

9553.0035 DETERMINATION OF ALLOWABLE COSTS.

Subpart 1. **Allowable costs.** Only costs determined to be allowable under parts 9553.0010 to 9553.0080 may be used to compute the total payment rate for facilities participating in the medical assistance program.

Subp. 2. **Licensure and certification costs.** The costs of meeting the applicable licensure and certification standards listed in items A to E are allowable costs for the purpose of setting the facility's total payment rate unless otherwise provided in parts 9553.0010 to 9553.0080. The standards are:

A. federal regulations for ICF/DD services provided by Code of Federal Regulations, title 42, sections 442.400 et seq.;

B. requirements established by the commissioner for meeting program standards under parts 9525.0210 to 9525.0430 and standards for aversive and deprivation procedures established according to Minnesota Statutes, section 245.825;

C. requirements established by the Department of Health for meeting health standards as set out by state rules and federal regulations;

D. requirements to comply with changes in federal or state laws and regulations;
and

E. other requirements for licensing under federal or state law, state rules, federal regulations, or local standards that must be met to provide ICF/DD services.

Subp. 3. **Service costs.** The costs of services including program, maintenance, administrative, payroll taxes and fringe benefits, and property-related costs as defined in part 9553.0040, are allowable costs for the purpose of setting the facility's total payment rate unless otherwise provided in parts 9553.0010 to 9553.0080.

Subp. 4. **Applicable credits.** Applicable credits must be used to offset or reduce the expenses of the facility to the extent that the cost to which the credits apply was claimed as a facility cost. This cost principle does not apply to items A and B:

A. payments made by the commissioner to the provider for approved services for very dependent persons with special needs pursuant to Minnesota Statutes, section 256B.501, subdivision 8, and parts 9510.1020 to 9510.1140; and

B. gifts and donations from nongovernmental sources.

Subp. 5. **Adequate documentation.** A facility shall keep adequate documentation.

A. In order to be considered adequate, documentation must:

(1) be maintained in orderly, well-organized files;

(2) not include documentation of more than one facility in one set of files unless transactions may be traced by the department to the facility's annual cost report;

(3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or facilities. If any of the information to be listed on the invoice is not available, the providers shall document their good faith attempt to obtain the information;

(4) include copies of all written agreements and debt instruments to which the facility is a party and any related mortgages, financing statements, and amortization schedules to explain the facility's costs and revenues;

(5) if a cost or revenue item is not documented under subitem (3) or (4), the facility must document the amount, source, and purpose of the item in its books and ledgers following generally accepted accounting principles and in a manner providing an audit trail; and

(6) be retained by the facility to support the five most recent annual cost reports submitted to the commissioner. The commissioner may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practice as in part 9553.0041, subpart 12, or if the records are necessary to resolve a pending appeal.

B. Providers must document all consultant, professional, or purchased service contracts. They must maintain copies of all contracts and invoices relating to consultant, professional, or purchased services. These documents must include the name and address of the vendor or contractor, the name of the person who actually performed the services, the dates of service, a description of the services provided, the unit cost, and the total cost of the service.

C. Payroll records must be maintained by a facility and must show the amount of compensation paid to each employee and the days and hours worked. Complete and orderly cost allocation records must be maintained for cost allocations made among cost categories or facilities as specified in part 9553.0030.

D. Documentation of mileage must be maintained in a motor vehicle log. Except for motor vehicles exclusively used for facility business, the facility or related organization must maintain a motor vehicle log for each vehicle used by the facility that shows personal and facility mileage for the reporting year. Mileage paid for the use of a private vehicle must be documented.

Subp. 6. **Compensation for services performed by individuals.** Compensation for services performed by individuals includes all the remuneration paid currently, accrued

or deferred, for services rendered by the provider or employees of the facility. Only compensation costs for the reporting period are allowable.

A. Compensation includes:

- (1) salaries, wages, bonuses, vested vacation, vested sick leave, and employee benefits paid for managerial, administrative, professional, and other services;
- (2) amounts paid by the provider for the personal benefit of the provider or employees;
- (3) deferred compensation and individual retirement accounts (IRA's);
- (4) the costs of capital assets, supplies, services, or any other in kind benefits the provider or employees receive from the facility or related organization, except the cost of capital assets, supplies, services, or other in kind benefits incurred as a necessary cost for an employee who is required to supervise resident activities or to reside in the facility as a condition of employment; and
- (5) payments to organizations of nonpaid workers that have arrangements with the facility for the performance of services by the nonpaid workers.

For purposes of this item, in kind benefit means benefit received in a medium other than cash as identified in parts 3315.0200 to 3315.0220 for personal services performed.

B. The facility must have a written policy for payment of compensation for services performed by individuals. The policy must:

- (1) relate the individual's compensation to the performance of specified duties and to the number of hours worked by the individual. Only the compensation of persons employed by the hour must be stated in terms of an hourly wage. The number of hours worked by salaried employees may be stated in terms of the average annual hours worked for each facility.
- (2) result in compensation payable under the policy which is consistent with the compensation paid to persons performing similar duties in the ICF/DD industry. Employees covered by collective bargaining agreements are not required to be covered by the policy if the collective bargaining agreement otherwise meets the essentials of the policy required by this item.
- (3) specify the nature and cost to the provider or provider group of any in kind benefits included in the compensation.

C. Only services which are necessary services shall be compensated.

D. Except for accrued vested vacation and accrued vested sick leave, compensation must be actually paid, whether by cash or negotiable instrument, within 121 days after the close of the reporting year. If payment is not made within 121 days, the

unpaid compensation must be disallowed in that reporting year. Payments made after the 121-day period are allowable in the reporting year made.

Subp. 7. **Limitations on related organization costs.** Related organization costs are subject to items A to D.

A. Costs applicable to services, capital assets, or supplies directly or indirectly furnished to the provider by any related organization may be included in the allowable cost of the facility at the purchase price paid by the related organization for capital assets or supplies and at the cost incurred by the related organization for the provision of services to the facility if these prices or costs do not exceed the prices of comparable services, capital assets, or supplies that could be purchased elsewhere. For this purpose, the related organization's costs must not include an amount for mark up or profit, except as provided in the following paragraph.

Except for the rental or leasing of facilities, if the related organization in the normal course of business sells services, capital assets, or supplies to nonrelated organizations, the allowable cost to the provider shall be no more than the price charged to the nonrelated organization provided that sales to nonrelated organizations constitute at least 50 percent of total annual sales of comparable services, or capital assets, or supplies.

B. Lease or rental costs paid to or by a related organization shall be allowed according to part 9553.0060, subpart 7.

C. The cost of ownership of a capital asset owned by a related organization and used by the facility may be included in the allowable cost of the facility. When the capital asset is sold or otherwise disposed of by the related organization and the depreciation on the asset has been claimed as a facility cost, any gain realized from the sale by the related organization must be transferred to the facility as an offset in the facility's property-related cost category. The amount of gain to be offset shall be determined as in part 9553.0060, subpart 1, item D.

D. A provider that sells, leases, or provides goods or services to a related organization or nonrelated organization shall allocate the cost of the goods or services to the related organization or nonrelated organization and identify the allocations in the facility's cost report. Costs shall be allocated as provided in part 9553.0030, subpart 5.

Subp. 8. **Capitalization.** For rate years after September 30, 1986, the cost of purchasing or repairing capital assets shall be capitalized under items A to D, subject to part 9553.0060, subpart 1.

A. The cost of purchasing a capital asset listed in the depreciation guidelines must be capitalized. The cost of purchasing any other capital asset not included in the depreciation guidelines must be capitalized if the asset has a useful life of more than two years and costs more than \$500. For costs incurred after September 30, 1992, a capital

asset listed on the depreciation guidelines shall not be capitalized when the unit cost of that capital asset is \$200 or less.

B. Repairs that cost \$500 or less may be treated as an expense. Repairs that cost more than \$500 and that extend the estimated useful life of the asset by at least two years must be capitalized. Improvements made solely for the purpose of making an asset useful for purposes other than those for which it was originally used or more useful for the same purposes must also be capitalized if the cost exceeds \$500. Except for repairs necessitated solely as a result of destructive resident behavior, repairs treated as an expense must be classified in the maintenance operating cost category. Repairs necessitated solely as a result of destructive resident behavior and treated as an expense must be classified as a program operating cost.

C. Construction period interest expense, feasibility studies, and other costs related to the construction period must be capitalized and depreciated in accordance with part 9553.0060, subpart 1.

D. Items, such as land improvements whose maintenance or construction are not the responsibility of the provider, land, and goodwill, are not considered depreciable capital assets.

Subp. 9. **Working capital interest expense.** Working capital interest expense is allowed subject to the requirements of items A and B.

A. Working capital interest expense on working capital debt incurred prior to January 1, 1986, is allowed under 12 MCAR SS 2.05301-2.05315 [Temporary].

B. Working capital interest expense for facilities constructed or established after January 1, 1986, must be limited under subitems (1) and (2).

(1) For the interim and settle-up payment rates the total amount of working capital interest expense allowed must not exceed 2.5 percent of the facility's allowable historical operating costs during the interim reporting period.

(2) For the rate year which follows the settle-up, the total amount of working capital interest expense allowed must not exceed 80 percent of the allowable working capital interest expense as determined in the settle-up cost report.

Subp. 10. **Retirement contributions.** Retirement contributions for each employee must be limited to either a qualified pension plan or a qualified profit sharing plan submitted to, and approved by, the Internal Revenue Service.

Subp. 11. **Therapeutic overnight trips, camping, and vacations for residents.** The provider may use facility staff, supplies, equipment, and vehicles ordinarily provided as part of the facility program for therapeutic overnight trips, camping, and vacations for residents. In addition, up to \$300 per year per resident may be allowed for fees, tickets, travel, lodging,

and meals while residents are away from the facility. Other costs may be paid from other funding sources such as voluntary contributions from residents, relatives, and fund raisers.

Subp. 12. **Preopening costs.** Preopening costs of newly established facilities shall be allowable as in items A to C.

A. Preopening operating costs of newly established facilities which are incurred within 30 days prior to admission of residents must be included in the facility's interim and settle-up cost reports.

B. Preopening costs of newly established facilities which are incurred more than 30 days prior to admission of residents must be capitalized as deferred charges and amortized over a period of not less than 60 consecutive months beginning with the month in which the first resident is admitted for care.

C. Preopening costs do not include property-related costs.

Subp. 13. **Respite care.** The provider must report the costs associated with providing respite care as an allowable cost in the cost report and count respite care days as resident days.

Subp. 14. **Top management compensation.** For establishment of the allowable historical operating cost, annual compensation for top management personnel who perform necessary services shall be limited according to items A to F. Documentation of all necessary service performed must be maintained according to subparts 5 and 6.

A. In no case shall the total compensation reimbursed according to parts 9553.0010 to 9553.0080 to an individual, any portion of whose compensation is reimbursed as top management compensation, exceed \$53,820. A person who is included in top management personnel who performs necessary services for the facility or provider group on less than a full-time basis, may receive as allowable compensation no more than a prorated portion of \$53,820 based on time worked.

B. If a person compensated for top management functions in a facility or organization is compensated for providing consultant services to that facility or organization, the compensation for consultant services however designated shall be subject to the top management compensation limitation.

C. Top management compensation shall not include, within the limits of items A and B, the benefits of group health or dental insurance, group life insurance, pensions or profit sharing plans, and governmentally required retirement plans.

D. If the fringe benefits paid to top management personnel are not provided to all or substantially all of the facility's employees at the same benefit level, that portion of the fringe benefits paid to top management personnel which is not provided to all or substantially all of the facility's employees, shall be disallowed.

E. An individual compensated for top management services on a less than full-time basis for a facility or provider group may be compensated for performing other necessary services which the individual is qualified to perform. Compensation for another necessary service must be at the pay rate for that service except that the total compensation paid to an individual cannot exceed the limit in item A.

F. The percentage difference between the previous two Januarys prior to the beginning of the rate year, the all urban consumer price index (CPI-U) for Minneapolis-Saint Paul, as published by the Bureau of Labor Statistics, new series index (1967=100) shall be used to increase the top management compensation limitation in item A. The consumer price index is incorporated by reference. It is available through the Minitex Interlibrary Loan System. It is subject to frequent change. The adjustment required by this formula shall be effective for the reporting year beginning on January 1, 1986, and each January 1 thereafter.

Subp. 15. **General cost principles.** The commissioner shall use the cost principles in this subpart to determine allowable costs:

- A. the cost is ordinary, necessary, and related to resident care;
- B. the cost is what a prudent and cost conscious business person would pay for the specific good or service in the open market in an arm's length transaction;
- C. the cost is for goods or services actually provided to the facility and the cost is actually paid for by the facility within 180 days after the close of the reporting year except as provided in subpart 6, item D;
- D. the cost effects of transactions that have the effect of circumventing parts 9553.0010 to 9553.0080 are not allowable under the principle that the substance of the transaction must prevail over its form; and
- E. costs that are incurred due to management inefficiency, unnecessary care or facilities, agreements not to compete, or activities not commonly accepted in the ICF/DD industry, are not allowable.

Subp. 16. **Pass through of training and habilitation services costs.** Training and habilitation services costs shall be paid as a pass through payment at the lowest rate paid to the training and habilitation services vendor by the county for comparable services at that site under Minnesota Statutes, sections 252.40 to 252.47. The pass through payments for training and habilitation services are paid separately by the commissioner and are not included in the computation of the total payment rate.

Statutory Authority: *MS s 256B.501*

History: *10 SR 1298; 12 SR 1711; 17 SR 784; L 2005 c 56 s 2*

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