

Rule No. 560-X-42-.19 Unallowable Expenses

(1) General

(a) All payments to providers for services rendered must be based on the reasonable cost of such services covered by the Alabama State Plan. It is the intent of the program that providers will be reimbursed the reasonable costs which must be incurred in providing quality resident care. Implicit in the intent that reasonable costs be paid are the expectations that the provider seeks to minimize costs and that costs do not exceed what a prudent and cost-conscious buyer pays for a given item of service or product. If costs are determined to exceed the level that prudent buyers incur in the absence of clear evidence that the higher costs were unavoidable, the excess costs are not allowable.

(b) Costs related to resident care include necessary and proper costs involved in developing and maintaining the efficient operation of resident care facilities. Necessary and proper costs related to resident care are those which are usual and accepted expenses of similar providers.

(2) Costs that are covered by other State and/or Federal programs will not be allowed, and costs which are covered by other Alabama Medicaid Agency programs will not be reimbursed under the ICF/MRIID Program. Examples of such costs include, but are not limited to:

- (a) Prescription Drugs (which can be billed by a state owned provider to the Pharmacy Program)
- (b) Dental Expense (except consultant fees)
- (c) Physicians' Fees other than the Medical Director
- (d) Laboratory Expense for Residents (which can be billed by a laboratory to the Alabama Medicaid Laboratory Program)
- (e) Ambulance Service

(3) Administrative Costs Items which will not be allowed are listed below. This listing is not intended to be all inclusive. Other administrative costs which violate the prudent buyer concept or are not related to resident care will not be reimbursed by the Alabama Medicaid Agency.

- (a) Management Fees
 - 1. Management firms, individuals and consultants which duplicate services already provided, or in a facility in which a full-time licensed administrator is employed.
- (b) Director's Fees
- (c) Compensation to owners and other personnel not performing necessary functions (See Rule No. 560-X-42-.07)
- (d) Salaries which are paid personnel performing overlapping or duplicate functions
- (e) Legal Fees and Expenses
 - 1. Retainers
 - 2. Relating to informal conferences and fair hearings
 - 3. Relating to issuance and sale of capital stock and other securities
 - 4. Relating to creation of corporations and partnerships
 - 5. Relating to business reorganization
 - 6. Services for benefits of stockholders
 - 7. Acquisition of ICF/MRIID facilities or other business enterprises
 - 8. Relating to sale of ICF/MRIID Facilities and other enterprises

9. In connection with criminal actions resulting in a finding of guilt or equivalent action or plea

10. Other legal services not related to resident care

(f) Outside Accounting and Audit Fees and Expenses

1. Personal tax returns

2. Retainers

3. Relating to informal conferences and fair hearings

4. Relating to issuance and sale of capital stock and other securities

5. Relating to creation of corporations or partnerships

6. Relating to business reorganization

7. Services for the benefits of stockholders

8. Acquisition for ICF/~~MRIID~~ facilities or other business enterprises

9. Relating to sale of ICF/~~MRIID~~ facilities and other enterprises

10. In connection with participation in criminal actions resulting in guilt or equivalent action or plea

11. Feasibility studies, however, such fees may be capitalized as a Construction Cost under Rule 560-X-42-.11.

12. Other Accounting services not related to resident care

(g) Taxes

1. Personal income

2. Property not related to patient care

3. Corporate income tax

4. Vehicle tag & tax

(h) Dues

1. Club

2. Civic

3. Social

4. Professional organization dues for individuals

5. Non-resident care related organization

(i) Insurance

1. Life

2. Personal property not used in resident care

3. On real estate not used in providing resident care

4. Group life and health insurance premiums which favor owners of a provider or are

for personnel not bona fide employees of the facility

(j) Advertising in excess of the limitations of Rule No. 560-X-42-.07 of this Chapter.

(k) Chaplains/Spiritual Advisors

(l) Bad debts and associated collection expenses

(m) Employees relocation expenses

(n) Penalties

1. Late Tax

2. Late payment charges. (Note: If a facility can fully document that a late payment charge is directly due to late Medicaid payments, the amount of the late payment charge will be an allowable cost.)

3. Bank overdraft

4. Fines

- (o) Certain Real Estate Expenses
 - 1. Appraisals obtained in connection with the sale or lease of an ICF/MRIID facility (unless required by Medicaid)
 - 2. Costs associated with real estate not related to resident care
 - (p) Interest Expense
 - 1. Interest associated with real estate in excess of ICF/MRIID facility needs or real estate not related to resident care.
 - 2. Interest paid to unrelated parties on working capital loans will be limited to no more than 90 days interest on an amount not in excess of two months average allowable cost per cost reporting period
 - 3. Interest expenses applicable to penalties
 - 4. Construction Interest (must be capitalized)
 - 5. Interest paid to a related party
 - 6. Interest on personal property not related to resident care
 - 7. Interest on loans not associated with resident care
 - 8. Interest expense generated by the refinancing of any long term debt that exceeds the amount which would have been allowed had refinancing not occurred unless such excess interest meets the necessary and reasonableness tests of Rule No. 560-X-42-.08.
 - (q) Licenses
 - 1. Consultants
 - 2. Professional personnel
 - (r) Donations and Contributions
 - (s) Accreditation Surveys
 - (t) Telephone Services
 - 1. Mobile telephones, beepers, (except for Directors of Nursing or Maintenance personnel), telephone answering and recording devices, telephone call relays, automated dialing services.
 - 2. Long distance telephone calls of a personal nature
 - (u) Organizational and Start-up Costs - All costs related to the issuance and sale of shares of capital stock, including underwriters' fees and commissions, accounting or legal fees incurred in establishing the business organization, costs of qualifying with the appropriate Federal or State Authorities, stamp taxes, etc., expenses of temporary directors, costs of organizational meetings of directors and/or stockholders and incorporation fees.
 - (v) Any costs associated with corporate stock records maintenance.
 - (w) Medicaid administrative fee.
- (4) Prior Period Costs and Accounts Payable
- (a) The Medicaid reimbursement rate is calculated to provide adequate funds to pay business expenses in a timely manner. Costs incurred in prior periods but not paid must be accrued and reported in that period during which the costs were incurred. Payment of prior period cost in the current year is not an allowable cost.
 - (b) Short-term liabilities must be paid within ninety (90) days from the date of invoice; otherwise, the expense will not be allowed unless the provider can establish to the satisfaction of Medicaid that the payment was not made during 90 days for a valid business reason.
 - (c) Actual payment must be made by cash or negotiable instrument. For this purpose, an instrument to be negotiable must be in writing and signed, must contain an unconditional

promise or order to pay a certain sum of money on demand or at a fixed and determinable future time, and must be payable to order of or to bearer. All voided instruments, whether voided in fact or by devise, are considered void from inception.

(5) Non-Covered Services

(a) The costs of providing personal services and costs associated with income producing activities are not allowable and must be eliminated from cost. If all costs associated with the service or activity cannot be, or are not identified separately on the cost report, then the total income which was generated must be used to offset total reported costs.

(b) Examples of these services or activities are laundry and dry cleaning of personal apparel (subject to the provisions of Rule 560-X-42-.09, radio, television, telephone, and vending machines).

(c) The following are examples of costs associated with non-covered services or activities which are not reimbursable:

1. Materials or goods
2. Supplies
3. Salaries and Employee Benefits
4. Depreciation, interest, rent, utilities, and insurance on space and equipment

(6) Beauty and Barber Services

(a) If the ICF/~~MRIID~~ facility makes no charge to the resident for beauty and barber services, and if this service is performed by employees of the facility or by volunteers, then the costs associated with the service are allowable for Medicaid reimbursement purposes.

(b) If the ICF/~~MRIID~~ facility makes a charge to the resident for beauty and barber services and if all costs associated with the service or activity cannot be, or are not identified separately on the cost report, then the total income which was generated from the service must be used to reduce or offset total reported costs.

(7) Miscellaneous or Other Non-Allowable Expenses. The following is a list of expenses which have previously been submitted in cost reports that are unallowable. It is intended to typify unallowable transactions and is not intended to be all-inclusive:

(a) Nursing consultants, except those required as condition to participation in the ICF program

(b) Additional wages paid as a result of an audit by the Wage and Hour Administration which relate to a prior period. However, additional payments made as the result of workman's compensation audits conducted after the end of the relevant fiscal year will be considered allowable costs for the fiscal year in which such payments are made

(c) Newspaper or magazine subscriptions for individual residents

(d) Off premise telephone service

(e) Farm expense

(f) Real estate costs associated with real estate ownership in excess of ICF/~~MRIID~~ facility needs and not related to resident care

(g) Sitter services or private duty nurses

(h) Cost of meals served to guests and employees

(i) Fund raising expenses

(j) Other expenses not appropriate in developing and maintaining adequate resident care facilities

(k) Any expenses for service or supplies not routinely available to all residents as needed

(l) Payments to doctors, dentists, etc., for services provided individual residents

(8) Gifts. The cost of gifts made by a provider in excess of \$20.00 per bona fide facility employee per fiscal year is an unallowable expense.

Author: Robin Arrington, Associate Director, LTC Provider/Recipient Services Unit

Statutory Authority: State Plan; Title XIX, Social Security Act, 42 C.F.R. Section 447.250-.255.

History: Rule effective October 13, 1988. Effective date of this amendment July 13, 1993.

Amended: Filed March 21, 2017