Chapter 388-96 WAC
NURSING FACILITY MEDICAID PAYMENT SYSTEM

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-96-015 Phase-in of other definitions. [Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-015, filed 2/25/81.] Repealed by WSR 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.

388-96-023 Conditions of participation. [Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-023, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. WSR 91-22-025 (Order 3270), § 388-96-023, filed 10/29/91, effective 11/29/91; WSR 83-19-047 (Order 2025), § 388-96-023, filed 9/16/83; WSR 82-21-025 (Order 1892), § 388-96-023, filed 10/13/82. Statutory Authority: RCW 74.08.-090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-023, filed 6/1/78; Order 1262, § 388-96-023, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-029 Change of ownership. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-029, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-029, filed 9/16/83; Order 1262, § 388-96-029, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-032 Termination of contract. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-032, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120, 74.46.-840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-032, filed 8/19/85. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-032, filed 5/30/84. Statutory Authority: RCW 74.09.-120. WSR 83-19-047 (Order 2025), § 388-96-032, filed 9/16/83; WSR 82-21-025 (Order 1892), § 388-96-032, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-032, filed 6/1/78; Order 1262, § 388-96-032, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-100 Standards for funding patient care services in skilled nursing/intermediate care facilities. [Order 1168, § 388-96-100, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.

388-96-101 Reports. [Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-101, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-101, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-101, filed 9/16/83; WSR 79-03-021 (Order 1370), § 388-96-101, filed 2/21/79; Order 1262, § 388-96-101, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-103 Skilled nursing care patients. [Order 1168, § 388-96-103, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.

388-96-104 Due dates for reports. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-104, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-104, filed 9/16/83; WSR 79-03-021 (Order 1370), § 388-96-104, filed 2/21/79; Order 1262, § 388-96-104, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-106 Minimum licensed personnel requirements for skilled nursing facilities. [Order 1168, § 388-96-106, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.

388-96-109 Intermediate care facility patients. [Order 1168, § 388-96-109, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.

388-96-110 Improperly completed or late reports. [Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-110, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-110, filed 8/19/85. Statutory Authority: RCW 74.09.-120. WSR 83-19-047 (Order 2025), § 388-96-110, filed 9/16/83; WSR 82-09-033 (Order 1791), § 388-96-110, filed 4/14/82; WSR 80-06-122 (Order 1510), § 388-96-110, filed 5/30/80, effective 7/1/80; Order 1262, § 388-96-110, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-112 Minimum licensed personnel requirements for intermediate care facilities. [Order 1168, § 388-96-112, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.

388-96-113 Completing reports and maintaining records. [Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-113, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. WSR 93-12-051 (Order 3555), § 388-96-113, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-113, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-113, filed 8/19/85. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-113, filed 5/30/84. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-113, filed 9/16/83; WSR 83-05-007 (Order 1944), § 388-96-113, filed 2/4/83; WSR 82-11-065 (Order 1808), § 388-96-113, filed 5/14/82; WSR 80-09-083 (Order 1527), § 388-96-113, filed 7/22/80; Order 1262, § 388-96-113, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-116 Provider classification. [Order 1169, § 388-96-116, filed 11/10/76.] Repealed by Order 1257, filed 12/21/77.

388-96-118 Exception to dual contract. [Order 1168, § 388-96-118, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.

388-96-125 Reporting for an abbreviated period. [Statutory Authority: RCW 74.09.120. WSR 79-04-102 (Order 1387), § 388-96-125, filed 4/4/79; Order 1262, § 388-96-125, filed 12/30/77.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.-120.

388-96-128 Requirements for retention of records by the contractor. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-128, filed 8/19/85. Statutory Authority: RCW 74.09.-120. WSR 83-19-047 (Order 2025), § 388-96-128, filed 9/16/83; Order 1262, § 388-96-128, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-131 Requirement for retention of reports by the department. [Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-131, filed 9/16/83; Order 1262, § 388-96-131, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-134 Disclosure of nursing home reports. [Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-134, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-134, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-134, filed 9/16/83; Order 1262, § 388-96-134, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-200 Condition of qualification for participation in the Washington state cost-related reimbursement system. [Order 1168, § 388-96-200, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.

388-96-201 Desk review. [Order 1262, § 388-96-201, filed 12/30/77.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

388-96-202 Scope of audit or department audit. [Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-202, filed 11/30/99, effective 12/31/99. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 8 and RCW 74.46.-800. WSR 98-20-023, § 388-96-202, filed 9/25/98, effective 10/1/98.] Repealed by WSR 11-05-068, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958.

388-96-203 Initial financial survey report and budgetary report for new providers. [Order 1168, § 388-96-203, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.

388-96-204 Field audits. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-204, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. WSR 90-09-061 (Order 2970), § 388-96-204, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-204, filed 12/23/87. Statutory Authority: RCW 74.09.120, 74.46.-840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-204, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-204, filed 12/4/84. Statutory Authority: RCW 74.46.-800. WSR 84-12-039 (Order 2105), § 388-96-204, filed 5/30/84. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-204, filed 9/16/83; Order 1262, § 388-96-204, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-206 Prospective daily payment. [Order 1168, § 388-96-206, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.

388-96-207 Preparation for audit by the contractor. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-207, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-207, filed 9/16/83; Order 1262, § 388-96-207, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-209 Flat rate payment system option. [Order 1168, § 388-96-209, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.

388-96-210 Scope of field audits. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-210, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-210, filed 9/14/93, effective 10/15/93; WSR 89-11-100 (Order 2799), § 388-96-210, filed 5/24/89. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-210, filed 9/16/83; Order 1262, § 388-96-210, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-213 Inadequate documentation. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-213, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-213, filed 9/16/83; Order 1262, § 388-96-213, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-216 Deadline for completion of audits. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-216, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-216, filed 9/16/83; Order 1262, § 388-96-216, filed 12/30/77.] Repealed by WSR 95-19-037 (Order 3896), filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18.

388-96-219 Disclosure of audit narratives and summaries. [Order 1262, § 388-96-219, filed 12/30/77.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

388-96-220 Principles of settlement. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-220, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-220, filed 9/16/83.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-221 Preliminary settlement. [Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-221, filed 7/16/96, effective 8/16/96. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-221, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-221, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 89-11-100 (Order 2799), § 388-96-221, filed 5/24/89. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-221, filed 12/23/87. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-221, filed 9/16/83.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-222 Settlement. [Statutory Authority: RCW 74.09.120. WSR 83-05-007 (Order 1944), § 388-96-222, filed 2/4/83; WSR 81-22-080 (Order 1716), § 388-96-222, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-222, filed 2/25/81. Statutory Authority: RCW 74.09.-120. WSR 79-12-085 (Order 1461), § 388-96-222, filed 11/30/79; WSR 79-04-059 (Order 1382), § 388-96-222, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-222, filed 6/1/78; Order 1262, § 388-96-222, filed 12/30/77.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

388-96-223 Shifting. [Statutory Authority: RCW 74.09.120. WSR 81-15-049 (Order 1669), § 388-96-223, filed 7/15/81; WSR 80-15-114 (Order 1561), § 388-96-223, filed 10/22/80; Order 1262, § 388-96-223, filed 12/30/77.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

388-96-224 Final settlement. [Statutory Authority: RCW 74.46.150, [74.46.]160, [74.46.]170 and [74.46.]800. WSR 97-17-040, § 388-96-224, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-224, filed 9/12/95, effective 10/13/95. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-224, filed 12/23/87. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 85-13-060 (Order 2240), § 388-96-224, filed 6/18/85. Statutory Authority: RCW 74.09.-120. WSR 83-19-047 (Order 2025), § 388-96-224, filed 9/16/83.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-225 Date settlement becomes final. [Statutory Authority: RCW 74.09.120. WSR 83-05-007 (Order 1944), § 388-96-225, filed 2/4/83; WSR 81-22-080 (Order 1716), § 388-96-225, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-225, filed 2/25/81; Order 1262, § 388-96-225, filed 12/30/77.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

388-96-226 Shifting provisions. [Statutory Authority: RCW 74.46.-800. WSR 94-12-043 (Order 3737), § 388-96-226, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-226, filed 9/14/93, effective 10/15/93. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-226, filed 12/23/87. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-226, filed 9/16/83.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-227 Interest on settlements. [Statutory Authority: RCW 74.09.120. WSR 83-05-007 (Order 1944), § 388-96-227, filed 2/4/83; WSR 81-22-080 (Order 1716), § 388-96-227, filed 11/4/81.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

388-96-228 Cost savings. [Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-228, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-228, filed 9/14/93, effective 10/15/93. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-228, filed 12/23/87. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-228, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-228, filed 9/16/83.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-229 Procedures for overpayments and underpayments. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-229, filed 9/12/95, effective 10/13/95. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-229, filed 12/23/87. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-229, filed 9/16/83.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-300 Required reports. [Order 1205, § 388-96-300, filed 4/13/77; Order 1114, § 388-96-300, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-302 Report dates. [Order 1205, § 388-96-302, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-303 Uniform reporting forms. [Order 1169, § 388-96-303, filed 11/10/76; Order 1114, § 388-96-303, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-305 Approval required for extensions. [Order 1205, § 388-96-305, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-306 Short-period report procedure. [Order 1114, § 388-96-306, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-308 Late reports. [Order 1205, § 388-96-308, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-309 Incorrect or false report. [Order 1114, § 388-96-309, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-311 Forms. [Order 1205, § 388-96-311, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-312 Amended annual or semiannual report. [Order 1114, § 388-96-312, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-314 Completion of reports. [Order 1205, § 388-96-314, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-315 Flat rate option for providers (flat rate system). [Order 1114, § 388-96-315, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-317 Certification of reports. [Order 1205, § 388-96-317, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-318 Reporting requirements. [Order 1114, § 388-96-318, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-320 False reports. [Order 1205, § 388-96-320, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-321 Extensions. [Order 1114, § 388-96-321, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-323 Amendments. [Order 1205, § 388-96-323, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-324 Delinquent semiannual or annual reports. [Order 1114, § 388-96-324, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-325 Abbreviated reporting period. [Order 1205, § 388-96-325, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-326 Retention of records. [Order 1205, § 388-96-326, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.

388-96-327 Determination of prospective daily payment rate. [Order 1114, § 388-96-327, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-330 Rate adjustments and payments. [Order 1114, § 388-96-330, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-333 Annual report settlement. [Order 1114, § 388-96-333, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-336 Contested annual settlement. [Order 1114, § 388-96-336, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-339 Final settlement date. [Order 1114, § 388-96-339, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-342 Uniform system of accounting and reporting. [Order 1169, § 388-96-342, filed 11/10/76; Order 1114, § 388-96-342, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-345 Uniform statistical reporting. [Order 1114, § 388-96-345, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-348 Method of accounting. [Order 1114, § 388-96-348, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-351 Nursing home reports. [Order 1239, § 388-96-351, filed 8/23/77; Order 1205, § 388-96-351, filed 4/13/77; Order 1114, § 388-96-351, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-354 Final settlement report. [Order 1114, § 388-96-354, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-357 Provider records. [Order 1114, § 388-96-357, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-360 Audits by the department. [Order 1114, § 388-96-360, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-363 Report certification. [Order 1114, § 388-96-363, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

388-96-387 Illustration of final settlement form. [Order 1114, § 388-96-387, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-400 The prospective cost-related reimbursement system. [Order 1168, § 388-96-400, filed 11/3/76; Order 1114, § 388-96-400, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-403 Control areas and associated cost centers. [Order 1168, § 388-96-403, filed 11/3/76; Order 1114, § 388-96-403, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-406 Payment of the actual allowable costs by cost center. [Order 1168, § 388-96-406, filed 11/3/76; Order 1114, § 388-96-406, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-409 Discretionary allowance. [Order 1114, § 388-96-409, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-412 Expense allocation procedures. [Order 1114, § 388-96-412, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-415 Expense identification. [Order 1114, § 388-96-415, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-418 Expense recoveries and adjustments. [Order 1114, § 388-96-418, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-421 Allocation of expenses. [Order 1114, § 388-96-421, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-424 Multifacility provider. [Order 1114, § 388-96-424, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-427 Uniform system of accounting. [Order 1114, § 388-96-427, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-430 Separate and distinct SNF and/or ICF. [Order 1114, § 388-96-430, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-433 Combined multifacility. [Order 1114, § 388-96-433, 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-436 Prospective cost reimbursement for combined multifacility. [Order 1114, § 388-96-436, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-439 Payment of the lower of actual costs or prospective per diem rates. [Order 1114, § 388-96-439, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-442 Multifacility flat rate option for providers (flat rate system). [Order 1114, § 388-96-442, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-445 Medical recipient rates. [Order 1114, § 388-96-445, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-448 Medical recipient rates by level of care. [Order 1114, § 388-96-448, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-451 Prospective daily payment rate. [Order 1114, § 388-96-451, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-454 Prospective rate—Inadequate data. [Order 1114, § 388-96-454, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-457 Prospective rate revision. [Order 1114, § 388-96-457, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-458 Prospective rate—Projected (budgeted) cost increases. [Order 1114, § 388-96-458, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-460 Prospective rate—New facility. [Order 1114, § 388-96-460, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-463 Prospective rate—Change in ownership—New provider. [Order 1114, § 388-96-463, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-466 Prospective rate—Change in ownership—Nonarmslength transaction. [Order 1114, § 388-96-466, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-470 Prospective rate—Change in ownership—Armslength transaction. [Order 1114, § 388-96-470, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-473 Final daily settlement rate. [Order 1114, § 388-96-473, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-476 Notification of prospective and final rates. [Order 1114, § 388-96-476, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-479 Adjustments, errors, or omissions. [Order 1114, § 388-96-479, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-500 Provider billing instructions—Nursing home statement. [Order 1114, § 388-96-500, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-501 Allowable costs. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-501, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-501, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-501, filed 6/1/78;

Order 1262, § 388-96-501, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-503 Substance prevails over form. [Statutory Authority: RCW 74.09.120. WSR 81-22-081 (Order 1712), § 388-96-503, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-503, filed 2/25/81; Order 1262, § 388-96-503, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-507 Costs of meeting standards. [Statutory Authority: RCW 74.09.120. WSR 91-22-025 (Order 3270), § 388-96-507, filed 10/29/91, effective 11/29/91; WSR 81-22-081 (Order 1712), § 388-96-507, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-507, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-507, filed 6/1/78; Order 1262, § 388-96-507, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-508 Travel expenses for members of trade association boards of directors. [Statutory Authority: RCW 74.46.-800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-508, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-508, filed 5/30/84.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-509 Boards of directors fees. [Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-509, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-509, filed 5/30/84.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-510 Billing period. [Order 1114, § 388-96-510, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-513 Limit on costs to related organizations. [Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-513, filed 9/14/93, effective 10/15/93; WSR 81-06-024 (Order 1613), § 388-96-513, filed 2/25/81; Order 1262, § 388-96-513, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-520 Suspension of reimbursement formula. [Order 1114, § 388-96-520, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-521 Start up costs. [Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-521, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-521, filed 9/16/83; Order 1262, § 388-96-521, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-523 Organization costs. [Statutory Authority: RCW 74.46.-800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-523, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-523, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-523, filed 2/25/81; Order 1262, § 388-96-523, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-529 Total compensation—Owners, relatives, and certain administrative personnel. [Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-529, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-529, filed 9/16/83; WSR 81-22-081 (Order 1712), § 388-96-529, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-529, filed 2/25/81; Order 1262, § 388-96-529, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-531 Owner or relative—Compensation. [Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-531, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-531, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-531, filed 2/25/81; Order 1262, § 388-96-531, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-533 Maximum allowable compensation of certain administrative personnel. [Statutory Authority: RCW 74.46.-800. WSR 94-12-043 (Order 3737), § 388-96-533, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-533, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-533, filed 12/21/88. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-533, filed 12/23/87. Statutory Authority: RCW 74.46.800. WSR 86-10-055 (Order 2372), § 388-96-533, filed 5/7/86, effective 7/1/86; WSR 84-12-039 (Order 2105), § 388-96-533, filed 5/30/84. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-533, filed 9/16/83; WSR 81-22-081 (Order 1712), § 388-96-533, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-533, filed 2/25/81. Statutory Authority: RCW 74.09.-120. WSR 80-06-122 (Order 1510), § 388-96-533, filed 5/30/80, effective 7/1/80. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-533, filed 6/1/78; Order 1262, § 388-96-533, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-537 Temporary contract labor. [Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-537, filed 2/25/81.] Repealed by WSR 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.

388-96-539 Allowable interest. [Statutory Authority: RCW 74.09.-120. WSR 83-19-047 (Order 2025), § 388-96-539, filed 9/16/83; WSR 83-05-007 (Order 1944), § 388-96-539, filed 2/4/83; WSR 81-22-081 (Order 1712), § 388-96-539, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-539, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-539, filed 6/1/78; Order 1262, § 388-96-539, filed 12/30/77.] Repealed by WSR 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.

388-96-541 Offset of interest income. [Statutory Authority: RCW 74.09.120. WSR 81-22-081 (Order 1712), § 388-96-541, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-541, filed 2/25/81; Order 1262, § 388-96-541, filed 12/30/77.] Repealed by WSR 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.

388-96-543 Expense for construction interest. [Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-543, filed 9/16/83; WSR 81-22-081 (Order 1712), § 388-96-543, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-543, filed 2/25/81; Order 1262, § 388-96-543, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-545 Operating leases of equipment. [Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-545, filed 2/25/81.] Repealed by WSR 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.

388-96-547 Operating leases of facilities and equipment. [Statutory Authority: RCW 74.09.120. WSR 81-22-081 (Order 1712), § 388-96-547, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-547, filed 2/25/81; Order 1262, § 388-96-547, filed 12/30/77.] Repealed by WSR 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.

388-96-549 Rental expense paid to related organizations. [Order 1262, § 388-96-549, filed 12/30/77.] Repealed by WSR 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.

388-96-555 Depreciation expense. [Order 1262, § 388-96-555, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-557 Depreciable assets. [Statutory Authority: RCW 74.09.-120. WSR 84-24-050 (Order 2172), § 388-96-557, filed 12/4/84; WSR 83-19-047 (Order 2025), § 388-96-557, filed 9/16/83; WSR 81-22-081 (Order 1712), § 388-96-557, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-557, filed 2/25/81; Order 1262, § 388-96-557, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-563 Depreciation base of assets previously used in medical care program. [Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-563, filed 2/25/81.] Repealed by WSR 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.

388-96-567 Methods of depreciation. [Statutory Authority: RCW 74.46.800. WSR 86-10-055 (Order 2372), § 388-96-567, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-567, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 81-22-081 (Order 1712), § 388-96-567, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-567, filed 2/25/81; Order 1262, § 388-96-567, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-569 Retirement of depreciable assets. [Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-569, filed 9/14/93, effective 10/15/93; WSR 91-22-025 (Order 3270), § 388-96-569, filed 10/29/91, effective 11/29/91; WSR 81-06-024 (Order 1613), § 388-96-569, filed 2/25/81; Order 1262, § 388-96-569, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-571 Handling of gains and losses upon retirement of depreciable assets settlement periods prior to 1/1/81 and rate periods prior to 7/1/82. [Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-571, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-571, filed 6/1/78; Order 1262, § 388-96-571, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-573 Recovery of excess over straight-line depreciation. [Statutory Authority: RCW 74.09.120. WSR 83-05-007 (Order 1944), § 388-96-573, filed 2/4/83; Order 1262, § 388-96-573, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-587 Phase-in of other unallowable costs. [Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-587, filed 2/25/81.] Repealed by WSR 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.

388-96-600 Reasonable costs. [Order 1114, § 388-96-600, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-602 Substance of recoverable cost transactions. [Order 1114, § 388-96-602, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-604 Costs due to changes imposed by regulatory agencies. [Order 1114, § 388-96-604, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-606 Nonreimbursable services and expenses. [Order 1114, § 388-96-606, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-608 Recovery of expenses. [Order 1114, § 388-96-608, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-610 Physical property. [Order 1114, § 388-96-610, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-612 Depreciation. [Order 1114, § 388-96-612, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-614 Historical cost depreciation for new providers and for depreciable assets purchased subsequent to July 1, 1974. [Order 1114, § 388-96-614, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-616 Election of depreciation method for depreciable assets purchased prior to July 1, 1974, by providers entering cost reimbursement at its inception. [Order 1169, § 388-96-616, filed 11/10/76; Order 1114, § 388-96-616, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-618 Guideline lives and methods of depreciation. [Order 1114, § 388-96-618, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-620 Disposal of depreciable assets. [Order 1114, § 388-96-620, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-622 Gains or losses on disposition of major-minor equipment. [Order 1114, § 388-96-622, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-624 Historical cost trade-ins. [Order 1114, § 388-96-624, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.]

388-96-626 Purchase of facility as an ongoing operations. [Order 1114, § 388-96-626, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-628 Partial change of ownership interest. [Order 1114, § 388-96-628, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-630 Donated assets. [Order 1114, § 388-96-630, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-632 Capitalization vs. expense. [Order 1114, § 388-96-632, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-634 Construction in process. [Order 1114, § 388-96-634, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-636 Amortization expense of leasehold improvements. [Order 1114, § 388-96-636, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-638 Leased facilities and equipment. [Order 1114, § 388-96-638, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-640 Interest expense. [Order 1114, § 388-96-640, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-642 Interest rate. [Order 1114, § 388-96-642, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-644 Recovery of interest income. [Order 1114, § 388-96-644, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-646 Interest expense—Related organization. [Order 1114, § 388-96-646, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-648 Construction interest expense. [Order 1114, § 388-96-648, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-650 In-service educational activities. [Order 1114, § 388-96-650, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-652 Owner-administrator compensation and/or allowances. [Order 1114, § 388-96-652, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-654 Relatives of owner compensation and/or allowances. [Order 1114, § 388-96-654, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-656 Owner-administrator of multiple facilities (groups). [Order 1114, § 388-96-656, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-658 Owner allowances. [Order 1114, § 388-96-658, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-660 Preopening expenses. [Order 1114, § 388-96-660, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-662 Discretionary allowance. [Order 1114, § 388-96-662, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-664 Costs of related organization. [Order 1114, § 388-96-664, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-666 Rentals or leases from related organization. [Order 1114, § 388-96-666, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-668 Service charges from related organization. [Order 1114, § 388-96-668, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-700 Appeals [Order 1114, § 388-96-700, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

388-96-701 Reimbursement principles. [Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-701, filed 1/9/78.] Repealed by WSR 81-15-049 (Order 1669), filed 7/15/81. Statutory Authority: RCW 74.09.-120.

388-96-707 Program services not covered by the reimbursement rate. [Statutory Authority: RCW 74.09.120. WSR 82-21-025 (Order 1892), § 388-96-707, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-707, filed 6/1/78. Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-707, filed 1/9/78.] Repealed by WSR 94-12-043 (Order 3737), filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800.

388-96-714 Nursing facility medicaid rate allocations—Economic trends and conditions adjustment factors. [Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-714, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-714, filed 11/30/99, effective 12/31/99.] Repealed by WSR 04-21-027, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8.

388-96-716 Cost areas or cost centers. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037

(Order 3896), § 388-96-716, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-716, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-716, filed 7/23/92, effective 8/23/92. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-716, filed 12/23/87. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-716, filed 12/4/84; WSR 83-19-047 (Order 2025), § 388-96-716, filed 9/16/83; WSR 81-15-049 (Order 1669), § 388-96-716, filed 7/15/81; WSR 80-06-122 (Order 1510), § 388-96-716, filed 5/30/80, effective 7/1/80; WSR 78-02-013 (Order 1264), § 388-96-716, filed 1/9/78.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-717 Desk review adjustments. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-717, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-717, filed 9/16/83.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-719 Method of rate determination. [Statutory Authority: RCW 74.46.430. WSR 97-17-040, § 388-96-719, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-719, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-719, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-719, filed 9/14/93, effective 10/15/93; WSR 90-09-061 (Order 2970), § 388-96-719, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-719, filed 12/23/87. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.-800. WSR 85-17-052 (Order 2270), § 388-96-719, filed 8/19/85. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-719, filed 5/30/84. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-719, filed 9/16/83; WSR 82-17-071 (Order 1867), § 388-96-719, filed 8/18/82; WSR 82-12-068 (Order 1820), § 388-96-719, filed 6/2/82; WSR 82-04-073 (Order 1756), § 388-96-719, filed 2/3/82; WSR 81-15-049 (Order 1669), § 388-96-719, filed 7/15/81; WSR 80-06-122 (Order 1510), § 388-96-719, filed 5/30/80, effective 7/1/80; WSR 79-12-085 (Order 1461), § 388-96-719, filed 11/30/79; WSR 78-11-043 (Order 1353), § 388-96-719, filed 10/20/78. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-719, filed 6/1/78. Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-719, filed 1/9/78.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-720 Redistribution pool. [Statutory Authority: RCW 74.09.-120. WSR 82-11-065 (Order 1808), § 388-96-720, filed 5/14/82.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

388-96-721 Priorities in establishing rates and responding to appeals of desk-review adjustments. [Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-721, filed 5/30/84.] Repealed by WSR 94-12-043 (Order 3737), filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800.

388-96-722 Nursing services cost area rate. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-722, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-722, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-722, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-722, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 91-22-025 (Order 3270), § 388-96-722, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 91-12-026 (Order 3185), § 388-96-722, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-722, filed 12/21/88. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-722, filed 12/23/87. Statutory Authority: RCW 74.46.800. WSR 87-09-058 (Order 2485), § 388-96-722, filed 4/20/87; WSR 86-10-055 (Order 2372), § 388-96-722, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-722, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-722, filed 9/16/83; WSR 82-11-065 and 82-13-050 (Orders 1808 and 1808A), § 388-96-722, filed 5/14/82 and 6/14/82; WSR 81-15-049 (Order 1669), § 388-96-722, filed 7/15/81; WSR 81-06-024 (Order 1613), § 388-96-722, filed 2/25/81; WSR 80-06-122 (Order 1510), § 388-96-722, filed 5/30/80, effective 7/1/80; WSR 79-12-085 (Order 1461), § 388-96-722, filed 11/30/79. Statutory Authority: RCW 18.51.310 and 74.09.120. WSR 78-11-013 (Order 1349), § 388-96-722, filed 10/9/78. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-722, filed 6/1/78. Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-722, filed 1/9/78.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-727 Food cost area rate. [Statutory Authority: RCW 74.46.-800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-727, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-727, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-727, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-727, filed 9/16/83; WSR 81-15-049 (Order 1669), § 388-96-727, filed 7/15/81; WSR 79-12-085 (Order 1461), § 388-96-727, filed 11/30/79; WSR 78-02-013 (Order 1264), § 388-96-727, filed 1/9/78.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-728 How will the nursing facility's "hold harmless" direct care rate be determined? [Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 25 and RCW 74.46.800. WSR 98-20-023, § 388-96-728, filed 9/25/98, effective 10/1/98.] Repealed by WSR 04-21-027, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8.

388-96-729 When will the department use the "hold harmless rate" to pay for direct care services? [Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 25 and RCW 74.46.800. WSR 98-20-023, § 388-96-729, filed 9/25/98, effective 10/1/98.] Repealed by WSR 04-21-027, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8.

388-96-732 How will the department determine whether its notice pursuant to WAC 388-96-724 was timely? [Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-732, filed 5/29/01, effective 6/29/01.] Repealed by WSR 04-21-027, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8.

388-96-735 Administrative cost area rate. [Statutory Authority: RCW 74.46.800. WSR 97-17-040, § 388-96-735, filed 8/14/97, effective 9/14/97; WSR 96-15-056, § 388-96-735, filed 7/16/96, effective 8/16/96. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-735, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.-800. WSR 94-12-043 (Order 3737), § 388-96-735, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-735, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-735, filed 12/4/84; WSR 83-19-047 (Order 2025), § 388-96-735, filed 9/16/83; WSR 82-11-065 (Order 1808), § 388-96-735, filed 5/14/82; WSR 81-15-049 (Order 1669), § 388-96-735, filed 7/15/81; WSR 80-06-122 (Order 1510), § 388-96-735, filed 5/30/80, effective 7/1/80; WSR 79-12-085 (Order 1461), § 388-96-735, filed 11/30/79; WSR 78-02-013 (Order 1264), § 388-96-735, filed 1/9/78.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-737 Operational cost area rate. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-737, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-737, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-737, filed 9/14/93, effective 10/15/93.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-740 Medicaid case mix index—When a facility does not meet the ninety percent minimum data set (MDS) threshold as identified in RCW 74.46.501. [Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-740, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-740, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 22, 24 and 25 and RCW 74.46.800. WSR 98-20-023, § 388-96-740, filed 9/25/98, effective 10/1/98.] Repealed by WSR 11-05-068, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958.

388-96-741 When the nursing facility does not have facility average case mix indexes for the four quarters specified in RCW 74.46.501 (7)(b) for determining the cost per case mix unit, what will the department use to determine the nursing facility's cost per case mix unit? [Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 22, 24 and 25 and RCW 74.46.800. WSR 98-20-023, § 388-96-741, filed 9/25/98, effective 10/1/98.] Repealed by WSR 11-05-068, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958.

388-96-742 Licensed beds to compute the ninety percent minimum data set (MDS) threshold rather than a nursing facility's quarterly average census. [Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-742, filed 10/13/04, effective 11/13/04. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 22, 24 and 25 and RCW 74.46.800. WSR 98-20-023, § 388-96-742, filed 9/25/98, effective 10/1/98.] Repealed by WSR 11-05-068, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958.

388-96-743 Property cost area rate. [Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-743, filed 9/16/83; WSR 82-21-025 (Order 1892), § 388-96-743, filed 10/13/82; WSR 81-15-049 (Order 1669), § 388-96-743, filed 7/15/81; WSR 80-06-122 (Order 1510), § 388-96-743, filed 5/30/80, effective 7/1/80; WSR 79-12-085 (Order 1461), § 388-96-743, filed 11/30/79; WSR 78-02-013 (Order 1264), § 388-96-743, filed 1/9/78.] Repealed by WSR 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.

388-96-745 Property cost area reimbursement rate. [Statutory Authority: RCW 74.46.800 and 74.46.530. WSR 97-17-040, § 388-96-745, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-745, filed 7/16/96, effective 8/16/96. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-745, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-745, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-745, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-745, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. WSR 90-09-061 (Order 2970), § 388-96-745, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-745, filed 12/23/87. Statutory Authority: RCW 74.46.800. WSR 87-09-058 (Order 2485), § 388-96-745, filed 4/20/87. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-745, filed 12/4/84.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-749 Variable return—Quartiles and percentages. [Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-749, filed 10/13/04, effective 11/13/04.] Repealed by WSR 11-05-068, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958.

388-96-750 Return on investment. [Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-750, filed 5/30/84. Statutory Authority: RCW 74.09.-120. WSR 83-19-047 (Order 2025), § 388-96-750, filed 9/16/83; WSR 81-22-080 (Order 1716), § 388-96-750, filed 11/4/81; WSR 80-15-114 (Order 1561), § 388-96-750, filed 10/22/80; WSR 80-06-122 (Order 1510), § 388-96-750, filed 5/30/80, effective 7/1/80; WSR 79-04-061 (Order 1381), § 388-96-750, filed 3/28/79.] Repealed by WSR 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.

388-96-752 Documentation of leased assets. [Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-752, filed 12/4/84.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-753 Return on investment—Effect of funding granted under WAC 388-96-774, 388-96-776, and 388-96-777. [Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-753, filed 5/26/94, effective 6/26/94.] Repealed by WSR 95-19-037 (Order 3896), filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18.

388-96-754 A contractor's return on investment. [Statutory Authority: RCW 74.46.530. WSR 97-17-040, § 388-96-754, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-754, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-754, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-754, filed 9/14/93, effective 10/15/93; WSR 91-22-025 (Order 3270), § 388-96-754, filed 10/29/91, effective 11/29/91; WSR 90-09-061 (Order 2970), § 388-96-754, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-754, filed 12/21/88. Statutory Authority: RCW 74.46.800. WSR 87-09-058 (Order 2485), § 388-96-754, filed 4/20/87; WSR 86-10-055 (Order 2372), § 388-96-754, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-754, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-754, filed 12/4/84.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-756 Enhancement cost area rate. [Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-756, filed 12/23/87.] Repealed by WSR 93-19-074 (Order 3634), filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800 and 74.09.120.

388-96-761 Home office, central office, and other off-premises assets. [Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-761, filed 5/30/84.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-763 Rates for recipients requiring exceptionally heavy care. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-763, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-763, filed 5/26/94, effective 6/26/94; WSR 92-16-013 (Order 3424), § 388-96-763, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 79.09.120 [74.09.-120] and 74.46.800. WSR 90-09-061 (Order 2970), § 388-96-763, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-763, filed 12/21/88. Statutory Authority: RCW 74.09.120. WSR 82-21-025 (Order 1892), § 388-96-763, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-763, filed 6/1/78. Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-763, filed 1/9/78.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-764 Activities assistants. [Statutory Authority: RCW 74.46.-800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-764, filed 9/14/93, effective 10/15/93. Statutory

Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-764, filed 5/30/84.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-765 Ancillary care. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-765, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-765, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-765, filed 5/30/84.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-768 Minimum wage. [Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-768, filed 9/14/93, effective 10/15/93; WSR 90-09-061 (Order 2970), § 388-96-768, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-768, filed 12/23/87.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-769 Adjustments required due to errors or omissions. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-769, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 86-10-055 (Order 2372), § 388-96-769, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120. WSR 82-11-065 (Order 1808), § 388-96-769, filed 5/14/82; WSR 81-22-081 (Order 1712), § 388-96-769, filed 11/4/81; WSR 78-02-013 (Order 1264), § 388-96-769, filed 1/9/78.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-772 Requests for revision of a prospective rate. [Statutory Authority: RCW 74.09.120. WSR 81-22-081 (Order 1712), § 388-96-772, filed 11/4/81; WSR 78-02-013 (Order 1264), § 388-96-772, filed 1/9/78.] Repealed by WSR 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

388-96-773 Adjustments to prospective rates. [Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 85-13-065 (Order 2245), § 388-96-773, filed 6/18/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-773, filed 9/16/83.] Repealed by WSR 90-09-061 (Order 2970), filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800.

388-96-774 Add-ons to the prospective rate—Staffing. [Statutory Authority: RCW 74.46.460. WSR 97-17-040, § 388-96-774, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-774, filed 7/16/96, effective 8/16/96; WSR 94-12-043 and 94-14-016 (Order 3737 and 3737A), § 388-96-774, filed 5/26/94 and 6/23/94, effective 6/26/94 and 7/24/94; WSR 93-17-033 (Order 3615), § 388-96-774, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. WSR 93-12-051 (Order 3555), § 388-96-774, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 90-09-061 (Order 2970), § 388-96-774, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-774, filed 12/21/88. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-774, filed 12/23/87. Statutory Authority: RCW 74.46.800. WSR 87-09-058 (Order 2485), § 388-96-774, filed 4/20/87. Statutory Authority: RCW 74.09.-120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-774, filed 8/19/85.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-775 Public review of rate-setting methods and standards. [Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-775, filed 1/9/78.] Repealed by WSR 93-19-074 (Order 3634), filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800 and 74.09.120.

388-96-778 Public disclosure of rate-setting methodology. [Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-778, filed 1/9/78.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-779 Exceptional therapy care—Designated nursing facilities. [Statutory Authority: RCW 74.46.800, 74.46.508. WSR 00-12-098, § 388-96-779, filed 6/7/00, effective 7/8/00.] Repealed by WSR 04-21-027, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.-431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8.

388-96-780 Exceptional therapy care—Covered medicaid residents. [Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-780, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 74.46.800, 74.46.508. WSR 00-12-098, § 388-96-780, filed 6/7/00, effective 7/8/00.] Repealed by WSR 04-21-027, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8.

388-96-801 Billing period. [Order 1262, § 388-96-801, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-804 Billing procedures. [Statutory Authority: RCW 74.09.-120. WSR 82-20-024 and 82-20-036 (Orders 1883 and 1883A), § 388-96-804, filed 9/29/82 and 9/30/82; Order 1262, § 388-96-804, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-807 Charges to patients. [Statutory Authority: RCW 74.09.-180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-807, filed 12/21/88. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-807, filed 9/16/83; WSR 82-21-025 (Order 1892), § 388-96-807, filed 10/13/82; Order 1262, § 388-96-807, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-810 Payment. [Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-810, filed 7/16/96, effective 8/16/96; Order 1262, § 388-96-810, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-813 Suspension of payment. [Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-813, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-813, filed 9/16/83; Order 1262, § 388-96-813, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-816 Termination of payments. [Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-816, filed 9/16/83; Order 1262, § 388-96-816, filed 12/30/77.] Repealed by WSR 98-20-023, filed 9/25/98, effective 10/1/98.

388-96-900 Definitions. [Order 1169, § 388-96-900, filed 11/10/76.] Repealed by Order 1262, filed 12/30/77.

388-96-902 Recoupment of undisputed overpayments. [Statutory Authority: RCW 74.09.120. WSR 82-11-065 (Order 1808), § 388-96-902, filed 5/14/82.] Repealed by WSR 95-19-037 (Order 3896), filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18.

WAC 388-96-010 Definitions. Unless the context indicates otherwise, the following definitions apply in this chapter.

"Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

(1) Decision making;

(2) Planning;

(3) Evaluating performance;

(4) Controlling resources and operations; and

(5) External financial reporting to investors, creditors, regulatory authorities, and the public.

"Accrual method of accounting" is a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

"Administration and management" means activities used to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

"Allowable costs" are documented costs that are necessary, ordinary, and related to the care of medicaid recipients,

and are not expressly declared nonallowable by this chapter or chapter 74.46 RCW. Costs are ordinary if they are of the nature and magnitude that prudent and cost conscious management would pay.

"Allowable depreciation costs" are depreciation costs of tangible assets, whether owned or leased by the contractor, meeting the criteria specified in WAC 388-96-552.

"Assignment of contract" means:

(1) A new nursing facility licensee has elected to care for medicaid residents;

(2) The department finds no good cause to object to continuing the medicaid contract at the facility; and

(3) The new licensee accepts assignment of the immediately preceding contractor's contract at the facility.

"Bad debts" are amounts considered to be uncollectible from accounts and notes receivable.

"Beneficial owner" is:

(1) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(a) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(b) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest.

(2) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose of effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(3) Any person who, subject to (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(a) Through the exercise of any option, warrant, or right;

(b) Through the conversation of an ownership interest;

(c) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(d) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement; except that, any person who acquires an ownership interest or power specified in (3)(a), (b), or (c) of this subsection with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;

(4) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(a) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in (b) of this subsection; and

(b) The pledgee agreement, prior to default, does not grant to the pledgee:

(i) The power to vote or to direct the vote of the pledged ownership interest; or

(ii) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

"Capitalized lease" means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

"Cash method of accounting" means a method of accounting in which revenues are recorded when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

"Change of ownership" means a substitution, elimination, or withdrawal of the individual operator or operating entity contracting with the department to deliver care services to medical care recipients in a nursing facility and ultimately responsible for the daily operational decisions of the nursing facility.

(1) Events which constitute a change of ownership include, but are not limited to, the following:

(a) Changing the form of legal organization of the contractor, e.g., a sole proprietor forms a partnership or corporation;

(b) Transferring ownership of the nursing facility business enterprise to another party, regardless of whether ownership of some or all of the real property and/or personal property assets of the facility are also transferred;

(c) Dissolving of a partnership;

(d) Dissolving the corporation, merging the corporation with another corporation, which is the survivor, or consolidating with one or more other corporations to form a new corporation;

(e) Transferring, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock to one or more:

(i) New or former stockholders; or

(ii) Present stockholders each having held less than five percent of the stock before the initial transaction;

(f) Substituting of the individual operator or the operating entity by any other event or combination of events that results in a substitution or substitution of control of the individual operator or the operating entity contracting with the department to deliver care services; or

(g) A nursing facility ceases to operate.

(2) Ownership does not change when the following, without more, occurs:

(a) A party contracts with the contractor to manage the nursing facility enterprise as the contractor's agent, i.e., subject to the contractor's general approval of daily operating and management decisions; or

(b) The real property or personal property assets of the nursing facility change ownership or are leased, or a lease of them is terminated, without a substitution of individual operator or operating entity and without a substitution of control

of the operating entity contracting with the department to deliver care services.

"Charity allowance" means a reduction in charges made by the contractor because of the indigence or medical indigence of a patient.

"Component rate allocation(s)" means the initial component rate allocation(s) of the rebased rate for a rebase period effective July 1. If a month and a day, other than July 1, with a year precedes "component rate allocation(s)," it means the initial component rate allocation(s) of the rebased rate of the rebase period has been amended or updated effective the date that precedes it, e.g., October 1, 1999 direct care component rate allocation.

"Contract" means an agreement between the department and a contractor for the delivery of nursing facility services to medical care recipients.

"Cost report" means all schedules of a nursing facility's cost report submitted according to the department's instructions.

"Courtesy allowances" are reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

"Department" means department of social and health services and its employees.

"Direct care supplies (DCS)" are those supplies:

(1) Used by staff providing direct care to residents;

(2) Consumed during a single accounting period; and

(3) Expensed in that accounting period. Supplies excluded from DCS include but are not limited to the following:

(1) medical equipment (such as IV poles);

(2) Items covered by medicaid fee-for-service system; and

(3) Administrative supplies used by direct care staff (such as pencils, pens, paper, office supplies, etc).

"Donated asset" means an asset the contractor acquired without making any payment for the asset either in cash, property, or services. An asset is not a donated asset if the contractor:

(1) Made even a nominal payment in acquiring the asset; or

(2) Used donated funds to purchase the asset.

"Essential community provider" means a facility that is the only nursing facility within a commuting distance radius of at least forty minutes duration, traveling by automobile.

"Equity capital" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital defined as current assets minus current liabilities.

"Fiscal year" means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, **"fiscal year"** may also refer to a state fiscal year extending from July 1 through June 30 of the following year and comprising the first or second half of a state fiscal biennium.

"Gain on sale" means the actual total sales price of all tangible and intangible nursing facility assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

"Goodwill" means the excess of the price paid for a nursing facility business over the fair market value of all net identifiable tangible and intangible assets acquired, as measured in accordance with generally accepted accounting principles.

"Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

"Intangible asset" is an asset that lacks physical substance but possesses economic value.

"Interest" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

"Joint facility costs" are any costs that benefit more than one facility, or one facility and any other entity.

"Large nonessential community providers" are not essential community providers and have more than sixty licensed beds regardless of how many beds are set up or in use. Licensed beds include any beds banked under chapter 70.38 RCW.

"Multiservice facility" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and nursing facility, or a boarding home and nursing facility.

"Nonadministrative wages and benefits" are wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

"Nonallowable costs" are the same as **"unallowable costs."**

"Nonrestricted funds" are funds that are not restricted to a specific use by the donor, e.g., general operating funds.

"Nursing facility occupancy percentage" is a percentage determined by multiplying the number of calendar days for the cost report period by the number of licensed beds, regardless of how many beds are set up, in use, or banked under chapter 70.38 RCW, for the same cost report period. Then, the product is divided into the nursing facility's actual resident days for the same cost report period.

"Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

"Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

"Per diem (per patient day or per resident day) costs" means total allowable costs for a fiscal period divided by total patient or resident days for the same period.

"Prospective daily payment rate" means the rate assigned by the department to a contractor for providing service to medical care recipients prior to the application of settlement principles.

"Real property," whether leased or owned by the contractor, means the building, allowable land, land improvements, and building improvements associated with a nursing facility.

"Recipient" means a medicaid recipient.

"Related care" means only those services that are directly related to providing direct care to nursing facility residents including but not limited to:

(1) The director of nursing services;

(2) Nursing direction and supervision;

(3) Activities and social services programs;

(4) Medical and medical records specialists.

(5) Consultation provided by:

(a) Medical directors; and

(b) Pharmacists.

"Relative" includes:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted child or adoptive parent;

(4) Stepparent, stepchild, stepbrother, stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;

(6) Grandparent or grandchild; and

(7) Uncle, aunt, nephew, niece, or cousin.

"Related organization" means an entity that is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity or person is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity or person has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable and exercised.

"Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

"Small nonessential community providers" are not essential community providers and have sixty or fewer licensed beds regardless of how many beds are set up or in use. Licensed beds include any beds banked under chapter 70.38 RCW.

"Start up costs" are the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start up costs include:

(1) Administrative and nursing salaries;

(2) Utility costs;

(3) Taxes;

(4) Insurance;

(5) Repairs and maintenance; and

(6) Training costs.

Start up costs do not include expenditures for capital assets.

"Total rate allocation" means the initial rebased rate for a rebase period effective July 1. If a month and a day, other than July 1, with a year precedes "total rate allocation," it means the initial rebased rate of the rebase period has been amended or updated effective the date that precedes it, e.g., October 1, 1999 direct care component rate allocation.

"Unallowable costs" are costs that do not meet every test of an allowable cost.

"Uniform chart of accounts" are account titles identified by code numbers established by the department for contractors to use in reporting costs.

"Vendor number" means a number assigned to each contractor delivering care services to medical care recipients.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-010, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-010, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-010, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-010, filed 9/25/98, effective 10/1/98; WSR 97-17-040, § 388-96-010, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-010, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-010, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-010, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. WSR 91-22-025 (Order 3270), § 388-96-010, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. WSR 90-09-061 (Order 2970), § 388-96-010, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-010, filed 12/23/87. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 85-13-060 (Order 2240), § 388-96-010, filed 6/18/85. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-010, filed 12/4/84. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-010, filed 5/30/84. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-010, filed 9/16/83; WSR 82-21-025 (Order 1892), § 388-96-010, filed 10/13/82; WSR 81-22-081 (Order 1712), § 388-96-010, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-010, filed 2/25/81. Statutory Authority: RCW 74.09.120. WSR 80-09-083 (Order 1527), § 388-96-010, filed 7/22/80; WSR 79-04-061 (Order 1381), § 388-96-010, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-010, filed 6/1/78; Order 1262, § 388-96-010, filed 12/30/77.]

WAC 388-96-011 Conditions of participation. In order to participate in the nursing facility medicaid payment system established by this chapter and chapter 74.46 RCW, the person or legal entity responsible for operation of a facility shall:

(1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 C.F.R. where required;

(2) Hold the appropriate current license;

(3) Hold current Title XIX certification;

(4) Hold a current contract to provide services under this chapter and chapter 74.46 RCW;

(5) Comply with all provisions of the contract and all applicable statutes and regulations, including but not limited to the provisions of this chapter and chapter 74.46 RCW; and

(6) Obtain and maintain medicare certification, under Title XVIII of the Social Security Act, 42 U.S.C. Sec. 1395, as amended, for a portion of the facility's licensed beds.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-011, filed 2/14/11, effective 2/26/11.]

WAC 388-96-012 Public disclosure. (1) Cost reports and final audit reports filed by the contractor shall be subject to public disclosure pursuant to chapter 42.56 RCW.

(2) Subsection (1) of this section does not prevent a contractor from having access to its own records or from authorizing an agent or designee to have access to the contractor's records.

(3) Regardless of whether any document or report submitted to the department pursuant to this chapter is subject to public disclosure, copies of such documents or reports shall

be provided by the department, upon written request, to the legislature and to federal, state, or local agencies or law enforcement officials who have an official interest in the contents thereof.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-012, filed 2/14/11, effective 2/26/11.]

WAC 388-96-020 Prospective cost-related payment. The nursing facility medicaid payment system is the system used by the department to pay for nursing facility services provided to medical care recipients. Payment for nursing facility care shall be determined in accordance with this chapter and chapter 74.46 RCW. The provisions of chapter 74.46 RCW are incorporated by reference in this chapter as if fully set forth.

[Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-020, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 85-13-065 (Order 2245), § 388-96-020, filed 6/18/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-020, filed 9/16/83; WSR 82-21-025 (Order 1892), § 388-96-020, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-020, filed 6/1/78; Order 1262, § 388-96-020, filed 12/30/77.]

WAC 388-96-022 Due dates for cost reports. (1) The contractor shall submit annually a complete report of costs and financial conditions of the contractor prepared and presented in a standardized manner and in accordance with this chapter and chapter 74.46 RCW.

(2) Not later than March 31st of each year, each contractor shall submit to the department an annual cost report for the period from January 1st through December 31st of the preceding year.

(3) Not later than one hundred twenty days following the termination or assignment of a contract, the terminating or assigning contractor shall submit to the department a cost report for the period from January 1st through the date the contract was terminated or assigned.

(4) If the cost report is not properly completed or if it is not received by the due date established in subsection (2) or (3) of this section, all or part of any payments due under the contract may be withheld by the department until such time as required cost report is properly completed and received.

(5) The department may impose civil fines, or take adverse rate action against contractors and former contractors who do not submit properly completed cost reports by the applicable due date established in subsection (2) or (3) of this section.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-022, filed 2/14/11, effective 2/26/11.]

WAC 388-96-026 New contractors. (1) For purposes of administering the payment system, the department shall consider a "new contractor" as one who receives a new vendor number and:

(a) Builds from the ground-up a new facility; and operates the new facility with completely new staff, administration and residents. If the "new contractor" operated a nursing facility immediately before the opening of the new facility, then the "new contractor" must operate the new facility with:

(i) Staff and administration that are substantially to completely different than the previous operation of the "new contractor"; and

(ii) A resident population that is substantially to completely different than the residents residing in the previous nursing facility; or

(b) Currently operates, acquires, or assumes responsibility for operating an existing nursing facility that was not operated under a medicaid contract immediately prior to the effective date of the new medicaid contract; or

(c) Purchases or leases a nursing facility that, at the time of the purchase or lease, was operated under a medicaid contract.

(2) A new contractor shall submit:

(a) At least sixty days before the effective date of the contract or assignment, a statement disclosing the identity of individuals or organizations who:

(i) Have a beneficial ownership interest in the current operating entity or the land, building, or equipment of the facility; or

(ii) Have a beneficial ownership interest in the purchasing or leasing entity.

(b) By March 31st of the following year, a cost report for the period from the effective date of the contract or assignment through December 31st of year the contract or assignment was effective.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 19(11) and RCW 74.46.800. WSR 98-20-023, § 388-96-026, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. WSR 93-12-051 (Order 3555), § 388-96-026, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-026, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-026, filed 12/21/88. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-026, filed 9/16/83; Order 1262, § 388-96-026, filed 12/30/77.]

WAC 388-96-099 Completing cost reports and maintaining records. (1) To determine reported costs, nursing facility contractors shall use generally accepted accounting principles, the provisions of this chapter, and chapter 74.46 RCW. In the event of conflict, chapter 74.46 RCW, this chapter, and instructions issued by the department take precedence over generally accepted accounting principles.

(2) A nursing facility's records shall be maintained on the accrual method of accounting and agree with or be reconcilable to the cost report. All revenue and expense accruals shall be reversed against the appropriate accounts unless they are received or paid, respectively, within one hundred twenty days after the accrual is made. However, if the contractor can document a good faith billing dispute with the supplier or vendor, the period may be extended, but only for those portions of billings subject to good faith dispute. Accruals for vacation, holiday, sick pay, payroll, and real estate taxes may be carried for longer periods, provided the contractor follows generally accepted accounting principles and pays this type of accrual when due.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-099, filed 2/14/11, effective 2/26/11.]

WAC 388-96-102 Requirements for retention of records by the contractor. (1) The contractor shall specify a location in the state of Washington at which the contractor shall retain all records supporting the cost reports for a period of four years following the filing of the required cost reports. Also, at the same location, for a period of four years, for each calendar year, the contractor shall retain all records supporting trust funds established under WAC 388-96-366(2) and account receivables. For example, supporting records for 2009 trust funds and accounts receivables must be kept through 2013.

(2) When there is (are) an unresolved issue(s) on a cost report, the department may direct supporting records to be retained for a longer period. All such records shall be made available upon demand to authorized representatives of the department, the office of the state auditor, and the Centers for Medicare and Medicaid Services (CMS).

(3) When a contract is terminated or assigned, all payments due the terminating or assigning contractor will be withheld until accessibility and preservation of the records within the state of Washington are assured.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-102, filed 2/14/11, effective 2/26/11.]

WAC 388-96-105 Retention of cost reports and resident assessment information by the department. The department will retain cost reports for one year after final settlement or reconciliation, or the period required under chapter 40.14 RCW, whichever is longer. Resident assessment information and records shall be retained as provided in statute or by department rule.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-105, filed 2/14/11, effective 2/26/11.]

WAC 388-96-107 Requests for extensions. (1) A contractor may request in writing an extension for submitting cost reports. Contractor requests shall:

(a) Be addressed to the manager, residential rates program;

(b) State the circumstances prohibiting compliance with the report due date; and

(c) Be received by the department at least ten days prior to the due date of the report.

(2) The department may grant two extensions of up to thirty days each, only if the circumstances, stated clearly, indicate the due date cannot be met and the following conditions are present:

(a) The circumstances were not foreseeable by the provider; and

(b) The circumstances were not avoidable by advance planning.

[Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-107, filed 12/21/88. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-107, filed 9/16/83; Order 1262, § 388-96-107, filed 12/30/77.]

WAC 388-96-108 Failure to submit final reports. (1) If a nursing facility's contract is terminated or assigned, and the nursing facility does not submit a final cost report as required by WAC 388-96-022, the nursing facility shall return to the department all payments made to the terminating or assigning contractor relating to the period for which a report has not been received within sixty days after the terminating or assigning contractor receives a written demand from the department.

(2) Effective sixty days after the terminating or assigning contractor receives a written demand for payment, interest will begin to accrue payable to the department on any unpaid balance at the rate of one percent per month.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-108, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.040 and 74.46.050 as amended by 1998 c 322 §§ 3 and 4. WSR 98-20-023, § 388-96-108, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-108, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-108, filed 9/16/83. Statutory Authority: RCW 74.08.090. WSR 82-21-025 (Order 1892), § 388-96-108, filed 10/13/82.]

WAC 388-96-117 Certification requirement. The contractor as defined in RCW 74.46.020(13) must certify under penalty of perjury that the cost report or an amendment to it is a true, correct, and complete representation of actual costs related to patient care prepared in accordance with applicable instructions provided by the department, chapter 388-96 WAC, and chapter 74.46 RCW. Further, where other costs not related to patient care are shown, they are classified as unallowable.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-117, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-117, filed 8/19/85; Order 1262, § 388-96-117, filed 12/30/77.]

WAC 388-96-119 Reports—False information. (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes good cause for termination of its contract with the department.

(2) In accordance with RCW 74.46.531, the department will make adjustments to payment rates because a false report was filed.

(3) Contractors filing false reports may be referred for prosecution under applicable statutes.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 19(11) and 31 and RCW 74.46.800. WSR 98-20-023, § 388-96-119, filed 9/25/98, effective 10/1/98; Order 1262, § 388-96-119, filed 12/30/77.]

WAC 388-96-122 Amendments to reports. (1) For the purpose of determining allowable costs, the department shall consider an amendment to an annual report only if filed by the provider before the receipt by the provider of the notification scheduling the department's audit. The contractor may file an amendment subsequent to such notification and pursuant to the provisions of RCW 74.46.531 to adjust a payment rate allocation because of an error or omission. When the provider files an amendment, the department shall consider it only if significant errors or omissions are discovered. The department shall deem errors or omissions "significant" when the errors or omissions would mean a net difference of two cents or more per patient day or one thousand dollars or more in reported costs, whichever is higher, in any component rate allocation. To file an amendment, only those cost report

pages where changes appear need to be filed, together with the certification required by WAC 388-96-117.

(2) If an amendment is filed, a contractor shall also submit with the amendment an account of the circumstances relating to and the reasons for the amendment, along with supporting documentation. The department shall refuse to consider an amendment resulting in a more favorable settlement or payment rate allocation to a contractor if the amendment is not the result of circumstances beyond the control of the contractor or the result of good-faith error under the system of cost allocation and accounting in effect during the reporting period in question.

(3) Acceptance or use by the department of an amendment to a cost report shall in no way be construed as a release of applicable civil or criminal liability.

[Statutory Authority: Chapter 74.46 as amended by 1998 c 322 §§ 19(11) and 31 and RCW 74.46.800. WSR 98-20-023, § 388-96-122, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800. WSR 86-10-055 (Order 2372), § 388-96-122, filed 5/7/86, effective 7/1/86; WSR 84-12-039 (Order 2105), § 388-96-122, filed 5/30/84. Statutory Authority: RCW 74.09.120. WSR 82-11-065 (Order 1808), § 388-96-122, filed 5/14/82; WSR 79-03-021 (Order 1370), § 388-96-122, filed 2/21/79; Order 1262, § 388-96-122, filed 12/30/77.]

WAC 388-96-205 Purposes of department audits—Examination—Incomplete or incorrect reports—Contractor's duties—Access to facility—Fines—Adverse rate actions. (1) The purposes of department audits and examinations under this chapter and chapter 74.46 RCW are to ascertain that:

(a) Allowable costs for each year for each medicaid nursing facility are accurately reported;

(b) Cost reports accurately reflect the true financial condition, revenues, expenditures, equity, beneficial ownership, related party status, and records of the contractor;

(c) The contractor's revenues, expenditures, and costs of the building, land, land improvements, building improvements, and movable and fixed equipment are recorded in compliance with department requirements, instructions, and generally accepted accounting principles;

(d) The responsibility of the contractor has been met in the maintenance and disbursement of patient trust funds; and

(e) The contractor has reported and maintained accounts receivable in compliance with this chapter and chapter 74.46 RCW.

(2) The department shall examine the submitted cost report, or a portion thereof, of each contractor for each nursing facility for each report period to determine whether the information is correct, complete, reported in conformance with department instructions and generally accepted accounting principles, the requirements of this chapter, and chapter 74.46 RCW. The department shall determine the scope of the examination.

(3) When the department finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing component rate allocations or in determining amounts to be recovered in direct care, therapy care, and support services under WAC 388-96-211 (3) and (4) or in any component rate resulting from undocumented or misreported costs. A schedule of the adjustments shall be provided to the contractor, including dollar amount and explanations for the adjustments. Adjustments shall be subject to review under WAC 388-96-901 and 388-96-904.

(4) Audits of resident trust funds and receivables shall be reported separately and in accordance with the provisions of this chapter and chapter 74.46 RCW.

(5) The contractor shall:

(a) Provide access to the nursing facility, all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds. To ensure accuracy, the department may require the contractor to submit for departmental review any underlying financial statements or other records, including income tax returns, relating to the cost report directly or indirectly;

(b) Prepare a reconciliation of the cost report with:

(i) Applicable federal income and federal and state payroll tax returns; and

(ii) The records for the period covered by the cost report.

(c) Make available to the department staff an individual or individuals to respond to questions and requests for information from department staff. The designated individual or individuals shall have sufficient knowledge of the issues, operations, or functions to provide accurate and reliable information.

(6) If an examination discloses material discrepancies, undocumented costs, or mishandling of resident trust funds, the department may open or reopen one or both of the two preceding cost report or resident trust fund periods, whether examined or unexamined, for indication of similar discrepancies, undocumented costs, or mishandling of resident trust funds.

(7) Any assets, liabilities, revenues, or expenses reported as allowable that are not supported by adequate documentation in the contractor's records shall be disallowed. Documentation must show both that costs reported were incurred during the period covered by the report and were related to resident care, and that assets reported were used in the provision of resident care.

(8) When access is required at the facility or at another location in the state, the department shall notify a contractor of its intent to examine all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds.

(9) The department is authorized to assess civil fines and take adverse rate action if a contractor, or any of its employees, does not allow access to the contractor's nursing facility records.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-205, filed 2/14/11, effective 2/26/11.]

WAC 388-96-208 Reconciliation of medicaid resident days to billed days and medicaid payments—Payments due—Accrued interest—Withholding funds. (1) The department shall reconcile medicaid resident days to billed days and medicaid payments for each medicaid nursing facility for each calendar year, or for that portion of the calendar year the provider's contract was in effect.

(2) The contractor shall make any payment owed the department as determined by reconciliation and/or settlement at the lower of cost or rate in direct care, therapy care, and support services component rate allocations within sixty days

after the department notifies the contractor of the amount owed.

(3) The department shall pay the contractor within sixty days after it notifies the contractor of an underpayment.

(4) Interest at the rate of one percent per month accrues against the department or the contractor on an unpaid balance existing sixty days after notification of the contractor. Accrued interest shall be adjusted back to the date it began to accrue if the payment obligation is subsequently revised after administrative or judicial review.

(5) The department shall withhold funds from the contractor's payment for services and shall take all other actions authorized by law to recover from the contractor amounts due and payable including any accrued interest. Neither a timely filed appeal under WAC 388-96-901 and 388-96-904 nor the commencement of judicial review as may be available to the contractor in law to contest a payment obligation determination shall delay recovery from the contractor or payment to the contractor.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-208, filed 2/14/11, effective 2/26/11.]

WAC 388-96-211 Proposed settlement report—Payment refunds—Overpayments—Determination of unused rate funds—Total and component payment rates. (1) Contractors shall submit with each annual nursing facility cost report a proposed settlement report showing underspending or overspending in each component rate during the cost report year on a per-resident day basis. The department shall accept or reject the proposed settlement report, explain any adjustments, and if needed, issue a revised settlement report.

(2) Contractors shall not be required to refund payments made in the operations, variable return, property, and financing allowance component rates in excess of the adjusted costs of providing services corresponding to these components.

(3) The facility will return to the department any overpayment amounts in each of the direct care, therapy care, and support services rate components that the department identifies following the examination and settlement procedures as described in this chapter, provided that the contractor may retain any overpayment that does not exceed one percent of the facility's direct care, therapy care, and support services component rate. However, no overpayments may be retained in a cost center to which savings have been shifted to cover a deficit, as provided in subsection (4) of this section. Facilities that are not in substantial compliance for more than ninety days, and facilities that provide substandard quality of care at any time during the period for which settlement is being calculated, will not be allowed to retain any amount of overpayment in the facility's direct care, therapy care, and support services component rate. The terms "not in substantial compliance" and "substandard quality of care" shall be defined by federal survey regulations.

(4) Determination of unused rate funds, including the amounts of direct care, therapy care, and support services to be recovered, shall be done separately for each rate component, and, except as otherwise provided in this subsection, neither costs nor rate payments shall be shifted from one component rate or corresponding service area to another in determining the degree of underspending or recovery, if any. In computing a preliminary or final settlement, savings in the support services cost center shall be shifted to cover a deficit in the direct care or therapy cost centers up to the amount of any savings, but no more than twenty percent of the support services component rate may be shifted. In computing a preliminary or final settlement, savings in direct care and therapy care may be shifted to cover a deficit in these two cost centers up to the amount of savings in each, regardless of the percentage of either component rate shifted. Contractor-retained overpayments up to one percent of direct care, therapy care, and support services rate components, as authorized in subsection (3) of this section, shall be calculated and applied after all shifting is completed.

(5) Total and component payment rates assigned to a nursing facility, as calculated and revised, if needed, under the provisions of this chapter and chapter 74.46 RCW shall represent the maximum payment for nursing facility services rendered to medicaid recipients for the period the rates are in effect. No increase in payment to a contractor shall result from spending above the total payment rate or in any rate component.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-211, filed 2/14/11, effective 2/26/11.]

WAC 388-96-217 Civil fines. (1) The department may deny, suspend, or revoke a license or provisional license or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars per violation in any case in which it finds that the licensee, or any partner, officer, director, owner of five percent or more of the assets of the nursing home, or managing employee has failed or refused to comply with any requirement of chapters 74.46 RCW or 388-96 WAC.

(2) The department may fine a contractor or former contractor or any partner, officer, director, owner of five percent or more of the stock of a current or former corporate contractor, or managing agent for the following but not limited to the following:

(a) Failure to file a mathematically accurate and complete cost report, including a final cost report, on or prior to the applicable due date established by this chapter or authorized by extension granted in writing by the department;

(b) Failure to permit an audit authorized by this chapter or to grant access to all records and documents deemed necessary by the department to complete such an audit;

(c) Has knowingly or with reason to know made a false statement of a material fact in any record required by this chapter and/or chapter 74.46 RCW;

(d) Refused to allow representatives or agents of the department to inspect all books, records, and files required by this chapter to be maintained or any portion of the premises of the nursing home;

(e) Willfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter and/or chapter 74.46 RCW; or

(f) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or chapter 74.46 RCW.

(3) Every day of noncompliance with any requirement of subsection (1) and/or (2) of this section is a separate violation.

(4) The department shall send notice of a fine assessed under subsection (1) and/or (2) of this section by certified mail return receipt requested to the current contractor, administrator, or former contractor informing the addressee of the following:

(a) The fine shall become effective the date of receipt of the notice by the addressee; and

(b) If within two weeks of the date of receipt of the notice by the addressee, the addressee complies with the requirement(s) of subsection (1) and (2), the department may waive the fine.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-217, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.050, 74.46.431, 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-217, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-217, filed 5/26/94, effective 6/26/94; WSR 87-09-058 (Order 2485), § 388-96-217, filed 4/20/87.]

WAC 388-96-218 Proposed, preliminary, and final settlements. (1) For each component rate, the department shall calculate a proposed, preliminary or final settlement at the lower of prospective payment rate or audited allowable costs, except as otherwise provided in this chapter and chapter 74.46 RCW.

(2) As part of the cost report, the proposed settlement report is due in accordance with WAC 388-96-022. In the proposed preliminary settlement report, a contractor shall compare the contractor's payment rates during a cost report period, weighted by the number of resident days reported for the same cost report period to the contractor's allowable costs for the cost report period. In accordance with WAC 388-96-205, 388-96-208 and 388-96-211 the contractor shall take into account all authorized shifting, retained savings, and upper limits to rates on a cost center basis.

(a) The department will:

(i) Review the proposed preliminary settlement report for accuracy; and

(ii) Accept or reject the proposal of the contractor. If accepted, the proposed preliminary settlement report shall become the preliminary settlement report. If rejected, the department shall issue, by component payment rate allocation, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(b) When the department receives the proposed preliminary settlement report:

(i) By the cost report due date specified in WAC 388-96-022, it will issue the preliminary settlement report within one hundred twenty days of the cost report due date; or

(ii) After the cost report due date specified in WAC 388-96-022, it will issue the preliminary settlement report within one hundred twenty days of the date the cost report was received.

(c) In its discretion, the department may designate a date later than the dates specified in subsection (2)(b)(i) and (ii) of this section to issue preliminary settlements.

(d) A contractor shall have twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight day period, the department shall not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement shall be limited to calculation of the settlement, to the application of settlement principles and rules, or both, and shall not encompass rate or audit issues.

(3) The department shall issue a final settlement report to the contractor after the completion of the department audit process, including exhaustion or termination of any administrative review and appeal of audit findings or determinations requested by the contractor, but not including judicial review as may be available to and commenced by the contractor.

(a) The department shall prepare a final settlement by component payment rate allocation and shall fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The department shall take into account all authorized shifting, savings, and upper limits to rates on a component payment rate allocation basis. For the final settlement report, the department shall compare:

(i) The payment rates it paid the contractor for the facility in question during the report period, weighted by the number of allowable resident days reported for the period each rate was in effect to the contractor's;

(ii) Audited allowable costs for the reporting period; or

(iii) Reported costs for the nonaudited reporting period.

(b) A contractor shall have twenty-eight days after the receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight day period, the department shall not review a final settlement report. Any administrative review of a final settlement shall be limited to calculation of the settlement, the application of settlement principles and rules, or both, and shall not encompass rate or audit issues.

(c) The department shall reopen a final settlement if it is necessary to make adjustments based upon findings resulting from a department audit performed pursuant to WAC 388-96-205. The department may also reopen a final settlement to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's medicaid recipient days.

(4)(a) In computing a preliminary or final settlement, a contractor must comply with the requirements of WAC 388-96-211 for retaining or refunding to the department payments made in excess of the adjusted costs of providing services corresponding to each component rate allocation.

(b) The nursing facility contractor shall refund all amounts due the department within sixty days after the department notifies the contractor of the overpayment and demands repayment. When notification is by postal mail, the department shall deem the contractor to have received the department's notice five calendar days after the date of the notification letter, unless proof of the date of receipt of the department's notification letter exists, in which case the actual date of receipt shall be used to determine the sixty day period for repayment. After the sixty day period, interest on any unpaid balance will accrue at one percent per month.

(c) Repayment will be without prejudice to obtain review of the settlement determination pursuant to WAC 388-96-901 and 388-96-904. After an administrative hearing and/or judicial review, if the payment obligation is reduced, then the department will rescind the difference between the accrued interest on the payment obligation and the interest that would have accrued on the reduced payment obligation from the date interest began to accrue on the original payment obligation.

(5) In determining whether a facility has forfeited unused rate funds in its direct care, therapy care and support services component rates under authority of WAC 388-96-211, the following rules shall apply:

(a) Federal or state survey officials shall determine when a facility is not in substantial compliance or is providing substandard care, according to federal and state nursing facility survey regulations;

(b) Correspondence from state or federal survey officials notifying a facility of its compliance status shall be used to determine the beginning and ending dates of any period(s) of noncompliance; and

(c) Forfeiture shall occur if the facility was out of substantial compliance more than ninety days during the settlement period. The ninety-day period need not be continuous if the number of days of noncompliance exceed ninety days during the settlement period regardless of the length of the settlement period. Also, forfeiture shall occur if the nursing facility was determined to have provided substandard quality of care at any time during the settlement period.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-218, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.155, 74.46.165, 74.46.431, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-218, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-218, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-218, filed 11/30/99, effective 12/31/99. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 9 and 10 and RCW 74.46.800. WSR 98-20-023, § 388-96-218, filed 9/25/98, effective 10/1/98.]

WAC 388-96-310 Interest on other excess payments. (1) Any contractor obtaining benefits or payments under the medical assistance program to which such contractor is not entitled or in an amount to which such contractor is not entitled, shall be liable for such benefits or payments received and for interest on the amount of benefits or payments from the date of receipt until repayment is made to the department at the rate of one percent per month, unless the contractor establishes the overpayment was the result of errors made by the department.

(2) Interest charged by the department or interest expense incurred by the contractor, from whatever source, in making refund to the department shall not be reimbursable by the department as an allowable cost. The contractor may, by payment of a disputed settlement in whole or in part, stop accrual of interest on the amount paid. Such payment will be without prejudice to obtain review of a settlement determination.

[Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-310, filed 9/16/83.]

WAC 388-96-366 Facility records and handling of resident moneys. (1) A nursing facility may not require residents to deposit personal funds with the facility. A facility may hold a resident's personal funds only if the resident or resident's guardian provides written authorization.

(2) Once a nursing facility accepts the written authorization of the resident or resident's guardian, the facility shall hold, safeguard, and account for such personal funds under an established system in accordance with this chapter and chapter 74.46 RCW. For all resident moneys entrusted to the contractor and received by the contractor for the resident, the nursing facility shall establish and maintain a bookkeeping system incorporated into the business records and adequate for audit.

(3) The nursing facility shall maintain the resident's or guardian's written authorization in the resident's file. The facility shall deposit any resident's personal funds in excess of fifty dollars in an interest-bearing resident personal fund account or accounts, separate from any of the facility's operating accounts, and credit all interest earned on an account to the account. With respect to any other personal funds, the facility shall keep such funds in a noninterest-bearing account or petty cash fund maintained for residents.

(4) The facility shall give the resident at least a quarterly reporting of all financial transactions involving personal funds held for the resident by the facility. Also, the facility shall send the representative payee, the guardian, or other designated agents of the resident a copy of the quarterly accounting report.

(5) The nursing facility shall further maintain a written record of all personal property deposited with the facility for safekeeping by or for the resident. The facility shall issue or obtain written receipts upon taking possession or disposing of such property and retain copies and/or originals of such receipts. The facility shall maintain records adequate for audit.

(6) The facility shall purchase a surety bond, or otherwise provide assurances or security satisfactory to the department, to assure the security of all personal funds of residents deposited with the facility.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-366, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. WSR 90-20-075 (Order 3070), § 388-96-366, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.46.800. WSR 87-09-058 (Order 2485), § 388-96-366, filed 4/20/87; Order 1168, § 388-96-366, filed 11/3/76; Order 1114 § 388-96-366, filed 4/21/76.]

WAC 388-96-369 The nursing facility shall maintain a subsidiary ledger with an account for each resident for whom the facility holds money. (1) The facility shall assure a full and complete separate accounting of each resident's personal funds. Each account record and related supporting information and documentation shall:

(a) Be maintained at the facility;

(b) Be kept current;

(c) Be balanced each month; and

(d) Show in writing and in detail, with supporting verification, all moneys received on behalf of the individual resident and the disposition of all moneys so received.

(2) Each account shall be reasonably accessible to the resident or the resident's guardian or legal representative and

shall be available for audit and inspection by a department representative. Each account shall be maintained for a minimum of four years. A medicaid provider shall notify each Title XIX medicaid recipient or guardian and the home and community services office of the department that serves the area when the amount in the account of any Title XIX medicaid recipient reaches two hundred dollars less than the applicable dollar resource limit for supplemental security income (SSI) eligibility set forth in Title XVI of the Social Security Act.

(3) When notice is given under subsection (2) of this section, the facility shall notify the recipient or guardian that if the amount in the account, in addition to the value of the recipient's other nonexempt resources, reaches the dollar resource limit determined under Title XVI, the recipient may lose eligibility for SSI medical assistance or benefits under Title XVI.

(4) After the recipient's admission to the facility, accumulation toward the Title XVI limit is permitted only from the clothing and personal incidentals allowance and other income that the department specifically designates as exempt income.

(5) No resident funds may be overdrawn (show a debit balance). If a resident wants to spend an amount greater than the facility is holding for the resident, the home may provide money from its own funds and collect the debt by installments from that portion of the resident's allowance remaining at the end of each month. No interest may be charged to residents for such loans.

(6) The facility may not impose a charge against the personal funds of a medicare or medicaid recipient for any item or service for which payment is made under the Title XVIII medicare program or the Title XIX medicaid program. In order to ensure that medicaid recipients are not charged for services provided under the Title XIX program, any charge for medical services otherwise properly made to a recipient's personal funds shall be supported by a written denial from the department.

(a) Mobility aids including walkers, wheelchairs, or crutches requested for the exclusive use by a medicaid recipient shall have a written denial from the department of social and health services before a recipient's personal funds may be charged.

(b) Requests for medically necessary services and supplies not funded under the provisions of chapter 388-96 WAC or chapter 388-86 WAC (reimbursement rate or coupon system) shall have a written denial from the department before a medicaid recipient's personal funds may be charged.

(c) A written denial from the department is not required when the pharmacist verifies that a drug is not covered by the program, e.g., items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications. The pharmacist's notation to this effect is sufficient.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-369, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-369, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. WSR 90-20-075 (Order 3070), § 388-96-369, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.42.620 and 74.46.800. WSR 85-17-070 (Order 2275), § 388-96-369, filed 8/21/85. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-369, filed 9/16/83; WSR 82-21-025 (Order 1892), § 388-96-369, filed 10/13/82; Order 1168, § 388-96-369, filed 11/3/76; Order 1114, § 388-96-369, filed 4/21/76.]

WAC 388-96-372 The nursing facility may maintain a petty cash fund originating from resident personal funds of an amount reasonable and necessary for the size of the facility and the needs of the residents. (1) This petty cash fund shall be an imprest fund limited to one thousand dollars unless the facility demonstrates good cause for the department to grant a higher limit. All moneys over and above the petty cash limit shall be deposited intact in an interest bearing account or accounts maintained for resident personal funds, separate and apart from any other bank account of the facility or other facilities. All interest earned on an account containing resident personal funds shall be credited to such account.

(2) Cash deposits of recipient allowances must be made intact to the resident personal fund account within one week from the time that payment is received from the department, Social Security Administration, or other payer.

(3) Any related bankbooks, bank statements, checkbook, check register, and all voided and cancelled checks, shall be made available for audit and inspection by a department representative, and shall be maintained by the home for not less than four years.

(4) No service charges for such checking account shall be paid by residents or deducted from resident personal funds.

(5) The resident personal fund account or accounts per bank shall be reconciled monthly to the resident personal funds per resident ledgers.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-372, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. WSR 90-20-075 (Order 3070), § 388-96-372, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-372, filed 9/16/83; Order 1114, § 388-96-372, filed 4/21/76.]

WAC 388-96-375 Resident personal funds control/disbursement. Personal funds shall be held and used for the benefit of the resident and are not to be turned over to anyone other than the resident or the resident's guardian without the written consent of the resident, the resident's designated agent as appointed by power of attorney, or appropriate department of social and health services personnel as designated by the CSO administrator.

(1) When money is received, a receipt shall be filled out in duplicate:

(a) One copy shall be given to the person making payment or deposit; and

(b) The other copy shall be retained in the receipt book for easy reference.

(2) Checks received by residents shall be endorsed by the resident. Schedule I-A(6e) of the agreement states in part: "Each patient receiving a check or state warrant is responsible for endorsement by his own signature. Only when the patient is incapable of signing his name may the Provider assume the responsibility of securing the patient's mark "X" followed by the name of the patient and the signature of two witnesses."

(3) If both a facility operating account and a resident personal fund account are at the same bank, the resident portion of checks which include care payments can be deposited directly to the resident account by including a resident account deposit slip for the correct amount with the checks and the operating account deposit slip.

(4) The resident's ledger sheet shall be credited with the allowance received. This shall be referenced with the receipt number and shall be supported by a copy of the deposit slip (one copy for all deposits made).

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. WSR 90-20-075 (Order 3070), § 388-96-375, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.09.120. WSR 82-21-025 (Order 1892), § 388-96-375, filed 10/13/82; Order 1168, § 388-96-375, filed 11/3/76; Order 1114, § 388-96-375, filed 4/21/76.]

WAC 388-96-378 Resident personal funds availability. Funds held for any resident shall be available for the resident's personal and incidental needs when requested by the resident or one of the individuals designated in WAC 388-96-375.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. WSR 90-20-075 (Order 3070), § 388-96-378, filed 9/28/90, effective 10/1/90; Order 1114, § 388-96-378, filed 4/21/76.]

WAC 388-96-381 Procedure for refunding resident personal funds. (1) When a resident is discharged or transferred, the balance of the resident's personal funds shall be returned to the individual designated in WAC 388-96-375 within thirty days and a receipt obtained. In some cases it may be advisable to mail the refund to the resident's new residence.

[Statutory Authority: RCW 74.46.431(9). WSR 15-09-025, § 388-96-381, filed 4/7/15, effective 5/8/15. Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. WSR 90-20-075 (Order 3070), § 388-96-381, filed 9/28/90, effective 10/1/90; Order 1114, § 388-96-381, filed 4/21/76.]

WAC 388-96-384 Liquidation or transfer of resident personal funds. (1) Upon the death of a resident, the facility shall convey within thirty days the resident's personal funds held by the facility with a final accounting of such funds to the department of social and health services office of financial recovery (or successor office) or to the individual or probate jurisdiction administering the resident's estate.

(a) When the deceased resident was a recipient of long-term care services paid for in whole or in part by the department, then the personal funds held by the facility and the final accounting shall be sent to department of social and health services office of financial recovery (or successor office).

(b) When the personal funds of the deceased resident are to be paid to the department, the facility shall:

(i) Pay with a check, money order, certified check or cashiers check made payable to the secretary, department of social and health services;

(ii) Complete a transmittal of resident personal funds form (DSHS form 18-544) for each deceased resident;

(iii) Place the name and social security number of the deceased individual from whose personal funds account the moneys are being paid on the check, money order, certified check or cashier's check and the transmittal of resident personal funds form (DSHS form 18-544); and

(iv) Mail the check or money order and the DSHS 18-544 to the office of financial recovery, estate recovery unit, P.O. Box 9501, Olympia, Washington 98507-9501, or such address as may be directed by the department in the future.

(c) The department of social and health services, office of financial recovery, estate recovery unit shall establish a release procedure for use of funds necessary for burial expenses.

(2) In situations where the resident leaves the nursing home without authorization and the resident's whereabouts is unknown:

(a) The nursing facility shall make a reasonable attempt to locate the missing resident. This includes contacting:

(i) Friends,

(ii) Relatives,

(iii) Police,

(iv) The guardian, and

(v) The home and community services office in the area.

(b) If the resident cannot be located after ninety days, the nursing facility shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.29 RCW. The nursing facility shall deliver to the department of revenue the balance of the resident's personal funds within twenty days following such notification.

(3) Prior to the sale or other transfer of ownership of the nursing facility business, the facility operator shall:

(a) Provide each resident or resident representative with a written accounting of any personal funds held by the facility;

(b) Provide the new operator with a written accounting of all resident funds being transferred; and

(c) Obtain a written receipt for those funds from the new operator.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-384, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-384, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-384, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-384, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. WSR 90-20-075 (Order 3070), § 388-96-384, filed 9/28/90, effective 10/1/90. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-384, filed 12/23/87. Statutory Authority: RCW 74.09.120. WSR 82-21-025 (Order 1892), § 388-96-384, filed 10/13/82; Order 1168, § 388-96-384, filed 11/3/76; Order 1114, § 388-96-384, filed 4/21/76.]

WAC 388-96-499 Principles of allowable costs. (1) The substance of a transaction will prevail over its form.

(2) All documented costs which are ordinary, necessary, related to care of medical care recipients, and not expressly unallowable under this chapter and/or chapter 74.46 RCW are to be allowable.

(3) Costs of providing therapy care are allowable, subject to any applicable limit contained in this chapter and/or chapter 74.46 RCW, provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which recipients may be legally entitled, such as private insurance or medicare, were first fully utilized.

(4) The payment for property usage is to be independent of ownership structure and financing arrangements.

(5) Allowable costs shall not include costs reported by a contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the nursing facility in the period to be covered by the rate.

(6) Any costs deemed allowable under this chapter are subject to the provisions of RCW 74.46.421. The allowability of a cost shall not be construed as creating a legal right or entitlement to reimbursement of the cost.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-499, filed 2/14/11, effective 2/26/11.]

WAC 388-96-502 Indirect and overhead costs. Subject to the provisions of this chapter and chapter 74.46 RCW, when a contractor provides goods or services that are not reimbursable, any indirect or overhead costs associated with their provision must be allocated to such goods or services on a reasonable basis approved by the department and must not be reported as allowable costs.

[Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-502, filed 9/25/98, effective 10/1/98. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-502, filed 12/23/87. Statutory Authority: RCW 74.46.800. WSR 86-10-055 (Order 2372), § 388-96-502, filed 5/7/86, effective 7/1/86; WSR 84-12-039 (Order 2105), § 388-96-502, filed 5/30/84.]

WAC 388-96-505 Offset of miscellaneous revenues. (1) The contractor shall reduce allowable costs whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts, refunds of allowable costs or rebates) other than through the contractor's normal billing for care services; except, the department shall not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(2) The contractor shall reduce allowable costs for hold-bed revenue in the support services, operations and property rate components only. In the support services rate component, the amount of reduction shall be determined by dividing a facility's allowable housekeeping costs by total adjusted patient days and multiplying the result by total hold-room days. In the operations rate component, the amount of the reduction shall be determined by dividing a facility's allowable operation costs by total adjusted patient days and multiplying the result by total hold-room days. In the property rate component, the amount of reduction shall be determined by dividing allowable property costs by the total adjusted patient days and multiplying the result by total hold-room days.

(3) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts, refunds of allowable costs or rebates are received, the amount of the reduction shall be the amount of the discount or rebate. Financial benefits such as purchase discounts, refunds of allowable costs and rebates, including industrial insurance rebates, shall be offset against allowable costs in the year the contractor actually receives the benefits.

(4) Only allowable costs shall be recovered under this section. Costs allocable to activities or services not included in nursing facility services, e.g., costs of vending machines and services specified in chapter 388-86 WAC not included in nursing facility services, are nonallowable costs.

[Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-505, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.200 and 74.46.-800. WSR 97-17-040, § 388-96-505, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-505, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-505, filed 7/23/92, effective 8/23/92. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-505, filed 12/23/87. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-505, filed 12/4/84; WSR 82-21-025 (Order 1892), § 388-96-505, filed 10/13/82. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-505, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-505, filed 6/1/78; Order 1262, § 388-96-505, filed 12/30/77.]

WAC 388-96-525 Education and training. (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs. Cost of training for which the nursing facility is reimbursed outside the payment rate is an unallowable cost.

(2) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

(3) Expenses for travel, lodging, and meals associated with education and training in the states of Idaho, Oregon, and Washington and the province of British Columbia are allowable if the expenses meet the requirements of this chapter.

(4) Except travel, lodging, and meal expenses, education and training expenses at sites outside of the states of Idaho, Oregon, and Washington and the province of British Columbia are allowable costs if the expenses meet the requirements of this chapter.

(5) Costs designated by this section as allowable shall be subject to any applicable cost center limit established by this chapter.

[Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-525, filed 9/25/98, effective 10/1/98; WSR 94-12-043 (Order 3737), § 388-96-525, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-525, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-525, filed 5/30/84. Statutory Authority: RCW 74.09.120. WSR 81-22-081 (Order 1712), § 388-96-525, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-525, filed 2/25/81. Statutory Authority: RCW 74.09.120. WSR 80-06-122 (Order 1510), § 388-96-525, filed 5/30/80, effective 7/1/80; Order 1262, § 388-96-525, filed 12/30/77.]

WAC 388-96-528 Payments to related organizations—Limits—Documentation. (1) Costs applicable to services, facilities, and supplies furnished by a related organization to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(2) Documentation of costs to the related organization shall be made available to the department. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-528, filed 2/14/11, effective 2/26/11.]

WAC 388-96-530 What will be allowable compensation for owners, relatives, licensed administrator, assistant administrator, and/or administrator-in-training? Subject to any applicable cost center limit established by chapter 74.46 RCW, total allowable compensation shall be:

(1) As provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties; or

(2) In the absence of a contract, gross salary or wages excluding payroll taxes and benefits made available to all employees, e.g., health insurance.

[Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-530, filed 9/25/98, effective 10/1/98.]

WAC 388-96-532 Does the contractor have to maintain time records? (1) The contractor shall maintain time records that are adequate for audit for owners, relatives, the licensed administrator, assistant administrator, and/or administrator-in-training. The contractor shall include in such records verification of the actual hours of service performed for the nursing home and shall document compensated time was spent in provision of necessary services actually performed.

(2) If the contractor has no or inadequate time records, the undocumented cost of compensation shall be unallowable.

[Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-532, filed 9/25/98, effective 10/1/98.]

WAC 388-96-534 Joint cost allocation disclosure (JCAD). (1) The contractor shall disclose to the department:

(a) The nature and purpose of all costs representing allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) The contractor shall demonstrate in such disclosure:

(a) The services involved are necessary and nonduplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(3) The contractor shall make such disclosure not later than September 30th for the following year; except, a new contractor shall submit the first year's disclosure together with the submissions required by WAC 388-96-026. Within this section, the meaning of the:

(a) "Effective date" is the date the department will recognize allocation per an approved JCAD; and

(b) "Implementation date" is the date the facility will begin or began incurring joint facility costs.

(4) The department shall approve or reject the JCAD not later than December 31 of each year for all JCADs received by September 30th. The effective date of an approved JCAD received:

(a) By September 30th is January 1st.

(b) After September 30th shall be ninety days from the date the JCAD was received by the department.

(5) The contractor shall submit to the department for approval an amendment or revision to an approved JCAD at least thirty days prior to the implementation date of the amendment or revision. For amendments or revisions received less than thirty days before the implementation date, the effective date of approval will be thirty days from the date the JCAD is received by the department.

(6) When a contractor, who is not currently incurring joint facility costs, begins to incur joint facility costs during the calendar year, the contractor shall provide the information required in subsections (1) and (2) of this section at least ninety days prior to the implementation date. If the JCAD is not received ninety days before the implementation date, the effective date of the approval will be ninety days from the date the JCAD is received by the department.

(7) Joint facility costs not disclosed, allocated, and reported in conformity with this section are unallowable costs. Joint facility costs incurred before the effective dates of subsections (4), (5), and (6) of this section are unallowable. Costs disclosed, allocated, and reported in conformity with a department-approved JCAD must undergo review and be determined allowable costs for the purposes of rate setting and audit.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-534, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.270. WSR 97-17-040, § 388-96-534, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-534, filed 7/16/96, effective 8/16/96. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-534, filed 5/26/94, effective 6/26/94. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-534, filed 12/23/87. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-534, filed 9/16/83; WSR 80-09-083 (Order 1527), § 388-96-534, filed 7/22/80.]

WAC 388-96-535 Management agreements, management fees, and central office services. (1) The contractor shall disclose to the department the nature and purpose of all management agreements, including an organizational chart showing the relationship among the contractor, management company and all related organizations. The department may request additional information or clarification.

(2) A copy of the agreement must be received by the department at least sixty days before it is to become effective. A copy of any amendment to a management agreement must be received by the department at least thirty days in advance of the date it is to become effective. Failure to meet these deadlines will result in the unallowability of cost incurred more than sixty days prior to submitting a management agreement and more than thirty days prior to submitting an amendment.

(3) Management fees will be allowed only when:

(a) A written management agreement both creates a principal/agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates that the service contracted for were actually delivered; and

(c) The scope of services performed under a management agreement are not so extensive that the manager or managing entity is substituted for the contractor in fact, substantially relieving the contractor/licensee of responsibility for operating the facility.

(4) Acceptance of a management agreement shall not be construed as a determination that all management fees or

costs are allowable in whole or in part. Management fees or costs not disclosed or approved in conformity with chapter 74.46 RCW and this section are unallowable. When necessary for the health and safety of medical care recipients, in writing, the department may waive the sixty-day or thirty-day advance notice requirement of subsection (2) of this section.

(5)(a) Management fees are allowable only for necessary, nonduplicative services that are of the nature and magnitude that prudent and cost-conscious management would pay; and

(b) Management fees paid to or for the benefit of a related organization will be allowable to the extent they not exceed the lower of the:

(i) Actual cost to the related organization of providing necessary services related to patient care under the agreement; or

(ii) The cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the measurement of such costs shall comply with WAC 388-96-534.

(6) Allowable fees for all general management services of any kind referenced in this section, including corporate or business entity management and management fees not allocated to specific services, are subject to any applicable cost center limit established in chapter 74.46 RCW and this chapter.

(7) Central office costs, owner's compensation, and other fees or compensation, including joint facility costs for general administrative and management services, and management expense not allocated to specific services shall be subject to any cost center limit established by chapter 74.46 RCW and chapter 388-96 WAC.

(8) Necessary travel and housing expenses of nonresident staff working at a contractor's nursing facility shall be considered allowable costs if the visit does not exceed three weeks.

(9) Bonuses paid to employees at a contractor's nursing facility or management company shall be considered compensation.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-535, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-535, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-535, filed 9/14/93, effective 10/15/93. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-535, filed 12/23/87. Statutory Authority: RCW 74.46.800. WSR 86-10-055 (Order 2372), § 388-96-535, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-535, filed 9/16/83; WSR 81-22-081 (Order 1712), § 388-96-535, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-535, filed 2/25/81. Statutory Authority: RCW 74.09.120. WSR 80-09-083 (Order 1527), § 388-96-535, filed 7/22/80; WSR 79-03-020 (Order 1371), § 388-96-535, filed 2/21/79; Order 1262, § 388-96-535, filed 12/30/77.]

WAC 388-96-536 Does the department limit the allowable compensation for an owner or relative of an owner? (1) Total compensation including compensation received from a related or unrelated organization or company paid to an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed any applicable limits set out in chapter 74.46 RCW and this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) If the service provided would require licensed staff, e.g., RN, then the same license standard must be met when performed by an owner, relative or other administrative personnel.

(3) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-536, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-536, filed 9/25/98, effective 10/1/98.]

WAC 388-96-540 Will the department allow the cost of an administrator-in-training? (1) The department shall not allow costs of an administrator-in-training for the purpose of setting the operations component prospective payment rate allocation.

(2) The department shall pay the costs of an approved administrator-in-training program by an add-on to the current prospective payment rate, unless the operations cost center is at or above the median cost limit for the facility's peer group reduced or increased under chapter 74.46 RCW.

(3) To obtain a rate add-on, the contractor shall submit a request for an add-on to its current prospective rate together with necessary documentation which shall include:

(a) A copy of the department of licensing approval of the administrator-in-training program, and

(b) A schedule indicating the commencement date, expected termination date, salary or wage, hours, and costs of benefits. The contractor shall notify the department, at least thirty days in advance, of the actual termination date of the administrator-in-training program. Upon termination of the program, the department shall reduce the current prospective rate by an amount corresponding to the rate add-on.

(4) If the contractor does not use the administrator-in-training funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

[Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-540, filed 9/25/98, effective 10/1/98.]

WAC 388-96-542 Home office or central office. (1) When calculating the median lid on home and central office costs and determining which home and central office costs to test against the median lid, the department will include all allowable, reported home/central office costs including all costs that are nonduplicative, documented, ordinary, necessary, and related to the provision of medical and personal care services to authorized patients.

(2)(a) Assets used in the provision of services by or to a nursing facility, but not located on the premises of the nursing facility, shall not be included in net invested funds or in the calculation of property payment for the nursing facility.

(b) The nursing facility may allocate depreciation, interest expense, and operating lease expense for the home office, central office, and other off-premises assets to the cost of the services provided to or by the nursing facility on a reasonable statistical basis approved by the department.

(c) The allocated costs of (b) of this subsection may be included in the cost of services in such cost centers where such services and related costs are appropriately reported.

(3) Home office or central office costs must be allocated and reported in conformity with the department-approved JCAD methodology as required by WAC 388-96-534.

(4) Home office or central office costs are subject to the limitation specified in WAC 388-96-585.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-542, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 19(11), RCW 74.46.270 and 74.46.800. WSR 98-20-023, § 388-96-542, filed 9/25/98, effective 10/1/98.]

WAC 388-96-552 Depreciable assets. Tangible assets of the following types in which a contractor has an interest through ownership or leasing are subject to depreciation:

(1) Building - The basic structure or shell and additions thereto;

(2) Fixed equipment - Attachments to buildings, including, but not limited to, wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:

(a) Affixed to the building and not subject to transfer; and

(b) A fairly long life, but shorter than the life of the building to which affixed.

(3) Movable equipment including, but not limited to, beds, wheelchairs, desks, and X-ray machines. The general characteristics of this equipment are:

(a) A relatively fixed location in the building;

(b) Capable of being moved as distinguished from building equipment;

(c) A unit cost sufficient to justify ledger control;

(d) Sufficient size and identity to make control feasible by means of identification tags; and

(e) A minimum life greater than one year.

(4) Movable equipment including, but not limited to, waste baskets, bed pans, syringes, catheters, silverware, mops, and buckets which are properly capitalized. No depreciation shall be taken on items which are not properly capitalized as directed in WAC 388-96-533. The general characteristics of this equipment are:

(a) In general, no fixed location and subject to use by various departments;

(b) Small in size and unit cost;

(c) Subject to inventory control;

(d) Large number in use; and

(e) Generally, a useful life of one to three years.

(5) Land improvements including, but not limited to, paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, and walls where replacement is the responsibility of the contractor; and

(6) Leasehold improvements - Betterments and additions made by the lessee to the leased property, which become the property of the lesser after the expiration of the lease.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-552, filed 2/14/11, effective 2/26/11.]

WAC 388-96-553 Capitalization. The following costs shall be capitalized:

(1) Expenditures for depreciable assets with historical cost in excess of seven hundred fifty dollars per unit and a useful life of more than one year from the date of purchase;

(2) Expenditures and costs for depreciable assets with historical cost of seven hundred fifty dollars or less per unit if either:

(a) The depreciable asset was acquired in a group purchase where the total cost exceeded seven hundred fifty dollars; or

(b) The depreciable asset was part of the initial equipment or stock of the nursing home; and

(3) Expenditures for any change, including repairs with a cost in excess of seven hundred fifty dollars that increases the useful life of the depreciable asset by two years or more.

[Statutory Authority: RCW 74.46.310, [74.46.]320 and [74.46.]330. WSR 97-17-040, § 388-96-553, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-553, filed 9/16/83; WSR 83-05-007 (Order 1944), § 388-96-553, filed 2/4/83; WSR 82-11-065 (Order 1808), § 388-96-553, filed 5/14/82. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-553, filed 2/25/81; Order 1262, § 388-96-553, filed 12/30/77.]

WAC 388-96-554 Expensing. The following costs shall be expensed:

(1) Expenditures for depreciable assets with historical cost of seven hundred fifty dollars or less per unit or a useful life of one year or less from the date of purchase.

(2) Subsection (1) of this section shall not apply if:

(a) The depreciable asset was acquired in a group purchase where the total cost exceeded seven hundred fifty dollars; or

(b) The depreciable asset was part of the initial equipment or stock of the nursing home.

(3) Expenditures for and costs of building and other real property items, components and improvements, whether for leased or owner-operated facilities, of seven hundred and fifty dollars or less.

(4) Expenditures for and costs of repairs necessary to maintain the useful life of equipment, including furniture and furnishings, and real property items, components or improvements which do not increase the useful life of the asset by two years or more. If a repair is to the interior or exterior of the structure, the term "asset" shall refer to the structure.

(5) Remaining undepreciated cost of equipment, including furniture or furnishings or real property items, components, or improvements which are retired and not replaced, provided such cost shall be offset by any proceeds or compensations received for such assets, and such cost shall be expensed only if the contractor has made a reasonable effort to recover at least the outstanding book value of such assets. If a retired asset is replaced, WAC 388-96-572(3) shall apply and the replacement or renewal shall be capitalized if required by WAC 388-96-553.

[Statutory Authority: RCW 74.46.310, [74.46.]320 and [74.46.]330. WSR 97-17-040, § 388-96-554, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-554, filed 9/16/83; WSR 83-05-007 (Order 1944), § 388-96-554, filed 2/4/83.]

WAC 388-96-556 Initial cost of operation. (1) The necessary and ordinary one-time expenses directly incident to the preparation of a newly constructed or purchased building by a contractor for operation as a licensed facility shall be allowable costs. These expenses shall be limited to start-up and organizational costs incurred prior to the admission of the first patient.

(2) Start-up costs shall include, but not be limited to, administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, and training; except, that they shall exclude expenditures for capital assets. These costs will be allowable in the operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

(3) Organizational costs are those necessary, ordinary, and directly incident to the creation of a corporation or other form of business of the contractor including, but not limited to, legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation; except, that they do not include costs relating to the issuance and sale of shares of capital stock or other securities. Such organizational costs will be allowable in the operations cost center if they are amortized over a period of not less than sixty months beginning with the month in which the first patient is admitted for care.

(4) Interest expense and loan origination fees relating to construction of a facility incurred during the period of construction shall be capitalized and amortized over the life of the facility pursuant to WAC 388-96-559. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care and shall not exceed the project certificate of need time period pursuant to RCW 70.38.125.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-556, filed 2/14/11, effective 2/26/11.]

WAC 388-96-558 Depreciation expense. Depreciation expense on depreciable assets which are required in the regular course of providing patient care will be an allowable cost. It shall be computed using the depreciation base, lives, and methods specified in this chapter and chapter 74.46 RCW.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-558, filed 2/14/11, effective 2/26/11.]

WAC 388-96-559 Cost basis of land and depreciation base. (1) For all partial or whole rate periods unless otherwise provided or limited by this chapter or chapter 74.46 RCW, the total depreciation base of depreciable assets and the cost basis of land shall be the historical purchase cost of the contractor, or lessor if the assets are leased by the contractor, in acquiring ownership of the asset in an arm's-length transaction, and preparing the asset for use, less goodwill, and less accumulated depreciation, if applicable, incurred during periods the assets have been used in or as a facility by any and all contractors. Such accumulated depreciation is to be measured in accordance with WAC 388-96-561, 388-96-565, chapter 388-96 WAC, and chapter 74.46 RCW.

(a) Where the straight-line or sum-of-the-years digits method of depreciation is used, the contractor:

(i) May deduct salvage values from historical costs for each cloth based item, e.g., mattresses, linen, and draperies; and

(ii) Shall deduct salvage values from historical costs of at least:

(A) Excluding computers and televisions, five percent of the historical value for each noncloth item included in moveable equipment; and

(B) Twenty-five percent of the historical value for each vehicle.

(2) Unless otherwise provided or limited by this chapter or by chapter 74.46 RCW, the department shall, in determining the total depreciation base of a depreciable real or personal asset owned or leased by the contractor, deduct depreciation relating to all periods subsequent to the more recent of:

(a) The date such asset was first used in the medical care program; or

(b) The most recent date such asset was acquired in an arm's-length purchase transaction which the department is required to recognize for medicaid cost reimbursement purposes.

(c) No depreciation shall be deducted for periods such asset was not used in the medical care program or was not used to provide nursing care.

(3) When:

(a) The department challenges the historical cost of an asset or the contractor cannot or will not provide the historical cost of a leased asset and the department is unable to determine such historical cost from its own records or from any other source, the department may have the fair market value of the asset at the time of purchase established by an appraisal.

(b) An appraisal is conducted, the depreciation base of the asset and cost basis of land will not exceed the fair market value of the asset. The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal.

(4) For leased assets, the department may examine documentation in its files or otherwise obtainable from any source to determine:

(a) The lessor's purchase acquisition date; or

(b) The lessor's historical cost at the time of the last arm's-length purchase transaction.

If the department is unable to determine the lessor's acquisition date by review of its records or other records, the department, in determining fair market value as of such date, may use the construction date of the facility, as found in the state fire marshal's records or other records, as the lessor's purchase acquisition date of leased assets.

(5) If a contractor cannot or will not provide the lessor's purchase acquisition costs of assets leased by the contractor and the department is unable to determine historical purchase cost from another source, the appraised asset value of land, building, or equipment, determined by or through the department of general administration shall be adjusted, if necessary, by the department using the *Marshall and Swift Valuation Guide* to reflect the value at the lessor's acquisition date. If an appraisal has been prepared for leased assets and the assets subsequently sell in the first arms-length transaction since January 1, 1980, under subsection (9) of this section, the

Marshall and Swift Valuation Guide will be used to adjust, if necessary, the asset value determined by the appraisal to the sale date. If the assets are located in a city for which the *Marshall and Swift Valuation Guide* publishes a specific index, or if the assets are located in a county containing that city, the city-specific index shall be used to adjust the appraised value of the asset. If the assets are located in a city or county for which a specific index is not calculated, the *Western District Index* calculated by Marshal and Swift shall be used.

(6) For all rate periods past or future, where depreciable assets or land are acquired from a related organization, the contractor's depreciation base and land cost basis shall not exceed the base and basis the related organization had or would have had under a contract with the department.

(7) If the land and depreciable assets of a newly constructed nursing facility were never used in or as a nursing facility before being purchased from the builder, the cost basis and the depreciation base shall be the lesser of:

(a) Documented actual cost of the builder; or

(b) The approved amount of the certificate of need issued to the builder. When the builder is unable or unwilling to document its cost, the cost basis and the depreciation base shall be the approved amount of the certificate of need.

(8) For new or replacement building construction or for substantial building additions requiring the acquisition of land and which commenced to operate on or after July 1, 1997, the department shall determine allowable land costs of the additional land acquired for the new or replacement construction or for substantial building additions to be the lesser of:

(a) The contractor's or lessor's actual cost per square foot; or

(b) The square foot land value as established by an appraisal that meets the latest publication of the *Uniform Standards of Professional Appraisal Practice (USPAP)* and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The department shall obtain a USPAP appraisal that meets FIRREA first from:

(i) An arms'-length lender that has accepted the ordered appraisal; or

(ii) If the department is unable to obtain from the arms'-length lender a lender-approved appraisal meeting USPAP and FIRREA standards or if the contractor or lessor is unable or unwilling to provide or cause to be provided a lender-approved appraisal meeting USPAP and FIRREA standards, then:

(A) The department shall order such an appraisal; and

(B) The contractor shall immediately reimburse the department for the costs incurred in obtaining the USPAP and FIRREA appraisal.

(9) Except as provided for in subsection (8) of this section, for all rates effective on or after January 1, 1985, if depreciable assets or land are acquired by purchase which were used in the medical care program on or after January 1, 1980, the depreciation base or cost basis of such assets shall not exceed the net book value existing at the time of such acquisition or which would have existed had the assets continued in use under the previous medicaid contract with the department; except that depreciation shall not be accumulated for periods during which such assets were not used in the medical care program or were not in use in or as a nursing care facility.

(10)(a) Subsection (9) of this section shall not apply to the most recent arm's-length purchase acquisition if it occurs ten years or more after the previous arm's-length transfer of ownership nor shall subsection (9) of this section apply to the first arm's-length purchase acquisition of assets occurring on or after January 1, 1980, for facilities participating in the medicaid program before January 1, 1980. The depreciation base or cost basis for such acquisitions shall not exceed the lesser of the fair market value as of the date of purchase of the assets determined by an appraisal conducted by or through the department of general administration or the owner's acquisition cost of each asset, land, building, or equipment. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious. Should a contractor request a revaluation of an asset, the contractor must document ten years have passed since the most recent arm's-length transfer of ownership. As mandated by Section 2314 of the Deficit Reduction Act of 1984 (P.L. 98-369) and state statutory amendments, and under RCW 74.46.840, for all partial or whole rate periods after July 17, 1984, this subsection is inoperative for any transfer of ownership of any asset, including land and all depreciable or nondepreciable assets, occurring on or after July 18, 1984, leaving subsection (9) of this section to apply without exception to acquisitions occurring on or after July 18, 1984, except as provided in subsections (10)(b) and (11) of this section.

(b) For all rates after July 17, 1984, subsection (8)(a) shall apply, however, to transfers of ownership of assets:

(i) Occurring before January 1, 1985, if the costs of such assets have never been reimbursed under medicaid cost reimbursement on an owner-operated basis or as a related party lease; or

(ii) Under written and enforceable purchase and sale agreements dated before July 18, 1984, which are documented and submitted to the department before January 1, 1988.

(c) For purposes of medicaid cost reimbursement under this chapter, an otherwise enforceable agreement to purchase a nursing home dated before July 18, 1984, shall be considered enforceable even though the agreement contains:

(i) No legal description of the real property involved; or

(ii) An inaccurate legal description, notwithstanding the statute of frauds or any other provision of law.

(11)(a) In the case of land or depreciable assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option to have the:

(i) Provisions of subsection (10) of this section apply to the purchase; or

(ii) Component rate allocations for property and financing allowance calculated under the provisions of this chapter and chapter 74.46 RCW. Component rate allocations will be based upon provisions of the lease in existence on the date of the purchase, but only if the purchase date meets the criteria of this subsection.

(b) The lessee/contractor may select the option in subsection (11)(a)(ii) of this section only when the purchase date meets one of the following criteria. The purchase date is:

(i) After the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(ii) Within one year of the lease expiration or renewal date contained in the lease;

(iii) After a rate setting for the facility in which the reimbursement rate set, under this chapter and under chapter 74.46 RCW, no longer is equal to or greater than the actual cost of the lease; or

(iv) Within one year of any purchase option in existence on January 1, 1988.

(12) For purposes of establishing the property and financing allowance component rate allocations, the value of leased equipment, if unknown by the contractor, may be estimated by the department using previous department of general administration appraisals as a database. The estimated value may be adjusted using the *Marshall and Swift Valuation Guide* to reflect the value of the asset at the lessor's purchase acquisition date.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-559, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-559, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-559, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.360. WSR 97-17-040, § 388-96-559, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-559, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.09.120. WSR 91-22-025 (Order 3270), § 388-96-559, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. WSR 90-09-061 (Order 2970), § 388-96-559, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.46.800. WSR 88-16-079 (Order 2660), § 388-96-559, filed 8/2/88; WSR 86-10-055 (Order 2372), § 388-96-559, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-559, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-559, filed 12/4/84; WSR 81-22-081 (Order 1712), § 388-96-559, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-559, filed 2/25/81; Order 1262, § 388-96-559, filed 12/30/77.]

WAC 388-96-560 Land, improvements—Depreciation. Land is not depreciable. The cost of land includes but is not limited to, off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading of a nondepreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-560, filed 2/14/11, effective 2/26/11.]

WAC 388-96-561 Cost basis of land and depreciation base—Donated or inherited assets. (1) The historical cost of depreciable and nondepreciable donated assets, or of depreciable and nondepreciable assets received through testate or intestate distribution, shall be the lesser of:

(a) Fair market value at the date of donation or death; or

(b) The historical cost base of the owner last contracting with the department, if any.

(2) When the donation or distribution is between related organizations, the base shall be the lesser of:

(a) Fair market value, less goodwill and, where appropriate, salvage value; or

(b) The depreciation base or cost basis the related organization had or would have had for the asset under a contract with the department.

(3) Estimated salvage value of acquired, donated, or inherited assets shall be deducted from historical cost where the straight-line or sum-of-the-years' digits method of depreciation is used.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, for all rates after July 17, 1984, neither the depreciation base of depreciable assets nor the cost basis of land shall increase for reimbursement purposes if the asset is donated or acquired through testate or intestate distribution on or after July 18, 1984, the enactment date of the Deficit Reduction Act of 1984.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-561, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. WSR 90-09-061 (Order 2970), § 388-96-561, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-561, filed 12/4/84; WSR 83-19-047 (Order 2025), § 388-96-561, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-561, filed 2/25/81; Order 1262, § 388-96-561, filed 12/30/77.]

WAC 388-96-562 Depreciable assets—Disposed—Retired. (1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, fire, or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-562, filed 2/14/11, effective 2/26/11.]

WAC 388-96-564 Methods of depreciation. (1) Buildings, land improvements, and fixed equipment shall be depreciated using the straight-line method of depreciation. For new or replacement building construction or for major renovations, either of which receives certificate of need approval or certificate of need exemption under chapter 70.38 RCW on or after July 1, 1999, the number of years used to depreciate fixed equipment shall be the same number of years as the life of the building to which it is affixed. Equipment shall be depreciated using either the straight-line method, the sum-of-the-years' digits method, or declining balance method not to exceed one hundred fifty percent of the straight line rate. Contractors who have elected to take either the sum-of-the-years' digits method or the declining balance method of depreciation on equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes which are neither necessary nor related to patient care.

(3) No further depreciation shall be claimed after an asset has been fully depreciated unless a new depreciation base is established pursuant to WAC 388-96-559.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-564, filed 2/14/11, effective 2/26/11.]

WAC 388-96-565 Lives. (1)(a) New buildings, replacement buildings, major remodels, and major repair projects are those projects that meet or exceed the expenditure minimum established by the department of health pursuant to chapter 70.38 RCW. Except for new buildings replacement buildings, major remodels and major repair projects, the contractor will compute allowable depreciation using lives that reflect the estimated actual useful life of the assets (e.g., land improvements, buildings, including major remodels and major repair projects, equipment, leasehold improvements, etc.). However the lives used must not be shorter than guidelines lives in the most current edition of *Estimated Useful Lives of Depreciable Hospital Assets* published by American Hospital Publishing, Inc.

(b) Lives shall be measured from the date on which the assets were first used in the medical care program or from the date of the most recent arms-length acquisition of the asset, whichever is more recent. In cases where WAC 388-96-559 (9) and (10) does apply, the shortest life that may be used for buildings is the remaining useful life under the prior contract. In all cases, lives shall be extended to reflect periods, if any, when assets were not used in or as a facility.

(2) For asset acquisitions and new facilities, major remodels, and major repair projects that begin operations on or after July 1, 1997, the department shall use the most current edition of estimated useful lives of depreciable hospital assets, or as it may be renamed, published by the American Hospital Publishing, Inc., an American hospital association company, for determining the useful life of new buildings, major remodels, and major repair projects, however, the shortest life that may be used for new buildings receiving certificate of need approval or certificate of need exemptions under chapter 70.38 RCW on or after July 1, 1999, is forty years. New buildings, major remodels, and major repair projects include those projects that meet or exceed the expenditure minimum established by the department of health pursuant to chapter 70.38 RCW.

(a) To compute allowable depreciation for major remodels and major repair projects before July 1, 1997, the contractor must use the shortest lives in the most recently published lives for construction classes as defined and described in the *Marshall Valuation Service* published by the Marshall Swift Publication Company; and

(b) To compute allowable depreciation for new buildings and replacement buildings that began operating before July 1, 1997, the contractor must use the construction classes as defined and described in Marshall Valuation Service published by the Marshall Swift Publication Company; provided that, thirty years is the shortest life that may be used.

(3) To compute allowable depreciation, the contractor must:

(a) Measure lives from the most recent of either the date on which the assets were first used in the medical care program or the last date of purchase of the asset through an arm's-length acquisition; and

(b) Extend lives to reflect periods, if any, during which assets were not used in a nursing facility or as a nursing facility.

(4) Contractors shall depreciate building improvements other than major remodels and major repairs over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

(5) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement in accordance with American Hospital Association guidelines.

(6) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

(7) For new or replacement building construction or for major renovations, either of which receives certificate of need approval or certificate of need exemption under chapter 70.38 RCW on or after July 1, 1999, the number of years used to depreciate fixed equipment shall be the same number of years as the life of the building to which it is affixed.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-565, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-565, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.310, [74.46.]320 and [74.46.]-330. WSR 97-17-040, § 388-96-565, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-565, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-565, filed 12/21/88. Statutory Authority: RCW 74.46.800. WSR 87-09-058 (Order 2485), § 388-96-565, filed 4/20/87; WSR 86-10-055 (Order 2372), § 388-96-565, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-565, filed 9/16/83; WSR 81-22-081 (Order 1712), § 388-96-565, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-565, filed 2/25/81; Order 1262, § 388-96-565, filed 12/30/77.]

WAC 388-96-572 Handling of gains and losses upon retirement of depreciable assets—Other periods. (1) This section shall apply in the place of WAC 388-96-571 effective January 1, 1981, for purposes of settlement for settlement periods subsequent to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, any gain shall be offset against property expense for the period during which it is retired and any loss shall be expensed subject to the provisions of WAC 388-96-554.

[Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-572, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. WSR 93-12-051 (Order 3555), § 388-96-572, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-572, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-572, filed 2/25/81.]

WAC 388-96-574 New or replacement construction—Property tax increases. If a contractor experiences an increase in state or county property taxes as a result of new building construction, replacement building construction, or substantial building additions that require the acquisition of land, then the department shall adjust the contractor's prospective rates to cover the medicaid share of the tax increase. The rate adjustments shall only apply to construction and additions completed on or after July 1, 1997. The rate adjustments authorized by this section are effective on the first day of the month following the month that the increased tax payment is due. Rate adjustments made under this section are subject to all applicable cost limitations contained in this chapter and chapter 74.46 RCW.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-574, filed 2/14/11, effective 2/26/11.]

WAC 388-96-580 Operating leases of office equipment. (1) Rental costs of office equipment under arm's-length operating leases shall be allowable to the extent such costs are necessary, ordinary, and related to patient care.

(2) The department shall pay office equipment rental costs in the operations component rate allocation. Office equipment may include items typically used in administrative or clerical functions such as telephones, copy machines, desks and chairs, calculators and adding machines, file cabinets, typewriters, and computers.

(3) The department shall not pay for depreciation of leased office equipment.

[Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-580, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-580, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. WSR 85-17-052 (Order 2270), § 388-96-580, filed 8/19/85. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-580, filed 12/4/84. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-580, filed 5/30/84.]

WAC 388-96-585 Unallowable costs. (1) Unallowable costs listed in subsection (2) of this section represent a partial summary of such costs, in addition to those unallowable under chapter 74.46 RCW and this chapter.

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

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

(b) Costs of services and items provided to recipients which are covered by the medical care program but not included in the medicaid per-resident day payment rate established under this chapter and chapter 74.46 RCW;

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

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

(e) Interest costs other than those provided by WAC 388-96-556(4) on and after January 1, 1985;

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

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

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the payment system set forth in this chapter and chapter 74.46 RCW;

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

(j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX recipients are allowable only when:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made. Reasonable collection efforts shall consist of at least three documented attempts by the contractor to obtain payment demonstrating that the effort devoted to collecting the bad debts of Title XIX recipients is the same devoted by the contractor to collect the bad debts of non-Title XIX recipients;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, radios, and similar appliances in patients' private accommodations;

(u) Televisions acquired prior to July 1, 2001;

(v) Federal, state, and other income taxes;

(w) Costs of special care services except where authorized by the department;

(x) Expenses of an employee benefit not in fact made available to all employees on an equal or fair basis, for example, key-man insurance and other insurance or retirement plans;

(y) Expenses of profit-sharing plans;

(z) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(aa) Personal expenses and allowances of any nursing home employees or owners or relatives of any nursing home employees or owners;

(bb) All expenses of maintaining professional licenses or membership in professional organizations;

(cc) Costs related to agreements not to compete;

(dd) Amortization of goodwill, lease acquisition, or any other intangible asset, whether related to resident care or not, and whether recognized under generally accepted accounting principles or not;

(ee) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

(ff) Legal and consultant fees in connection with a fair hearing against the department when the department's Board of Appeals upholds the department's actions in an administrative review decision. When the administrative review decision is pending, reported legal and consultant fees will be unallowable. To be allowable, the contractor must report legal and consultant fees related to an administrative review decision issued in the contractor's favor in the cost report period in which the Board of Appeals issues its decision irrespective of when the legal and consultant fees related to the administrative review were incurred;

(gg) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department. Judicial review is a lawsuit against the department;

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

(ii) All rental or lease costs other than those provided for in WAC 388-96-580;

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

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

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

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

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

(oo) Travel expenses that are not necessary, ordinary, and related to resident care;

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

(qq) Depreciation in excess of four thousand dollars per year for each passenger car or other vehicle primarily used by the administrator, facility staff, or central office staff;

(rr) Costs for temporary health care personnel from a nursing pool not registered with the secretary of the department of health;

(ss) Payroll taxes associated with compensation in excess of allowable compensation of owners, relatives, and administrative personnel;

(tt) Costs and fees associated with filing a petition for bankruptcy;

(uu) All advertising or promotional costs, except reasonable costs of help wanted advertising;

(vv) Interest charges assessed by any department or agency of this state for failure to make a timely refund of overpayments and interest expenses incurred for loans obtained to make the refunds;

(ww) All home office or central office costs, whether on or off the nursing facility premises, and whether allocated or not to specific services, in excess of the median of those adjusted costs for all facilities reporting such costs for the most recent report period;

(xx) Tax expenses that a nursing facility has never incurred;

(yy) Effective July 1, 2007, and for all future rate settings, any costs associated with the quality maintenance fee repealed by chapter 241, Laws of 2006;

(zz) Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits against the department shall be unallowable; and

(aaa) Increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale and lease back, successive sales or leases of a single facility or piece of equipment).

[Statutory Authority: RCW 74.46.431(9). WSR 15-09-025, § 388-96-585, filed 4/7/15, effective 5/8/15. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-585, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-585, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.800. WSR 98-20-023, § 388-96-585, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.190, [74.46.]460 and [74.46.]800. WSR 97-17-040, § 388-96-585, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-585, filed 7/16/96, effective 8/16/96. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-585, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-585, filed 5/26/94, effective 6/26/94; WSR 93-17-033 (Order 3615), § 388-96-585, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. WSR 93-12-051 (Order 3555), § 388-96-585, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.09.120. WSR 91-22-025 (Order 3270), § 388-96-585, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 90-09-061 (Order

2970), § 388-96-585, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.46.800. WSR 89-17-030 (Order 2847), § 388-96-585, filed 8/8/89, effective 9/8/89. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-585, filed 12/21/88. Statutory Authority: RCW 74.46.800. WSR 87-09-058 (Order 2485), § 388-96-585, filed 4/20/87; WSR 86-10-055 (Order 2372), § 388-96-585, filed 5/7/86, effective 7/1/86; WSR 84-12-039 (Order 2105), § 388-96-585, filed 5/30/84. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-585, filed 9/16/83; WSR 82-21-025 (Order 1892), § 388-96-585, filed 10/13/82; WSR 82-11-065 (Order 1808), § 388-96-585, filed 5/14/82; WSR 81-22-081 (Order 1712), § 388-96-585, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 81-06-024 (Order 1613), § 388-96-585, filed 2/25/81. Statutory Authority: RCW 74.09.120. WSR 79-04-102 (Order 1387), § 388-96-585, filed 4/4/79. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-585, filed 6/1/78; Order 1262, § 388-96-585, filed 12/30/77.]

WAC 388-96-704 Prospective payment rates. The department, as provided in chapter 74.46 RCW and this chapter, shall determine, adjust, or update prospective medicaid payment rates for nursing facility services provided to medical care recipients. Each rate, subject to the principles of this chapter and chapter 74.46 RCW, represents a nursing facility's maximum compensation for one resident day of care provided a medical care recipient determined by the department to both require and be eligible to receive nursing facility care.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322. WSR 98-20-023, § 388-96-704, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-704, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-704, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.09.120. WSR 82-21-025 (Order 1892), § 388-96-704, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-704, filed 6/1/78. Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-704, filed 1/9/78.]

WAC 388-96-705 Payment for services after settlement. When payment for services is first made following preliminary or final settlement for the period during which the services were provided, payment will be at the most recent available settlement rate.

[Statutory Authority: RCW 74.09.120. WSR 81-22-081 (Order 1712), § 388-96-705, filed 11/4/81.]

WAC 388-96-708 Beds removed from service under chapter 70.38 RCW, new beds approved under chapter 70.38 RCW, and beds permanently relinquished—Effect on prospective payment rate. (1) When a contractor removes beds from service (banked) under the provisions of chapter 70.38 RCW, the number of licensed beds used in rate determinations under this chapter and chapter 74.46 RCW will not be reduced by the number of beds banked.

(2)(a) Effective July 1, 2010, licensed beds include any beds banked under chapter 70.38 RCW and thus, the department will calculate the contractor's prospective medicaid payment rate allocations using the greater of actual days from the cost report period on which the rate is based or days calculated by multiplying the number of licensed beds including banked beds times the appropriate minimum occupancy pursuant to this chapter and chapter 74.46 RCW times the number of calendar days in the cost report period on which the rate being calculated is based.

(b) For all nursing facilities, occupancy is based on licensed beds, regardless of how many are set up or in use. For purposes of calculating minimum occupancy, licensed beds include any beds banked under chapter 70.38 RCW. For all nursing facilities, minimum facility occupancy of licensed beds for operations, property, and financing allowance component rate allocations shall be:

(i) Essential community providers - Eighty-five percent;

(ii) Small nonessential community providers - Ninety percent;

(iii) Large nonessential community providers - Ninety-two percent.

(c) For all nursing facilities, minimum facility occupancy of licensed beds for therapy and support services component rate allocations shall be eighty-five percent. For all nursing facilities, minimum facility occupancy of licensed beds for direct care component rate allocations shall be based upon actual facility occupancy.

(3) For the purpose of rates determination, when a contractor:

(a) Permanently relinquishes banked beds or some of its licensed beds, the department will reduce the number of licensed beds by the number of beds relinquished; or

(b) Acquires new beds under chapter 70.38 RCW, the department will increase the number of licensed beds by the number of new beds.

(4) Prospective payment rate shall comply with all the provisions of rate setting contained in chapter 74.46 RCW or in this chapter, including all lids and maximums unless otherwise specified in this section.

(5) Prospective medicaid payment rate shall be subject to adjustment if required by RCW 74.46.421.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-708, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-708, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-708, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-708, filed 11/30/99, effective 12/31/99. Statutory Authority: 1998 c 322 § 19(11). WSR 98-20-023, § 388-96-708, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-708, filed 7/16/96, effective 8/16/96.]

WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds by means other than "banking" pursuant to chapter 70.38 RCW. (1) For the purpose of minimum occupancy calculation banked beds are included in the number of licensed beds. The department will recalculate a contractor's prospective medicaid payment rate when the contractor permanently reduces the number of its licensed beds and:

(a) Provides a copy of the new bed license, if issued, documentation of the number of beds sold, exchanged or otherwise placed out of service, along with the name of the contractor that received the beds, if any, and the letter from the department of health (DOH) confirming the number of beds relinquished and the date they were relinquished; and

(b) Requests a rate revision.

(2) The department will revise medicaid rates in accordance with this chapter and chapter 74.46 RCW using the

facility's decreased licensed bed capacity to calculate minimum occupancy for rate setting.

(3)(a) When the new license is effective the first day of the month or when the DOH letter confirms the beds were relinquished the first day of the month, the revised prospective payment rate will be effective the first day of the month; or

(b) When the new license is effective after the first day of the month or when the DOH letter confirms the beds were relinquished after the first day of the month, the revised prospective payment rate will be effective the first day of the month following the month the new license was effective or the DOH letter confirmed beds were relinquished after the first day of the month.

(4)(a) The department will recalculate a nursing facility's prospective medicaid payment rate allocations using the greater of actual days from the cost report period on which the rate is based or days calculated by multiplying the new number of licensed beds including banked bed times the appropriate minimum occupancy pursuant to this chapter and chapter 74.46 RCW times the number of calendar days in the cost report period on which the rate being recalculated is based.

(b) For all nursing facilities, occupancy is based on licensed beds, regardless of how many are set up or in use. For purposes of calculating minimum occupancy, licensed beds include any beds banked under chapter 70.38 RCW. For all nursing facilities, minimum facility occupancy of licensed beds for operations, property, and financing allowance component rate allocations shall be:

(i) Essential community providers - Eighty-five percent.

(ii) Small nonessential community providers - Ninety percent.

(iii) Large nonessential community providers - Ninety-two percent.

(c) For all nursing facilities, minimum facility occupancy of licensed beds for therapy and support services component rate allocations shall be eighty-five percent. For all nursing facilities, minimum facility occupancy of licensed beds for direct care component rate allocations shall be based upon actual facility occupancy.

(5) The revised prospective medicaid payment rate will comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums, unless otherwise specified in this section.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-709, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-709, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-709, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-709, filed 11/30/99, effective 12/31/99. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 19(11) and RCW 74.46.800. WSR 98-20-023, § 388-96-709, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.510. WSR 97-17-040, § 388-96-709, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-709, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-709, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. WSR 93-12-051 (Order 3555), § 388-96-709, filed 5/26/93, effective 6/26/93.]

WAC 388-96-710 Prospective payment rate for new contractors. (1) The department will establish an initial prospective medicaid payment rate for a new contractor as defined under WAC 388-96-026 within sixty days following the new contractor's application and approval for a license to operate the facility under chapter 18.51 RCW. The rate will take effect as of the effective date of the contract, except as provided in this section, and will comply with all the provisions of rate setting contained in chapter 74.46 RCW and in this chapter, including all lids and maximums set forth.

(2) Except for quarterly updates per RCW 74.46.501 (7)(c), the rate established for a new contractor as defined in WAC 388-96-026 (1)(a) or (b) will remain in effect for the nursing facility until the rate can be reset effective July 1 using the first cost report for that facility under the new contractor's operation containing at least six months' data from the prior calendar year, regardless of whether reported costs for facilities operated by other contractors for the prior calendar year in question will be used to cost rebase their July 1 rates. The new contractor's rate thereafter will be cost rebased only as provided in this chapter and chapter 74.46 RCW.

(3) To set the initial prospective medicaid payment rate for a new contractor as defined in WAC 388-96-026 (1)(a) and (b), the department will:

(a) Determine whether the new contractor nursing facility belongs to the metropolitan statistical area (MSA) peer group or the non-MSA peer group using the latest information received from the office of management and budget or the appropriate federal agency;

(b) Select all nursing facilities from the department's records of all the current medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in at least seven facilities, then the department will increase the bed capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained;

(c) Based on the information for the nursing facilities selected under subsection (3)(b) of this section and available to the department on the day the new contractor began participating in the medicaid payment rate system at the facility, rank from the highest to the lowest the component rate allocation in direct care, therapy care, support services, and operations cost centers and based on this ranking:

(i) Determine the middle of the ranking and then identify the rate immediately above the median for each cost center identified in subsection (3)(c) of this section. The rate immediately above the median will be known as the "selected rate" for each cost center;

(ii) Set the new contractor's nursing facility component rate allocation for therapy care, support services, and operations at the "selected rate";

(iii) Set the direct care rate using data from the direct care "selected" rate facility identified in (c) of this subsection as follows:

(A) The cost per case mix unit will be the rate base allowable case mixed direct care cost per patient day for the direct care "selected" rate facility, whether or not that facility is held harmless under WAC 388-96-728 and 388-96-729, divided by the facility average case mix index per WAC 388-96-741;

(B) The cost per case mix unit determined under (c)(iii)(A) of this subsection will be multiplied by the medicaid average case mix index per WAC 388-96-740. The product will be the new contractors direct care rate under case mix; and

(C) The department will not apply RCW 74.46.506 (5)(k) to any direct care rate established under subsection (5)(e) or (f) of this section. When the department establishes a new contractor's direct care rate under subsection (5)(e) or (f) of this section, the new contractor is not eligible to be paid by a "hold harmless" rate as determined under RCW 74.46.506 (5)(k);

(iv) Set the property rate in accordance with the provisions of this chapter and chapter 74.46 RCW; and

(v) Set the financing allowance and variable return component rate allocations in accordance with the provisions of this chapter and chapter 74.46 RCW. In computing the variable return component rate allocation, the department will use for direct care, therapy care, support services and operations rate allocations those set pursuant to subsection (3)(c)(i), (ii) and (iii) of this section.

(d) Any subsequent revisions to the rate component allocations of the sample members will not impact a "selected rate" component allocation of the initial prospective rate established for the new contractor under this subsection.

(4) For the WAC 388-96-026 (1)(a) or (b) new contractor, the department will establish rate component allocations for:

(a) Direct care, therapy care, support services and operations based on the "selected rates" as determined under subsection (3)(c) of this section that are in effect on the date the new contractor began participating in the program;

(b) Property in accordance with the provisions of this chapter and chapter 74.46 RCW using for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the property rate will be zero. The property rate will remain zero until the information is received;

(c) Variable return in accordance with the provisions of this chapter and chapter 74.46 RCW using the "selected rates" established under subsection (3)(c) of this section that are in effect on the date the new contractor began participating in the program; and

(d) Financing allowance using for the new contractor as defined under:

(i) WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the net book value of allowable assets will be zero. The financing allowance rate component allocation will remain zero until the information is received.

(5) The initial prospective payment rate for a new contractor as defined under WAC 388-96-026 (1)(a) or (b) will be established under subsections (3) and (4) of this section. If the WAC 388-96-026 (1)(a) or (b) contractor's initial rate is set:

(a) Between July 1, 2000 and June 30, 2001, the department will set the new contractor's rates for:

(i) July 1, 2001 using the July 1, 2001 rates for direct care, therapy care, support services, and operations of the sample facilities used to set the initial rate under subsections (3) and (4) of this section.

(A) Property and financing allowance component rates will remain the same as set for the initial rate.

(B) Variable return component rate using the rates determined under subsection (5)(a)(i) of this section;

(ii) July 1, 2002 rate using 2001 cost report data; and

(iii) All July 1 rates following July 1, 2002 in accordance with this chapter and chapter 74.46 RCW;

(b) Between July 1, 2001, and June 30, 2002, the department will set the new contractor's rates for:

(i) July 1, 2002 using July 1, 2002 rates for direct care, therapy care, support services, and operation of the sample facilities used to set the initial rate under subsections (3) and (4) of this section.

(A) Property and financing allowance component rates will remain the same as set for the initial rate.

(B) Variable return component rate using the rates determined under subsection (5)(b)(i) of this section;

(ii) July 1, 2003 rate by rebasing using 2002 cost report data in accordance with this chapter and chapter 74.46 RCW; and

(iii) All July 1 rates following July 1, 2003 in accordance with this chapter and chapter 74.46 RCW; or

(c) Between July 1, 2002, and June 30, 2003, the department will set the contractor's rates for:

(i) July 1, 2003 using July 1, 2003 rates for direct care, therapy care, support services, and operation of the sample facilities used to set the initial rate under subsection (3) and (4) of this section.

(A) Property and financing allowance component rates will remain the same as set for the initial rate.

(B) Variable return component rate using the rates determined under subsection (5)(c)(i) of this section;

(ii) July 1, 2004 by rebasing using 2003 cost report data; and

(iii) All July 1 rates following July 1, 2004 in accordance with this chapter and chapter 74.46 RCW.

(6) For the WAC 388-96-026 (1)(c) new contractor, the initial prospective payment rate will be the last prospective payment rate the department paid to the medicaid contractor operating the nursing facility immediately prior to the effective date of the new medicaid contract or assignment. If the WAC 388-96-026 (1)(c) contractor's initial rate is set:

(a) Between October 1, 1998 and June 30, 1999, the department will not rebase the contractor's rate for:

(i) July 1, 1999; and

(ii) July 1, 2000;

(b) Between July 1, 1999 and June 30, 2000, the department will for:

(i) July 1, 2000 not rebase the new contractor's rate;

(ii) July 1, 2001 rebase the new contractor's rate using twelve months of cost report data derived from the old contractor's and the new contractor's 1999 cost reports; and

(iii) July 1, 2002 not rebase the new contractor's rate; and

(iv) July 1, 2003 not rebase the new contractor's rate;

(c) Between July 1, 2000 and June 30, 2001, the department will for:

(i) July 1, 2001 rebase the new contractor's rate using the old contractor's 1999 twelve month cost report;

(ii) July 1, 2002 not rebase the new contractor's rate;

(iii) July 1, 2003 not rebase the new contractor's rate; or

(d) Between July 1, 2001 and June 30, 2002, the department will for:

(i) July 1, 2002 not rebase the new contractor's rate;

(ii) July 1, 2003 not rebase the new contractor's rate; and

(iii) July 1, 2004 rebase the new contractor's rate using the new contractor's 2002 cost report containing at least six month's data.

(7) A prospective payment rate set for all new contractors will be subject to adjustments for economic trends and conditions as authorized and provided in this chapter and in chapter 74.46 RCW.

(8) For a WAC 388-96-026 (1)(a), (b) or (c) new contractor, the medicaid case mix index and facility average case mix index will be determined in accordance with this chapter and chapter 74.46 RCW.

[Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-710, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-710, filed 11/30/99, effective 12/31/99. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 19(11) and RCW 74.46.800. WSR 98-20-023, § 388-96-710, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-710, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-710, filed 5/26/94, effective 6/26/94; WSR 93-17-033 (Order 3615), § 388-96-710, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.-120. WSR 93-12-051 (Order 3555), § 388-96-710, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.46.800. WSR 92-16-013 (Order 3424), § 388-96-710, filed 7/23/92, effective 8/23/92. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-710, filed 12/23/87. Statutory Authority: RCW 74.46.800. WSR 87-09-058 (Order 2485), § 388-96-710, filed 4/20/87. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-710, filed 9/16/83; WSR 78-02-013 (Order 1264), § 388-96-710, filed 1/9/78.]

WAC 388-96-713 Rate determination. (1) Each nursing facility's medicaid payment rate for services provided to medical care recipients will be determined, adjusted and updated prospectively as provided in this chapter and in chapter 74.46 RCW. The department will calculate any limit, lid, and/or median only when it rebases each nursing facility's July 1 medicaid payment rate in accordance with chapter 74.46 RCW and this chapter.

(2) If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

(4) In setting rates, the department will use the greater of actual days from the cost report period on which the rate is based or days calculated at minimum occupancy pursuant to chapter 74.46 RCW.

(5) Adjusted cost report data from 1999 shall be used for July 1, 2001 through June 30, 2005 direct care, therapy care, support services, and operations component rate allocations.

[Statutory Authority: RCW 74.46.431, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-713, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-713, filed 5/29/01, effective 6/29/01; WSR 98-20-023, § 388-96-713, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-713, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-713, filed 9/14/93, effective 10/15/93; WSR 90-09-061 (Order 2970), § 388-96-713, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.120. WSR 83-19-047 (Order 2025), § 388-96-713, filed 9/16/83; WSR 81-15-049 (Order 1669), § 388-96-713, filed 7/15/81; WSR 80-06-122 (Order 1510), § 388-96-713, filed 5/30/80, effective 7/1/80; WSR 78-02-013 (Order 1264), § 388-96-713, filed 1/9/78.]

WAC 388-96-718 Public process for determination of rates. (1) The purpose of this section is to describe the manner in which the department will comply with the federal Balanced Budget Act of 1997, Section 4711 (a)(1), codified at 42 U.S.C. 1396a (a)(13)(A).

(2) For all material changes to the methodology for determining nursing facility medicaid payment rates occurring after October 1, 1997, and requiring a Title XIX state plan amendment to be submitted to and approved by the Health Care Financing Administration under applicable federal laws, the department shall follow the following public process:

(a) The proposed estimated initial payment rates, the proposed new methodologies for determining the payment rates, and the underlying justifications shall be published. Publication shall be:

(i) In the Washington State Register; or

(ii) In the Seattle Times and Spokane Spokesman Review newspapers.

(b) The department shall maintain and update as needed a mailing list of all individuals and organizations wishing to receive notice of changes to the nursing facility medicaid payment rate methodology, and all materials submitted for publication shall be sent either postage prepaid by regular mail to such individuals and organizations or by email. Individuals and organizations wishing to receive notice shall notify the department in writing.

(c) Nursing facility contractors, their associations, nursing facility medicaid beneficiaries, representatives of contractors or beneficiaries, and other concerned members of the public shall be given a reasonable opportunity to review and comment on the proposed estimated rates, methodologies and justifications. The period allowed for review and comment shall not be less than fourteen calendar days after the date of the Washington State Register containing the published material or the date the published material has appeared in both the Seattle Times and the Spokane Spokesman Review.

(d) If, after receiving and considering all comments, the department decides to move ahead with any change to its nursing facility medicaid payment rate methodology, it shall adopt needed further changes in response to comments, if any, and shall publish the final estimated initial rates, final

rate determination methodologies and justifications. Publication shall be:

(i) In the Washington State Register; or

(ii) In the Seattle Times and Spokane Spokesman Review newspapers.

(e) Unless an earlier effective date is required by state or federal law, implementation of final changes in methodologies and commencement of the new rates shall not occur until final publication has occurred in the Register or in both designated newspapers. The department shall not be authorized to delay implementation of, or to alter, ignore or violate requirements of, state or federal laws in response to public process comments.

(f) Publication of proposed estimated initial payment rates and final estimated initial payment rates shall be deemed complete once the department has published:

(i) The statewide average proposed estimated initial payment rate weighted by adjusted medicaid resident days for all medicaid facilities from the most recent cost report year, including the change from the existing statewide average payment rate weighted by adjusted medicaid resident days for all medicaid facilities from the most recent cost report year; and

(ii) The statewide average final estimated initial payment rate weighted by adjusted medicaid resident days for all medicaid facilities from the most recent cost report year, including the change from the existing statewide average payment rate weighted by adjusted medicaid resident days for all medicaid facilities from the most recent cost report year.

(3) Nothing in this section shall be construed to prevent the department from commencing or completing the public process authorized by this section even though the proposed changes to the methodology for determining nursing facility medicaid payment rates are awaiting federal approval, or are the subject of pending legislative, gubernatorial or rule-making action and are yet to be finalized in statute and/or regulation.

(4)(a) Neither a contractor nor any other interested person or organization shall challenge, in any administrative appeals or exception procedure established in rule by the department under the provisions of chapter 74.46 RCW, the adequacy or validity of the public process followed by the department in proposing or implementing a change to the payment rate methodology, regardless of whether the challenge is brought to obtain a ruling on the merits or simply to make a record for subsequent judicial or other review. Such challenges shall be pursued only in courts of proper jurisdiction as may be provided by law.

(b) Any challenge to the public process followed by the department that is brought in the course of an administrative appeals or exception procedure shall be dismissed by the department or presiding officer, with prejudice to further administrative review and record-making, but without prejudice to judicial or other review as may be provided by law.

(5) The public process required and authorized by this section shall not apply to any change in the payment rate methodology that does not require a Title XIX state plan amendment under applicable federal laws, including but not limited to:

(a) Prospective or retrospective changes to nursing facility payment rates or to methodologies for establishing such rates ordered by a court or administrative tribunal, after exhaustion of all appeals by either party as may be authorized by law, or the expiration of time to appeal; or

(b) Changes to nursing facility payment rates for one or more facilities resulting from the application of authorized payment rate methodologies, principles or adjustments, including but not limited to: Partial or phased-in termination or implementation of rate methodologies; scheduled cost rebasing; quarterly or other updates to reflect changes in case mix or other private or public source data used to establish rates; adjustments for inflation or economic trends and conditions; rate funding for capital improvements or new requirements imposed by the department; changes to resident-specific or exceptional care rates; and changes to correct errors or omissions by the contractor or the department.

[Statutory Authority: RCW 74.46.431(9). WSR 15-09-025, § 388-96-718, filed 4/7/15, effective 5/8/15. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-718, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.800, 74.09.-500 and 74.08.090. WSR 98-19-062, § 388-96-718, filed 9/16/98, effective 10/17/98.]

WAC 388-96-723 Comparison of the statewide weighted average payment rate for all nursing facilities with the weighted average payment rate identified in the Biennial Appropriations Act. (1) On a quarterly basis, the department will compare the statewide weighted average payment rate for all nursing facilities with the weighted average payment rate identified in the Biennial Appropriations Act.

(2) To determine the statewide weighted average payment rate, the department will use total billed medicaid days incurred in the calendar year immediately preceding the current fiscal year for the purpose of weighting the July 1 nursing facilities' rates that have been adjusted, or updated pursuant to chapter 74.46 RCW and this chapter.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-723, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-723, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-723, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.421 and 74.46.800. WSR 98-20-023, § 388-96-723, filed 9/25/98, effective 10/1/98.]

WAC 388-96-724 Advance notice—Nursing facility component rate reduction taken under RCW 74.46.421. (1) The department will notify the nursing facility at least twenty-eight calendar days in advance of the effective date of a reduction taken under RCW 74.46.421.

(2) A rate reduction taken under RCW 74.46.421 will be effective the first day of the month following the twenty-eight calendar day advance notice.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-724, filed 10/13/04, effective 11/13/04. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-724, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.421 and 74.46.800. WSR 98-20-023, § 388-96-724, filed 9/25/98, effective 10/1/98.]

WAC 388-96-725 RCW 74.46.421 rate reduction—A nursing facility's rates. (1) The department will not reverse

any rate reductions taken in accordance with RCW 74.46.-421.

(2) If after a reduction a nursing facility is eligible to receive an increase in a component rate for some unrelated change (e.g., a change in the medicaid case mix index causes the direct care rate to increase), the department will apply the increase to the rate reduced by application of RCW 74.46.-421.

(3) Reductions made under RCW 74.46.421 are cumulative. The department will reduce the component rates for all nursing facilities without reversing any previous reductions.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-725, filed 10/13/04, effective 11/13/04. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-725, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.421 and 74.46.800. WSR 98-20-023, § 388-96-725, filed 9/25/98, effective 10/1/98.]

WAC 388-96-726 RCW 74.46.421 nursing facility component rates below the statewide weighted average payment rate identified in the Biennial Appropriations Act. (1) Even if an individual nursing facility's component rates are below the statewide weighted average payment rate identified in the Biennial Appropriations Act, the department will reduce the nursing facility's rates as required under RCW 74.46.421.

(2) The department will not exempt any nursing facility from a component rates reduction required by RCW 74.46.421 for any circumstance, e.g., billed medicaid days, under-spending of the biennial appropriation for nursing facility rates, etc.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-726, filed 10/13/04, effective 11/13/04. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-726, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.421 and 74.46.800. WSR 98-20-023, § 388-96-726, filed 9/25/98, effective 10/1/98.]

WAC 388-96-730 Methodology for reducing a nursing facility's medicaid payment rate in order to reduce the statewide weighted average nursing facility medicaid payment rate to equal or be less than the weighted average payment rate identified in the Biennial Appropriations Act. (1) The department will determine a percentage reduction factor (PRF) that, when applied to all nursing facilities' rates will result in a statewide weighted average payment rate that is equal to or less than the weighted average payment rate identified in the Biennial Appropriations Act.

(2) By applying various percentages to the rates for all nursing facilities, the department will identify a percentage that reduces the statewide weighted average payment rate equal to or less than the weighted average payment rate identified in the Biennial Appropriations Act.

(3) The percentage identified in subsection (2) of this section will be the PRF. To reduce the statewide average payment rate to less than or equal to the weighted average payment rate identified in the Biennial Appropriations Act, the department will apply the PRF equally to all rate component allocations of each nursing facility's rate.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-730, filed 10/13/04, effective 11/13/04. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-730, filed 11/30/99, effective 12/31/99.]

WAC 388-96-731 Nursing facilities' rate reductions pursuant to RCW 74.46.421. Under RCW 74.46.421, the department will reduce the rate for each nursing facility when the statewide weighted average payment rate for all nursing facilities exceeds or is likely to exceed the weighted average payment rate identified in the Biennial Appropriations Act.

[Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-731, filed 10/13/04, effective 11/13/04. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-731, filed 11/30/99, effective 12/31/99.]

WAC 388-96-738 What default case mix group and weight must the department use for case mix grouping when there is no minimum data set resident assessment for a nursing facility resident? (1) When a resident:

(a) Expires before the facility completes the resident's initial assessment, the department must assign the assessment to the special care case mix group - HD2. The department must use the case mix weight assigned to the special care case mix group - HD2. The department will count the case as a medicaid resident;

(b) Is discharged to an acute care facility before the nursing facility completes the resident's initial assessment, the department must assign the assessment to the special care case mix group - HD2. The department must use the case mix weight assigned to the special care case mix group - HD2. The department will count the case as a medicaid resident; or

(c) Is discharged for a reason other than those noted above before the facility completes the resident's initial assessment, the department must assign the assessment to the case mix group BC1. The department will count the case as a medicaid resident.

(2) If the resident assessment is untimely as defined in RCW 74.46.501 and as defined by federal regulations, then the department must assign the case to the default case mix group of BC1. The department will count the case a medicaid resident.

[Statutory Authority: RCW 74.46.431(9). WSR 15-09-025, § 388-96-738, filed 4/7/15, effective 5/8/15. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 22, 24 and 25 and RCW 74.46.800. WSR 98-20-023, § 388-96-738, filed 9/25/98, effective 10/1/98.]

WAC 388-96-739 How will the department determine which resident assessments are medicaid resident assessments? The department must identify a medicaid resident assessment through the review of the minimum data set (MDS) medicaid number field. If the nursing facility completes the MDS medicaid number field with a valid medicaid number or the appropriate code for medicaid pending, then the department will count the case as a medicaid resident assessment.

[Statutory Authority: RCW 74.46.431(9). WSR 15-09-025, § 388-96-739, filed 4/7/15, effective 5/8/15. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 22, 24 and 25 and RCW 74.46.800. WSR 98-20-023, § 388-96-739, filed 9/25/98, effective 10/1/98.]

WAC 388-96-744 How will the department set the therapy care rate and determine the median cost limit per unit of therapy? (1) For a nursing facility that does not report units of therapy for the applicable cost report year, the department will set its nursing facility therapy care rate at $0.00 until units of therapy are submitted.

(2) After the nursing facility reports its units of therapy, the department will pay the nursing facility a rate beginning the effective date of the rate year, e.g., July 1.

(3) In a rebase year the nursing facility's units of therapy must be reported in the cost report used to rebase the rate. If reported later than the cost report due date, the department shall exclude the nursing facility's therapy costs from the array of costs use to set the median cost limit per unit of therapy.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 26 and RCW 74.46.800. WSR 98-20-023, § 388-96-744, filed 9/25/98, effective 10/1/98.]

WAC 388-96-746 How much therapy consultant expense for each therapy type will the department allow to be added to the total allowable one-on-one therapy expense? (1) The department will multiply the actual patient days when greater than eighty-five percent or patient days at eighty-five percent occupancy by both:

(a) A nursing facility's adjusted therapy consulting costs per patient day; and

(b) The median adjusted therapy consulting cost plus ten percent.

The lesser of (a) or (b) of this subsection will be reasonable therapy consulting costs that the department shall add to the total allowable one-on-one therapy expense used to calculate the therapy care rate.

(2) To determine the median adjusted therapy consulting cost per type of therapy, the department shall:

(a) Divide medicaid nursing facilities in the state into two peer groups:

(i) Those facilities located within a metropolitan statistical area; and

(ii) Those not located in a metropolitan statistical area. Metropolitan statistical areas and nonmetropolitan statistical areas shall be as determined by the United States Office of Management and Budget or other applicable federal office.

(b) Array the facilities in each peer group from highest to lowest based on their therapy consulting cost per patient day for each type of therapy.

(c) Determine the median total cost for therapy consulting per patient day costs by MSA and non-MSA peer group and add ten percent to that median cost.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 26 and RCW 74.46.800. WSR 98-20-023, § 388-96-746, filed 9/25/98, effective 10/1/98.]

WAC 388-96-747 Constructed, remodeled or expanded facilities. (1) When a facility is constructed, remodeled, or expanded after obtaining a certificate of need or exemption from the requirements for certificate of need for the replacement of existing nursing home beds pursuant to RCW 70.38.115 (13)(a), the department shall determine actual and allocated allowable land cost and building construction cost. Payment for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection. The department shall determine construction class and types through examination of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the Marshall and Swift Valuation Service published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

(2) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

(a) Architect's fees;

(b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);

(c) Interest on building funds during period of construction and processing fee or service charge;

(d) Sales tax on labor and materials;

(e) Site preparation (including excavation for foundation and backfill);

(f) Utilities from structure to lot line;

(g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.);

(h) Allocations of costs which increase the net book value of the project for purposes of medicaid payment;

(i) Other items included by the Marshall and Swift Valuation Service when deriving the calculator method costs.

(3) The department shall allow such construction costs, at the lower of actual costs or the maximums derived from the sum of the basic construction cost limit plus the common use area limit which corresponds to the type, class and number of total nursing home beds for the new construction, remodel or expansion. The maximum limits shall be calculated using the most current cost criteria contained in the *Marshall and Swift Valuation Service* and shall be adjusted forward to the midpoint date between award of the construction contract and completion of construction.

(4) When some or all of a nursing facility's common-use areas are situated in a basement, the department shall exclude some or all of the per-bed allowance for common-use areas to derive the construction cost lid for the facility. The amount excluded will be equal to the ratio of basement common-use areas to all common-use areas in the facility times the common-use area limits determined in accordance with subsection (3) of this section. In lieu of the excluded amount, the department shall add an amount calculated using the calculator method guidelines for basements in nursing homes published in the *Marshall and Swift Valuation Service*.

(5) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

(a) Actual cost per square foot, including allocations;

(b) The average per square foot land value of the ten nearest urban or rural nursing facilities at the time of purchase of the land in question. The average land value sample shall reflect either all urban or all rural facilities depending upon the classification of urban or rural for the facility in question. The values used to derive the average shall be the

assessed land values which have been calculated for the purpose of county tax assessments; or

(c) Land value for new or replacement building construction or substantial building additions requiring the acquisition of land that commenced to operate on or after July 1, 1997, determined in accordance with WAC 388-96-559 (8), (9) and (10).

(6) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsections (1) and (7) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3), (4), and (5) of this section for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of its financial impact with the request.

(7) When a capitalized addition or retirement of an asset will result in an increased licensed bed capacity during the calendar year following the capitalized addition or replacement, the department shall use minimum facility occupancy of licensed beds for operations, property, and financing allowance component rate allocations of:

(a) Eighty-five percent for essential community providers;

(b) Ninety percent for small nonessential community providers; or

(c) Ninety-two percent for large nonessential community providers.

If a capitalized addition, replacement, or retirement results in a decreased licensed bed capacity, WAC 388-96-709 will apply.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-747, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 19(12) and RCW 74.46.800. WSR 98-20-023, § 388-96-747, filed 9/25/98, effective 10/1/98.]

WAC 388-96-748 Financing allowance component rate allocation. (1) For each medicaid nursing facility, the department will establish a financing allowance component rate allocation. The financing allowance component rate allocation will be rebased annually, effective July 1st, in accordance with this chapter and chapter 74.46 RCW. Effective July 1, 2010, for the purpose of calculating minimum occupancy, licensed beds include the nursing facility's banked beds.

(2) The department will determine the financing allowance component rate allocation by:

(a) Multiplying the net invested funds of each nursing facility by the applicable factor identified in subsection (3) of this section; and

(b) Dividing the sum of the products by the greater of:

(i) A nursing facility's total resident days from the most recent cost report period; or

(ii) Resident days calculated on:

(A) Eighty-five percent facility occupancy for essential community providers;

(B) Ninety percent facility occupancy for small nonessential community providers; and

(C) Ninety-two percent facility occupancy for large nonessential providers.

(3)(a) The multiplication factor required by subsection (2) (a) of this section is determined by the acquisition date of the tangible fixed asset(s). For each nursing facility, the department will multiply the net invested funds for assets acquired:

(i) Before May 17, 1999 by a factor of .10; and/or

(ii) On or after May 17, 1999 by a factor of .085.

(b) The department will apply the factor of .10 to the net invested funds pertaining to new construction or major renovations:

(i) That received certificate of need approval before May 17, 1999;

(ii) That received an exemption from certificate of need requirements under chapter 70.38 RCW before May 17, 1999; or

(iii) For which the nursing facility submitted working drawings to the department of health for construction review before May 17, 1999.

(c) For a new contractor as defined under WAC 388-96-026 (1)(c), assets acquired from the former contractor will retain their initial acquisition dates when determining the new contractor's financing allowance under this section.

(4) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in WAC 388-96-555, 388-96-559, 388-96-561, 388-96-562, 388-96-564 and 388-96-565, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing resident care shall also be included. Subject to provisions and limitations contained in this chapter, for land purchased by owners or lessors before July 18, 1984, capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased after July 17, 1984, capitalized cost shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary shall have the authority to determine an amount for net invested funds based on an appraisal conducted according to WAC 388-96-559 and 388-96-561.

(5) The financing allowance rate allocation calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-748, filed 2/14/11, effective 2/26/11. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-748, filed 11/30/99, effective 12/31/99.]

WAC 388-96-757 Payment for veterans' homes. Payment rates to nursing facilities operated by the state of Washington, department of veterans' affairs shall be determined in

accordance with chapter 74.46 RCW and this chapter as for all other facilities.

[Statutory Authority: RCW 74.09.120 and 74.46.800. WSR 98-20-023, § 388-96-757, filed 9/25/98, effective 10/1/98; WSR 93-19-074 (Order 3634), § 388-96-757, filed 9/14/93, effective 10/15/93.]

WAC 388-96-758 Add-on for low-wage workers. (1) The department will grant a low wage add-on payment not to exceed one dollar and fifty-seven cents per resident day to any nursing home provider that has indicated a desire to receive the add-on pursuant to subsection (7) of this section. A nursing home may use the add-on only for in-house staff and not for allocated, home office, or purchased service increases. A nursing home may use the add on to:

(a) Increase wages, benefits, and/or staffing levels for certified nurse aides;

(b) Increase wages and/or benefits but not staffing levels for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than fifteen dollars in calendar year 2008, according to cost report data. The department has determined that the additional categories of workers qualifying under this standard are:

(i) Activities directors and assistants;

(ii) Patient choices coordinators;

(iii) Central supply/ward clerks;

(iv) Expanded community service workers; and

(v) Social workers; and

(c) Address wage compression for related job classes immediately affected by wage increases to low-wage workers.

(2) A nursing home that receives a low-wage add-on shall report to the department its expenditure of that add-on by:

(a) Completing Cost Report Schedule L 1; and

(b) Returning it to the department by January 31.

(3) By examining Cost Report Schedule L 1, the department will determine whether the nursing home complied with the statutory requirements for distribution of the low wage add-on. When the department is unable to determine or unsure that the statutory requirements have been met, it will conduct an on site audit.

(4) When the department determines that the statutory requirements have been met, the low wage add-on will be reconciled at the same time as the regular settlement process but as a separate reconciliation. The reconciliation process will compare gross dollars received in the add-on to gross dollars spent.

(5) When the department determines that the low wage add-on has not been spent in compliance with the statutory requirements, then it will recoup the noncomplying amount as an overpayment.

(6) The department also will require the completing of Cost Report Schedule L 1 for any calendar year in which the low wage add-on is paid for six months or more. Subsections (1) through (5) of this section will apply to all completions of Cost Report Schedule L 1 irrespective of the calendar year in which it is paid.

(7) Each May of the calendar year, the department will ask nursing home contractors whether they will want to continue to receive the add-on or begin to receive the add-on. For nursing home contractors responding by May 31st indicating a desire to receive the low wage worker add-on, the department will pay them the low wage add-on effective July 1st. For nursing home contractors that do not respond by May 31st indicating a desire to receive the low wage worker add-on, the department will cease or not begin paying them the low wage add-on effective July 1st.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-758, filed 2/14/11, effective 2/26/11. Statutory Authority: 2008 c 329 § 206(9). WSR 09-08-081, § 388-96-758, filed 3/30/09, effective 4/30/09.]

WAC 388-96-759 Standards for low-wage workers add-on. (1) In accordance with WAC 388-96-758, the low-wage worker add-on must be used to provide increases in wages or benefits, or to address resulting wage compression beginning on or after the date on which the add-on is first included in the rate. The low wage add-on may be used to increase staffing levels for certified nurse aides only. Nursing home contractors receiving the low wage add-on may not use it to pay for increases for time periods that they were not receiving the low wage worker add-on.

(2) Any type of traditional employee benefit is allowable. Such benefits typically fall in one of two categories: retirement, and life or health insurance. However, nontraditional benefits are also allowable (for example, wellness benefits, subsidized meals, or assistance with daycare).

(3) The employer's share of payroll taxes associated with wages and benefits may be covered with the add-on.

(4) For purposes of wage compression, an "immediately affected" job class is one that is related to the low-wage worker category, either in the organizational structure (for example, it supervises the low-wage worker category) or by existing practice (for example, the facility has a benchmark of paying that job class a certain percentage more than the low-wage worker category). Facilities must be able to explain the basis of the relationship if requested. Because the statute refers to "resulting wage compression," a facility must use a portion of the add-on to increase wages or benefits before it may use any of the add-on to address any wage compression caused by such increase.

(5) A facility may use the add-on in relation to any of the job categories listed in WAC 388-96-758, regardless of whether the average wage it pays to its own employees is above fifteen dollars per hour, either before or after including the additional wages funded by the add-on.

(6) Wages or benefits, including employee bonuses, otherwise properly paid with the add on will not be considered as unallowable costs per RCW 74.46.410 (2)(x).

(7) The low wage add-on payments calculated in accordance with WAC 388-96-758 and this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-759, filed 2/14/11, effective 2/26/11. Statutory Authority: 2008 c 329 § 206(9). WSR 09-08-081, § 388-96-759, filed 3/30/09, effective 4/30/09.]

WAC 388-96-760 Upper limits to the payment rate. The average payment rate for the cost report year shall not exceed the contractor's average customary charges to the gen-

eral public for the services covered by the payment rate for the same time period. The department will pay public facilities rendering such services free of charge or at a nominal charge according to the methods and standards set out in this chapter. The contractor shall provide as part of the annual cost report a statement of the average charges for the cost report year for services covered by the payment rate and supporting computations and documentation. The contractor shall immediately inform the department if its payment rate does exceed customary charges for comparable services. If necessary, the department will adjust the payment rate in accordance with RCW 74.46.531.

[Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322, RCW 74.46.800 and 74.09.120. WSR 98-20-023, § 388-96-760, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 91-12-026 (Order 3185), § 388-96-760, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 74.09.120. WSR 84-24-050 (Order 2172), § 388-96-760, filed 12/4/84; WSR 83-19-047 (Order 2025), § 388-96-760, filed 9/16/83; WSR 81-22-081 (Order 1712), § 388-96-760, filed 11/4/81. Statutory Authority: RCW 74.08.090 and 74.09.120. WSR 78-06-080 (Order 1300), § 388-96-760, filed 6/1/78. Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-760, filed 1/9/78.]

WAC 388-96-762 Allowable land. (1) Beginning January 1, 1985, land associated with a nursing facility which is eligible for inclusion in net invested funds shall not exceed two acres for facilities located in a Metropolitan Statistical Area (MSA), as defined and determined by the United States Office of Management and Budget or other applicable federal office, and three acres for nursing facilities located outside such an area.

(2) The department may grant an exception to these limits if a contractor presents documentation deemed adequate by the department establishing a larger area of land is directly related to patient care. Requests for exceptions and any exceptions granted must be in writing.

(3) Requests for exceptions may be granted in the following cases:

(a) The area occupied by the nursing home building exceeds the allowable land area specified in subsection (1) of this section;

(b) The land is used directly in the provision of patient care;

(c) The land is maintained;

(d) The land is not subdivided or eligible for subdivision;

(e) The land is zoned for nursing home or similar use; and

(f) Other reasons exist which are deemed sufficient by the department.

[Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-762, filed 7/16/96, effective 8/16/96. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 93-19-074 (Order 3634), § 388-96-762, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-762, filed 5/30/84.]

WAC 388-96-766 Notification. (1)(a) The contractor must inform the department of its current electronic mail (email) address at which it wants to receive rate notifications. It is the responsibility of the contractor to inform the department of any changes to the email address at which it wants to receive notice of the department's actions. The department may notify each contractor by email using the contractor's supplied email address of its prospective medicaid payment rate allocation and/or any actions that result in a change to the contractor's prospective medicaid payment rate allocation. The date of the department's notification email will be used to determine whether the notification and the contractor's response met any legal requirements, irrespective of when the contractor read the email.

(b) When the contractor seeks to appeal or take exception to a department action taken under authority of this chapter or chapter 74.46 RCW and eligible for administrative review under WAC 388-96-901, it shall comply with WAC 388-96-904 when requesting an administrative review conference.

(2)(a) Unless otherwise specified at the time it is issued, the medicaid payment rate allocation and/or component rate allocation(s) will be effective from the first day of the month in which it (they) is (are) issued. When the department amends a medicaid payment rate allocation and/or component rate allocation(s) as the result of an appeal in accordance with WAC 388-96-904, the amended rate will have the same effective date as the appealed rate.

(b) When a total medicaid component payment rate allocation and/or rate allocation(s) is (are) adjusted, updated or amended after the calendar year in which the adjustment or update was effective, then the department will account for any amounts owed through the settlement process.

(3)(a) When the department has sent written notice by post, it shall deem the contractor to have received the department's notice five calendar days after the date of the notification letter, unless proof of the date of receipt of the department's notification letter exists, in which case the actual date of receipt shall be used. Proof of date of receipt of department's notification must be from an independent source that has no stake in the outcome.

(b) When the department has sent notice by certified letter, the department shall deem the contractor to have received the department's notice five calendar days after the date the U.S. Post Office first attempts to deliver the certified letter containing the notice of the department's action(s).

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-766, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-766, filed 10/13/04, effective 11/13/04. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-766, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.09.120. WSR 78-02-013 (Order 1264), § 388-96-766, filed 1/9/78.]

WAC 388-96-767 Appraisal values. If a contractor is unwilling or unable to provide and document the lessor's historical cost of leased assets, the department shall arrange for an appraisal of such assets to be conducted by the state of Washington department of general administration. If such an appraisal is conducted, it shall be the basis for all property and financing allowance component rate allocations, except that: If documentation subsequently becomes available to the department establishing the lessor's historical cost is less than the appraisal value, the historical cost shall be the basis for all property and financing allowance component rate allocations.

[Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-767, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 74.46.800. WSR 84-12-039 (Order 2105), § 388-96-767, filed 5/30/84.]

WAC 388-96-771 Receivership. (1) If the nursing home is providing care to recipients of state medical assistance, the receiver shall:

(a) Become the medicaid contractor for the duration of the receivership period;

(b) Assume all reporting responsibilities for new contractors;

(c) Assume all other responsibilities for new contractors set forth in this chapter; and

(d) Be responsible for the refund of medicaid rate payments in excess of costs during the period of receivership.

(2) In establishing the prospective rate during receivership the department shall consider:

(a) Compensation, if any, ordered by the court for the receiver. Such compensation may already be available to the receiver through the rate as follows:

(i) Financing allowance and variable return component rate allocations, or

(ii) The administrator's salary in the case of facilities where the receiver is also the administrator.

If these existing sources of compensation are less than what was ordered by the court, additional costs may be allowed in the rate up to the compensation amount ordered by the court.

(b) Start up costs and costs of repairs, replacements, and additional staff needed for patient health, security, and welfare. To the extent such costs can be covered through the financing allowance and the variable return component rate allocations, no additional moneys will be added to the rate;

(c) Any other allowable costs as set forth in this chapter.

(3)(a) Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars.

(b) The department shall recover any emergency or transitional expenditure made by the department on behalf of a nursing home not certified to participate in the medicaid Title XIX program from revenue generated by the facility which is not obligated to the operation of the facility.

(c) In order to help recover an emergency or transitional expenditure, regardless of whether the facility is certified to participate in the medicaid Title XIX program or not, the department may:

(i) File an action against the former licensee or owner at the time the expenditure is made to recover such expenditure; or

(ii) File a lien on the facility or on the proceeds of the sale of the facility.

(4) If recommendations on receiver's compensation are solicited from the department by the court, the department shall consider the following:

(a) The range of compensation for nursing home managers;

(b) Experience and training of the receiver;

(c) The size, location, and current condition of the facility;

(d) Any additional factors deemed appropriate by the department.

(5) When the receivership terminates, the department may revise the nursing home's medicaid reimbursement. The medicaid reimbursement rate for:

(a) The former owner or licensee shall be what it was before receivership, unless the former owner or licensee requests prospective rate revisions from the department as set forth in this chapter; and

(b) Licensed replacement operators shall be determined consistent with rules governing prospective reimbursement rates for new contractors as set forth in this chapter.

[Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-771, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. WSR 90-09-061 (Order 2970), § 388-96-771, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.120. WSR 88-06-085 (Order 2602), § 388-96-771, filed 3/2/88.]

WAC 388-96-776 Add-ons to the property and financing allowance payment rate—Capital improvements. (1) For new or replacement building construction or major renovation projects begun after July 1, 2001, the contractor must have a certificate of capital authorization (CCA) issued pursuant to WAC 388-96-783 and chapter 74.46 RCW.

(2)(a) Beginning July 1, 2001, the department shall grant an add-on to a prospective payment rate for capitalized improvements done under RCW 74.46.431(12) for all new or replacement building construction or major renovation projects; provided, the department granted the contractor a certificate of capital authorization (CCA) pursuant to WAC 388-96-783 for the fiscal year in which the contractor will complete the project and the net rate effect is ten cents per patient day or greater.

(b) Rate add-on requests filed with the department or approved by the certificate of need unit of the department of health for projects commencing before July 1, 2001 and finishing after July 1, 2001, are not subject to CCA requirements set forth in this chapter and chapter 74.46 RCW.

(3) The department may grant a rate add-on to a payment rate for capital improvements not requiring a CON and a CCA per subsections (1) and (2) of this section. However, the capital improvement must have a net rate effect of ten cents per patient day or greater. For fiscal year 2011, the department shall grant no rate add-ons to payment rates for capital improvements not requiring a CON and a CCA.

(4) Rate add-ons for all construction and renovation projects granted pursuant to subsection (1) or (2) of this section shall be limited to the total legislative authorization for capital construction and renovation projects for the fiscal year (FY) of the biennium in which the construction or renovation project will be completed. Rate add-ons are subject to the provisions of RCW 74.46.421.

(5) When physical plant improvements made under subsection (1) or (2) of this section are completed in phases, the department shall:

(a) Grant a rate add-on in accordance with subsection (6) of this section for any addition, replacement or improvement when each phase is completed and certified for occupancy for the purpose for which it was intended;

(b) Limit the rate add-on to the actual cost of the depreciable tangible assets meeting the criteria of WAC 388-96-552;

(c) Add-on construction fees as defined in WAC 388-96-747 and other capitalized allowable fees and costs for the completed phase of the project; and

(d) Make the effective date for the rate add-on for the completed phase the quarterly rate change immediately following the completion and certification for occupancy of the phase. When the date of the written request for a phase add-on rate falls after the first quarter immediately following the completion and certification for occupancy of the phase, the department will issue the rate add-on retroactive to the first of the quarter in which the department received a complete written request.

(6) When the construction class of any portion of a newly constructed building will improve as the result of any addition, replacement or improvement occurring in a later, but not yet completed and fully utilized phase of the project, the most appropriate construction class, as applicable to that completed and fully utilized phase, will be assigned for purposes of calculating the rate add-on. The department shall not revise the rate add-on retroactively after completion of the portion of the project that provides the improved construction class. Rather, the department shall calculate a new rate add-on when the improved construction class phase is completed and fully utilized and the rate add-on will be effective in accordance with subsection (7) of this section using the date the class was improved.

(7) The contractor requesting a rate add-on under subsection (1), (2) or (3) of this section shall submit a written request to the department separate from all other requests and inquiries of the department, e.g., WAC 388-96-904 (1) and (5). A complete written request shall include the following:

(a) A copy of documentation requiring completion of the addition or replacements to maintain licensure or certification for adjustments requested under subsection (1) of this section;

(b) A copy of the new bed license, whether the number of licensed beds increases or decreases, if applicable;

(c) All documentation, e.g., copies of paid invoices showing actual final cost of assets and/or service, e.g., labor purchased as part of the capitalized addition or replacements;

(d) Certification showing the completion date of the capitalized additions or replacements and the date the assets were placed in service per WAC 388-96-559;

(e) A properly completed depreciation schedule for the capitalized additions or replacement as provided in this chapter; and

(f) When the rate increase is requested pursuant to subsection (3) of this section, a written justification for granting the rate increase.

(8) For rate add-on requests for projects not completed in phases that are approved pursuant to subsection (7) of this section and the written request is received:

(a) Within sixty calendar days following the completion and certification of occupancy of the new or replacement construction, major renovation, or the acquisition and installation (if applicable) of a capital improvement made under subsection (3) of this section, the effective date of the rate add-on will be the first of the month following the month in which the project was completed and certified for occupancy or acquired and installed; or

(b) More than sixty days following the completion and certification for occupancy of the new or replacement construction, major renovation project, or the acquisition and installation (if applicable) of a capital improvement made under subsection (3) of this section, the effective date of the rate add-on will be the first of the month following the month in which the written request was received.

(9) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor shall submit the requested information within fifteen calendar days from the date the contractor receives the notice to provide the information. If the contractor fails to complete the add-on request by providing all the requested documentation and information within the fifteen calendar days from the date of receipt of notification, the department shall deny the request for failure to complete.

(10) If, after the denial for failure to complete, the contractor submits another written request for a rate add-on for the same project the date of receipt for the purpose of applying subsection (8) of this section will depend upon whether the subsequent request for the same project is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same project is:

(a) Complete, then the date of the first request may be used when applying subsection (8) of this section; or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (8) of this section even though the physical plant improvements may be completed and fully utilized prior to that date.

(11) The department shall respond, in writing, not later than sixty calendar days after receipt of a complete request.

(12) If the contractor does not use the funds for the purpose for which they were granted, the department immediately shall have the right to recoup the misspent or unused funds.

(13) When any physical plant improvements made under subsection (1) or (2) of this section result in a change in licensed beds, any rate add-on granted will be subject to the provisions regarding the number of licensed beds, patient days, occupancy, etc., included in this chapter and chapter 74.46 RCW.

(14) The medicaid share of nursing facility new construction or refurbishing projects shall be based upon a minimum facility occupancy. For all nursing facilities, occupancy is based on licensed beds, regardless of how many are set up or in use. For purposes of calculating minimum occupancy, licensed beds include any beds banked under chapter 70.38 RCW. For all nursing facilities, minimum facility occupancy of licensed beds for operations, property, and financing allowance component rate allocations shall be:

(a) Essential community providers - eighty-five percent.

(b) Small nonessential community providers - ninety percent.

(c) Large nonessential community providers - ninety-two percent.

(15) When a capitalized addition or replacement results in an increased licensed bed capacity during the calendar year following the capitalized addition or replacement:

(a) The department shall determine a nursing facility's prospective medicaid:

(i) Property payment rate allocation by dividing the property costs using the greater of actual days from the cost report period on which the rate being recalculated is based or days calculated by multiplying the new number of licensed beds times ninety percent for small nonessential community providers and ninety-two percent for large nonessential community providers times the number of calendar days in the cost report period on which the rate being recalculated is based. For essential community providers, the department shall use eighty-five percent to calculate days to compare with actual days; and

(ii) Financing allowance payment rate allocation by multiplying the net invested funds by the applicable factor in WAC 388-96-748(3) and dividing by the greater of the facility's actual days from the cost report period on which the rate being recalculated is based or on days calculated by multiplying the new number of licensed beds times ninety percent occupancy percentage for small nonessential community providers and ninety-two percent for large nonessential community providers times the calendar days in the cost report period on which the rate being recalculated is based. For essential community providers, the department shall use eighty-five percent occupancy to calculate days to compare to actual days.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-776, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-776, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-776, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-776, filed 11/30/99, effective 12/31/99. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 § 19(12) and RCW 74.46.800. WSR 98-20-023, § 388-96-776, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.465. WSR 97-17-040, § 388-96-776, filed 8/14/97, effective 9/14/97. Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-776, filed 7/16/96, effective 8/16/96. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-776, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-776, filed 5/26/94, effective 6/26/94.]

WAC 388-96-777 Add-ons to the prospective rate—Initiated by the department. (1) The department shall initiate all rate add-ons granted under this section. Contractors may not request and be approved a rate add-on under this section.

(2) Rate add-ons the department grants under the authority of this section shall be for costs to implement:

(a) Program changes that the director of residential care services, aging and adult services administration determines a rate add-on is necessary to accomplish the purpose of the change and announces same in a written directive to the chief of the office of rates management; or

(b) Changes in either the state or federal statutes or regulations or directives that the director of management services, aging and adult services administration determines requires a rate add-on to implement and directs in writing the chief of the office of rates management to implement.

(3) Changes made under this section are subject to review under WAC 388-96-901 and 388-96-904; provided, the issue is not whether a rate add-on should have been granted.

(4) If the contractor does not use the funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

[Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-777, filed 5/29/01, effective 6/29/01; WSR 94-12-043 (Order 3737), § 388-96-777, filed 5/26/94, effective 6/26/94.]

WAC 388-96-781 Exceptional care rate add-on—Covered medicaid residents. A nursing facility (NF) may receive an increase in its direct care and/or therapy component rate allocations for providing exceptional care to a medicaid resident who:

(1) Receives specialized services to meet chronic complex medical conditions and neurodevelopment needs of medically fragile children and resides in a NF where all residents are under age twenty-one with at least fifty percent of the residents entering the facility before the age of fourteen;

(2) Receives expanded community services (ECS);

(3) Is admitted to the NF as an extraordinary medical placement (EMP) and the department of corrections (DOC) has approved the exceptional direct care and/or therapy payment;

(4) Is ventilator or tracheotomy (VT) dependent and resides in a NF that the department has designated as active ventilator-weaning center;

(5) Has a traumatic brain injury (TBI) established by a comprehensive assessment reporting evaluation (CARE) assessment administered by department staff and resides in a NF that the department has designated as capable for TBI patients;

(6) Has a TBI and currently resides in nursing facility specializing in the care of TBI residents where more than fifty percent of residents are classified with TBIs based on the federal minimum data set assessment (MDS 2 or its successor); or

(7) Is admitted to a NF from a hospital with an exceptional care need and medicaid purchasing administration (MPA) or a successor administration has approved the exceptional direct care and/or therapy payment.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-781, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800, 74.46.508. WSR 00-12-098, § 388-96-781, filed 6/7/00, effective 7/8/00.]

WAC 388-96-782 Exceptional therapy care and exceptional direct care—Payment. (1) For WAC 388-96-781(1) residents, the department will pay the Oregon medicaid rate.

(2) For WAC 388-96-781 (4), (5) and (6) residents, the department may establish a rate add-on that when added to the nursing facility's per diem medicaid rate does not exceed the cost of caring for the client in a hospital.

(3)(a) Costs related to payments resulting from increases in direct care component rates under subsection (2) of this section shall be offset against the facility's examined, allowable direct care costs, for each report year or partial period such increases are paid. Such reductions in allowable direct

care shall be for rate setting, settlement, and other purposes deemed appropriate by the department; or

(b) Costs related to payments resulting from increases in therapy care component rates under subsection (2) of this section shall not be offset against the facility's examined, allowable therapy care costs, for each report year or partial period such increases are paid.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-782, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-782, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800, 74.46.508. WSR 00-12-098, § 388-96-782, filed 6/7/00, effective 7/8/00.]

WAC 388-96-783 Certificate of capital authorization (CCA). (1)(a) A certificate of capital authorization (CCA) is a certification from the department for an allocation from the biennial capital financing authorization for a nursing facility's new or replacement building construction, or major renovation project, receiving a certificate of need (CON) or a CON exemption from the department of health under chapter 70.38 RCW and chapter 246-310 WAC after July 1, 2001.

(b) Issuance of a CCA as required by this regulation and by chapter 74.46 RCW is necessary before:

(i) Any depreciation resulting from the capitalized addition is included in a facility's property component rate allocation, including both determinations under RCW 74.46.435 and property rate add-ons done pursuant to WAC 388-96-776; and/or

(ii) Any net invested funds associated with the capitalized addition are included in the calculation of the facility's financing allowance rate allocation, including both determinations under RCW 74.46.437 and financing allowance rate add-ons done pursuant to WAC 388-96-776.

(2) To apply for a CCA, a contractor must submit a written application to the nursing home rates section of the office of rates management (ORM) within the department. The application must be entirely separate from, and not included with, any other request or communication. The application must include:

(a) A description of the proposed new or replacement construction or major renovation;

(b) A copy of the CON approval, or the determination of CON exception issued by the department of health for the construction or renovation;

(c) The amount of money for which the CCA is being requested; this will presumably be the same amount as included in the CON approval or exception, but may be different where good cause is shown;

(d) The name of the general contractor who will build the construction or renovation; and

(e) The anticipated starting and completion dates of the construction or renovation.

(3) Completed applications for CCAs will be reviewed in the order received. An application will be deemed completed as of the date when all required information has been received by ORM. Within ninety days of the receipt of an application, ORM will either reject it as incomplete, or act upon it. If more than one CCA application is received on the same date, priority will first be given to an application from an essential community provider and then to an application in relation to the facility which has gone the longest from its last major renovation or building project.

(4) ORM will accept applications and issue CCAs for each state fiscal year for which the legislature has enacted authorization in the Biennial Appropriations Act as provided by RCW 74.46.807, subject to the limits of such authorization. CCAs for a fiscal year will be issued until the remaining capital authorization for that year is insufficient to cover any more applications made for that year. An application denied because that year's authorization has been depleted may be resubmitted for a later year, and will be given priority for the remaining amounts of capital authorization in the later year, after CCAs already issued for that year. The state fiscal year runs from July 1 of one calendar year to June 30 of the following calendar year, and is designated by the second calendar year. For example, state fiscal year 2004 (SFY04) runs from July 1, 2003 through June 30, 2004.

(5)(a) When a CCA has been issued, the contractor must act to complete the construction or renovation in a timely manner, consistent with the estimates included in the application. The construction or renovation must be completed and ready for occupancy no later than the last day of the state fiscal year for which the CCA is issued. "Ready for occupancy" means that all federal, state, and local permits for occupancy of the buildings by residents have been issued.

(b) The contractor must send the department ORM a copy of each progress report submitted to the certificate of need section of the department of health under WAC 246-310-590, or a regulation adopted as a successor thereto, at the same time the progress report is filed with the department of health.

(c) Based upon the application for the CCA and the progress reports filed with the department of health by the contractor, ORM will set deadlines for progress of the project toward completion. ORM may withdraw a CCA if its holder does not comply with those deadlines in a good faith manner. A contractor that fails to meet a progress deadline due to its own action or inaction shall be considered not to have acted in a good faith manner.

(d) If a CCA is withdrawn by ORM, or if the construction or renovation is not ready for occupancy by the last day of the fiscal year for which the CCA was issued, the value of the construction or renovation will not be included in the facility's property component or financing allowance rate allocations, as provided in subsection (1)(b) of this section. To include the value of the construction or renovation in the facility's property component or financing allowance rate allocations, the contractor must seek and obtain another CCA.

(6)(a) Although they are related, the CON and CCA processes are separate. When a CON requires amendment under department of health requirements, the contractor must notify ORM. The previously issued CCA will stay in effect. When the amended CON is issued in an amount greater than the original CON, the contractor must submit a new CCA application to ORM covering only the difference between the original and amended CONs. This supplemental CCA application may reference the original CCA application to the greatest extent possible, to expedite its filing and review.

(b) The department of health allows the dollar amount of a CON to be exceeded by the greater of twelve percent or

fifty thousand dollars without requiring an amendment to the CON. This excess is not automatically reflected in the corresponding CCA. Any increase in the amount requires an application for a new CCA.

(c) ORM will review the new CCA application based on the estimated date of occupancy and the authorization remaining for the relevant state fiscal year. If there is insufficient authorization remaining in that fiscal year to fund the project, ORM will deny the application in whole or in part.

(d) If a contractor's application for a CCA is denied pursuant to subsection (c) above, the contractor may resubmit it for a later state fiscal year and the application will be given priority as described in subsection (4) of this section.

(7) If ORM withdraws a CCA previously issued, the amount of that authorization shall be restored to the total capital authorization available for the state fiscal year against which the CCA was issued.

(8) An application for a CCA may be considered on an emergency basis. If the application is approved and a sufficient amount of authorization remains for the relevant fiscal year, the CCA may be issued without regard to the priority of the application. Only an application made in relation to a major renovation project may be considered on an emergency basis, and then only if it must be completed as soon as possible to:

(a) Retain a facility's license or certification provided the net rate effect is ten cents per patient day or greater;

(b) Protect the health or safety of the facility's residents; or

(c) Avoid closure if the facility is an essential community provider.

[Statutory Authority: RCW 74.46.807, 74.46.431, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-783, filed 10/13/04, effective 11/13/04.]

WAC 388-96-784 Expense for construction interest. Interest expense and loan origination fees relating to construction of a facility incurred during the period of construction shall be capitalized and amortized over the life of the facility pursuant to WAC 388-96-559. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care but shall not exceed the project certificate of need time period pursuant to RCW 70.38.125.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-784, filed 2/14/11, effective 2/26/11.]

WAC 388-96-785 Supplemental payments. To the extent the federal government approves such payments under the state's plan for medical assistance, and only to the extent that funds are specifically appropriated for this purpose in the biennial appropriations act, the department shall make supplemental payments to nursing facilities operated by public hospital districts. The payments shall be calculated and distributed in accordance with the terms and conditions specified in the biennial appropriations act. The payments shall be supplemental to the component rate allocations calculated in accordance with Part E of chapter 74.46 RCW and the related sections of this chapter neither the provisions of Part E of chapter 74.46 RCW nor the settlement provisions of this chapter apply to these supplemental payments.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-785, filed 2/14/11, effective 2/26/11.]

WAC 388-96-786 Pay for performance add-on. (1) When based on the cost report for the calendar year immediately preceding July 1, the nursing facility has more than seventy-five percent direct staff turnover, the department will reduce a nursing facility's total rate by one percent.

(2) When based on the cost report for the calendar year immediately preceding July 1, the nursing facility has seventy-five percent or less direct staff turnover, the department will pay an add-on to a nursing facility's total rate and not to any component rate allocation.

(3) When there have been no reductions under subsection (1), there will be no pay for performance add-ons.

(4) The department will not settle the pay for performance add-on.

(5) The pay for performance add-ons calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-786, filed 2/14/11, effective 2/26/11.]

WAC 388-96-802 Billing/payment. (1) The department will pay nursing facility (NF) contractors for the first day of a medicaid resident's stay but not the last day.

(2) The department will pay a contractor for service rendered under the facility contract and billed in accordance with the department's billing procedure. The amount paid will be computed using the appropriate rates assigned to the contractor. For each recipient, the department will pay an amount equal to the appropriate rates, multiplied by the number of medicaid resident days each rate was in effect, less the amount the recipient is required to pay for his or her care as set forth by WAC 388-96-803.

(3) A NF contractor shall not bill the department for service provided to a medicaid recipient until an award letter of eligibility for the recipient under rules established under the authority of chapter 74.09 RCW has been received by the facility. However a facility may bill and shall be reimbursed for all medical care recipients referred to the facility by the department prior to the receipt of the award letter of eligibility or the denial of such eligibility.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-802, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-802, filed 5/29/01, effective 6/29/01.]

WAC 388-96-803 Notification of participation—Responsibility to collect—Reporting medicaid recipient's changes in income/resources—Rate payment in full for services. (1) The department will notify a contractor of the amount each medical recipient is required to participate in the cost of his or her care and the effective date of the required participation. The contractor must collect the participation from the patient and to account for any authorized reductions from the participation.

(2) Within seventy-two hours of becoming aware of a change in the medicaid resident's income and/or resources, the NF contractor will report the change in writing to the home and community services office serving the area in which the NF is located. When reporting the change, the NF contractor will include copies of any available documentation of the change in the medicaid resident's income and/or resources.

(3) For each medicaid resident, the contractor shall accept the payment rates established by the department multiplied by the number of medicaid resident days each rate was in effect, less the amount the recipient is required to pay for his or her care as set forth in WAC 388-96-803(1) as full compensation for all services provided under the contract, certification as specified by Title XIX, and licensure under chapter 18.51 RCW. The contractor shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-803, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-803, filed 5/29/01, effective 6/29/01.]

WAC 388-96-805 Suspension of payments. (1) The department may withhold payments to a contractor in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extension. Payments will be released as soon as a properly completed report is received;

(b) State auditors, department auditors, or authorized personnel in the course of their duties are refused access to a nursing facility or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided;

(c) A refund in connection with a settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund and any accumulated interest owed to the department as authorized by this chapter;

(d) Payment for the final sixty days of service prior to termination or assignment of a contract will be held in the absence of adequate alternate security acceptable to the department pending settlement of all periods when the contract is terminated or assigned; and

(e) Payment for services at any time during the contract period in the absence of adequate alternate security acceptable to the department, when a contractor's net medicaid overpayment liability for one or more nursing facilities or other debt to the department, as determined by settlement, civil fines imposed by the department, third-party liabilities or other source, reaches or exceeds fifty thousand dollars, whether subject to good faith dispute or not, and for each subsequent increase in liability reaching or exceeding twenty-five thousand dollars. Payments will be released as soon as practicable after acceptable security is provided or refund to the department is made.

(2) No payment will be withheld until written notification of the suspension is provided to the contractor, stating the reason for the withholding. Neither a timely filed request to pursue any administrative appeals or exception procedure that the department may establish by rule nor commencement of judicial review, as may be available to the contractor in law, shall delay suspension of payment.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-805, filed 2/14/11, effective 2/26/11.]

WAC 388-96-808 Change of ownership—Assignment of department's contract. (1) On the effective date of a change of ownership the department's contract with the old owner shall be automatically assigned to the new owner, unless:

(a) The new owner does not desire to participate in medicaid as a nursing facility provider;

(b) The department elects not to continue the contract with the new owner; or

(c) The new owner elects not to accept assignment and requests certification and a new contract. The old owner shall give the department sixty days' written notice of such intent to change ownership and assign. When certificate of need and/or section 1122 approval is required pursuant to chapter 70.38 RCW and Part 100, Title 42 C.F.R., for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need and/or section 1122 approval shall be obtained before the old owner submits a notice of intent to change ownership and assign.

(2) If the new owner desires to participate in the nursing facility medicaid payment system, it shall meet the conditions specified in WAC 388-96-011. The facility contract with the new owner shall be effective as of the date of the change of ownership.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-808, filed 2/14/11, effective 2/26/11.]

WAC 388-96-809 Change of ownership—Final reports—Settlement securities. (1) When there is a change of ownership for any reason, final reports shall be submitted as required by WAC 388-96-022.

(2) Upon a notification of intent to change ownership, the department shall determine by settlement or reconciliation the amount of any overpayments made to the assigning or terminating contractor, including overpayments disputed by the assigning or terminating contractor. If settlements are unavailable for any period up to the date of assignment or termination, the department shall make a reasonable estimate of any overpayment or underpayments for such periods. The reasonable estimate shall be based upon prior period settlements, available audit findings, the projected impact of prospective rates, and other information available to the department. The department shall also determine and add in the total of all other debts and potential debts owed to the department regardless of source, including, but not limited to, interest owed to the department as authorized by this chapter, civil fines imposed by the department, or third-party liabilities.

(3) For all cost reports, the assigning or terminating contractor shall provide security, in a form deemed adequate by the department, equal to the total amount of determined and estimated overpayments and all debts and potential debts from any source, whether or not the overpayments are the

subject of good faith dispute including but not limited to, interest owed to the department, civil fines imposed by the department, and third-party liabilities. Security shall consist of one or more of the following:

(a) Withheld payments due the assigning or terminating contractor under the contract being assigned or terminated;

(b) An assignment of funds to the department;

(c) The new contractor's assumption of liability for the prior contractor's debt or potential debt;

(d) An authorization to withhold payments from one or more medicaid nursing facilities that continue to be operated by the assigning or terminating contractor;

(e) A promissory note secured by a deed of trust; or

(f) Other collateral or security acceptable to the department.

(4) An assignment of funds shall:

(a) Be at least equal to the amount of determined or estimated debt or potential debt minus withheld payments or other security provided; and

(b) Provide that an amount equal to any recovery the department determines is due from the contractor from any source of debt to the department, but not exceeding the amount of the assigned funds, shall be paid to the department if the contractor does not pay the debt within sixty days following receipt of written demand for payment from the department to the contractor.

(5) The department shall release any payment withheld as security if alternate security is provided under subsection (3) of this section in an amount equivalent to the determined and estimated debt.

(6) If the total of withheld payments and assigned funds is less than the total of determined and estimated debt, the unsecured amount of such debt shall be a debt due the state and shall become a lien against the real and personal property of the contractor from the time of filing by the department with the county auditor of the county where the contractor resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

(7) A properly completed final cost report shall be filed in accordance with WAC 388-96-022, which shall be examined by the department in accordance with WAC 388-96-205.

(8) Security held pursuant to this section shall be released to the contractor after all debts, including accumulated interest owed the department, have been paid by the old owner.

(9) Security held pursuant to this section shall be released to the contractor if the new contractor assumes all liability.

(10) If, after calculation of settlements for any periods, it is determined that overpayments exist in excess of the value of security held by the state, the department may seek recovery of these additional overpayments as provided by law.

(11) Regardless of whether a contractor intends to change ownership, if a contractor's net medicaid overpayments and erroneous payments for one or more settlement periods, and for one or more nursing facilities, combined with debts due the department, reaches or exceeds a total of fifty thousand dollars, as determined by settlement, civil fines imposed by the department, third-party liabilities or by any other source, whether such amounts are subject to good faith dispute or not, the department shall demand and obtain security equivalent to the total of such overpayments, erroneous payments, and debts and shall obtain security for each subsequent increase in liability reaching or exceeding twenty-five thousand dollars. Such security shall meet the criteria in subsections (3) and (4) of this section, except that the department shall not accept an assumption of liability. The department shall withhold all or portions of a contractor's current contract payments or impose liens, or both, if security acceptable to the department is not forthcoming. The department shall release a contractor's withheld payments or lift liens, or both, if the contractor subsequently provides security acceptable to the department.

(12) Notwithstanding the application of security measures authorized by this section, if the department determines that any remaining debt of the old owner is uncollectible from the old owner, the new owner is liable for the unsatisfied debt in all respects. If the new owner does not accept assignment of the contract and the contingent liability for all debt of the prior owner, a new certification survey shall be done and no payments shall be made to the new owner until the department determines the facility is in substantial compliance for the purposes of certification.

(13) Medicaid provider contracts shall only be assigned if there is a change of ownership, and with approval by the department.

[Statutory Authority: RCW 74.46.431(9). WSR 15-09-025, § 388-96-809, filed 4/7/15, effective 5/8/15. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-809, filed 2/14/11, effective 2/26/11.]

WAC 388-96-901 Disputes. (1) When a contractor wishes to contest the way in which the department applied a statute or department rule to the contractor's circumstances, the contractor shall pursue the administrative review process prescribed in WAC 388-96-904.

(a) Adverse actions taken under the authority of this chapter or chapter 74.46 RCW subject to administrative review under WAC 388-96-904 include but are not limited to the following:

(i) Determining a nursing facility payment rate;

(ii) Calculating a nursing facility settlement;

(iii) Imposing a civil fine on the nursing facility;

(iv) Suspending payment to a nursing facility; or

(v) Conducting trust fund and accounts receivable audits.

(b) Adverse actions taken under the authority of this chapter or chapter 74.46 RCW not subject to administrative review under WAC 388-96-904 include but are not limited to:

(i) Actions taken under the authority of RCW 74.46.421 and sections of this chapter implementing RCW 74.46.421;

(ii) Case mix accuracy review of minimum data set (MDS) nursing facility resident assessments, which shall be limited to separate administrative review under the provisions of WAC 388-96-905;

(iii) Quarterly and semiannual rate updates to reflect changes in a facility's resident case mix including contractor errors made in the MDSs used to update the facility's resident case mix;

(iv) Actions taken under exceptional direct and therapy care program codified at WAC 388-96-781 and 388-96-782;

(v) Actions taken under WAC 388-96-218 (2)(c); and

(vi) Actions taken under WAC 388-96-786.

(2) The administrative review process prescribed in WAC 388-96-904 shall not be used to contest or review unrelated or ancillary department actions, whether review is sought to obtain a ruling on the merits of a claim or to make a record for subsequent judicial review or other purpose. If an issue is raised that is not subject to review under WAC 388-96-904, the presiding officer shall dismiss such issue with prejudice to further review under the provisions of WAC 388-96-904, but without prejudice to other administrative or judicial review as may be provided by law. Unrelated or ancillary actions not eligible for administrative review under WAC 388-96-904 include but are not limited to:

(a) Challenges to the adequacy or validity of the public process followed by department in proposing or making a change to the nursing facility medicaid payment rate methodology, as required by 42 U.S.C. 1396a (a)(13)(A) and WAC 388-96-718;

(b) Challenges to the nursing facility medicaid payment system that are based in whole or in part on federal laws, regulations, or policies;

(c) Challenges to a contractor's rate that are based in whole or in part on federal laws, regulations, or policies;

(d) Challenges to the legal validity of a statute or regulation; and

(e) Actions of the department affecting a medicaid beneficiary or provider that were not commenced by the office of rates management, aging and disability services administration, for example, entitlement to or payment for durable medical equipment or other services.

(3) If a contractor wishes to challenge the legal validity of a statute, rule, or contract provision relating to the nursing facility medicaid payment system or wishes to bring a challenge based in whole or in part on federal law, it must bring such action de novo in a court of proper jurisdiction as may be provided by law. The contractor may not use this section or WAC 388-96-904 for such purposes. This prohibition shall apply irrespective of whether the contractor wishes to obtain a decision or ruling on an issue of validity or federal compliance or wishes only to make a record for the purpose of subsequent judicial review.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-901, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-901, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-901, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 74.46.800, 74.46.508. WSR 00-12-098, § 388-96-901, filed 6/7/00, effective 7/8/00. Statutory Authority: RCW 74.46.780 as amended by 1998 c 322 § 41. WSR 98-20-023, § 388-96-901, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-901, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 91-12-026 (Order 3185), § 388-96-901, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 74.09.120. WSR 82-21-025 (Order 1892), § 388-96-901, filed 10/13/82; Order 1262, § 388-96-901, filed 12/30/77.]

WAC 388-96-904 Administrative review—Adjudicative proceeding. (1)(a) A contractor seeking an administrative review of an adverse action or determination of the department taken under authority of this chapter or chapter 74.46 RCW and eligible for administrative review under WAC 388-96-901, shall file a written request for an administrative review conference with the office of rates management within twenty-eight calendar days after receiving notice of the department's action or determination.

(b) When the department has sent written notice by United States mail, it shall deem the contractor to have received the department's notice five calendar days after the date of the notification letter, unless proof of the date of receipt of the department's notification letter exists, in which case the actual date of receipt shall be used to determine timeliness of the contractor's request for an administrative review conference. When the department has electronically mailed (email) written notice, the date of the department's notification email will be the date of receipt by the contractor irrespective of when the contractor reads the email.

(c) The contractor's request for administrative review shall:

(i) Be signed by the contractor or by a partner, officer, or authorized employee of the contractor;

(ii) State the particular issues raised; and

(iii) Include all necessary supporting documentation or other information.

(2) After receiving a request for administrative review conference that meets the criteria in subsection (1) of this section, the department shall schedule an administrative review conference. The conference may be conducted by telephone.

(3) At least fourteen calendar days prior to the scheduled date of the administrative review conference, the contractor must supply any additional or supporting documentation or information upon which the contractor intends to rely in presenting its case. In addition, the department may request at any time prior to issuing a determination any documentation or information needed to decide the issues raised, and the contractor must comply with such a request within fourteen calendar days after it is received. The department may extend this period up to fourteen additional calendar days for good cause shown if the contractor requests an extension in writing received by the department before expiration of the initial fourteen-day period. The department shall dismiss issues that cannot be decided or resolved due to a contractor's failure to provide requested documentation or information within the required period.

(4) The department shall, within sixty calendar days after conclusion of the conference, render a determination in writing addressing the issues raised. If the department is waiting for additional documentation or information promised by or requested from the contractor pursuant to subsection (3) of this section, the sixty-day period shall not commence until the department's receipt of such documentation or information or until expiration of the time allowed to provide it. The determination letter shall include a notice of dismissal of all issues which cannot be decided due to a contractor's failure to provide documentation or information promised or requested.

(5)(a) A contractor seeking further review of a determination issued pursuant to subsection (4) of this section shall within twenty-eight calendar days after receiving the department's administrative review conference (ARC) determination letter file a written application for an adjudicative proceeding signed by one of the individuals authorized by subsection (1) of this section with the department's board of appeals.

(b) When the department has sent the ARC determination letter by United States mail, the department shall deem the contractor to have received the department's determination five calendar days after the date of the administrative review determination letter, unless proof of the date of receipt of the letter exists, in which case the actual date of receipt shall be used to determine timeliness of the contractor's application for an adjudicative proceeding. When the department has electronically mailed (email) the ARC determination letter, the date of the department's email containing the ARC determination letter or to which the ARC determination letter is attached will be the date of receipt by the contractor irrespective of when the contractor reads the email.

(c) The contractor shall attach to its application for an adjudicative proceeding the department's administrative review conference determination letter. When the department delivered the ARC determination letter by email either in the body of the email or as an attachment to the email, the contractor must include a copy of the email with the contractor's application for an adjudicative proceeding. A contractor's application for an adjudicative proceeding shall be addressed to the department's board of appeals. The board of appeals date stamp on the application for an administrative proceeding shall be used to determine whether the application is timely. When the application for adjudicative proceeding is filed by fax, the date stamped on the application received by fax will only be used to determine timeliness when the application is postmarked the same date as the faxed application.

(6) A review judge or other presiding officer employed by the department's board of appeals shall conduct the adjudicative proceeding. Except as authorized by subsection (7) of this section, the scope of an adjudicative proceeding shall be limited to the issues specifically raised by the contractor at the administrative review conference and addressed on the merits in the department's administrative review conference determination letter. The contractor shall be deemed to have waived all issues or claims that could have been raised by the contractor relating to the challenged determination or action, but which were not pursued at the conference and not addressed in the department's administrative review conference determination letter. In its request for an adjudicative proceeding or as soon as practicable, the contractor must specify its issues.

(7) If the contractor wishes to have further review of any issue not addressed on its merits, but instead dismissed in the department's administrative review conference determination letter, for failure to supply needed, promised, or requested additional information or documentation, or because the department has concluded the request was untimely or otherwise procedurally defective, the issue shall be considered by the presiding officer for the purpose of upholding the department's dismissal, reinstating the issue and remanding for further agency staff action, or reinstating the issue and rendering a decision on the merits.

(8) An adjudicative proceeding shall be conducted in accordance with this chapter, chapter 388-02 WAC and chapter 34.05 RCW. In the event of a conflict between hearing requirements in chapter 74.46 RCW and chapter 388-96 WAC specific to the nursing facility medicaid payment system and general hearing requirements in chapter 34.05 RCW and chapter 388-02 WAC, the specific requirements of chapter 74.46 RCW and chapter 388-96 WAC shall prevail. The presiding officer assigned by the department's board of appeals to conduct an adjudicative proceeding and who conducts the proceeding shall render the final agency decision.

(9) At the time an adjudicative proceeding is being scheduled for a future time and date certain, or at any appropriate stage of the prehearing process, the presiding officer shall have authority, upon the motion of either party or the presiding officer's own motion, to compel either party to identify specific issues remaining to be litigated.

(10) If the presiding officer determines there is no material issue(s) of fact to be resolved in a case, the presiding officer shall have authority, upon the motion of either party or the presiding officer's own motion, to decide the issue(s) presented without convening or conducting an in-person evidentiary hearing. In such a case, the decision may be reached on documentation admitted to the record, party admissions, written or oral stipulation(s) of facts, and written or oral argument.

(11) The board of appeals shall issue an order dismissing an adjudicative proceeding requested under subsection (5) of this section, unless within two hundred seventy calendar days after the board of appeals receives the application for an adjudicative proceeding:

(a) All issues have been resolved by a written settlement agreement between the contractor and the department signed by both and filed with the board of appeals; or

(b) An adjudicative proceeding has been held for all issues not resolved and the evidentiary record, including all rebuttal evidence and post-hearing or other briefing, is closed.

This time limit may be extended one time thirty additional calendar days for good cause shown upon the motion of either party made prior to the expiration of the initial two hundred seventy day period. It shall be the responsibility of the contractor to request that hearings be scheduled and ensure that settlement agreements are signed and filed with the board of appeals in order to comply with the time limit set forth in this subsection.

(12) Any party dissatisfied with a decision or an order of dismissal of the board of appeals may file a petition for reconsideration within ten calendar days after the decision or order of dismissal is served on such party. The petition shall state the specific grounds upon which relief is sought. The time for seeking reconsideration may be extended by the presiding officer for good cause upon motion of either party. The presiding officer shall rule on a petition for reconsideration and may seek additional argument, briefing, testimony, or other evidence if deemed necessary. Filing a petition for reconsideration shall not be a requisite for seeking judicial review; however, if a petition is filed by either party, the agency decision shall not be deemed final until a ruling is made by the presiding officer.

(13) A contractor dissatisfied with a decision or an order of dismissal of the board of appeals may file a petition for judicial review pursuant to RCW 34.05.570(3) or other applicable authority.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-904, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.431 (11) and (12), 74.46.800, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027,

§ 388-96-904, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.780 as amended by 1998 c 322 § 41. WSR 98-20-023, § 388-96-904, filed 9/25/98, effective 10/1/98. Statutory Authority: RCW 74.46.800. WSR 96-15-056, § 388-96-904, filed 7/16/96, effective 8/16/96. Statutory Authority: RCW 74.46.800 and 1995 1st sp.s. c 18. WSR 95-19-037 (Order 3896), § 388-96-904, filed 9/12/95, effective 10/13/95. Statutory Authority: RCW 74.46.800. WSR 94-12-043 (Order 3737), § 388-96-904, filed 5/26/94, effective 6/26/94. Statutory Authority: RCW 74.46.800 and 74.09.120. WSR 91-12-026 (Order 3185), § 388-96-904, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 34.05.220 (1)(a) and 74.09.120. WSR 90-04-071 (Order 3003), § 388-96-904, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.09.180 and 74.46.800. WSR 89-01-095 (Order 2742), § 388-96-904, filed 12/21/88. Statutory Authority: 1987 c 476. WSR 88-01-126 (Order 2573), § 388-96-904, filed 12/23/87. Statutory Authority: RCW 34.04.020. WSR 84-05-040 (Order 2076), § 388-96-904, filed 2/17/84. Statutory Authority: RCW 74.09.120. WSR 82-21-025 (Order 1892), § 388-96-904, filed 10/13/82; Order 1262, § 388-96-904, filed 12/30/77.]

WAC 388-96-905 Case mix accuracy review of MDS nursing facility resident assessments. (1) The department shall perform periodic nursing facility on-site accuracy reviews of minimum data set (MDS) assessments of nursing facility residents, for the purpose of verifying the accuracy of facility case mix data used to establish and update medicaid payment rates, and for other purposes the department may deem appropriate.

(2) Contractors, their representatives, and authorized nursing facility personnel may ask questions and raise concerns with the quality assurance nurse (QAN) or other designated department representative at the time a case mix accuracy review is conducted. Contractors, their representatives and authorized nursing facility personnel should attempt to resolve any differences and provide additional documentation, information or clarification prior to the case mix accuracy review exit conference.

(3) Upon completing a case mix accuracy review, the QAN shall hold an exit conference to inform the facility of the QAN's observations and preliminary findings. MDS inaccuracies, if any, will be identified and the findings that substantiate these inaccuracies shall be described.

(4) Within five working days after the case mix accuracy review exit conference is held, the nursing facility district manager (DM) for the facility's district shall send the case mix accuracy review decision letter to the nursing facility administrator at the facility address. The case mix accuracy review decision letter shall be sent certified mail, return receipt requested, shall describe in detail the QAN's findings, and shall identify the:

(a) Resident assessments that were reviewed;

(b) RUG-III or other applicable case mix grouping that was determined for the resident assessments reviewed;

(c) Changes in assigned classification, if any, that were made for residents whose assessments were reviewed;

(d) Right of the contractor to appeal any disagreement with the case mix accuracy review decision to the department's case mix accuracy review administrator or his or her delegate:

(i) Where to send an appeal request; and

(ii) The time limit for requesting an appeal.

(5) If the contractor intends to appeal the DM's case mix accuracy review decision letter, the appeal request must be in writing and mailed to the department's case mix accuracy administrator within ten calendar days after receipt of the case mix accuracy review decision letter. The appeal request letter shall:

(a) Be signed by the contractor or by a partner, officer, or authorized employee of the contractor;

(b) State the particular issue(s) raised, including any explanation or basis for disagreeing with the department's findings or actions.

(6) Prior to the informal administrative hearing, the case mix accuracy review administrator shall have no involvement in the case mix accuracy review decision.

(7) Upon receiving a timely appeal request, the administrator shall review any documentation and information submitted with the request, and contact the contractor by telephone to schedule an informal administrative hearing. The purpose of this informal hearing is to give the contractor one opportunity to present information which might warrant modification or deletion of resident-specific accuracy findings resulting from the case mix accuracy review. The scope of the informal administrative hearing shall be limited to clinical issues of resident need and assessment. Nonclinical issues beyond the scope of appeal include, but are not limited to:

(a) Any remedies or negative actions imposed by the department to rectify practices or inaccuracies;

(b) Alleged inconsistencies in the accuracy review process;

(c) Challenges to the authority or adequacy of the case mix accuracy review process; and

(d) Payment rate issues or other adverse actions subject to review under WAC 388-96-904.

(8) On or before the informal hearing date, the contractor must submit all necessary supporting documentation or other information to the case mix accuracy review administrator. The administrator may request additional information or documentation from the contractor at any time before issuing the final, informal hearing decision. The contractor shall provide all information or documentation within the time limits established by this section, or by the administrator. In the event that the contractor fails to submit the required documentation for a claim or issue within the specified time limits, the accuracy review administrator shall dismiss the claim or issue with prejudice.

(9) The informal case mix accuracy review administrative hearing shall be conducted in person, unless both the contractor and the department agree that it can be conducted by telephone.

(10) Within ten days after the informal administrative hearing or within ten days after receipt of any additional information or documentation requested, whichever is later, the case mix accuracy review administrator shall send the appeal decision in writing to the nursing facility administrator at the facility address. The appeal decision letter shall be sent regular mail and shall:

(a) Be the final agency decision of the department;

(b) Be based on the independent judgment of the case mix accuracy review administrator who conducted the informal administrative hearing and reviewed all information and documentation; and

(c) Recite the right of the contractor to seek judicial review under the state's Administrative Procedure Act (chapter 34.05 RCW).

(11) A contractor dissatisfied with the final agency decision issued by the case mix accuracy review administrator may file a petition for judicial review pursuant to RCW 34.05.570(3) or other applicable authority.

[Statutory Authority: RCW 74.46.780 as amended by 1998 c 322 § 41 and RCW 74.46.800. WSR 98-20-023, § 388-96-905, filed 9/25/98, effective 10/1/98.]

WAC 388-96-906 Section captions. Section captions as used in this chapter do not constitute any part of the rule.

[Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-906, filed 2/14/11, effective 2/26/11.]

WAC 388-96-910 Safety net assessment. (1) Chapter 7, Laws of 2011 1st sp. sess. (the act) imposes a safety net assessment (SNA) on nonexempt nursing facilities in Washington. Each year, under section 16 of the act, the department of social and health services (the department) may adjust the amount(s) of the SNA to be paid for the next state fiscal year (SFY), beginning July 1. If necessary, the department may further adjust the amount(s) of the SNA at other times during the SFY. Although subject to change as necessary and as permitted under the act, the expectation is that each year the SNA will be imposed at two different levels: a higher level for most nonexempt facilities, and a significantly lower level for facilities that have either a high medicaid census on the prior year's cost report or a high number of licensed beds. For SFY 2012, those thresholds were thirty-two thousand medicaid resident days, and two hundred and three licensed beds. Those thresholds may change, as necessary and permitted under the act. Beginning July 1, 2012 the department will submit any adjustments to the SNA amount(s), along with the data supporting the adjustments, to the Washington health care association and the aging services of Washington for review and comment at least sixty calendar days prior to implementation of the adjusted assessment amounts. These submissions may be made electronically. If necessary to comply with the sixty-day notice requirement and still make the adjustment effective as of July 1, or another effective date, these notices may be made on a provisional, or potential, basis or bases.

(2) The status of each nursing facility under the act will be determined based on the facility's characteristics as of July 1 of each SFY, but using the information on resident days from the prior calendar year's cost report. For example, a facility's status for the SNA for SFY 2014 (beginning July 1, 2013) would be based on the resident day information from the 2012 cost report. The status of facilities will not be altered thereafter during the SFY. Facilities that become licensed throughout the SFY will be subject to the SNA as of the date of their licensing. The office of rates management (ORM) of the aging and disability services administration (ADSA) of the department will inform each nursing facility of its status under the act. A facility wishing to contest its status under the act as determined by ORM may seek review of the determination under WAC 388-96-904.

(3) An add-on to each nonexempt facility's medicaid daily rate will be paid to reimburse the facility for the SNA it owes in relation to residents whose care is funded by medicaid.

(4) The SNA is assessed and payable on a monthly basis. The SNA must be reported on a form supplied by ORM. The SNA owed for each month, and the reporting form for that month, must be mailed to the department and postmarked no later than the twentieth day of the following month. Payments of the SNA are subject to an interest penalty of one percent per month for any payment which is delinquent for any portion of a month. This interest penalty is in addition to any civil fine or other enforcement action that the department may seek as authorized by section 20 of the act. In addition to the remedies specifically listed in section 20 of the act, the department may also offset such delinquent SNA payments and related penalties and/or fines against the facility's medical assistance reimbursement payments.

(5) The department has applied for, and received a waiver related to the SNA from the federal centers for medicare and medicaid services (CMS). After issuance, such a waiver is subject to ongoing review for continued compliance. In the ongoing review process, it may be necessary for the department to modify the levels of the SNA, the standard(s) for designating facilities that pay the SNA at each level, and/or the categories of fully exempt facilities described in Sec. 17 of the act. In that case, each facility may: be obligated to pay the SNA or pay a different amount of the SNA; be reimbursed for SNA amounts previously paid; or be obligated to repay any SNA add-on it has received, all retroactive to the effective date of the modification contained in the waiver as approved by CMS.

[Statutory Authority: 2011 1st sp.s. c 7 and chapter 74.48 RCW. WSR 12-04-004, § 388-96-910, filed 1/23/12, effective 2/23/12.]