**Section 140.560 Components of the Base Rate Determination**

Except as specified otherwise in this Section, rates calculated for the rate year beginning July 1, 1990 and for subsequent years thereafter shall be based on the facility's cost report for the facility's full fiscal year ending at any point in time during the previous calendar year as long as that cost report is filed prior to April 1. Otherwise, the latest cost report available on March 31 will be used to set rates for July 1. For example, if a facility with a December 31, 1989 year end files their cost report prior to April 1, 1990, that cost report will be used to set rates for the rate year to begin on July 1, 1990. In this example, if the December 31, 1989 cost report is not filed until after March 31, 1990, the December 31, 1988 cost report will be used to set rates for the rate year to begin on July 1, 1990.

a) In the case of a change in ownership of a previously certified facility, the rate issued to the previous owner will be in effect for the remainder of the rate year. A new rate will be calculated for the next rate year based on the new owner's cost report if a cost report covering a minimum of the first six months of operation is received by the Bureau of Health Finance prior to April 1 st. If a cost report covering the first six or more months of operation for the new owner cannot be filed with the Bureau of Health Finance prior to April 1 st, the rate will be calculated based upon the prior owner's cost report filed in accordance with the opening paragraph of this Section. A cost report that has not been completed in accordance with the Department's rules and cost report instructions will not be considered as received until all cost report pages are properly completed.

b) In the case of a new facility, capital reimbursement will be assigned on the receipt of the first cost report (which may be an abbreviated cost report). The support reimbursement will be set at the median for that region. The facility must then file a six-month cost report (beginning with the date the first patient was admitted) that contains actual historical cost information. The capital and support rates will then be recalculated based upon this cost report. Rates so calculated will become effective on the first day of the first month after the six-month cost report is received by the Department's Bureau of Health Finance. The facility must obtain written verification of the initial cost reporting periods from the Bureau of Health Finance.

c) When a construction addition to the building will increase the licensed bed capacity by ten percent or more, the facility may file a revised cost report reflecting the increased capital investment. If this revised cost report is filed within 30 days after the date of the increase in licensure as determined by the Illinois Department of Public Health, any increase in the capital rate will be effective on the effective date of licensure increase. If the revised cost report is filed more than 30 days after the effective date of increase in licensure, any increase in the capital rate will be effective on the first day of the first month after the report is received by the Bureau of Health Finance.

d) Once a rate for an individual facility has been calculated, a new rate will not be calculated during the course of the rate year except as provided in subsections (b) and (c) of this Section.

e) If a facility incurs building construction improvements that increase the total building cost for the current owner by ten percent or more and that would raise the base year, then the nursing home may file a revised cost report that reports the increased capital investment. Only facility building construction improvements completed after the end of the period of the report used to calculate the last capital rate calculation can be used to meet the ten percent requirement. Purchases of buildings for use by the facility and allocations of central office buildings and improvements cannot be used to meet the ten percent requirement. The base year is defined in Section 140.570(b)(2). If the improvements have been completed and put into use prior to the forthcoming rate year and the cost report reflecting increased capital costs is filed prior to the beginning of the next rate year, then any increase in the capital rate will be effective on the first day of the rate year.

f) In order to accommodate the downsizing to close or reduce bed capacity of ICF/MR facilities licensed for ICF/DD or SNF/PED Services, the following provisions will apply. These provisions only apply for facilities with 17 or more licensed beds that decrease their total licensed beds by 20 percent or more due to a decrease in the beds licensed as ICF/DD or SNF/PED. The reduced bed capacity must be necessary to achieve one or more of the following goals: achieve compliance with ICF/MR regulations, such as four or fewer persons per room; achieve compliance with ICF/MR regulations in an adverse action as part of a Plan of Correction (see the Department of Public Health rules at 77 Ill. Adm. Code 300.278); increase available space in order to provide active treatment services to residents; and permit the voluntary closure of a facility in order to achieve community placement to settings of size eight or fewer residents, provided sufficient funds are available to the Department of Human Services (DHS).

1) The facility must request pre-approval for application of these provisions from the DHS Director of the Division of Disability and Behavioral Health Services (DDBHS). The written request must describe the necessity to reduce licensed bed capacity. The facility must submit a proposed timetable for the downsizing, including the projected dates of each decrease in census and the census on that date (the benchmark). Written approval may be granted if DHS determines the change will be beneficial for the ICF/DD or SNF/PED residents. If approval is granted, DHS will enter into a downsizing agreement with the facility with provisions including the downsizing plan, benchmarks, rate adjustments and items of compliance regarding the safety and placement of residents.

2) The reduction in the number of licensed beds must be completed within a one-year period following the DDBHS Director's approval, unless a longer reduction period is approved by the Deputy Director at the onset of the plan. Not fewer than 90 days prior to the projected end date of the downsizing plan, the facility must make application to the Department of Public Health (DPH) for a formal licensure change to reflect the number of licensed beds, if any, to remain at the conclusion of the downsizing plan. The effective date of the licensed bed change will be the actual date the final resident benchmark census objective is reached.

3) A facility is ineligible for downsizing if the facility has been notified in writing by DPH of a need for a Plan of Correction for non-compliance with conditions of participation, Type A violations, licensure non-compliance, or because the facility has been declared an "immediate and serious threat" to the welfare of any resident or residents in the one-year period preceding the date of a request for application of these downsizing provisions unless the DDBHS Director has granted the facility a waiver of this one year requirement.

4) When DPH notifies a facility in writing of a need for a Plan of Correction for non-compliance with conditions of participation, Type A violations, licensure non-compliance, or because the facility has been declared an "immediate and serious threat" to the welfare of any resident, the facility may seek DHS approval of a downsizing plan concurrently as part of a Plan of Correction to DPH in accordance with the time frames and process allotted by DPH. If a downsize application is not made at this time and as part of a Plan of Correction, the facility is ineligible for downsizing.

5) During the downsizing period, the facility may not accept any admissions except with explicit permission of DHS. The facility must agree to make every effort to insure immediate notification (within 72 hours) to DHS and to the local DHS office of all changes in recipient enrollment, eligibility, income, assets, earnings and other status. The facility must agree to make available to DHS and interested parties such records as necessary to disclose the type and quantity of care provided to specific residents, as well as physicians' reports, need for care, level of functioning and orders for services. The facility must agree to provide access to resident care records and facility records and policies concerning resident care throughout the downsizing period.

6) The capital and support rates in effect at the time of approval of the downsizing plan (exclusive of any flat add-on rate increases) will be modified for downsizing in accordance with subsection (f)(9) of this Section.

7) The capital and support rates will be revised with the achievement of the benchmarks specified in the downsizing agreement during the approved downsizing period.

A) The capital rate will be increased in proportion to the agreed on decrease in the census achieved at the end of each benchmark period from the census at the start of the downsizing period. For example, with an original census of 98 residents at the start of the downsizing period and the achievement of a reduction of eight residents to reach the benchmark of 90 residents, the initial $7.41 capital rate will be increased to $8.07 as follows: (the initial capital rate) is multiplied by (the original census that has been divided by the achieved census reduction), or ($7.41) X (98/90 or 1.089) = $8.07.

B) The support rate will be increased in proportion to the decrease in census achieved at the end of each benchmark period from the census at the start of the downsizing period, with the assumption that 50 percent of the support costs are fixed and 50 percent of the support rate is variable (for example, costs vary as the number of residents varies). The fixed half of the support rate will be increased in proportion to the achieved decrease at the end of each benchmark period. For example, with an original support rate of $22, the support rate would be [(.5 X $22) X (98/90)] + (.5 X $22) = $22.98.

C) The program rate will be set according to the methodology in DHS rules at 89 Ill. Adm. Code 144 (exclusive of any flat add-on increases).

8) The support rate for ICF/DD facilities may not exceed the facility's geographic area ceiling. Facilities having SNF/PED licenses that are reducing facility census to comply with ICF/MR regulations that limit the number of persons per bedroom to four or fewer may exceed the facility's geographic area ceiling but by no more than 125 percent. The exception allowing SNF/PED facilities to exceed the support rate geographic area ceiling will only be based on the reduction in census to attain four or fewer persons per bedroom. If a SNF/PED facility reduces census below that required to attain four persons per bedroom, the support rate may not exceed the facility's geographic area ceiling.

9) At the conclusion of the downsizing period the capital, support and program rates will be determined as follows:

A) The capital rate component will be fixed at the final downsizing rate and will remain in effect until such time as the rate methodology in effect produces a rate based on the downsized licensed capacity that surpasses the downsize capital rate amount. The final downsize capital rate will be increased by funding changes such as cost of living increases, when given. All space in the facility must continue to be used as an ICF/DD or SNF/PED. Use of the facility for an on-site developmental training program, school services or uses unrelated to the operation of the facility as an ICF/DD or SNF/PED, will require the calculation of the capital rate according to the methodology of Sections 140.570 through 140.574 after an adjustment of the facility's capital costs in proportion to the involved square footage. This capital rate will be effective the first day of the month following the change in space usage. Capital improvements to the downsized facility may be made and will be reimbursed as an increase to the downsize capital rate determined as the applicable percentage rate of return of the capital methodology times the per diem per bed reported amount of the improvement. The support rate in effect at the end of the downsizing period will remain in effect until a cost report covering the first six months of operation of the downsized facility is submitted as would be applicable to a new facility in accordance with provisions in subsection (b) of this Section. These six-month costs and the corresponding days of care will be used to set the support rate in accordance with the support component rate methodology in effect.

B) The program rate will be set according to the methodology described at 89 Ill. Adm. Code 144.

(Source: Expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006)