
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1484

State of Washington

56th Legislature

1999 Regular Session

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

Read first time 03/08/1999.

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; adding new sections to chapter 74.46 RCW;
5 repealing 1998 c 322 s 54 (uncodified); providing an expiration date;
6 and declaring an emergency.

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

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

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

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

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

13 (b) In computing the portion of net invested funds representing the
14 net book value of tangible fixed assets, the same assets, depreciation
15 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,
16 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets,
17 shall be utilized, except that the capitalized cost of land upon which
18 the facility is located and such other contiguous land which is
19 reasonable and necessary for use in the regular course of providing
20 resident care shall also be included. Subject to provisions and
21 limitations contained in this chapter, for land purchased by owners or
22 lessors before July 18, 1984, capitalized cost of land shall be the
23 buyer's capitalized cost. For all partial or whole rate periods after
24 July 17, 1984, if the land is purchased after July 17, 1984,
25 capitalized cost shall be that of the owner of record on July 17, 1984,
26 or buyer's capitalized cost, whichever is lower. In the case of leased
27 facilities where the net invested funds are unknown or the contractor
28 is unable to provide necessary information to determine net invested
29 funds, the secretary shall have the authority to determine an amount
30 for net invested funds based on an appraisal conducted according to RCW
31 74.46.360(1).

32 (c) In determining the variable return allowance:

33 (i) The variable return array and percentage assigned at the
34 October 1, 1998, rate setting shall remain in effect until June 30,
35 2001.

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

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

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

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

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

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

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

1 rates, divided by the contractor's total resident days, minus the
2 property component rate (~~determined according to section 29 of this~~
3 ~~act~~). The lesser of the two amounts shall be called the alternate
4 return on investment rate.

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

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

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

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

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

1 total weighted average rate allocations would otherwise exceed the
2 budgeted level. Such adjustments shall only be made prospectively, not
3 retrospectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (1) Except for new buildings, major remodels, and major repair
37 projects, as defined in subsection (2) of this section, the contractor

1 shall use lives which reflect the estimated actual useful life of the
2 asset and which shall be no shorter than guideline lives as established
3 by the department. Lives shall be measured from the date on which the
4 assets were first used in the medical care program or from the date of
5 the most recent arm's-length acquisition of the asset, whichever is
6 more recent. In cases where RCW 74.46.360(6)(a) does apply, the
7 shortest life that may be used for buildings is the remaining useful
8 life under the prior contract. In all cases, lives shall be extended
9 to reflect periods, if any, when assets were not used in or as a
10 facility.

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

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

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

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

31 (6) For new or replacement building construction or for major
32 renovations, receiving certificate of need approval or certificate of
33 need exemption under chapter 70.38 RCW on or after the effective date
34 of this section, the number of years used to depreciate fixed equipment
35 shall be the same number of years as the life of the building to which
36 it is affixed.

37 NEW SECTION. **Sec. 5.** Beginning July 1, 1999, if a contractor
38 experiences an increase in property taxes relating to construction

1 qualifying under RCW 74.46.360(2), the department shall adjust rates to
2 cover state and county increases in real estate taxes, effective the
3 first day on which the increased tax payment is due, related to
4 construction qualifying for payment under RCW 74.46.360(2). Rate
5 adjustments made under this section shall be consistent with applicable
6 cost limitations contained in this chapter.

7 NEW SECTION. **Sec. 6.** (1) In determining the need for nursing home
8 beds on a state-wide basis and a planning area specific basis, the
9 department shall calculate the need for nursing home beds based on the
10 bed-to-population ratio of forty beds per one thousand persons age
11 sixty-five and older. The department shall find no need for additional
12 nursing home beds if the state is at or above the state-wide estimated
13 bed need, unless the department finds that additional beds are needed
14 in order to be located reasonably close to the people they serve, and
15 the department explains such approval in writing.

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

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

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

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

28 NEW SECTION. **Sec. 7.** (1) The need for projects identified in
29 section 6 of this act shall be determined using the individual planning
30 area's estimated nursing home bed need ratio and includes but is not
31 limited to the following criteria:

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

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

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

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

4 NEW SECTION. **Sec. 8.** Section 5 of this act is added to chapter
5 74.46 RCW.

6 NEW SECTION. **Sec. 9.** Sections 6 and 7 of this act are each added
7 to chapter 70.38 RCW.

8 NEW SECTION. **Sec. 10.** Section 1 of this act shall be codified as
9 a section in chapter 74.46 RCW.

10 NEW SECTION. **Sec. 11.** 1998 c 322 s 54 (uncodified) is repealed,
11 effective June 29, 1999.

12 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and takes effect
15 immediately.

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