

Regulations of Connecticut State Agencies

TITLE 17. Public Assistance & Welfare Services

Agency

Department of Mental Retardation

Subject

Establishment of Rates for Community Living Arrangements Licensed by the Department of Mental Retardation

Inclusive Sections

§§ 17-313b-1—17-313b-18

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Establishment of Rates for Community Living Arrangements Licensed by the Department of Mental Retardation

Sec. 17-313b-1. Definitions

As used in Sections 17-313b-1 to 17-313b-17, inclusive:

(1) “Commissioner” means the Commissioner of Income Maintenance or his designated representative.

(2) “Commissioner of Mental Retardation” means said commissioner or his designated representative.

(3) “Audited consolidated operational report” means the annual cost and performance reporting document, which consists of forms provided by the Department of Mental Retardation, and submitted by all organizations operating community living arrangements or community living arrangements and day services.

(4) “Operational plan” means the document, which consists of forms provided by the Department of Mental Retardation, and submitted by all organizations operating community living arrangements for use in establishing rates for the following contract year.

(5) “Community living arrangement” means any residence operated by an organization for mentally retarded persons and licensed pursuant to Section 19a-467 G.S. other than a community training home, group residence, habilitative nursing facility, or residential school. A facility certified to participate in the Medicaid program as an intermediate care facility for the mentally retarded shall not be considered a community living arrangement for purposes of establishing rates pursuant to these regulations.

(6) “Community Training Home” means a residence licensed as such by the Department of Mental Retardation pursuant to Section 19a-467 G.S.

(7) “Region” means Department of Mental Retardation region of the state.

(8) “Primary Region” means that Department of Mental Retardation Region in which an organization has its highest number of community living arrangement placements.

(9) “Day Services” means the range of non-residential services provided to persons by organizations which receive funding from the state including, but not limited to, community work services, adult day treatment, supported employment and elderly enrichment.

(10) “Organization” means any business entity which operates community living arrangements and/or day services for mentally retarded persons.

(11) “Client” means a mentally retarded person who receives services funded, or partially funded by the Department of Mental Retardation.

(12) “Contract Year” means the period of July 1 through June 30.

(13) “Contract” means the written agreement between the Department of Mental Retardation and an organization to provide services during the contract year.

(14) “Residential Client Needs Assessment” means documents which present a composite assessment of individual client needs for each community living arrangement to assist in establishing the basic staffing pattern required in the residence. The forms and assessment are provided by the Department of Mental Retardation.

(15) “Newly Licensed Community Living Arrangement” means any community living

arrangement operated by an organization that has been licensed for less than twelve (12) months and which has not had a rate established pursuant to Sec. 17-313b-8.

(16) “Line Item” means the categories of expenditures, administrative and general, direct service staff compensation, direct service costs other than direct service staff compensation, and room and board costs, used in the rate setting process established by these regulations.

(17) “Line Item Cost Settlement” means the cost settlement process for the expenditure categories recognized in these regulations.

(18) “Multi-Unit Structure” means any residential building in which more than one unit is leased or offered for lease.

(19) “Related Parties” means persons or organizations related through marriage, ability to control, ownership, family or business association. Past exercise or influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control.

(Effective June 24, 1988)

Sec. 17-313b-2. Filing of operational plan

Each private organization operating community living arrangements (CLA) shall annually file an operational plan with the primary regional office of the Department of Mental Retardation.

(1) The operational plan shall be filed no later than the first business day following April 1 of each year for use in negotiating and establishing rates for the subsequent contract year July 1 through June 30.

(2) A residential client needs assessment, which includes needs of each client residing in a community living arrangement, serves as the basis for the cost elements in the operational plan.

(3) Forms and specific expense and revenue categories shall be provided by the Department of Mental Retardation in order to assure that all data supplied by the filing organizations is consistent in form and content to facilitate comparison statewide.

(Effective March 22, 1990)

Sec. 17-313b-3. Filing of audited consolidated operational report (ACOR)

Each private organization operating community living arrangements or community living arrangements and day services shall annually file an audited consolidated operational report with the primary regional office of the Department of Mental Retardation.

(1) The ACOR shall be filed no later than the first business day following October 15 for the contract year July 1 through June 30.

(2) The ACOR shall provide actual audited costs, revenues, and client data for the preceding contract year July 1 through June 30.

(3) Forms and specific expense and revenue categories shall be provided by the Department of Mental Retardation in order to assure that all data supplied by the filing organizations is consistent in format and content to facilitate comparison statewide.

(4) The ACOR shall be completed in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards. Audited financial statements, notes to same and the auditor's opinion letter shall accompany the ACOR filing.

(5) Whenever costs are incurred between related parties, allowable cost shall be defined as and limited to the cost to the related party. Findings of relatedness may be made in the absence of majority stock ownership of the related parties in respective organizations. The related party principle applies to any transaction between a provider and a related party, including but not limited to one time or multiple transactions involving services or supplies and one time sales or lease of the facility itself. Related party transactions must be identified as such in the ACOR and the unallowable portion excluded in the appropriate section of the ACOR.

(Effective June 24, 1988)

Sec. 17-313b-4. Consequences for failure to file on or before dates specified in these regulations

(1) For each day that the ACOR is not filed, following the dates specified in these regulations, a penalty of one half of one percent (.50%) of the current monthly payment attributable to administrative and general expenses shall be assessed from the total monthly payment for expenses for the first thirty days; three-quarters of one percent (.75%) for the second thirty days and one percent (1.0%) beyond sixty days. This penalty shall result in a reduction in payment for the month following the calculation of the penalty.

(2) The Commissioner of Mental Retardation may waive imposition of the penalty if he deems that extraordinary circumstances prevented the timely filing of the ACOR. The waiver shall be granted according to terms and for a period of time established by the Commissioner of Mental Retardation. An organization must request a waiver, in writing, prior to the filing dates specified in these regulations.

(Effective March 22, 1990)

Sec. 17-313b-5. Computation of per diem room and board reimbursement rates for community living arrangements owned or leased by the licensee excluding units leased in multi-unit structures

The system for determining per diem rates for room and board payment by the Department of Income Maintenance for persons eligible pursuant to Chapter 302, Part III, G.S., who are residents of community living arrangements which are owned or leased by the licensee, excluding units leased in multi-unit structures which is computed in accordance with Sec. 17-313b-6, shall be an individual historical cost related prospective rate system derived from the documents filed pursuant to Secs. 17-313b-2 and -3, per diem room and board reimbursement rates shall be promulgated annually, effective July 1, based upon costs reported in the ACOR filed the preceding October.

Per diem room and board reimbursement rates for community living arrangements owned

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or leased by the licensee, excluding units leased in multi-unit structures, shall be calculated based upon:

(1) An amount of property costs based upon a fair rental value system.

(i) The fair rental value amount shall be in lieu of interest on mortgages, other property financing costs, depreciation on buildings and non-movable equipment and rental charges. The amount shall be computed in the same manner whether the living arrangement is owned or leased or whether the community living arrangement is operated by an individual owner/partnership or a corporation.

(ii) The fair rental value amount consists of a rental amount for use of land, buildings and non-movable equipment related to resident care.

(A) The annual fair rental value amount for the use of land shall be determined by multiplying the base value of the land by a rate of return which is equal to one-third of the Medicare rate of return for the contract year but not more than four percent nor less than two and one-half percent per annum.

(B) Real property other than land consists of:

(1) Buildings and building improvements;

(2) All equipment attached to buildings and considered to be real property as distinguished from personal property; and

(3) Land improvements, including parking lots, driveways, sidewalks, sewerage systems, walls and pump houses.

The fair rental value amount is calculated to yield a constant amount each year in lieu of interest and depreciation costs. Such amount for the use of real property other than land shall be determined by amortizing the base value of such property over its remaining useful life and applying a rate of return on the unamortized base value. The base value of all real property other than land shall be the actual cost of the property less the accumulated depreciation from the date of acquisition to the date of first use as a licensed residence for persons with mental retardation. The remaining useful life is thirty years from the date of first use as a community living arrangement for mentally retarded persons. The annual rate of return shall be calculated in accordance with the procedures specified in Section 17-311-52-(f) (2) (b) of the Regulations of Connecticut State Agencies as amended, except for the factor which is applied to the medicare rate of return which shall be 1.5, not 1.0.

In any situation where book values are incomplete or questionable and therefore may not reflect the value on the date of acquisition. The commissioner may disallow any claim for such unsupported amount or may in his discretion establish a value based on property values of comparable properties and/or residences.

Upon a change of ownership of a community living arrangement the commissioner, in consultation with the Commissioner of Mental Retardation, may modify the base values of the property for the new owner if deemed in the best interest of the clients residing in the community living arrangement and is appropriate, equitable and does not prejudice the interests of the state.

For purposes of reimbursement, a minimum residual value is established for real property

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other than land at 10% of the cost of such property. The amount for the use of such property shall not be less than the amount determined by applying the appropriate Medicare rate of return to the minimum residual value.

(iii) In the event of an unforeseen or material change in allowable property costs, which are not reflected in the cost base, the community living arrangement may submit a request, in writing, to the Commissioner for an increase to reflect such change in the fair rental value amount.

Based on the consideration of the date presented and any other factors as the Commissioner deems pertinent, the Commissioner may decide that an adjustment in property basis is in the best interest of the clients residing in the community living arrangement and is appropriate, equitable, and does not prejudice the interest of the state.

(2) An amount for the reasonable cost of dietary, laundry, maintenance, housekeeping, transportation, utilities, fuel, property-related insurance, and property taxes.

(3) An amount for the reasonable cost of moveable equipment based upon depreciation and interest according to generally accepted accounting principles.

(4) An amount for reasonable interest expense required to obtain necessary working capital.

(5) Grants, gifts, fundraising, or endowment income specifically designated for payment of operating costs included in the room and board rate, based on actual cost or fair rental computations, shall be offset against those costs.

(6) Computation of a per diem reimbursement rate based upon the total cost as adjusted by the procedures referred to above divided by minimum allowable resident days or resident days whichever is greater for the applicable cost year.

A resident day is the unit of measurement for room and board provided and client-based services rendered to one client between the census taking hour on two successive days. In computing resident days, the first day of residence shall be counted but the last day of residence shall not. In computing resident days, reserve bed days for which payment is received shall be counted.

For purposes of computing minimum allowable resident days, utilization of a community living arrangement's licensed beds shall be determined at a minimum of 90% of capacity (excluding beds designated for respite care), except for newly licensed community living arrangements and existing community living arrangements which are licensed to serve additional clients which may be permitted a lower occupancy rate for the first three months of operation after the effective date of licensure. Minimum allowable resident days for beds designated for respite care shall be determined at a minimum of 50% capacity.

In the event that a bed designated for respite care is not suitable for full-time use for such purpose, the organization may request, in writing, a waiver of the 50% minimum occupancy for such bed in the affected community living arrangement. Based on consideration of the information presented and any other factors as the commissioner deems pertinent, the commissioner may grant a waiver. If such waiver is granted, actual respite days of care for the bed for which payment is received will be used in the computation of the community

living arrangement's per diem reimbursement rate.

(7) An adjustment in the rate, for costs other than the property costs included in the fair rental value computation, for the time lag between the preceding contract year and the succeeding contract year.

This adjustment shall be the gross national product (GNP) deflator percentage increase or decrease for the twenty-four month time lag from the contract year ending the preceding June 30 to June 30 of the succeeding contract year. The GNP deflator is the implicit price deflator for the gross national product published in the "Economic Indicators" prepared for the Joint Economic Committee by the Council of Economic Advisors.

(8) Cost limitation.

For all community living arrangements, the aggregate total allowable costs shall not exceed the costs submitted by the organization, less unallowable costs.

(9) A statutory limitation on per diem rates.

Per diem rates paid by the state for care of persons eligible for assistance under the provisions of Chapter 302, Part III of the General Statutes shall not exceed the rate of payment for similar services to the general public.

(Effective June 24, 1988)

Sec. 17-313b-6. Computation of per diem room and board reimbursement rates for community living arrangements in leased units in multi-unit structures

Per diem reimbursement rates for room and board provided by a community living arrangement in a leased unit of a multi-unit structure shall be based upon:

(1) A reasonable rent based on an arms-length transaction between unrelated parties reviewed by the commissioner.

(2) An amount for the reasonable cost of dietary, laundry, maintenance, housekeeping, transportation, utilities, fuel, property-related insurance, and property taxes.

(3) An amount for the reasonable cost of moveable equipment based upon depreciation and interest according to generally accepted accounting principles.

(4) An amount for reasonable interest expense required to obtain necessary working capital.

(5) Grants, gifts, fundraising, or endowment income specifically designated for payment of operating costs included in the room and board rate, based on actual cost or fair rental computations, shall be offset against those costs.

(6) Computation of a per diem reimbursement rate based upon the total cost as adjusted by the procedures referred to above divided by minimum allowable resident days or resident days whichever is greater for the applicable cost year.

A resident day is the unit of measurement for room and board provided and client-based services rendered to one client between the census-taking hour on two successive days. In computing resident days, the first day of residence shall be counted but the last day of residence shall not. In computing resident days, reserve bed days for which payment is received shall be counted.

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For purposes of computing minimum allowable resident days, utilization of a community living arrangement's licensed beds shall be determined at a minimum of 90% of capacity (excluding beds designated for respite care), except for newly licensed community living arrangements and existing CLA's which are licensed to serve additional clients which may be permitted a lower occupancy rate for the first three months of operation after the effective date of licensure, minimum allowable resident days for beds designated for respite care shall be determined at a minimum of 50% capacity.

In the event that a bed designated for respite care is not suitable for full-time use for such purpose, the organization may request, in writing, a waiver of the 50% minimum occupancy for such bed in the affected community living arrangement. Based on consideration of the information presented and any other factors as the commissioner deems pertinent, the commissioner may grant a waiver. If such a waiver is granted, actual respite days of care for the bed for which payment is received will be used in the computation of the community living arrangement's per diem reimbursement rate.

(Effective June 24, 1988)

Sec. 17-313b-7. Per diem room and board reimbursement rates for community training homes payable by the department of social services

The per diem room and board reimbursement rate for community training homes which is paid by the Department of Social Services shall be the rate computed pursuant to Section 17-311-54 of the Regulations of Connecticut State Agencies.

(Effective March 28, 1996)

Sec. 17-313b-8. Client-based service rate determination process

The client-based service rate is for payment of costs for the provision of services for eligible persons in community living arrangements whose admission into the CLA is authorized by the Department of Mental Retardation pursuant to 17a-228 of the Connecticut General Statutes and regulations promulgated thereunder. Residential client needs assessments serve to establish basic staffing patterns used in the annual negotiation of this rate.

(1) Cost settlement

(i) An organization will not be reimbursed for costs in excess of the sum of the negotiated rates for all community living arrangements operated by the organization, unless such reimbursement is otherwise authorized pursuant to these regulations. The ACOR will serve as the basis for review of actual expenditures for the preceding contract year. There shall be a bottom line cost settlement for costs at or below the sum total of the negotiated rates for the preceding contract year. Cost settlement decisions shall be made within approximately 120 days of the filing of the ACOR for the preceding contract year. Such decisions shall be effected through the adjustment of current payments for the three months after cost settlement decisions are made or shall be reimbursed entirely to the Department of Mental Retardation for community living arrangements which cease operation.

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(ii) Cost settlement occurs when actual expenditures are below the sum total of the established rates for all community living arrangements operated by the organization for the preceding contract year. For all allowable expenditures made pursuant to such contract with the department of mental retardation by an organization in compliance with performance requirements thereof, 50% of the difference between such actual expenditures made and the amount received by the organization from the department of mental retardation per such contract shall be reimbursed to the department of mental retardation.

(iii) Reductions may be made to the negotiated rate for community living arrangements to the extent they fall below 85% of the total available occupancy for the preceding contract year, for reasons other than the failure of the Department of Mental Retardation to place clients, if the organization fails to adequately justify the reduced occupancy rate. For purposes of this section occupancy is the actual client days in residence based on attendance records. Total available occupancy is the number of clients for whom the rate was established times 365. The occupancy rate is established by dividing actual client days in residence by the total available occupancy. Reductions made pursuant to this section shall be reflected in the bottom line cost settlement.

(iv) Grants, gifts, fundraising or endowment income, and expenditures from such income, shall be reported in the ACOR. To the extent such income is specifically designated for operating costs included in the client-based service rate the expenditures from such income shall be deducted from the total operating costs which serve as the basis for negotiating the next year's rate. If an organization demonstrated that such income is not available for the succeeding contract year there will be no deduction and the overpayment shall be recovered through the line item cost settlement.

Grants, gifts, fundraising, or endowment income not specifically designated but used for payment of operating costs reported in the ACOR shall be deducted from the total operating costs which serve as the basis for negotiating the next year's rate.

(v) For the 1992 contract year only, an organization may elect the cost settlement methodology in effect immediately prior to the effective date of these regulations. Such election shall be made at the time of submission of the organization's 1992 contract year ACOR.

(2) The client-based service rate for each community living arrangement includes:

(1) Salary, wage and benefit costs for administrative and general and direct service personnel; and

(2) Non-salary costs which are not included in the per diem room and board reimbursement rate as specified in Sec. 17a-313b-6 of these regulations. Nothing in this section shall be construed to require the Department of Mental Retardation to pay for costs which were disallowed in the calculation of the room and board rate.

(3) Administrative costs will be reviewed for reasonableness as a percentage of direct service and total operating costs based on statewide averages. Administrative costs are necessary to manage and operate community living arrangements but are not assignable to the cost of services rendered to an individual client.

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(4) Staff development and training costs for new employees and ongoing direct service staff, a component of non-salary costs reimbursable under this rate, will be negotiated based on core development and training modules specified by the Department of Mental Retardation and other training negotiated and agreed to by the department and the organization.

(5) Analyses of the operation plan, ACOR, and other relevant information relating to management, financial and programmatic performance will be used in the rate negotiation process.

(6) Inadequate management, financial and programmatic performance may result in a contract term of less than twelve months.

(7) Client-based service rates are established prospectively and payments will be made retrospectively each month for costs incurred during the preceding month.

(8) The annual appropriation to the Department of Mental Retardation of funds for community living arrangements, and the allocation of these funds to the respective Department of Mental Retardation regions, shall be taken into account in establishing client-based service rates. In no event shall the Department of Mental Retardation be required to make payments in excess of funds appropriated for this purpose and allocated to the regions.

(9) When negotiations between the organization and the DMR result in agreed upon client-based service rates for the community living arrangements operated by an organization, the Commissioner of Mental Retardation shall certify these rates and shall issue rates in accordance with such certification. If negotiations fail to result in agreed-upon client-based service rates by the first business day following May 15, the Commissioner of Mental Retardation shall certify his department's last best offer and shall issue rates in accordance with such certification.

(10) Newly licensed community living arrangements, for which client-based service rates are established pursuant to this section, shall be fully reimbursed in accordance with the negotiated rate for the first 60 days after the first client is in residence. After 60 days there shall be a proportional adjustment, reflected in the line item cost settlement for each day the community living arrangement is not fully occupied unless the organization provides adequate justification for the reduced occupancy.

(Effective September 28, 1994)

Sec. 17-313-9. Establishment of comprehensive payment levels and computation of residential service rates paid by the department of mental retardation for community training homes

(a) Definitions

As used in this section:

(1) "Client assessment documents" means documents which represent a composite assessment of individual client needs to assist in establishing the appropriate level of supervision. The forms and assessment are provided by the Department of Mental Retardation.

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(2) "Department" means the Department of Mental Retardation.

(3) "Personal need allowance" means income which is available to a resident which may not be used for payment of room, board or service.

(4) "Ongoing comprehensive support" means twenty-four hour supervision with periodic special interventions required due to complex medical or behavioral needs of the resident(s).

(b) (1) Three comprehensive payment levels are established for mentally retarded persons, who are eligible for funding pursuant to section 17a-228 G.S., and the regulations promulgated thereunder, who reside in community training homes. A comprehensive payment level is established by the department in accordance with a client's need for supervision as indicated in client assessment documents. The comprehensive payment level per resident per month for the period July 1, 1993 through June 30, 1994 are as follows:

<u>Level of Supervision</u>	<u>Payment Level per Resident Per Month</u>
Less than 24 hour supervision	\$ 876.68
24 hour supervision	1,112.33
Ongoing comprehensive	1,419.85

(2) On July 1, 1994 and for each subsequent year commencing July 1, the payment level for each level of supervision will be adjusted by the percentage increase or decrease in legislative appropriations for existing community training homes from the prior year to the present year.

(3) On July 1, 1995 and for each subsequent year commencing July 1, the comprehensive payment level for each level of supervision shall be adjusted by the amount of increase or decrease in the monthly total of the rate established pursuant to Section 17-313b-7 of these regulations.

(c) The comprehensive payment levels set forth in subsection (b) of this section represent the total amount received for room, board and services provided to a resident of a community training home. These payment levels are composed of the monthly total of the rate pursuant to section 17-313b-7 of these regulations and a residential service rate paid by the department. The residential service rate is the difference between the established comprehensive payment level and the monthly total of the rate established pursuant to section 17-313b-7 of these regulations.

(d) A resident of a community training home who is not a recipient of the state supplement program administered by the Department of Social Services may retain, from whatever source, an amount equal to the unearned income disregard plus personal need allowance received by an individual receiving state supplement who lives in a community training home. To the extent that the income of such resident is insufficient to provide this amount, the residential service rate shall be increased by an amount sufficient to equal it.

(e) Special support payments, by the Department of Mental Retardation, may be negotiated between the community training home provider and the appropriate regional director of the department of mental retardation. Special support payments will be in

addition to the applicable payment level, and any other payments established pursuant to subsection (b) of this section, for additional necessary expenses related to special needs of a client which are not reimbursed through the applicable comprehensive payment level. Any request for special support payments must be supported by client assessment documents prepared or approved by a client's request for special support payments must be supported by client assessment documents prepared or approved by a client's assessment documents prepared or approved by a client's interdisciplinary team. Additional expenses which may require special support payments are those relating to:

- (1) Professional services;
- (2) Unusual necessary transportation;
- (3) Unusual and recurring personal care needs; and
- (4) Unusual property damage attributable to client behavior.

(Effective March 28, 1996)

Sec. 17-313b-10. Interim room and board and client-based service rate determination process for newly licensed community living arrangements

Newly licensed community living arrangements shall file an operational plan with the appropriate Department of Mental Retardation regional director.

(1) The Department of Mental Retardation shall negotiate the cost elements which will serve as the basis for an interim client-based service rate and the Department of Income Maintenance shall establish an interim room and board rate.

(2) The interim rates established pursuant to this section will serve as the basis for the one-time, start-up funding provided by the Department of Mental Retardation pursuant to Sec. 19-483b-3 of the Regulations of State Agencies.

(3) Newly licensed community living arrangements shall be reimbursed at 100 percent of the negotiated rate for the first 60 days after the first client is in residence. There shall be a proportional adjustment, reflected in the line item cost settlement, for each day after 60 days for which the community living arrangement is not fully occupied, unless the organization provides adequate justification for the reduced occupancy.

This proportional adjustment will be calculated in accordance with Section 17-313b-8 (1) (iii) of these regulations, except that the first 60 days shall not be included in the calculation.

(4) Interim rates shall remain in effect until a room and board rate is established pursuant to Section 17-313b-5 or Section 17-313b-6 of these regulations based upon a 12 month ACOR ending June 30th and a client-based service rate is established pursuant to Section 17-313b-8 of these regulations based upon a 12 month ACOR ending June 30th.

These interim per diem rates may be revised by the commissioner at any time based on additional information which may become available to him.

(5) Interim room and board rates shall be replaced by revised rates computed on the basis of actual per diem costs which are allowable as defined in Section 17-313b-5 or Section 17-313b-6 of these regulations for the period in which the interim rates were in effect. Proper

retroactive adjustments, in favor of the community living arrangement or the state shall be made to all amounts paid on the basis of interim rates.

(Effective June 24, 1988)

Sec. 17-313b-11. Amortization of start-up costs not paid by the Department of Mental Retardation through start-up funding

Costs that are normally identified under generally accepted accounting principles as organizational expenses and/or costs which are to be capitalized shall be excluded from costs proposed to the Department of Mental Retardation for start-up funding under Section 19-483a G.S. and applicable regulations. Any such excluded costs shall be amortized over a reasonable period of not less than thirty-six (36) months beginning with the month during which the first client is in residence and shall be reimbursed in the service portion of the rate.

(Effective June 24, 1988)

Sec. 17-313b-12. Interim contract year adjustment of client-based service rate

Organizations are not to exceed cost elements included in their negotiated rate without prior written authorization from the appropriate Department of Mental Retardation regional director.

An organization may only request negotiation on an adjusted client-based service rate when a new client enters the community living arrangement whose needs, as documented in a residential client needs assessment, will cause a significant variation in the existing client-based service rate or in an emergency situation.

(Effective June 24, 1988)

Sec. 17-313b-13. Phase-in of client-based service rate system

Three separate rate setting systems shall exist to establish service rates for the contract year July 1, 1987 through June 30, 1988. For succeeding contract years, all existing community living arrangements shall have client-based service rates established in accordance with Sec. 17-313b-8 of these regulations. After June 30, 1988, all newly licensed community living arrangements will have an initial rate established in accordance with Sec. 17-313b-10 of these regulations.

(1) All organizations shall file an unaudited consolidated operational report on or before the date established by emergency regulation for the period July 1, 1985 through June 30, 1986. For any organization which failed to comply with the provisions of Section 17-313b-2 of the emergency regulations, effective July 9, 1987, the commissioner may authorize rates comparable to the lowest rate paid to a community living arrangement for the same level of care.

(2) Pilot organizations, selected on a voluntary basis from a region designated by the Commissioner of Mental Retardation, shall file operational plans on or before dates agreed upon by such organizations and the Department of Mental Retardation, for the contract year

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July 1, 1987 through June 30, 1988.

(i) Room and board reimbursement rates shall be established for the community living arrangements operated by the pilot organizations, in accordance with Sec. 17-313b-5 or Sec. 17-313b-6 of these regulations, whichever is applicable for the contract year July 1, 1987 through June 30, 1988.

(ii) Client-based service rates shall be negotiated and established for the community living arrangements operated by the pilot organizations in accordance with Sec. 17-313b-8 of these regulations, for the contract year July 1, 1987 through June 30, 1988, and shall supercede any previously established rates for the pilot organizations.

(3) Existing community living arrangements operated by non-pilot organizations shall have rates established for the contract year July 1, 1987 through June 30, 1988 based upon the unaudited consolidated operational report.

(i) Room and board reimbursement rates shall be established for the community living arrangements operated by the non-pilot organizations, in accordance with Sec. 17-313b-5 or Sec. 17-313b-6 of these regulations, whichever is applicable.

(ii) Per diem service reimbursement rates for community living arrangements licensed for four or more beds, excluding beds designated for staff and/or respite care, shall be calculated based upon:

(a) An amount for direct care staff, administrative and clerical staff and/or services, transportation of residents and staff, and such other expenses necessary to maintain the licensure of the facility in accordance with the regulations of the Department of Mental Retardation, adjusted by the Gross National Product (GNP) deflator percentage increase or decrease for the eighteen month time lag from the cost year to the rate year; plus

(b) A cost efficiency adjustment of 25% of the difference between the allowable cost per resident day in the cost year and the service rate promulgated pursuant to subsection (3) (iii) infra of these regulations for the group home's licensed level of care for the rate year ending June 30 following the close of the cost year. In no event shall such cost efficiency adjustment be made if the allowable cost per resident day as defined in these regulations in the cost year exceeds 90% of the amount for the applicable level of care in subsection (3) (iii) infra; plus

(c) Computation of a per diem reimbursement rate based upon the total costs as adjusted by the procedures referred to above divided by the minimum allowable resident days for the applicable cost year.

A resident day is the unit of measurement for lodging provided and services rendered to one inpatient between the census-taking hour on two successive days. In computing resident days, the day of admission shall be counted but the day of discharge shall not. In computing resident days, reserve bed days for which payment is received shall be counted.

For purposes of computing minimum allowable resident days, utilization of a facility's licensed beds shall be determined at a minimum of 90% of capacity (excluding beds designated for respite care), except for new facilities and facilities which are licensed for additional beds which may be permitted a lower occupancy rate for the first three months

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of operation after the effective day of licensure. Minimum allowable resident days for beds designated for respite care shall be determined at a minimum of 50% of capacity.

(iii) Per diem service rates for existing community living arrangements, licensed for three or fewer beds, excluding beds designated for staff and/or respite care, operated by non-pilot organizations shall be a flat rate based on the aggregate level of care provided in the community living arrangement as indicated in the license issued by the Department of Mental Retardation. Such rates shall also be the maximum amount paid per day for all community living arrangements at each level of care.

The per diem rates for the level of care as determined by the Department of Mental Retardation at the time of licensure, for the contract year ending June 30, 1988 are as follows:

<i>Licensed Level Of Care</i>	<i>Amount Per Resident Per Day</i>
1	\$ 19.93
2	\$ 42.67
3	\$ 54.35
4	\$ 68.59
5	\$ 89.83

The Commissioner of Income Maintenance may, upon the written request of the Commissioner of Mental Retardation, grant an exemption from the per diem service rate for the level of care 5 if the Commissioner of Mental Retardation determines that the per diem service rate would jeopardize an appropriate placement. The per diem service rate established in excess of level of care 5 shall be programmatically and fiscally justified by the Commissioner of Mental Retardation.

If a community living arrangement is licensed to serve clients at more than one disability level, a weighted average amount payable to such community living arrangement shall be computed as follows. The Department of Mental Retardation shall designate the number of beds licensed at each level of care in the community living arrangement. The rate for a community living arrangement shall be determined by summing for each level of care within the community living arrangement the product of the number of beds at each level times the amount specified in this subsection for each level, or the amount granted in an exemption pursuant to this section, updated to the current contract year, and dividing said sum by the total number of licensed beds in the community living arrangement. The commissioner, with the approval of the Commissioner of Mental Retardation, may grant an exemption from the limitations of this section, if such exemption is necessary to accommodate residential direct service staff compensation adjustments approved by the Commissioner of the Department of Mental Retardation. Any such exemptions shall be programmatically and fiscally justified by the Commissioner of the Department of Mental Retardation.

A community living arrangement which does not achieve 90 percent occupancy in the

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first 90 days of operation may petition the Commissioner for a service rate which exceeds the amount specified in this subsection based on the hardship which such limitation would otherwise cause. Such petition must set forth the pertinent factors relating to such hardship, including such detailed cost data as may be required to document the facts of the case and the reasons for the failure to attain the aforementioned occupancy level. Based on the consideration of the foregoing and any other factors as the commissioner deems pertinent, the commissioner, with the approval of the Commissioner of the Department of Mental Retardation, may grant an exemption of not more than ninety days from the limitations of this section.

(4) New community living arrangements operated by non-pilot organizations which receive initial funding through state fiscal year 1987–1988 appropriations, shall have rates established in accordance with the following:

(i) Room and board reimbursement rates shall be established for new community living arrangements which receive initial funding through state fiscal year 1987–1988 appropriations, operated by non-pilot organizations, in accordance with Sec. 17-313b-5 or Sec. 17-313b-6 of these regulations, whichever is applicable.

(ii) Service rates for these community living arrangements shall be established in accordance with the following modified level of care system. The per diem service rates for the modified level of care as determined by the Department of Mental Retardation at the time of licensure for the contract year ending June 30, 1988, are as follows:

<i>Licensed Level of Care (Level of Supervision)</i>	<i>Amount Per Resident Day</i>
1 and 2 (assisted) 3 and 4 (moderate supervised)5	\$42.67 \$68.59
(ongoing comprehensive)	\$89.83

The Commissioner of Income Maintenance may, upon the written request of the Commissioner of Mental Retardation, grant an exemption from the per diem service rate for the level of care 5 if the Commissioner of Mental Retardation determines that the per diem service rate would jeopardize an appropriate placement. The per diem service rate established in excess of level of care 5 shall be programmatically and fiscally justified by the Commissioner of Mental Retardation.

If a community living arrangement is licensed to serve clients at more than one disability level, a weighted average amount payable to such community living arrangement shall be computed as follows. The Department of Mental Retardation shall designate the number of beds licensed at each level of care in the community living arrangement. The rate for a community living arrangement shall be determined by summing for each level of care within the community living arrangement the product of the number of beds at each level times the amount specified in this subsection for each level, or the amount granted in an exemption pursuant to this section, updated to the current contract year, and dividing said sum by the total number of licensed beds in the community living arrangement. The Commissioner,

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with the approval of the Commissioner of Mental Retardation, may grant an exemption from the limitations of this section, if such exemption is necessary to accommodate residential direct service staff compensation adjustments approved by the Commissioner of the Department of Mental Retardation. Any such exemptions shall be programmatically and fiscally justified by the Commissioner of the Department of Mental Retardation.

A community living arrangement which does not achieve 90 percent occupancy in the first 90 days of operation may petition the commissioner for a service rate which exceeds the amount specified in this subsection based on the hardship which such limitation would otherwise cause. Such petition must set forth in pertinent factors relating to such hardship, including such detailed cost data as may be required to document the facts of the case and the reasons for the failure to attain the aforementioned occupancy level. Based on the consideration of the foregoing and any other factors as the commissioner deems pertinent, the commissioner, with the approval of the Commissioner of the Department of Mental Retardation, may grant an exemption of not more than ninety days from the limitations of this section.

(5) Rates will only be established in accordance with this section for the contract year July 1, 1987 through June 30, 1988. Thereafter, rates shall be established in accordance with the remaining sections of these regulations.

(Effective June 24, 1988)

Sec. 17-313b-14. Record maintenance and retention

Each organization shall maintain all supporting accounting and business records and records relating to the provision of service which shall be available for review at a place and time determined by the Department of Mental Retardation or the Department of Income Maintenance for a minimum period of ten (10) years without regard for changes in ownership. The Commissioner may disallow those costs for which appropriate documentation has not been maintained. All organizations shall be required to maintain their books of account on the accrual method of accounting, and accurate time records shall be maintained for all persons paid salaries or wages.

(Effective June 24, 1988)

Sec. 17-313b-15. Audits

The Departments of Income Maintenance and Mental Retardation shall have the right to audit all supporting accounting and business records and all records relating to the provision of services to clients funded by the respective departments in community living arrangements.

(Effective June 24, 1988)

Sec. 17-313b-16. Other reporting requirements

Each organization which has filed an initial operational plan negotiated client-based service rate(s) and has had room and board rate(s) established under that plan shall file

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subsequent mid-year operational report summaries on forms provided by the Department of Mental Retardation. Mid-year reports shall be used for ongoing assessment of management, financial and programmatic performance.

(Effective March 22, 1990)

Sec. 17-313b-17. Temporary service supplement

An organization may apply to the Commissioner of Mental Retardation for a temporary service supplement to the established client-based service rate for any community living arrangement. A temporary service supplement shall be available only for payment for time-bounded, client-specific, outcome-oriented resources to be used during periods of unanticipated client stress and transition. The need for a temporary service supplement must be documented and approved by the interdisciplinary team for the specific client. The Commissioner of Mental Retardation shall certify the need for and amount of the supplement to the commissioner who shall authorize payment of the supplement from funds appropriated to the Department of Mental Retardation. In no event shall a temporary service supplement be paid for longer than eighteen (18) months.

(Effective June 24, 1988)

Sec. 17-313b-18. Hearings

Any organization which is aggrieved by any rate decision pursuant to these regulations by the Commissioner of Income Maintenance or the Commissioner of Mental Retardation may, within ten days after written notice thereof from the commissioner issuing the decision obtain by written request from the commissioner issuing the decision a hearing on all items of grievance. Hearings and all subsequent appeals therefrom before the Commissioner of Income Maintenance shall be conducted in accordance with the procedures specified in Section 17-311 (b) G.S., and Sections 17-311-1 through 17-311-40 of the Regulations of Connecticut State Agencies. Hearings and all subsequent appeals therefrom before the Commissioner of Mental Retardation shall be conducted in accordance with the procedures specified in Sections 19-570-1 through 19-570-60 of the Regulations of Connecticut State Agencies. The Commissioners may request the participation of others when appropriate.

(Effective March 22, 1990)