

CHAPTER 1664

ASSISTED HOUSING PROGRAMS

§7851. Assisted housing programs

Assisted housing programs are authorized under this chapter in the following settings and subject to the following standards and licensure requirements. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

1. Standards. Assisted housing programs further the independence of the resident and respect the privacy and personal choices of the resident, including the choice to continue to reside at home for so long as the assisted housing program, as it is fundamentally designed, is able to meet the needs of the resident. Assisted housing programs provided to residents must be consumer oriented and meet professional standards of quality.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Settings. Assisted housing programs may be provided in the following settings:

A. Independent housing with services programs, as defined in section 7852, subsection 6; [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

B. Assisted living programs, as defined in section 7852, subsection 4; or [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

C. Residential care facilities, as defined in section 7852, subsection 14. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

3. Licensure requirements. Independent housing with services programs are not subject to licensure. Licensure of assisted living programs is governed by section 7801, subsection 1. Licensure of residential care facilities is governed by section 7801, subsections 1 and 3.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

4. Prohibited employment based on disqualifying offenses. A licensed assisted housing program shall conduct a comprehensive background check for direct access personnel, as defined in section 1717, subsection 1, paragraph A-2, in accordance with state law and rules adopted by the department and is subject to the employment restrictions set out in section 1812-G and other applicable federal and state laws when hiring, employing or placing direct access personnel, including a certified nursing assistant or a direct care worker.

The department may adopt rules necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 494, Pt. A, §25 (RPR).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF). PL 2003, c. 634, §6 (AMD). PL 2015, c. 196, §14 (AMD). PL 2015, c. 299, §22 (AMD). PL 2015, c. 494, Pt. A, §25 (AMD).

§7852. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

1. Activities of daily living. "Activities of daily living" means tasks routinely performed by a person to maintain bodily functions, including bed mobility, transfers, locomotion, dressing, eating, toileting, bathing and personal hygiene.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Assisted housing program. "Assisted housing program" means an independent housing with services program, an assisted living program or a program of housing and services provided by a residential care facility.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

3. Assisted housing services. "Assisted housing services" means the provision by an assisted housing program of housing, assistance with activities of daily living and instrumental activities of daily living, personal supervision, protection from environmental hazards, meals, diet care, care management and diversional or motivational activities.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

4. Assisted living program. "Assisted living program" means a program of assisted living services provided to residents in private apartments in buildings that include a common dining area, either directly by the provider or indirectly through contracts with persons, entities or agencies.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

5. Assisted living services. "Assisted living services" means the provision by an assisted housing program, either directly by the provider or indirectly through contracts with persons, entities or agencies, of assisted housing services, assisted housing services with the addition of medication administration or assisted housing services with the addition of medication administration and nursing services.

[PL 2003, c. 688, Pt. C, §12 (AMD).]

6. Independent housing with services program. "Independent housing with services program" means a program of assisted housing services provided to residents in private apartments in buildings that include a common dining area, either directly by the provider or indirectly through contracts with persons, entities or agencies.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

7. Instrumental activities of daily living. "Instrumental activities of daily living" includes, but is not limited to, preparing or receiving of a main meal, taking medication, using the telephone, handling finances, banking, shopping, routine housework, laundry and getting to appointments.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

8. Life Safety Code. "Life Safety Code" means the current edition of the National Fire Protection Association Life Safety Code 101.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

9. Long-term care facility. "Long-term care facility" means any assisted housing program licensed pursuant to chapter 1663 or this chapter and any nursing facility or unit licensed pursuant to chapter 405.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

10. Mobile nonambulatory. "Mobile nonambulatory," as applied to a resident of a residential care facility with 6 or fewer beds, means being able to transfer independently and able to evacuate a facility in less than 2 1/2 minutes with the assistance of another person throughout the evacuation procedure.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

11. Nursing services. "Nursing services" means services provided by professional nurses defined in Title 32, section 2102, subsection 2. "Nursing services" includes coordination and oversight of resident care services provided by unlicensed health care assistive personnel in assisted living programs.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

12. Private apartment. "Private apartment" means a private dwelling unit with an individual bedroom, an individual bathroom and an individual food preparation area.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

13. Resident. "Resident" means any person 18 years of age or older who is not related by blood or marriage to the owner or person in charge of the facility or building in which the resident lives and who receives assisted housing services.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

14. Residential care facility. "Residential care facility" means a house or other place that, for consideration, is maintained wholly or partly for the purpose of providing residents with assisted living services. Residential care facilities provide housing and services to residents in private or semi-private bedrooms in buildings with common living areas and dining areas. "Residential care facility" does not include a licensed nursing home or a supported living arrangement certified by the department.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF). PL 2003, c. 688, §C12 (AMD). PL 2003, c. 689, §B6 (REV).

§7853. Rules

The commissioner shall adopt rules for licensed assisted housing programs. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules to establish categories of licensed assisted housing programs, including private nonmedical institutions, are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 673, Pt. V, §2 (AMD); PL 2003, c. 673, Pt. V, §29 (AFF).]

1. Consultation. The rules must be developed in consultation with the long-term care ombudsman program established pursuant to section 5106, subsection 11-C, consumer representatives and providers of the type of assisted housing program to which the rules will apply.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Subject matter. The rules must include, but are not limited to, administration, quality of care and treatment, if applicable, level and qualifications of staff, rights of residents, contracts, administration of medication, available public and private sources of payment, health and safety of residents and staff, community relations and licensing procedures.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

3. Administration of medication rules. In adopting the rules for administration of medication, the commissioner shall consider, among other factors, the general health of the persons likely to receive medication and the numbers of persons served and employed by the assisted housing program facility. The department may require unlicensed personnel to have successfully completed a program of training and instruction, approved by the department for the administration of medication, that is not limited to in-service training.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

4. Residential care rules. The commissioner shall adopt rules for the various levels of residential care facilities. In addition to the subject matter of the rules listed in subsection 2, the rules must include criteria for placement of residents who qualify for services as minors, as adults and as persons with disabilities.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

5. Assisted living program rules. The commissioner shall adopt rules for assisted living programs. In addition to the subject matter of rules listed in subsection 2, the rules must recognize and

promote the efficiencies inherent in providing services in the applicable setting with respect to staffing and other responsibilities, while ensuring quality of care and safety. The rules must set requirements and standards for services rendered in the applicable settings that recognize the differences between those settings and private homes served pursuant to chapter 419. The rules must permit staff in assisted living programs to be shared in accordance with section 1812-C, subsection 6-A and section 7914. [PL 2003, c. 449, §3 (AMD).]

6. Applicability of residents' rights rules. Any rules adopted pursuant to this section pertaining to residents' rights are applicable to licensed assisted housing programs. [PL 2003, c. 449, §3 (AMD).]

7. Relationship to tax credit financing. In adopting rules under this section, the department shall give due consideration to and shall avoid conflicts with the requirements of the federal Internal Revenue Code and regulations promulgated under the federal Internal Revenue Code and any other requirements imposed by the Internal Revenue Service when financing based on low-income housing tax credits is utilized for the housing component of assisted living programs. [PL 2003, c. 449, §4 (NEW).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF). PL 2003, c. 449, §§2-4 (AMD). PL 2003, c. 673, §V2 (AMD). PL 2003, c. 673, §V29 (AFF).

§7854. Fees for licensure

The department shall charge annual fees for licensure of residential care facilities and assisted living programs as follows: [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

1. Fees for residential care facility. Ten dollars per licensed bed for a residential care facility; and [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Fees for assisted living programs. Two hundred dollars for an assisted living program. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF).

§7855. Fire safety inspection for residential care facilities

1. Inspection required. A license may not be issued by the department to a residential care facility until the department has received from the Commissioner of Public Safety a written statement signed by one of the officials designated under Title 25, section 2360, 2391 or 2392 to make fire safety inspections. This statement must indicate that the residential care facility has complied with applicable fire safety provisions referred to in Title 25, section 2452. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Fees. The department shall establish and pay reasonable fees to the Commissioner of Public Safety or a municipal official for each inspection under subsection 1. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

3. Local regulations. A local regulation that affects the life-safety requirements of a residential care facility and that is more stringent than those referred to in this section takes precedence. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

4. Requirements for residential care facilities. Residential care facilities must comply with the chapters of the National Fire Protection Association Life Safety Code relating to new and existing

residential board and care occupancies adopted by the Commissioner of Public Safety. Residential care facilities must comply as follows.

A. A residential care facility that has one to 3 beds must comply with the one-family and 2-family dwelling chapter of the Life Safety Code. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

A-1. A residential care facility with 4 to 6 beds whose residents have prompt evacuation capability, as defined in the Life Safety Code, must comply with the one-family and 2-family dwellings chapter of the Life Safety Code if that residential care facility was licensed under that chapter prior to October 1, 2002. [PL 2003, c. 398, §1 (NEW).]

A-2. [PL 2003, c. 510, Pt. G, §1 (NEW); PL 2003, c. 510, Pt. G, §3 (AFF); PL 2003, c. 599, §16 (AFF); MRSA T. 22 §7855, ¶ A-2 (RP).]

B. Except as provided in paragraph A-1, a residential care facility with 4 to 16 beds must comply with the sections of the Life Safety Code that apply to small facilities and with the chapter relating to new residential board and care occupancy if that facility is a facility that was constructed on or after July 25, 2002 or with the existing residential board and care occupancy chapter if that facility was licensed before July 25, 2002. [RR 2003, c. 2, §80 (COR).]

C. A residential care facility with more than 16 beds must comply with the sections of the Life Safety Code that apply to large facilities and with the chapter relating to new residential board and care occupancy if that facility is a facility constructed on or after July 25, 2002 or with the chapter relating to existing residential board and care occupancy if that facility was licensed before July 25, 2002. [PL 2003, c. 398, §1 (AMD).]

D. Notwithstanding any other provision of law or rule a residential care facility with 4 or fewer beds is not required to obtain certification from a design specialist to satisfy the requirements of this section or Title 5, section 4594-F. [PL 2003, c. 398, §1 (NEW).]

[RR 2003, c. 2, §80 (COR).]

5. Fire safety inspection and certificate of compliance required for licensure. A fire safety inspection must be performed and a certificate of compliance must be provided to the department before a license to a residential care facility is issued. Inspections must be scheduled to coincide with the term of the license.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

6. Timed drills. Timed drills, as described in the applicable chapters of the National Fire Protection Association Life Safety Code, must be used to determine a residential care facility's capability to evacuate its residents, unless the facility has elected to complete evacuation scores in lieu of timed drills in accordance with the standards described in the National Fire Protection Association Life Safety Code 101A or when timed drills are not required pursuant to the Life Safety Code. When a new resident has participated in a timed drill in another residential care facility within the previous 2 months, the results of that drill may be used to determine evacuation capability in the resident's new facility for a period of up to 4 months. A person who violates or fails to comply with this subsection commits a civil violation for which a forfeiture of not more than \$25 per bed for each occurrence of failure to comply may be adjudged.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

7. Requirement for manual fire alarm activation may be waived. For a residential care facility with 4 to 8 beds, the requirement for manual fire alarm activation may be waived at the discretion of the Commissioner of Public Safety.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF). RR 2003, c. 2, §80 (COR). PL 2003, c. 398, §1 (AMD). PL 2003, c. 510, §§G1,2 (AMD). PL 2003, c. 510, §G3 (AFF). PL 2003, c. 599, §16 (AFF).

§7856. Fire safety inspection for assisted living programs

In accordance with this section, the department shall adopt rules pursuant to Title 5, chapter 375 for the inspection of assisted living programs as defined in section 7852, subsection 4, by the Commissioner of Public Safety or the commissioner's designee and the fees for that inspection. Rules regarding fees adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

1. Permits; inspection. Construction and renovation of assisted living programs require a construction permit from the Commissioner of Public Safety. Prior to licensure all assisted living programs must be inspected by the Commissioner of Public Safety or the commissioner's designee at the request of the department. All assisted living programs must be inspected upon performing renovations and must be reinspected every 2 years.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Certificate of compliance. The Commissioner of Public Safety shall issue a certificate of compliance with the provisions of this section to the department.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

3. Requirements. All assisted living programs must be inspected using the chapter pertaining to the applicable building type of the National Fire Protection Association Life Safety Code adopted by the Department of Public Safety, Office of the State Fire Marshal and must be protected throughout by a supervised, automatic sprinkler system approved by the Commissioner of Public Safety.

[PL 2019, c. 338, §1 (AMD).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF). PL 2019, c. 338, §1 (AMD).

§7857. Personal funds of residents

1. Permission to manage personal funds. An operator or agent of an assisted housing program may not manage, hold or deposit in a financial institution the personal funds of a resident of the facility unless the operator or agent has received written permission from:

A. The resident if the resident does not have a guardian, trustee or conservator; [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

B. The resident's guardian, trustee or conservator if that person exists and can be reached; or [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

C. The department if a guardian, trustee or conservator exists but can not be reached. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Itemized accounting. An operator or agent of an assisted housing program who, after receiving written permission pursuant to subsection 1, manages or holds the personal funds of a resident shall maintain an account for these funds, which must include for each resident a separate, itemized accounting for the use of that resident's personal funds with supporting documentation for every expenditure in excess of \$2.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

3. Depositing personal funds. The department may require an operator or agent of an assisted housing program to deposit in a financial institution the personal funds of a resident if the resident has a guardian, trustee or conservator who can not be reached.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

4. Use of personal funds by operator prohibited. Under no circumstances may an operator or agent of an assisted housing program use the personal funds of a resident for the operating costs of the facility or for services or items that are reimbursed by a 3rd party. The personal funds of a resident may not be commingled with the business funds of the facility or with the personal funds or accounts of the owner, a member of the owner's family or an employee of the facility.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF).

§7858. Certain residential care payments

The department shall: [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

1. Facilities with 4 or fewer beds. Reimburse all residential care facilities of up to 4 beds at a rate of at least \$433 per month; and

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Facilities with 5 or 6 beds. Reimburse all residential care facilities of 5 or 6 beds whose residents do not have severe mental or physical dysfunction or disability on a flat rate basis of at least \$601 per month.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF).

§7859. Residents' records

Whenever there are pertinent and available health and other records about a person who seeks admission as a resident to a residential care facility, those records must be provided to the administrator of the facility at least 7 days prior to the date of admission, unless there are compelling reasons that make this impossible or impractical. If there are compelling reasons, including, but not limited to, emergency situations, the administrator must receive, by not later than the date of admission, a written note that: [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

1. Reasons explained. Explains the compelling reasons why the records could not be provided 7 days prior to the date of admission; and

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. When records will be provided. If the records have not yet been received, states by when the records will be provided.

[PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

This section may not be construed to mean that a resident who is not a client of the department is required, as a condition of admission, to provide records to the administrator of the residential care facility. [RR 2003, c. 2, §81 (COR).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF). RR 2003, c. 2, §81 (COR).

§7860. Shared staffing

The department shall permit shared staffing between residential care facilities and other levels of assisted housing on the same premises as long as there is a clear, documented audit trail and the staffing in the residential care facilities remains adequate to meet the needs of residents. Staffing to be shared may be based on the average number of hours used per week or month within the assisted housing program. For the purposes of this section, "shared staffing" means the use of licensed and unlicensed

personnel who are employed, directly or under a contract, by a long-term care facility in more than one level of care provided by a single entity on the same premises. [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF).

§7861. Administration of assisted housing programs funded by the State; eligible clients

The Department of Health and Human Services, with advice from the Maine State Housing Authority, the Rural Housing Services or any other housing agency financing assisted housing programs, shall administer state-funded assisted housing programs. Administration must include, but is not limited to: [PL 2011, c. 657, Pt. BB, §14 (AMD).]

1. Rules; payment for assisted housing programs. Adopting rules governing the services to be provided under assisted housing programs paid for with state funds. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A; [PL 2001, c. 596, Pt. A, §1 (NEW); PL 2001, c. 596, Pt. B, §25 (AFF).]

2. Compliance with standards and guidelines. Reviewing the compliance of assisted housing programs with standards and guidelines established for the programs; [PL 2013, c. 582, §2 (AMD).]

3. Awarding of grants. Awarding of grants, when available and necessary, to subsidize the cost of assisted housing programs for eligible clients.

For the purposes of this subsection, "eligible clients" means adults who have been determined through an approved assessment by the department to be functionally or cognitively impaired and in need of financial assistance to access assisted housing programs; and [PL 2013, c. 582, §2 (AMD).]

4. Residential care facility depreciation. Calculating depreciation recapture for a residential care facility, as defined in section 7852, subsection 14, that is reimbursed by the department under the rules of reimbursement for room and board costs, including depreciation, when the facility is sold on or after July 1, 2013, using a methodology that provides percentage credits for buildings, fixed equipment and moveable equipment based on the number of years of operation of the residential care facility by the owner that is consistent with the following:

A. For the purposes of determining depreciation recapture for buildings and fixed equipment, the methodology must determine the number of years of operation by reference to the date on which the owner began operating with the original license; [PL 2013, c. 582, §3 (NEW).]

B. For the purposes of determining depreciation recapture for moveable equipment, the methodology must enable percentage credits to reach 100% after the first 6 years of the assigned useful life; and [PL 2013, c. 582, §3 (NEW).]

C. The methodology must treat as equivalent to the owner of the residential care facility any person or entity that owns or controls the entity that owns the residential care facility and any entity that is owned or controlled by the owner of the residential care facility. [PL 2013, c. 582, §3 (NEW).]
[PL 2013, c. 582, §3 (NEW).]

SECTION HISTORY

PL 2001, c. 596, §A1 (NEW). PL 2001, c. 596, §B25 (AFF). PL 2003, c. 689, §B6 (REV). PL 2011, c. 657, Pt. BB, §14 (AMD). PL 2013, c. 582, §§2, 3 (AMD).

§7862. Contracts for assisted living services

All contracts or agreements executed by providers of assisted living services under this chapter and a consumer or the legal representative of the consumer are subject to the requirements of this section. [PL 2003, c. 546, §1 (NEW).]

1. Required contract provisions. Each contract or agreement for assisted living services must contain the provisions designated as required in the standardized contract adopted by the department by rule pursuant to Public Law 1999, chapter 731, Part BBBB, section 5 and may contain additional provisions as allowed under subsection 2. [PL 2003, c. 546, §1 (NEW).]

2. Other contract provisions. In addition to the provisions required under subsection 1, each contract or agreement for assisted living services may contain provisions that do not violate a state law or rule or federal law or regulation. A contract or agreement must be consistent with the rules adopted by the department applicable to the type of assisted living services provided. [PL 2003, c. 546, §1 (NEW).]

3. Rulemaking. The commissioner shall adopt rules to implement this section. The rules must be developed in consultation with the long-term care ombudsman program established under section 5107-A, consumer representatives and providers of assisted living services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 546, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 546, §1 (NEW).

§7863. Reimbursement for residential care facilities; room and board costs

1. New construction, acquisitions and renovations. Notwithstanding any other law to the contrary, the department shall permit a capital expenditure by a residential care facility for new construction, an acquisition or a renovation that is less than \$500,000 and shall provide reimbursement to the facility for the capital expenditure without prior approval. The department shall permit a residential care facility to seek and obtain approval for a capital expenditure that exceeds \$500,000. The department shall require that capital expenditures for energy efficiency improvements, for replacement equipment, for information systems, for communications systems and for parking lots and garages be permitted without prior approval and not be counted toward the determination of the \$500,000 threshold. [PL 2017, c. 304, §1 (NEW).]

2. Extraordinary circumstance allowance. A residential care facility that experiences an unforeseen and uncontrollable event during a year that results in unforeseen or uncontrollable increases in expenses may request an adjustment to a prospective rate in the form of an extraordinary circumstance allowance. As used in this subsection, "extraordinary circumstance" includes, but is not limited to, an event of a catastrophic nature, an increase in minimum wage or social security expenses or employee retirement contribution expenses in lieu of social security expenses, a change in the number of licensed beds and a change in licensure or accreditation requirements. If the department concludes that an extraordinary circumstance existed, the department shall make an adjustment in the form of a supplemental allowance. The department shall determine from the nature of the extraordinary circumstance whether the extraordinary circumstance will have a continuing impact and whether the allowance should be included in the computation of the base rate for the succeeding year. Reimbursement to a residential care facility for additional costs arising from an extraordinary circumstance must be paid via a supplemental payment that is added to the per diem reimbursement rate until the department adjusts the direct care price, the routine limit and the personal care services limit, as applicable, to fairly and properly reimburse a facility for these costs. [PL 2017, c. 304, §1 (NEW).]

3. Regulatory compliance costs. Costs incurred by a residential care facility to comply with changes in federal or state laws, regulations and rules or local ordinances and not otherwise specified in rules adopted by the department are considered reasonable and necessary costs. Reimbursement for these additional regulatory costs must be paid via a supplemental payment that is added to the per diem rate until the department adjusts the direct care price, the routine limit and the personal care services limit, as applicable, to fairly and properly reimburse facilities for these costs.

[PL 2017, c. 304, §1 (NEW).]

4. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2017, c. 304, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 304, §1 (NEW).

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