CONTENTS

I. EXECUTIVE ORDERS

EWE-78-14 (Amendment)—Members of the Governor's Commission and Study Group on State Banking Laws 18

II. EMERGENCY RULES

Health and Human Resources Department:
- Office of Family Security—Payment for sterilizations 18
  - Maximum allowable costs for prescription drugs 19
- Office of the Secretary—Care of the handicapped 19

III. RULES

Commerce Department:
- Racing Commission—Jockey mount fees 23
- Real Estate Commission—Surety bond; advertising of real estate schools 23

Education:
- Board of Trustees for State Colleges and Universities—Advanced degree salary adjustments 23
- Board of Elementary and Secondary Education—Audio-visual requirement for library science certification; use of federal funds 23

Health and Human Resources Department:
- Office of Family Security—Out-of-state medical claims 24
  - Payment to ICF/MR's 24

Revenue and Taxation Department:
- Petroleum, Beverage and Tobacco Tax Section—Transportation of gasoline 24
  - Enforcement of Special Fuels Tax Law 25

Transportation and Development Department:
- Trucks, vehicles and loads 26

Wildlife and Fisheries Department:
- Stream Control Commission—Process generated discharges from sand and/or gravel extraction; wastewater discharges to intermittent streams and man-made drainage channels 49

IV. NOTICES OF INTENT

Agriculture Department:
- Livestock Sanitary Board—Vaccination of eligible calves; identification with "S" brand; testing of horses 51

Culture, Recreation and Tourism Department:
- Office of Program Development—Cultural Resources Code 51

Education:
- Board of Elementary and Secondary Education—High school graduation requirements 51
- Board of Supervisors of Louisiana State University—Nepotism 51
- Board of Regents—Academic programs; amendment to the *Master Plan* 52

Health and Human Resources Department:
- Board of Chiropractic Examiners—Advertising 52
- Office of Family Security—Payment for sterilizations 52
  - Maximum allowable costs for prescription drugs 53

Governor's Office:
- Landscape Architects Selection Board—Organization and selection procedure 53

Natural Resources Department:
- Hazardous waste management 53

Urban and Community Affairs Department:
- Office of Consumer Protection—Deceptive pricing 54

Transportation and Development Department:
- Board of Registration for Professional Engineers and Land Surveyors—Renumbering and revision of rules and bylaws 54

Wildlife and Fisheries Department:
- Wildlife and Fisheries Commission—Spring shrimp season; 1979-80 seasons and bag limits 54

V. POTPOURRI

State Civil Service Department:
- Various changes in the Uniform Classification and Pay Plan 54

Executive Orders

AMENDMENT TO EXECUTIVE ORDER EWE-78-14

(Editor's Note: The paragraph referred to in this amendment was the eleventh paragraph of Executive Order EWE-78-14 as it appeared in the Louisiana Register, Volume 4, Number 10, page 357.)

Paragraph Two of Page Two of Executive Order EWE-78-14, dated September 14, 1978, is hereby amended to read as follows:

> BE IT FURTHER RESOLVED, that the members of this special commission, as appointed by the Governor, shall be Honorable Theodore M. Hickey, who shall serve as Chairman, Honorable Huntington B. Downer, Jr., Honorable Nat G. Keifer, Honorable J. E. Jumonville, Jr., Honorable Fritz H. Windhorst, Honorable Thomas A. Casey, Honorable deLesseps S. "Toni" Morrision, Jr., Honorable Harry M. Hollins, Mr. Martin C. Miler, Mr. Michael J. Rapier, Mr. Lawrence A. Merrigan, Mr. Charles J. Cassidy, Mr. Charles W. McCoy, Mr. John Kavanaugh, Mr. Ed Steimel, Mr. Victor Bussie, Mr. Patrick A. Delaney, Mr. Clarence D. Ardoin, Mr. W. W. Whitmore, Mr. V. J. "Red" Scogin, Mr. Richard Blossman, and Mr. R. F. Haas.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to have affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 12th day of January, A.D. 1979.

Edwin Edwards
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health and Human Resources
Office of Family Security

Effective March 8, 1979, the Department of Health and Human Resources, Office of Family Security, has exercised those administrative powers conferred by the emergency provision of the Administrative Procedures Act, R.S. 49:953B, to adopt new federal regulations which govern the payment of sterilizations under the Medical Assistance Program. A sterilization is defined as "any medical procedure, treatment or operation for the purpose of rendering an individual permanently incapable of reproducing." The following regulations apply to medically indicated procedures which result in sterility, as well as to those sterilizations done solely for family planning purposes.

For the Louisiana Medical Assistance Program to pay for a sterilization under the new federal regulations:

The patient must sign a consent form at least thirty days, but no more than one hundred eighty days before the date of the sterilization, excepting premature delivery or emergency abdominal surgery.

The patient may consent to sterilization at the time of premature delivery or emergency abdominal surgery if seventy-two hours have passed since he or she gave informed consent to the sterilization. In the case of premature delivery, the informed consent must have been given thirty days before the expected date of delivery.

The patient must be at least twenty-one years old when consent is obtained.

The patient must give informed consent to the sterilization and the consent form published in the federal regulations must be used.

Informed consent may not be obtained when the individual to be sterilized is in labor or childbirth, seeking to obtain or obtaining an abortion, or under the influence of alcohol or other substances affecting the individual's state of awareness.

The patient must be mentally competent.

The patient cannot be institutionalized.

Three copies of the consent form must be filled out: one for the patient, one for the physician and one for attachment to the claim form.

The federal regulations governing sterilizations, include regulations governing payment of hysterectomies under the Medical Assistance Program. According to the regulations, the Louisiana Medical Assistance Program cannot pay "for the performance of any hysterectomy solely for the purpose of rendering an individual permanently incapable of reproducing or where, if there is more than one purpose to the procedure, the hysterectomy would not be performed but for the purpose of rendering the individual permanently incapable of reproducing."

In other words, payment is not available for hysterectomies done for sterilization purposes for which there are also some medical indications which are themselves insufficient to justify the performance of a hysterectomy.

If a hysterectomy is performed for purposes other than sterilization, payment can be made only if the patient is informed orally and in writing that the hysterectomy will render her permanently incapable of reproducing and she has signed a written acknowledgement of receipt of this information. The written acknowledgement should be attached to the claim form submitted when requesting payment for these medical services.

The acknowledgement reads as follows:

> I hereby acknowledge that I have been informed orally and in writing that a hysterectomy (surgical removal of the uterus) will render the individual on whom the procedure is performed permanently incapable of bearing children.
>
> ______________________________ ______
>
> Signature of Recipient or Designated Representative — Date

Note: It is necessary that the acknowledgement statement appear above the signature of the recipient or her designated representative and that the statement be dated before the actual time of the surgical procedure.

This action has been taken in order to comply with federal regulations which were published in the *Federal Register*, Volume 43, Number 217, Wednesday, November 8, 1978, pages 52146 through 52175.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources
Office of Family Security

Beginning January 25, 1979, the Department of Health and Human Resources, Office of Family Security, has exercised those administrative powers conferred by the emergency provision of the Administrative Procedures Act, R.S. 49:953B, to adopt Maximum Allowable Costs (MAC) for the following drugs when dispensed on prescription:

Drug	MAC
Acetaminophen w/codeine 30 mg. tabs.	$0.0780 per tablet
Acetaminophen w/codeine 60 mg. tabs.	0.1545 per tablet
*Ampicillin 250 mg. caps.	0.0595 per capsule
*Ampilicillin 500 mg. caps.	0.1103 per capsule
Doxepin HCL 10 mg. caps.	0.0950 per capsule
Doxepin HCL 25 mg. caps.	0.1161 per capsule
Doxepin HCL 50 mg. caps.	0.1765 per capsule
Erythromycin Stearate 250 mg. tabs.	0.0697 per tablet
Erythromycin Stearate 500 mg. tabls.	0.1250 per tablet
Penicillin G Potassium 400 mu. tabs.	0.0180 per tablet
Pencillin G Potassium 800 mu. tabs.	0.0265 per tablet
Phenylbutazone 100 mg. tabs.	0.0750 per tablet
Phenylbutazone Alka 100 mg. caps.	0.0940 per capsule
Probenecid 0.5 gm. tabs.	0.0644 per tablet

*These MACs reflect a reduction in the MACs established on June 27, 1977.

In no case may a recepient be required to provide payment for any difference in a prescription price that may occur with the implementation of MAC, nor may our office use a cost which exceeds the established maximums except as follows.

The Department of Health, Education and Welfare's regulations provide that when a physician certifies that a specific brand is medically necessary for a particular patient, then the MAC limitations for that medication will not apply. In this case their specific guidelines provide that:

1. The certification must be in the physician's handwriting.
2. The certification may be written directly on the prescription, or on a separate sheet which is attached to the prescription.
3. A standard phrase written on the prescription, such as "brand necessary" will be acceptable.
4. A printed box on the prescription blank that could be checked by the physician to indicate brand necessity is unacceptable.
5. A handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

This action has been taken in order to comply with federal regulations which were published in the *Federal Register*, Volume 43, Number 238, Monday, December 11, 1978.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources
Office of the Secretary

The following rules include amendments which were adopted through the emergency provision of the Administrative Procedures Act (R.S. 49:953B) to be effective February 1, 1979. The emergency rulemaking was necessary in order that the Department of Health and Human Resources could have various amendments to this pay plan in effect on February 1, 1979, prior to the reimbursement rates being set for fiscal year 1979-1980.

Facility Manual for Facilities Where Health and Human Resources Department Funds Are Used to Care for Handicapped Persons

Introduction

The Department of Health and Human Resources (DHHR) currently places clients whose needs cannot be appropriately met through other State programs in private residential facilities and day programs. Placement may be under the supervision of any one of several different agencies of the Department.

Children, youths, and other handicapped individuals placed in such programs include three major, broad client categories: (1) children and youth who are legally adjudicated abandoned, neglected, and/or abused, and those in need of care due to the inability of the parent or caretaker to adequately provide for them, (2) adjudicated delinquents and children in need of supervision, and (3) children, youths, and other individuals who are handicapped physically, mentally, emotionally, or neurologically to such an extent that they cannot satisfactorily participate in community living.

The determination of appropriate placement for any client in any of these broad categories is made by the placing agency within DHHR and all referrals for placement must originate through one of the placing agencies of the Department. Private facilities from which placement services are purchased retain the right of acceptance or rejection of the clients referred by the Department's supervising agencies with the exception of emergency shelter care facilities which do not have the right of rejection.

The procedures and rules set forth herein have been developed to assure an equitable, cost-related reimbursement for the services purchased from private providers for the care and treatment of these clients. The foundation of these procedures rests upon a classification of each facility, and each distinct program within a facility, based on the level of care required by the residents and provided by the facility and/or by a distinct program within a facility.

Major objectives of DHHR in developing and implementing these procedures are to provide an incentive to the private sector to expand and improve the quality and quantity of services available, and to accommodate the presently existing variety of treatment modalities needed to provide appropriate care for the Department's clients.

These procedures shall apply to all facilities wherein Department funds are spent for the purchase of services for the Department's clients, regardless of the procedures whereby a facility is approved for funding. Certain facilities within the state are required to adhere to licensing regulations established and administered by DHHR. All facilities are required to conform to the *Minimum Standards for Certification of Facilities*. These procedures apply to facilities in both categories.

While these various standards may vary in certain respects, each has as an objective the assurance of a high quality of the overall level of care. Consequently, each approval procedure can accommodate the development of cost-related reimbursement procedures. However, in conjunction with the development of a uniform rate structure, as herein proposed, efforts will continue to systematize the licensing/certification/approval procedures of various agencies of DHHR which are affected by these rate provisions.

Levels of Care

A description of the various levels of care which will be utilized for classification purposes appears below. Level of care classifications will apply to all facilities and will identify program requirements.

Each facility which is required to conform to the *Minimum Standards for Certification of Facilities* will be visited during each fiscal year by a certification representative to determine compliance with previously established standards for certification. Concurrently with the certification determination, the certification representative will make a determination of the appropriate level(s) of care provided in each facility.

In facilities which offer more than one distinct program, i.e., level of care, the certification representative shall make a determination with respect to the proper classification of each distinct program within the facility. Facilities which provide services for more than one type of client group must also meet certification standards for each distinct client group and/or program.

Classification of level(s) of care shall be based upon actual staff ratios, actual care and supervision needed by the resident population, programs provided,and ancillary support services required.

Facility administrators should feel free to discuss level of care determinations with the certification representative. In the absence of a resolution of differences between the facility administrator and the certification representative, should differences exist, the determination of the certification representative shall be final and shall not be changed except as a result of procedures set below.

A facility administrator who does not concur with the classification established by the certification representative should first set forth his objections to the classification in writing, fully documenting reasons for the objections. Such statements of facility position should be directed to Licensing Section, Department of Health and Human Resources, Box 3767, Baton Rouge, Louisiana 70821.

Upon receipt of such a statement of facility position, the Licensing Section shall immediately convene an appropriately constituted body to re-examine the certification representative's determination of the facility's classification. The decision of this body shall be rendered within fifteen days of the date of receipt of the statement of facility position, and the facility administrator shall be immediately notified in writing of the decision.

A facility administrator who does not agree with the results of this preliminary redetermination may officially appeal the level of care classification. This appeal shall be made within thirty days after receipt of the Licensing Section's final decision as to the level of care. This written appeal must be directed to the Secretary of DHHR and must request a formal hearing to appeal the decision of the Licensing Section. The Secretary, or his designee, shall set a hearing to be held within thirty days after receipt of such request.

The hearing shall be held in the immediate vicinity of the appellant. The Secretary, or his representative, shall conduct the hearing. The facility administrator, and/or his legal counsel, shall have the right to be present and to present evidence for consideration by the Secretary or his designee. Within ten days after the hearing, the appellant shall be advised, by registered mail, of the decision of the Secretary, either confirming or amending the original decision.

Definition of Levels of Care

Cost-related reimbursement rates paid to facilities shall be based upon expenditures directly related to the level of care, as determined in the certification process, assigned to each facility and/or distinct program within a facility, as follows:

Non-Residential

Level I—This type of facility serves a population which requires minimal supervision and little or no medical attention. No academic training is given and clients of school age usually attend public schools. Specific treatment(s) is given for specific problem(s) of a mental and/or physical nature. Individual treatment goals are written. Staffing ratio meets the minimum requirements for certification and/or licensure. Treatment is planned and supervised by qualified professionals, but may be implemented by paraprofessional staff.

Level II—The population served requires moderate or close supervision and may also possess some medical disabilities. Academic training may be given and clients may also attend public schools. Specific treatment(s) is given for specific problem(s) of a mental and/or physical nature. Individual treatment plans, procedures, and goals are written. Direct-care staffing ratio meets minimum requirements for certification and/or licensure. Treatment is planned and supervised by qualified professionals, with professional services implemented by the appropriate professional. Other services may be implemented by paraprofessional staff.

Residential

Level III—The population served requires minimal supervision and care, and possesses no significant medical disabilities. No academic training is given and clients of school age usually attend public schools. Planned habilitation and treatment programs are usually of a recreational or therapeutic nature. Counselling and psychotherapy may be given. Individual treatment goals are written. Direct-care staffing ratio must meet minimum requirements for certification and/or licensure. Treatment is planned and supervised by qualified professionals, with implementation by paraprofessionals. Professional support services provided on a consultant/contractual basis.

Level IV—Population served requires minimal to moderate supervision and may possess medical disabilities. Some academic training may be given and clients may also attend public schools. Planned individual habilitation and treatment programs may include academic and recreational services, as well as specific treatments for emotional and/or physical disabilities. Individual treatment plans, procedures, and goals are written. Direct-care staffing ratio is 5:16. Treatment is planned and supervised by qualified professionals, with implementation by paraprofessional staff. Professional services of a medical or psychological nature are implemented by qualified professionals, although supportive services may be provided by paraprofessional staff.

Level V—Population served requires moderate supervision and some medical disabilities are usually present. Academic training is given and clients do not attend public schools although some clients may use specific services of the public school system. Habilitation and treatment plans are individual and comprehensive, covering all areas of a client's needs. Evidence is given of implementation of plans, procedures, and goals, with an individual's response to the treatment program. Direct-care staffing ratio is 8:16. Treatment is planned and supervised by qualified professionals. Any necessary professional services are provided on a regular basis by qualified professionals on the facility staff or on a contractual basis. Medical personnel are available on seven-day, twenty-four-hour call.

Level VI—Population served requires close supervision and/or total medical care. Academic training may be given and clients do not utilize the public school system. The focus of treatment is largely of a medical nature. Habilitation may also include recreational and therapeutic programs. Individual plans, procedures, and goals are written. Direct-care staffing ratio is 12:16. Treatment is planned and supervised by qualified professionals. Professional staff must be adequate to supervise and deliver all professional services as needed on a regular basis and for emergency treatment. Doctors and nurses constitute a part of the full-time staff.

Cost-Related Reimbursement

The following procedures have been developed with the intent of guaranteeing to private providers of services for clients placed through any agency of DHHR a direct cost-related reimbursement rate commensurate with the actual costs of providing appropriate client care.

Implicit in these procedures is the intention that actual costs shall be paid only to the extent that the costs claimed for reimbursement

are reasonable, that all facilities will seek to minimize actual costs, and that actual costs will not exceed that which a prudent and cost-conscious buyer would pay. Only allowable costs directly related to client care will be used in cost computations to establish reimbursement rates. No payments above the facility's established cost-reimbursement rate will be paid, except in cases where a child's unique needs necessitate a prior special contractual agreement with the placing agency.

The following requirements apply to any established facility housing any client placed by DHHR.

Prior to approval for receipt of DHHR funds, a new facility shall be required to submit a projected annual budget covering the facility's first fiscal year. The projected budget shall be submitted on the required cost report form and include detailed information to substantiate the report based on allowable cost as set forth in this manual. The projected budget shall form the basis for the establishment of the rate for the facility's initial year of operation.

Facilities which provide several distinct programs, i.e., levels of care, must segregate and report actual direct expenditures on a program-by-program basis.

The following general instructions apply to all facilities which are subject to these requirements. Specific limitations of reimbursement appear both in these general instructions and in the following section entitled "Limitations of Reimbursement."

General Instructions for Cost Reporting

1. Effective January 1, 1979, each facility must provide a cost report, together with a statement of intent to participate, no later than August 1 of each year, as follows:

   A. The cost report must be submitted within three months after the end of its fiscal year or August 1 whichever comes first.

   B. The statement of intent to participate shall include the anticipated number of client days for which DHHR funds will be requested.

2. Delinquent Cost Reports.

   A. If a cost report is not received by August 1 of each year the most recent cost report on file will be used for revising the rate for reimbursement for the succeeding year.

   B. If a cost report is still not received within six months after the end of the cost reporting period, a recommendation will be made to the Assistant Secretary of the appropriate office that a one hundred percent suspension of the current claim payments be implemented. A thirty-day warning of this action will also be sent.

   C. Cost reports will be sent to: Health Services Audit Director, Office of Management and Finance, Box 3776, Baton Rouge, Louisiana 70804.

3. Accounting records must be kept (or converted at year end) on an accrual basis.

4. Accounting records must be kept (or converted at year end) in accordance with the attached Chart of Accounts.

5. Each facility must maintain all accounting records, books, invoices, cancelled checks, payroll records, and other documents relative to client-care costs for a period of six years.

6. All fiscal and other records pertaining to client-care costs shall be subject at all times to inspection and audit by DHHR, the Legislative Auditor, and auditors of appropriate Federal funding agencies.

7. Each facility must maintain statistical information related to the daily census and/or attendance records for all clients receiving care in the facility.

8. Purchase discounts, allowances, and refunds will be recorded as a reduction of the cost to which it relates.

9. Cost to related organizations: Cost applicable to services, facilities, and supplies furnished to the facility by related organizations are allowable costs at the cost to the related organization. However, such cost must not exceed the price of comparables purchased in the open market and the goods and services must be common to and generally purchased by client-care facilities.

Allowable Cost for Services Provided

1. Shelter Costs.

   A. Living space (both indoor and outdoor) used by the clients, including rent, depreciation, or building use allowance. Depreciation must be computed by the straight-line method only. The estimated useful life of fixed assets will be based on the Internal Revenue Service's approved useful life of fixed assets. Depreciation will be allowed only on buildings and equipment used to provide direct client-care services. Facilities must maintain adequate records to determine cost, value, and reasonable useful life of buildings and equipment.

   B. Depreciation of furniture and upkeep for items related directly to shelter space used by the clients, e.g., living, dining room and bedroom equipment and furniture, and furnishings, such as draperies, blinds, rugs, etc.

   C. Fuel and utilities for space used by the clients, e.g., heat, air conditioning, electricity, etc., if these charges are not a part of the rent.

   D. Routine maintenance and upkeep of property and equipment used in daily living activities of the clients. This includes staff and supplies for janitorial services, maintenance, and minor repairs to grounds and equipment.

2. Food Costs. Actual food costs and kitchen and dining room operational costs including personnel, depreciation of equipment, and supplies associated with planning meals, ordering, preparing, and serving food, cleanup work, and the cost of planned meals away from the facility.

3. Clothing and Other Personal Need Costs.

   A. Clients' personal wardrobe, when necessary, not to exceed four hundred dollars per client annually; including initial and replacement clothing; such items will be the client's personal property which he may take with him upon discharge.

   B. Expenses incurred in the upkeep of clients' clothing, including staff and supplies on grounds, and for services provided off grounds, such as shoe repair, mending, dry cleaning, alterations, etc.

   C. Medicine chest supplies, personal hygiene items, such as comb, brush, toothbrush, soap, shampoo, deodorant, sanitary needs and other sundries and incidentals.

   D. Cost of hair grooming, limited to two haircuts per month for males and a comparable expenditure for females.

4. Recreation Costs.

   A. Recreational program and services, including, but not limited to, such items as reading materials, athletic equipment, games, etc.

   B. Individual client's dues for youth clubs, scouts, community centers, etc., if not financed from personal allowance.

   C. Clients' admission fees to sporting or other recreational and cultural events, including cost of snacks and treats purchased on outings, if not financed from personal allowance.

   D. Client's personal allowance, not to exceed five dollars per week for clients age 13 and up and two dollars and fifty cents per week for clients below age 13.

5. Education Costs.

   A. School supplies.

   B. Activity fees, class dues, and other miscellaneous costs, if not financed from personal allowance.

   C. Transportation to school or training programs if not provided or paid for by other public funds or tax monies.

   D. Fees or costs of special training programs, instruction in daily living skills, or other specialized training, if not provided or paid for from other public funds or tax monies.

E. Specialized educational programs required by a client that are essential to his/her individualized program of care if no other source of funding is available.

6. Care Costs.

A. Client care staff, social workers, other specialized staff and direct line supervisors of staff responsible for the twenty-four hour program of care and supervision of the clients, including salary, wages, maintenance and fringe benefits if not met through the State's program under Titles XIX, XX, IV-B, or other publicly funded programs.

B. Transportation intrinsic to the well-being of the client, including but not limited to, visits with relatives, prospective foster or adoptive parents, and other activities or events that are an integral part of the twenty-four hour program of care. Expenses for an attendant, when required, may be met if not already charged to the State's program under Titles XIX, XX IV-B, or other publicly funded programs.

7. Health Cost if Not Met Through Title XIX as Specified in the Individual State's Plan.

A. Routine physical examinations.

B. Required medical care and treatment, including, but not limited to, immunizations, injections, laboratory tests, emergency room and infirmary care, nursing care in the institution.

C. Psychological testing.

D. Psychiatric examination and treatment.

E. Dental care and treatment.

F. Eye glasses and other corrective appliances not provided by another public program.

8. Administrative Costs.

A. Interest on current obligations and mortgage loans reasonably related to client care. The interest rate must not be in excess of what a prudent borrower would pay.

B. Allowance shall be permitted for a salary for an owner-administrator of a proprietary facility only if he/she is performing the duties of an administrator and would otherwise have to employ another individual to perform these duties. Allowance for a salary of an owner-administrator shall be limited to the national average of salaries for owner-administrators of similarly sized, similarly staffed facilities. Operating cost of living quarters and automobiles provided an administrator for his/her convenience will be considered part of their compensation. The administrators who are not owners are also limited to the national average of salaries for administrators of similarly sized, similarly staffed facilities.

C. Premiums for officer/owner's life insurance is allowable only if the beneficiary is the officer/owner's family. Premiums will be included as part of the officer/owner's compensation and subject to the limitations set forth in B.

D. With the following specific exceptions, taxes are an allowable cost:

(1) Federal income or excess profit tax.

(2) State income or excess profit tax.

(3) Taxes relating to financing.

(4) Special assessments. (This would be capitalized and amortized.)

(5) Taxes for which exemptions are available.

(6) Taxes on property not related to direct client care.

(7) Self-employment (FICA) taxes applicable to individual proprietors, partners, etc.

(8) Fines or penalties of any kind.

E. Cost for the following types of advertising are allowable:

(1) Classified newspaper advertising to recruit personnel or solicit bids.

(2) Telephone "Yellow Page" advertising, except in the event that such advertisement is promotional in nature.

F. Membership costs and costs for conferences and meetings are allowable if related to client-care activities and efficient operation of the facility. Allowable costs include dues, registration fees, travel, meals, and lodging only for the period of a conference. Membership dues and other expenditures related to civic or social organizations are specifically disallowed.

G. Accident or hospitalization insurance for the clients. Insurance claim reimbursements should be credited to the respective expense account for health care.

H. Audit costs are allowable but certified audits are not required by DHHR.

I. Clerical salaries and costs related to general administration.

J. Attorneys' fees. Actual fees incurred for nonlitigation legal services which are directly related to child care will be allowed.

Unallowable Costs for Services Provided

1. In-kind contributions.
2. Fund raising; public relations.
3. No monies paid to an attorney or a law firm as a retainer, rather than as legal fees for services actually performed, will be allowed.
4. Payments made by the facility as gifts, assessments, or paybacks to parent organization.
5. Income producing expenses, including depreciation of equipment to secure self-generated revenue.

Limits of Reimbursement

1. Fiscal Limitation. The availability of State and Federal funds may result in a uniform rateable reduction of fees.

2. Reasonable Cost Limits. Payments to facilities for client services shall be based on the lesser of the reasonable cost of services or the customary charges to the general public for such services.

3. Profit Limits. An allowance of a reasonable return on equity capital invested and used in the provision of client care is allowable as an element of the reasonable cost of covered services. The amount allowable on an annual basis will be determined by applying to the provider's equity capital a percentage basis equal to one and one half times the average of the rates of interest on special issues of public debt obligations issued by the Federal Hospital Insurance Trust Fund. A profit factor will be allowed only for proprietary facilities.

4. Occupancy Limits. The determination of the reimbursement rate for each facility shall be based upon the percentage of occupancy. Those facilities which operate above ninety-three percent capacity, a ninety-three percent occupancy level will be used. For facilities whose occupancy level is between eighty-three and ninety-three percent, the actual occupancy levels will be used. For those facilities operating at less than eighty-three percent capacity, an eighty-three percent occupancy level will be used. This formula will provide an incentive for facilities who operate above ninety-three percent of their capacity and a penalty for those who operate at less than eighty-three percent of their capacity. All facilities licensed and/or certified for an occupany of fifteen or less will be exempted from this rule.

5. Other Limits. Costs which are unallowable for Federal participation will be paid by the State up to the maximum allowable under the section entitled "Allowable Costs for Services Provided." Payment procedures do not include a year-end settlement. Revised rates are effective July 1 of each year based upon the actual expenditures per cost reports received August 1 of the preceding year. Retroactive adjustment will not be made except for overpayments which result form the inclusion of unallowable costs in the cost report. Therefore, management decisions which increase cost will not affect the current rate and will increase future rates only if justified. To determine the 1979-1980 rate, the cost report on file will be revised by using current economic indicators to reflect inflation. In subsequent years, current economic indi-