

**MINISTRY OF HEALTH**

**POLICY FOR FUNDING  
CONSTRUCTION COSTS  
OF LONG-TERM CARE FACILITIES**

**April 1999**

## **PART ONE: INTRODUCTION**

Effective April 1, 1998, the Ministry of Health implemented a new funding policy entitled the "Policy For Funding Construction Costs of Long-Term Care Facilities" (the "Construction Funding Policy") to support the costs of the construction of new long-term care facilities (nursing homes and homes for the aged) and the renovation of existing long-term care facilities. The Construction Funding Policy supersedes all prior construction funding policies of the Ministry of Health for long-term care facilities.

Implementation of the Construction Funding Policy coincided with the release and implementation of new mandatory design standards for long-term facilities as set out in the "Long-Term Care Facility Design Manual" dated May 1998 (the "Design Manual"). Effective April 1, 1998, these new mandatory design standards supersede all prior structural standards and guidelines for long-term care facility design.

Historically, the Province has provided capital grants for construction, on a cost-shared basis, to non-profit sponsors of long-term care facilities (includes both homes for the aged and nursing homes). In contrast, private sector operators have had to arrange their own financing and manage costs through operating funds when undertaking construction projects.

The Ministry of Health has now introduced one consistent funding approach for managing construction costs (as set out in the Construction Funding Policy) and one set of mandatory design standards (as set out in the Design Manual) for all long-term care facility operators which shall apply in the same manner, regardless of sponsorship. Funding of projects through the capital funding method may still apply in exceptional circumstances as determined by the Ministry of Health for charitable non-profit sponsors of long-term care facilities.

## **PART TWO: THE CONSTRUCTION FUNDING POLICY**

Under the Construction Funding Policy, the Ministry of Health shall provide to a long-term care facility operator the following funding if, and only if; the Ministry of Health determines that the operator meets all eligibility criteria and requirements as set out in this Construction Funding Policy:

1. a per diem of up to \$10.35 in additional operating funds for a) each long-term care bed awarded by the Ministry of Health; and, b) each long-term care bed in an existing out-dated long-term care facility identified by the Ministry of Health as in need for replacement and classified by the Ministry of Health as a Category "D" facility (collectively referred to as "Long-Term Care Facility Beds").

This additional operating fund shall be used to support the payment of loans secured by operators to pay for the construction of Long-Term Care Facility Beds (the "Up to \$10.35 Per Diem"). The Up to \$10.35 Per Diem shall be paid by the Ministry of Health to the operator on a monthly basis for a period of 20 consecutive years based on a maximum construction cost of \$75,000/Long-Term Care Facility Bed. The Up to \$10.35 Per Diem shall only be used by the operator for the payment of actual construction costs relating to the development of facilities for Long-Term Care Facility Beds;

2. in exceptional circumstances as determined by the Ministry of Health, a capital grant to those non-profit charitable organizations that have demonstrated to the Ministry of Health" satisfaction that they have been unsuccessful in securing financing from at least three lending institutions. The amount of the capital grant shall be no more than the amount of operating funds provided through the Up to \$10.35 Per Diem by the Ministry of Health under this Construction Funding Policy.
3. effective April 1, 1998, a new structural premium for those facilities which have been determined by the Ministry of Health as substantially meeting compliance with the new design standards as set out in the Design Manual. These facilities have been classified by the Ministry of Health as Category "A" facilities. The structural premiums for Category "A" facilities shall be as follows:
  - i) a per diem of \$5.00 per resident shall be provided to those operators who have fully financed the construction costs of their long-term care facilities; or
  - ii) a per diem of up to \$3.00 per resident shall be provided to those operators who have received any government grant(s) to build their long-term care facilities. The amount of the structural premium shall be adjusted depending on the amount of the grant or combined grants. For example, if the operator received a 50% capital grant from the Province, the per diem shall be \$1.50 per resident;
4. effective April 1, 1998, a per diem of up to \$2.50 per resident as a structural premium to those long-term care facilities that have been determined by the Ministry of Health as substantially exceeding the 1972 regulated nursing home structural standards, but not meeting the new mandatory design standards as set out in the Design Manual. These facilities have been classified by the Ministry of Health as Category "B" facilities. If an operator received any government grant(s) to build the long-term care facility, then the amount of the premium shall be adjusted depending on the amount of the grant or combined grants. For example, if the operator received a 50% capital grant from the Province, the per diem premium shall be \$1.25 per resident; and

5. effective April 1, 1998, a per diem of up to \$1.00 per resident as a structural premium to those long-term care facilities which have been determined by the Ministry of Health as meeting compliance with 1972 nursing home structural standards. These standards include the regulated nursing home standards in addition to any waivers set out under the "Compliance Plan Review Board Guidelines" (the "Standards"). These facilities have been classified by the Ministry of Health as Category "C" facilities. If an operator received any government grant(s) to build the long-term care facility, the amount of the premium shall be adjusted depending on the amount of the grant or combined grants. For example, if the operator received a 50% grant from the Province, the per diem premium shall be \$.50 per resident.

There shall be no structural premiums paid to long-term care facilities that are not in compliance with the Standards. These facilities have been classified by the Ministry of Health as Category "D" facilities and shall be replaced by the operators with new facilities that conform to the new mandatory design standards as set out in the Design Manual. As noted above, operators of Category "D" facilities are eligible for the Up to \$10.35 Per Diem.

In addition, the Ministry of Health shall phase out the debt service fund for nursing homes over five fiscal years starting in fiscal 1998/99. Each year, the amount of the debt service allowance paid to each nursing home operator now receiving the allowance shall be reduced by one-fifty (1/5) of the amount paid in calendar 1997. The first reduction took place in fiscal year 1998/99. By fiscal 2002/03, the debt service fund shall be reduced to \$0 shall cease to exist.

### **PART THREE: THE UP TO \$10.35 PER DIEM**

#### **(i) Eligibility for the Up to \$10.35 Per Diem**

The following are eligible for the Up to \$10.35 Per Diem:

1. Organizations that have been awarded new long-term beds by the Ministry of Health; and
2. Operators of Category "D" facilities.

("Eligible Operators")

## **(ii) Determination of the Amount of the Up to \$10.35 Per Diem**

The Ministry of Health's role is to support the repayment of the Eligible Operators actual construction costs which have been approved by the Ministry of Health through regular monthly payments within specific parameters (e.g. payment of the Up to \$10.35 Per Diem over a period of 20 consecutive years). The actual amount of funding support shall be verified through a Ministry of Health review process of the terms of the financing and the actual construction costs.

Each Eligible Operator must demonstrate that an actual construction cost of \$75,000 per Long-Term Care Facility Bed has been expended by the Eligible Operator in order to receive the maximum available through the Up to \$10.35 Per Diem. For the purposes of demonstrating that \$75,000 per Long-Term Care Facility Bed has been expended, actual construction costs can include the actual cost of construction, furniture, equipment, building permit, development fees, and consulting/professional fees.

If the actual construction cost is less than \$75,000 per Long-Term Care Facility Bed, the Up to \$10.35 Per diem shall be pro-rated against the actual construction costs.

The operator shall be fully responsible for all project costs including, but not limited to:

1. all actual construction costs (including the actual cost of construction, furniture, equipment, building permit, development fees, and consulting/professional fees) above \$75,000 per Long-Term Care Facility Bed; and
2. all costs relating to the land, building, demolition of the building, re-zoning application, audit fees and site survey.

## **(iii) Commencement of the Funding of the Up to \$10.35 Per Diem**

The Ministry of Health shall not be obligated to provide the Up to \$10.35 Per Diem to Eligible Operators unless the Ministry of Health determines that the following terms and conditions have been met:

1. the long-term care facility to be developed for the Long-Term Care Facility Beds has been built in accordance with the mandatory design standards as set out in the Design Manual and in accordance with the plans approved by the Ministry of Health;
2. all terms and conditions set out in the agreement(s) entered into between the Ministry of Health and the Eligible Operator relating to the development of the Long-Term Care Facility Beds have been complied with; and
3. all requirements set out in this Construction Funding Policy have been complied with.

The Ministry of Health may stop the funding of the Up to \$10.35 Per Diem to an Eligible Operator and recover any monies provided by the Ministry of Health to an Eligible Operator relating to the Up to \$10.35 Per Diem in the event that the Ministry of Health becomes aware that the Eligible Operator has not met the terms and conditions set out above in this section.

The Up to \$10.35 Per Diem shall be included in the Subsidy Calculation Worksheet of the Eligible Operator which is attached to and forms part of the Service Agreement between the Ministry of Health and the Eligible Operator.

#### **PART FOUR: LEVELS OF CARE FUNDING**

The Up to \$10.35 Per Diem is in addition to the regular operating funding which a facility operator receives through the Province's "Levels of Care" funding system. The Up to \$10.35 Per Diem shall be added to the "Levels of Care" per diem operating funds for each Eligible Operator.

The "Levels of Care" funding entitlement for a new long-term care facility, or an addition to an existing long-term care facility, that is opening as a result of a bed award shall start at the provincial average because the "Level of Care" of residents is not yet known. The provincial average is reflected as a Case Mix (CMI) value of "100". In this case, the Ministry of Health contribution shall include:

1. the regulated base amount for the Nursing and Personal Care Envelope;
2. the regulated fixed per diem for the Program and Support Services Envelope; and
3. the difference between the residents' contribution for basic accommodation and the provincially guaranteed level of accommodation funding.

For a replacement long-term care facility (i.e., replacement of the Category "D" beds in an existing older facility or part thereof), the Provincial compensation shall be calculated in the same manner described above, with the exception that the actual Case Mix Index (CMI) value for the residents already living in the long-term care facility shall be used to determine the regulated Nursing and Personal Care per diem.

New long-term care facilities (includes facilities which are developed from awarded beds and replacement Category "D" beds) being gradually filled with new residents shall be funded on the basis of full occupancy for a two-month start-up period. Following this two-month start-up period, the 97% occupancy rule shall apply as it does to other long-term facilities.

It is important to note that the Up to \$10.35 Per Diem shall be paid based on the total number of Approved or Licensed Beds, and not on the actual occupancy of the long-term care facility. In this context, although the 97% occupancy rule shall not apply to the Up to \$10.35 Per Diem calculation, the 97% occupancy rule shall continue to apply to the other operating funds provided by the Ministry of Health.

## **PART FIVE: ACCOUNTABILITY STRUCTURE**

### **(i) Review of Construction Plans and Costs**

All construction plans for the development of a long-term care facility (this includes plans for a new long-term care facility as well as renovations, additions and/or alterations to an existing long-term care facility) shall be reviewed for acceptability by the Ministry of Health prior to the start of construction. The purpose of the Ministry of Health's plans review process is to ensure that each Eligible Operator's plans conform to the mandatory design standards as set out in the Design Manual. Construction plans that do not meet these mandatory design standards shall not be approved.

In addition, Eligible Operators who have been awarded long-term care beds must construct their new facilities or additions/renovations to existing facilities, as the case may be, in accordance with the "Agreement For Development of Long-Term Care Facility Beds" made between the Minister of Health and the Eligible Operator ("Awardee")

Eligible Operators must clearly demonstrate their construction costs as part of the Ministry of Health's plans review and approval process. If the Ministry of Health requires additional information about the financing of the project, Eligible Operators must submit all such additional information to the Ministry of Health in a timely manner.

Approval for the Up to \$10.35 Per diem funding shall not be given by the Ministry of health prior to completion of the Ministry of Health's review and confirmation of construction costs.

### **(ii) Site Approval**

In the case of an award of beds, the Ministry of Health must approve the selected site for the new long-term care facility. The Ministry of Health shall provide the Eligible Operator with a response on the acceptability of the site within 20 working days of the notice from the Eligible Operator identifying the proposed site.

### **(iii) Tendering of Project**

Once the construction plans have been approved by the Ministry of Health, the project must be approved by the Ministry of Health for tender.

Working drawings and specifications suitable for public tendering must be prepared by the Eligible Operator. These working drawings and specifications must form the basis of the contract between the Eligible Operator and the general contractor approved by the Ministry of Health.

All construction projects must be publicly advertised in the Daily Commercial News and local newspapers. Eligible Operators may “invite” contractors to submit a construction bid as well. The Ministry of Health’s policies and guidelines for tendering are based on a stipulated price contract as per the Canadian Construction Documents Committee (CCDC 2) standard forms and documents. Use of the CCDC2 standard forms is recommended for all aspects of the Eligible Operators tendering process.

After the close of the tender, at least three bids must be reviewed by the Eligible Operator in consultation with the Ministry of Health.

The Ministry of Health shall review the bids selected by the Eligible Operator and approve the selection of the general contractor. The decision on the acceptability of the bid selected by the operator shall be based on the following qualitative criteria:

1. the comparative costs between the selected bid and the other submitted bids for all of the various aspects of the construction project to ensure that an appropriate value is charged for each aspects of the long-term care facility construction project;
2. the comparative costs of the project relative to the typical costs for development of a similar type of project to ensure the best value and quality for the price; and
3. if applicable, the track record and work history of the general contractor for the selected bid.

A Final Estimate of Cost (“FEC”) form (Ministry of Health document) must be prepared by the Eligible Operator and submitted to the Ministry of Health. In addition, the Eligible Operator must submit a spreadsheet identifying bidders, a written recommendation from the Eligible Operator relating to the general contractor selected by the Eligible Operator, and a letter of confirmation from the Eligible Operators lender concerning the terms of financing.

#### **(iv) Project Management**

Under exceptional circumstances, the Ministry of Health may approve alternative and innovative concepts for the development of a project to construct long-term care facility beds using a “project management” approach. An Eligible Operator who wishes to use a “project management” approach must submit a written request for approval to the Ministry of Health. The Ministry of Health will review the request and provide the Eligible Operator with a decision within a reasonable time frame.



The Ministry will review any written request based on the following evaluation criteria (the “Evaluation Criteria”):

1. the extent to which the Eligible Applicant is able to demonstrate that this approach serves the best interests of the Province of Ontario;
2. the extent to which the Eligible Applicant is able to demonstrate that this approach is consistent with provincial criteria for the management of public funds and does not compromise the requirement for accountability for public funds;
3. extent to which the Eligible Applicant is able to demonstrate that this approach is the better alternative method for completion of the construction project as opposed to the hiring of a general contractor.
4. whether the written request adheres to the public tendering process as set out in the above **(iii) Tendering of Project** section for each aspect of the construction project (including the hiring of a “project manager”), including,
  - i) the advertisement of the public tenders in Daily Commercial News and local newspapers,
  - ii) a competition open to all interested bidders; and
  - iii) selection of the highest quality, best price bids for each aspect of the construction project;
5. the “level of risk” to the Eligible Operator, including,
  - i) the nature and extent of the liability to be assumed by the Eligible Operator,
  - ii) the financial risk to the Eligible Operator and how this will impact on the financing of the construction project; and
  - iii) the ability of the Eligible Operator to meet the time commitments for development of the long-term care facility beds as set out in “Schedule E” to the Agreement to develop the beds; and
6. any other factor(s) that the Ministry of Health, in its sole discretion, deems relevant.

The Eligible Operator’s written request must adhere to the public tendering process as set out in the above **(iii) Tendering of Project** section and must address all the issues set out in the above Evaluation Criteria. As part of the process to review the request from the Eligible Operator, the Ministry of Health may ask for any additional information from the Eligible Operator which the Ministry, in its sole discretion, deems necessary.

The Eligible Operator shall provide any such additional information to the Ministry of Health in a timely manner.

Each written request from an Eligible Operator will be reviewed by the Ministry of Health on an individual basis based on the above Evaluation Criteria, with decisions made in consideration of the merits of the individual circumstances and the appropriateness of proceeding with this approach.

The Ministry of Health shall have the sole and absolute discretion to approve or reject any written request for the use of the “project management” approach for a particular construction project to develop long-term care beds. The Ministry of Health shall have the sole and absolute discretion to impose any conditions on any approval granted for the use of the “project management” approach for a construction project, including conditions relating to the process and criteria for the selection of the “project manager”. The Ministry of Health shall have the sole and absolute discretion to impose different and unique conditions on similar construction projects to develop long-term care facility beds using the “project management” approach.

#### **(v) Persons Responding to Ministry of Health Requests for Proposal**

Persona responding to any Ministry of Health Requests for Proposals to develop long-term care facility beds shall assume that they will be required to retain a general contractor to construct any awarded long-term care beds and shall estimate their construction costs based on the retention of a general contractor.

#### **(vi) Commencement of Construction**

Construction shall begin as soon as the tendering process is complete and a contract is awarded and signed. Construction of the project is the responsibility of the general contractor/project manager and must be carried out in accordance with the terms of the contract between the Eligible Operator and the general contractor/project manager.

#### **(vii) Project Completion and Determination of Construction Funding**

The Ministry of Health shall carry out a “pre-occupancy” review to confirm that the long-term care facility or the addition thereto has been constructed in accordance with the construction plans approved by the Ministry of Health.

The Eligible Operator shall address any outstanding issues relating to the “pre-occupancy review” to the satisfaction of the Ministry of Health before approval by the Ministry of Health to admit residents shall be given. Once the new facility or addition thereto has passed the “pre-occupancy review”, the Eligible Operator shall be approved by the Ministry of Health to begin admitting long-term facility residents to the new long-term care facility beds.

The Up to \$10.35 Per Diem funding shall begin on the day the first resident or residents is/are admitted to the long-term care facility or the addition thereto. The payment shall

be for the full-approved capacity of the long-term care facility, not the actual occupancy level. For example, if the long-term care facility has an approved capacity of 100 long-term care beds, the Eligible Operator shall be compensated at a rate of up to \$10.35/day times 100 beds from the day the first resident moves into the facility or addition thereto for a period of 20 consecutive years.

The Eligible Operator must submit an audited "Statement of Disbursements and Source of Funds" (this is a Ministry of Health form) to the Ministry of Health. Once the "Statement of Disbursements and Source of Funds" is approved by the Ministry of Health, the Up to \$10.35 Per Diem shall be set or adjusted, if necessary, in the event that the Ministry of Health has been providing the Up to \$10.35 Per Diem based on the Eligible Operators FEC form.

The Eligible Operator must also sign a Service Agreement with the Ministry of Health in order to receive operating funds. The Up to \$10.35 Per Diem for construction financing shall form part of the Service Agreement.

## **PART SIX: WHAT HAPPENS TO THE UP TO \$10.35 PER DIEM IN THE EVENT OF RECEIVERSHIP AFTER THE COMMENCEMENT OF OPERATIONS**

A long-term care facility may be placed under receivership where an operator is unable to meet its financial obligations. The receivership may take place after the Up to \$10.35 Per Diem financing commences (for example, three or four years after opening).

It is the policy of the Ministry of Health to work closely with a receiver to ensure that the needs of the residents are met and the facility is properly maintained. Ministry of Health funding support to the home continues during the receivership period to ensure continuity in the delivery of resident care programs and services.

In most circumstances, the receiver, usually in conjunction with a management firm experienced in operating a long-term facility, continues to operate the facility until such time that a new operator (approved by the Ministry) assumes ownership. The new operator shall assume all obligations of the former operator relating to the operation of the long-term care facility. If the new operator does assume all obligations, the new operator shall be entitled to the same Up to \$10.35 Per Diem from the Ministry of Health as previously provided to the prior operator.

If a new operator cannot be found and the receiver seeks to dispose of the long-term care facility, residents shall be relocated to alternative care settings in accordance with their needs and the long-term care facility shall be closed. In this event, all Ministry of Health funding to the home shall cease (including all funding for construction or capital investment), and the receiver shall be responsible to deal with any creditors in the usual course.