

CHAPTER 75-04-05
REIMBURSEMENT FOR PROVIDERS OF SERVICES TO INDIVIDUALS WITH
DEVELOPMENTAL DISABILITIES

Section	
75-04-05-01	Definitions
75-04-05-02	Eligibility for Reimbursement
75-04-05-03	Startup Costs [Repealed]
75-04-05-04	Application for Advancement of Startup Costs [Repealed]
75-04-05-05	Allowable Startup Costs [Repealed]
75-04-05-06	Reimbursement Requirements - Startup Costs [Repealed]
75-04-05-07	Grants-in-Aid [Repealed]
75-04-05-08	Financial Reporting Requirements
75-04-05-09	Rate Payments
75-04-05-10	Reimbursement
75-04-05-11	Cost Report
75-04-05-12	Adjustment to Cost and Cost Limitation
75-04-05-13	Nonallowable Costs
75-04-05-13.1	Allowable Bad Debt Expense
75-04-05-14	Profit-Motivated Entities - Return on Investment
75-04-05-15	Depreciation
75-04-05-16	Interest Expense
75-04-05-17	Related Organization
75-04-05-18	Rental Expense Paid to a Related Organization
75-04-05-19	Taxes
75-04-05-20	Personal Incidental Funds
75-04-05-21	Transfer, Discharge, and Expulsion of Clients
75-04-05-22	Staff-to-Client Ratios
75-04-05-23	Staff Hours
75-04-05-24	Application

SECTION 1. Section 75-04-05-01 is amended as follows:

75-04-05-01. Definitions. In this chapter, unless the context or subject matter requires otherwise:

1. "Accrual basis" means the recording of revenue in the period when it is earned, regardless of when it is collected, and the recording of expenses in the period when incurred, regardless of when they are paid.
2. "Allowable cost" means the program's actual and reasonable cost after appropriate adjustments for nonallowable costs, income, offsets, and limitations.
3. "Bad debts" means those amounts considered to be uncollectible from accounts and notes receivable which were created or acquired in providing covered services that are eligible for reimbursement through medicaid federal financial participation.
4. "Board" means all food and dietary supply costs.

5. "Clients" means eligible individuals with developmental disabilities on whose behalf services are provided or purchased.
6. "Consumer" means an individual with developmental disabilities.
7. "Consumer representative" means a parent, guardian, or relative, to the third degree of kinship, of an individual with developmental disabilities.
8. "Cost center" means a division, department, or subdivision thereof, group of services or employees or both, or any unit or type of activity into which functions of a providership are divided for purposes of cost assignment and allocations.
9. "Day supports" means a day program to assist individuals acquiring, retaining, and improving skills necessary to successfully reside in a community setting. Services may include assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills; provision of social, recreational, and therapeutic activities to maintain physical, recreational, personal care, and community integration skills; development of non-job task oriented prevocational skills such as compliance, attendance, task completion, problem solving, and safety; and supervision for health and safety.
10. "Department" means the North Dakota department of human services.
11. "Documentation" means the furnishing of written records including original invoices, contracts, timecards, and workpapers prepared to complete reports or for filing with the department.
12. "Extended services" means a federally mandated component designed to provide employment-related, ongoing support for an individual in supported employment upon completion of training, or on or off the job employment-related support for individuals needing intervention to assist them in maintaining employment. This may include job development, replacement in the event of job loss and, except for those individuals with serious mental illness, must include a minimum of two onsite job skills training contacts per month and other support services as needed to maintain employment. It may also mean providing other support services at or away from the worksite. If offsite monitoring is appropriate, it must, at a minimum, consist of two meetings with the individual and one contact with the employer each month.
13. "Facility-based" means a workshop for individuals with developmental disabilities licensed by the department to provide day services. This definition is not to be construed to include areas of the building determined by the department to exist primarily for nontraining or for production purposes.
14. "Fair market value" means value at which an asset could be sold in the open market in an arm's-length transaction between unrelated parties.
15. "Family support services" means a family-centered support service authorized for a client based on the primary caregiver's need for support in meeting the health, developmental, and safety needs of the client in order for the client to remain in an appropriate home environment.

16. "Generally accepted accounting principles" means the accounting principles approved by the American institute of certified public accountants.
17. "Historical cost" means those costs incurred and recorded on the facility's accounting records as a result of an arm's-length transaction between unrelated parties.
18. "Individual service plan" means an individual plan that identifies service needs of the eligible client and the services to be provided, and which is developed by the developmental disabilities case manager and the client or that client's legal representative, or both, considering all relevant input.
19. "Individualized supported living arrangements" means a residential support services option in which services are authorized for a client based on individualized needs resulting in an individualized ratesetting process and are provided to a client in a residence rented or owned by the client.
20. "Interest" means the cost incurred with the use of borrowed funds.
21. "Movable equipment" means movable care and support services equipment generally used in a facility, including equipment identified as major movable equipment in the American hospital association depreciation guidelines.
22. "Net investment in fixed assets" means the cost, less accumulated depreciation and the balance of notes and mortgages payable.
- ~~22-23.~~ "Reasonable cost" means the cost that must be incurred by an efficiently and economically operated facility to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.
- ~~23-24.~~ "Related organization" means an organization which a provider is, to a significant extent, associated with, affiliated with, able to control, or controlled by, and which furnishes services, facilities, or supplies to the provider. Control exists when an individual or an organization has the power, directly or indirectly, significantly to influence or direct the action or policies of an organization or institution.
- ~~24-25.~~ "Room" means the cost associated with the provision of shelter, housekeeping staff or purchased housekeeping services and the maintenance thereof, including depreciation and interest or lease payments of a vehicle used for transportation of clients.
- ~~25-26.~~ "Service" means the provision of living arrangements and programs of daily activities subject to licensure by the department.
- ~~26-27.~~ "Staff training" means an organized program to improve staff performance.
- ~~27-28.~~ "Units of service" for billing purposes means:
- a. (1) In residential settings, one individual served for one 24-hour day;
 - b. (2) In day service settings, one individual served for one hour; and
 - c. (3) In extended services, one individual served for one hour of job coach intervention.

- b. The day of admission and the day of death, but not the day of discharge, are treated as a day served for residential services.

History: Effective July 1, 1984; amended effective June 1, 1985; June 1, 1995; July 1, 2001; May 1, 2006; July 1, 2010; January 1, 2013.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-16-10, 50-24.1-01

SECTION 2. Section 75-04-05-09 is amended as follows:

75-04-05-09. Rate payments.

1. Except for intermediate care facilities for the mentally retarded, payment rates will be established for training, room, and board.
2. Interim rates based on factors including budgeted data, as approved, will be used for payment of services during the year.
3. Room and board charges to clients may not exceed the maximum supplemental security income payment less twenty-five dollars for the personal incidental expenses of the client, plus the average dollar value of food stamps to the eligible clientele in the facility. If the interim room and board rate exceeds the final room and board rate, the provider shall reimburse clients in a manner approved by the department.
4. In residential facilities where rental assistance is available to individual clients or the facility, the rate for room costs chargeable to individual clients will be established by the governmental unit providing the subsidy.
5. In residential facilities where energy assistance program benefits are available to individual clients or the facility, room and board rates will be reduced to reflect the average annual dollar value of such the energy assistance program benefits.
6. Income from client production must be applied to client wages and the cost of production. The department will not participate in the gains or losses associated with client production conducted pursuant to the applicable provision of 29 CFR 525.
7. The final rate established is payment of all allowable, reasonable, and actual costs for all elements necessary to the delivery of a basic service to eligible clients subject to limitations and cost offsets of this chapter.
8. ~~No payments~~ A provider may be solicited not solicit or received by a provider receive a payment from a client or any other individual to supplement the final rate of reimbursement.
9. The rate of reimbursement established must be no greater than the rate charged to a private payor for the same or similar service.
10. The department will determine interim and final rates of reimbursement for continuing contract providers based upon cost data from the:
 - a. Submission requirements of section 75-04-05-02; and
 - b. Field and desk audits.
11. Rates ~~The department shall base rates~~ of continuing service providers, except for those identified in subdivision f of subsection 3 of section 75-04-05-10, ~~will be based on the following:~~

- a. ~~Rates~~ For rates for continuing contract providers, who have had no increase in the number of clients the provider is licensed to serve, ~~will be based upon:~~ ninety-five percent of the rated occupancy established by the department, or actual occupancy, whichever is greater.
 - b. ~~Rates~~ For rates for continuing service providers, who have an increase in the number of clients the provider is licensed to serve in an existing service, ~~will be based upon:~~
 - (1) Subdivision a of subsection 11 of section 75-04-05-09 for the period until the increase takes effect; and
 - (2) Ninety-five percent of the projected units of service for the remaining period of the fiscal year based upon an approved plan of integration or actual occupancy, whichever is greater.
 - c. When establishing the final rates, the department may grant nonenforcement of subdivisions a and b of subsection 11 of section 75-04-05-09 when it determines the provider implemented cost containment measures consistent with the decrease in units, or when it determines that the ~~failure to do so~~ provider's implementation of cost containment measures consistent with the decrease in units would have imposed a detriment to the well-being of its clients.
 - (1) Acceptable cost containment measures include a decrease in actual salary and fringe benefit costs from the approved salary and fringe benefit costs for the day service or group home proportionate to the decrease in units.
 - (2) Detriment to the well-being of clients includes a forced movement from one group home to another or obstructing the day service movement of a client ~~in order to~~ maintain the ninety-five percent rated occupancy requirement.
12. Adjustments and appeal procedures are as follows:
- a. ~~Rate adjustments~~ A rate adjustment may be made to correct errors an error.
 - b. A final adjustment will be made for ~~those facilities~~ a facility that ~~have~~ has terminated participation in the program.
 - c. ~~Any requests~~ A provider may submit a request for reconsideration of the rate ~~must be submitted~~ in writing to the disability services division within ~~ten~~ fifteen calendar days of the date of the final rate notification. The department shall respond to a properly submitted request for reconsideration within ninety calendar days of receipt of the request. The department may redetermine ~~the~~ a rate on its own motion.
 - d. ~~A~~ If a provider is dissatisfied with the decision resulting from the request for reconsideration, the provider may appeal a the decision within thirty days after ~~mailing of the department mails~~ the written notice of the decision ~~on a~~ resulting from the request for reconsideration of the final rate.

History: Effective July 1, 1984; amended effective June 1, 1985; June 1, 1995; July 1, 1995; April 1, 1996; August 1, 1997; July 1, 2001; May 1, 2006; January 1, 2013.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-16-10, 50-24.1-01

SECTION 3. Section 75-04-05-15 is amended as follows:

75-04-05-15. Depreciation.

1. The principles of reimbursement for provider costs require that payment for services include depreciation on depreciable assets that are used to provide allowable services to clients. This includes assets that may have been fully or partially depreciated on the books of the provider, but are in use at the time the provider enters the program. The useful lives of these assets are considered not to have ended and depreciation calculated on the revised extended useful life is allowable. Likewise, a depreciation allowance is permitted on assets that are used in a normal standby or emergency capacity. Depreciation is recognized as an allocation of the cost of an asset over its estimated useful life. If any depreciated personal property asset is sold or disposed of for an amount different than its undepreciated value, the difference represents an incorrect allocation of the cost of the asset to the facility and must be included as a gain or loss on the cost report. The facility shall use the sale price in computing the gain or loss on the disposition of assets.
2. Special assessments in excess of one thousand dollars paid in a lump sum must be capitalized and depreciated. Special assessments not paid in a lump sum may be expensed as billed by the taxing authority.
3. Depreciation methods:
 - a. ~~The A provider shall use the straight-line method of depreciation must be used.~~ All accelerated methods of depreciation, including depreciation options made available for income tax purposes, such as those offered under the asset depreciation range system, may not be used. The A provider shall apply the method and procedure for computing depreciation must be applied on a basis consistent from year to year and shall maintain detailed schedules of individual assets must be maintained. If the books of account reflect depreciation different than that submitted on the cost report, a provider shall prepare a reconciliation must be prepared.
 - b. For all assets obtained prior to August 1, 1997, a provider shall compute depreciation will be computed using a useful life of ten years for all items except vehicles, which must be four years, and buildings, which must be twenty-five years or more. For assets other than vehicles and buildings obtained after August 1, 1997, a provider may use the American hospital association guidelines as published by the American hospital publishing, inc., in "Estimated Useful Lives of Depreciable Hospital Assets", revised 2004 2008 edition, to determine the useful life or the composite useful life of

ten years. ~~Whichever~~ A provider may not use an option other than the useful life methodology is chosen, the provider may not thereafter use the other option the provider initially chooses to use without the department's prior written approval. A provider shall use a useful life of ten years must be used for all equipment not identified in the American hospital association depreciation guidelines.

- c. A provider acquiring assets as an ongoing operation shall use as a basis for determining depreciation:
 - (1) The estimated remaining life, as determined by a qualified appraiser, for land improvements, buildings, and fixed equipment; and
 - (2)
 - (a) A composite remaining useful life for movable equipment, determined from the seller's records; or
 - (b) The remaining useful life for movable equipment, determined from the seller's records.
 - (3) ~~Movable equipment means movable care and support services equipment generally used in a facility, including equipment identified as major movable equipment in the American hospital association depreciation guidelines.~~
4. Acquisitions are treated as follows:
 - a. If a depreciable asset has, at the time of its acquisition, a historical cost of at least ~~one~~ five thousand dollars, its cost must be capitalized and depreciated in accordance with subdivision b of subsection 3. ~~Cost~~ A provider shall capitalize as a part of the cost of the asset, costs incurred during the construction of an asset, such as architectural, consulting and legal fees, and interest, etc., should be capitalized as a part of the cost of the asset.
 - b. ~~Major~~ A provider shall capitalize major repair and maintenance costs on equipment or buildings ~~must be capitalized~~ if they exceed five thousand dollars per project and will be depreciated in accordance with subdivision b of subsection 3.
5. ~~Proper~~ A provider shall maintain records will that provide accountability for the fixed assets and also provide adequate means by which depreciation can be computed and established as an allowable client-related cost.
6. The basis for depreciation is the lower of the purchase price or fair market value at the time of purchase. ~~In the case of~~ If the provider's cash payment for a purchase is reduced by a trade-in, fair market value will consist of the sum of the book value of the trade-in plus the cash paid.
7. For depreciation and reimbursement purposes, a provider may record and depreciate donated depreciable assets ~~may be recorded and depreciated based on their~~ the asset's fair market value. If the provider's records do not contain the fair market value of the donated asset, as of the date of the donation, an appraisal must be made. An appraisal made by a recognized appraisal expert will be accepted for depreciation.
8. Provision for increased costs due to the sale of a facility may not be made.

9. ~~Providers which finance facilities-~~ If a provider finances a facility pursuant to North Dakota Century Code chapter 6-09.6, the provider, subject to the approval of the department, may elect to be reimbursed based upon the mortgage principal payments rather than depreciation. Once an election is made by the provider, it may not be changed without department approval.

History: Effective July 1, 1984; amended effective June 1, 1985; June 1, 1995; August 1, 1997; July 1, 2001; May 1, 2004; May 1, 2006; January 1, 2013.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-16-10, 25-16-15, 50-24.1-01

SECTION 4. Subsection 2 of section 75-04-05-24 is amended as follows:

2. This chapter will be applied to providers of supported employment extended services to individuals with developmental disabilities, mental illness, traumatic brain injury, and other severe disabilities, except as operated through the human service centers; provided, however, that neither this section nor the effective date shall preclude the application on and implementation of some or all of the provisions of this chapter through contract or through official statement of department policy. Effective June 1, 1995, subsections 1 through 3, 8 through 14, 16 through 18, 20, 22 through 23, 26, and 24, 27, and 28 of section 75-04-05-01; section 75-04-05-02; section 75-04-05-08; subsections 2, 6 through 10, and 12 of section 75-04-05-09; subsection 1, subsection 2, and subdivisions a, h, and i of subsection 3 of section 75-04-05-10; subdivisions a through f, h, i, and k of subsection 1, and subdivisions a through c of subsection 2 of section 75-04-05-11; subsections 1 and 2, subdivisions a through d, f, and i of subsection 3, and subsections 4 through 7 of section 75-04-05-12; subsections 2 through 10, 12 through 53 of section 75-04-05-13; sections 75-04-05-13.1, 75-04-05-15, 75-04-05-16, 75-04-05-17, 75-04-05-18, and 75-04-05-19; and subsections 1, 2, and 5 of section 75-04-05-21 of this chapter will be applied to supported employment extended services.

History: Effective July 1, 1984; amended effective July 1, 1984; June 1, 1985; June 1, 1995; August 1, 1997; July 1, 2001; May 1, 2006; July 1, 2012; January 1, 2013.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-16-10, 50-24.1-01; 34 CFR 363