

**Chapter 388-835 WAC**  
**ICF/ID PROGRAM AND REIMBURSEMENT SYSTEM**  
(Formerly chapter 275-38 WAC)

Last Update: 4/30/18

**WAC**

PURPOSE

388-835-0005 What is the purpose of this chapter?

DEFINITIONS

388-835-0010 What terms and definitions are important to understanding this chapter?  
388-835-0015 What is a "beneficial owner"?  
388-835-0020 What is a "change in ownership"?  
388-835-0025 How can lease agreements be terminated?  
388-835-0030 What is a "qualified therapist"?

EXEMPTIONS

388-835-0035 Does DSHS grant exemptions to these rules?

GENERAL REQUIREMENTS

388-835-0040 What general requirements apply to ICF/MR care facilities?  
388-835-0045 What are the minimum staff requirements for an ICF/ID facility?  
388-835-0050 What general requirements apply to the quality of ICF/ID services?  
388-835-0055 What are the resident's rights if DSHS decides that they are no longer eligible for ICF/ID services?  
388-835-0060 What are DSHS responsibilities when it decides to redetermine a resident eligibility for ICF/ID services?  
388-835-0065 Do residents always have a right to a hearing?

PLACEMENT—TRANSFER—RELOCATION—DISCHARGE

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388-835-0075 What if an individual is transferred between facilities?  
388-835-0080 What if an ICF/ID facility is closed?  
388-835-0085 Why is an individual transferred or discharged?  
388-835-0090 What is the basis of the decision to transfer or discharge an individual?  
388-835-0095 Is a transfer plan required for each resident?  
388-835-0100 Why would an individual move?  
388-835-0105 What are DSHS' responsibilities for placing individuals?  
388-835-0110 Is DSHS required to give written notice when it intends to transfer an individual?  
388-835-0115 Can a facility request that an individual be transferred?  
388-835-0120 What steps must be followed when a facility makes a transfer request?  
388-835-0125 Can residents request a transfer?  
388-835-0130 What rights are available to a resident regarding a proposed transfer?  
388-835-0140 Do residents always have a right to a hearing?

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SUPERINTENDENT'S AUTHORITY TO DETAIN A RESIDENT

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388-835-0165 Is a superintendent required to give notice when they detain a resident?  
388-835-0170 What is a superintendent's responsibility when a resident voluntarily leaves an RHC?

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388-835-0180 What if an ICF/ID contract is terminated?  
388-835-0185 Does DSHS withhold payment for services when a contract is terminated?  
388-835-0190 What happens to withheld payments and security from a provider when a final settlement is determined?  
388-835-0195 What requirements apply to surety bonds or assigned funds used as security by a provider?  
388-835-0200 Does decertification, termination or nonrenewal of a contract stop payment of Title XIX funds?  
388-835-0205 How does a change in ownership affect an ICF/ID contract with DSHS?

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388-835-0275 What requirements apply when amendments are filed?

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#### REIMBURSEMENT RATES

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#### PUBLIC REVIEW—PUBLIC DISCLOSURE

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388-835-0825 What is DSHS' public disclosure responsibility regarding rate setting methodology?

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#### DISPUTE RESOLUTION

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388-835-0890 What disputes cannot be resolved through the administrative review and fair hearing processes?  
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COST OF CARE OF MENTALLY DEFICIENT PERSONS RESIDING IN STATE INSTITUTIONS

388-835-0925 What is the purpose of this section?  
388-835-0930 How is the payment for residential facilities set?  
388-835-0935 How much of a resident's income is exempt from paying their care?  
388-835-0940 What if the estate of a resident is able to pay all or a portion of their monthly cost?  
388-835-0945 If a resident or guardian is served by DSHS with a NFR when is payment due?  
388-835-0950 May a resident or guardian request a hearing if they disagree with the NFR?  
388-835-0955 What information must be included in the request for a hearing?

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

388-835-010 Terms—Definitions. [WSR 99-19-104, recodified as § 388-835-010, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-001, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-001, filed 6/1/88; WSR 85-06-063 (Order 2213), § 275-38-001, filed 3/6/85; WSR 84-19-042 (Order 2150), § 275-38-001, filed 9/17/84; WSR 82-16-080 (Order 1853), § 275-38-001, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-0135 What are DSHS responsibilities when it decides to transfer a resident? [Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0135, filed 4/20/01, effective 5/21/01.] Repealed by WSR 04-16-018, filed 7/23/04, effective 8/23/04. Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205.

388-835-015 Exemptions. [WSR 99-19-104, recodified as § 388-835-015, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-003, filed 8/9/91, effective 9/9/91.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-0150 When does DSHS require discharge and readmission of a resident? [Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0150, filed 4/20/01, effective 5/21/01.] Repealed by WSR 18-10-073, filed 4/30/18, effective 5/31/18. Statutory Authority: RCW 71A.12.030 and 71A.12.120.

388-835-020 ICF/MR care. [WSR 99-19-104, recodified as § 388-835-020, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-005, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-005, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-005, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-025 Name of IMR. [WSR 99-19-104, recodified as § 388-835-025, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-015, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-030 Closure of an IMR facility. [WSR 99-19-104, recodified as § 388-835-030, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-020, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-035 Adequate IMR care. [WSR 99-19-104, recodified as § 388-835-035, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-025, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-040 Continuity of resident care. [WSR 99-19-104, recodified as § 388-835-040, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-030, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-045 IMR contract—Noncompliance. [WSR 99-19-104, recodified as § 388-835-045, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-035, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-050 Minimum staff requirements. [WSR 99-19-104, recodified as § 388-835-050, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-045, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-045, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-055 Placement of client. [WSR 99-19-104, recodified as § 388-835-055, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-050, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-050, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-060 Transfer of client—Relocation. [WSR 99-19-104, recodified as § 388-835-060, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-055, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-055, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-065 Resident rights—Relocation redetermination of eligibility. [WSR 99-19-104, recodified as § 388-835-065, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-060, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-060, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-070 Transfer or discharge planning. [WSR 99-19-104, recodified as § 388-835-070, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-065, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-065, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-075 Discharge, readmission, and incident reporting. [WSR 99-19-104, recodified as § 388-835-075, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-075, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-075, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-080 Social leave for IMR residents. [WSR 99-19-104, recodified as § 388-835-080, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-080, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-085 Superintendent's limited authority to hold. [WSR 99-19-104, recodified as § 388-835-085, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120 and 71A.20.140. WSR 91-17-005 (Order 3230), § 275-38-090, filed 8/9/91, effective 9/9/91.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-090 Prospective cost-related reimbursement. [WSR 99-19-104, recodified as § 388-835-090, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-510, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-095 Conditions of participation. [WSR 99-19-104, recodified as § 388-835-095, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-515, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-100 Projected budget for new contractors. [WSR 99-19-104, recodified as § 388-835-100, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-520, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-520, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-105 Change of ownership. [WSR 99-19-104, recodified as § 388-835-105, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-525, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-525, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-110 Termination of contract. [WSR 99-19-104, recodified as § 388-835-110, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-530, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-530, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-115 Due dates for reports. [WSR 99-19-104, recodified as § 388-835-115, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-535, filed 6/1/88; WSR 84-19-042 (Order 2150), § 275-38-535, filed 9/17/84; WSR 82-16-080 (Order 1853), § 275-38-535, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-120 Requests for extensions. [WSR 99-19-104, recodified as § 388-835-120, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-540, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-540, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-125 Reports. [WSR 99-19-104, recodified as § 388-835-125, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-545, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-545, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-130 Failure to submit final reports. [WSR 99-19-104, recodified as § 388-835-130, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-546, filed 6/1/88.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-135 Improperly completed or late reports. [WSR 99-19-104, recodified as § 388-835-135, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-550, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-550, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-140 Completing reports and maintaining records. [WSR 99-19-104, recodified as § 388-835-140, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-555, filed 6/1/88; WSR 86-18-002 (Order 2412), § 275-38-555, filed 8/21/86; WSR 82-16-080 (Order 1853), § 275-38-555, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-145 Certification requirement. [WSR 99-19-104, recodified as § 388-835-145, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-560, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-560, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-150 Reports—False information. [WSR 99-19-104, recodified as § 388-835-150, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-565, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-565, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-155 Amendments to reports. [WSR 99-19-104, recodified as § 388-835-155, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-570, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-570, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-160 Requirement for retention of reports by the department. [WSR 99-19-104, recodified as § 388-835-160, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-585, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-585, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-165 Requirements for retention of records by the contractor. [WSR 99-19-104, recodified as § 388-835-165, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-586, filed 6/1/88.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-170 Disclosure of IMR facility reports. [WSR 99-19-104, recodified as § 388-835-170, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-590, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-175 Desk review. [WSR 99-19-104, recodified as § 388-835-175, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-595, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-180 Field audits. [WSR 99-19-104, recodified as § 388-835-180, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-600, filed 6/1/88; WSR 84-09-018 (Order 2091), § 275-38-600, filed 4/10/84; WSR 82-16-080 (Order 1853), § 275-38-600, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-185 Preparation for audit by the contractor. [WSR 99-19-104, recodified as § 388-835-185, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-605, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-605, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-190 Scope of field audits. [WSR 99-19-104, recodified as § 388-835-190, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-610, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-610, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-195 Inadequate documentation. [WSR 99-19-104, recodified as § 388-835-195, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-615, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-615, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-200 Deadline for completion of audits. [WSR 99-19-104, recodified as § 388-835-200, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-620, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-620, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-205 Disclosure of audit narratives and summaries. [WSR 99-19-104, recodified as § 388-835-205, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-625, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-210 Resident trust accounts. [WSR 99-19-104, recodified as § 388-835-210, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-645, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-215 Accounting procedures for resident trust accounts. [WSR 99-19-104, recodified as § 388-835-215, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-650, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-650, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-220 Trust moneys—Imprest fund. [WSR 99-19-104, recodified as § 388-835-220, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-655, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-655, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-225 Trust moneys control or disbursement. [WSR 99-19-104, recodified as § 388-835-225, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-660, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-660, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-230 Trust moneys availability. [WSR 99-19-104, recodified as § 388-835-230, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-665, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-235 Accounting upon change of ownership. [WSR 99-19-104, recodified as § 388-835-235, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-667, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-667, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-240 Procedure for refunding trust money. [WSR 99-19-104, recodified as § 388-835-240, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-670, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-245 Liquidation of trust fund. [WSR 99-19-104, recodified as § 388-835-245, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-675, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-250 Resident property records. [WSR 99-19-104, recodified as § 388-835-250, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-678, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-255 Allowable costs. [WSR 99-19-104, recodified as § 388-835-255, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-680, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-680, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-260 Substance prevails over form. [WSR 99-19-104, recodified as § 388-835-260, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-685, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-685, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-265 Offset of miscellaneous revenues. [WSR 99-19-104, recodified as § 388-835-265, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-690, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-690, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-270 Costs of meeting standards. [WSR 99-19-104, recodified as § 388-835-270, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-695, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-695, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-275 Limit on costs to related organizations. [WSR 99-19-104, recodified as § 388-835-275, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-700, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-700, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-280 Start-up costs. [WSR 99-19-104, recodified as § 388-835-280, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-705, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-705, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-285 Organization costs. [WSR 99-19-104, recodified as § 388-835-285, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-706, filed 6/1/88.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-290 Education and training. [WSR 99-19-104, recodified as § 388-835-290, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-715, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-715, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-295 Total compensation—Owners, relatives, and certain administrative personnel. [WSR 99-19-104, recodified as § 388-835-295, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-720, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-720, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-300 Owner or relative—Compensation. [WSR 99-19-104, recodified as § 388-835-300, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-725, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-725, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-305 Allowable interest. [WSR 99-19-104, recodified as § 388-835-305, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-745, filed 6/1/88; WSR 85-06-063 (Order 2213), § 275-38-745, filed 3/6/85; WSR 82-16-080 (Order 1853), § 275-38-745, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-310 Offset of interest income. [WSR 99-19-104, recodified as § 388-835-310, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-750, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-750, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-315 Operating leases of facilities and equipment. [WSR 99-19-104, recodified as § 388-835-315, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-760, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-320 Rental expense paid to related organizations. [WSR 99-19-104, recodified as § 388-835-320, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-765, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-325 Capitalization. [WSR 99-19-104, recodified as § 388-835-325, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 90-15-017 (Order 3037), § 275-38-770, filed 7/12/90, effective 8/12/90; WSR 88-12-087 (Order 2629), § 275-38-770, filed 6/1/88;

- WSR 82-16-080 (Order 1853), § 275-38-770, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-330 Depreciation expense. [WSR 99-19-104, recodified as § 388-835-330, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-775, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-775, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-335 Depreciable assets. [WSR 99-19-104, recodified as § 388-835-335, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-780, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-780, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-340 Depreciation base. [WSR 99-19-104, recodified as § 388-835-340, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-785, filed 6/1/88; WSR 86-01-008 (Order 2312), § 275-38-785, filed 12/5/85; WSR 85-06-063 (Order 2213), § 275-38-785, filed 3/6/85; WSR 82-16-080 (Order 1853), § 275-38-785, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-345 Depreciation base—Donated or inherited assets. [WSR 99-19-104, recodified as § 388-835-345, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-790, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-790, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-350 Lives. [WSR 99-19-104, recodified as § 388-835-350, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 86-01-008 (Order 2312), § 275-38-795, filed 12/5/85; WSR 82-16-080 (Order 1853), § 275-38-795, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-355 Methods of depreciation. [WSR 99-19-104, recodified as § 388-835-355, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-800, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-800, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-360 Retirement of depreciable assets. [WSR 99-19-104, recodified as § 388-835-360, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-805, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-365 Handling of gains and losses upon retirement of depreciable assets. [WSR 99-19-104, recodified as § 388-835-365, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-810, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-370 Handling of gains and losses upon retirement of depreciable assets—Other periods. [WSR 99-19-104, recodified as § 388-835-370, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-812, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-812, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-375 Handling of gains and losses upon retirement of depreciable assets. [WSR 99-19-104, recodified as § 388-835-375, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 86-01-008 (Order 2312), § 275-38-813, filed 12/5/85.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-380 Recovery of excess over straight-line depreciation. [WSR 99-19-104, recodified as § 388-835-380, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-815, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-815, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-385 Unallowable costs. [WSR 99-19-104, recodified as § 388-835-385, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-820, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-820, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-390 Reimbursement principles. [WSR 99-19-104, recodified as § 388-835-390, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 85-06-063 (Order 2213), § 275-38-831, filed 3/6/85; WSR 84-19-042 (Order 2150), § 275-38-831, filed 9/17/84; WSR 83-17-074 (Order 2012), § 275-38-831, filed 8/19/83.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-395 Program services not covered by the reimbursement rate. [WSR 99-19-104, recodified as § 388-835-395, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-835, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-400 Prospective reimbursement rate for new contractors. [WSR 99-19-104, recodified as § 388-835-400, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-840, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-840, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-405 Rate determination. [WSR 99-19-104, recodified as § 388-835-405, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-845, filed 6/1/88; WSR 84-19-042 (Order 2150), § 275-38-845, filed 9/17/84; WSR 83-17-074 (Order 2012), § 275-38-845, filed 8/19/83; WSR 82-16-080 (Order 1853), § 275-38-845, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-410 Desk review for rate determination. [WSR 99-19-104, recodified as § 388-835-410, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-846, filed 6/1/88; WSR 83-17-074 (Order 2012), § 275-38-846, filed



- 8/19/83.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-415 Cost centers. [WSR 99-19-104, recodified as § 388-835-415, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 85-06-063 (Order 2213), § 275-38-850, filed 3/6/85; WSR 82-16-080 (Order 1853), § 275-38-850, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-420 Resident care and habilitation cost center rate. [WSR 99-19-104, recodified as § 388-835-420, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 93-17-034 (Order 3616), § 275-38-860, filed 8/11/93, effective 9/11/93; WSR 90-15-017 (Order 3037), § 275-38-860, filed 7/12/90, effective 8/12/90; WSR 88-12-087 (Order 2629), § 275-38-860, filed 6/1/88; WSR 86-18-002 (Order 2412), § 275-38-860, filed 8/21/86; WSR 86-01-008 (Order 2312), § 275-38-860, filed 12/5/85; WSR 85-06-063 (Order 2213), § 275-38-860, filed 3/6/85; WSR 84-19-042 (Order 2150), § 275-38-860, filed 9/17/84; WSR 83-17-074 (Order 2012), § 275-38-860, filed 8/19/83; WSR 82-16-080 (Order 1853), § 275-38-860, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-425 Administration, operations, and property cost center rate. [WSR 99-19-104, recodified as § 388-835-425, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 86-01-008 (Order 2312), § 275-38-863, filed 12/5/85; WSR 85-06-063 (Order 2213), § 275-38-863, filed 3/6/85.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-430 Food rate component. [WSR 99-19-104, recodified as § 388-835-430, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 85-06-063 (Order 2213), § 275-38-865, filed 3/6/85; WSR 84-19-042 (Order 2150), § 275-38-865, filed 9/17/84; WSR 83-17-074 (Order 2012), § 275-38-865, filed 8/19/83; WSR 82-16-080 (Order 1853), § 275-38-865, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-435 Maximum allowable compensation of certain administrative personnel. [WSR 99-19-104, recodified as § 388-835-435, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 84-19-042 (Order 2150), § 275-38-868, filed 9/17/84. Formerly WAC 275-38-730.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-440 Management agreements, management fees, central office services, and board of directors. [WSR 99-19-104, recodified as § 388-835-440, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-869, filed 6/1/88; WSR 84-19-042 (Order 2150), § 275-38-869, filed 9/17/84. Formerly WAC 275-38-740.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-445 Administration and operations rate component. [WSR 99-19-104, recodified as § 388-835-445, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 85-06-063 (Order 2213), § 275-38-870, filed 3/6/85; WSR 84-19-042 (Order 2150), § 275-38-870, filed 9/17/84; WSR 83-17-074 (Order 2012), § 275-38-870, filed 8/19/83; WSR 82-16-080 (Order 1853), § 275-38-870, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-450 Property rate component. [WSR 99-19-104, recodified as § 388-835-450, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 86-01-008 (Order 2312), § 275-38-875, filed 12/5/85; WSR 85-06-063 (Order 2213), § 275-38-875, filed 3/6/85; WSR 84-19-042 (Order 2150), § 275-38-875, filed 9/17/84; WSR 83-17-074 (Order 2012), § 275-38-875, filed 8/19/83; WSR 82-16-080 (Order 1853), § 275-38-875, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-455 Return on equity. [WSR 99-19-104, recodified as § 388-835-455, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-880, filed 6/1/88; WSR 84-19-042 (Order 2150), § 275-38-880, filed 9/17/84; WSR 83-17-074 (Order 2012), § 275-38-880, filed 8/19/83; WSR 82-16-080 (Order 1853), § 275-38-880, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-460 Upper limits to reimbursement rate. [WSR 99-19-104, recodified as § 388-835-460, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-885, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-465 Principles of settlement. [WSR 99-19-104, recodified as § 388-835-465, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-886, filed 6/1/88; WSR 85-06-063 (Order 2213), § 275-38-886, filed 3/6/85; WSR 84-19-042 (Order 2150), § 275-38-886, filed 9/17/84; WSR 83-17-074 (Order 2012), § 275-38-886, filed 8/19/83.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-470 Procedures for overpayments and underpayments. [WSR 99-19-104, recodified as § 388-835-470, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-887, filed 6/1/88.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-475 Preliminary settlement. [WSR 99-19-104, recodified as § 388-835-475, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-888, filed 6/1/88.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-480 Final settlement. [WSR 99-19-104, recodified as § 388-835-480, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-889, filed 6/1/88.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.
- 388-835-485 Interim rate. [WSR 99-19-104, recodified as § 388-835-485, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-890,

filed 6/1/88; WSR 84-19-042 (Order 2150), § 275-38-890, filed 9/17/84.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-490 Final payment. [WSR 99-19-104, recodified as § 388-835-490, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-892, filed 6/1/88; WSR 84-19-042 (Order 2150), § 275-38-892, filed 9/17/84.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-495 Notification of rates. [WSR 99-19-104, recodified as § 388-835-495, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-895, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-500 Adjustments required due to errors or omissions. [WSR 99-19-104, recodified as § 388-835-500, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-900, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-900, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-505 Receivership. [WSR 99-19-104, recodified as § 388-835-505, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-903, filed 6/1/88.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-510 Adjustments to prospective rates. [WSR 99-19-104, recodified as § 388-835-510, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 93-17-034 (Order 3616), § 275-38-906, filed 8/11/93, effective 9/11/93; WSR 90-15-017 (Order 3037), § 275-38-906, filed 7/12/90, effective 8/12/90; WSR 88-12-087 (Order 2629), § 275-38-906, filed 6/1/88.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-515 Public review of rate-setting methods and standards. [WSR 99-19-104, recodified as § 388-835-515, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-910, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-520 Public disclosure of rate-setting methodology. [WSR 99-19-104, recodified as § 388-835-520, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-915, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-525 Billing period. [WSR 99-19-104, recodified as § 388-835-525, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-920, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-530 Billing procedures. [WSR 99-19-104, recodified as § 388-835-530, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-925, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-925, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-535 Charges to residents. [WSR 99-19-104, recodified as § 388-835-535, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-930, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-540 Payment. [WSR 99-19-104, recodified as § 388-835-540, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-935, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-545 Suspension of payment. [WSR 99-19-104, recodified as § 388-835-545, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-940, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-940, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-550 Termination of payments. [WSR 99-19-104, recodified as § 388-835-550, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-945, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-945, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-555 Disputes. [WSR 99-19-104, recodified as § 388-835-555, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 82-16-080 (Order 1853), § 275-38-950, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-560 Recoupment of undisputed overpayments. [WSR 99-19-104, recodified as § 388-835-560, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-955, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-955, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

388-835-565 Administrative review—Adjudicative proceeding. [WSR 99-19-104, recodified as § 388-835-565, filed 9/20/99, effective 9/20/99. Statutory Authority: RCW 34.05.220 (1)(a) and 71.12.030 [71A.12.030]. WSR 90-04-074 (Order 2997), § 275-38-960, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.09.120. WSR 88-12-087 (Order 2629), § 275-38-960, filed 6/1/88; WSR 82-16-080 (Order 1853), § 275-38-960, filed 8/3/82.] Repealed by WSR 01-10-013, filed 4/20/01, effective 5/21/01. Statutory Authority: RCW 71A.20.140.

## PURPOSE

**WAC 388-835-0005 What is the purpose of this chapter?** (1) The purpose of this chapter is to establish rules authorized by Title 71A RCW, Developmental disabilities that:

(a) Regulate the purchase and provision of services in intermediate care facility for those with an intellectual disability (ICF/ID); and

(b) Assure adequate ICF/ID care, service, and protection are provided through licensing and certification procedures; and

(c) Establish standards for providing habilitative training, health-related care, supervision, and residential services to eligible persons.

(2) Except where specifically referenced, this chapter supersedes and replaces any and all sections affecting ICF/ID facilities or programs contained in chapter 388-96 WAC.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0005, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0005, filed 4/20/01, effective 5/21/01.]

## DEFINITIONS

**WAC 388-835-0010 What terms and definitions are important to understanding this chapter?** Unless the context clearly requires otherwise, the following terms and definitions are used consistently throughout the chapter:

**"Accrual method of accounting"** is a method of accounting where:

(1) Revenues are reported when they are earned, regardless of when they are collected; and

(2) Expenses are reported when they are incurred, regardless of when they are paid.

**"Active treatment,"** as used in this chapter, is defined in 42 C.F.R. 483.440(a) and includes implementation of an individual program plan for each resident as outlined in 42 C.F.R. 483.440 (c) through (f).

**"Administration and management"** means activities used to maintain, control, and evaluate an organization's use of resources while pursuing its goals, objectives and policies.

**"Admission"** means entering a state-certified facility and being authorized to receive services from it.

**"Allowable costs"** are documented costs that:

(1) Are necessary, ordinary, and related to providing ICF/ID services to ICF/ID residents; and

(2) Not expressly declared **"nonallowable"** by applicable statutes or regulations.

**"Appraisal"** is a process performed by a professional person either designated by the American Institute of Real Estate Appraisers as a member, appraisal institute (MAI), or by the Society of Real Estate Appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). The appraisal process is used to establish

the fair market value of an asset or to reconstruct the historical cost of an asset that was acquired in a past period. The appraisal process includes recording and analyzing property facts, rights, investments and values based on a personal inspection and a property inventory.

**"Arm's-length transaction"** is a transaction resulting from good faith bargaining between a buyer and seller who hold adverse positions in the market place. Arm's-length transactions are presumed to be objective transactions. A sale or exchange of ICF/ID or nursing home facilities among two or more parties where all parties continue to own one or more of the facilities involved in the transaction is not considered an arm's-length transactions. The sale of an ICF/ID facility that is subsequently leased back to the seller within five years of the date of sale is not considered an arm's-length transaction for purposes of chapter 388-835 WAC.

**"Assets"** are economic resources of the provider, recognized, and measured in conformity with generally accepted accounting principles. Assets also include deferred charges that are recognized and measured according to generally accepted accounting principles. (The value of assets acquired in a change of ownership transaction entered into after September 30, 1984, cannot exceed the acquisition cost of the owner of record as of July 18, 1984.)

**"Bad debts"** or **"uncollectable accounts"** are amounts considered uncollectable from accounts and notes receivable. Generally accepted accounting principles must be followed when accounting for bad debts.

**"Beds,"** unless otherwise specified, means the number of set-up beds in an ICF/ID facility. The number of set-up beds cannot exceed the number of licensed beds for the facility.

**"Beneficial owner":** For a definition, see WAC 388-835-0015.

**"Assisted living facility"** means any home or other institution licensed according to the requirements of chapter 18.20 RCW.

**"Capitalization"** means recording expenditures as assets.

**"Capitalized lease"** is a lease that is recorded, according to generally accepted accounting principles, as an asset with an associated liability.

**"Cash method of accounting"** is a method of accounting where revenues are recorded only when cash is received and expenses are not recorded until cash is paid.

**"Change of ownership,"** see WAC 388-835-0020.

**"Charity allowances"** are reductions in a provider's charges because of the indigence or medical indigence of a resident.

**"Consent"** means the process of obtaining a person's permission before initiating procedures or actions against that person.

**"Contract"** means a contract between the department and a provider for the delivery of ICF/ID services to eligible medicaid recipients.

**"Courtesy allowances"** are reductions in charges to physicians, clergy, and others for services received from a provider. Employee fringe benefits are not considered courtesy allowances.

**"Custody"** means the immediate physical confinement, sheltering and supervision of a person in order to provide them with care and protect their welfare.

**"DDA"** means the developmental disabilities administration of the department.

**"Department"** means the department of social and health services (DSHS) and its employees.

**"Depreciation"** is the systematic distribution of the cost (or depreciable base) of a tangible asset over its estimated useful life.

**"Discharge"** means the process that takes place when:

- (1) A resident leaves a residential facility; and
- (2) The facility relinquishes any responsibility it acquired when the resident was admitted.

**"Donated asset"** is an asset given to a provider without any payment in cash, property, or services. An asset is not considered donated if the provider makes a nominal payment when acquiring it. An asset purchased using donated funds is not a donated asset.

**"Entity"** means an individual, partnership, corporation, public institution established by law, or any other association of individuals, capable of entering into enforceable contracts.

**"Equity capital"** is the total tangible and other assets that are necessary, ordinary, and related to resident care listed on a provider's most recent cost report minus the total related long-term debt from the same cost report plus working capital as defined in this section.

**"Exemption"** means a department approved written request asking for an exception to a rule in this chapter.

**"Facility"** means a residential setting certified, according to federal regulations, as an ICF/ID by the department. A state facility is a state-owned and operated residential living center. A private facility is a residential setting licensed as a nursing home under chapter 18.51 RCW or a boarding home licensed under chapter 18.20 RCW.

**"Fair market value"** is the purchase price of an asset resulting from an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

**"Financial statements"** are statements prepared and presented according to generally accepted accounting principles and practice and the requirements of this chapter. Financial statements and their related notes include, but are not limited to, balance sheet, statement of operations, and statement of change in financial position.

**"Fiscal year"** is the operating or business year of a provider. Providers report on the basis of a twelve-month fiscal year, but this chapter allows reports covering abbreviated fiscal periods.

**"Funded capacity,"** for a state facility, is the number of beds on file with the office of financial management.

**"Generally accepted accounting principles"** are the accounting principles currently approved by the financial accounting standard board (FASB).

**"Generally accepted auditing standards"** are the auditing standards currently approved by the American Institute of Certified Public Accountants (AICPA).

**"Goodwill"** is the excess of the purchase price of a business over the fair market value of all identifiable, tangible, and intangible assets acquired.

**"Goodwill"** also means the excess of the price paid for an asset over fair market value.

**"Habilitative services"** means those services required by an individual habilitation plan.

**"Harmful"** is when an individual is at immediate risk of serious bodily harm.

**"Historical cost"** is the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

**"Imprest fund"** is a fund:

- (1) Regularly replenished for the amounts expended from it; and

(2) The cash in the fund and the receipts for expenditures should always equal a predetermined amount.

(3) An example of an imprest fund is a petty cash fund.

**"ICF/ID"** means a facility certified by Title XIX as an intermediate care facility for providing services to persons with mental retardation or related conditions.

**"Interest"** is the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the borrower.

**"Joint facility costs"** are any expenses incurred that benefit more than one facility or a facility and any other entity.

**"Lease agreement"** is a contract for a specified period of time between two parties regarding the possession and use of real or personal property and/or assets in exchange for specified periodic payments.

**"Medicaid program"** means either the state medical assistance program provided under RCW 74.09.500 or authorized state medical services.

**"Medical assistance recipient"** is an individual that the department declares eligible for medical assistance services provided in chapter 74.09 RCW.

**"Modified accrual method of accounting"** is a method of accounting that records revenues only when cash is received and records expenses when they are incurred, regardless of when they are paid.

**"Net book value"** is the historical cost of an asset less its accumulated depreciation.

**"Nonallowable costs"** are costs that are not documented, necessary, ordinary and related to providing services to residents.

**"Nonrestricted funds"** are donated funds not restricted to a specific use by the donor. General operating funds are an example of non-restricted funds.

**"Nursing facility"** means a home, place, or institution, licensed or certified according to chapter 18.51 RCW.

**"Operating lease"** is a lease, according to generally accepted accounting principles, that requires rental or lease payments to be charged to current expenses when they are incurred.

**"Ordinary costs"** are costs that, by their nature and magnitude, a prudent and cost conscious management would pay.

**"Owner"** means a sole proprietor, general or limited partner, or beneficial interest holder of at least five percent of a corporation's outstanding stock.

**"Ownership interest"** means all beneficial interests owned by a person (calculated in the aggregate) regardless of the form such beneficial ownership takes. Also, see WAC 388-835-0015.

**"Per diem costs"** or **"per resident day costs"** are total allowable costs for a fiscal period divided by total resident days for that same period.

**"Prospective daily payment rate"** is the daily amount the department assigns to each provider for providing services to ICF/ID residents. The rate is used to compute the department's maximum participation in the provider's cost.

**"Provider"** means an entity contracting with the department to deliver ICF/ID services to eligible medicaid recipients.

**"Qualified intellectual disability professional (QIDP)"** means QIDP as defined under 42 C.F.R. 483.430(a).

**"Qualified therapist,"** see WAC 388-835-0030.

**"Regression analysis"** is a statistical technique used to analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

**"Regional services"** are the services of a local office of the developmental disabilities administration.

**"Related organization"** is an entity that either controls another entity or is controlled by another entity or provider. Control results from common ownership or the ability to exercise significant influence on the other entity's activities. Control occurs when an entity or provider has:

- (1) At least a five percent ownership interest in the other entity; or
- (2) The ability to influence the activities of the other.

**"Relative"** means spouse; natural parent, child, or sibling; adopted child or adoptive parent; stepparent, stepchild, stepbrother, stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; uncle, aunt, nephew, niece, or cousin.

**"Resident"** or **"person"** means a person the administration determines is, under RCW 71A.16.040 eligible for administration-funded services.

**"Resident day"** means a calendar day of resident care. When computing calendar days of resident care, the day of admission is always counted. The day of discharge is counted only when discharge and admission occur on the same day. For the purpose of this definition, a person is considered admitted when they are assigned a bed and a resident record is opened for them.

**"Resident care and training staff"** are staff whose primary responsibility is the care and development of the residents, including:

- (1) Resident activity program;
- (2) Domiciliary services; and
- (3) Habilitative services under the supervision of a QIDP.

**"Restricted fund"** is a fund where the donor restricts the use of the fund principal or income to a specific purpose. Restricted funds generally fall into one of three categories:

- (1) Funds restricted to specific operating purposes; or
- (2) Funds restricted to additions of property, plant, and equipment; or
- (3) Endowment funds.

**"RHC"** - Residential habilitation center. A facility owned and operated by the state and is certified as an ICF/ID or a nursing facility.

**"Secretary"** means the secretary of DSHS.

**"Start-up costs"** are the one-time costs incurred from the time preparations begin on a newly constructed or purchased building until the first resident is admitted. Such **"preopening"** costs include, but are not limited to, administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, and training costs. Start-up costs do not include expenditures for capital assets.

**"Superintendent"** means the superintendent of a residential habilitation center (RHC) or the superintendent's designee.

**"Title XIX"** means the 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

**"Uniform chart of accounts"** means a list of department established account titles and related code numbers that providers must use when reporting costs.

**"Vendor number"** or **"provider number"** is a number assigned by the department to each provider who delivers ICF/ID services to ICF/ID medicaid recipients.

**"Working capital"** is the difference between the total current assets that are necessary, ordinary, and related to resident care, as reported in a provider's most recent cost report, and the total current liabilities necessary, ordinary, and related to resident care reported in the same cost report.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0010, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0010, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0015 What is a "beneficial owner"?** A beneficial owner is any person who:

(1) Has or shares, by contract, arrangement, understanding, relationship, or otherwise, the power to:

(a) Vote or direct the voting of an ownership interest; and/or

(b) Invest, including the power to dispose of or direct the disposition of an ownership interest.

(2) Creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device to divest a beneficial owner of their ownership or prevent the vesting of their ownership in order to evade the reporting requirements of this chapter;

(3) Has the right to acquire a beneficial ownership interest within sixty days of one of the following occurring:

(a) Exercising any option, warrant, or right;

(b) Converting an ownership interest;

(c) Revoking a trust, discretionary account, or similar arrangement; or

(d) Automatically terminating a trust, discretionary account, or similar arrangement.

(e) Any person acquiring an ownership interest by exercising (a), (b) or (c) of this subsection must be deemed the beneficial owner of that interest.

(4) In the ordinary course of business, according to a written pledge agreement, becomes a pledge of an ownership interest. A pledge must not be deemed the beneficial owner of a pledged ownership interest except when all of the following conditions are met:

(a) The pledge must follow all the steps in the pledge agreement and:

(i) Declare a default and determine the power to vote;

(ii) Direct the vote; or

(iii) Dispose of the pledged ownership interest; or

(iv) Direct how the disposition of the pledged ownership interest will take place.

(b) The agreement must:

(i) Be bona fide;

(ii) Not change or influence a provider's control; and

(iii) Not be related to any transaction attempting to change or influence a provider's control.

(c) The agreement, before default, cannot grant the pledge the power to:

(i) Vote or direct the vote of the pledged ownership interest; or



(ii) Dispose or direct the disposition of the pledged ownership interest except where credit is extended and the pledge is a broker or dealer.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0015, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0020 What is a "change in ownership"?** (1) A "change in ownership" is a change in the individual or legal organization responsible for the daily operation of an ICF/ID facility.

(2) Types of events causing a change in ownership include but are not limited to:

(a) Changing the form of legal organization of the owner, such as a sole proprietorship becomes a partnership or corporation;

(b) Transferring the title to the ICF/ID enterprise from the provider to another party;

(c) Leasing the ICF/ID facility to another party or an existing lease is terminated;

(d) When the provider is a partnership, any event that dissolves the partnership;

(e) When the provider is a corporation and the corporation:

(i) Is dissolved;

(ii) Merges with another corporation which is the survivor; or

(iii) Consolidates with one or more other corporations to form a new corporation.

(3) Ownership does not change when:

(a) The provider contracts with another party to manage the facility and act as the provider's agent subject to the provider's general approval of daily operating decisions; or

(b) When the provider is a corporation, some or all of its corporate stock is transferred.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0020, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0020, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0025 How can lease agreements be terminated?** (1) Lease agreements can be terminated by:

(a) Eliminating or adding parties to the agreement;

(b) Expiration of the agreement;

(c) Modifying of any lease term in the agreement;

(d) Terminating the agreement by any means by either party; or

(e) Extending or renewing the agreement, even if done according to its renewal provision, creates a new agreement and effectively terminates the old one.

(2) A strictly formal change in a lease agreement modifying the method, frequency, or manner in which lease payments are made without increasing the total payment obligation of the lessee is not considered a modification of the lease terms.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0025, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0030 What is a "qualified therapist"?** A qualified therapist is any of the following:

- (1) An activity specialist who has department specified specialized education, training, or experience;
- (2) An audiologist eligible for a certificate of clinical competency in audiology or possessing the equivalent education and clinical experience;
- (3) A dental hygienist defined, licensed and regulated by chapter 18.29 RCW;
- (4) A dietitian either:
  - (a) Eligible for registration by the American Dietetic Association under requirements in effect on January 17, 1974; or
  - (b) With a baccalaureate degree whose major studies covered food and nutrition, dietetics, or food service management; plus one year supervisory experience in the dietetic service of a health care institution; and annual participation in continuing dietetic education;
- (5) An occupational therapist who graduated from a program in occupational therapy or who possesses the equivalent of such education or training and meets all Washington state legal requirements;
- (6) A pharmacist who is licensed by the Washington state board of pharmacy to engage in the practice of pharmacy;
- (7) A physical therapist, meaning someone practicing physical therapy as defined in RCW 18.74.010(3). Physical therapist does not include massage operators as defined in RCW 18.108.010;
- (8) A physician as defined, licensed and regulated by chapter 18.71 RCW or an osteopathic physician as defined, licensed and regulated by chapter 18.57 RCW;
- (9) A psychologist as defined, licensed and regulated by chapter 18.83 RCW;
- (10) A qualified intellectual disability professional;
- (11) A registered nurse as defined by chapter 18.88A RCW;
- (12) A social worker who is a graduate of a school of social work; or
- (13) A speech pathologist either:
  - (a) Eligible for a certificate of clinical competence in speech pathology; or
  - (b) Possessing the equivalent education and clinical experience.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0030, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0030, filed 4/20/01, effective 5/21/01.]

#### **EXEMPTIONS**

**WAC 388-835-0035 Does DSHS grant exemptions to these rules?** (1) DSHS may approve an exemption to a specific rule in this chapter if an:

- (a) Assessment of the request concludes that the exemption will not undermine the legislative intent of Title 71A RCW, Developmental disabilities; and
- (b) Evaluation of the request shows that the exemption will not adversely effect the quality of service, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers must retain a copy of each department-approved exemption.

(3) Actions regarding exemption requests are not subject to appeal.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0035, filed 4/20/01, effective 5/21/01.]

## **GENERAL REQUIREMENTS**

**WAC 388-835-0040 What general requirements apply to ICF/MR care facilities?** The following general requirements apply:

(1) The administration will recognize only the official name of an ICF/ID as shown on the license.

(2) All state and private ICF/ID facilities must be certified as a Title XIX ICF/ID facility.

(3) All private ICF/ID facilities with a certified capacity of at least sixteen beds must be licensed as a nursing home under chapter 18.51 RCW, Nursing homes.

(4) All private ICF/ID facilities with a certified capacity of less than sixteen beds must be licensed as a boarding home for the aged under chapter 18.20 RCW.

(5) All facilities certified to provide ICF/ID services must comply with all applicable Title XIX, Section 1905 of the Social Security Act 42 U.S.C federal regulations as amended. In addition, all private-operated facilities must comply with state regulation governing the licensing of nursing homes or boarding homes for the aged and any other relevant state regulations.

(6) All certified facilities must only admit persons with developmental disabilities as residents.

(7) State facilities may not exceed funded capacity unless authorized by the secretary to do so (see RCW 71A.20.090).

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0040, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0040, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0045 What are the minimum staff requirements for an ICF/ID facility?** All ICF/ID facilities must provide sufficient number of qualified staff to meet the needs of their residents.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0045, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0045, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0050 What general requirements apply to the quality of ICF/ID services?** (1) DSHS is responsible for assuring the:

(a) Health care and habilitative training needs of an individual are identified and met according to state and federal regulations.

(b) Individual is placed in a facility certified as capable of meeting their needs.

(2) DDA regional service staff is responsible for authorizing changes in residential services.

(3) All services provided must be essential to the resident's habilitation and health care needs and to achieving the primary goal of attaining the highest level of independence possible for each individual resident.

(4) A resident in an ICF/ID is eligible for community residential services when such services meet their needs.

(5) Every ICF/ID must provide habilitative training and health care that at least includes the following:

(a) Active treatment;

(b) Services according to the identified needs of the individual resident and provided by or under the supervision of qualified therapists;

(c) Routine items and supplies provided uniformly to all residents;

(d) Providing necessary surgical appliances, prosthetic devices, and aids to mobility for the exclusive use of individual residents;

(e) Nonreusable supplies not usually provided to all residents may be individually ordered. A department representative must authorize requests for such supplies.

(6) Each ICF/ID facility is responsible for providing transportation for residents. This responsibility may include the guarantee of a resident's use of public transportation.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0050, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0050, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0055 What are the resident's rights if DSHS decides that they are no longer eligible for ICF/ID services?** (1) A resident, their guardian, next-of-kin, or responsible party must be informed by DSHS in writing thirty days before any redetermination of their eligibility for ICF/ID services takes place.

(2) The redetermination notice must include:

(a) The reasons for the proposed eligibility change;

(b) A statement that the resident or any other individual designated by the resident has a right to a conference with a DDA representative within thirty days of receipt of the notice;

(c) A statement that the resident has the right to request a hearing to contest the department's decision within thirty days of the notice;

(d) Information as to how a hearing can be requested;

(e) A statement that the resident has the right to be represented at the hearing by an authorized representative; and

(f) Information regarding the availability and location of legal services within the resident's community.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0055, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0055, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0060 What are DSHS responsibilities when it decides to redetermine a resident eligibility for ICF/ID services?** DSHS must send a hearing request form with the notice of redetermination.

(1) If the resident requests a hearing within the thirty-day time period, DSHS must not redetermine eligibility until a hearing decision is reached or appeal rights have been exhausted unless redetermination is warranted by the resident's health or safety needs.

(2) If the secretary or the secretary's designee concludes that redetermination is not appropriate, no further action will be taken to redetermine eligibility unless there is a change in the situation or circumstances. If there is a change in the situation or circumstances, the request may be resubmitted.

(3) If the secretary or the secretary's designee affirms the decision to change the resident's eligibility and no judicial review is filed within thirty days of the receipt of notice of redetermination, the department must proceed with the planned action.

(4) If the secretary or secretary's designee affirms the decision to change the resident's eligibility and a request for judicial review has been filed, any proposed redetermination must be delayed until the appeal process is complete unless a delay jeopardizes the resident's health or safety.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0060, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0060, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0065 Do residents always have a right to a hearing?**

Advance notice and planning does not include a right to a hearing for a resident when the department concludes that the facility where the resident resides cannot provide Title XIX services due to:

- (1) Termination of the facility's contract;
- (2) Decertification of the facility;
- (3) Nonrenewal of the facility's contract;
- (4) Revocation of the facility's license; or
- (5) An emergency suspension of the facility's license.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0065, filed 4/20/01, effective 5/21/01.]

**~~PLACEMENT—TRANSFER—RELOCATION—DISCHARGE~~**

**WAC 388-835-0070 What requirements apply to the placement of individuals in an ICF/ID facility?** (1) Placing individuals in an ICF/ID facility is the responsibility of the developmental disabilities administration and must be done according to applicable federal and state regulations.

(2) A facility may not admit an individual who requires services the facility cannot provide.

(3) Department representatives must determine an individual's eligibility for ICF/ID services before payment can be approved.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0070, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0070, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0075 What if an individual is transferred between facilities?** (1) When an individual is transferred between facilities, all essential information concerning the individual, their condition, regimen of care and training must be transmitted, in writing, by the sending facility to the receiving facility at the time of the transfer.

- (2) "Transferred between facilities" means transferred from:
- (a) An ICF/ID to ICF/ID;
  - (b) An ICF/ID to a hospital;
  - (c) A hospital to an ICF/ID; or
  - (d) An ICF/ID or hospital to alternative community placement.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0075, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0075, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0080 What if an ICF/ID facility is closed?** (1) When a facility plans to close, it must notify the department, in writing, at least one hundred and eighty days before the date of closure.

(2) Upon receipt of a notice of closure, the department must stop referring individuals to the facility and begin the orderly transfer of its residents.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0080, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0080, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0085 Why is an individual transferred or discharged?** An individual admitted to a facility can be transferred or discharged only for:

- (1) Medical reasons;
- (2) A change in the individual's habilitation needs;
- (3) The individual's welfare;
- (4) The welfare of other residents;
- (5) At the request of the resident or legal guardian;
- (6) Partial closure of the facility; or
- (7) Closure of the facility.

[Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-835-0085, filed 7/23/04, effective 8/23/04. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0085, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0090 What is the basis of the decision to transfer or discharge an individual?** The decision to transfer or discharge an individual must be based on:

- (1) An assessment of the resident in consultation with the service provider and the parent or guardian; and
- (2) A review of the relevant records; or
- (3) Partial closure of the facility; or
- (4) Closure of the facility.

[Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-835-0090, filed 7/23/04, effective 8/23/04. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0090, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0095 Is a transfer plan required for each resident?**

- (1) DDA must prepare a written plan for each resident to be transferred.
- (2) These plans must:
  - (a) Identify the location of available facilities that provide services appropriate and consistent with the resident's needs;
  - (b) Provide for coordination between the staffs of the old and new agencies;
  - (c) Allow for a pre-transfer visit, when the resident's condition permits, to the new facility, so the resident can become familiar with the new surroundings and residents;
  - (d) Encourage active participation by the resident's guardian or family in the transfer preparation;
  - (e) Facilitate discussions between the staffs of the old and new facilities regarding expectations;
  - (f) Provide opportunities for consultations on request between the two staffs; and
  - (g) Require follow-up by DDA to monitor the effects of the transfer.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0095, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0095, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0100 Why would an individual move?** An individual may move if:

- (1) The services provided to an individual do not meet their needs;
- (2) A facility's ICF/ID certification or license is revoked or suspended;
- (3) Medical reasons dictate relocation;
- (4) A resident's welfare would be improved;
- (5) The welfare of the other residents would be enhanced;
- (6) There is no payment for services provided to the resident during their stay at the facility;
- (7) The resident and/or guardian make a formal request;
- (8) The facility is partially closing; or
- (9) The facility is closing.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0100, filed 4/15/15, effective 5/16/15. Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-835-0100, filed 7/23/04, effective 8/23/04. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0100, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0105 What are DSHS' responsibilities for placing individuals?** (1) When services available to an individual do not meet their needs, the department is responsible for initiating and facilitating the resident's relocation.

(2) The department may enforce immediate movement of a resident from an ICF/ID facility when the facility's ICF/ID certification or license is revoked or suspended.

(3) The department must notify a resident and their guardian, next of kin, or responsible party, in writing, when:

(a) DSHS or Centers for Medicare and Medicaid (CMS) determines a facility no longer meets certification requirements as an ICF/ID;

(b) DSHS determines the facility does not meet contract requirements; or

(c) A facility voluntarily terminates their contract with DSHS or stops participating in the ICF/ID program.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0105, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0105, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0110 Is DSHS required to give written notice when it intends to transfer an individual?** (1) WAC 388-835-0055 requires that DSHS give the resident and their guardian, next of kin, or responsible party thirty days notice, in writing, of its intent to transfer the resident.

(2) If there is a serious and immediate threat to the resident's health or safety, DSHS is not required to give the resident and their guardian, next of kin, or responsible party thirty days notice of its intent to transfer the resident.

[Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-835-0110, filed 7/25/02, effective 8/25/02. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0110, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0115 Can a facility request that an individual be transferred?** Facilities can request that a resident be transferred for the following reasons:

(1) Medical reasons;

(2) A change in the individual's habilitation needs;

(3) The individual's welfare;

(4) The welfare of the other residents;

(5) Nonpayment for services provided to the resident during the resident's stay at the facility;



- (6) The facility is partially closing; or
- (7) The facility is closing.

[Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-835-0115, filed 7/23/04, effective 8/23/04. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0115, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0120 What steps must be followed when a facility makes a transfer request?** The following steps apply when a facility wants a resident transferred:

- (1) The facility must send their request to the department in writing. The request must explain why the relocation is necessary and document that the interdisciplinary team responsible for developing the resident's habilitation plans agrees with the request.
- (2) DSHS must approve or deny the request within fifteen working days of receiving it. The department's decision must be based upon:
  - (a) An on-site visit with the resident; and
  - (b) A review of the resident's records.
- (3) The facility administrator must be informed of the department's decision.
- (4) If the facility's request is approved, the department must give the resident and their guardian, next of kin, or responsible party thirty days notice, in writing, of it's intent to transfer the resident.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0120, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0125 Can residents request a transfer?** (1) Every resident has a right to:

- (a) Request a transfer; and
- (b) Select where they wish to move.
- (2) If the resident's selection is available and appropriate to their habilitation and health care needs, the department must make all reasonable attempts to accomplish transfer.
- (3) If the selection is neither appropriate nor available, the resident may make another selection.
- (4) All requests by the resident or their guardian must be in writing.
- (5) DDA is solely responsible for arranging the resident's transfer.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0125, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0125, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0130 What rights are available to a resident regarding a proposed transfer?** (1) A resident, their guardian, next-of-kin, or responsible party must be notified in writing at least thirty days before any transfer occurs.

- (2) The transfer notice must include:
  - (a) The reasons supporting the proposed transfer;

(b) A statement that the resident or any other individual designated by the resident has a right to a conference with a DDA representative within twenty-eight days of receipt of the notice;

(c) A statement that the resident has the right to request a hearing to contest the department's decision within thirty days of the notice;

(d) Information as to how a hearing can be requested;

(e) A statement that the resident has the right to be represented at the hearing by an authorized representative; and

(f) Information regarding the availability and location of legal services within the resident's community.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0130, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0130, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0140 Do residents always have a right to a hearing?**

Advance notice and planning does not include a right to a hearing for a resident when the department concludes that the facility where the resident resides cannot provide Title XIX services due to:

- (1) Termination of the facility's contract;
- (2) Decertification of the facility;
- (3) Nonrenewal of the facility's contract;
- (4) Revocation of the facility's license;
- (5) An emergency suspension of the facility's license;
- (6) Partial closure of the facility; or
- (7) Closure of the facility.

[Statutory Authority: Chapter 71A.20 RCW, RCW 71A.12.080, 71A.20.140, 2003 1st sp.s. c 25 § 205. WSR 04-16-018, § 388-835-0140, filed 7/23/04, effective 8/23/04. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0140, filed 4/20/01, effective 5/21/01.]

**DISCHARGE/READMISSION AND INCIDENT REPORTING**

**WAC 388-835-0145 Does a facility have a responsibility to report incidents involving residents?** Any facility that has an ICF/ID contract with DSHS must immediately contact their DDA regional services office regarding unauthorized leaves, disappearances, serious accidents, or other traumatic incidents effecting a resident or the resident's health or welfare.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0145, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0145, filed 4/20/01, effective 5/21/01.]

**SOCIAL LEAVE FOR ICF/ID RESIDENTS**

**WAC 388-835-0155 What requirements apply to social leaves for ICF/ID residents?** (1) All social leaves should be consistent with the goals and objectives in the resident's individual habilitation plan.

(2) Any facility vacancies resulting from a resident's social leave will be reimbursed if the leave complies with the individual habilitation plan and the following conditions:

(a) The facility must notify the DDA assistant secretary or their designee of all social leaves exceeding fifty-three hours.

(b) All social leaves exceeding seven consecutive days must receive prior written approval from the DDA assistant secretary or their designee.

(c) The DDA assistant secretary or their designee must give written approval before a resident can accumulate more than seventeen days of social leave per year.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0155, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0155, filed 4/20/01, effective 5/21/01.]

#### **SUPERINTENDENT'S AUTHORITY TO DETAIN A RESIDENT**

**WAC 388-835-0160 Can residential habilitation center (RHC) superintendents involuntarily detain residents?** (1) When an RHC resident decides to initiate a voluntarily discharge, the superintendent must determine if the discharge is harmful to the resident.

(2) If the superintendent concludes that the discharge is harmful, they may detain the resident for up to forty-eight hours until the harm passes. The superintendent may also refer the resident to a mental health professional as defined in RCW 71.05.150.

(3) At the end of the forty-eight hour detention period, the superintendent must release the resident.

(4) If, within six months, the superintendent detains the resident a second time, they must refer the resident to a mental health professional within eight hours of the second detention. During this second detention, the resident may only be held until the mental health professional:

(a) Investigates and evaluates the specific facts surrounding the situation; and

(b) Determines if further detention is necessary (see RCW 71.05.150).

(5) Nothing in this section prevents a superintendent or their designee from allowing a resident to leave the RHC for specified periods necessary for their habilitation or care.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0160, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0165 Is a superintendent required to give notice when they detain a resident?** (1) When a superintendent detains an RHC resident, the superintendent or their designee must notify the resident and their legal representative as required in RCW 71A.10.070.

(2) If the resident's legal representative is not available, the superintendent must also notify one or more of the following persons in the order of priority listed:

- (a) A parent of the resident;
- (b) Other persons of close kinship relationship to the resident;
- (c) The Washington protection and advocacy agency for the rights of a person with a developmental disability, appointed in compliance with 42 U.S.C. section 6042; or
- (d) A person, who is not a DSHS employee or an ICF/ID but who, in the superintendent's opinion, is concerned with the resident's welfare.

(3) Nothing in this section prevents a superintendent from notifying:

- (a) A mental health professional;
- (b) Local law enforcement;
- (c) Adult protective services;
- (d) Child protective services;
- (e) Other agencies as appropriate; or
- (f) Assistant secretary, developmental disabilities administration, or designee.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0165, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0165, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0170 What is a superintendent's responsibility when a resident voluntarily leaves an RHC?** When a resident voluntarily leaves RHC programs and services, the superintendent must initiate discharge proceedings.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0170, filed 4/20/01, effective 5/21/01.]

### ICF/ID CONTRACTS

**WAC 388-835-0175 What if a facility violates its ICF/ID contract?** (1) If a facility violates the terms of their contract, DSHS may temporarily suspend referring residents to it.

(2) Whenever DSHS suspends referrals it must notify the facility immediately, in writing, and give the reasons for its action.

(3) The suspension may continue until DSHS determines that the circumstances leading to it have been corrected.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0175, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0175, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0180 What if an ICF/ID contract is terminated?** (1) Before a contract is terminated, the provider must give DSHS one hundred and eighty days written notice of the termination.

(2) When a contract is terminated, the provider must submit final reports to DSHS according to the requirements of WAC 388-835-0185.

(3) When notified of a contract termination, DSHS must determine, by preliminary or final settlement calculations, the amount of any overpayments made to the provider, including overpayments disputed by the provider. If preliminary or final settlements are not available for any periods before the termination date of the contract, DSHS must use available relevant information to make a reasonable estimate of any overpayments or underpayments.

(4) The provider must file a properly completed final cost report (see the requirements in WAC 388-835-0225, 388-835-0230, and 388-835-0235). This report may be audited by DSHS. A final settlement must be determined within ninety days after the audit process is completed (including any administrative review of the audit requested by the provider) or within twelve months of the termination of the contract if an audit is not performed.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0180, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-835-0180, filed 7/25/02, effective 8/25/02. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0180, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0185 Does DSHS withhold payment for services when a contract is terminated?** (1) Payment for services provided before a contract was terminated, equal to the amount determined in WAC 388-835-0180(3), may be withheld by DSHS until the provider files a properly completed final annual cost report and a final settlement has been calculated.

(2) Instead of withholding payments, DSHS may allow a provider to offer security equal to the determined and/or estimated overpayments even when the overpayments are being disputed in good faith. Types of security acceptable to DSHS are:

- (a) A surety bond issued by a bonding company acceptable to DSHS;
- (b) An assignment of funds to DSHS;
- (c) Collateral acceptable to DSHS;
- (d) A purchaser's assumption of liability for the provider's overpayment; or

(e) Any combination of (a) through (d) of this subsection.

(3) DSHS must release any payments withheld if a provider gives acceptable security equal to the determined and/or estimated overpayments.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0185, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0190 What happens to withheld payments and security from a provider when a final settlement is determined?** (1) When a final settlement is determined, security held by DSHS must be released to the provider after any related overpayments owed to the department have been paid.

(2) If the provider disagrees with the settlement and does not repay any overpayments owed, DSHS must retain security equal to the

amount of the disputed overpayments until the administrative appeal process is completed.

(3) If the total of withheld payments, bonds, and assignments is less than the total of the determined and/or estimated overpayments, the unsecured portion of the overpayments is a debt owed to the state of Washington. This debt becomes a lien against the provider's real and personal property when DSHS files with the auditor in the county where the provider resides or owns property. This lien has preference over all unsecured creditor claims against the provider.

(4) If the total existing overpayments exceed the value of the security held by DSHS, DSHS may use whatever legal means are available to recover the difference.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0190, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0195 What requirements apply to surety bonds or assigned funds used as security by a provider?** All surety bonds or assignment of funds, offered as security, must be:

(1) At least equal in amount to the determined and/or estimated overpayments minus any withheld payments even if the overpayments are the subject of a good faith dispute;

(2) Issued or accepted by a bonding company or financial institution licensed to transact business in Washington state;

(3) For a term sufficient to cover the time period needed to determine a final settlement and exhaust administrative and judicial remedies;

(4) Forfeited to DSHS if the term proves insufficient and the bond or assignment is not renewed for an amount equal to any remaining overpayment in dispute;

(5) Paid to DSHS if a properly completed final cost report is not filed by the provider or if financial records supporting this report are not retained and available to the auditor; and

(6) Paid to DSHS if the provider does not pay the refund owed within sixty days following receipt of a written demand to do so or the conclusion of any administrative or judicial proceedings held to settle the dispute.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0195, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0200 Does decertification, termination or nonrenewal of a contract stop payment of Title XIX funds?** A decertification, termination, or nonrenewal of a contract stops the payment of Title XIX funds. Actions such as these do not affect a facility's right to operate as a nursing home or boarding home, but they do disqualify the facility from operating as an ICF/ID facility and receiving federal funds.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0200, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0200, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0205 How does a change in ownership affect an ICF/ID contract with DSHS?** (1) On the effective date of a change of ownership, DSHS's contract with the former owner is terminated. The former owner must give DSHS one hundred and eighty days written notice before the contract is terminated. When a certificate of need is required for the new owner and the new owner wishes to continue to provide services to residents without interruption, a certificate of need must be obtained before the former owner submits their notice of termination (see chapter 70.38 RCW for certificate of need requirements).

(2) If the new provider plans to participate in the cost related reimbursement system, they must meet the conditions specified in WAC 388-835-0215 and submit the projected budget required in WAC 388-835-0220. The new owner's ICF/ID contract is effective on the date ownership changes.

(3) When a contract is terminated, the provider must reverse any accumulated liabilities assumed by a new owner against the appropriate accounts.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0205, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0205, filed 4/20/01, effective 5/21/01.]

#### **PROSPECTIVE COST RELATED REIMBURSEMENT SYSTEM**

**WAC 388-835-0210 What is the prospective cost related reimbursement system (PCRRS)?** PCRRS is the system used by DSHS pay for ICF/ID services provided to ICF/ID residents. Reimbursement rates for such services are determined according to the principles, methods, and standards contained in this chapter.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0210, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0210, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0215 What are the requirements for participating in PCRRS?** To participate in PCRRS, an entity responsible for operating an ICF/ID facility must:

(1) Obtain a state certificate of need as required by chapter 70.38 RCW, Health planning and development;

(2) Possess a current license to operate an appropriate facility (e.g., nursing home, boarding home);

(3) Be currently certified under Title XIX to provide ICF/ID services;

(4) Hold a current contract to provide ICF/ID services and comply with all of its provisions; and

(5) Comply with all applicable federal and state regulations, including the requirements of this chapter.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0215, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0215, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0220 What are the projected budget requirements for new providers?** (1) Unless the DDA assistant secretary approves a shorter period, each new provider must submit a one-year projected budget to DSHS at least sixty days before the contract will become effective.

(2) The projected budget must cover the twelve months immediately following the date the provider will enter the program.

(3) The projected budget must:

(a) Be prepared according to DSHS instructions;

(b) Be completed on the forms provided by DSHS; and

(c) Include all earnest money, purchase, and lease agreements involved in the change of ownership transaction.

(4) A new provider must also clearly identify, in their projected budget, all individuals and organizations having a beneficial ownership interest in the:

(a) Current operating entity;

(b) Land, building, or equipment used by the facility; and

(c) Purchasing or leasing entity.

(5) For purposes of this section, a "new provider" is one:

(a) Operating a new facility;

(b) Acquiring or assuming responsibility for operating an existing facility; or

(c) Obtaining a certificate of need approval due to an addition to or renovation of a facility.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0220, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0220, filed 4/20/01, effective 5/21/01.]

## **FILING COST REPORTS**

**WAC 388-835-0225 How should cost reports be prepared?** (1) All cost reports must be legible and reproducible. All entries must be in black or dark blue ink or submitted in an acceptable, indelible copy.

(2) All providers must complete reports according to the instructions provided by DSHS. If no specific instruction covers a particular situation, generally accepted accounting principles must be followed.

(3) All providers must use the accrual method of accounting, except for governmental institutions operated on a modified accrual basis.

(4) All revenue and expense accruals not received or paid within one hundred twenty days after the accrual is made must be reversed against the appropriate accounts, unless special circumstances are documented that justify continuing to carry all or part of the accrual (e.g., contested billings). Accruals for vacation pay, holiday pay, sick pay and taxes may be carried for longer periods if it is the provider's usual policy to do so and generally accepted accounting principles are followed.

(5) Methods of allocating costs, including indirect and overhead costs, must be consistently applied. Providers operating multiservice facilities or facilities incurring joint facility costs must allocate those costs according to the benefits received from the resources represented by those costs.



[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0225, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0230 Must a cost report be certified?** (1) Every provider cost report required by DSHS must be accompanied by a certification signed on behalf of the provider who was responsible to DSHS during the reporting period.

(2) If a provider files a federal income tax return, the person normally signing the return and the ICF/ID facility administrator must sign the certification.

(3) If someone, who is not an employee of the provider, prepares the cost report, they must submit, as part of the certification, a signed statement indicating their relationship to the provider.

(4) Only original signatures must be affixed to certifications submitted to DSHS.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0230, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0230, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0235 When are cost reports due to DSHS?** (1) Each private provider must submit an annual cost report to DSHS for the period January 1 through December 31 (calendar year) of the preceding year.

(2) Annual calendar year cost reports for a private facility must be submitted to DSHS by March 31 of the following year.

(3) Each state facility must submit an annual cost report to DSHS for the period from July 1 of the preceding year through June 30 of the current year (state fiscal year).

(4) Annual fiscal year cost reports for state facilities must be submitted to DSHS by December 31 following the end of the fiscal year.

(5) If a contract is terminated, the provider must submit a final cost report and any other reports due under subsection (2) within one hundred twenty days after the effective date of termination or the expiration of the final extension granted by DSHS (see WAC 388-835-0340). For these reports, the reporting period is January 1 of the year of termination to the effective date of termination.

(6) A new provider must submit a cost report to DSHS by March 31 of the year following the effective date of their contract or the expiration of the final extension granted by DSHS (see WAC 388-835-0340). The period to be reported is the period extending from the contract's effective date through December 31 of that year.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0235, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0240 Does DSHS grant extensions for cost reporting deadlines?** (1) DSHS, after receiving a written request stating why an extension is necessary, may grant a maximum of two thirty-day extensions for filing any required reports. However, the written request must be received at least ten days before the due date of the reports.

(2) DSHS grants extensions only when it is clear why the due date cannot be met and the circumstances requiring the extension were not foreseeable by the provider.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0240, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0245 What if a provider fails to submit a final report?** (1) If a provider does not submit a final report, all payments received by the provider for the unreported period become a debt owed to DSHS. After receiving DSHS's written demand for repayment, the provider has thirty days to repay this debt.

(2) Interest, at the rate of one percent per month on any unpaid balance, will begin to accrue thirty days after the provider receives DSHS's written demand for repayment.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0245, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0250 What if a provider submits improperly completed or late reports?** (1) All providers must submit an annual report, including their proposed settlement by cost center, that is prepared according to this chapter's requirements and DSHS instructions. If an annual cost report is not properly prepared, DSHS may return it, in whole or in part, to the provider for correction and/or completion.

(2) If DSHS does not receive a properly completed report, including any approved extensions, on or before its due date, all or part of any payments due under the contract may be withheld until the report is properly completed and received by DSHS.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0250, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0255 What if a provider files a report containing false information?** (1) Knowingly filing a report with false information (or with reason to know) is cause for termination of a provider's contract with DSHS.

(2) Any required adjustments to reimbursement rates because a false report was filed will be made according to WAC 388-835-0900.

(3) DSHS may refer for prosecution under applicable statutes, any provider who files a false report.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0255, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0260 Can providers amend annual cost reports filed with DSHS?** DSHS must consider amendments to annual reports only when:

(1) Determining allowable costs affecting a final settlement computation, and

(2) Filed before the provider receives notification that a DSHS field audit has been scheduled.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0260, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0265 Can providers file amendments if a DSHS field audit has been scheduled?** (1) A provider may file amendments after receiving a notice of a field audit only when reimbursement rates need to be adjusted because significant errors or omissions were made when they were calculated.

(2) Errors of omissions are considered "significant" if they result in a net difference of two cents or more per resident day or one thousand dollars or more in reported costs, whichever is higher, in any cost area.

(3) Only the pages requiring changes and the certification required by WAC 388-835-0335 must be filed with the amendment.

(4) Any adjustments to reimbursement rates resulting from an amended report will be made according to WAC 388-835-0885.

[Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-835-0265, filed 7/25/02, effective 8/25/02. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0265, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0270 Can providers file amendments if DSHS does not conduct a field audit?** If DSHS does not conduct a field audit and the preliminary settlement report becomes the final report, DSHS must consider amendments only when filed within thirty days after the provider receives the final settlement report.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0270, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0275 What requirements apply when amendments are filed?** (1) When amendments are filed, a provider must report:

- (a) The circumstances surrounding the amendments;
- (b) The reasons why the amendments are needed; and
- (c) All relevant supporting documentation.

(2) DSHS may refuse to consider any amendment that gives a provider a more favorable settlement or rate if the amendment is the result of:

- (a) Circumstances over which the provider has control; or
- (b) Good-faith error using the system of cost allocation and accounting in effect during the reporting period in question.

(3) Acceptance or use by DSHS of an amendment to a cost report does not release a provider from civil or criminal liability.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0275, filed 4/20/01, effective 5/21/01.]

#### MAINTAINING COST REPORT RECORDS

**WAC 388-835-0280 Do ICF/ID providers have to maintain records related to their contracts?** (1) A provider must, according to the terms of their contract, maintain adequate records so DSHS can audit reported data to verify provider compliance with generally accepted accounting principles and DSHS reimbursement principles and reporting instructions.

(2) If a provider maintains records based upon a chart of accounts other than the one established by DSHS, they must give DSHS a written schedule clearly illustrating how their individual account numbers correspond to those used by DSHS.

(3) After filing a report with DSHS, a provider must keep for five years, at a location in Washington state specified by the provider, all records supporting the report.

(4) If at the end of five years there are unresolved audit issues related to the report, the records supporting the report must be kept until the issues are resolved.

(5) Providers, according to the terms of their contract, must make records available for review upon demand by authorized personnel from DSHS and the United States Department of Health and Human Services during normal business hours at a location in Washington state specified by the provider.

(6) When a contract is terminated, final settlement must not be made until accessibility to and preservation of the provider's records within Washington state is assured.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0280, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0280, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0285 What if a provider fails to maintain records or refuses to let them be reviewed?** (1) If a provider fails to maintain adequate records or fails to allow their inspection by authorized personnel, DSHS may suspend all or part of subsequent reimbursement payments due under the contract.

(2) Once the provider complies with the recording keeping and inspection provisions of their contract, DSHS must resume current contract payments and must release payments suspended while the provider was out of compliance.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0285, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0290 Does DSHS have a responsibility to retain provider reports?** (1) DSHS must retain required reports for five years following their filing date.

(2) If at the end of five years there are unresolved audit issues surrounding a report, the report must be retained until those issues are resolved.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0290, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0295 Are the reports submitted to DSHS by providers available to the public?** According to chapter 388-01 WAC, all required financial and statistical reports submitted by ICF/ID facilities to DSHS are public documents and available to the public upon request.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0295, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0295, filed 4/20/01, effective 5/21/01.]

## **FIELD AUDITS**

**WAC 388-835-0300 What is an ICF/ID field audit?** A field audit consists of an on-site audit of the provider's financial records to verify that information provided on the cost report for the period being audited is accurate and represents allowable cost.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0300, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0300, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0305 When does DSHS schedule a field audit?** (1) DSHS may schedule cost report field audits using auditors employed by or under contract with DSHS. DSHS must notify a facility selected for an audit within one hundred twenty days after the facility submits a completed and correct cost report.

(2) DSHS must give priority to field audits of final annual reports and, whenever possible, must begin these audits within ninety days after a properly completed final annual report is received.

(3) DSHS normally notifies a provider at least ten working days before the field audit begins.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0305, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0310 When does DSHS complete a field audit?** (1) If auditors are given timely access to a ICF/ID facility and to all records necessary to conducting their audit, DSHS must complete an audit within one year:

(a) Of receiving a properly completed annual cost report; or

(b) After the facility is notified it has been selected for an audit.

(2) For a state ICF/ID, DSHS must complete a field audit within three years after a properly completed cost report is received if auditors are given timely access to the facility and all records necessary to conducting their audit.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0310, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0310, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0315 How should a provider prepare for a field audit?** (1) A provider must allow auditors access to the ICF/ID facility and all financial and statistical records. These records must be available at a location in the state of Washington specified by the provider. They must include:

(a) All income tax returns relating to the audited cost report and work papers supporting the report's data; or

(b) Work papers related to resident trust funds.

(2) The provider must reconcile reported cost data with:

(a) Applicable federal income and payroll tax returns; and

(b) The financial statements for the period covered by the report.

(c) The reconciliation must be in a form that facilitates verification by the auditors.

(3) The provider must designate and make available to the auditors at least one individual familiar with the internal operations of the facility being audited. The designated individual(s) must have sufficient knowledge and access to records to effectively respond to auditor questions and requests for information and documentation.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0315, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0315, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0320 What is the scope of a field audit?** (1) Auditors must review a provider's record keeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) Auditors must examine a provider's financial and statistical records to verify that:

(a) Supporting records are in agreement with reported data; and

(b) Only assets, liabilities, and revenue and expense items that DSHS has specified as allowable costs have been included by the provider when computing the cost of services provided under the contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to resident care;

(d) Related organizations and beneficial ownership interests have been correctly disclosed; and

(e) Resident trust funds have been properly maintained.

(3) Auditors must give the provider a draft of their audit narrative and summaries for review and comment before the final narratives and summaries are prepared.

(4) When an audit discloses material discrepancies, undocumented costs, or mishandling of patient trust funds, DSHS auditors, in order to determine if similar problem exist and take corrective action, may:

(a) Reopen a maximum of two prior unaudited cost reporting or trust fund periods; and/or

(b) Select future periods for audit.

(c) DSHS auditors may select reported costs and trust fund accounts for audit on a random or other basis.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0320, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0325 What if an auditor discovers that provider reports are inadequately documented?** (1) An auditor must disallow any assets, liabilities, revenues, or expenses reported as allowable that are not supported by adequate documentation in the provider's financial records.

(2) Adequate documentation must show that reported costs were:

(a) Incurred during the period covered by the report;

(b) Related to resident care and training; and

(c) Necessary, ordinary and prudent.

(3) Adequate documentation must also show that reported assets were used to provide resident care and training.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0325, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0330 Are final audit narratives and summaries available to the public?** The auditor's final audit narrative and summaries are considered public documents and will be available to the public through the public disclosure process in chapter 388-01 WAC.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0330, filed 4/20/01, effective 5/21/01.]

#### **RESIDENT TRUST ACCOUNTS**

**WAC 388-835-0335 What general requirements apply to accounting for resident trust accounts?** (1) A provider must establish and maintain a bookkeeping system for all resident money received by the facility on behalf of the resident.

(2) This system must be incorporated into the facility's business records and be capable of being audited.

(3) The bookkeeping system must apply to residents that are:

(a) Incapable of handling their money and whose guardian, relative, DDA regional service office administrator, or physician requests in writing that the facility accept this responsibility. (If the Social Security Form SSA-780, "Certificate of Applicant for Benefits on Behalf of Another," is used as documentation, it must be signed by one of the persons designated in this subsection.)

(b) Capable of handling their own money, but they ask the facility, in writing, to accept this responsibility for them.

(4) It is the facility's responsibility to maintain written authorization requests in a resident's file.

(5) A resident must be given at least a quarterly reporting of all financial transactions affecting their account. The resident's representative payee, guardian and/or other designated agents must be sent a copy of this quarterly report or any other reports related to the resident's account.

(6) Facilities must purchase surety bonds, or otherwise provide assurances or security satisfactory to DSHS, that assures the security of all resident personal funds deposited with them.

(7) Facilities may not require residents to deposit personal funds with them. A facility may hold a resident's personal funds only if the resident or resident's guardian gives written authorization to do so.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0335, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0335, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0340 What specific accounting procedures apply to resident trust accounts?** (1) A provider must maintain a subsidiary ledger with an account for each resident for whom the provider holds money in trust.

(2) Each account and related supporting information must be:

(a) Maintained at the facility;

(b) Kept current;

(c) Balanced each month; and

(d) Detailed, with supporting verification, showing all money received on behalf of the individual resident and how that money was used.

(3) A provider must make each resident trust account available to DSHS representatives for inspection and audit.

(4) A provider must maintain each resident trust accounts for a minimum of five years.

(5) A provider must notify the DDA regional service office when an individual's account balance is within one hundred dollars of the amount listed on their award letter.

(6) A resident can accumulate funds by:

(a) Not spending their entire clothing and personal incidentals allowance; and

(b) Saving other income DSHS specifically designates as exempt.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0340, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0340, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0345 Can residents overdraw their trust account?**

(1) A resident may not overdraw their account (show a debit balance).

(2) If residents want to spend an amount greater than the balance in their trust account, the facility may loan the residents money from facility funds.

(3) The facility can collect loans to residents by installments from the portion of the resident's allowance remaining at the end of each month.

(4) The facility cannot charge residents interest on these loans.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0345, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0350 Can a resident trust account be charged for Title XIX services?** Resident trust accounts cannot be charged for services provided under Title XIX.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0350, filed 4/20/01, effective 5/21/01.]



**WAC 388-835-0355 Can a resident trust account be charged for medical services, drugs, therapy and equipment?** (1) Any properly made charge to a resident's trust account for medical services must be supported by a written denial from DSHS.

(2) Any request for additional equipment such as a walker, wheelchair or crutches must have a written denial from DSHS before a resident's trust account can be charged.

(3) A request for physical therapy, certain drugs or other medical services must have a written denial from DSHS before a resident's trust account can be charged.

(4) A written denial from DSHS is not required when the pharmacist verifies a drug is not covered by the program (e.g., items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications such as vitamins, nose drops, etc.) The pharmacist's notation that the program does not cover the drugs is sufficient.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0355, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0360 Can providers create petty cash funds for residents?** (1) Providers may maintain petty cash funds for residents.

(2) The fund must be an imprest type fund.

(3) The cash for the fund must come from trust money.

(4) The amount of the fund must be reasonable and necessary for the size of the facility and the needs of the residents, but must not exceed five hundred dollars.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0360, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0365 Can providers create checking accounts for residents?** (1) A provider must deposit all money, over and above the trust fund petty cash amount, intact into a trust fund checking account that is separate and apart from any other bank account(s) of the facility or other facilities.

(2) Deposits of resident allowances must be made intact into the trust checking account within one week from the time payment is received from DSHS, Social Security Administration, or any other payor.

(3) A provider must make any related bankbooks, bank statements, check book, check register, all voided and all canceled checks available to DSHS representatives for audit and inspection. The provider must retain these supporting records and documents for at least five years.

(4) Resident trust money cannot be used to pay checking account service charges.

(5) Each banks trust account must be reconciled each month to the trust account ledger for each resident.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0365, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0370 What controls must a provider use to ensure the safety of trust fund money?** (1) A provider must not release trust fund money to anyone other than the:

- (a) Resident or, with their written consent, their guardian;
- (b) Resident's designated agent as appointed by power of attorney; or
- (c) Appropriate DSHS personnel designated by the DDA regional services administrator.

(2) A provider must complete a receipt, in duplicate, when money is received. One copy must be given to the person making the payment or deposit and the other copy must remain in the receipt book for easy reference.

(3) All residents must endorse, with their own signature, any checks or state warrants they receive. Only when a resident is incapable of signing their own name may the provider use the resident's "X" mark followed by their printed name and the signature of two witnesses.

(4) When both a general fund account and a trust fund account are kept at the same bank, the trust account portion of any deposit can be deposited directly to the trust account.

(5) A provider must credit a resident's trust account ledger sheet when the resident's allowance is received. This entry must be referenced with the receipt number and must be supported by a copy of the deposit slip (one copy for all deposits made).

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0370, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0370, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0375 Can a resident withdraw trust money?** Any money held in trust for a resident must be available to them for their personal and incidental needs upon their request or the request of one of the individuals designated in WAC 388-835-0335.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0375, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0380 What happens to resident funds when a change of ownership occurs?** (1) When a facility is sold or some other transfer of ownership takes place, the former provider must provide the new provider with a written accounting, based upon generally accepted auditing standards, of all resident funds being transferred. The former provider must also obtain a written receipt for the funds from the new provider.

(2) Before any transfer of ownership occurs, the facility must give each resident, or their representative, a written accounting of any personal funds held by the facility.

(3) If there is disagreement regarding the accounting offered by the former provider, the resident retains all rights and remedies provided under state law.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0380, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0385 How are trust fund moneys refunded?** When a resident is discharged and/or transferred, the balance of their trust account, along with a receipt, will be returned to the individual designated in WAC 388-835-0335 within thirty days of the resident's transfer or discharge.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0385, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0390 How are trust funds liquidated?** (1) In the case of deceased resident, the provider must obtain a receipt from the next-of-kin, guardian, or duly qualified agent when the balance of the trust fund is released. If the next-of-kin, guardian or duly qualified agent cannot be identified, the DDA regional service office must be contacted, in writing within seven days of the resident's death, to assist in the release of the resident's trust fund money. A check or other document showing payment to the next-of-kin, guardian, or duly qualified agent will serve as a receipt.

(2) In situations where the resident leaves the ICF/ID facility without authorization and their whereabouts is unknown, the facility:

(a) Will make a reasonable attempt to locate the missing resident. A "reasonable attempt" includes, but is not limited to, contacting friends, relatives, police, the guardian, and the DDA regional office in the area; and

(b) If the resident cannot be located after ninety days, the facility must notify the department of revenue regarding the existence of "abandoned property" (see chapter 63.29 RCW Uniform Unclaimed Property Act). The facility must deliver to the department of revenue the balance of the resident's trust fund account within twenty days following their notification.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0390, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0390, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0395 How must a facility maintain resident property records?** (1) A facility must maintain a current, written record for each resident that includes written receipts for all personal property entrusted to the facility by the resident.

(2) All property records must be available to the resident or designated resident representative (see WAC 388-835-0380).

(3) A facility must issue or obtain written receipts when taking possession or disposing of a resident's personal property. The facility must retain copies and/or originals of these receipts.

(4) A facility must maintain all resident property records so they are available to auditors and in a manner that facilitates the audit process.

[Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-835-0395, filed 7/25/02, effective 8/25/02. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0395, filed 4/20/01, effective 5/21/01.]

## ALLOWABLE AND UNALLOWABLE COSTS

**WAC 388-835-0400 What are allowable costs?** (1) Allowable costs are documented costs that are necessary, ordinary, related to providing ICF/ID services to ICF/ID residents, and not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if they are of the nature and magnitude that a prudent and cost conscious management would pay.

(2) Allowable costs do not include increased costs resulting from transactions or the application of accounting methods which circumvent the principles of the prospective cost-related reimbursement system.

(3) DSHS does not allow increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale and leaseback, successive sales or leases of a single facility or piece of equipment).

(4) When a provider requests a rate adjustment according to WAC 388-835-0900 or 388-835-0905, any cost audited previously and not disallowed is subject to DSHS review and reconsideration according to the criteria in this section.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0400, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0400, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0405 What are unallowable costs?** (1) Costs are unallowable if they are not documented, necessary, or ordinary and do not relate to providing services to ICF/ID residents.

(2) Examples of unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medicaid program. Costs of nonprogram items or services will not be allowed even if indirectly reimbursed by DSHS as a result of an authorized reduction in resident contribution.

(b) Costs of services and items provided to ICF/ID residents covered by DSHS's medical care program but not included in ICF/ID services.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (part 100, Title 42 C.F.R.) if DSHS found the expenditure was not consistent with applicable standards, criteria, or plans. If DSHS was not given timely notice of a proposed capital expenditure, all associated costs will not be allowed as of the date the costs were determined to be nonreimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project that requires certificate of need approval according to chapter 70.38 RCW and that approval was not obtained.

(e) Costs associated with outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) All salaries or other compensation of officers, directors, stockholders, and others associated with the provider or home office,

except compensation paid for services related to resident care and training.

(g) Costs in excess of limits set in this chapter or costs violating principles contained in this chapter.

(h) Costs resulting from transactions or the application of accounting methods used to circumvent the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of cost to the related organization or market meaning the price paid for comparable services, facilities or supplies when purchased in an arms length transaction.

(j) Balances of accounts that cannot be collected (bad debts or uncollectable accounts).

(k) Charity and courtesy allowances.

(l) Cash, assessments, or other contributions to political parties, and cost incurred to improve community or public relations. Dues to charitable organizations, professional organizations and trade associations are allowable costs.

(m) Any portion of trade association dues for legal and consultant fees and costs related to lawsuits or other legal action against DSHS.

(n) Travel expenses for trade association boards of directors in excess of the twelve allowable meetings per calendar year.

(o) Vending machine expenses.

(p) Expenses for barber or beautician services not included in routine care.

(q) Funeral and burial expenses.

(r) Costs of gift shop operations and inventory.

(s) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in resident activity programs or in ICF/ID programs where clothing is a part of routine care.

(t) Fund-raising expenses except those directly related to the resident activity program.

(u) Penalties and fines.

(v) Expenses related to telephones, televisions, radios, and similar appliances in a resident's private accommodations.

(w) Federal, state, and other income taxes.

(x) Costs of special care services, except where authorized by DSHS.

(y) Expenses for "key-person" insurance and other insurance or retirement plans not available to all employees.

(z) Expenses of profit-sharing plans.

(aa) Expenses related to the purchase and/or use of private or commercial aircraft that exceed what a prudent provider would spend for ordinary and economical transportation when conducting resident care business.

(bb) Personal expenses and allowances of owners or relatives.

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

(dd) Costs related to agreements not to compete.

(ee) Goodwill and the amortization of goodwill.

(ff) Expenses related to vehicles in excess of what a prudent provider would expend for the ordinary and economic provision of transportation needs related to resident care.

(gg) Legal and consultant fees related to a fair hearing against DSHS. Including but not limited to, fees for accounting services used to prepare for an administrative judicial review resulting in a final administrative decision favorable to DSHS or where DSHS's decision is allowed to stand.

(hh) Legal and consultant fees related to a lawsuit against DSHS, including suits appealing administrative decisions.

(ii) Lease acquisition costs and other intangibles not related to resident care and training.

(jj) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds.

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington and the Province of British Columbia except travel to and from the home and central office of a chain organization operation outside those areas if the travel is necessary, ordinary, and related to resident care and training.

(ll) Moving expenses of employees when a demonstrated, good-faith effort has not been made to recruit employees within the states of Idaho, Oregon, and Washington and Province of British Columbia.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0405, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0405, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0410 Can a provider offset miscellaneous revenues against allowable costs?** (1) A provider must reduce allowable costs whenever the item, service, or activity covered by the costs generate revenue or financial benefits (e.g., purchase discounts or rebates) other than through the provider's normal billing for ICF/ID services.

(2) A provider must not deduct unrestricted grants, gifts, endowments, and interest earned from them from the allowable costs of a nonprofit facility.

(3) When goods or services are sold, the reduction in allowable costs must be the actual cost of the item, service, or activity. If actual cost cannot be accurately determined, the reduction must be the full amount of the revenue received. When financial benefits such as purchase discounts or rebates are received, the reduction must be the amount of the discount or rebate.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0410, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0410, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0415 Are the costs of meeting required standards allowable costs?** (1) All necessary and ordinary expenses incurred by a provider to meet required standards associated with providing ICF/ID services are allowable costs.

(2) Examples are the cost of:

(a) Meeting licensing and certification standards;

(b) Fulfilling accounting and reporting requirements imposed by this chapter; and

(c) Performing any resident assessment activity required by DSHS.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0415, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0415, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0420 Are costs associated with related organizations allowable costs?** (1) DSHS allows costs applicable to services, facilities, and supplies furnished to a provider by a related organization only to the following extent:

(a) The costs do not exceed the lower of the cost to the related organization; or

(b) Market, meaning the price paid for comparable services, facilities, or supplies when purchased in an arm's length transaction.

(2) Private facilities must make all cost documentation regarding related organizations available to the auditors at the time and place the entity's financial records are audited. State facilities must make all cost documentation regarding related organizations available to the auditors at DSHS's offices of accounting services, financial recovery, or budget when the facility is audited.

(3) DSHS disallows all payments to or for the benefit of a related organization where the cost to the related organization cannot be documented.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0420, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0425 Are start-up costs allowable costs?** DSHS allows all necessary and ordinary start-up costs in the administration and operations rate component. Start-up costs must be amortized over at least sixty consecutive months beginning with the month the first resident is admitted for care.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0425, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0430 Are organizational costs allowable costs?** (1) DSHS allows necessary and ordinary costs directly related to the creation of a provider's corporation or other form of business that are incurred before the admission of the first resident.

(2) DSHS allows these costs in the administration and operation cost area if they are amortized over at least sixty consecutive months beginning with the month in which the first resident is admitted for care.

(3) Examples of allowable organization costs include, but are not limited to, legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation.

(4) Organization costs do not include costs relating to the issuance and sale of shares of stock or other securities.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0430, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0435 Are education and training costs allowable costs?** (1) DSHS allows ordinary expenses associated with on-the-job and in-service training required for employee orientation and certification when those expenses directly relate to performing an employee's assigned duties.

(2) Ordinary expenses for staff training are allowable costs.

(3) Necessary and ordinary expenses for recreational and social activity training conducted by a provider for volunteers are allowable costs.

(4) Training program expenses for other nonemployees are not allowable costs, except the costs associated with training county-contracted training program employees by an ICF/ID as a condition of the ICF/ID's agreement with the county-contracted training program.

(5) DSHS must allow expenses for travel in the states of Idaho, Oregon, and Washington and Province of British Columbia associated with education and training if the expenses meet the requirements of this chapter.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0435, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0435, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0440 Are operating lease costs allowable costs?** Facility and/or equipment rental or lease costs associated with an arm's length operating lease are allowable costs.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0440, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0445 Are rental expenses paid to related organizations allowable costs?** The expense of renting facilities or equipment from a related organization are allowable to the extent that the rent paid does not exceed the related organization's costs of owning (e.g., depreciation, interest on a mortgage) or leasing the assets. Computing the related organization's cost of owning or leasing the asset must be according to the requirements of this chapter.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0445, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0450 What is allowable interest?** (1) DSHS allows a provider's necessary and ordinary interest costs incurred for working capital loans and capital indebtedness.

(a) "Necessary" means the interest expense must be incurred in connection with a loan satisfying a financial need of the provider and for a purpose related to resident care and training. Interest expense related to a business opportunity or goodwill is unallowable.

(b) "Ordinary" means the interest rate for the loan must not exceed the rate a prudent borrower would pay, in an arm's length transaction, for a comparable loan in the money market at that time.

(c) Interest expense must include amortization of bond discounts and expenses related to the bond issue. The amortization period must be the period from the date the bonds are sold to their maturity date



or their date of extinguishment if they are retired before they mature.

(d) Interest expense for assets acquired in a change of ownership after September 30, 1984, is disallowed on any loan principal in excess of the former owner's depreciation base on July 18, 1984.

(2) Interest that is paid to or for the benefit of a related organization is allowed but only to the extent that the actual interest does not exceed the related organization's cost of using the funds.

(3) For construction loans, a provider must capitalize interest expense and loan origination fees incurred during the period of construction. Such costs must be amortized over the life of the constructed asset beginning with the date the first resident is admitted or the date the asset is put into service, whichever occurs first.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0450, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0455 Can a provider offset interest income against allowable costs?** Except for nonprofit facilities, a provider must deduct from allowable interest expense all interest income earned from either investing or lending nonrestricted and restricted funds.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0455, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0460 How does DSHS calculate total compensation for owners and relatives?** (1) Total compensation means the compensation provided in the employment contract, including benefits. The employment contract can be written, verbal, or inferred from the acts of the parties.

(2) In the absence of a contract, total compensation includes gross salary or wages and fringe benefits (e.g., health insurance) available to all employees.

(3) Total compensation does not include payroll taxes paid by the provider.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0460, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0465 How does DSHS define owner or relative compensation?** (1) DSHS limits the total compensation of an owner or an owner's relative to the ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits established in this chapter.

(b) A service is necessary if it is related to resident care and training and would have to be performed by another person if the owner or relative did not perform it.

(2) A provider, in maintaining customary time records adequate for audit, must include time records for owners and relatives receiving compensation. These records must document how compensated time was spent performing necessary services.

(3) For purposes of this section, if the provider is a corporation, "owner" includes all corporate officers and directors.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0465, filed 4/20/01, effective 5/21/01.]

### CAPITALIZED COSTS AND DEPRECIATION

**WAC 388-835-0470 What requirements apply to capitalizing equipment, including furniture and furnishings?** A provider must capitalize equipment, including furniture and furnishings according to the following table:

<b>Equipment, including furniture and furnishings</b>	<b>Historical cost</b>	<b>Useful life</b>
For settlement purposes beginning January 1, 1881 and for rate setting purposes beginning July 1, 1982	At least \$500 per item	At least one year from date asset is put into service
For settlement purposes beginning January 1, 1990 and for rate setting purposes beginning July 1, 1990	At least \$1,000 per item	At least one year from date asset is put into service
For settlement purposes beginning January 1, 1996 and for rate setting purposes beginning July 1, 1996	At least \$500 per item	At least one year

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0470, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0475 What requirements apply to capitalizing buildings, other real property items, components, improvements and leasehold improvements?** Buildings and other real property items, components, improvements and leasehold improvements must be capitalized if they are:

- (1) Required or authorized by the lease agreement;
- (2) Cost more than five hundred dollars; and
- (3) Involve at least one of the following:
  - (a) Increase the interior floor space of the structure;
  - (b) Increase or renew paved areas outside the structure that are either adjacent to the structure or provide access to it;
  - (c) Modification to the exterior or interior walls of the structure;
  - (d) Installation of additional heating, cooling, electrical, water-related, or similar fixed equipment;
  - (e) Landscaping or redecorating; or
  - (f) Increasing the structure's useful life by at least two years.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0475, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0480 How are the useful lives of leasehold improvements determined?** The useful lives for all leasehold improvements are based upon the American Hospital Association (AHA) guidelines for the applicable asset.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0480, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0485 What are depreciable assets?** Depreciable assets are tangible assets that are subject to depreciation and in which a provider has an ownership interest.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0485, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0490 What are some examples of depreciable assets?** Some examples of depreciable assets are:

- (1) Buildings, meaning the basic structure or shell and additions to it.
- (2) Equipment such as elevators, heating system, and air conditioning system that are attached to a building and characterized by:
  - (a) An economic useful life of at least three years but shorter than the life of the building to which it is attached;
  - (b) Incapable of being removed from the building to which it is attached;
  - (c) A unit cost sufficiently large enough to justify ledger control; and
  - (d) A physical size and identity that makes control by identification tags possible.
- (3) Equipment not attached to buildings.
- (4) Land improvements such as paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, wall, etc., where replacement is the responsibility of the provider.
- (5) Leasehold improvements and additions made by the lessee belong to the lessor after the lease expires.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0490, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0495 What is "minor equipment"?** (1) Minor equipment includes items such as wastebaskets, bedpans, syringes, catheters, silverware, mops, and buckets.

- (2) Minor equipment is generally characterized as:
  - (a) Not occupying a fixed location and is used by a variety of departments;
  - (b) Small in size and unit cost;
  - (c) Subject to inventory control;
  - (d) A fairly large number of items are in use; and
  - (e) Possessing a useful life of one to three years.

(3) If properly capitalized (see WAC 388-835-0230), minor equipment is depreciated. If not properly capitalized, minor equipment is expensed when acquired.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0495, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0500 Is land a depreciable asset?** Because the economic useful life of land is considered to be unlimited, land is not a depreciable asset.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0500, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0505 What costs are included in the capitalized cost of land?** Examples of costs that are capitalized as land costs include the cost of:

- (1) Offsite sewer and water lines;
- (2) Public utility charges necessary to service the land;
- (3) Government assessments for street paving and sewers;
- (4) Permanent roadways and grading of a nondepreciable nature;

and

(5) Curbs and sidewalks, the replacement of which is not the responsibility of the provider.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0505, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0510 What is the depreciation base of a tangible asset?** (1) The depreciation base of a tangible asset is the asset's historical cost at the time it is acquired by the provider in an arm's length transaction:

(a) Plus the cost of preparing the asset for use;

(b) Less the asset's estimated salvage value, if any, where the straight-line or sum-of-the-years digits methods of depreciation is used;

(c) Less any goodwill; and

(d) Less any accumulated depreciation incurred during periods the asset was used by the provider personally or in another business.

(2) When depreciable assets are acquired from a related organization, the provider's depreciation base cannot exceed the base the related organization had or would have had under a contract with DSHS.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0510, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0515 Can an appraisal be used to establish historical cost?** (1) If DSHS challenges the historical cost of an asset or if a provider is unable to adequately document the historical cost of an asset, the department may use an appraisal process to establish the asset's fair market value at the time of purchase.

(2) If an appraisal process is used to establish the fair market value of equipment, vendors dealing in that particular type of equipment must perform the appraisals.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0515, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0520 What is the depreciation base of a donated or inherited asset?** (1) The depreciation base of donated and/or inherited assets is the lesser of:

(a) Fair market value at the date of donation or death, less goodwill. (Any estimated salvage value must be deducted from fair market value when either the straight-line or sum-of-the-years digits method of depreciation is used); or

(b) The historical cost of the last owner to contract with DSHS, if any.

(2) If the donation or distribution is between related organization, the base must be the lesser of:

(a) Fair market value, less goodwill and, where appropriate, salvage value, or

(b) The depreciation base the related organization used or would have used when contracting with DSHS.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0520, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0525 How is the useful life of a depreciable asset determined?** (1) Except for buildings, a provider must not adopt useful lives shorter than the guideline lives contained in the Internal Revenue Service class life ADR system or published by the American Hospital Association. Thirty years is the shortest useful life a provider can adopt for buildings.

(2) Useful life is measured from the date of the most recent arm's length acquisition of the asset.

(3) Building improvements to owned or leased buildings must be depreciated over the remaining useful life of the building or fifteen years, whichever is greater, except for improvements to licensed boarding home facilities required by the Fire Safety Evaluation System (FSES) of the 1984 Life Safety Code. Improvements to these licensed boarding home facilities must be depreciated for at least five years. A provider must receive DSHS approval before following this exception.

(4) Improvements to leased property that are, according to the lease agreement, the responsibility of the provider must be depreciated over the useful life of the improvement, except for improvements to licensed boarding home facilities required by the Fire safety Evaluation System (FSES) of the 1984 Life Safety Code. Improvements to these licensed boarding home facilities must be depreciated for at least five years. A provider must receive DSHS approval before following this exception.

(5) A provider may change the estimated useful life of an asset to a longer period if necessary.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0525, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0530 What depreciation methods are approved by DSHS?**

(1) Buildings, building improvements, land improvements, leasehold improvements, and fixed equipment must be depreciated using the straight-line method.

(2) Equipment must be depreciated using the straight-line method, the sum-of-the-years digits method, or the declining balance method at a rate not to exceed one hundred fifty percent of the straight-line rate. Providers electing to use either the sum-of-the-years digits method or the declining balance method may change to the straight-line method without permission of the department.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0530, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0535 What is depreciation expense?**

(1) Depreciation expense on tangible assets used to provide ICF/ID services is an allowable cost.

(2) Depreciation expense must be:

(a) Identifiable and recorded in the provider's accounting records; and

(b) Computed using the depreciation base, useful lives and methods specified in this chapter.

(3) If a provider reports annual depreciation expense that includes depreciation on assets unrelated to resident care and training, the annual reported expense must be reduced accordingly.

(4) Once a tangible asset is fully depreciated, no additional depreciation can be claimed unless a new depreciation base is established according to the rules of this chapter.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0535, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0535, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0540 Can providers claim depreciation on assets that are abandoned, retired or disposed of in some other way?**

(1) Depreciation cannot be claimed on tangible assets that are sold, traded, scrapped, exchanged, stolen, wrecked or destroyed by fire or some other casualty.

(2) Depreciation cannot be claimed on permanently abandoned assets.

(3) If an asset has been retired from active use but is being held for stand-by or emergency service and DSHS has determined that the asset is needed and can be effectively used in the future, depreciation may be claimed by the provider.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0540, filed 4/20/01, effective 5/21/01.]

**GAINS AND LOSSES ON RETIRED ASSETS**

**WAC 388-835-0545 How must providers account for gains and losses on the retirement of tangible assets?** For settlement purposes begin-

ning with January 1, 1981 and for rate setting purposes beginning with the July 1, 1982 rate period, the rules in WAC 388-835-0265 through 388-835-0275 apply.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0545, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0550 How are gains and losses calculated when a tangible asset is retired?** When a tangible asset is retired, the difference between the assets undepreciated base and any proceeds received from its retirement is considered a gain or loss on retirement.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0550, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0555 How must providers account for gains and losses on retired assets that are replaced?** If a provider replaces a retired asset, any gain or loss on retirement must be deducted from or added to the cost of the replacement asset, respectively. However, a loss on retirement can only be added to the replacement asset's cost if the provider makes a reasonable effort to recover at least the outstanding book value of the retired asset.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0555, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0560 How must providers account for gains and losses on retired assets that are not replaced?** (1) If a retired asset is not replaced the gain or loss on retirement must be spread over the actual life of the asset up to the date of retirement. However, a loss can only be spread if the provider has made a reasonable effort to recover at least the outstanding book value of the retired asset.

(2) DSHS will calculate any difference between the actual reimbursements paid and the amount of reimbursement that should be paid after the gain or loss is spread. If the difference results from a gain DSHS must recover the difference from the provider. If the difference results from a loss the difference will be added to allowable costs when determining the settlement.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0560, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0565 How must providers account for gains and losses on retired assets if they terminate their contract with DSHS?** If a retired asset is not replaced and the provider is terminating their contract with DSHS, the gain or loss on retirement must be accounted for according to the requirements in WAC 388-835-0280.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0565, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0570 Can DSHS recover reimbursements for depreciation expense?** If a provider terminates their contract without selling or otherwise retiring equipment that was depreciated using an accelerated method, depreciation schedules for this equipment for those periods when the provider participated in the ICF/ID program must be adjusted. DSHS will recover any difference between reimbursement actually paid for depreciation and the reimbursement that would have been paid if the straight-line method had been used.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0570, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0570, filed 4/20/01, effective 5/21/01.]

## **REIMBURSEMENT RATES**

**WAC 388-835-0575 What requirements apply to calculating ICF/ID reimbursement rates?** (1) Medicaid program reimbursement rates established according to this chapter apply only to facilities holding appropriate state licenses and certified to provide ICF/ID services according to state and federal laws and regulations.

(2) All rates must be reasonable and adequate to meet the costs incurred by economically and efficiently operated facilities providing ICF/ID services according to state and federal laws and regulations.

(3) For private facilities:

(a) Final payments must be the lower of the facility's prospective rate or allowable costs.

(b) Prospective rates must be determined according to WAC 388-835-0845, 388-835-0850, 388-835-0860, 388-835-0865, 388-835-0870, 388-835-0875, and 388-835-0880.

(c) Final payments must be determined according to WAC 388-835-0880.

(4) For state facilities:

(a) Final payments must be the facility's allowable costs.

(b) Interim rates must be calculated using the most recent annual reported costs (see WAC 388-835-0845) divided by the total resident days during the reporting period. These costs may be adjusted to incorporate federal, state, or department changes in program standards or services.

(c) Final payments must be determined according to WAC 388-835-0880.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0575, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-835-0575, filed 7/25/02, effective 8/25/02. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0575, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0580 What program services are not covered by DSHS prospective reimbursement rates?** Medical services that are part of DSHS's medical care program but not included in ICF/ID services are not covered by prospective reimbursement rates. Payments are made di-



rectly to the service provider according to WAC 388-835-0835 requirements.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0580, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0580, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0585 What requirements apply to prospective reimbursement rates for new providers?** (1) A prospective reimbursement rate for a new provider must be established within sixty days after DSHS receives a properly completed projected budget from the provider. The effective date of the reimbursement rate must be the same as the effective date of the contract.

(2) The prospective reimbursement rate must be based on the:

(a) Provider's projected cost of operation;

(b) Costs and payment rates of the prior provider, if any; and/or

(c) Costs and payment rates, taking into account applicable lids or maximums, of other providers in comparable circumstances.

(3) If DSHS does not receive a properly completed projected budget at least sixty days before the contract's effective date, a preliminary rate, based on information from former and/or comparable providers, will be prepared by DSHS. This preliminary rate must remain in effect until an initial prospective rate can be set.

(4) If a change of ownership takes place that does not result from an arm's length transaction, the new provider's prospective rates for administration, operations and property costs cannot exceed the former provider's rates. The former provider's rates can be adjusted, if necessary, to reflect changes in economic trends.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0585, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0590 How are reimbursement rates calculated?** (1) Each provider's reimbursement rate must be recalculated once each calendar year. The recalculated rate will be implemented prospectively. The recalculated rate will be effective on July 1 of the calendar year in which it was computed. Rates may be recalculated to reflect legislative inflation adjustments or to comply with the requirements of WAC 388-835-0900.

(2) If a provider participated in the ICF/ID program for at least six months during the previous calendar year, their rates must be based on the prior period's allowable costs. If the provider participated in the program for less than six months in the previous calendar year, their rates must be calculated according to WAC 388-835-0840 requirements.

(3) Unless circumstances beyond DSHS's control interfere, all providers submitting correct and complete cost reports by March 31 must receive notification of their new rates by July 1.

(4) When calculating a provider's rate, DSHS must use data from the most recent and complete cost report submitted by the provider and reviewed by DSHS as described in WAC 388-835-0700.

(5) Inflation factor adjustments are based on the Implicit Price Deflator for Personal Consumption from the state of Washington, Eco-

conomic and Revenue Forecast prepared by the Office of the Forecast Council.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0590, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0590, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0595 When does DSHS review a provider's annual cost report?** DSHS must review and analyze each annual cost report within six months after it is properly completed and filed with the department.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0595, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0600 What is the purpose of reviewing a provider's annual cost report?** DSHS reviews and analyzes annual cost reports to determine if the information contained in them is correct, complete, and reported according to generally accepted accounting principles, the requirements of this chapter and any other applicable rules and instructions issued by the department.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0600, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0605 What is the scope of an annual cost report review?** (1) DSHS' review and analysis may include, but is not limited to:

- (a) An examination of prior years reported costs;
- (b) An examination of any cost report review adjustments made in prior years and their final disposition;
- (c) An examination of findings, if any, from prior year cost report field audits; and
- (d) Findings, if any, from the field audit of the cost report currently being reviewed.

(2) If it appears that a provider incorrectly calculated or reported their costs, DSHS may:

- (a) Request additional information from the provider;
- (b) Schedule a special field audit of the provider; or
- (c) Make adjustments to the reported information. If adjustments are made, DSHS must give the provider a schedule of the adjustments including an explanation for each one and the dollar amount associated with each one.

(3) If the provider believes that DSHS adjustments are incorrect, the adjustments must be reviewed according to WAC 388-835-0900. If this review does not satisfactorily resolve the dispute, the adjustment must be further reviewed according to WAC 388-835-0910.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0605, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0610 Can DSHS accumulate cost report information and use if for department purposes?** DSHS may accumulate data from properly completed cost reports for:

- (1) Use in exception profiling and establishing rates; and
- (2) Analytical, statistical, or informational purposes that the department considers important.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0610, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0615 What are component rates and cost centers?** (1) A provider's overall ICF/ID resident reimbursement rate consists of five component rates within three cost centers.

- (2) The five component rates are:
  - (a) Resident care and habilitative services;
  - (b) Food;
  - (c) Administration and operations;
  - (d) Property; and
  - (e) Return on equity.
- (3) The three cost centers are:
  - (a) Resident care and habilitation;
  - (b) Administration, operations, and property; and
  - (c) Return on equity.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0615, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0615, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0620 What reimbursement requirements apply to resident care and habilitation cost centers?** (1) Resident care and habilitation cost centers at facilities with at least sixteen residents and licensed as a nursing facility, must, according to applicable federal and state regulations, reimburse for resident living services, habilitative and training services, recreation services, and nursing services.

(2) Resident care and habilitation cost centers at facilities with less than sixteen residents and licensed as a boarding home, must, according to applicable federal and state regulations, reimburse for resident living services, habilitative and training services, recreation services, and nursing services. These cost centers must also reimburse for resident care and training staff who perform any of the administration and operations functions specified in WAC 388-835-0870.

(3) A facility's resident care and habilitation cost center rate must be its most recent reported costs per resident day adjusted for inflation.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0620, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0625 What requirements apply to administration, operations and property cost center rates?** Administration, operations, and property cost center rates are the sum of three separate rate components:

- (1) The food rate component established by WAC 388-835-0865;
- (2) The administration and operations rate component established by WAC 388-835-0870; and
- (3) The property rate component established by WAC 388-835-0875.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0625, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0630 What is the food rate component?** The food rate component reimburses for the necessary and ordinary costs of a resident's bulk and raw food, dietary supplements, beverages with meals and nourishment between meals.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0630, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0635 Is there a limit to the allowable cost for administrative personnel?** Compensation for administrative personnel is an allowable cost within the limits contained in this section:

(1) For purposes of this section "compensation" means gross salaries, wages, and the applicable cost of fringe benefits made available to all employees. Compensation does not include payroll taxes paid by the provider.

(2) A licensed administrator's total compensation for actual services rendered to an ICF/ID facility on a full-time basis (at least forty hours per week, including reasonable vacation, holiday, and sick time) is allowable at the lower of:

(a) Actual compensation received; or

(b) For calendar year 2000, the amount specified in the following table that corresponds to the number of set-up beds in the facility.

Number of set-up beds	Maximum compensation
15 or less	\$42,886
16 to 79	\$47,739
80 to 159	\$52,832
160 and up	\$56,163

(c) The maximum compensation amounts will be adjusted annually for inflation. Inflation factor adjustments are based on the Implicit Price Deflator for Personal Consumption from the state of Washington, Economic and Revenue Forecast prepared by the Office of the Forecast Council.

(d) A licensed administrator's compensation will be allowed only if DSHS is notified in writing within ten days following the start of their employment.

(3) Total compensation of not more than one full-time licensed assistant administrator will be allowed if there are at least eighty set-up beds in the ICF/ID facility. Compensation is allowable at the lower of:

(a) Actual compensation received; or

(b) Seventy-five percent of the amount specified in the above table.

(4) Total compensation of not more than one full-time registered administrator-in-training is allowed at the lower of:

(a) Actual compensation received; or

(b) Sixty percent of the amount specified by DDA in the above table.

(5) The cost of a licensed administrator, assistant administrator, or administrator-in-training is not an allowable expense in ICF/ID facilities with fifteen beds or less. The facility's qualified intellectual disability professional (QIDP) will provide administrative services.

(6) A QIDP's total compensation of wages and/or salary is allowable at the lower of:

(a) Actual compensation received; or

(b) The amount specified in DDA in the above table.

(7) If a licensed administrator, licensed assistant administrator, registered administrator-in-training, or QIDP are employed on a less than full-time basis, allowable compensation must be the lower of:

(a) Actual compensation received; or

(b) The maximum amount allowed multiplied by the percentage derived from dividing actual hours worked plus reasonable vacation, holiday and sick time, by two thousand and eighty hours.

(8) A provider must maintain time records for any licensed administrators, assistant administrators, administrators-in-training, or QIDPs they employ.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0635, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0635, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0640 Can a provider hire an individual or firm to manage their ICF/ID facility?**

(1) A provider can enter into an agreement with an individual or firm to manage their ICF/ID facility as the provider's agent, however, the provider must submit a copy of the agreement to DSHS at least sixty days before it becomes effective.

(2) Copies of any amendments to a management agreement must be received by DSHS at least thirty days before the amendment become effective.

(3) Management fees for periods before DSHS receives a copy of the agreement are not allowable costs.

(4) The department may waive the sixty-day notice requirement to protect the health and safety of facility residents. Any waiver of the sixty-day notice requirement by DSHS must be in writing.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0640, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0640, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0645 Are management fees allowable costs?** Management fees are allowable costs only when there is:

(1) A written management agreement that:

(a) Creates a principal and/or agent relationship between the provider and the manager; and

(b) Identifies the items, services, and activities that the manager will provide.

(2) Documentation that verifies the management service was performed.

(3) Assurance that the service performed was necessary and did not duplicate any service provided by the provider.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0645, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0650 Are all management fees allowable?** Providers must limit the amount of allowable fees for general management services (including corporate management fees, business entity management fees, board of director fees and overhead and indirect costs associated with providing general management services) to:

(1) The maximum allowable compensation for a licensed administrator and, if the facility has at least eighty set-up beds, an assistant administrator even if one is not employed minus the actual compensation received by the licensed administrator and assistant administrator.

(2) The maximum allowable compensation for a QIDP at a ICF/ID facilities with fifteen beds or fewer, minus the actual compensation received by the QIDP.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0650, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0650, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0655 Are management fees involving a related organization allowable costs?** (1) A management fee paid to or for the benefit of a related organization is allowable if it does not exceed the lesser of:

(a) The limits set out in WAC 388-835-0400; or

(b) The lower of the related organization's actual cost of providing necessary resident care and training services under the management agreement or the cost of comparable services purchased in an arm's length transaction elsewhere.

(2) If related organization costs are joint facility costs, their measurement must comply with the requirements of WAC 388-835-0400.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0655, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0660 How do overhead and indirect costs relate to allowable costs?** (1) For general administrative and management services, costs such as central office costs, owner compensation, and other fees or compensation, including joint facility costs, must include the overhead and indirect costs associated with providing general management services that are not allocated to specific services.

(2) General administrative and management service costs as described in subsection (1) of this section are subject to the management fee limits established in WAC 388-835-0405.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0660, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0665 Are travel and housing expenses of nonresident staff working at a provider's ICF/ID facility allowable costs?** (1) All necessary travel and housing expenses of nonresident staff working at a provider's ICF/ID facility are allowable costs if their visit does not exceed three weeks.

(2) If the nonresident staff visit extends beyond three weeks, any travel and housing expenses are subject to the management fee limits established in WAC 388-835-0405.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0665, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0665, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0670 Are bonuses paid to a provider's employees allowable costs?** (1) Bonuses paid to employees at a provider's ICF/ID facility are compensation.

(2) Bonuses paid to central office employees are management costs that are subject to the management fee limits established in WAC 388-835-0405.

(3) Bonuses paid to other employees not located at an ICF/ID facility and performing managerial services are management costs that are subject to the management fee limits established in WAC 388-835-0405.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0670, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0670, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0675 Are fees paid to members of the board of directors or corporations allowable costs?** Fees paid to board of director members or corporations operating ICF/ID facilities are management costs subject to the management fee limits established in WAC 388-835-0405.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0675, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0675, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0680 How is the administration and operations rate component computed?** (1) The administration and operations rate component includes reimbursement for the necessary and ordinary costs of:

- (a) Overall administration and management of the facility;
- (b) Operations and maintenance of the physical plant;
- (c) Resident transportation;
- (d) Dietary service (other than the cost of food and beverages);
- (e) Laundry service;
- (f) Medical and habilitative supplies;
- (g) Taxes; and
- (h) Insurance.

(2) An ICF/ID facility's administration and operations rate component is the lesser of:

(a) It's most recent reported cost per resident day adjusted for inflation; or

(b) The calculated rate that is at or above eighty-five percent of state and private facilities' most recent reported cost per resident day adjusted for inflation. This ranking must be based on cost reports used to determine rates for facilities with an occupancy level of at least eighty-five percent during the cost report period.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0680, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0680, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0685 How is the property rate component computed?**

(1) The property rate component reimburses an ICF/ID facility for the necessary and ordinary costs of leases, depreciation, and interest.

(2) It is the facility's most recent desk-reviewed cost per resident day.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0685, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0685, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0690 Does DSHS pay a return on equity to providers?**

DSHS pays a return on equity to proprietary providers.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0690, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0695 How is a return on equity calculated?** Calculating return on equity is a three-step process.

(1) First, a provider's net equity is calculated using appropriate items from the provider's most recent cost report and relevant medicare rules and regulations. Note: Goodwill is not included in the calculation of net equity. Also, monthly equity calculations will not be used.

(2) Second, the medicare rate of return for the twelve-month period ending on the provider's cost report-closing date is multiplied by the provider's net equity.

(3) Finally, the amount calculated in subsection (2) is divided by the provider's annual resident days for the cost report period to determine a return on equity rate per resident day.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0695, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0700 What if a provider's cost report covers a period shorter than twelve months?** If a provider's cost report covers less than a twelve-month period, annual resident days are estimated by using the actual resident days reported by the provider. The provider will then be paid a prospective rate per resident day. The prospective



rate will either be the rate per resident day calculated in WAC 388-835-0010 or two dollars per resident day whichever is less.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0700, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0705 Are return on equity calculations subject to field audits?** (1) All information used to calculate return on equity is subject to field audit.

(2) A field audit can be used to determine whether the providers reported equity exceeds the equity calculated according to medicare and the rules of this chapter.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0705, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0710 How does DSHS use field audit results?** DSHS can use the field audit results to recalculate the provider's return on equity rate for the reported rate period. Any payments received by the provider in excess of the return on equity rate must be refunded to DSHS as part of the settlement procedure established in WAC 388-835-0720.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0710, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0715 Does DSHS place upper limits on the reimbursement rates it pays providers?** DSHS limits its reimbursement rates to the following:

(1) Reimbursement rates for providers cannot exceed the provider's customary charge to the general public for the type of service covered by the rate.

(2) Public facilities rendering services for free or for a nominal charge will be reimbursed according to the methods and standards established in this chapter.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0715, filed 4/20/01, effective 5/21/01.]

## SETTLEMENTS

**WAC 388-835-0720 What general requirements apply to settlements between DSHS and providers?** (1) Except as otherwise provided in this chapter, settlements must be calculated at the lower of a provider's prospective reimbursement rate or audited allowable costs.

(2) Each provider must complete a proposed preliminary settlement as part of their annual cost report. The due date for the proposed preliminary settlement is the same as the due date for the annual cost report. After reviewing the proposed preliminary settlement, DSHS must issue a preliminary settlement report to the provider.

(3) If a field audit is conducted, DSHS must evaluate the audit findings and issue a final settlement that incorporates the auditor's findings and DSHS's evaluation.

(4) If according to a preliminary or final settlement and the procedures in this chapter, a provider received overpayments from DSHS, they must refund those overpayments to the department. Conversely, DSHS must pay provider for any underpayments for which the department is responsible.

(5) Following a preliminary or final settlement, payment for services must be at the most recent available settlement rate.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0720, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0725 What requirements apply to paying overpayments and underpayments?**

(1) Within thirty days after submitting a preliminary or final settlement report to the provider, DSHS must pay any underpayments it owes.

(2) If a provider received overpayments or payments in error from DSHS, they must refund those payments within thirty days after receiving the preliminary or final settlement report.

(3) If a provider fails to comply with subsection (2) and the contract has not been terminated, DSHS must deduct the amount the provider owes, plus interest, from the department's current monthly payment due to the provider. The interest rate charged by DSHS on any unpaid balance is one percent per month.

(4) If a provider fails to comply with subsection (2) and the contract has been terminated, DSHS may:

(a) Deduct the amount owed by the provider, plus interest, from any amounts due to the provider from the department. (The interest rate on any unpaid balance is of one percent per month); or

(b) Use whatever legal means is available to recover the overpayment or erroneous payment plus interest on the unpaid balance at the rate of one percent per month.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0725, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0730 What if the amount of overpayment or underpayment is being disputed?**

(1) A provider does not have to refund any disputed amounts if they, in good faith, disagree with a settlement report and file a timely request for an administrative or judicial hearing.

(2) DSHS cannot withhold any amount owed by a provider, plus interest, from current payments due to the provider if the provider's debt is being administratively reviewed or judicially appealed.

(3) DSHS may recover portions of refunds and assess interest on amounts not specifically disputed by a provider in an administrative hearing or judicial appeal.

(4) If the administrative or judicial remedy sought by the provider is not granted or is partially granted after all appeals are exhausted or terminated by mutual agreement, the provider must refund all amounts owed to DSHS. These amounts, plus interest, must be paid within sixty days following the date of an administrative or judicial decision or the date the dispute process was mutually terminated. In-

terest accrues on the amount owed from the date a review was requested to the date the debt is repaid.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0730, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0735 What requirements apply to a provider's proposed preliminary settlement?** (1) Proposed preliminary settlements submitted by providers must use the prospective rate for the resident care and habilitation cost center at which the provider was paid during the report period, including any resident specific payment adjustments. Resident specific payments must be weighted by the number of paid resident days each rate was in effect and compared to the provider's allowable costs for the cost center divided by total resident days.

(2) A provider's administration, operations, and property cost center settlement rate must be the prospective rate for the report period, including any payment adjustments, weighted by the number of paid resident days each rate was in effect.

(3) A provider's return on equity settlement rate must be the prospective rate for the report period weighted by the number of paid resident days the rate was in effect.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0735, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0740 How must DSHS respond to a provider's proposed preliminary settlement?** (1) DSHS has one hundred twenty days after receiving a proposed preliminary settlement to review it for accuracy and either accept or reject it.

(2) If accepted, the proposed preliminary settlement becomes the preliminary settlement report.

(3) If rejected, DSHS must issue a preliminary settlement report by cost center that fully substantiates disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0740, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0745 What recourse does a provider have if DSHS rejects their proposed preliminary settlement?** A provider has thirty days after receiving a preliminary settlement report to contest it (see WAC 388-835-0950 and 388-835-0955). After thirty days, if the preliminary settlement report has not been contested, it cannot be reviewed.

[Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-835-0745, filed 7/25/02, effective 8/25/02. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0745, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0750 What requirements apply to final settlements?**

(1) A final settlement must be by cost center and must fully substantiate all:

- (a) Disallowed costs;
- (b) Refunds;
- (c) Underpayments; or

(d) Adjustments to cost reports, financial statements, other reports, and schedules submitted by the provider.

(2) A final settlement report must use the prospective rate at which the provider was paid during the report period, including any resident specific payment adjustments made for resident care and training cost center. Resident specific payments must be weighted by the number of paid resident days reported for the period each rate was in effect. DSHS must compare these payments to the provider's audited allowable costs for the period.

(3) A provider's administration operations and property cost center settlement rate is the prospective rate for the period weighted by the number of paid resident days each rate was in effect.

(4) A provider's return of equity rate is the prospective rate for the report period weighted by the number of paid resident days the rate was in effect.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0750, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0755 Can a provider disagree with a final settlement report?** A provider has thirty days after receiving a final settlement report to contest it (see WAC 388-835-0950 and 388-835-0955). After thirty days, if the final settlement report has not been contested, it cannot be reviewed.

[Statutory Authority: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125. WSR 02-16-014, § 388-835-0755, filed 7/25/02, effective 8/25/02. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0755, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0760 What if DSHS conducts an audit during the final settlement process?**

(1) If DSHS conducts an audit, it must issue a final settlement report to the provider after the audit process is completed. Completing the audit process includes exhausting or mutual terminating the reviews and/or appeals of audit findings or determinations.

(2) If a provider, in good faith, is disputing audit findings or determinations through the administrative review or judicial appeal process, DSHS may issue a partial final settlement report to recover overpayments based on audit findings or determinations not being disputed.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0760, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0765 Why is a state facility settlement important?**

The state facility settlement is determined to establish a state facility's final payment.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0765, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0770 How is a state facility settlement calculated?**

The settlement must be calculated as follows:

(1) If the state facility's allowable costs for the report period are greater than their interim payment, the amount owed to the facility is the allowable cost amount minus the interim payment.

(2) If the state facility's allowable costs for the report period are less than their interim payment, the amount owed by the department is the interim payment minus the allowable cost amount.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0770, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0775 How is a state facility settlement implemented?**

(1) The settlement is implemented in a two-step process consisting of the facility first submitting a proposed preliminary settlement to DSHS and DSHS responding with a final settlement report that it submits to the state facility.

(2) The proposed preliminary settlement must be:

(a) Submitted to DSHS when the state facility submits their cost report.

(b) Responded to by DSHS within one hundred twenty days after they receive it from the state facility. DSHS must verify the accuracy of the facility's proposal and issue a preliminary settlement substantiating the settlement amount.

(3) The final settlement is the preliminary settlement issued by DSHS if an audit is not conducted.

(4) If an audit is conducted, DSHS must submit a final settlement report to the state facility after the audit process is completed. This report must substantiate all disallowed costs, refunds, underpayments, or adjustments to the provider's financial statements, cost report, and final settlement.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0775, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0780 Does DSHS have a responsibility to notify each provider regarding prospective reimbursement rates?**

(1) DSHS must give written notification to each provider regarding DSHS's prospective reimbursement rate.

(2) Unless specified at the time the reimbursement rate is issued, the rate will be effective from the first day of the month the rate is issued until a new rate becomes effective.

(3) If a rate is changed because of a successful provider appeal, the effective date of the new rate is the same as the effective date of the old rate.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0780, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0785 Can DSHS increase prospective reimbursement rates?** (1) Except for the situations described in subsection (3) and (4) of this section, DSHS prospective reimbursement rates are the maximum provider payment rates for those periods to which they apply.

(2) DSHS does not grant rate adjustments for cost increases that are or were subject to management control or negotiations. Examples include, but are not limited to, all lease cost increases or any cost increases not expressly authorized in subsection (3) and (4).

(3) DSHS does adjust rates for any capitalized additions or replacements made as a condition for licensure or certification.

(4) DSHS does adjust rates for cost increases that must be incurred and cannot be met through the provider's prospective rate. Examples of such cost increases are:

(a) Program changes required by DSHS;

(b) Changes in staffing levels or consultants at a facility required by DSHS;

(c) Changes required by a survey; and

(d) Changes in revenue assessments required by the state legislature.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0785, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0790 How does a provider request a rate increase?**

(1) Any provider requesting a rate adjustment must submit a:

(a) Financial analysis showing the increased cost and an estimate of the rate increase needed to cover the increased cost. The estimated rate increase must be computed according to allowable methods;

(b) Written justification for granting the rate increase; and

(c) Certification and documentation that show the staffing changes and/or other improvements started or completed.

(2) Provider's requesting adjustments under WAC 388-835-0900 must submit a written plan identifying the staff they are going to add and the resident needs they have not met because of insufficient staffing.

(3) When reviewing provider requests made under WAC 388-835-0900, DSHS considers:

(a) If the additional staff requested by a provider is appropriate for meeting resident needs;

(b) Staffing level comparisons with facilities having similar characteristics;

(c) The facility's physical layout;

(d) Supervision and management of current staff;

(e) Historical trends regarding the facility's underspending for resident care and habilitation;

(f) Number and position of existing staff; and

(g) Other resources available to the provider.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0790, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0795 What requirements apply to providers who receive rate increases?** (1) Providers that receive prospective rate increases may be required to submit quarterly reports showing how the additional funds were spent. If required, a quarterly report would begin on the first day of the month following the date the rate increase is granted.

(2) If the additional funds resulting from the rate increase are not spent on DSHS approved changes or improvements approved, DSHS may ask that they be returned immediately.

(3) If a facility gives written notice to DSHS that it intends to close by a specific date and that returning the funds would jeopardize its ability to provide for the health, safety, and welfare of its residents, it may not have to return the additional funds.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0795, filed 4/20/01, effective 5/21/01.]

## **ERRORS AND OMISSIONS**

**WAC 388-835-0800 What if DSHS discovers that a prospective rate calculation was affected by an error or omission?** (1) DSHS may adjust prospective rates resulting from cost report errors, computational errors or omissions by either DSHS or the provider.

(2) In addition to adjusting the rate, DSHS must notify the provider in writing:

(a) Regarding the nature and substance of each adjustment;

(b) That the effective date of each adjustment is the same as the effective date of the original rate; and

(c) Of any amount due to either DSHS or the provider as a result of an adjustment.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0800, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0805 What if a provider discovers an error or omission that affected their cost report?** (1) If a provider discovers an error or omission that caused their cost report to be incorrect, the provider must submit amended cost report pages.

(2) Amended cost report pages must be certified and accompanied by a written explanation why the amendment is necessary. Amendments are not accepted by DSHS unless they comply with the requirements in WAC 388-835-0815.

(3) If DSHS concludes that the amendment changes are material, the amended pages must be audited by a field audit.

(4) If DSHS concludes that the amendments are incorrect or unacceptable as a result of the field audit or other information it receives, any rate adjustment based on the amendments is null and void. Any scheduled future rate payment increases resulting from the amendments must be canceled immediately.

(5) Any rate adjustment payments must be made according to the repayment provisions in WAC 388-835-0905.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0805, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0810 What other requirements apply to rate adjustments resulting from errors or omissions?** (1) No adjustment can be made to a rate more than:

(a) One hundred twenty days after the field audit narrative and summary is sent to the provider; or

(b) One hundred twenty days after a preliminary settlement becomes a final settlement.

(2) A final settlement that is concluded within the one hundred twenty-day time limits could only be reopened to adjust prospective rates that are based upon errors or omissions.

(3) Only adjustments to prospective rates (and the related computations) resulting from errors or omissions can be reviewed if a timely request is filed according to the provisions of WAC 388-835-0950.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0810, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0815 What requirements apply to repayment of amounts owed due to errors or omissions?** (1) Repayment (or starting repayment) of any amount owed to DSHS by a provider as a result of an error or omission rate adjustment must occur:

(a) Within sixty days after the provider receives a rate adjustment notification from DSHS; or

(b) According to a repayment schedule developed by DSHS.

(2) If a provider does not repay its debt to DSHS when it is due, DSHS may deduct the amount owed from the providers current DSHS payment.

(3) If a provider unsuccessfully contests the rate adjustment (see WAC 388-835-0950, they must repay DSHS (or start repayment) within sixty days after the administrative or judicial proceedings are completed.

(4) If DSHS owes a provider as a result of a rate adjustment, DSHS must pay the provider within thirty days after notifying the provider of the adjustment.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0815, filed 4/20/01, effective 5/21/01.]

#### **PUBLIC REVIEW—PUBLIC DISCLOSURE**

**WAC 388-835-0820 What role does the public play in setting prospective reimbursement rates?** Each year before prospective reimbursement rates are set, DSHS will give all interested members of the public an opportunity to review and comment on the department's proposed rate setting methods and standards.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0820, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0825 What is DSHS' public disclosure responsibility regarding rate setting methodology?** Without identifying individual ICF/ID facilities and in compliance with public disclosure statute and



rule requirements, DSHS will provide the public with full and complete information regarding its rate setting methodology.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0825, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0825, filed 4/20/01, effective 5/21/01.]

## **BILLING PROCEDURES AND PAYMENTS**

**WAC 388-835-0830 How does a provider bill DSHS for services provided?** (1) A provider must bill DSHS each month, from the first through the last day, for care provided to medical care recipients by completing and returning a statement filed according to department instructions.

(2) A provider cannot bill DSHS for services provided to a resident until they receive a DSHS resident award letter. When the provider receives the award letter, they can bill for services provided since the resident's admission or eligibility date.

(3) A provider cannot bill DSHS for the day of a resident's death, discharge, or transfer from the ICF/ID facility.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0830, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0830, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0835 How does DSHS pay a provider?** (1) DSHS will reimburse a provider for billed service rendered under the ICF/ID contract according to the appropriate rate assigned to the provider.

(2) For each resident, DSHS will pay an amount equal to the appropriate rates multiplied by the number of resident days each rate was in effect, less any amount a resident is required to pay (see WAC 388-835-0940).

(3) A provider must accept DSHS's reimbursement rates as full compensation for all services the provider is obligated to provide under their contract. The provider must not seek or accept additional compensation any contracted services from or on behalf of a resident.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0835, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0835, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0840 Can DSHS withhold provider payments?** DSHS cannot withhold a provider payment until the provider is given written notification explaining why the payment is being withheld.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0840, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0845 Can DSHS terminate medicaid Title XIX payments to providers?** DSHS must terminate all medicaid Title XIX payments to a provider no later than sixty days after a:

- (1) Contract expires, is terminated or is not renewed;
- (2) Facility license is revoked; or
- (3) Facility is decertified as a Title XIX facility.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0845, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0850 Who is responsible for collecting from residents any amounts they may own for their care?** (1) DSHS will notify a provider of the amount each resident is required to pay for care provided under the contract and the date the payment is due.

- (2) The provider is responsible for:
  - (a) Collecting from the resident; and
  - (b) Accounting for, according to procedures established by DSHS, any authorized reduction in the resident's contribution.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0850, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0855 What if a resident's circumstances change causing a provider to contribute more to the resident's care?** (1) If a provider receives documentation verifying a change in a resident's income or resources that will reduce the resident's ability to contribute to the cost of their care, the provider must report this information in writing to the DDA regional services office within seventy-two hours.

- (2) Any necessary corrections should be made in the next ICF/ID statement and a copy of the supporting documentation should be attached.
- (3) If a provider receives increased funds for a resident, the normal amount must be allowed for clothing, personal, and incidental expenses and the balance must be applied to the cost of care.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0855, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0855, filed 4/20/01, effective 5/21/01.]

## RECEIVERSHIP

**WAC 388-835-0860 What is the role of a receiver when an ICF/ID facility is placed in receivership?** If an ICF/ID facility is providing care to state medical assistance recipients and is placed under receivership, the receiver:

- (1) Becomes the medicaid provider during the receivership period;
- (2) Assumes all new provider reporting responsibilities;
- (3) Assumes all other new provider responsibilities established in this chapter; and

(4) Is responsible, during the receivership period, for refunding any medicaid rate payments received that exceed cost of services provided.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0860, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0860, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0865 How does DSHS determine prospective reimbursement rates during receivership?** When establishing prospective reimbursement rates during receivership, DSHS must consider:

(1) Court ordered compensation, if any, for the receiver. Receiver compensation may already be available through the:

(a) Return on equity cost center rate, or

(b) Facility administrator salary where the receiver is also the facility's administrator.

(c) In order to satisfy the court order when existing sources of compensation are less than the compensation ordered by the court, DSHS could consider the difference as an additional allowable cost when establishing prospective reimbursement rates.

(2) Start-up costs and costs of repairs, replacements, and additional staff needed for resident health, training, security, and welfare. No additional money will be added to the rate if these costs can be covered through the return on equity cost center rate; and

(3) Any other allowable costs contained in this chapter.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0865, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0870 What if the court asks DSHS to recommend a receiver's compensation?** If asked for a recommendation regarding receiver compensation by the court, DSHS must consider the:

(1) Range of compensation for private ICF/ID facility managers;

(2) Experience and training of the receiver;

(3) Size, location, and current condition of the facility; and

(4) Additional factors considered appropriate.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0870, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0870, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0875 Can DSHS give emergency or transitional financial assistance to a receiver?** (1) In response to a court order, DSHS must give up to thirty thousand dollars of emergency or transitional financial assistance to a receiver.

(2) DSHS must recover any emergency or transitional assistance given to a receiver from facility generated revenue that is not obligated for facility operations.

(3) If DSHS has not fully recovered the emergency or transitional assistance when the receivership ends, DSHS may file:

(a) An action against the former licensee or owner to recover what is owed; or

(b) A lien against the facility or the proceeds from the sale of the facility.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0875, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0880 What happens when a receivership ends?** When a receivership ends, DSHS may revise the facility's medicaid reimbursement as follows:

(1) The medicaid reimbursement rate for the former owner or licensee must be what it was before receivership unless the former owner or licensee requests prospective rate revisions according to the requirements of this chapter.

(2) The medicaid reimbursement rate for licensed replacement operators must be established according to the rules in this chapter governing prospective reimbursement rates for new providers.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0880, filed 4/20/01, effective 5/21/01.]

#### **DISPUTE RESOLUTION**

**WAC 388-835-0885 What disputes between providers and DSHS can be resolved through the administrative review process?** A provider can use the administrative review process to contest:

(1) An "errors or omissions" reimbursement rate adjustment issued to the provider (see WAC 388-835-0845) or DSHS's refusal to adjust a rate the provider believes is incorrect due to errors or omissions. The provider must request an administrative review within thirty days of receiving notification that a rate has been adjusted or that DSHS refuses to adjust the rate.

(2) The way in which a DSHS rule, contract provision, or policy statement was applied when calculating the provider's prospective cost related reimbursement system's rate.

(3) An audit finding, other audit determination, a rate review or other settlement determination.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0885, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0890 What disputes cannot be resolved through the administrative review and fair hearing processes?** DSHS' administrative review and fair hearing processes cannot be used to challenge the adequacy of any prospective or settlement reimbursement rate or rate component, either individually or collectively.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0890, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0900 How does a provider request an administrative review?** (1) A provider challenging an audit or settlement determina-

tion has a maximum of thirty days after receiving the finding or decision to file a written request for an administrative review.

(2) Written requests must be filed with the:

(a) Office of financial recovery services when the provider challenges an audit finding (adjusting journal entries or AJEs) or other audit determination; or

(b) DDA assistant secretary when the provider challenges a rate, desk review, or other settlement determination.

(3) The written request must:

(a) Be signed by the provider or facility administrator;

(b) Identify the specific determination being challenged and the date it was issued;

(c) State, as specifically as possible, the issues and regulations involved and why the provider claims the determination was erroneous; and

(d) Be accompanied by any documentation that will be used to support the provider's position.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0900, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0900, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0905 What happens after a provider requests an administrative review?**

(1) After receiving a provider's request, DSHS must schedule a conference between the provider and appropriate department representatives.

(2) Unless both parties agree, in writing, to a specific later date, the conference must be scheduled at least fourteen days after DSHS notifies the provider that a conference will be held and no later than ninety days after DSHS receives the provider's review request.

(3) The conference may be conducted by telephone unless DSHS or the provider requests, in writing, that it be held in person.

(4) The provider and DSHS representatives must participate in the conference.

(5) Either at the conference or before, the provider must give DSHS any documentation:

(a) Requested by DSHS that the provider is required to maintain for audit purposes under WAC 388-835-0270; and

(b) The provider intends to use to support their position.

(6) At the conference DSHS and the provider must clarify the issues and attempt to resolve them.

(7) If additional documentation is necessary to resolve the issues, a second conference meeting must be scheduled. Unless both parties agree, in writing, to a specific later date, this second conference meeting must be scheduled not later than thirty days after the first session.

(8) Regardless of whether an agreement is reached, DSHS must give the provider a written decision within sixty days after the conference ends.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0905, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0910 What if a provider disagrees with the administrative review decision?** (1) If they disagree with the administrative review decision, a provider has a right to request an adjudicative proceeding within thirty days of receiving the decision.

(2) To request an adjudicative proceeding, a provider must:

(a) File a written request with the office of administrative hearings (OAH);

(b) Sign the request or have it signed by the facility administrator;

(c) State as specifically as possible the issues and regulations involved;

(d) State the reasons for disagreeing with the administrative review decision; and

(e) Attach a copy of the contested decision and any documentation the provider will use to support their position.

(3) The adjudicative proceeding must be governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 388-02 WAC. If any part of this chapter conflict with chapter 388-02 WAC, this chapter prevails.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0910, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0915 Can DSHS withhold an undisputed overpayment amount from a current ICF/ID payment?** DSHS is authorized to withhold from an ICF/ID's current payment all amounts found by a preliminary or final settlement to be overpayments if they are not identified by the ICF/ID as overpayments and challenged in an administrative or judicial review.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0915, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0915, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0920 Can DSHS withhold a disputed overpayment amount from a current ICF/ID payment?** Once administrative and judicial review processes are complete, contested overpayments retained by an ICF/ID may be withheld from the ICF/ID's current payment but only to the extent DSHS's position or claims are upheld.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0920, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0920, filed 4/20/01, effective 5/21/01.]

## **COST OF CARE OF MENTALLY DEFICIENT PERSONS RESIDING IN STATE INSTITUTIONS**

**WAC 388-835-0925 What is the purpose of this section?** The purpose of this chapter is to regulate the costs of care of intellectually/physically deficient persons.

[Statutory Authority: RCW 71A.12.030 and 44.04.280. WSR 15-09-069, § 388-835-0925, filed 4/15/15, effective 5/16/15. Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0925, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0930 How is the payment for residential facilities set?** The department sets the payment for residential facilities by the methodology noted in chapter 388-835 WAC.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0930, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0935 How much of a resident's income is exempt from paying their care?** Residents whose total resources are insufficient to pay the actual cost of care must be entitled to a monthly exemption from income in the amount of twenty-five dollars.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0935, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0940 What if the estate of a resident is able to pay all or a portion of their monthly cost?** (1) If DSHS finds that the estate of a resident is able to pay all or a portion of their monthly costs for care, support, and treatment, they must serve a written notice of finding of responsibility (NFR) on the:

- (a) Guardian of the resident's estate; or
- (b) If a guardian has not been appointed, resident's spouse or parent or other person acting in a representative capacity and in possession of the resident's property; and
- (c) The superintendent of the state school.

(2) If a resident is an adult and is not under a legal disability, the department must personally serve the NFR on the resident.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0940, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0945 If a resident or guardian is served by DSHS with a NFR when is payment due?** If a resident or guardian is served by DSHS with an NFR, payment is due thirty days after receiving the notice.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0945, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0950 May a resident or guardian request a hearing if they disagree with the NFR?** If a resident or guardian disagrees with the NFR, they have the right to ask for a hearing under chapter 34.05 RCW. They must file a written hearing request within thirty days of receipt with the secretary of DSHS, ATTN: Determination Officer, P.O. Box 9768, Olympia, WA 98504.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0950, filed 4/20/01, effective 5/21/01.]

**WAC 388-835-0955 What information must be included in the request for a hearing?** The request for hearing must include:

- (1) A specific statement of the issues and law involved;
- (2) The grounds for contesting the department decision; and
- (3) A copy of the NFR being contested.

[Statutory Authority: RCW 71A.20.140. WSR 01-10-013, § 388-835-0955, filed 4/20/01, effective 5/21/01.]