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Intermediate care facilities for individuals with intellectual disabilities - compensation cost limits for administrators who are not owners or relatives of owners.

(A) Purpose

This rule establishes limits, applicable to the cost report of an intermediate care facility for individuals with intellectual disabilities (ICFIID), for the amount of compensation that may be claimed for administrators of the ICFIID who are not owners or relatives of owners.

(B) Calculating compensation cost limits

Compensation cost limits for administrators ~~shall be~~ are based upon compensation costs for administrators who are not owners or relatives of owners, as reported on the ICFIID's cost report for the calendar year preceding the fiscal year in which the rate is paid. The compensation cost limits for administrators, excluding owners and relatives of owners who are administrators, are calculated as follows:

(1) The compensation cost limits for administrators are calculated from:

- (a) Cost reports with a December thirty-first end date; and
- (b) Desk-reviewed and preliminarily determined to be allowable costs.

(2) For each administrator, calculate the hourly rate from schedule C-1 of the cost report as follows:

- (a) Calculate the number of days employed by subtracting the employment period beginning date from the employment period ending date. Add one day to the number of days calculated to account for total days worked as reported on the cost report;
- (b) Calculate the number of weeks worked by dividing the number of days employed by seven as calculated in accordance with paragraph (B)(2)(a) of this rule;
- (c) Calculate the weekly compensation amount by dividing the compensation amount as reported on the cost report by the number of weeks worked as calculated in accordance with paragraph (B)(2)(b) of this rule; and
- (d) Calculate the hourly rate by dividing the weekly compensation amount as calculated in accordance with paragraph (B)(2)(c) of this rule by the

weekly hours as reported on the cost report.

- (3) Exclude any administrator's hourly rate as calculated in accordance with paragraph (B)(2) of this rule that is less than the federal minimum wage rate in effect at the end of the cost reporting period.
- (4) Excluding administrators described in paragraph (B)(3) of this rule, calculate the average annual administrator salary for each facility from schedule C-1 of the cost report as follows:
 - (a) For each administrator, calculate the hours worked by multiplying the weekly hours as reported on the cost report by the number of days employed as calculated in accordance with paragraph (B)(2)(a) of this rule;
 - (b) For all administrators as reported for each ICFIID, total the following:
 - (i) Number of days employed as calculated in accordance with paragraph (B)(2)(a) of this rule;
 - (ii) Compensation amounts as reported on the cost report; and
 - (iii) Hours worked as calculated in accordance with paragraph (B)(4)(a) of this rule;
 - (c) Calculate a weighted facility average weekly hours by dividing the sum of the weighted weekly hours as calculated in accordance with paragraph (B)(4)(b)(iii) of this rule by the total number of days employed as calculated in accordance with paragraph (B)(4)(b)(i) of this rule;
 - (d) Calculate the weighted facility compensation amount:
 - (i) If the weighted facility average weekly hours as calculated in accordance with paragraph (B)(4)(c) of this rule is less than thirty-five hours per week, multiply the total compensation amount as calculated in accordance with paragraph (B)(4)(b)(ii) of this rule by forty; or
 - (ii) If the weighted facility average weekly hours as calculated in accordance with paragraph (B)(4)(c) of this rule is thirty-five

hours or more per week, multiply the total compensation amount as calculated in accordance with paragraph (B)(4)(b)(ii) of this rule by the weighted facility average weekly hours as calculated in accordance with paragraph (B)(4)(c) of this rule;

- (e) Calculate the total salary per year by dividing the weighted facility compensation amount as calculated in accordance with paragraph (B)(4)(d) of this rule by the weighted facility average weekly hours as calculated in accordance with paragraph (B)(4)(c) of this rule; and
 - (f) Calculate the average annual administrator salary by multiplying the total salary per year as calculated in accordance with paragraph (B)(4)(e) of this rule by the number of days in a calendar year and dividing the product by the total number of days employed as calculated in accordance with paragraph (B)(4)(b)(i) of this rule.
- (5) Group the average annual administrator salary for each ICFIID calculated in accordance with paragraph (B)(4)(f) of this rule into the following bed size categories based on certified beds at the end of the cost reporting period:
- (a) One to forty-nine;
 - (b) Fifty to ninety-nine; or
 - (c) One hundred or more.
- (6) For each bed size category in accordance with paragraph (B)(5) of this rule, calculate the compensation cost limit by summing the average annual administrator salary as calculated in accordance with paragraph (B)(4)(f) of this rule and dividing the total sum of all average annual administrator salary by the number of records summed.

(C) Determining reasonable costs and disallowances

Reasonable costs for compensation and compensation disallowances for administrators are the ICFIID's desk-reviewed, actual, allowable costs reported on schedule C-1 of the cost report subject to the applicable compensation cost limits and audit by the department.

- (1) For each administrator that has reported compensation on schedule C-1 of the cost report, the medicaid information technology system ~~shall~~ will perform

the following steps:

(a) Calculate the "time slice" for each administrator, which is defined as either:

(i) When there is no overlap of an employment period for an administrator working in a related ICFIID, the number of days employed; or

(ii) When there is an overlap of an employment period for an administrator working in a related ICFIID;

(a) The number of days employed for the overlap of an employment period when the administrator is working in the related ICFIID during the same period of time; plus

(b) The number of days employed preceding the overlapping employment period; plus

(c) The number of days employed subsequent to the overlapping employment period.

(b) For each time slice of an administrator, calculate the following:

(i) Acquire the number of certified beds for the ICFIID as of the end of the cost reporting period from schedule A, line 2, column 1 of the cost report.

(ii) Acquire the number of certified beds for related facilities that the administrator worked in during the time slice as of the end of the cost reporting period.

(iii) Calculate the total number of certified beds by adding the number of certified beds for the ICFIID as determined in accordance with paragraph (C)(1)(b)(i) of this rule and the number of certified beds for any related facilities that the administrator worked in as determined in accordance with paragraph (C)(1)(b)(ii) of this rule.

(iv) Acquire the appropriate compensation cost limit as follows:

(a) If the administrator does not work in four or more related

facilities, use the total number of certified beds determined in accordance with paragraph (C)(1)(b)(ii) of this rule to determine the appropriate compensation cost limit determined in accordance with paragraph (B)(6) of this rule; or

- (b) If the administrator works in four or more related facilities, the compensation cost limit is the maximum for the bed size category determined in accordance with paragraph (B)(6) of this rule.
- (v) Acquire the allowance percentage from schedule C-1 of the cost report which ~~shall~~ will not exceed one hundred-fifty per cent.
- (vi) Calculate the adjusted compensation cost limit by multiplying the compensation cost limit determined in accordance with paragraph (C)(1)(b)(iv) of this rule by the allowance percentage determined in accordance with paragraph (C)(1)(b)(v) of this rule.
- (vii) Calculate the total number of days employed for each administrator by subtracting the beginning date from the ending date for each time slice and adding one.
- (viii) Determine the total days in the calendar year.
- (ix) Calculate the per cent of days allowed by dividing the number of days in the time slice as calculated in accordance with paragraph (C)(1)(b)(vii) of this rule by the total days in the calendar year as determined in accordance with paragraph (C)(1)(b)(viii) of this rule.
- (x) Calculate the time slice adjusted compensation cost limit by multiplying the per cent of days allowed as calculated in accordance with paragraph (C)(1)(b)(ix) of this rule by the adjusted compensation as calculated in accordance with paragraph (C)(1)(b)(vi) of this rule.
- (xi) Acquire the weekly hours in the time slice for the appropriate time period from schedule C-1 of the cost report.
- (xii) Acquire the related weekly hours in the time slice for the appropriate time period from the related ICFIID's schedule C-1 of

the cost report.

- (xiii) Calculate the total weekly hours in the time slice by adding the weekly hours in the time slice as determined in accordance with paragraph (C)(1)(b)(xi) of this rule and the related weekly hours in the time slice as determined in accordance with paragraph (C)(1)(b)(xii) of this rule.
- (xiv) Calculate the maximum weekly hours:
 - (a) If the total weekly hours in the time slice as calculated in accordance with paragraph (C)(1)(b)(xiii) of this rule is less than thirty-five hours per week, the maximum weekly hours in the time slice is forty; or
 - (b) If the total weekly hours in the time slice as calculated in accordance with paragraph (C)(1)(b)(xiii) of this rule is greater than or equal to thirty-five hours per week, the maximum weekly hours in the time slice is the total weekly hours in the time slice.
- (xv) Calculate the hours allocation percentage by dividing the weekly hours in the time slice as calculated in accordance with paragraph (C)(1)(b)(xi) of this rule by the maximum weekly hours as calculated in accordance with paragraph (C)(1)(b)(xiv) of this rule.
- (xvi) Calculate the final time slice adjusted compensation cost limit by multiplying the time slice adjusted compensation cost limit as calculated in accordance with paragraph (C)(1)(b)(x) of this rule by the hours allocation percentage as calculated in accordance with paragraph (C)(1)(b)(xv) of this rule.
- (xvii) Calculate a daily salary amount for each administrator by dividing the compensation amount by the number of days employed as reported on schedule C-1 of the cost report. For each time slice, calculate the prorated administrator compensation amount by multiplying the daily salary amount for each administrator by the number of days employed in each time slice as calculated in accordance with paragraph (C)(1)(b)(vii) of this rule.

- (xviii) Calculate the administrator compensation disallowance by subtracting the final time slice adjusted compensation cost limit as calculated in accordance with paragraph (C)(1)(b)(xvi) of this rule from the adjusted prorated administrator compensation amount as calculated in accordance with paragraph (C)(1)(b)(xvii) of this rule. The result cannot be less than zero.
 - (xix) Calculate the final adjusted prorated administrator compensation amount by subtracting the administrator compensation disallowance as calculated in accordance with paragraph (C)(1)(b)(xviii) of this rule from the adjusted prorated administrator compensation amount as calculated in accordance with paragraph (C)(1)(b)(xvii) of this rule.
- (2) For each ICFIID, determine the overall facility administrator aggregate compensation disallowance for reporting costs in excess of the adjusted compensation cost limit as follows:
 - (a) Acquire the number of certified beds for the ICFIID as of the end of the cost reporting period from schedule A, line 2, column 1 of the cost report.
 - (b) Acquire the appropriate compensation cost limit for the bed size category using the total number of certified beds determined in accordance with paragraph (C)(2)(a) of this rule and the compensation cost limit determined in accordance with paragraph (B)(6) of this rule.
 - (c) Establish the allowance percentage as one hundred-fifty per cent.
 - (d) Calculate the adjusted compensation cost limit by multiplying the compensation cost limit determined in accordance with paragraph (C)(2)(b) of this rule by the allowance percentage determined in accordance with paragraph (C)(2)(c) of this rule.
 - (e) Calculate the total administrator allowable compensation by summing the compensation reported on schedule C-1 of the cost report for all administrators and subtracting any disallowances calculated in accordance with paragraph (C)(1)(b)(xviii) of this rule.
 - (f) Calculate the overall facility administrator aggregate compensation disallowance by subtracting the adjusted compensation cost limit as calculated in accordance with paragraph (C)(2)(d) of this rule from the

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total administrator allowable compensation as calculated in accordance with paragraph (C)(2)(e) of this rule. The result cannot be less than zero.

(D) Administrators serving in direct care positions

(1) If an administrator works in one or more of the following direct care cost center positions, the compensation earned for performing such duties may be expensed directly to the direct care cost center.

- (a) Medical director;
- (b) Director of nursing;
- (c) Activities director;
- (d) Registered nurse;
- (e) Licensed practical nurse;
- (f) Recreational therapist;
- (g) Psychologist;
- (h) Respiratory therapist;
- (i) Qualified intellectual disability professional;
- (j) Licensed social worker/counselor;
- (k) Chaplain;
- (l) Charge nurse - registered nurse; or
- (m) Charge nurse - licensed practical nurse.

(2) Compensation for an administrator performing a direct care cost center function is allowable only for duties which otherwise would require the employment of another person. The portion of the administrator's total compensation paid

by the ICFIID that may be reported in the direct care cost center ~~shall be~~ is determined by multiplying the total compensation by the percentage of time the administrator spends performing the direct care cost center duties.

- (3) The ICFIID must maintain records documenting the allocation of the administrator's time to the direct care cost center duties. Time studies conducted in accordance with the centers for medicare and medicaid services publication 15-1, "The Provider Reimbursement Manual - Part 1" (~~revised January 2005~~), ~~available at <http://www.cms.hhs.gov/manuals>~~ available at <https://www.cms.gov/regulations-and-guidance/guidance/manuals/paper-based-manuals-items/cms021929>, ~~shall~~ will be considered sufficient documentation of the allocation of time. If the department finds that the ICFIID has not sufficiently documented the allocation of time, the cost associated with the undocumented time will be reclassified back to the indirect cost center.