

Comments and History Related to “Rate Refresh”

The reason “rate refresh” does not exist in regulation is because in 2017 the ID/A provider community and those who represent it advocated strongly and effectively to have it removed.

Beyond just changing the word “refresh” to “update”, the Chapter 6100.571 Fee Schedule Rate regulation was also restructured to make clear that all ten elements required to be evaluated in developing market-based fee schedule rates must be considered and reevaluated for their appropriate application during a rate update, not simply a “refresh” of old data.

The provider community often voices concern that comments and recommendations are ignored. But this is one time providers succeeded together in achieving a meaningful change.

Timeline History of Rate Refresh

Proposed Rulemaking: November 5, 2016

6100.571(b) The Department will refresh the market-based data used in subsection (a) to establish fee schedule rates at least every 3 years.

Advanced Notice of Final Rulemaking: August 19, 2017

Subsection (b) is revised to delete "refresh" as it is not a commonly understood term for the purposes of rate setting. This subsection now clarifies that the Department will examine and use the data sources in subsection (a) to establish fee schedule rates at least every 3 years.

PA Regulatory Review Act, Final-Form Regulation #14-540 –55 Pa. Code Chapters 51, 2380, 2390, 6100, 6200, 6400 and 6500: August 23, 2018

Page 202, Section 6100.571(c) mandates that the market-based data be updated every 3 years.

Page 216, The section is simplified to use the term “update” rather than “refresh” or “rebase.” The term “update” is the appropriate term, as it requires the Department to revise, examine and use the data in the rate setting process.

Final Published Version: October 5, 2019

§ 6100.571. Fee schedule rates.

(a) The Department will establish fee schedule rates, based on the factors in subsection (b), using a market-based approach so that payments are consistent with efficiency, economy and quality of care and sufficient to enlist enough providers so that services are available to at least the extent that such services are available to the general population in the geographic area.

(b) In establishing the fee schedule rates in subsection (a), the Department will examine and use data relating to the following factors:

- (1) The service needs of the individuals.
- (2) Staff wages, including education, experience, licensure requirements and certification requirements.
- (3) Staff-related expenses, including benefits, training, recruitment and supervision.

(4) *Productivity*. Productivity is the amount of service delivered relative to the level of staffing provided.

(5) *Occupancy*. Occupancy is the cost related to occupying a space, including rent, taxes, insurance, depreciation and amortization expenses.

(6) Direct and indirect program and administration-related expenses.

(7) Geographic costs based on the location where the HCBS is provided.

(8) Federally-approved HCBS definitions in the waiver and determinations made about cost components that reflect reasonable and necessary costs related to the delivery of each HCBS.

(9) The cost of implementing applicable Federal and State statutes and regulations and local ordinances.

(10) Other factors that impact costs.

(c) The Department will update the data used in subsection (b) at least every 3 years.

(d) The Department will publish a description of its rate setting methodology used in subsection (a) as a notice in the *Pennsylvania Bulletin* for public review and comment. The description will include a discussion of the use of the factors in subsection (b) to establish the fee schedule rates; a discussion of the data and data sources used; and the fee schedule rates.

(e) The Department will make available to the public a summary of the public comments received in response to the notice in subsection (d) and the Department's response to the public comments.