

**WAC 388-96-211 Proposed settlement report—Payment refunds—Overpayments—Determination of unused rate funds—Total and component payment rates.** (1) Contractors must submit with each annual nursing facility cost report a proposed settlement report showing underspending or overspending in each component rate during the cost report year on a per-resident day basis. The department must accept or reject the proposed settlement report, explain any adjustments, and if needed, issue a revised settlement report.

(2) Contractors are not required to refund payments made to cost components not identified in WAC 388-96-208 (7) or (8) in excess of the adjusted costs of providing services corresponding to these components.

(3) The facility must return to the department any overpayment amounts identified in WAC 388-96-208 (7) or (8) that the department identifies following the examination and settlement procedures as described in this chapter, provided that the contractor may retain any overpayment that does not exceed one percent of the facility's component rate identified in WAC 388-96-208 (7) or (8). However, no overpayments may be retained in a cost center to which savings have been shifted to cover a deficit, as provided in subsection (5) of this section. Facilities that are not in substantial compliance for more than ninety days and facilities that provide substandard quality of care at any time during the period for which settlement is calculated, will not be allowed to retain any amount of overpayment in the facility's cost components identified in WAC 388-96-208 (7) or (8). The terms "not in substantial compliance" and "substandard quality of care" must be defined by federal survey regulations.

(4) Total and component payment rates assigned to a nursing facility, as calculated and revised, if needed, under the provisions of this chapter and chapter 74.46 RCW represent the maximum payment for nursing facility services rendered to medicaid recipients for the period the rates are in effect. No increase in payment to a contractor shall result from spending above the total payment rate or in any rate component.

(5) For cost reports ending on or before December 31, 2016, determination of unused rate funds, including the amounts of direct care, therapy, and support services to be recovered, must be done separately for each rate component and, except as otherwise provided in this subsection, neither costs nor rate payments may be shifted from one component rate or corresponding services are to another in determining the degree of underspending or recover, if any. In calculating a preliminary or final settlement, savings in the support services cost center must be shifted to cover a deficit in the direct care or therapy cost centers up to the amount of any savings but no more than twenty percent of the support services component rate may be shifted. In calculating a preliminary or final settlement, savings in direct care and therapy may be shifted to cover a deficit in these two cost centers up to the amount of savings in each, regardless of the percentage of either component rate shifted. Contractor retained overpayments up to one percent of direct care, therapy, and support services rate components, as authorized in subsection (4) of this section, must be calculated and applied after all shifting is completed.

(6) For the 2016 calendar year cost report, the following components must be combined for settlement purposes in the following manner:

(a) The direct care, therapy, and support services costs for services provided on or before June 30, 2016 must be combined with the direct care costs for services provided on or after July 1, 2016 and compared to the total combined weighted rate for direct care, therapy, and support services.

(b) The operations rate for services provided on or before June 30, 2016 must be combined with the indirect care rate for services provided on or after July 1, 2016.

(c) The property rate for services provided on or before June 30, 2016 must be combined with the fair market rental rate for services provided on or after July 1, 2016.

(7) The facility must return to the department any overpayment amounts based on the aggregated cost versus rate that the department identifies following the examination and settlement procedures as described in this chapter. The contractor may retain any overpayment that does not exceed one percent of the facility's combined direct care component rate. However, facilities that are not in substantial compliance for more than ninety days and facilities that provide substandard quality of care at any time during the period for which settlement is calculated will not be allowed to retain any amount of overpayment in the facility's direct care component rate.

(8) Contractors are not required to refund payments made in the indirect care, capital, and quality enhancement component rates in excess of the adjusted costs of providing services corresponding to these components.

(9) For the 2017 calendar year cost report and later, the facility must return to the department any overpayment amounts in the direct care rate component that the department identifies following the examination and settlement procedures as described in this chapter. The contractor may retain any overpayment that does not exceed one percent of the facility's direct care component rate. However, facilities that are not in substantial compliance for more than ninety days and facilities that provide substandard quality of care at any time during the period for which settlement is calculated, will not be allowed to retain any amount of overpayment in the facility's direct care component rate. The terms "not in substantial compliance" and "substandard quality of care" must be defined by federal survey regulations.

(10) Total and component payment rates assigned to a nursing facility, as calculated and revised, if needed, under the provisions of this chapter and chapter 74.46 RCW represent the maximum payment for nursing facility services rendered to medicaid recipients for the period the rates are in effect. Spending above the total payment rate or any rate component must not increase payment to a contractor.

(11) While the provisions of RCW 74.46.561(10) are in effect, any reductions and caps must be proportionally allocated to all components before settlement is calculated.

[Statutory Authority: RCW 74.46.800, 74.46.561(1). WSR 17-22-037, § 388-96-211, filed 10/24/17, effective 11/24/17. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-211, filed 2/14/11, effective 2/26/11.]