



Status of Proposed 651 Changes - October 30, 2009

Florida Association of Homes and Services for the Aging (FAHSA) has released the final list of proposed changes to 651 that will be introduced at next year's legislative session. The good news is that the definitional changes (651.011) requested by the Office of Insurance Regulation (OIR) have been dropped. This includes changes designed to expand the definition of a "continuing care retirement community" (CCRC) to a point that it would include providers who offered services to residents under multiple contracts. We felt very strongly that the proposed changes would alter the intent of 651 and create more questions than it would provide answers.

OIR did feel that the definition of "operating expenses" in 651.035 needed updating. FAHSA worked with OIR to modify the wording in a manner that would prevent the definition from including expenses that did not relate to the delivery of services required under a residency agreement. The operating expenses used in the Minimum Liquid Reserve Calculation (MLR) (651.035) should include only those expenses related to services provided to residents (as defined in the statutes) for services required under a residency contract. This is achieved through two steps:

1. Expenses related to expenses not required under a residential contract are separated (home health care agency, pharmacy, golf course, etc.).
2. Residency expenses are allocated between residents (CCRC contract holders and non-CCRC contract holders). The portion allocated to residents is used in the MLR calculation.

We feel that the statute still addresses this issue correctly.

The changes offered by Florida Life Care Residents Association (FLICRA) pertain primarily to transparency and disclosure issues related to information desired by individual community resident councils. FAHSA worked with FLICRA on the wording of these issues to keep the additional information to a minimum. Of great importance, in our opinion, is that the changes do not require a significant cost for compliance.

The following schedule provides a brief description of each proposed change. It is divided between those proposed by OIR and those proposed by a FAHSA/FLICRA task force.

<u>OIR</u>	<u>FAHSA/FLICRA</u>
1) <u>651.017 & .022</u> - Increase in CoA fees.	1) <u>651.022</u> - Volunteer board member requirements.
2) <u>651.022(3)(i)</u> - Requires that "wait list"	2) <u>651.026</u> - Transparency changes related to annual audited financial statements that

contract must be approved by OIR.	are filed with OIR.
3) <u>651.033(3)(d)</u> - A provider may assess a non-refundable fee separate from the entrance fee to process a resident's application fee.	3) <u>651.055(1)(d)</u> - Identifies that point a prospective resident is "deemed to be a resident for the purpose of consumer protections" outlined in 651.055.
4) <u>651.035(2)(a)</u> - Identified "property" taxes as the tax type that would be included in the debt service reserve portion of the Minimum Liquid Reserve requirement.	4) <u>651.055(1)(g)</u> - Increased allowable application fee to 5% from 4%.
5) <u>651.035(2)(c) & (3)(c)</u> - Change to definition of "operating expense" subject to MLR calculation.	5) <u>651.071</u> - Notification requirement related to a resident council.
6) <u>651.055(2)</u> - Requires that resident's fund must be held in an escrow account during the 7-day refund period unless directed otherwise by the resident.	6) <u>651.083</u> - Right of resident to receive announcements from and access to the resident council.
7) <u>651.117 & .121</u> - Various terminology changes.	7) <u>651.085</u> - Relates to notification of increases in monthly maintenance fees to the president of the resident council.
	8) <u>651.091(1)</u> - Defines a "management company" as an agent of the provider.
	9) <u>651.091(2)(f-h)</u> - Relates to disclosure of the following information as to the residents council: a. Summary of entrance fees collected and refunds made for a fiscal year. b. Delivery of Quarterly Financial Statement within 30 days of filing the report with OIR. c. Delivery of a newly approved Continuing Care Contract within 30 days of approval by OIR.
	10) <u>651.105(5)</u> - Requires that all required examination information made to OIR is disclosed to the resident council.

11) 651.121(7-9) - Documentation requirement for the Governor's CCRC Advisory Council.

If you have any questions, please do not hesitate to give us a call.

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