
SUBSTITUTE HOUSE BILL 1484

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Parlette, Cody, Alexander, Conway and Edwards)

Read first time 03/02/1999.

1 AN ACT Relating to the medicaid related payment of property costs
2 in licensed nursing facilities; amending RCW 74.46.330, 74.46.350, and
3 74.46.370; amending 1998 c 322 s 30 (uncodified); adding new sections
4 to chapter 70.38 RCW; repealing 1998 c 322 s 54 (uncodified); providing
5 an expiration date; and declaring an emergency.

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

7 **Sec. 1.** 1998 c 322 s 30 (uncodified) is amended to read as follows:

8 (1) The department shall establish for each medicaid nursing
9 facility a return on investment component rate allocation composed of
10 two parts: A financing allowance and a variable return allowance. The
11 financing allowance part of a facility's return on investment component
12 rate shall be rebased annually, effective July 1st, in accordance with
13 the provisions of this section and this chapter.

14 (a) The financing allowance shall be determined by multiplying the
15 net invested funds of each facility by .10, and dividing by the greater
16 of a nursing facility's total resident days from the most recent cost
17 report period or resident days calculated on eighty-five percent
18 facility occupancy. However, assets acquired on or after March 15,
19 1999, shall be grouped in a separate net invested funds calculation

1 that shall be multiplied by .085. The financing allowance factor of
2 .085 shall not be applied to the net invested funds pertaining to new
3 construction or major renovations receiving certificate of need
4 approval or an exemption from certificate of need requirements under
5 chapter 70.38 RCW, or to working drawings that have been submitted to
6 the department of health for construction review approval prior to
7 March 15, 1999. If a capitalized addition or retirement of an asset
8 will result in a different licensed bed capacity during the ensuing
9 period, the prior period total resident days used in computing the
10 financing and variable return allowances shall be adjusted to the
11 anticipated resident day level.

12 (b) In computing the portion of net invested funds representing the
13 net book value of tangible fixed assets, the same assets, depreciation
14 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,
15 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets,
16 shall be utilized, except that the capitalized cost of land upon which
17 the facility is located and such other contiguous land which is
18 reasonable and necessary for use in the regular course of providing
19 resident care shall also be included. Subject to provisions and
20 limitations contained in this chapter, for land purchased by owners or
21 lessors before July 18, 1984, capitalized cost of land shall be the
22 buyer's capitalized cost. For all partial or whole rate periods after
23 July 17, 1984, if the land is purchased after July 17, 1984,
24 capitalized cost shall be that of the owner of record on July 17, 1984,
25 or buyer's capitalized cost, whichever is lower. In the case of leased
26 facilities where the net invested funds are unknown or the contractor
27 is unable to provide necessary information to determine net invested
28 funds, the secretary shall have the authority to determine an amount
29 for net invested funds based on an appraisal conducted according to RCW
30 74.46.360(1).

31 (c) In determining the variable return allowance:

32 (i) The variable return array and percentage assigned at the
33 October 1, 1998, rate setting shall remain in effect until June 30,
34 2001.

35 (ii) For the ((October 1, 1998,)) July 1, 2001, rate setting, the
36 department, without utilizing peer groups, shall first rank all
37 facilities in numerical order from highest to lowest according to their
38 per resident day adjusted or audited, or both, allowable costs for
39 ((nursing services, food, administration, and operational costs))

1 direct care, therapy care, support services, and operations combined
2 for the (~~(1996)~~) 1999 calendar year cost report period.

3 (~~((ii))~~) (iii) The department shall then compute the variable
4 return allowance by multiplying the appropriate percentage amounts,
5 which shall not be less than one percent and not greater than four
6 percent, by the sum of the facility's (~~(nursing services, food,~~
7 ~~administrative, and operational)~~) direct care, therapy care, support
8 services, and operations rate components. The percentage amounts will
9 be based on groupings of facilities according to the rankings
10 prescribed in (c)(i) or (ii) of this subsection, as applicable. Those
11 groups of facilities with lower per diem costs shall receive higher
12 percentage amounts than those with higher per diem costs.

13 (d) The sum of the financing allowance and the variable return
14 allowance shall be the return on investment rate for each facility, and
15 shall be added to the prospective rates of each contractor (~~(as~~
16 ~~determined in sections 19 through 29 of this act)~~).

17 (e) In the case of a facility that was leased by the contractor as
18 of January 1, 1980, in an arm's-length agreement, which continues to be
19 leased under the same lease agreement, and for which the annualized
20 lease payment, plus any interest and depreciation expenses associated
21 with contractor-owned assets, for the period covered by the prospective
22 rates, divided by the contractor's total resident days, minus the
23 property component rate allocation (~~(determined according to section 29~~
24 ~~of this act)~~), is more than the return on investment rate determined
25 according to (d) of this subsection, the following shall apply:

26 (i) The financing allowance shall be recomputed substituting the
27 fair market value of the assets as of January 1, 1982, as determined by
28 the department of general administration through an appraisal
29 procedure, less accumulated depreciation on the lessor's assets since
30 January 1, 1982, for the net book value of the assets in determining
31 net invested funds for the facility. A determination by the department
32 of general administration of fair market value shall be final unless
33 the procedure used to make such a determination is shown to be
34 arbitrary and capricious.

35 (ii) The sum of the financing allowance computed under (e)(i) of
36 this subsection and the variable allowance shall be compared to the
37 annualized lease payment, plus any interest and depreciation associated
38 with contractor-owned assets, for the period covered by the prospective
39 rates, divided by the contractor's total resident days, minus the

1 property component rate (~~determined according to section 29 of this~~
2 ~~act~~). The lesser of the two amounts shall be called the alternate
3 return on investment rate.

4 (iii) The return on investment rate determined according to (d) of
5 this subsection or the alternate return on investment rate, whichever
6 is greater, shall be the return on investment rate for the facility and
7 shall be added to the prospective rates of the contractor (~~as~~
8 ~~determined in sections 19 through 29 of this act~~)).

9 (f) In the case of a facility that was leased by the contractor as
10 of January 1, 1980, in an arm's-length agreement, if the lease is
11 renewed or extended under a provision of the lease, the treatment
12 provided in (e) of this subsection shall be applied, except that in the
13 case of renewals or extensions made subsequent to April 1, 1985,
14 reimbursement for the annualized lease payment shall be no greater than
15 the reimbursement for the annualized lease payment for the last year
16 prior to the renewal or extension of the lease.

17 (2) For the purpose of calculating a nursing facility's return on
18 investment component rate, if a contractor elects to bank beds or to
19 convert banked beds to active service, under chapter 70.38 RCW, the
20 department shall use the facility's anticipated resident occupancy
21 level subsequent to the decrease or increase in licensed bed capacity.
22 However, in no case shall the department use less than eighty-five
23 percent occupancy of the facility's licensed bed capacity after banking
24 or conversion.

25 (3) Each biennium the secretary shall review the adequacy of return
26 on investment rates in relation to anticipated requirements for
27 maintaining, reducing, or expanding nursing care capacity. The
28 secretary shall report the results of a such review to the legislature
29 and make recommendations for adjustments in the return on investment
30 rates utilized in this section, if appropriate.

31 (4) The return or investment component rate allocations calculated
32 in accordance with this section shall be adjusted to the extent
33 necessary to comply with (~~section 18 of this act~~) RCW 74.46.421. If
34 the department determines that the weighted average rate allocations
35 for all rate components for all facilities is likely to exceed the
36 weighted average total rate specified in the state biennial
37 appropriations act, the department shall adjust the rate allocations
38 calculated in this section proportional to the amount by which the
39 total weighted average rate allocations would otherwise exceed the

1 budgeted level. Such adjustments shall only be made prospectively, not
2 retrospectively.

3 **Sec. 2.** RCW 74.46.330 and 1980 c 177 s 33 are each amended to read
4 as follows:

5 Tangible assets of the following types in which a contractor has an
6 interest through ownership or leasing are subject to depreciation:

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

8 (2) Building fixed equipment - attachments to buildings, including,
9 but not limited to, wiring, electrical fixtures, plumbing, elevators,
10 heating system, and air conditioning system. The general
11 characteristics of this equipment are:

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

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

15 (3) For new or replacement building construction or for major
16 renovations, receiving certificate of need approval or certificate of
17 need exemption under chapter 70.38 RCW on or after March 15, 1999, the
18 number of years used to depreciate fixed equipment shall be the same
19 number of years as the life of the building to which it is affixed;

20 (4) Major movable equipment including, but not limited to, beds,
21 wheelchairs, desks, and x-ray machines. The general characteristics of
22 this equipment are:

23 (a) A relatively fixed location in the building;

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

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

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

29 (e) A minimum life greater than one year;

30 ~~((4))~~ (5) Minor equipment including, but not limited to, waste
31 baskets, bed pans, syringes, catheters, silverware, mops, and buckets
32 which are properly capitalized. No depreciation shall be taken on
33 items which are not properly capitalized as directed in RCW 74.46.310.
34 The general characteristics of minor equipment are:

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

37 (b) Small in size and unit cost;

38 (c) Subject to inventory control;

- 1 (d) Large number in use; and
2 (e) Generally, a useful life of one to three years;
3 ~~((+5))~~ (6) Land improvements including, but not limited to,
4 paving, tunnels, underpasses, on-site sewer and water lines, parking
5 lots, shrubbery, fences, and walls where replacement is the
6 responsibility of the contractor; and
7 ~~((+6))~~ (7) Leasehold improvements - betterments and additions made
8 by the lessee to the leased property, which become the property of the
9 lessor after the expiration of the lease.

10 **Sec. 3.** RCW 74.46.350 and 1980 c 177 s 35 are each amended to read
11 as follows:

12 (1) Buildings, land improvements, and fixed equipment shall be
13 depreciated using the straight-line method of depreciation. For new or
14 replacement building construction or for major renovations, receiving
15 certificate of need approval or certificate of need exemption under
16 chapter 70.38 RCW on or after March 15, 1999, the number of years used
17 to depreciate fixed equipment shall be the same number of years as the
18 life of the building to which it is affixed. Major-minor equipment
19 shall be depreciated using either the straight-line method, the sum-of-
20 the-years' digits method, or declining balance method not to exceed one
21 hundred fifty percent of the straight line rate. Contractors who have
22 elected to take either the sum-of-the-years' digits method or the
23 declining balance method of depreciation on major-minor equipment may
24 change to the straight-line method without permission of the
25 department.

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

29 (3) No further depreciation shall be claimed after an asset has
30 been fully depreciated unless a new depreciation base is established
31 pursuant to RCW 74.46.360.

32 **Sec. 4.** RCW 74.46.370 and 1997 c 277 s 2 are each amended to read
33 as follows:

34 (1) Except for new buildings, major remodels, and major repair
35 projects, as defined in subsection (2) of this section, the contractor
36 shall use lives which reflect the estimated actual useful life of the
37 asset and which shall be no shorter than guideline lives as established

1 by the department. Lives shall be measured from the date on which the
2 assets were first used in the medical care program or from the date of
3 the most recent arm's-length acquisition of the asset, whichever is
4 more recent. In cases where RCW 74.46.360(6)(a) does apply, the
5 shortest life that may be used for buildings is the remaining useful
6 life under the prior contract. In all cases, lives shall be extended
7 to reflect periods, if any, when assets were not used in or as a
8 facility.

9 (2) Effective July 1, 1997, for asset acquisitions and new
10 facilities, major remodels, and major repair projects that begin
11 operations on or after July 1, 1997, the department shall use the most
12 current edition of Estimated Useful Lives of Depreciable Hospital
13 Assets, or as it may be renamed, published by the American Hospital
14 Publishing, Inc., an American hospital association company, for
15 determining the useful life of new buildings, major remodels, and major
16 repair projects, however, the shortest life that may be used for new
17 buildings is thirty years. New buildings, major remodels, and major
18 repair projects include those projects that meet or exceed the
19 expenditure minimum established by the department of health pursuant to
20 chapter 70.38 RCW.

21 (3) Building improvements, other than major remodels and major
22 repairs, shall be depreciated over the remaining useful life of the
23 building, as modified by the improvement.

24 (4) Improvements to leased property which are the responsibility of
25 the contractor under the terms of the lease shall be depreciated over
26 the useful life of the improvement.

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

29 (6) For new or replacement building construction or for major
30 renovations, receiving certificate of need approval or certificate of
31 need exemption under chapter 70.38 RCW on or after March 15, 1999, the
32 number of years used to depreciate fixed equipment shall be the same
33 number of years as the life of the building to which it is affixed.

34 **NEW SECTION. Sec. 5.** (1) In determining the need for nursing home
35 beds on a state-wide basis and a planning area specific basis, the
36 department shall calculate the need for nursing home beds based on the
37 bed-to-population ratio of forty beds per one thousand persons age
38 sixty-five and older. The department shall find no need for additional

1 nursing home beds if the state is at or above the state-wide estimated
2 bed need, unless the department finds that additional beds are needed
3 in order to be located reasonably close to the people they serve, and
4 the department explains such approval in writing.

5 (2) The department may put under review and subsequently approve or
6 deny an application that proposes to redistribute nursing home bed
7 capacity to a planning area that has a bed-to-population ratio that is
8 under the established ratio.

9 (3) The department may put under review and subsequently approve
10 or deny an application that proposes to add beds in a planning area
11 that has a bed-to-population ratio that is under the established ratio
12 using beds banked under the provisions of RCW 70.38.115(13).

13 (4) The department may not consider applications that would
14 redistribute existing nursing home capacity within a planning area that
15 is above the established bed-to-population ratio.

16 (5) This section expires June 30, 2004.

17 NEW SECTION. **Sec. 6.** (1) The need for projects identified in
18 section 5 of this act shall be determined using the individual planning
19 area's estimated nursing home bed need ratio and includes but is not
20 limited to the following criteria:

21 (a) The current capacity of nursing homes and other long-term care
22 services;

23 (b) The occupancy rates of nursing homes and other long-term care
24 services over the previous two-year period; and

25 (c) The ability of the other long-term care services to serve all
26 people regardless of payor source.

27 (2) For the purposes of this section, nursing home beds include
28 long-term care units or distinct part long-term care units located in
29 a hospital that is licensed under chapter 70.41 RCW.

30 NEW SECTION. **Sec. 7.** Sections 5 and 6 of this act are each added
31 to chapter 70.38 RCW.

32 NEW SECTION. **Sec. 8.** 1998 c 322 s 54 (uncodified) is repealed,
33 effective June 29, 1999.

34 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

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