
SENATE BILL 6446

State of Washington

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By Senators Prentice, A. Smith, Williams, Fraser, Moyer and Bluechel

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1 AN ACT Relating to nursing home contractor costs; and amending RCW
2 74.46.105 and 74.46.481.

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

4 **Sec. 1.** RCW 74.46.105 and 1985 c 361 s 10 are each amended to read
5 as follows:

6 Cost reports and patient trust accounts of contractors shall be
7 field audited by the department, either by department staff or by
8 auditors under contract to the department, in accordance with the
9 provisions of this chapter. The department when it deems necessary to
10 assure the accuracy of cost reports may review any underlying financial
11 statements or other records upon which the cost reports are based. The
12 department shall have the authority to accept or reject audits which
13 fail to satisfy the requirements of this section or which are performed
14 by auditors who violate any of the rules of this section. Department
15 audits of the cost reports and patient trust accounts shall be
16 conducted as follows:

17 (1) Each year the department will provide for field audit of the
18 cost report, statistical reports, and patient trust funds, as
19 established by RCW 74.46.700, of all or a sample of reporting

1 facilities selected by profiles of costs, exceptions, contract
2 terminations, upon special requests or other factors determined by the
3 department.

4 (2) Beginning with audits for calendar year 1983, up to one hundred
5 percent of contractors cost reports and patient care trust fund
6 accounts shall be audited: PROVIDED, That each contractor shall be
7 audited at least once in every (~~three-year~~) five-year period.

8 (3) Facilities shall be selected for sample audits within one
9 hundred twenty days of submission of a correct and complete cost
10 report, and shall be so informed of the department's intent to audit.
11 Audits so scheduled shall be completed within one year of selection.

12 (4) Where an audit for a recent reporting or trust fund period
13 discloses material discrepancies, undocumented costs or mishandling of
14 patient trust funds, auditors may examine prior unaudited periods, for
15 indication of similar material discrepancies, undocumented costs or
16 mishandling of patient trust funds for not more than two reporting
17 periods preceding the facility reporting period selected in the sample.

18 (5) The audit will result in a schedule summarizing appropriate
19 adjustments to the contractor's cost report. These adjustments will
20 include an explanation for the adjustment, the general ledger account
21 or account group, and the dollar amount. Patient trust fund audits
22 shall be reported separately and in accordance with RCW 74.46.700.

23 (6) Audits shall meet generally accepted auditing standards as
24 promulgated by the American institute of certified public accountants
25 and the standards for audit of governmental organizations, programs,
26 activities and functions as published by the comptroller general of the
27 United States. Audits shall be supervised or reviewed by a certified
28 public accountant.

29 (7) No auditor under contract with or employed by the department to
30 perform audits in accordance with the provisions of this chapter shall:

31 (a) Have had direct or indirect financial interest in the
32 ownership, financing or operation of a nursing home in this state
33 during the period covered by the audits;

34 (b) Acquire or commit to acquire any direct or indirect financial
35 interest in the ownership, financing or operation of a nursing home in
36 this state during said auditor's employment or contract with the
37 department;

1 (c) Accept as a client any nursing home in this state during or
2 within two years of termination of said auditor's contract or
3 employment with the department.

4 (8) Audits shall be conducted by auditors who are otherwise
5 independent as determined by the standards of independence established
6 by the American institute of certified public accountants.

7 (9) All audit rules adopted after March 31, 1984, shall be
8 published before the beginning of the cost report year to which they
9 apply.

10 **Sec. 2.** RCW 74.46.481 and 1993 sp.s. c 13 s 12 are each amended to
11 read as follows:

12 (1) The nursing services cost center shall include for reporting
13 and audit purposes all costs related to the direct provision of nursing
14 and related care, including fringe benefits and payroll taxes for the
15 nursing and related care personnel, and the cost of nursing supplies.
16 The department shall adopt by administrative rule a definition of
17 "related care". For rates effective after June 30, 1991, nursing
18 services costs, as reimbursed within this chapter, shall not include
19 costs of any purchased nursing care services, including registered
20 nurse, licensed practical nurse, and nurse assistant services, obtained
21 through service contract arrangement in excess of the amount of
22 compensation paid for such hours of nursing care service had they been
23 paid at the average hourly wage, including related taxes and benefits,
24 for in-house nursing care staff of like classification at the same
25 nursing facility, as reported in the most recent cost report period.

26 (2) The department shall adopt through administrative rules a
27 method for establishing a nursing services cost center rate consistent
28 with the principles stated in this section.

29 (3) Utilizing regression or other statistical technique, the
30 department shall determine a reasonable limit on facility nursing staff
31 taking into account facility patient characteristics. For purposes of
32 this section, facility nursing staff refers to registered nurses,
33 licensed practical nurses and nursing assistants employed by the
34 facility or obtained through temporary labor contract arrangements.
35 Effective January 1, 1988, the hours associated with the training of
36 nursing assistants and the supervision of that training for nursing
37 assistants shall not be included in the calculation of facility nursing

1 staff. In selecting a measure of patient characteristics, the
2 department shall take into account:

3 (a) The correlation between alternative measures and facility
4 nursing staff; and

5 (b) The cost of collecting information for and computation of a
6 measure.

7 If regression is used, the limit shall be set at predicted nursing
8 staff plus 1.75 regression standard errors. If another statistical
9 method is utilized, the limit shall be set at a level corresponding to
10 1.75 standard errors above predicted staffing computed according to a
11 regression procedure. A regression calculated shall be effective for
12 the entire biennium.

13 (4) No facility shall receive reimbursement for nursing staff
14 levels in excess of the limit. However, nursing staff levels
15 established under subsection (3) of this section shall not apply to the
16 nursing services cost center reimbursement rate only for the pilot
17 facility especially designed to meet the needs of persons living with
18 AIDS as defined by RCW 70.24.017 and specifically authorized for this
19 purpose under the 1989 amendment to the Washington state health plan.

20 (5) Every two years when rates are set at the beginning of each new
21 biennium, the department shall divide into two peer groups nursing
22 facilities located in the state of Washington providing services to
23 medicaid residents: (a) Those facilities located within a metropolitan
24 statistical area as defined and determined by the United States office
25 of management and budget or other applicable federal office and (b)
26 those not located in such an area. The facilities in each peer group
27 shall then be arrayed from lowest to highest by magnitude of per
28 patient day adjusted nursing services cost from the prior report year,
29 regardless of whether any such adjustments are contested by the nursing
30 facility, and the median or fiftieth percentile cost for each peer
31 group shall be determined. Nursing services rates for facilities
32 within each peer group for the first year of the biennium shall be set
33 at the lower of the facility's adjusted per patient day nursing
34 services cost from the prior report period or the median cost for the
35 facility's peer group plus twenty-five percent. This rate shall be
36 reduced or inflated as authorized by RCW 74.46.420. However, the per
37 patient day peer group median cost plus twenty-five percent limit shall
38 not apply to the nursing services cost center reimbursement rate only
39 for the pilot facility especially designed to meet the needs of persons

1 living with AIDS as defined by RCW 70.24.017 and specifically
2 authorized for this purpose under the 1989 amendment to the Washington
3 state health plan.

4 (6) If a nursing facility is impacted by the limit authorized in
5 subsection (5) of this section, it shall not receive a prospective rate
6 in nursing services (~~(for July 1, 1993)~~), less than the same facility's
7 prospective rate in nursing services as of June 30, 1993, adjusted in
8 the first year of each biennium by any increase in the implicit price
9 deflator for personal consumption expenditures, IPD index, as measured
10 over the period authorized by RCW 74.46.420(3).

11 (7) A nursing facility's rate in nursing services for the second
12 year of each biennium shall be that facility's rate as of July 1 of the
13 first year of that biennium reduced or inflated as authorized by RCW
14 74.46.420. The alternating procedures prescribed in this section for
15 a facility's two July 1 nursing services rates occurring within each
16 biennium shall be followed in the same order for each succeeding
17 biennium.

18 (8) Median costs for peer groups shall be calculated initially as
19 provided in this chapter on the basis of the most recent adjusted cost
20 information available to the department prior to the calculation of the
21 new rate for July 1 of the first fiscal year of each biennium,
22 regardless of whether the adjustments are contested or subject to
23 pending administrative or judicial review. Median costs for peer
24 groups shall be recalculated as provided in this chapter on the basis
25 of the most recent adjusted cost information available to the
26 department on October 31 of the first fiscal year of each biennium, and
27 shall apply retroactively to the prior July 1 rate, regardless of
28 whether the adjustments are contested or subject to pending
29 administrative or judicial review. Median costs shall not be adjusted
30 to reflect subsequent administrative or judicial rulings, whether final
31 or not.

32 (9) The department is authorized to determine on a systematic basis
33 facilities with unmet patient care service needs. The department may
34 increase the nursing services cost center prospective rate for a
35 facility beyond the level determined in accordance with subsection
36 (~~(+6)~~) (5) of this section if the facility's actual and reported
37 nursing staffing is one standard error or more below predicted staffing
38 as determined according to the method selected pursuant to subsection
39 (3) of this section and the facility has unmet patient care service

1 needs: PROVIDED, That prospective rate increases authorized by this
2 subsection shall be funded only from legislative appropriations made
3 for this purpose during the periods authorized by such appropriations
4 or other laws and the increases shall be conditioned on specified
5 improvements in patient care at such facilities.

6 (10) The department shall establish a method for identifying
7 patients with exceptional care requirements and a method for
8 establishing or negotiating on a consistent basis rates for such
9 patients.

10 (11) The department, in consultation with interested parties, shall
11 adopt rules to establish the criteria the department will use in
12 reviewing any requests by a contractor for a prospective rate
13 adjustment to be used to increase the number of nursing staff. These
14 rules shall also specify the time period for submission and review of
15 staffing requests: PROVIDED, That a decision on a staffing request
16 shall not take longer than sixty days from the date the department
17 receives such a complete request. In establishing the criteria, the
18 department may consider, but is not limited to, the following:

19 (a) Increases in debility levels of contractors' residents
20 determined in accordance with the department's assessment and reporting
21 procedures and requirements utilizing the minimum data set;

22 (b) Staffing patterns for similar facilities in the same peer
23 group;

24 (c) Physical plant of contractor; and

25 (d) Survey, inspection of care, and department consultation
26 results.

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