

Chapter HFS 15

ASSESSMENT FOR OCCUPIED BEDS IN NURSING HOMES AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

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|-----------|---------------------------------------|
| HFS 15.01 | Authority and purpose. |
| HFS 15.02 | Definitions. |
| HFS 15.03 | Facilities not subject to assessment. |
| HFS 15.04 | Assessment calculation. |
| HFS 15.05 | Deficiency and refund determinations. |

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| HFS 15.06 | Interest and penalties. |
| HFS 15.07 | Administration and due dates. |
| HFS 15.08 | Collection of delinquent assessments. |
| HFS 15.09 | Appeals. |

Note: Chapter HSS 15 was created as an emergency rule effective October 1, 1992. Chapter HSS 15 was renamed chapter HFS 15 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, April, 1997, No. 496.

HFS 15.01 Authority and purpose. This chapter is promulgated under the authority of s. 50.14 (5) (b), Stats., to establish procedures and other requirements necessary for levying and collecting the monthly assessment imposed under s. 50.14 (2), Stats., on all licensed beds in intermediate care facilities for the mentally retarded (ICF-MR) and nursing homes, except facilities that are located outside the state.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93; emerg. am., eff. 7-28-03; CR 03-080: am. Register February 2004 No. 578, eff. 3-1-04.

HFS 15.02 Definitions. In this chapter:

(1) "Assessment" means a tax that is determined, levied, collected and paid according to this chapter and s. 50.14, Stats., including any applicable interest and penalties.

(3) "Department" means the Wisconsin department of health and family services.

(4) "Facility" means an ICF-MR or nursing home.

(5) "ICF-MR" or "intermediate care facility for the mentally retarded" means a facility or distinct part of a facility defined under 42 USC 1396d (d) and regulated under ch. HFS 134.

(7) "Nursing home" has the meaning prescribed under s. 50.01 (3), Stats., except that it does not include an ICF-MR.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93; correction in (5) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999, No. 522; emerg. r. (2), (6) and (8), eff. 7-28-03; CR 03-080: r. (2), (6) and (8) Register February 2004 No. 578, eff. 3-1-04; correction in (3) made under s. 13.93 (2m) (b) 6., Stats., Register February 2004 No. 578.

HFS 15.03 Facilities not subject to assessment. Facilities located outside the state are excluded from assessments imposed under this chapter and s. 50.14, Stats.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93; emerg. r. and recr., eff. 7-28-03; CR 03-080: r. and recr. Register February 2004 No. 578, eff. 3-1-04.

HFS 15.04 Assessment calculation. (1) ASSESSMENT. Every facility that is not excluded under s. HFS 15.03 shall pay an assessment per licensed bed as prescribed by s. 50.14, Stats., and as calculated pursuant to this section and s. 50.14, Stats. The amounts of the assessment per licensed bed shall be as specified by s. 50.14, Stats.

(2) **CALCULATION.** (a) The assessment shall be on the number of licensed beds of the facility on the 15th day of the calendar month previous to the month of assessment, as verified by the department.

(b) 1. In determining the number of licensed beds, if the number of beds is other than a whole number, the fractional part of the amount shall be disregarded unless it equals 50% or more of a whole number, in which case the amount shall be increased to the next whole number.

2. The number of licensed beds of a nursing home includes any number of beds that have been delicensed under s. 49.45 (6m)

(ap) 1., Stats., but not deducted from the nursing home's licensed bed capacity under s. 49.45 (6m) (ap) 4. a., Stats.

(c) In a facility having some beds that are licensed as ICF-MR beds and some beds that are licensed as nursing home beds, separate calculations shall be performed for the ICF-MR beds and for the nursing home beds.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93; emerg. am., eff. 7-28-03; CR 03-080: am. (1), (2) (a) and (c), renum. (2) (b) to be (2) (b) 1. and am., cr. (2) (b) 2. Register February 2004 No. 578, eff. 3-1-04.

HFS 15.05 Deficiency and refund determinations. The department may conduct office or field audits or both to determine any assessment or refund due. The department and facilities under this chapter have authority and obligations in the same manner described in s. 77.59 (1) to (5), (6) (intro.), (a) and (c) and (7) to (10), Stats.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93.

HFS 15.06 Interest and penalties. Assessments are subject to interest and penalties in the same manner and amounts described in s. 77.60 (1) to (7), (9) and (10), Stats.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93.

HFS 15.07 Administration and due dates. (1) A facility shall provide the department with the data necessary for the calculation of the assessment on forms prescribed by the department, shall retain records supporting that data, and shall tender payment for the assessment in accordance with instructions issued by the department. In administering this system, the department and facilities shall have powers and obligations in the same manner described in s. 77.61 (9) and (12) to (14), Stats.

(2) The department shall mail the required assessment forms to each subject facility during the first 5 working days following the assessment month. The completed forms and payment shall be submitted by the facility on a timely basis. The completed forms and payment shall be considered timely only if the envelope containing them is properly addressed, has postage duly prepaid, is postmarked no later than the last day of the calendar month following the assessment month, and is actually received by the department within 5 calendar days after the last day of the calendar month.

(3) If the department determines that a facility's number of licensed beds has changed, the department shall notify the facility of changes in the number of beds and assessment and shall send the facility an invoice for the additional amount due or send the facility a refund. Any additional amount due shall be paid by the facility no later than 30 days following the date of the department's notice.

(4) A facility shall notify the department of a change in ownership, transfer of license, change in number of licensed beds, address change and any other information pertinent to the facility's assessment on a form provided by the department. Notification of change shall be included with the first assessment payment made following the change.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93; emerg. am. (3), eff. 7-28-03; CR 03-080: am. (3) Register February 2004 No. 578, eff. 3-1-04.

HFS 15.08 Collection of delinquent assessments.

The department may collect delinquent assessment payments in a manner comparable to that described in s. 77.62, Stats.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93.

HFS 15.09 Appeals. If a facility contests any action of the department under this chapter or s. 50.14, Stats., the facility may submit a request for hearing to the department of administrations division of hearings and appeals. The request for hearing shall be

in writing and shall contain a brief and plain statement identifying every matter or issue contested. The request for hearing shall be sent to the department of administration's division of hearings and appeals so that it is received there no later than 30 days after the date of the department's action. A final hearing decision shall be subject to judicial review as the facility of the obligation to pay a disputed assessment within the prescribed deadline.

Note: A request for a hearing should be sent to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707.

History: Cr. Register, May, 1993, No. 449, eff. 6-1-93.