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SENATE BILL 6752

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State of Washington 57th Legislature

2002 Regular Session

By Senators Thibaudeau, Fraser and Hale

Read first time 01/31/2002. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to unallowable costs under the nursing facility  
2 medicaid payment system; and amending RCW 74.46.410.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 74.46.410 and 2001 1st sp.s. c 8 s 3 are each amended  
5 to read as follows:

6 (1) Costs will be unallowable if they are not documented,  
7 necessary, ordinary, and related to the provision of care services to  
8 authorized patients.

9 (2) Unallowable costs include, but are not limited to, the  
10 following:

11 (a) Costs of items or services not covered by the medical care  
12 program. Costs of such items or services will be unallowable even if  
13 they are indirectly reimbursed by the department as the result of an  
14 authorized reduction in patient contribution;

15 (b) Costs of services and items provided to recipients which are  
16 covered by the department's medical care program but not included in  
17 the medicaid per-resident day payment rate established by the  
18 department under this chapter;

1 (c) Costs associated with a capital expenditure subject to section  
2 1122 approval (part 100, Title 42 C.F.R.) if the department found it  
3 was not consistent with applicable standards, criteria, or plans. If  
4 the department was not given timely notice of a proposed capital  
5 expenditure, all associated costs will be unallowable up to the date  
6 they are determined to be reimbursable under applicable federal  
7 regulations;

8 (d) Costs associated with a construction or acquisition project  
9 requiring certificate of need approval, or exemption from the  
10 requirements for certificate of need for the replacement of existing  
11 nursing home beds, pursuant to chapter 70.38 RCW if such approval or  
12 exemption was not obtained;

13 (e) Interest costs other than those provided by RCW 74.46.290 on  
14 and after January 1, 1985;

15 (f) Salaries or other compensation of owners, officers, directors,  
16 stockholders, partners, principals, participants, and others associated  
17 with the contractor or its home office, including all board of  
18 directors' fees for any purpose, except reasonable compensation paid  
19 for service related to patient care;

20 (g) Costs in excess of limits or in violation of principles set  
21 forth in this chapter;

22 (h) Costs resulting from transactions or the application of  
23 accounting methods which circumvent the principles of the payment  
24 system set forth in this chapter;

25 (i) Costs applicable to services, facilities, and supplies  
26 furnished by a related organization in excess of the lower of the cost  
27 to the related organization or the price of comparable services,  
28 facilities, or supplies purchased elsewhere;

29 (j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX  
30 recipients are allowable if the debt is related to covered services, it  
31 arises from the recipient's required contribution toward the cost of  
32 care, the provider can establish that reasonable collection efforts  
33 were made, the debt was actually uncollectible when claimed as  
34 worthless, and sound business judgment established that there was no  
35 likelihood of recovery at any time in the future;

36 (k) Charity and courtesy allowances;

37 (l) Cash, assessments, or other contributions, excluding dues, to  
38 charitable organizations, professional organizations, trade

1 associations, or political parties, and costs incurred to improve  
2 community or public relations;  
3 (m) Vending machine expenses;  
4 (n) Expenses for barber or beautician services not included in  
5 routine care;  
6 (o) Funeral and burial expenses;  
7 (p) Costs of gift shop operations and inventory;  
8 (q) Personal items such as cosmetics, smoking materials, newspapers  
9 and magazines, and clothing, except those used in patient activity  
10 programs;  
11 (r) Fund-raising expenses, except those directly related to the  
12 patient activity program;  
13 (s) Penalties and fines;  
14 (t) Expenses related to telephones, radios, and similar appliances  
15 in patients' private accommodations;  
16 (u) Televisions acquired prior to July 1, 2001;  
17 (v) Federal, state, and other income taxes;  
18 (w) Costs of special care services except where authorized by the  
19 department;  
20 (x) Expenses of an employee benefit not in fact made available to  
21 all employees on an equal or fair basis, for example, key-man insurance  
22 and other insurance or retirement plans;  
23 (y) Expenses of profit-sharing plans;  
24 (z) Expenses related to the purchase and/or use of private or  
25 commercial airplanes which are in excess of what a prudent contractor  
26 would expend for the ordinary and economic provision of such a  
27 transportation need related to patient care;  
28 (aa) Personal expenses and allowances of owners or relatives;  
29 (bb) All expenses of maintaining professional licenses or  
30 membership in professional organizations;  
31 (cc) Costs related to agreements not to compete;  
32 (dd) Amortization of goodwill, lease acquisition, or any other  
33 intangible asset, whether related to resident care or not, and whether  
34 recognized under generally accepted accounting principles or not;  
35 (ee) Expenses related to vehicles which are in excess of what a  
36 prudent contractor would expend for the ordinary and economic provision  
37 of transportation needs related to patient care;  
38 (ff) Legal and consultant fees in connection with a fair hearing  
39 against the department where a decision is rendered in favor of the

1 department or where otherwise the determination of the department  
2 stands;

3 (gg) Legal and consultant fees of a contractor or contractors in  
4 connection with a lawsuit against the department;

5 (hh) Lease acquisition costs, goodwill, the cost of bed rights, or  
6 any other intangible assets;

7 (~~(ii)~~) (~~All rental or lease costs other than those provided in RCW~~  
8 ~~74.46.300 on and after January 1, 1985;~~

9 (~~(jj)~~) Postsurvey charges incurred by the facility as a result of  
10 subsequent inspections under RCW 18.51.050 which occur beyond the first  
11 postsurvey visit during the certification survey calendar year;

12 (~~((kk))~~) (jj) Compensation paid for any purchased nursing care  
13 services, including registered nurse, licensed practical nurse, and  
14 nurse assistant services, obtained through service contract arrangement  
15 in excess of the amount of compensation paid for such hours of nursing  
16 care service had they been paid at the average hourly wage, including  
17 related taxes and benefits, for in-house nursing care staff of like  
18 classification at the same nursing facility, as reported in the most  
19 recent cost report period;

20 (~~((ll))~~) (kk) For all partial or whole rate periods after July 17,  
21 1984, costs of land and depreciable assets that cannot be reimbursed  
22 under the Deficit Reduction Act of 1984 and implementing state  
23 statutory and regulatory provisions;

24 (~~((mm))~~) (ll) Costs reported by the contractor for a prior period  
25 to the extent such costs, due to statutory exemption, will not be  
26 incurred by the contractor in the period to be covered by the rate;

27 (~~((nn))~~) (mm) Costs of outside activities, for example, costs  
28 allocated to the use of a vehicle for personal purposes or related to  
29 the part of a facility leased out for office space;

30 (~~((oo))~~) (nn) Travel expenses outside the states of Idaho, Oregon,  
31 and Washington and the province of British Columbia. However, travel  
32 to or from the home or central office of a chain organization operating  
33 a nursing facility is allowed whether inside or outside these areas if  
34 the travel is necessary, ordinary, and related to resident care;

35 (~~((pp))~~) (oo) Moving expenses of employees in the absence of  
36 demonstrated, good-faith effort to recruit within the states of Idaho,  
37 Oregon, and Washington, and the province of British Columbia;

1       (~~(qq)~~) (pp) Depreciation in excess of four thousand dollars per  
2 year for each passenger car or other vehicle primarily used by the  
3 administrator, facility staff, or central office staff;  
4       (~~(rr)~~) (qq) Costs for temporary health care personnel from a  
5 nursing pool not registered with the secretary of the department of  
6 health;  
7       (~~(ss)~~) (rr) Payroll taxes associated with compensation in excess  
8 of allowable compensation of owners, relatives, and administrative  
9 personnel;  
10       (~~(tt)~~) (ss) Costs and fees associated with filing a petition for  
11 bankruptcy;  
12       (~~(uu)~~) (tt) All advertising or promotional costs, except  
13 reasonable costs of help wanted advertising;  
14       (~~(vv)~~) (uu) Outside consultation expenses required to meet  
15 department-required minimum data set completion proficiency;  
16       (~~(ww)~~) (vv) Interest charges assessed by any department or agency  
17 of this state for failure to make a timely refund of overpayments and  
18 interest expenses incurred for loans obtained to make the refunds;  
19       (~~(xx)~~) (ww) All home office or central office costs, whether on  
20 or off the nursing facility premises, and whether allocated or not to  
21 specific services, in excess of the median of those adjusted costs for  
22 all facilities reporting such costs for the most recent report period;  
23 and  
24       (~~(yy)~~) (xx) Tax expenses that a nursing facility has never  
25 incurred.

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