

- iv. Housekeeping;
 - v. Miscellaneous general services.
5. Reasonableness limits for the other general services category will be established, effective July 1, 1996, at:
- i. 100 percent of median costs as reported by Class I facilities which had over 20 percent Medicaid patient days.
 - ii. 100 percent of median costs as reported by Class II facilities which had over 20 percent Medicaid patient days.
 - iii. 100 percent of median costs for each type of Class III program reported by SCNFs.
6. The level of reasonableness for legal fees will be established at:
- i. 250 percent of median costs of Class I and Class III facilities which had over 20 percent Medicaid patient days or that per diem value which recognizes no greater than 80 percent of reporting Class I and Class III NFs which had over 20 percent Medicaid days.
 - ii. 250 percent of median costs of Class II facilities which had over 20 percent Medicaid patient days or that per diem value which recognizes no greater than 80 percent of reporting Class II NFs which had over 20 percent Medicaid days.
7. Reasonableness tests will exclude from rate calculations the greater of excess other general services or legal fee costs.
8. The following examples illustrate this procedure assuming reasonableness limits are established at \$100,000 and \$5,000 for other general services and legal fees respectively:

	Reported costs	Excess
Case No. 1		
Other general services	\$110,000	\$10,000
Legal fees	\$ 7,000	
Case No. 2		
Other general services	\$ 98,000	
Legal fees	\$ 7,000	\$ 2,000
Case No. 3		
Other general services	\$ 99,000	-0-
Legal fees	\$ 4,500	

As amended, R.1979 d.482, effective January 1, 1980.
 See: 11 N.J.R. 552(a), 12 N.J.R. 42(b).
 As amended, R.1980 d.42, effective January 23, 1980.
 See: 12 N.J.R. 125(b).
 As amended, R.1984 d.573, effective December 16, 1984.
 See: 16 N.J.R. 2484(a), 16 N.J.R. 3437(a).
 Amended by R.1985 d.705, effective January 21, 1986.
 See: 17 N.J.R. 2331(a), 18 N.J.R. 189(a).
 Deleted text under chart "Historical unscreened rates . . .".
 Amended by R.1987 d.6, effective January 5, 1987.
 See: 18 N.J.R. 257(a), 19 N.J.R. 126(a).
 Recodified from 10:63-3.5 and amended by R.1994 d.624, effective January 3, 1995.
 See: 26 N.J.R. 3614(a), 27 N.J.R. 156(a).

Amended by R.1995 d.174, effective March 20, 1995 (operative April 1, 1995).
 See: 27 N.J.R. 281(a), 27 N.J.R. 1307(a).
 Administrative Correction.
 See: 28 N.J.R. 2998(a).
 Amended by R.1997 d.231, effective June 2, 1997.
 See: 29 N.J.R. 861(a), 29 N.J.R. 2561(b).

In (b)2, substituted "Nursing Facility and Reimbursement" for "Health Facilities Rate Setting"; in (b)2i, inserted "effective July 1, 1996", changed the multiplier in the equation from "1.05" to "1.00", and deleted "1.05 = 5 percent uniqueness factor"; in (b)3, substituted "Effective July 1, 1996, limited to 100 percent" for "Limited to 105 percent"; in (b)5, inserted "effective July 1, 1996"; and in (b)5i through (b)5iii, substituted "100 percent" for "105 percent".

Case Notes

Evidence failed to rebut presumption of reasonableness of agency's rate methodology. *Morris View Nursing Home v. Div. of Medical Assistance and Health Services*, 8 N.J.A.R. 561 (1983), affirmed per curium Dkt. No. A-973-83 (App.Div.1985).

Administrator's salary as calculated using the N.J.A.C. 10:63-3.5 regression analysis formula was reasonable. In re: *Cranford Hall Nursing Home*, 8 N.J.A.R. 463 (1982), affirmed per curium Dkt. No. A-1641-82 (App.Div.1984).

Square foot per bed limitation valid and reasonable. In re: *Water-view Nursing Home*, 8 N.J.A.R. 231 (1981), affirmed per curium Dkt. No. A-3363-80 (App.Div.1982).

10:63-3.7 Property operating expenses

(a) Property operating expenses include property taxes and utilities.

1. Property taxes will be considered reasonable so long as they are based upon reasonable plant square feet, costs per square foot, and reasonable land area and value.

2. For this purpose, reasonable plant square feet (and related property taxes) is determined as follows:

i. The ratio of plant square feet to licensed beds is determined as follows:

(1) Reasonable plant square feet for Class I NFs is determined separately to be 367 square feet per bed as in (a)1 above.

(2) Reasonable plant square feet for Class II NFs is determined separately to be 635 square feet per bed as in (a)1 above.

(3) Reasonable plant square feet for Class III NFs is determined separately (using a 1994 base) to be 504 square feet per bed as in (a)1 above.

ii. This ratio will establish the base plant square feet for a NF with a given number of licensed beds.

iii. The reasonableness limit for each NF's plant square feet shall be established at 110 percent of the base for its licensed beds. (see N.J.A.C. 10:63-3.11 for NFs with residential or sheltered care patients).

3. For NFs whose plant square feet exceeds this limit, the property taxes related to the excess will be excluded from the rate base. For this purpose, it will be assumed that assessed values for buildings vary directly in relation

to their areas. The latitude set forth in paragraph 2iii of this subsection is intended to provide for inequities that could result from this assumption. The department will review on an individual basis, any additional inequities which owners believe are brought about by unusual circumstances.

4. For NFs whose appraised value per plant square foot (as determined by an agent designated by the State) is greater than 110 percent of the median construction costs at 1977 price levels, the property taxes attributable to the excess will be excluded from the rate base unless the owners can demonstrate unusual circumstances. For screening new NFs, this figure will be revised each year for inflation and for effects of standards changes upon construction cost. (See N.J.A.C. 10:63-3.11 for the methodology for calculating this limit at 1977 price levels.)

5. Reasonable land area (and related taxes) is established as follows:

- i. For urban NFs two acres;
- ii. For nonurban NFs five acres;
- iii. For this purpose, a city, town, and so forth is considered "urban" if its population exceeds 25,000 and its average population density exceeds 7,000 per square mile. All other areas are considered "nonurban" or rural.

6. Property taxes ascribable to unreasonable land area will be excluded from the prospective rate base, based upon the assumption that assessed values vary directly with area.

7. After making any adjustments per (a)6 above, taxes bases upon land appraisals in excess of 140 percent of the median appraisal value of five acres, rural and two acres, urban of all NFs in the county will also be considered unreasonable. In the case of counties with fewer than five NFs neighboring counties may be combined in determining the median value to be used.

8. The department will review on an individual basis any inequities which owners believe are brought about by unusual circumstances.

(b) As noted in the instructions for the submission of cost studies, where a lessor is paying the property taxes, the actual property taxes paid by the lessor are to be reported by the NF operator as a property tax expense and deducted from the amount reported as rent. The property tax component of such leases will be subject to the above screens.

(c) Utility costs will be screened for reasonableness as follows:

1. Base period utility costs per bed will be deemed unreasonable to the extent that they exceed 125 percent of the Statewide median cost per bed, as determined for each class type of NF indicated in N.J.A.C. 10:63-3.3.

i. The Department will upon request review any inequities which owners believe are brought about by unusual circumstances.

As amended, R.1984 d.573, effective December 16, 1984.

See: 16 N.J.R. 2484(a), 16 N.J.R. 3437(a).

(a)7: substituted "county" for "country."

Amended by R.1987 d.6, effective January 5, 1987.

See: 18 N.J.R. 257(a), 19 N.J.R. 126(a).

Recodified from 10:63-3.6 and amended by R.1994 d.624, effective January 3, 1995.

See: 26 N.J.R. 3614(a), 27 N.J.R. 156(a).

Amended by R.1995 d.174, effective March 20, 1995 (operative April 1, 1995).

See: 27 N.J.R. 281(a), 27 N.J.R. 1307(a).

Amended by R.1996 d.147, effective March 18, 1996.

See: 27 N.J.R. 3314(a), 28 N.J.R. 1535(a).

Case Notes

Utility add-on rate adjustment denied on basis that increased fuel costs were not an unusual situation. *Lincoln Park Nursing and Convalescent Center v. Div. of Medical Assistance and Health Services*, 8 N.J.A.R. 475 (1982), affirmed per curiam Dkt. No. A-291-82 (App.Div. 1983).

10:63-3.8 Special amortization

(a) The departments will consider on an individual basis, the amortization of start-up costs and special expenditures in rates. Each case will be reviewed on its particular merits and, accordingly, no guidelines are specified herein. As a rule, however, provisions for special amortization would relate to expenditures of a capital nature that are mandated by changes in laws and regulations. The amortization period would generally range from 12 to 60 months, depending upon the nature and magnitude of expenses.

(b) In approving the amortization of special expenditures, the departments will also consider the extent to which a NF's rates are based on capital and cost levels of fully complying NFs, or, for capital items, a review of a minimum of three bids on the acquisition or project.

Recodified from 10:63-3.1 and amended by R.1994 d.624, effective January 3, 1995.

See: 26 N.J.R. 3614(a), 27 N.J.R. 156(a).

Amended by R.1995 d.174, effective March 20, 1995 (operative April 1, 1995).

See: 27 N.J.R. 281(a), 27 N.J.R. 1307(a).

Case Notes

Evidence failed to rebut presumption of reasonableness of agency's rate methodology. *Morris View Nursing Home v. Div. of Medical Assistance and Health Services*, 8 N.J.A.R. 561 (1983), affirmed per curiam Dkt. No. A-973-83 (App.Div.1985).

Rate reimbursement system challenged by facility utilizing minimum staffing report prepared for other purposes by the Department of Health. In re: *Preakness Hospital*, 8 N.J.A.R. 389 (1983).

10:63-3.9 Routine patient care expenses

(a) For reporting purposes (on schedule A) and for the application of the following guidelines, "routine patient care expenses" are defined as expenses relating to those services defined as includable in the per diem rates for routine care under the Medicaid program.

(b) Reasonableness limits for nursing services (RN's, LPN's and other) will be established as follows: