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November 12, 2019

Ellen Attaliades
President and CEO
Association of Developmental Disabilities Providers
1671 Worcester Road Suite 201
Framingham, MA 01701

Dear Ellen:

Thank you for working with the Department of Developmental Services to address specific concerns expressed by providers regarding the treatment of certain occupancy costs. I wanted to take this opportunity to update ADDP on recent changes that DDS has implemented to address some of the items outlined in your September 21, 2018 letter as well as recent updates that impact the development of ABI/MFP homes.

CEDAC / FCF Loans

In response to issues raised by ADDP, the Department has conducted a thorough review of the Facility Consolidation Funding (FCF) loan terms and is issuing a revised policy for pricing sites where FCF loans are awarded. Starting July 1, 2019, the Department will only recalculate the financing costs once the FCF loan is awarded for provider owned and related party sites. The Department will no longer recalculate depreciation costs. For capital leases, the Department will continue current practice by recalculating the occupancy rate based on the new lease amount. The revised rate will be incorporated into the provider's occupancy contract effective the first day of the fiscal year that immediately follows the date of the loan disbursement. See attached policy.

For FY2019, the Department recomputed rates for thirteen sites where the provider or a related party owned the site and received Facility Consolidation Funding. The Department will recalculate the rates for these sites using the new calculation. The effect of which will be to restore any reductions made to depreciation expenses. The revised occupancy rate for these sites will be effective July 1, 2019.

Interest Calculation

In reviewing occupancy rates established through June 30, 2019, the Department realized the methodology used by the Executive Office of Health and Human Services to calculate the annual interest amount inflated the cost of interest over the life of the loan. Effective July 1, 2019, the Department revised the New Site Occupancy (NSO) Application and transitioned to a new methodology for determining annual interest. Providers completing the FY20 version of the New Site Occupancy Application have questioned this new methodology.

After considering feedback from providers, the Department has decided to use the methodology developed by the Executive Office to price all provider owned and provider constructed new sites in FY20. The Department is planning to convene a small group of providers that are developing or building new sites to determine an appropriate methodology for computing interest over the life of the loan/s for FY21.

Any new site rates established after June 30, 2019 for provider owned or provider constructed sites will be re-priced. Revised new site rates to be effective July 1 will be forwarded to providers and the appropriate regional office.

CIL / Capital Leases

In setting rates for homes acquired via capital lease, the Department followed guidance issued by the Executive Office and excluded specific costs when setting the new site occupancy rate. These costs included categories such as appraisal fees, construction loan interest, closing costs, legal fees, and any development fee. As of October 1, 2019, the Department will include all development costs in the occupancy rate calculation as long as the capital lease company applies for and is awarded a FCF loan. If the capital lease company does not apply for a FCF loan, all development costs except for the development fee will be included.

ABI/MFP

The Department has forwarded two updates to providers that we hope will encourage the development of new ABI/MFP sites through 6/30/2021.

Providers that open 5 bedroom homes are eligible for an additional $25,000, up to a total of $75,000, in start-up and capital funding. The Start-Up Expense Proposal Worksheet and instructions were updated to reflect this change. In addition, an ABI/MFP provider may request funding in excess of sub-caps embedded in the NSO Application. If the provider submits documentation that justifies additional costs per guidance issued by the Department, DDS will increase the sub cap amounts currently embedded in the Application. The overall cap of $2,136 stated in regulation remains in effective until 6/30/2020.

We look forward to continuing to work with ADDP and DDS providers to increase the number of residential homes serving ABI/MFP individuals in the community and strengthening our processes for establishing occupancy rates.

Sincerely,

Jane F. Ryder

Jane F. Ryder
Commissioner

Department of Developmental Services
Policy for ALTR Occupancy Rate Setting for Sites Awarded FCF Loans
Effective November 1, 2019

The following policy describes the process for ALTR Occupancy Rate Setting for sites where the developer applies for and is awarded loans under the Facilities Consolidation Loan Program (FCF), facilitated by the Community Economic Development Assistance Corporation (CEDAC) and the Department of Housing and Community Development (DHCD). This policy applies for sites owned by the provider, sites owned by a related party that are leased back to the provider, and sites acquired via capital leases.

The FCF loan program offers loans to developers of eligible housing projects for up to 50% of a project's total development cost. Loans are permanent, deferred payment loans for a term of 30 years, and are advanced without interest. As long as the site remains in the service of DDS individuals, the loan may be extended for an unlimited number of successive ten-year periods, however the principal amount of the loan is always due upon the maturity date of the loan. For the purpose of this policy, DDS will treat the FCF loan as zero interest re-financing on the existing loan(s) for the site, with the understanding that the disbursed FCF funds will be used to pay down this existing debt.

Initial Site Pricing
FCF loans are typically not awarded for at least three years after application. Therefore, DDS will set an initial NSO rate that will remain in place until such time as the FCF loan proceeds are disbursed to the provider.

Provider and Related Party Owned Sites

Sites where the provider or related party has applied for FCF loans will go through the standard New Site Occupancy Application (NSO) process. On the NSO Application the provider must indicate that the FCF loan has been applied for, and note the date of application. For provider and related party owned sites, there are no changes to the pricing process and an initial NSO rate will be established without regard for the potential FCF loan award.

Capital Leases

Sites obtained via capital lease, where the lessor has applied for FCF loans, will be priced through the NSO Application process without any expense exclusions and maybe eligible for an exception to the maximum rate cap. On the NSO Application, the provider must indicate that the FCF loan has been applied for, and note the date of application.

When an FCF loan is applied for, DDS will include all incurred project expenses, including any development fee, when calculating the monthly lease amount. The provider will still be required to submit the lessor's updated costs to DDS prior to finalizing the NSO rate. If for any reason there are amendments to the capital lease amount after the NSO rate is set, the provider must immediately notify DDS and the site may be subject to re-pricing.

Additionally, sites awarded FCF loans are eligible for a maximum rate cap that is one tier above the maximum rate stated in the regulation (101 CMR 420.00).

Re-Pricing for Sites Awarded FCF Loans

Upon the award of an FCF Loan, the provider must immediately notify DDS of the loan disbursement and engage in the re-pricing process. DDS will reset the occupancy rate by revising the NSO Application that was originally used to set the rate for the site. DDS will only make changes to expenses listed on the NSO application as they relate to the FCF loan disbursement. No other changes will be considered.

Once applicable revisions to the NSO Application have been made, DDS will recalculate the monthly per person rate. The revised rate will be incorporated into the occupancy contract effective the first day of the fiscal year that immediately proceeds the date of the loan disbursement.

Provider and Related Party Owned Sites

In the case of sites owned by the provider or a related party, where the provider or a related party is the borrower on the FCF loan agreement, DDS will recalculate the financing costs for the site. DDS considers the FCF loan to be zero interest re-financing on the existing loan(s) for the site, and as such will reduce the Amount Financed by the value of the FCF Loan disbursement. The effect of which will be to reduce the annual interest calculation on provider owned sites, and the maximum allowable rent charged on related party owned sites. No changes will be made to the depreciation basis for the site.

Capital Leases

In the case of sites obtained through a capital lease, where the provider is not the borrower on the loan agreement, DDS will re-set the "Monthly Capital Lease" amount based on the revised lease agreement between the provider and the lessor.

If for any reason the FCF loan application is denied, the NSO rate will be re-set using the standard exclusions and maximum rate cap associated with sites obtained via capital lease.