

**CHAPTER 75-02-09**  
**RATESETTING FOR PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES**

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**SECTION 1:** Section 75-02-09-01 is amended as follows:

**75-02-09-01. Definitions.**

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. "Adjustment factor" means the legislatively approved inflation rate for psychiatric residential treatment facilities services.
3. "Allowable cost" means the facility's actual and reasonable cost after adjustments required by department rules.
4. "Capital asset" means a facility's buildings, land improvements, fixed equipment, movable equipment, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.
5. "Certification of need" has the same meaning as provided in section 75-02-02-03.2.

6. "Chain organization" means a group of two or more health care facilities owned, leased, or, through any other device, controlled by one business entity. This includes not only proprietary chains, but also chains operated by various religious and other charitable organizations. A chain organization may also include business organizations engaged in other activities not directly related to health care.
- 6-7. "Cost category" means the classification or grouping of similar or related costs for purposes of reporting which are used in the determination of cost limitations and rates.
- 7-8. "Cost report" means the department-approved form for reporting costs, statistical data, and other relevant information to the department.
- 8-9. "Department" means the department of health and human services.
- 9-10. "Depreciation" means an allocation of the cost of an asset over its estimated useful life.
- 10-11. "Depreciation guidelines" means the American hospital association's depreciation guidelines as published by American hospital publishing, inc., in "Estimated Useful Lives of Depreciable Hospital Assets", revised 2021 edition.
- 11-12. "Desk rate" means the rate established by the department based upon a review of the cost report submission prior to an audit of the cost report.
- 12-13. "Direct costing" means identification of actual costs directly to a facility or cost category without use of any means of allocation.
- 13-14. "Education" means the cost of activities related to academic and vocational training generally provided by a school district.
- 14-15. "Facility" means an entity that is a licensed psychiatric residential treatment facility for children under chapter 75-03-17.
- 15-16. "Fair market value" means value at which an asset could be sold in the open market in a transaction between informed, unrelated parties.
- 16-17. "Final rate" means the rate established after any adjustments by the department, including adjustments resulting from cost report reviews and audits.
- 17-18. "Fringe benefits" means workers' compensation insurance, group health, dental or vision insurance, group life insurance, payment toward retirement plans, uniform allowances, employer's share of Federal

Insurance Contributions Act, unemployment compensation taxes, and medical services furnished at facility expense.

~~18-19.~~ "Generally accepted accounting principles" means the accounting principles approved by the American institute of certified public accountants.

~~19-20.~~ "Historical costs" means the allowable costs incurred by the facility during the report year immediately preceding the rate year for which the established rate becomes effective.

~~20-21.~~ "Hospital leave day" means any day that a resident is not in the facility, but is in an acute care or psychiatric hospital or psychiatric unit setting and admitted as an inpatient.

~~21-22.~~ "In-house day" means a day that an individual was actually residing in the facility and was not on leave.

~~22-23.~~ "Interest" means cost incurred for the use of borrowed funds.

~~23-24.~~ "Leave day" means any day that an individual is not in the facility but is expected to return to the facility.

~~24-25.~~ "Private-pay resident" means an individual on whose behalf the facility is not receiving medical assistance payments.

~~25-26.~~ "Rate year" means the calendar year from January first through December thirty-first.

~~26-27.~~ "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, rules, and quality and safety standards. Reasonable cost takes into account that the facility seeks to minimize its costs and that its actual costs do not exceed what a prudent and cost-conscious buyer pays for a given item or service.

~~27-28.~~ "Related organization" means an organization that a facility is, to a significant extent, associated with, affiliated with, able to control, or controlled by; and which furnishes services, facilities, or supplies to the facility. Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the policies of an organization or facility.

~~28-29.~~ "Report year" means fiscal year from July first through June thirtieth of the year immediately preceding the rate year.

~~29-30.~~ "Resident day" means a day for which service is actually provided or for which payment is ordinarily sought.

~~30-31.~~ "Special rate" means a desk rate or a final rate adjusted for nonrecurring or initial costs not included in the historical cost basis.

~~32.~~ "Therapeutic leave day" means any day that a resident is not in the facility, another psychiatric residential treatment facility, an intermediate care facility for individuals with intellectual disabilities, or an acute care or psychiatric hospital or psychiatric unit setting, or, if not in an institutional setting, is not receiving home-and community-based waived services.

~~31-33.~~ "Working capital debt" means debt incurred to finance facility operating costs, but does not include debt incurred to acquire or refinance a capital asset or to refund or refinance debt associated with acquiring a capital asset.

**History:** Effective May 1, 1994; amended effective October 1, 2011; January 1, 2025; January 1, 2026.

**General Authority:** NDCC 50-24.1-04

**Law Implemented:** 42 USC 1396a(a)(30)(A)

**SECTION 2:** Subsection 4 of section 75-02-09-02 is amended as follows:

4. A false report is one where a facility knowingly supplies inaccurate or false information in a required report that results in an overpayment. If a false report is received, the department may:
  - a. Immediately adjust the facility's payment rate to recover the entire overpayment within the rate year;
  - b. Terminate the department's agreement with the facility;
  - ~~d-c.~~ Prosecute under applicable state or federal law; or
  - ~~e-d.~~ Use any combination of the foregoing actions.

**History:** Effective May 1, 1994; amended effective October 1, 2011; January 1, 2025; January 1, 2026.

**General Authority:** NDCC 50-24.1-04

**Law Implemented:** 42 USC 1396a(a)(30)(A)

**SECTION 3:** Subsection 7 of section 75-02-09-04 is amended as follows:

7. Limitations.
  - a. The department shall accumulate and analyze statistics on costs

incurred by psychiatric residential treatment facilities. Statistics may be used to establish reasonable ceiling limitations and incentives for efficiency and economy based on reasonable determination of standards of operations necessary for efficient delivery of needed services. Limitations and incentives may be established on the basis of cost of comparable facilities and services and may be applied as ceilings on the overall costs of providing services or on specific areas of operations. The department may implement ceilings at any time based upon information available.

- b. The department shall review, on an ongoing basis, aggregate payment to facilities to determine that payments do not exceed an amount that can be reasonably estimated would have been paid for these services under federally required payment principles. If aggregate payments to facilities exceed estimated payments under federally required payments principles, the department may make adjustments to rates so that aggregate payments do not exceed an amount that can be estimated would have been paid under an upper payment limit.
- c. Allowable administration costs to be included in the established rate are the lesser of the actual cost of administration as direct costed or allocated to the facility or an amount equal to ~~fifteen~~seventeen percent of the total allowable costs, exclusive of administration costs, for the facility.

**History:** Effective May 1, 1994; amended effective October 1, 2011; January 1, 2025; January 1, 2026.

**General Authority:** NDCC 50-24.1-04

**Law Implemented:** 42 USC 1396a(a)(30)(A)

**SECTION 4:** Section 75-02-09-05 is amended as follows:

**75-02-09-05. Resident census.**

- 1. A daily census record must be maintained by the facility. Any day services are provided or for which payment is ordinarily sought for an available bed must be counted as a resident day. The day of admission and day of death are resident days. The day of discharge must be counted if payment is sought for that day. For a medical assistance resident, payment may not be sought for the day of discharge.
- 2. The daily census records must include:
  - a. Identification of the resident;
  - b. Entries for all days, and not just by exception;

- c. Identification of type of day, i.e., in-house, hospital leave, or therapeutic leave day; and
  - d. Monthly totals by resident and by type of day.
3. A maximum of fifteen consecutive days per occurrence are allowed for payment by the medical assistance program for hospital leave. Hospital leave days in excess of fifteen consecutive days not billable to the medical assistance program are not resident days unless any payment is sought as provided for in subsection 2 of section 75-02-09-19.
4. A maximum of fifteen days per certification of need period are allowed for payment by the medical assistance program for therapeutic leave. Prior authorization is necessary for additional days beyond the fifteen-day certification of need period. The payment rate for hospital leave days must be five hundred dollars per day.

**History:** Effective May 1, 1994; amended effective October 1, 2011; January 1, 2025; January 1, 2026.

**General Authority:** NDCC 50-24.1-04

**Law Implemented:** 42 USC 1396a(a)(30)(A)