



# EXPEDITED RULE MAKING

**CR-105 (June 2004)**  
(Implements RCW 34.05.353)  
**EXPEDITED RULE MAKING ONLY**

**Agency:** Department of Social and Health Services, Developmental Disabilities Administration

**Title of rule and other identifying information:** (Describe Subject)

Chapter 388-835 WAC Intermediate Care Facility/Mental Retardation (ICF/MR) program and reimbursement system changing to Intermediate Care Facility/Intellectual Disabilities (ICF/ID) program and reimbursement system

### NOTICE

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

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**AND RECEIVED BY** (Date) April 7, 2015

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The purpose of this proposal is to comply with goals stated in RCW 44.04.280, by replacing demeaning language with respectful language. This will be done by using respectful language when referring to individuals with disabilities by replacing all instances of MR and mental retardation with ID and Intellectual disability. Other housekeeping changes are also being made to reflect agency reorganization. None of these changes will result in any changes to policy, eligibility, or processes.

**Statutory authority for adoption:** RCW 74.08.090, RCW 44.04.280, House Bill 2490, and Rosa's Law

**Statute being implemented:** RCW 44.04.280 and HB 2490

**Is rule necessary because of a:**

Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**DATE**  
December 26, 2014

**NAME (TYPE OR PRINT)**  
Katherine Vasquez

**SIGNATURE**

**TITLE**  
DSHS Rules Coordinator

### CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
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**DATE: January 05, 2015**

**TIME: 10:40 AM**

**WSR 15-02-048**

**Name of proponent:** (person or organization)

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

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**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**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 ~~((the mentally retarded))~~ those with an intellectual disability (ICF/((MR))ID); and

(b) Assure adequate ICF/((MR))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/((MR))ID facilities or programs contained in chapter 388-96 WAC.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**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/((MR))ID services to ICF/((MR))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, in-

vestments 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/((MR))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/((MR))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/((MR))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.

**"((Boarding-home)) 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/((MR))ID services to eligible medicaid recipients.

~~(("Provider" means an entity contracting with the department to deliver ICF/MR 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.

**"((DDD)) DDA"** means the ((division-of)) 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/((MR))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/((MR))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/((MR))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 ((~~mental retardation~~)) intellectual disability professional ((~~QMRP~~)) QIDP)"** means ((~~QMRP~~)) 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 ((division of)) 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 ((division)) administration determines is, under RCW 71A.16.040 eligible for ((division)) 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 ((QMRP))

OIDP.

**"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/((MR))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/((MR))ID services to ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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/((MR))ID enterprise from the provider to another party;

(c) Leasing the ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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 (~~(mental retardation)~~) 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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

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

- (1) The (~~(division)~~) administration will recognize only the official name of an ICF/((MR))ID as shown on the license.
- (2) All state and private ICF/((MR))ID facilities must be certified as a Title XIX (~~(IMR)~~) ICF/((MR))ID facility.
- (3) All private ICF/((MR))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/((MR))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/((MR))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).

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

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

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0050 What general requirements apply to the quality of ICF/((MR))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) ((~~DD~~)) 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/((MR))ID is eligible for community residential services when such services meet their needs.

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

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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/((MR))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 (~~DDD~~) 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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0070 What requirements apply to the placement of individuals in an ICF/((MR))ID facility?** (1) Placing individuals in an ICF/((MR))ID facility is the responsibility of the (~~(division of)~~) 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/((MR))ID services before payment can be approved.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID to ICF/((MR))ID;
- (b) An ICF/((MR))ID to a hospital;
- (c) A hospital to an ICF/((MR))ID; or
- (d) An ICF/((MR))ID or hospital to alternative community placement.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0080 What if an ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0095 Is a transfer plan required for each resident?** (1) ((~~DD~~)) 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 ((~~DD~~)) DDA to monitor the effects of the transfer.

AMENDATORY SECTION (Amending WSR 04-16-018, filed 7/23/04, effective 8/23/04)

**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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID facility when the facility's ICF/((MR))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 ((~~Health Care Financing Administration (HCFA)~~)) Centers for Medicare and Medicaid (CMS) determines a facility no longer meets certification requirements as an ICF/((MR))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/((MR))ID program.

AMENDATORY SECTION (Amending WSR 01-10-013, 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) ((DDD)) DDA is solely responsible for arranging the resident's transfer.

AMENDATORY SECTION (Amending WSR 01-10-013, 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 ((DDD)) 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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

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

**SOCIAL LEAVE FOR ICF/((MR))ID RESIDENTS**

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0155 What requirements apply to social leaves for ICF/((MR))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 (~~DDD-director~~) 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 (~~DDD-director~~) DDA assistant secretary or their designee.

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

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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) (~~Director, division of~~) Assistant secretary, developmental disabilities administration, or designee.

**((ICR/MR)) ICF/ID CONTRACTS**

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0175 What if a facility violates its ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-835-0180 What if an ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID facility and receiving federal funds.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0205 How does a change in ownership affect an ICF/((MR))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 ((CF/MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

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

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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/((MR))ID services;

(4) Hold a current contract to provide ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0220 What are the projected budget requirements for new providers?** (1) Unless the (~~DDD-director~~) 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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0280 Do ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID facilities to DSHS are public documents and available to the public upon request.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0300 What is an ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**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, ((DDD)) 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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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 (~~DD~~) 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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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 ((DD)) 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).

AMENDATORY SECTION (Amending WSR 01-10-013, 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 ((DD)) 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/((MR))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 ((DD)) 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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0400 What are allowable costs?** (1) Allowable costs are documented costs that are necessary, ordinary, related to providing ICF/((MR))ID services to ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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/((MR))ID residents covered by DSHS's medical care program but not included in ICF/((MR))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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID as a condition of the ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID program must be adjusted. DSHS will recover any difference between reimbursement ac-

tually paid for depreciation and the reimbursement that would have been paid if the straight-line method had been used.

AMENDATORY SECTION (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-835-0575 What requirements apply to calculating ICF/((MR))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/((MR))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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID services are not covered by prospective reimbursement rates. Payments are made directly to the service provider according to WAC 388-835-0835 requirements.

AMENDATORY SECTION (Amending WSR 01-10-013, 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 cal-

endar 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/((MR))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, Economic and Revenue Forecast prepared by the Office of the Forecast Council.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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/((MR))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 ((DDD)) 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/((MR))ID facilities with fifteen beds or less. The facility's qualified ((~~mental retardation~~)) intellectual disability professional ((QMRP)) QIDP will provide administrative services.

(6) A ((QMRP)) 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 ((DDD)) DDA in the above table.

(7) If a licensed administrator, licensed assistant administrator, registered administrator-in-training, or ((QMRP)) 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 ((QMRP)) QIDPs they employ.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0640 Can a provider hire an individual or firm to manage their ICF/((MR))ID facility?** (1) A provider can enter into an agreement with an individual or firm to manage their ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0650 Are all management fee's 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 ((QMRP)) QIDP at a ICF/((MR))ID facilities with fifteen beds or fewer, minus the actual compensation received by the ((QMRP)) QIDP.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID facility allowable costs?**

(1) All necessary travel and housing expenses of nonresident staff working at a provider's ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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/((MR))ID facility and performing managerial services are management costs that are subject to the management fee limits established in WAC 388-835-0405.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))ID facilities are management costs subject to the management fee limits established in WAC 388-835-0405.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**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 ((an-IMR)) 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/((MR))ID facility.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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 un-

der their contract. The provider must not seek or accept additional compensation any contracted services from or on behalf of a resident.

AMENDATORY SECTION (Amending WSR 01-10-013, 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 ((DDD)) DDA regional services office within seventy-two hours.

(2) Any necessary corrections should be made in the next ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0860 What is the role of a receiver when an ICF/((MR))ID facility is placed in receivership?** If an ICF/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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/((MR))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.

AMENDATORY SECTION (Amending WSR 01-10-013, 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 determination 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) (~~DDD-director~~) 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.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0915 Can DSHS withhold an undisputed overpayment amount from a current ICF/((MR))ID payment?** DSHS is authorized to withhold from an ICF/((MR))ID's current payment all amounts found by a preliminary or final settlement to be overpayments if they are not identified by the ICF/((MR))ID as overpayments and challenged in an administrative or judicial review.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0920 Can DSHS withhold a disputed overpayment amount from a current ICF/((MR))ID payment?** Once administrative and judicial review processes are complete, contested overpayments retained by an ICF/((MR))ID may be withheld from the ICF/((MR))ID's current payment but only to the extent DSHS's position or claims are upheld.

AMENDATORY SECTION (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0925 What is the purpose of this section?** The purpose of this chapter is to regulate the costs of care of (~~mentally~~) intellectually/physically deficient persons.