
SENATE BILL 6666

State of Washington 57th Legislature

2002 Regular Session

By Senators Costa, Deccio and Winsley

Read first time 01/25/2002. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to payment for nursing care services; and amending
2 RCW 18.52C.040 and 74.46.410.

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

4 **Sec. 1.** RCW 18.52C.040 and 1997 c 392 s 528 are each amended to
5 read as follows:

6 (1) The nursing pool shall document that each temporary employee or
7 referred independent contractor provided or referred to health care
8 facilities currently meets the applicable minimum state credentialing
9 requirements.

10 (2) The nursing pool shall not require, as a condition of
11 employment or referral, that employees or independent contractors of
12 the nursing pool recruit new employees or independent contractors for
13 the nursing pool from among the permanent employees of the health care
14 facility to which the nursing pool employee or independent contractor
15 has been assigned or referred.

16 (3) The nursing pool shall carry professional and general liability
17 insurance to insure against any loss or damage occurring, whether
18 professional or otherwise, as the result of the negligence of its
19 employees, agents or independent contractors for acts committed in the

1 course of their employment with the nursing pool: PROVIDED, That a
2 nursing pool that only refers self-employed, independent contractors to
3 health care facilities shall carry professional and general liability
4 insurance to cover its own liability as a nursing pool which refers
5 self-employed, independent contractors to health care facilities: AND
6 PROVIDED FURTHER, That it shall require, as a condition of referral,
7 that self-employed, independent contractors carry professional and
8 general liability insurance to insure against loss or damage resulting
9 from their own acts committed in the course of their own employment by
10 a health care facility.

11 (4) The uniform disciplinary act, chapter 18.130 RCW, shall govern
12 the issuance and denial of registration and the discipline of persons
13 registered under this chapter. The secretary shall be the disciplinary
14 authority under this chapter.

15 (5) The nursing pool shall conduct a criminal background check on
16 all employees and independent contractors as required under RCW
17 43.43.842 prior to employment or referral of the employee or
18 independent contractor.

19 (6) The nursing pool providing employees or referring independent
20 contractors to a health care facility shall not bill or receive
21 payments from such a health care facility at a rate higher than one
22 hundred thirty-five percent of the weighted average wage rate, in the
23 county in which the health care facility is located, for nursing home
24 employees of like classification. Each county's weighted average wage
25 rate for employee classifications, which includes related taxes and
26 benefits, must be determined by the department of social and health
27 services using nursing home cost reports required under chapter 74.46
28 RCW. The department of social and health services must report this
29 data to the secretary on an annual basis. The secretary will provide
30 this data to all nursing pools registered under this chapter. The
31 maximum rate a nursing pool may charge a health care facility must
32 include all charges for administrative fees, contract fees, or other
33 special charges in addition to the hourly rates for the nursing pool
34 employees or referred independent contractors supplied to the health
35 care facility.

36 **Sec. 2.** RCW 74.46.410 and 2001 1st sp.s. c 8 s 3 are each amended
37 to read as follows:

1 (1) Costs will be unallowable if they are not documented,
2 necessary, ordinary, and related to the provision of care services to
3 authorized patients.

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

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

10 (b) Costs of services and items provided to recipients which are
11 covered by the department's medical care program but not included in
12 the medicaid per-resident day payment rate established by the
13 department under this chapter;

14 (c) Costs associated with a capital expenditure subject to section
15 1122 approval (part 100, Title 42 C.F.R.) if the department found it
16 was not consistent with applicable standards, criteria, or plans. If
17 the department was not given timely notice of a proposed capital
18 expenditure, all associated costs will be unallowable up to the date
19 they are determined to be reimbursable under applicable federal
20 regulations;

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

26 (e) Interest costs other than those provided by RCW 74.46.290 on
27 and after January 1, 1985;

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

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

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

38 (i) Costs applicable to services, facilities, and supplies
39 furnished by a related organization in excess of the lower of the cost

1 to the related organization or the price of comparable services,
2 facilities, or supplies purchased elsewhere;

3 (j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX
4 recipients are allowable if the debt is related to covered services, it
5 arises from the recipient's required contribution toward the cost of
6 care, the provider can establish that reasonable collection efforts
7 were made, the debt was actually uncollectible when claimed as
8 worthless, and sound business judgment established that there was no
9 likelihood of recovery at any time in the future;

10 (k) Charity and courtesy allowances;

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

15 (m) Vending machine expenses;

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

18 (o) Funeral and burial expenses;

19 (p) Costs of gift shop operations and inventory;

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

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

25 (s) Penalties and fines;

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

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

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

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

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

35 (y) Expenses of profit-sharing plans;

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

1 (aa) Personal expenses and allowances of owners or relatives;
2 (bb) All expenses of maintaining professional licenses or
3 membership in professional organizations;
4 (cc) Costs related to agreements not to compete;
5 (dd) Amortization of goodwill, lease acquisition, or any other
6 intangible asset, whether related to resident care or not, and whether
7 recognized under generally accepted accounting principles or not;
8 (ee) Expenses related to vehicles which are in excess of what a
9 prudent contractor would expend for the ordinary and economic provision
10 of transportation needs related to patient care;
11 (ff) Legal and consultant fees in connection with a fair hearing
12 against the department where a decision is rendered in favor of the
13 department or where otherwise the determination of the department
14 stands;
15 (gg) Legal and consultant fees of a contractor or contractors in
16 connection with a lawsuit against the department;
17 (hh) Lease acquisition costs, goodwill, the cost of bed rights, or
18 any other intangible assets;
19 (ii) All rental or lease costs other than those provided in RCW
20 74.46.300 on and after January 1, 1985;
21 (jj) Postsurvey charges incurred by the facility as a result of
22 subsequent inspections under RCW 18.51.050 which occur beyond the first
23 postsurvey visit during the certification survey calendar year;
24 (kk) Compensation paid for any purchased nursing care services,
25 including registered nurse, licensed practical nurse, and nurse
26 assistant services, obtained through service contract arrangement in
27 excess of one hundred thirty-five percent of the amount of compensation
28 paid for such hours of nursing care service had they been paid at the
29 average hourly wage, including related taxes and benefits, for in-house
30 nursing care staff of like classification at the same nursing facility,
31 as reported in the most recent cost report period;
32 (ll) For all partial or whole rate periods after July 17, 1984,
33 costs of land and depreciable assets that cannot be reimbursed under
34 the Deficit Reduction Act of 1984 and implementing state statutory and
35 regulatory provisions;
36 (mm) Costs reported by the contractor for a prior period to the
37 extent such costs, due to statutory exemption, will not be incurred by
38 the contractor in the period to be covered by the rate;

1 (nn) Costs of outside activities, for example, costs allocated to
2 the use of a vehicle for personal purposes or related to the part of a
3 facility leased out for office space;
4 (oo) Travel expenses outside the states of Idaho, Oregon, and
5 Washington and the province of British Columbia. However, travel to or
6 from the home or central office of a chain organization operating a
7 nursing facility is allowed whether inside or outside these areas if
8 the travel is necessary, ordinary, and related to resident care;
9 (pp) Moving expenses of employees in the absence of demonstrated,
10 good-faith effort to recruit within the states of Idaho, Oregon, and
11 Washington, and the province of British Columbia;
12 (qq) Depreciation in excess of four thousand dollars per year for
13 each passenger car or other vehicle primarily used by the
14 administrator, facility staff, or central office staff;
15 (rr) Costs for temporary health care personnel from a nursing pool
16 not registered with the secretary of the department of health;
17 (ss) Payroll taxes associated with compensation in excess of
18 allowable compensation of owners, relatives, and administrative
19 personnel;
20 (tt) Costs and fees associated with filing a petition for
21 bankruptcy;
22 (uu) All advertising or promotional costs, except reasonable costs
23 of help wanted advertising;
24 (vv) Outside consultation expenses required to meet department-
25 required minimum data set completion proficiency;
26 (ww) Interest charges assessed by any department or agency of this
27 state for failure to make a timely refund of overpayments and interest
28 expenses incurred for loans obtained to make the refunds;
29 (xx) All home office or central office costs, whether on or off the
30 nursing facility premises, and whether allocated or not to specific
31 services, in excess of the median of those adjusted costs for all
32 facilities reporting such costs for the most recent report period; and
33 (yy) Tax expenses that a nursing facility has never incurred.

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