

14.31.04.00

Title 14 INDEPENDENT AGENCIES

Subtitle 31 OFFICE FOR CHILDREN

Chapter 04 Rate Setting for Child Care Providers

Authority: Article 41, §§6-101 and 6-104; Article 83C, §§2-102, 2-104, 2-113, 2-120, and 2-123—2-125; Education Article, §8-417; Health-General Article, §§2-102, 2-104, 2-105, 7-306.1, 10-516, 10-902, 10-1203, and 15-102.1; Annotated Code of Maryland

14.31.04.01

.01 Scope.

This chapter outlines the requirements for the determination of rates for the following services purchased by the departments for children:

A. Residential services licensed by:

- (1) The Department of Human Resources, under COMAR 07.02.13;
- (2) The Department of Juvenile Services, under COMAR 14.31.05—14.31.07;
- (3) The Department of Health and Mental Hygiene, under COMAR 10.21.07; or
- (4) Any State department;

B. Nonresidential services in programs approved or accredited by the Maryland State Department of Education, under COMAR 13A.09.10, or the Department of Juvenile Services under COMAR 16.04.05; and

C. Out-of-State services from providers licensed, accredited, certified, or approved by the providers' respective states and approved for placement by the departments described in Regulation .02 of this chapter.

14.31.04.02

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Advisory Committee" means the Maryland Interagency Rates Advisory Committee which consists of parents, advocates, and providers appointed by the Children's Cabinet.

(2) "Allowable variance" means less than or equal to plus one standard deviation from the mean as determined by the factors and methodology outlined in the Manual defined in §B(7) of this regulation.

(3) "Children's Cabinet" means those agencies directed by Executive Order:

(a) To examine Maryland's system of services to children and their families; and

(b) To facilitate ongoing improvements to this service delivery system.

(4) "Committee" means the Maryland Interagency Rates Committee, consisting of:

(a) An individual or individuals representing:

(i) The Department of Health and Mental Hygiene;

(ii) The Department of Human Resources;

(iii) The Department of Juvenile Services;

(iv) The Department of Budget and Management;

(v) The Maryland State Department of Education; and

(vi) The Office for Children;

(b) One representative of a local department of social services; and

(c) One representative of a local education agency.

(5) "Cost Guidelines" means the Cost Guidelines for Residential Child Care Facilities (October, 1999 revision), which is incorporated by reference.

(6) "Departments" means the:

(a) Department of Health and Mental Hygiene;

(b) Department of Human Resources;

(c) Department of Juvenile Services; and

(d) Maryland State Department of Education.

(7) "Office" means the Governor's Office for Children.

(8) "Manual" means the Budget Preparation and Rate Setting Methodology for Child Care Facilities Manual (April 1997), which is incorporated by reference.

(9) "Nonpreferred provider" means a provider whose rate or rates, when grouped by service type and, when appropriate, capacity, falls or fall outside an allowable variance.

(10) "Preferred provider" means a provider whose rate or rates, when grouped by service type and, when appropriate, capacity, falls or fall within an allowable variance.

(11) "Provider" means an entity licensed, approved, accredited, or certified to provide services to children and adolescents within:

(a) Maryland under:

(i) COMAR 07.02.13;

(ii) COMAR 10.21.07;

(iii) COMAR 16.06.01; or

(iv) COMAR 14.31.05—14.31.07;

(b) Maryland or another state under COMAR 13A.09.10; or

(c) A state other than Maryland under the applicable laws of that state.

(12) "Rate" means the cost per unit of service.

(13) "Rate Section" means the Maryland State Department of Education, Rate Setting Structures Section.

(14) "Unallowable costs" means those expenditures defined by applicable federal regulations and the Cost Guidelines as unreimbursable.

14.31.04.03

.03 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) The Budget Preparation and Rate Setting Methodology for Child Care Facilities Manual (April 1997).

(2) The Cost Guidelines for Residential Child Care Facilities (October, 1999 revision).

14.31.04.04

.04 Application for Rates Determination.

A. Renewal Rates.

(1) The Rate Section shall provide budget instructions and applications for determinations of renewal rates to in-State and out-of-State providers whose programs previously received an approved rate from the State by December 31 of each year.

(2) Providers shall submit an application to the Rate Section for a renewal rate determination, in accordance with this chapter, by February 15 of each year.

B. New Rates.

(1) On written request, the Rate Section shall provide budget instructions and applications for rate determination for in-State and out-of-State providers whose programs have not previously received an approved rate from the State.

(2) Providers shall submit to the Rate Section an application for a rate for new residential or nonpublic educational programs before anticipated licensure, accreditation, certification, or approval.

C. Out-of-State Providers.

(1) A provider that provides services in a licensed out-of-State facility which has a rate established by the authorized rate-setting body of the State in which services are provided shall submit documentation to the Committee of the rates established by the authorized rate-setting body of their respective state, if applicable, instead of an application.

(2) An out-of-State provider that does not have a rate established in the State in which services are provided may submit an application in accordance with Regulation .04A or B of this chapter.

D. Conformance with Manual. Provider applications shall conform to the requirements set forth in the Manual.

14.31.04.05

.05 Rates Determination.

A. Use of Cost Guidelines.

(1) Rates shall be determined excluding unallowable costs, as defined in the Cost Guidelines.

(2) The Committee shall review and approve updates to the Manual and Cost Guidelines.

B. Renewal Rates. The Committee shall notify providers of their approved rates for applications submitted by February 15, which meet the requirements in the Manual, not later than June 15 of each year.

C. New Rates. The Committee shall review applications for a rate determination for new residential child care and nonpublic education programs, submitted in conformance with the Manual, within 60 days of receipt. Rate determinations are not final until issuance of a license or accreditation.

D. Review of Application. After review of an application, the Committee shall take one of the following actions:

(1) Approve the rate requested in the application;

(2) Return the application to the provider, requesting that additional information or changes to the application be resubmitted within 30 days; or

(3) Deny the rate requested in the application, and issue a revised rate.

E. Effective Dates for Rates. Rates for new programs issued after March 31 of each fiscal year shall remain in effect until June 30 of the following fiscal year.

F. Modification of a Rate. A provider may request modification of a rate as provided in the Manual.

G. Conformance with Federal Laws. Rates shall be determined in conformance with relevant federal requirements, including Title IV-E of the Social Security Act.

14.31.04.06

.06 Determination of Preferred Residential Providers.

A. The Committee shall categorize providers according to service type and, when appropriate, capacity.

B. The Committee shall use the methodology in the Manual to determine approved rates within each category, and determine preferred providers.

14.31.04.07

.07 Reconsideration of Committee Determination.

A. A provider may request reconsideration of the Committee's rate determinations made under Regulations .05 and .06 of this chapter.

B. The Rate Section shall act on behalf of the Committee to receive and process requests for reconsideration and appeals.

C. A provider seeking reconsideration of a rate shall file a written request with the Rate Section. The request is to be filed within 30 days of the provider's receipt of notice of the Committee's determination.

D. The Rate Section shall review each request for reconsideration to determine if it provides sufficient information to complete analysis of the request.

E. Each request for reconsideration shall include detailed information regarding:

(1) The relief requested; and

(2) The basis for the relief.

F. If a request for reconsideration does not include sufficient information for review, the Rate Section shall provide written notice to the provider listing all information required to complete the review.

G. If the provider fails to provide the additional required information within 45 days of receipt of the Rate Section notice, the Rate Section shall void the provider's request for reconsideration.

H. Review by the Committee. Within 30 days of receipt of a complete request for reconsideration from the provider, the Committee shall provide written notification to the provider of its decision to:

(1) Grant the request;

(2) Grant the request with modification; or

(3) Deny the request.

I. A rate determination, or a reconsideration of a rate determination by the Committee under this chapter, or an appeal to the Children's Cabinet, is not a contested case within the meaning of State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

14.31.04.08

.08 Appeals.

A. Filing of an Appeal.

(1) A provider may appeal to the Children's Cabinet the committee's decision regarding a request for reconsideration made under Regulation .07 of this chapter.

(2) The provider shall file a written appeal with the Rate Section within 30 days of the provider's receipt of the committee's decision regarding the request for reconsideration.

(3) The appeal must set forth the specific objections to the committee's decision regarding the request for reconsideration.

B. Rate Section Requirements. Upon receipt of an appeal, the Rate Section shall:

(1) Forward the appeal to the Children's Cabinet or its designee; and

(2) Provide to the Children's Cabinet a copy of the record upon which the Committee's decision regarding the provider's request for reconsideration was based, including:

(a) The provider's written request for a reconsideration; and

(b) Any supporting documentation.

C. Review by the Children's Cabinet. Within 30 days of receipt of an appeal from the provider, the Children's Cabinet or its designee shall:

(1) Review the written appeal and the record provided by the Rate Section;

(2) Request additional information, if needed, from the provider or the Rate Section; and

(3) Issue a final, binding opinion upholding, modifying, or reversing the rate set by the Committee.

14.31.04.09

.09 Approval and Notification of Determination of Rates.

A. The Committee may impose cost containment measures to bring the rate structure into conformity with the budget appropriations approved by the General Assembly, and nothing in the Budget and Rate Setting Manual shall preclude the implementation of cost containment.

B. The Committee shall send the provider notification of the rate determination.

C. The Committee shall publish, annually, a list of all providers and approved rates and shall issue quarterly supplements with changes and additions. Residential providers shall be designated as preferred or nonpreferred in the listings, in accordance with the Committee's determination.

14.31.04.10

.10 Interagency Rates Advisory Committee.

A. An advisory committee to the Interagency Rates Committee composed of parents, advocates, and providers shall be appointed by the Children's Cabinet. The Advisory Committee shall recommend and review policies and procedures regarding rate setting and provide information regarding the impact of rates on children, facilities, providers, and the business community.

B. The Advisory Committee shall meet periodically.

14.31.04.9999

Administrative History

Effective date: June 29, 1998 (25:13 Md. R. 992)

Chapter revised effective February 18, 2002 (29:3 Md. R. 216)

COMAR 01.04.05 revised and recodified to 14.31.04 as an emergency provision effective June 30, 2005 (32:15 Md. R. 1314); revised and recodified permanently effective November 24, 2005 (32:23 Md. R. 1828)