

TITLE 405 ICF/MR REIMBURSEMENT PROTECTION ACT AND  
NURSING FACILITY QUALITY ASSURANCE ASSESSMENT ACT

CHAPTER 1 ICF/MR REIMBURSEMENT PROTECTION ACT

1-001 SCOPE OF REGULATIONS: These regulations govern taxes levied against Intermediate Care Facilities for the Mentally Retarded (ICF/MR). The regulations implement provisions of the ICF/MR Reimbursement Protection Act:

1. A process for calculation of the tax;
2. A schedule for remittance of the tax;
3. A penalty for failure to pay the tax;
4. A procedure for claiming a tax overpayment refund; and
5. A list of conditions under which collection of the tax is discontinued.

1-002 DEFINITIONS: As used in these regulations, unless the context otherwise requires:

CMS means the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services.

Department means the Nebraska Department of Health and Human Services.

ICF/MR Reimbursement Protection Fund means the fund created as the repository for provider tax payments remitted by intermediate care facilities for the mentally retarded.

ICF/MR means an intermediate care facility for the mentally retarded as defined in Neb. Rev. Stat. Section 71-421 ad 471 NAC 31.

Medicaid means the medical assistance program established pursuant to Neb. Rev. Stat. Sections 68-901 to 68-949.

Net Revenue mans the revenue paid to an intermediate care facility for the mentally retarded for resident care, room, board, and services less contractual adjustments and does not include revenue from sources other than operations, including, but not limited to, interest and guest meals.

State Fiscal Year means the 12-month period from July 1 through the following June 30.

1-003 CALCULATION OF TAX: The tax amount owed by an ICF/MR provider for a given state fiscal year is the facility's net revenue from the preceding state fiscal year times the applicable percentage(s) listed below, pro-rated for mid-year changes. The ICF/MR provider must report the tax calculation by July 31<sup>st</sup> of each year on a form approved by the Department.

Percentages:

Prior to January 1, 2008	6.0%
January 1, 2008 through September 30, 2011	5.5%
Beginning October 1, 2011	6.0%

1-003.01 Tax Calculation for State Fiscal Year Ending June 30, 2008: One-half (50%) of the facility's net revenue from the fiscal year ending June 30, 2007 times 6%, plus one-half (50%) of the facility's net revenue from the fiscal year ending June 30, 2007 times 5.5%.

1-003.02 Tax Calculation for State Fiscal Year Ending June 30, 2009: The facility's net revenue from the fiscal year ending June 30, 2008 times 5.5%.

1-003.03 Tax Calculation for State Fiscal Year Ending June 30, 2010: The facility's net revenue from the fiscal year ending June 30, 2009 times 5.5%.

1-003.04 Tax Calculation for State Fiscal Year Ending June 30, 2011: The facility's net revenue from the fiscal year ending June 30, 2010 times 5.5%.

1-003.05 Tax Calculation for State Fiscal Year Ending June 30, 2012: One-fourth (25%) of the facility's net revenue from the fiscal year ending June 30, 2011 times 5.5%, plus three-fourths (75%) of the facility's net revenue from the fiscal year ending June 30, 2011 times 6%.

1-003.06 Tax Calculation for State Fiscal Year Ending June 30, 2013 Forward: The facility's net revenue from the preceding fiscal year times 6%.

1-004 Remittance of Tax: The ICF/MR provider must remit one-twelfth of the tax obligation to the Department for credit to the ICF/MR Protection Fund by the end of each month.

1-005 Penalty for Non-Payment of Tax: An ICF/MR provider that fails to pay the tax in the amount and by the date required is subject to a penalty of \$500 per day of delinquency, not to exceed five percent of the annual tax obligation. The Department will assess and collect penalties and remit the funds to the State Treasurer upon receipt.

1-006 Refund of Overpayment of Tax: An ICF/MR provider who has paid an amount in excess of the required tax may request a refund. The ICF/MR provider must request the refund in writing to the Department and must identify the reason why the provider believes an overpayment has occurred and the estimated amount of the overpayment.

1-007 Discontinuation of Tax Obligation: Collection of the tax will be terminated if:

1. The amendment to the State Medicaid Plan is disapproved by CMS;
2. The Department reduces Medicaid rates paid to ICF/MR providers below the rates in effect September 1, 2003; or
3. Money in the ICF/MR Reimbursement Protection Fund is utilized for purposes other than those delineated in the enabling state legislation.

If tax collection is discontinued, the balance of the ICF/MR Protection Fund will be returned to participating facilities in proportion to their contributions to the fund.