### § 6211.83. Vehicle costs.

- (a) Leasing or rental costs of automobiles are not allowable unless the provider can demonstrate that the transaction is an arm's length transaction.
- (b) A facility may not rent an automobile from a parent corporation unless the facility can demonstrate it is leasing at less than or equal to the amount other vendors are charging for a similar automobile.
- (c) Providers shall use a competitive bidding process in order to purchase or lease vehicles.
- (d) Providers shall explore cost differentials between leasing and purchasing of vehicles and shall choose the least expensive alternative.
- (e) The personal use of provider-owned or leased motor vehicles by employees, owners or officers is prohibited.

(f) Daily logs detailing use of vehicles as well as the maintenance activities and costs shall be maintained by the provider.

**§ 6211.84. Purchase bid requirements.**

Purchase of services, major renovations, capital equipment, and supplies that exceed \$5,000 annually must be made through a competitive bidding process or a request for proposal process. Certain professional services included but not limited to those of practitioners and attorneys are exempt from this requirement. A bid may be obtained for a maximum of 3 years. Facilities shall not purchase in a piecemeal fashion to avoid the \$5,000 limit. Purchases without bids shall be based upon sole source justification supported by documentation of the uniqueness or the limited availability of the service.

**§ 6211.85. Income and offsets to allowable costs.**

- (a) Income from the following sources offsets allowable costs:
- (1) Medical assistance reimbursement income.
  - (2) Client pay or assessed liability that is deducted from client billings.
  - (3) Gifts and donations restricted by the donor for allowable costs.
  - (4) Refunds and cash discounts.
  - (5) Grants designated for allowable costs.
    - (i) If the facility serves more than 50% of clients age 21 or younger, the provider shall act as sponsoring agency for participation of those clients in the residential component of the National School Lunch Program.
    - (ii) If clients of the facility are eligible for participation in the Food Stamp Program, it is the provider's responsibility to contact the local county assistance office and utilize food stamps accordingly.
  - (6) Income from space rental, vending machines and similar items.
  - (7) Interest earned on items specified in paragraphs (1)—(6).
- (b) Income from the following sources does not offset allowable costs:
- (1) Gifts, donations and contributions that are not restricted by the donor for allowable costs.
  - (2) Endowments and bequests not restricted for allowable costs.
  - (3) Fund raising efforts not restricted for allowable costs.
  - (4) Interest earned on items specified in paragraphs (1)—(3).

**§ 6211.86. Transportation.**

- (a) Nonemergency transportation expenses related to client care are allowable.
- (b) Reimbursement of employee expenses incurred while transporting a resident to or from locations is allowable. Reimbursement may not exceed the mileage rate paid to Commonwealth employees.

(c) Staff transportation costs are eligible for reimbursement if the traveler is an officer or employe of the facility and if the travel is reasonable and related to the program.

(d) The Department will not reimburse for lodging if the employe is less than 50 miles from the employe's home or work site.

**Source**

The provisions of this § 6211.86 corrected February 10, 1995, effective July 1, 1994, 25 Pa.B. 536. Immediately preceding text appears at serial page (193517).

**§ 6211.87. Return on equity.**

(a) The Department will not contribute to a return on equity for proprietary intermediate care facility for individuals with an intellectual disability programs.

(b) Excess funds shall be returned to the Department within 6 months from the close of an audit or cost settlement determination.

**Authority**

The provisions of this § 6211.87 amended under sections 201(2) and 443.1(2) and (3) of the Human Services Code (62 P.S. §§ 201(2) and 443.1(2) and (3)).

**Source**

The provisions of this § 6211.87 corrected February 10, 1995, effective July 1, 1994, 25 Pa.B. 536; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (361433).

**§ 6211.88. Start-up costs.**

(a) Start-up costs shall be capitalized as deferred charges and amortized over a minimum of 5 years.

(b) Start-up costs include, but are not limited to, administrative and nursing salaries, utility costs, taxes, insurance, mortgage and other interest, employe training costs, repairs and maintenance, housekeeping and other allowable costs incident to the start-up period.

(c) Costs that are properly identifiable as organization costs or capitalizable as construction costs shall be classified as such and excluded from start-up costs.

(d) Costs related to changes in ownership as defined in § 6211.79(m) (relating to depreciation allowance) are not allowable as start-up costs.

(e) Amortized start-up costs shall be shown on the Depreciation and Amortization Schedule that is a part of the budget submission or the cost report. The costs shall be documented on the budget narrative or the cost report. A 60-month amortization period is allowed for these costs.

**Source**

The provisions of this § 6211.88 adopted February 10, 1995, effective July 1, 1994, 25 Pa.B. 536.

**NONREIMBURSABLE COSTS****§ 6211.101. Costs that are not allowable.**

The following costs are not allowable:

- (1) Nonworking officers' salaries.
- (2) Fundraising expenses.
- (3) Free care or discounted services.
- (4) Parties and social activities not related to client care.
- (5) Personal telephone service.
- (6) Personal radio and television service.
- (7) Direct and indirect costs related to nonallowable cost centers including gift, barber, beauty, flower and coffee shops, homes for administrators or pastors, convent areas and nurses' quarters.
- (8) Guest meals.
- (9) Pennsylvania Capital Stock and Franchise Tax.
- (10) Income tax.
- (11) Ambulance costs.
- (12) Promotional advertising including a Yellow Page listing that is greater than the minimum insert.
- (13) Late payment penalties.
- (14) Penalties, fines, or late charges assigned by any source, whether or not related to the facility.
- (15) Life insurance for officers and directors of the governing board, including life insurance premiums necessary to obtain mortgages and other loans.
- (16) Bad debts or contractual adjustments.
- (17) Collection expenses associated with bad debts.
- (18) Travel expenses for members of the board of directors unrelated to the program.
- (19) Depreciation and interest on capital indebtedness for costs in excess of the limitations specified in § 6211.79(s) (relating to depreciation allowance).
- (20) Expenses not necessary for client care.
- (21) Basic education for eligible school-age children.
- (22) Vocational rehabilitation services.
- (23) Personal travel for employees, including personal use of facility vehicles.
- (24) Meals for employees, except for employee meals provided as part of client training activities.
- (25) Living expenses for live-in employees, including lodging, meals and personal laundry.
- (26) Membership fees for social, fraternal, and other organizations involved in activities unrelated to the program or an organization defined as a lobbying group under the Lobbying Registration and Regulation Act (46 P. S. §§ 148.1—148.9).



(27) Expenses payable from another public agency, insurance program or health program.

(28) Net operating or capital cost, 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 a capital asset (by acquisition or merger) for which payment has previously been made under Title XIX of the Social Security Act (42 U.S.C.A. §§ 1396—1396q) if the sale or purchase was made on or after July 18, 1984. This paragraph does not apply to any asset that undergoes a transfer of ownership on or after July 1, 1984 under an enforceable agreement that was entered into prior to July 18, 1984.

### CONFLICT OF INTEREST

#### § 6211.111. Nonprofit organizations.

(a) A voting member of the governing board of a nonprofit organization shall disclose in writing to the Department a contract or agreement for compensation with the provider in which the voting member has a personal interest.

(b) If a voting member receives compensation from the provider, the compensation shall be excluded from the allowable costs of the facility if both of the following apply:

(1) The voting member votes on the payment of compensation to himself or fails to disclose his interest to other members of the governing board.

(2) The organization fails to disclose the interest of the voting member.

(c) Compensation includes salaries, consultation fees or services provided by the program, but may not include care provided to a resident of the program.

(d) Travel and related expenses, such as the cost of attending educational seminars, are allowable for members of the governing board if the expense is reasonable, related to the operation of the program and documented in the provider's records.

#### Cross References

This section cited in 55 Pa. Code § 6211.112 (relating to profit organizations).

#### § 6211.112. Profit organizations.

(a) If a proprietor of an organization organized for profit performs services as a salaried employe of the organization, a reasonable allowance of compensation for these services is an allowable cost if both of the following apply:

(1) The services are actually performed in a necessary function.

(2) The person is qualified to perform these services.

(b) A reasonable allowance for compensation means that the compensation allowance be such an amount as would ordinarily be paid for comparable services by comparable facilities.

(c) A necessary function means that, had the owner not rendered the services, the facility would have had to employ another person to perform the services. A necessary function also means that the function be pertinent to the operation and sound conduct of the facility.

(d) Compensation to voting members of an organization organized for profit is subject to the requirements for directors of nonprofit organizations in § 6211.111 (relating to nonprofit organizations) in order for the cost thereof to be included as an allowable expense included in the computation of per diems.

**§ 6211.113. Purchase of goods and services for profit and nonprofit organizations.**

(a) Unless made under the competitive bidding procedures of this subchapter, the purchase of goods and services from a person having an interest in the organization that operates the program is not allowable.

(b) For the purpose of subsection (a), an interest shall include:

(1) A managing employe, such as general manager, business manager, administrator, director or other individual who exercises operational or managerial control over, or who directly or indirectly is in charge of, the day-to-day operation of the program.

(2) A partnership or corporation organized for profit in which the managing employe of the program is an officer, director or trustee or in which the manager or employe has an ownership interest equal to more than 10% of the partnership or corporation.

**§ 6211.114. Costs to related organizations.**

(a) Costs of goods or services furnished to a program by a related organization are includable in the computation of per diem rates at the lower of the cost to the related organization or the market price of comparable goods or services available in the provider's Departmental region.

(b) Interest expense is not allowable if it is paid to a lender related through control, ownership, or personal relationship to the borrowing organization.

**BUDGET**

**§ 6211.121. Submission of the budget.**

(a) For new programs that have never participated in the Intermediate Care Facility for the persons with an intellectual disability program, or programs that have participated in the program for less than 12 months, a budget shall be prepared and submitted to the Department in accordance with forms and instructions provided by the Department.

(b) If a waiver of the standard interim per diem rate is requested, a budget shall be submitted to the Department in accordance with § 6211.31(e) (relating

to request for waiver) and shall be prepared in accordance with forms and instructions provided by the Department.

**Authority**

The provisions of this § 6211.121 amended under sections 201(2), 403(b) and 403.1 of the Public Welfare Code (code) (62 P.S. §§ 201(2), 403(b) and 403.1), as amended by the act of June 30, 2011, (P.L. 80, No. 22) (Act 22).

**Source**

The provisions of this § 6211.121 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213335).

**§ 6211.122. Budget requirements.**

All requirements of this subchapter apply for the preparation and submission of the budget.

**§ 6211.123. Major objects of expenditure and cost centers within the budget.**

- (a) The budget shall include the following major objects of expenditure:
  - (1) Personnel costs.
  - (2) Operating costs.
  - (3) Equipment and other fixed assets.
  - (4) Depreciation and interest.
  - (5) Apportioned costs.
- (b) The budget shall include the following cost centers:
  - (1) Room and board.
  - (2) Health care.
  - (3) Ancillary services.
  - (4) General administration.
  - (5) Depreciation and interest.
  - (6) Other.

**Cross References**

This section cited in 55 Pa. Code § 6211.34 (relating to upper limits of payment if a waiver is granted).

**§ 6211.124. Budget adjustments.**

- (a) The provider is permitted to move funds between major objects of expenditure and cost centers, within 10% of the approved amount per major object of expenditure and cost center, during the course of the fiscal year.
- (b) Movement of funds greater than 10% requires submission of budget adjustment and shall meet the following conditions:

- (1) Changes shall remain within the limit of the total approved budget level.
- (2) Requests for adjustment shall be filed during the fiscal year in which the rate is effective, and budget adjustments may be filed a maximum of two per fiscal year.
- (3) Budget adjustments shall be submitted on forms prescribed by the Department and in accordance with applicable instructions.

**Authority**

The provisions of this § 6211.124 amended under sections 201(2), 403(b) and 403.1 of the Public Welfare Code (code) (62 P.S. §§ 201(2), 403(b) and 403.1), as amended by the act of June 30, 2011, (P.L. 80, No. 22) (Act 22).

**Source**

The provisions of this § 6211.124 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213336).

**MOVEMENT OF FUNDS**

**§ 6211.131. Conditions for movement of funds.**

- (a) Agencies that operate multiple programs shall be permitted to move up to 10% of the approved funding level of a program across other programs the facility operates.
- (b) Movement of funds shall be permitted only once per Commonwealth fiscal year.
- (c) The request for movement of funds shall be submitted to the Department by May 31 of the fiscal year for which the movement of funds is requested.
- (d) Movement of funds will not be approved if there is an increase in the sum of the already approved funding levels for each of the programs the agency operates.
- (e) Movement of funds shall be limited to 10% of a program's approved funding level.
- (f) Movement of funds may be directed from several programs to a single program.

**Authority**

The provisions of this § 6211.131 amended under sections 201(2), 403(b) and 403.1 of the Public Welfare Code (code) (62 P.S. §§ 201(2), 403(b) and 403.1), as amended by the act of June 30, 2011, (P.L. 80, No. 22) (Act 22).

**Source**

The provisions of this § 6211.131 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the code, 42 Pa.B. 3261. Immediately preceding text appears at serial pages (213336) to (213337).

**Cross References**

This section cited in 55 Pa. Code § 6211.134 (relating to cost reporting).

**§ 6211.132. Documentation.**

(a) Agencies requesting the movement of funds shall submit revised program budget pages to the Department for affected programs.

(b) For programs affected by the change with standard interim rates, a program budget page is not required. The agency shall document to the Department the change in the total projected operating cost as a result of the movement of funds.

**Authority**

The provisions of this § 6211.132 amended under sections 201(2), 403(b) and 403.1 of the Public Welfare Code (code) (62 P.S. §§ 201(2), 403(b) and 403.1), as amended by the act of June 30, 2011, (P.L. 80, No. 22) (Act 22).

**Source**

The provisions of this § 6211.132 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213337).

**§ 6211.133. Related procedures.**

The Department will not process gross adjustments as a result of an approved request to move funds across programs and revised interim rates will not be issued.

**Authority**

The provisions of this § 6211.133 amended under sections 201(2), 403(b) and 403.1 of the Public Welfare Code (code) (62 P.S. §§ 201(2), 403(b) and 403.1), as amended by the act of June 30, 2011, (P.L. 80, No. 22) (Act 22).

**Source**

The provisions of this § 6211.133 amended June 8, 2012, effective July 1, 2011, in accordance with section 403.1(e) of the code, 42 Pa.B. 3261. Immediately preceding text appears at serial page (213337).

**§ 6211.134. Cost reporting.**

Cost reporting on the form specified by the Department shall be individualized for each certified program. At the time of tentative and final settlements, settlement amounts will be issued for each certified program, reflecting the amount either due to or from the Department. Both tentative and final cost settlements will incorporate each certified program's approved funding level, including any revisions as a result of an approved movement of funds request, as specified in § 6211.131 (relating to conditions for movement of funds). Payment amounts to providers at the time of tentative cost settlement will be 80% of the amount due

to the provider. Collection at the time of tentative cost settlement will be 100% of overpayments due to the Department. At the time of final cost settlements, amounts will be 100% of amounts either due to or from the Department.

**§ 6211.135. Rate setting.**

(a) Subsequent year's rate setting will be based upon the revised approved levels resulting from requested and approved movement of funds.

(b) Rate setting will use the immediate preceding year as base if a requested movement of funds has been approved, and, therefore, the revised approved funding levels will be reflected in rate setting for the upcoming fiscal year.

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