

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 are 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 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 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 that 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 Title XIX recipients are unallowable unless all the following applies:

(i) The debt is related to covered services.

(ii) The debt 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 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.

(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 to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations.

(m) Vending machine expenses. This does not include membership dues.

(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) Federal, state, and other income taxes.

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

(w) 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.

(x) Expenses of profit-sharing plans.

(y) Expenses related to the purchase or use of private or commercial airplanes that 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.

(z) Personal expenses and allowances of any nursing home employees or owners or relatives of any nursing home employees or owners.

(aa) All expenses of maintaining professional licenses or membership in professional organizations.

(bb) Costs related to agreements not to compete.

(cc) 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.

(dd) 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 are 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.

(ee) 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.

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

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

(hh) Post-survey charges incurred by the facility under RCW 18.51.060.

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

(jj) 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.

(kk) 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.

(ll) Travel expenses that are not necessary, ordinary, and related to resident care.

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

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

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

(pp) Costs and fees associated with filing a petition for bankruptcy.

(qq) All advertising or promotional costs, except reasonable costs of help wanted advertising.

(rr) 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.

(ss) Tax expenses that a nursing facility has never incurred.

(tt) Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits against the department.

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

(vv) Costs related to a nursing assistant certified training program.

(ww) Effective July 1, 2012, payments made relating to the safety net assessment.

(xx) Building renovations, building improvements, or leasehold improvements that require preapproval from the department of health and were not preapproved.

[Statutory Authority: RCW 74.46.800, 74.46.561(1). WSR 17-22-037, § 388-96-585, filed 10/24/17, effective 11/24/17. 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.]