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Fax: 615-741-5133
Email: register.information@tn.gov

These emergency rules were replaced by 08-07-10 On 08/06/2010.

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Sequence Number:	06-32-10
Rule ID(s):	4787
File Date (effective date):	06/30/2010
End Effective Date:	12/27/2010

Emergency Rule Filing Form

Emergency and Public Necessity rules are effective from date of filing for a period of up to 180 days.

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Intellectual Disabilities Services
Contact Person:	Stephen O. Tepley, General Counsel or Marilynn A. Tucker, Managing Attorney
Address:	500 Deaderick Street, Suite 1310, Nashville, TN
Zip:	37243
Phone:	(615) 253-2025
Email:	Steve.Tepley@tn.gov or Marilynn.Tucker@tn.gov

Rule Type:
X Emergency Rule

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Statement of Necessity:

This statement of necessity is made in accordance with the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, specifically T.C.A. § 4-5-208, the Rules for Filing Rulemaking Documents, Chapter 1360-01-01 et. seq., T.C.A. § 33-1-309 (d) and T.C.A. § 33-1-204. It is the finding of the Department of Finance and Administration, Division of Intellectual Disabilities Services, that the foregoing rule amendments to the Methodology Utilized to Determine Payments to Service Providers (Rate Structure) should be effective immediately as emergency rules.

Pursuant to an agreement between the Division of Intellectual Disabilities Services (DIDS, Division) and the Bureau of TennCare, the agencies have worked extensively over the past several years to revise the ratemaking system currently in effect for community service providers under agreement with the Division. The result of this effort has been the development of a methodology for determining the funding mechanism/amounts to be paid to the Division's contractors who aid intellectually disabled persons served by DIDS in Tennessee.

DIDS is making a concerted effort through adjustment of its rates of payment pursuant to its existing rules to modify the amounts paid to DIDS' providers. It is imperative that the Division's program expenditures remain within its approved fiscal limits and that of the budgetary limitations placed upon it by the legislature. These emergency rule amendments establish a rate formulation methodology to comport with and complete this process.

The delay in promulgating these amendments utilizing the ordinary rulemaking procedures as found in Title 4, Chapter 5 of the Tennessee Code Annotated, as well as Chapter 1360 of the O.C.R.R.S.T. could cause the loss of critical federal matching funding for these services. The current legislature has only very recently set the parameters for the coming fiscal year, leading to these rate making changes. Furthermore, without the rates resulting from this process, the Division will incur a significant deficit between its operating expenses and available funding; leading to the reality of being unable to compensate its contracted providers. These persons and organizations furnish necessary - and in some cases critical services - to residents across the State of Tennessee who have needs for assistance due to intellectual disabilities.

The Division of Intellectual Disabilities Services will send a written notice to those persons it believes will be effected by these rules as well as posting them on its website within ten (10) working days of the date their filing.

For a copy of this emergency rule contact: Simone Cuarino, Legal Assistant, Division of Intellectual Disabilities Services, Thirteenth Floor (Suite 1310), Andrew Jackson Building, 500 Deaderick Street, Nashville, Tennessee 37243, (615) 253-2025.

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0940-4-3	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	**Rule Title**
0940-04-03-.03	Definitions
0940-04-03-.04	Rate Setting Methodologies for Medical, Residential Services
0940-04-03-.05	Rate Setting Methodologies for Residential & Supported Living
0940-04-03-.06	Special Needs Adjustments
0940-04-03-.07	Rate Setting Methodologies for Day Services
0940-04-03-.08	Rate Setting Methodologies for Clinical Services
0940-04-03-.09	Rate Setting Methodologies for Respite and Personal Assistance Services
0940-04-03-.10	Rate Setting Methodologies for Dental Services
0940-04-03-.11	Rate Setting Methodologies for Personal Emergency Response Systems
0940-04-03-.12	Rate Setting Methodologies for Specialized Medical Equipment and Supplies
0940-04-03-.13	Rate Setting Methodologies for Environmental Modifications
0940-04-03-.14	Rate Setting Methodologies for Vehicle Modifications
0940-04-03-.15	Rate Setting Methodologies for Vision Services
0940-04-03-.16	Rate Setting Methodologies for Independent Support Coordination Services
0940-04-03-.17	Rate Setting Methodologies for services funded exclusively by the State [Non-Waiver State Funded (NWSF) Services.]

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://state.tn.us/sos/rules/1360/1360.htm)

Rules
Of
Tennessee Department of Finance and Administration
Division of Intellectual Disabilities Services

Amended Rules

Chapter 0940– 04–03
Methodology Utilized To Determine Payments to Service Providers
(Rate Structure)

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0940-04-03-.17 Rate Setting Methodologies for services funded exclusively by the State [Non-Waiver, State Funded (NWSF) Services.

0940-04-03-.01 Purpose.

This chapter establishes a rate setting methodology for Residential Day and other Services that are provided through the Department of Finance and Administration Division of Intellectual Disabilities Services.

Authority: Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.02 Scope.

These rules apply to the procedures and practices used to establish rates of payment for Residential, Day and other services acquired by the Department of Finance and Administration – Division of Intellectual Disabilities Services for or on behalf of those persons served by it under its various Medicaid Waivers; the provisions of Title 33 and 34 of the Tennessee Code Annotated; and, Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23, dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.03 Definitions.

As used in these rules, unless the context indicates otherwise, the terms listed below have the following meaning:

(1) "Administrative Costs" are the allowable percentage of the service rate that includes, for example, the costs for administrative salaries and benefits, home office costs, office supplies and printing, phone and other communication, travel and conference, advertising, professional services, licensure and dues, legal and accounting fees, interest, depreciation, occupancy, general liability insurance, equipment and administrative vehicles.

(2) "Direct Service Costs" are the costs for direct service such as staff salaries and benefits, overtime, direct supervision wages and benefits, contracted direct service/temporary help, training, recruiting/advertising, drug testing, background checks, Hepatitis B and TB tests, and other costs for direct service staff bonuses and employee appreciation events.

(3) "Full Time Equivalent (FTE)" means the total cost for one direct support staff for forty hours. It includes direct service costs, non-direct program costs, administrative costs, and twenty (20) annual days of payment to cover service recipient absences.

(4) "Non-Direct Program Costs" is the allowable percentage of the service rate that includes the costs for multi-site supervisors and benefits, training, off site computer/file storage, depreciation/amortization, internal monitoring, agency case management, personal funds management, healthcare oversight, specific assistance to individuals-room and board, specific assistance to individuals-non-room and board, transportation of individuals, staff travel, facility maintenance, facility supplies, habilitation supplies.

(5) "Rate" is the amount paid per person to approved service providers for each unit of a DIDS service that is provided. A rate unit may be a portion of an hour, a day, a month, an item or a job, depending on the type of service.

(6) "Rate Levels" are the series of rates for residential, day and other services that are based on a service recipient's needs and the size or site of the service setting.

(7) "Rate Level Factor" is the multiplier applied to the FTE daily cost that reflects intensity of support need and number of persons in the home. Rate level factors were based on licensure requirements for staffing and professional judgment of estimated hours of direct support staff assistance required for individuals at each rate level.

(8) "Rate Setting Methodology" is the manner in which the rates for residential, day and other services are calculated or determined.

(9) "Special Needs Adjustment" is an additional payment that may, within the discretion of the Division and subject to resource availability, be added to the residential rate for an individual in appropriate circumstances, e.g. periodic crisis that require additional support.

(10) "Uniform Cost Report" is a report relating to costs and/or operating expenses/revenues completed by providers that is submitted as required by the Division of Intellectual Disabilities Services. The Uniform Cost Report is completed and transmitted in the manner, format and timeframe required by the Division.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.04 Rate Setting Methodologies For Medical, Residential Services.

(1) Medical Residential Services.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 168 hours per week—7 days at 24 hours per week.

2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Allowable Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.

2. Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.

3. Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.

4. Add together the hourly cost for direct support staff and the hourly cost for supervision.

5. Multiply the result from Step four by one and the % allowed for non-direct program costs.

6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.

7. Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.

8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.

9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.

2. Divide the result of Step one by the facility size.

3. Multiply the result of Step two by 385 (to allow for 20 absent days).

4. Divide the result of Step three by 365 to arrive at the daily rate.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.05 Rate Setting Methodologies for Residential Habilitation and Supported Living.

(2) Residential Habilitation and Supported Living (Shift-Staffed) Model.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 138 hours per week—5 days at 18 hours per day and 2 days at 24 hours per day is equal to one week

2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Hourly direct support staff wage plus % for benefits for the hourly cost for direct support staff.

2. Annual salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.

3. Divide the cost per person per year by 52 weeks and by 138 hours to arrive at the hourly cost for supervision.

4. Add together the hourly cost for direct support staff and the hourly cost for supervision.

5. Multiply the result from Step four by one and the % allowed for non-direct program costs.

6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.

7. Multiply the hourly cost for an FTE by 138 hours to arrive at the weekly cost for coverage.

8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.

9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.

2. Divide the result of Step one by the facility size.

3. Multiply the result of Step two by 385 (to allow for 20 absent days).

4. Divide the result of Step three by 365 to arrive at the daily rate.

(2) Supported Living-Companion Model

(a) For non-shift staffed, companion model the unit of service is a day. The calculations are as follows:

(b) Calculate the daily rate per person.

1. Multiply the annual stipend by one and the % for benefits.

2. Add the companion room and board allowance.

3. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.

4. Add costs in steps one through three.

5. Multiply the result of step four by one and the % for non-direct program costs.

6. Multiply the result of step five by one and the % for administrative costs.

7. Divide the result of step six by 365.

8. Multiply the result of step seven by 385 (to allow for 20 absent days).

9. Divide the result of step eight by 365 to arrive at the daily rate.

(3) Family Model for Residential Services

(a) Family Model Residential Services are those provided in a family home under the supervision of a residential services agency. The unit of service is a day.

(b) Calculate the daily rate per person.

1. Multiply the annual stipend by one and the % for benefits.

2. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.

3. Add direct supervision at annual salary plus % for benefits divided by 10 individuals divided by 365 days.

4. Add costs in steps 1 through 3 above.

5. Multiply the result of step four by one and the percent for non-direct program costs.

6. Multiply the result of step five by one and the percent for administrative costs.

7. Divide the result of step six by 365 days.

8. Multiply the result of step seven by 385 days (to allow for 20 absent days).

9. Divide the result of step eight by 365 days to arrive at the daily rate.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.06 Special Needs Adjustments.

(1) An adjustment up to an additional thirty-five dollars ($35.00) per day is available to Residential Habilitation and Supported Living Levels 1-4, for homes with 1-4 persons.

(2) An adjustment of twenty dollars ($20.00) per day is available to Residential Habilitation homes with 5 or more people except for reasons of a vacancy in the home.

(3) This adjustment may be used for additional staff coverage or higher wages for staff.

(4) A special needs adjustment does not change the rate level designated for the individual, but adjusts the rate level as a result of one or more of the following circumstances:

(a) The individual has a history of significant behavioral or psychiatric problems such as DSM-IV diagnosis, violent acting out, serious self-injury or danger to others that are now not apparent due to the design or intensity of services being received or the person has a situation that is unique and results in the need for additional resources.

(b) Less intensive services will likely result in recurrence of previous problems. The Regional Office must review the special adjustment at least annually.

(c) The individual is in circumstances that are time limited but that require support(s) at a higher level than described by the Level. (For example, the person has had a serious illness, injury, or surgery that requires more support while he is recovering than the Level describes.) A special adjustment may be approved for up to ninety (90) days and may be extended for an additional ninety (90) days.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.07 Rate Setting Methodologies For Day Services.

(1) The unit of service is a day.

(2) For day services staff coverage is calculated for 6 hours per day for 243 days per year.

(3) The cost models are calculated with the following direct service cost factors:

(a) Non-direct program costs at the allowable percentage.

(b) Administrative costs at the allowable percentage.

(c) Transportation costs per day per person.

(d) Twenty (20) leave days.

(4) Rate level factor based on service setting and of need of the individual.

(5) Day Service settings include day habilitation facilities, community locations, and community employment locations.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.08 Rate Setting Methodologies For Clinical Services.

(1) The unit for therapy and nursing services is a quarter hour.

(2) The Unit for behavioral services is one quarter (1/4) of an hour.

(3) The rate for clinical services is based on comparison with national rates of payment and comparable rates of payment within the State for like services.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the

"Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.09 Rate Setting Methodologies For Respite and Personal Assistance Services.

(1) The unit for respite and personal assistance services may be one quarter (1/4) of an hour or daily rates as determined by DIDS.

(2) The determination of rates in this section (.09) is calculated based on units of one quarter (1/4) of an hour or of one day of allowable direct service costs and a percentage for administrative costs.

(3) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Personal Assistance.

(4) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Respite services.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.10 Rate Setting Methodologies For Dental Services.

Dental Services rates are those set by TennCare for reimbursement of Medicaid funded dental care.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.11 Rate Setting Methodologies For Personal Emergency Response Systems.

Rates paid are the usual and customary rates for installation and monitoring set by the company providing the service.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.12 Rate Setting Methodologies For Specialized Medical Equipment and Supplies.

Rates paid are the usual and customary costs for the equipment or supplies.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.13 Rate Setting Methodologies For Environmental Modifications.

Rates paid are the usual and customary costs for the modification.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.14 Rate Setting Methodologies For Vehicle Modifications.

Rates paid are the usual and customary costs for the modification.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.15 Rate Setting Methodologies For Vision Services.

Rates paid are a combination of the usual and customary charges for examination and corrective lenses and those set by TennCare for reimbursement of Medicaid funded vision care.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.16 Rate Setting Methodologies for Independent Support Coordination Services

Current rates in this category are found at Rule 0620-06-03-.04 (h) and were derived after consideration of provider input, resource availability as well as system service requirements. Future changes in amounts paid for this service will be made utilizing such tools as: consultation with stake-holders (*e.g.* Independent Support Coordinators, Independent Support Coordination Agencies/Organizations), review of similar services in other states, market conditions, and system needs. Rates are always subject to DIDS funding/resource availability.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.17 Rate Setting Methodologies for services funded exclusively by the State [Non-Waiver; State Funded (NWSF) Services.

Rates paid are discretionary and based upon Service Recipient need, limited by system and service requirements and subject to DIDS funding and resource availability.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 6-28-10

Signature:

Name of Officer: James R. Finch, Ed.D.

Title of Officer: Deputy Commissioner

Subscribed and sworn to before me on: 6/28/10

Notary Public Signature:

My commission expires on: 02/19/2013

MONTGOMERY COUNTY
SIMONE CUARINO
STATE OF TENNESSEE NOTARY PUBLIC

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Attorney General and Reporter

6-30-10
Date

Department of State Use Only

Filed with the Department of State on: 6/30/10

Effective for: 180 *days

Effective through: 12/27/10

** Emergency rule(s) may be effective for up to 180 days from the date of filing.*

Tre Hargett
Secretary of State

RECEIVED
2010 JUN 30 PM 3:25
SECRETARY OF STATE
PUBLICATIONS

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

Without the amendments, it could cost DIDS $4,127,000 annually in unbudgeted personal assistance expense, $5,444,000 in unbudgeted Registered Nurse Oversight costs (where the service expectation has been removed) and $6,170,000 in unbudgeted special needs adjustment costs.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

All methodology utilized by DIDS for determining payment to serve providers shall be adopted as rules in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, which shall be consistent among providers providing substantially the same services [T.C.A. 33-1-309(d)]

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Tennessee Community Organizations (TNCO) and several hundred other contracted service providers across the state. It is unknown as to whether any individual provider would support or object to this change.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None are directly related to this rule. However, under Tennessee's Home and Community Based Services Waiver, Self Determination Waiver and Arlington Waiver, the state is required to develop and adequately fund its provider network.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

Without the amendments, it could cost DIDS $6,469,625 annually in unbudgeted expenditures since it will affect the 709 individuals that need the extra amount for special needs adjustments. The medical residential rate amendment merely reflects the up-to-date changes in the rate amount.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Lucia Beiler, Melinda Lanza, Fred Hix, Debbie Payne.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

As above.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Dr. James Finch, DIDS Deputy Commissioner, or designee, 500 Deaderick Street, 15th Floor, Nashville, TN

37243, (615) 532-6538, Fred Hix, Assistant Commissioner for Administrative Services, 500 Deaderick Street, 15th Floor, Nashville, TN 37243, (615) 253-6710.

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

None at this time.

STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
Division of Mental Retardation Services
OFFICE OF GENERAL COUNSEL

Andrew Jackson Building, Suite 1310
500 Deaderick Street
Nashville, Tennessee 37243

Phone: (615) 253-2025
Fax: (615) 253-7996

June 24, 2010

Mr. Fred Standbrook
Legislative Attorney
Government Operations Committee Staff
Office of Legal Services
War Memorial Building
Nashville, Tennessee 37219

RE: Department of Finance and Administration, Division of Intellectual Disabilities Services' Amendment to Rules, Chapter 0940-04- 03, (currently Division of Mental Health and Developmental Disabilities Rules, Chapter 0940-4-3).

Dear Mr. Standbrook:

Pursuant to Tenn. Code Ann. § 4-5-226(i), please find enclosed a copy of the amendments to existing rules promulgated by the Department of Finance and Administration, Division of Intellectual Disabilities Services ("DIDS", formerly the Division of Mental Retardation Services or "DMRS"). Below is an explanation of these amendments and how they will effect the existing rules at 0940-4-3 *et. seq.* known as and the Division of Mental Health and Developmental Disabilities Rules for the Division of Mental Retardation Services 0940-3-4 *et seq*, "Methodology Utilized to Determine Payments to Service Providers (Rate Structure)".

These amendments must be in place as Emergency Rules by July 1, 2010.

1. The current rules of the Division of Intellectual Disabilities Services are now amended as follows:

0940-04-03-.01 Purpose.

In this section "Division of Mental Retardation" is removed and "Division of Intellectual Disabilities" is added. In addition, the authority is updated to reflect the latest citations.

0940-04-03-.02 Scope.

In this section the Division's name is changed, some minor wording is changed and authority is updated to reflect the latest citations.

0940-04-03-.03 Definitions.

In this section some minor wording is changed.

In addition, in (8) "Rate Setting Methodology" the definition is amended to state "day and other services" instead of "day services".

In (9) "Special Needs Adjustment" the definition is reworded for greater clarity without changing the actual meaning of the definition.

In (10) the entire "Uniform Cost Report" definition is deleted and a new (10) definition is added that adds language emphasizing that all providers are expected to submit these reports in the manner DIDS requires.

Authority is updated to reflect the latest citations.

0940-04-03-.04 Rate Setting Methodologies For Medical, Residential Services.

This is a new section which now sets out the rate setting methodologies for medical, residential services. This section also gives the calculation for Full Time Equivalents (FTE) and for the daily rate per person in these services. It reads as follows:

(1) Medical Residential Services.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 168 hours per week—7 days at 24 hours per week.

2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Allowable Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.

2. Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.

3. Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.

4. Add together the hourly cost for direct support staff and the hourly cost for supervision.

5. Multiply the result from Step four by one and the % allowed for non-direct program costs.

6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.

7. Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.

8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.

9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.

2. Divide the result of Step one by the facility size.

3. Multiply the result of Step two by 385 (to allow for 20 absent days).

4. Divide the result of Step three by 365 to arrive at the daily rate.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.05 Rate Setting Methodologies for Residential Habilitation and Supported Living.

This former section .04 is now .05 and adds "habilitation". Only minor wording is amended for clarification through (3) and authority is updated to reflect the latest applicable citations. Removed in its entirety is (4) "semi-independent living model".

0940-04-03-.06 Special Needs Adjustments.

This former section .05 is now .06. Amended is the amount that is available to providers of Residential Habilitation and Supported Living Level 1-4 homes with 1-4 persons. It adjusts down the money that can be added for special needs from $60.00/day to $35.00/day.

An amendment is made in (4) (a) which covers circumstances in which this special needs adjustment is utilized. It now gives examples of a significant behavioral or psychotic problem that may require additional resources.

In addition, 4 (d) in the current section is now removed in its entirety. This section currently allows special needs adjustment for a person who loses a roommate and needs an adjustment until a new one moves into the living space.

Authority is updated to reflect the latest citations.

0940-04-03-.07 Rate Setting Methodologies For Day Services.

This former section .06 is now .07. The only significant amendment is to the authority to update the latest citations

0940-04-03-.08 Rate Setting Methodologies For Clinical Services.

This former section .07 is now .08. In (2) the unit for behavioral services is amended from an hour to one quarter (1/4) of an hour.

Authority is updated to reflect the latest citations.

0940-04-03-.09 Rate Setting Methodologies For Respite and Personal Assistance Services.

This former section .08 is now .09. This section is amended in its entirety. No longer will the unit for this type of service be calculated on an hourly rate, but will be calculated on one quarter (1/4) of an hour or a daily rate determined by DIDS.

In (2) through (4), further amendments describe how rates will be determined for each service in this section.

Authority is updated to reflect the latest citations.

0940-04-03-.10 Rate Setting Methodologies For Dental Services.

This former section .09 is now .10. Amended is authority, which is updated to reflect the latest citations.

0940-04-03-.11 Rate Setting Methodologies For Personal Emergency Response Systems.

This former section .10 is now .11. Amended is authority, which is updated to reflect the latest citations.

0940-04-03-.12 Rate Setting Methodologies For Specialized Medical Equipment and Supplies.

This former section .11 is now .12. Amended is authority, which is updated to reflect the latest citations.

0940-04-03-.13 Rate Setting Methodologies For Environmental Modifications.

This former section .12 is now .13. Amended is authority, which is updated to reflect the latest citations.

0940-04-03-.14 Rate Setting Methodologies For Vehicle Modifications.

This former section .13 is now .14. Amended is authority, which is updated to reflect the latest citations.

0940-04-03-.15 Rate Setting Methodologies For Vision Services.

This former section .14 is now .15. Current section is amended to reflect that TennCare sets Medicaid reimbursement for vision care. Amended is authority, which is updated to reflect the latest citations.

0940-04-03-.16 Rate Setting Methodologies for Independent Support Coordination Services

This section is a new section. It sets out current rates for these services and how they are to be derived. It also states how in the future additional rate changes will be determined.

Section reads as follows:

0940-04-03-.16 Rate Setting Methodologies for Independent Support Coordination Services

Current rates in this category are found at Rule 0620-06-03-.04 (h) and were derived after consideration of provider input, resource availability as well as system service requirements. Future changes in amounts paid for this service will be made utilizing such tools as: consultation with stake-holders (*e.g.* Independent Support Coordinators, Independent Support Coordination Agencies/Organizations), review of similar services in other states, market conditions, and system needs. Rates are always subject to DIDS funding/resource availability.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.17 Rate Setting Methodologies for services funded exclusively by the State [Non-Waiver; State Funded (NWSF) Services.

This section is a new section. Since state-funded services are not paid with matching Medicaid waiver monies, this section is needed to father clarify that such state-funded rates are discretionary and are based upon need, certain state and service requirements and funding availability.

Section reads as follows:

0940-04-03-.17 Rate Setting Methodologies for services funded exclusively by the State [Non-Waiver; State Funded (NWSF) Services.

Rates paid are discretionary and based upon Service Recipient need, limited by system and service requirements and subject to DIDS funding and resource availability.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

2. These emergency rules for the Department of Finance and Administration, Division of Intellectual Disabilities Services are made pursuant to Tenn. Code Ann. §§ 33-1-309 (d).

3. These amendments to the rules of the Department of Finance and Administration, Division of Intellectual Disabilities Services, will, throughout the state, impact contracted service providers as they provide necessary services to service recipients with intellectual disabilities.

   DIDS is making a concerted effort through adjustment of its rates of payment pursuant to its existing rules to modify the amounts paid to DIDS' providers. It is imperative that the Division's program expenditures remain within its approved fiscal limits and that of the budgetary limitations placed upon it by the legislature. These emergency rule amendments establish a rate formulation methodology to comport with and complete this process.

   The delay in promulgating these amendments utilizing the ordinary rulemaking procedures as found in Title 4, Chapter 5 of the Tennessee Code Annotated, as well as Chapter 1360 of the O.C.R.R.S.T. could cause the loss of critical federal matching funding for these services. The current legislature has only very recently ser the parameters for the coming fiscal year, leading to these rate making changes. Furthermore, without the rates resulting from this process, the Division will incur a significant deficit between its operating expenses and available funding; leading to the reality of being unable to compensate its contracted providers. These persons and organizations furnish necessary - and in some cases critical services - to residents across the State of Tennessee who have needs for assistance due to intellectual disabilities.

   The Division of Intellectual Disabilities Services will send a written notice to those persons it believes will be effected by these rules as well as posting them on its website within ten (10) working days of the date their filing.

4. The Division is unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

5. These amendments will impact the rate structure and payment methodologies used by the Division to determine rates for services provided by contracted providers. There will be a

fiscal impact upon the Division since such will implement new methodologies and determine payment for contracted services.

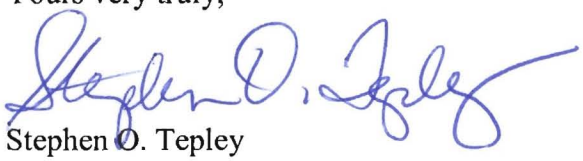
6. The Division of Intellectual Disabilities Services community services staff and the Division's Office of General Counsel have substantial knowledge and understanding of these rules.

7. The above will explain the rules at any scheduled meeting of the Government Operations Committee.

8. Division counsel may be reached at the Division of Intellectual Disabilities Services, Office of General Counsel, Andrew Jackson Building – 13th Floor, Nashville, TN 37243, (615) 253-2025.

If you require additional information, please do not hesitate to contact me.

Yours very truly,



Stephen O. Tepley
General Counsel
Division of Intellectual Disabilities Services

cc: James Finch, Deputy Commissioner of DIDS
Debbie Payne, Assistant Commissioner for Community Services
Kathleen Clinton, Assistant Commissioner
Richard Arnold, Director, Publications Division, Office of Secretary

REDLINE

Rules
Of
Tennessee Department of Finance and Administration
Division of Intellectual Disabilities Services

Amended Rules

Chapter 0940–04–03
Methodology Utilized To Determine Payments to Service Providers
(Rate Structure)

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0940-04-03-.17	Rate Setting Methodologies for services funded exclusively by the State [Non-Waiver, State Funded (NWSF) Services].

0940-04-03-.01 Purpose.

This chapter establishes a rate setting methodology for Residential and Day Services that are provided through the Department of Finance and Administration – ~~Division of Mental Retardation Services.~~ Division of Intellectual Disabilities Services.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively~~. Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.02 Scope.

These rules apply to the procedures and practices used to establish rates of payment for Residential and Day and other Services acquired by the Department of Finance and Administration – ~~Division of Mental Retardation Services~~ Division of Intellectual Disabilities Services for or on behalf of those persons served by it under its various Medicaid Waivers; the provisions of Title 33 and 34 of the Tennessee Code Annotated and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and *23,* dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. § 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.03 Definitions.

As used in these rules, unless the context indicates otherwise, the terms listed below have the following meaning:

(1) "Administrative Costs" are the allowable percentage of the service rate that includes, for example, the costs for administrative salaries and benefits, home office costs, office supplies and printing, phone and other communication, travel and conference, advertising, professional services, licensure and dues, legal and accounting fees, interest, depreciation, occupancy, general liability insurance, equipment and administrative vehicles.

(2) "Direct Service Costs" are the costs for direct service such as staff salaries and benefits, overtime, direct supervision wages and benefits, contracted direct service/temporary help, training, recruiting/advertising, drug testing, background checks, Hepatitis B and TB tests, and other costs for direct service staff bonuses and employee appreciation events.

(3) "Full Time Equivalent (FTE)" means the total cost for one direct support staff for forty hours. It includes direct service costs, non-direct program costs, administrative costs, and twenty (20) days of payment to cover service recipient absences.

(4) "Non-Direct Program Costs" is the allowable percentage of the service rate that includes the costs for multi-site supervisors and benefits, training, off site computer/file storage, depreciation/amortization, internal monitoring, agency case management, personal funds management, healthcare oversight, specific assistance to individuals-room and board, specific assistance to individuals-non-room and board, transportation of individuals, staff travel, facility maintenance, facility supplies, habilitation supplies.

(5) "Rate" is the amount paid per person to approved service providers for each unit of a ~~DMRS~~ DIDS service that is provided. A rate unit may be a portion of an hour, an hour, a day, a month, an item or a job, depending on the type of service.

(6) "Rate Levels" are the series of rates for residential, ~~and~~ day and other services that are based on ~~the intensity of~~ a service recipient's needs and the size or site of the service setting.

(7) "Rate Level Factor" is the multiplier applied to the FTE daily cost that reflects intensity of support need and number of persons in the home. Rate level factors were based on licensure requirements for staffing and professional judgment of estimated hours of direct support staff assistance required for individuals at each rate level.

(8) "Rate Setting Methodology" is the manner in which the rates for residential, ~~and~~ day and other services are calculated or determined.

(9) "Special Needs Adjustment" is an additional payment that may, within the discretion of the Division and subject to resource availability be added to the residential rate for an individual ~~when certain specified criteria are met~~ in appropriate circumstances, e.g. periodic crisis that require additional support.

~~(10) "Uniform Cost Report" is the mandatory annual report completed by providers of residential and/or day services that is submitted to the Division of Mental Retardation Services. The Uniform Cost Report is completed in the manner and in a format required by the Division.~~

(10) "Uniform Cost Report" is a report relating to costs and/or operating expenses/revenues completed by providers that is submitted as required by the Division of Intellectual Disabilities Services. The Uniform Cost Report is completed and transmitted in the manner, format and timeframe required by the Division.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. § 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.04 Rate Setting Methodologies For Medical, Residential Services.

(1) Medical Residential Services.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 168 hours per week—7 days at 24 hours per week.

2. The unit of service for these residential services is a day

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Allowable Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.

2. Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.

3. Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.

4. Add together the hourly cost for direct support staff and the hourly cost for supervision.

5. Multiply the result from Step four by one and the % allowed for non-direct program costs.

6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.

7. Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.

8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.

9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.

2. Divide the result of Step one by the facility size.

3. Multiply the result of Step two by 385 (to allow for 20 absent days).

4. Divide the result of Step three by 365 to arrive at the daily rate.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. § 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~04~~05 Rate Setting Methodologies for ~~Medical,~~ Residential Habilitation and Supported Living.

(2) ~~Medical Residential,~~ Residential Habilitation and Supported Living (Shift-Staffed) Model.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 138 hours per week—5 days at 18 hours per day and 2 days at 24 hours per per day is equal to one week.

~~2. 3.45 Full Time Equivalents (FTE) are required to provide this coverage.~~

~~3.~~2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Hourly direct support staff wage plus % for benefits for the hourly cost for direct support staff.

2. Annual salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.

3. Divide the cost per person per year by 52 weeks and by 138 hours to arrive at the hourly cost for supervision.

4. Add together the hourly cost for direct support staff and the hourly cost for supervision.

5. Multiply the result from Step four by one and the % allowed for non-direct program costs.

6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.

7. Multiply the hourly cost for an FTE by 138 hours to arrive at the weekly cost for coverage.

8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.

9. Divide the daily cost by allowable ~~3.45~~ FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.

2. Divide the result of Step one by the facility size.

3. Multiply the result of Step two by 385 (to allow for 20 absent days).

4. Divide the result of Step three by 365 to arrive at the daily rate.

(2) Supported Living-Companion Model

(a) For non-shift staffed, companion model the unit of service is a day. The calculations are as follows:

(b) Calculate the daily rate per person.

1. Multiply the annual stipend by one and the % for benefits.

2. Add the companion room and board allowance.

3. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.

4. Add costs in steps one through three.

5. Multiply the result of step four by one and the % ~~percent~~ for non-direct program costs.

6. Multiply the result of step five by one and the % ~~percent~~ for administrative costs.

7. Divide the result of step six by 365.

8. Multiply the result of step seven by 385 (to allow for 20 absent days).

9. Divide the result of step eight by 365 to arrive at the daily rate.

(3) Family Model for Residential Services

(a) Family Model Residential Services are those provided in a family home under the supervision of a residential services agency. The unit of service is a day.

(b) Calculate the daily rate per person.

1. Multiply the annual stipend by one and the % for benefits.

2. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.

3. Add direct supervision at annual salary plus % for benefits divided by 10 individuals divided by 365 days.

4. Add costs in steps 1 through 3 above.

5. Multiply the result of step four by one and the percent for non-direct program costs.

6. Multiply the result of step five by one and the percent for administrative costs.

7. Divide the result of step six by 365 days.

8. Multiply the result of step seven by 385 days (to allow for 20 absent days).

9. Divide the result of step eight by 365 days to arrive at the daily rate.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

~~(4) Semi-Independent Living Model~~

~~(a) Semi-Independent Living services are residential services provided to individuals~~

~~who require limited support. The unit of service is a month.~~

~~(b) Calculate the monthly rate per person.~~

~~1. Multiply the hours per month amount for direct support staff by one and the % for benefits.~~

~~2. Add direct supervision at annual salary plus % for benefits divided by 10 individuals divided by 12 months.~~

~~3. Add one hundred and twenty dollars ($120.00) for transportation~~

~~4. Add one hundred and fifty-five dollars ($155.00) per month for case management/program supervision.~~

~~5. Multiply the results of steps one through four by one and the percent for administrative costs.~~

~~Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~

0940-04-03-.~~05~~06 Special Needs Adjustments.

~~(1) An adjustment of an additional sixty dollars ($60.00) per day is available to Residential Habilitation and Supported Living Levels 1-4, for homes with 1-4 persons.~~

(1) An adjustment up to an additional thirty-five dollars ($35.00) per day is available to Residential Habilitation and Supported Living Levels 1-4, for homes with 1-4 persons.

(2) An adjustment of twenty dollars ($20.00) per day is available to Residential Habilitation homes with 5 or more people except for reasons of a vacancy in the home.

(3) This adjustment may be used for additional staff coverage or higher wages for staff.

(4) A special needs adjustment does not change the rate level designated for the individual, but adjusts the rate level as a result of one or more of the following circumstances:

(a) The individual has a history of significant behavioral or psychiatric problems such as DSM-IV diagnosis, violent acting out, serious self-injury or danger to others that are now not apparent due to the design or intensity of services being received or the person has a situation that is unique and results in the need for additional resources.

(b) Less intensive services will likely result in recurrence of previous problems. The Regional Office must review the special adjustment at least annually.

(c) The individual is in circumstances that are time limited but that require support(s) at a higher level than described by the Level. (For example, the person has had a serious illness, injury, or surgery that requires more support while he is recovering than the Level describes.) A special adjustment may be approved for up to ninety (90) days and may be extended for an additional ninety (90) days.

~~(d) The person needs a roommate and requires a special adjustment until one moves in. A special adjustment may be approved for up to ninety (90) days and may be extended for an additional ninety (90) days.~~

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~06~~07 Rate Setting Methodologies For Day Services.

(1) The unit of service is a day. ~~except for Follow Along which is a month.~~

(2) For day services staff coverage is calculated for 6 hours per day for 243 days per year.

(3) The cost models are calculated with the following direct service cost factors:

(a) Non-direct program costs at the allowable percentage

(b) Administrative costs at the allowable percentage

(c) Transportation costs per day per person.

(d) Twenty (20) leave days.

(4) Rate level factor based on service setting and ~~intensity~~ of need of the individual.

(5) Day Service settings include day habilitation facilities, community locations, and community employment locations.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~07~~08 Rate Setting Methodologies For Clinical Services.

(1) The unit for therapy and nursing services is a quarter hour.

~~(2) The Unit for behavioral services is an hour.~~
(2) The Unit for behavioral services is one quarter (1/4) of an hour.

(3) The rate for clinical services is based on comparison with national rates of payment and comparable rates of payment within the State for like services.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~08~~09 Rate Setting Methodologies For Respite and Personal Assistance Services.

~~(1) The unit for respite and personal assistance services may be hourly or daily rates.~~

(1) The unit for respite and personal assistance services may be one quarter (1/4) of an hour or daily rates as determined by DIDS.

~~(2) The rates are calculated based on hourly direct service costs and a percentage for administrative costs.~~

(2) The determination of rates in this section (.09) is calculated based on units of one quarter (1/4) of an hour or of one day of allowable direct service costs and a percentage for administrative costs.

(3) There will be one (1) maximum rate or one-quarter (1/4) of an hour of Personal Assistance.

(4) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Respite services.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~09~~10 Rate Setting Methodologies For Dental Services.

Dental Services rates are those set by TennCare for reimbursement of Medicaid funded dental care.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~10~~11 Rate Setting Methodologies For Personal Emergency Response Systems.

Rates paid are the usual and customary rates for installation and monitoring set by the company providing the service.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~11~~12 Rate Setting Methodologies For Specialized Medical Equipment and Supplies.

Rates paid are the usual and customary costs for the equipment or supplies.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~12~~13 Rate Setting Methodologies For Environmental Modifications.

Rates paid are the usual and customary costs for the modification.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~13~~14 Rate Setting Methodologies For Vehicle Modifications.

Rates paid are the usual and customary costs for the modification.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable

regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.~~14~~15 **Rate Setting Methodologies For Vision Services.**

Rates paid are a combination of **the usual and customary charges for examination and corrective lenses** and those set by TennCare for reimbursement of Medicaid funded vision care.

Authority: ~~T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~ Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.16 Rate Setting Methodologies for Independent Support Coordination Services

Current rates in this category are found at Rule 0620-06-03-.04 (h) and were derived after consideration of provider input, resource availability as well as system service requirements. Future changes in amounts paid for this service will be made utilizing such tools as: consultation with stake-holders (*e.g.* Independent Support Coordinators, Independent Support Coordination Agencies/Organizations), review of similar services in other states, market conditions, and system needs. Rates are always subject to DIDS funding/resource availability.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0940-04-03-.17 Rate Setting Methodologies for services funded exclusively by the State [Non-Waiver; State Funded (NWSF) Services.

Rates paid are discretionary and based upon Service Recipient need, limited by system and service requirements and subject to DIDS funding and resource availability.

Authority Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 &34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare.

0780-02-01-.20 LOCAL GOVERNMENT AUTHORIZATION TO PERFORM ELECTRICAL INSPECTIONS.

(1) Purpose. Pursuant to T.C.A. § 68-102-143(b)(1), the ~~state fire marshal~~Commissioner of Commerce and Insurance may authorize a local government to conduct electrical inspections through the local government's appointed deputy inspectors. This inspection authority shall cover all types of electrical installations in accordance with the law, except for state owned properties and Electric Vehicle Supply Equipment (EVSE) which remain under the jurisdiction of the Commissioner. Deputy inspectors appointed in such a manner are authorized to inspect electrical installations upon receipt of a request from the owner of the property or from any person, association or corporation supplying electrical energy to the installations, or from municipal governing bodies, or from the county legislative body of the county in which the installations are located and the inspectors for their compensation are authorized to charge for and received a fee for each inspection. This rule sets forth the criteria by which local governments may seek authorization to perform electrical inspections and procedures by which the ~~state fire marshal~~Commissioner, or designee, may review such authorization.

Authority: T.C.A. §§ 68-102-113 and 68-102-143(b)(1).