

Summary of compromise points negotiated by DPW and PCCYFS – May 21, 2009

1. Indirect expenses would be capped at not more than 17% for FY 2010-2011, 16% for FY 2011- 2012 and remain steady at 15% from FY 2012-2013.
2. OMB Circular A-122 and its correlating circular addressing for-profits will be used as the definitional base for indirect costs.
3. Effective 7/1/10, occupancy calculations would be based on the most recent year of actual (audited year) utilization data as reported on the IV-E fiscal forms divided by the denominator of licensed number of beds times 365 days for a minimum of 85%.
 - a. Providers will determine the licensed number of beds based on their calculations of utilization, staffing ratios etc. Providers agree to reduce licensed capacity to meet occupancy rate requirements and calculations will be based on the adjusted capacity.
 - b. Providers will be offered guarantee of DPW approval of requests to increase licensed numbers in statutory language - 24 hours for emergency requests and 5 business days for planned increases. If the request for an adjustment is made, it would be processed within existing licensing rules and regulations exercised by DPW as long as physical space and staffing was in place.
 - c. Shelter and detention facilities are exempt from these occupancy requirements
 - d. Small facilities of less than 12 residents would be excluded from these occupancy requirements
 - e. A special circumstances exception language/process will be included allowing DPW to grant exceptions where appropriate. Occupancy rates for short programs (diagnostic etc.) of less than 45 planned days will be handled through this clause.
4. All language regarding any restrictions/caps on retained revenues or gross profits is stricken
5. Language referencing limits on executive compensation is stricken from the legislation. Since executive compensation is part of indirect administration, the change agreed to in Item 1 indirectly accomplishes the same goal.