

129-10-25. Real and personal property fee. (a) A real and personal property fee shall be developed by the agency in lieu of an allowable cost for ownership or lease expense, or both. The fee shall be facility-specific and shall not change as a result of change of ownership, a change in lease, or reenrollment in the medicaid program by providers. An inflation factor may be applied to the fee on an annual basis.

The real and personal property fee shall include an appropriate component for the following:

- (1) Rent or lease expense;
- (2) interest expense on a real estate mortgage;
- (3) amortization of leasehold improvements; and
- (4) depreciation on buildings and equipment.

(b)(1) The real and personal property fee shall be determined based on one of the following methodologies:

(A) For providers enrolled in the Kansas medical assistance program with a real and personal property fee for each facility, the real and personal property fee shall be the sum of the property allowance and value factor.

(B) For providers reenrolling in the Kansas medical assistance program or providers enrolling for the first time but operating in a facility that was previously enrolled in the program, the real and personal property fee shall be the sum of the last effective property allowance and the last effective value factor for the facility.

(C) The real and personal property fee for a newly constructed nursing facility or a nursing facility that enters the Kansas medical assistance program and has not had a fee established previously shall be calculated based on the following methodology:

(i) A projected real and personal property fee shall be calculated using a projected cost report by dividing the total of the four real and personal property fee components reported in the ownership cost center by the greater of the total number of resident days reported or 85 percent of the licensed capacity for the cost report period.

(ii) A historical real and personal property per diem shall be calculated using a historical cost report by dividing the total of the four line items reported in the ownership cost center by the greater of the total number of resident days reported or 85 percent of the licensed capacity for the cost report period.

(iii) A settlement between the projected and historical rates, which shall include the real and personal property fee, shall be made in accordance with K.A.R. 129-10-18 (e).

(2) The real and personal property fee shall be subject to an upper payment limit. The upper payment limit for the real and personal property fee shall be determined by the median real and personal property fee plus a percentage of the median. The percentage factor applied shall be determined by the secretary.

(c)(1) The depreciation and amortization component of the real and personal property fee shall meet these criteria:

- (A) Be identifiable and recorded in the provider's accounting records;
 - (B) be based on the historical cost of the asset as established in this regulation;
- and
- (C) be prorated over the estimated useful life of the asset using the straight-line method.

(2)(A) Appropriate recording of depreciation shall include the following:

- (i) Identification of the depreciable assets in use;
- (ii) the assets' historical costs;
- (iii) the method of depreciation;
- (iv) the assets' estimated useful life; and
- (v) the assets' accumulated depreciation.

(B) Each provider shall report gains and losses on the sale of depreciable personal property on the cost report at the time of the sale. The provider shall record trading of depreciable property in accordance with the income tax method of accounting for the basis of property acquired. Under the income tax method, gains and losses arising from the trading of assets shall not be recognized in the year of trade but shall be used to adjust the basis of the newly acquired property.

(3) The cost basis shall not include costs attributable to the negotiation or final purchase of the facility, which may include legal fees, accounting fees, travel costs, and the cost of feasibility studies.

(d) Any provider may request that the agency rebase the real and personal property fee. Providers shall submit rebase requests for completed capital improvement projects or phases of capital improvements projects. The following methodology shall be used to determine a revised real and personal property fee based on the rebase request.

(1) Rebase requests shall be reviewed to determine a revised real and personal property fee if the provider meets the following capital expenditure thresholds:

- (A) \$25,000.00 for facilities with 50 or fewer beds; or
- (B) \$50,000.00 for facilities with 51 or more beds.

(2) The per diem based on the interest expense, depreciation expense, and amortization of leasehold improvements shall be added to the real and personal property fee in effect on the date that the rebase is made effective. Interest expense reported in the operating cost center shall not be included in the request for a rebase of the real and personal property fee. Interest on loans for real and personal property that is included in a rebase shall be reported with mortgage interest in the ownership cost center.

(3) The number of resident days used in the denominator of the real and personal property fee calculation shall be based on the total number of resident days from the most recent desk-reviewed cost report to rebase the property fee. The resident days shall be subject to the 85 percent minimum occupancy requirement, including any new beds documented in the request for a rebase.

(4) The revised real and personal property fee shall be subject to the upper payment limit in effect on the date the rebase is made effective.

(5)(A) If the number of beds of an existing nursing facility is increased by the construction of a new addition to the existing facility, the real and personal property fee established through the rebase shall be effective according to either of the following schedules:

(i) On the first day of the month in which the new beds were certified if the certification date was on or before the 15th of the month; or

(ii) On the first day of the month following the month in which the beds were certified if the certification date is on or after the 16th of the month.

(B) If the capital expenditure that is the basis for the rebase request is not related to an increased number of beds, the real and personal property fee established through the rebase shall be effective according to either of the following schedules:

(i) On the first day of the month in which the complete documentation is received, if the request is received on or before the 15th of the month; or

(ii) On the first day of the month following the month in which the complete documentation is received, if the request is received on or after the 16th of the month.

(C) Complete documentation shall include the following:

(i) The depreciation or amortization schedule reflecting the expense, including the construction-in-progress subsidiary ledger;

(ii) the loan agreement;

(iii) the amortization schedule for interest;

(iv) invoices;

(v) receipts for contractor fees; and

(vi) receipts for other costs associated with the capital expenditure.

(6) Invoices or contractor statements dated more than two years before the date the rebase request is received shall not be allowed. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)