



# 2017 Medicaid Residential Health Care Facility Capital Reimbursement Webinar

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July 2017

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## Agenda

- 2018 Nursing Home Rates Timeline
- Overview Of The Attestation Process
- Governing Statutes And Regulations
- Review of Capital Expense Reimbursement
- Refinancing/Shared Savings Program Overview
- Equity Withdrawal Approval Procedures
- Next Steps



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## 2018 Nursing Home Rates Timeline

Date	Task	Owner
July 31, 2017	Capital Reimbursement Webinar	DOH and Providers
July 31, 2017	Cost Reports Due	Providers
Early September	Notice Rates Posted	DOH
Early October	Capital Attestation Due	Providers
January 1, 2018	Initial 2018 Rates Published	DOH



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## Overview Of The Attestation Process

- The Capital attestation is designed to streamline the process for facility's to receive proper reimbursement without having to appeal
- This webinar will aid facilities in determining proper capital reimbursement
- For each of the past two years, over 300 attestations were received, of which 50 or more were not approved due to requests for non-allowable reimbursement



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## Governing Statutes And Regulations

- When Federal laws are silent about a particular issue, New York Public Health Law – specifically Article 28 (a) §2808 guides reimbursement for nursing facilities
- New York State Title 10 Rules & Regulations – Part 86-2 further defines New York Public Health Laws



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## Review of Capital Expense Reimbursement

- Real Property Depreciation – Capital Schedule Line 1
  - Allowable –
    - ✓ Only available to voluntary and governmental run facilities
    - ✓ Only expense certified to on Exhibit H of the Cost Report
    - ✓ Capitalized real property leases reported on Schedule 9A of the Cost Report
    - ✓ Depreciation associated with the Approved Project Cost (APC) is held to the level of the APC – final approval by the Bureau of Architecture and Engineering is necessary
    - ✓ Depreciation that is properly chargeable to necessary patient care is eligible



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## Review of Capital Expense Reimbursement

- Real Property Depreciation – Capital Schedule Line 1 – cont.
  - Not Allowable –
    - ✗ Previous owner's Medicaid Allowable Transfer Price (MATP) in excess of the current owner's purchase price
    - ✗ Final two years' APC depreciation that was taken off the two year lag
    - ✗ Repair and maintenance costs for depreciable assets should not be capitalized unless the life of the asset is materially extended
    - ✗ Assets approved and reimbursed through the 28-A program
    - ✗ Depreciation on Construction in Progress



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## Review of Capital Expense Reimbursement

- Real Property Mortgage Interest - Capital Schedule Line 2
  - The allowable reimbursement limit (over-mortgaging percentage) for mortgages is determined at the inception and does not change with future asset additions of unencumbered real property assets
  - All refinancings/modifications must be preapproved by the Department
  - Interest is paid on a current year basis
  - Interest is only allowable to the extent that it is related to patient care at the facility
  - If at any time the financing is in default or interest only payments are being made, the Department MUST be notified via email to [NFRATES@health.ny.gov](mailto:NFRATES@health.ny.gov) to remove the expense from the rate
  - Interest associated with a bridge loan is typically not recognized by the Department, due to unacceptable terms, such as interest only payments



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## Review of Capital Expense Reimbursement

- Real Property Rent – Capital Schedule Line 3
  - Only recognized leases entered into prior to 3/10/1975 are considered for reimbursement, subject to a ceiling
  - Facilities should not be listing real property leases on Schedule 15 of the Cost Report, which is reserved for movable equipment rentals
- Property Insurance – Capital Schedule Line 4
  - Only insurance relating to the nursing facility's physical property or boiler is reimbursable in the capital component
  - The insurance must be related to only the physical structure that houses the patients
  - Property insurance is to be reported in the administrative cost center (5)



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## Review of Capital Expense Reimbursement

- Return Of Equity – Capital Schedule Line 6
  - Only available to proprietary facilities – it is the mechanism to repay facilities for unencumbered real property costs, much like voluntary depreciation payments
  - Proprietary real property assets that are encumbered receive the amortization of the principal
  - Only real property historical cost is included in the calculation
  - The calculation utilizes the original mortgage principal related to the real property portion, that is expected to be reimbursed, not the unamortized balance
  - When a facility refinances or pays off an existing mortgage early, the amount of real property amortization that has been reimbursed is added to the equity returned sum



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## Review of Capital Expense Reimbursement

- Land/Leasehold Improvement Amortization – Capital Schedule Line 8
  - Reimbursement follows the same rules as real property depreciation on Line 1
  - The allowable amount is added to real property depreciation on the rate sheet, Line 1
- Real Estate Taxes/PILOT – Capital Schedule Line 11
  - Only real estate property taxes are reimbursed in the capital component
  - Sewer and water assessments are reimbursed in the operating component
  - Tax refunds must be reported and used to reduce the expense



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## Review of Capital Expense Reimbursement

- Movable Equipment (M/E) Depreciation – Capital Schedule Line 12
  - Only expense certified to on Exhibit H is considered
  - Depreciation associated with previous owner's Medicaid Allowable Transfer Price (MATP) in excess of the current owner's purchase price is not reimbursable
  - Only depreciation that is properly charged to necessary patient care is eligible
  - Depreciation associated with M/E capitalized leases is not reimbursable, as the lease payments are reimbursed
  - Costs for repair and maintenance should not be reported as depreciation
  - Depreciation on automobiles is only allowable to the extent that the relationship to patient care can be substantiated
- M/E Interest Expense – Capital Schedule Line 13
  - The same rules apply as listed for Real Property Interest (Capital Schedule Line 2)



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## Review of Capital Expense Reimbursement

- M/E rental payments – Capital Schedule Lines 14-35
  - Allowable –
    - ✓ M/E Rental payments reported on Schedule 9A and 15 and certified on Exhibit H, of the Cost Report, may be reimbursed
    - ✓ Rental payments reported on Schedule 9A of the Cost Report, for M/E rentals appear on Line 14
    - ✓ For expenses that resulted from a 'sale and leaseback' arrangement, the allowable reimbursement is limited to the amount the provider would have incurred if they had maintained title to the asset
    - ✓ Rentals of automobiles is only allowable to the extent that the relationship to patient care can be substantiated – this is also true of the associate insurance



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## Review of Capital Expense Reimbursement

- M/E rental payments – Capital Schedule Lines 14-35
  - Not Allowable –
    - ✗ Office space rental expense by reallocating functions outside of the nursing facility is not allowable without a CON, for which a historic cost will be set and reimbursed as depreciation or equity payments
    - ✗ Vending machines and ATM's are not reimbursable
    - ✗ Rental expenses do not include fees, repairs, penalties or excess charges



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## Review of Capital Expense Reimbursement

- Mortgage Principal Amortization – Capital Schedule Line 53
  - Only available to proprietary facilities
  - The same rules for mortgage interest on line 2 apply to the amortization
  - The M/E portion of encumbered assets receives depreciation on line 12 rather than amortization of the related mortgage
- Mortgage Insurance – Capital Schedule Line 54
  - The same rules for mortgage interest on line 2 apply to the insurance
- Mortgage Expense Amortization – Capital Schedule Line 57
  - Amortized over the life of the mortgage and reimbursed on a two-year lag
  - Subject to any applicable over-mortgaging percentage



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## Review of Capital Expense Reimbursement

- Organization/Start up costs – Capital Schedule Line 58
  - Reimbursed over a five-year period
  - Only allowable costs should be reported on Schedule 11
  - These costs should not occur beyond the initial start up period
- Sales Tax – Capital Schedule Line 59
  - Only available to proprietary facilities
  - Taxes for which an exemption is available are not reimbursable
  - Taxes collected by the facility and paid to NYS are not reimbursable
  - Penalties and interest payments are not allowable





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## Review of Capital Expense Reimbursement

- Working Capital Interest – Capital Schedule Line 61
  - Allowable –
    - ✓ Is subject to a threshold
    - ✓ The debt must be short term in nature
    - ✓ The debt must be from an unrelated party unless prior approval is given by DOH
    - ✓ The debt must be necessary
    - ✓ The interest percentage must be reasonable
    - ✓ The interest will be offset by any net gains experienced by the facility



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## Review of Capital Expense Reimbursement

- Working Capital Interest – Capital Schedule Line 61
  - Not Allowable –
    - ✗ This expense does not include late fees, penalties or interest on overdue payables
    - ✗ The interest must not be due to NYS
    - ✗ The debt must not be interest only payments
    - ✗ The facility must not have had a positive income, a withdrawal of equity or a transfer of assets during the year



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## Review of Capital Expense Reimbursement

- Income Offset – Capital Schedule Lines 62-63
  - Investment Income is defined as the aggregate net amount realized from dividends, interest, rental income, interest earned on temporary investment of withholding taxes, as well as ALL gains and losses. Interest expense is reduced by investment incomes with the exception of income from funded depreciation, qualified pension funds, trustee malpractice insurance funds, or in instances where income from gifts or grants is restricted by donors.
  - Gains on refinancings will be offset



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## Refinancing/Shared Savings Program Overview

- Eligible refinancings include financing arrangements that were closed on or after April 1, 2015
- Facilities will be asked to submit signed/dated closing documents
- The shared savings percentage is 50%
- Eligible expenses include interest and MIP
- A publication date, specific to eligible refinancings will be set up for shared savings appeals, which must be filed



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## Equity Withdrawal Approval Procedures

- What constitutes an equity withdrawal – NYCRR Section 400.19
- Review of current law – PHL 2808 (5) (c)
  - Requires prior approval for withdrawals in excess of 3% of the total annual revenue for patient care services
  - Request must be received 60 days prior to date of withdrawal
- Documentation requirements
  - Cover letter indicating request for prior approval
  - Completed equity withdrawal request form – signed & dated
  - Latest annual and quarterly financials
- Approval Process and Policy



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## Next Steps

- Please email questions related to this webinar to: [NFRATES@health.ny.gov](mailto:NFRATES@health.ny.gov) by July 31st
- FAQ's and a copy of the webinar will be posted on the Health Commerce System (HCS)
- Cost Reports are due July 31, 2017

