

**WAC 388-96-218 Proposed, preliminary, and final settlements.**

(1) For each component rate, the department must calculate a proposed, preliminary, or final settlement at the lower of prospective payment rate or audited allowable costs, except as otherwise provided in this chapter or chapter 74.46 RCW.

(2) As part of the cost report, the proposed settlement report is due in accordance with WAC 388-96-022. In the proposed preliminary settlement report, a contractor must compare the contractor's payment rates during a cost report period, weighted by the number of resident days reported for the same cost report period to the contractor's allowable costs for the cost report period. In accordance with WAC 388-96-205, 388-96-208, and 388-96-211 the contractor must take into account all authorized shifting, retained savings, and upper limits to rates on a cost center basis.

(3) The department will review the proposed preliminary settlement report for accuracy and accept or reject the contractor's proposal. If accepted, the proposed preliminary settlement report must become the preliminary settlement report. If rejected, the department must issue, by component payment rate allocation, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(4) When the department receives the proposed preliminary settlement report by the cost report due date specified in WAC 388-96-022, it will issue the preliminary settlement report within one hundred twenty days of the cost report due date.

When the department receives the proposed preliminary settlement report after the cost report due date specified in WAC 388-96-022, it will issue the preliminary settlement report within one hundred twenty days of the date the cost report was received.

In its discretion, the department may designate a date later than the dates specified in this subsection to issue preliminary settlements.

(5) A contractor has twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight day period, the department must not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement must be limited to either calculation of the settlement or application of settlement principles and rules, or both, and must not encompass rate or audit issues.

(6) The department must issue a final settlement report to the contractor after the completion of the department audit process, including exhaustion or termination of any administrative review and appeal of audit findings or determinations requested by the contractor, but not including judicial review as may be available to and commenced by the contractor.

(7) The department must prepare a final settlement by component payment rate allocation and must fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The department must take into account all authorized shifting, savings, and upper limits to rates on a component payment rate allocation basis. For the final settlement report, the department must compare the payment rates it paid the contractor for the facility in question during the report period, weighted by the number of allowable resident

days reported for the period each rate was in effect to the contractor's:

(a) Audited allowable costs for the reporting period; or

(b) Reported costs for the nonaudited reporting period.

(8) A contractor has twenty-eight days after the receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight day period, the department must not review a final settlement report. Any administrative review of a final settlement must be limited to either calculation of the settlement or application of settlement principles and rules, or both, and must not encompass rate or audit issues.

(9) The department may reopen a final settlement if it is necessary to make adjustments based upon findings resulting from a department audit performed pursuant to WAC 388-96-205. The department may also reopen a final settlement to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's medicaid recipient days.

(10) In computing a preliminary or final settlement, a contractor must comply with the requirements of WAC 388-96-211 for retaining or refunding to the department payments made in excess of the adjusted costs of providing services corresponding to each component rate allocation.

(11) The nursing facility contractor must refund all amounts due the department within sixty days after the department notifies the contractor of the overpayment and demands repayment. When notification is by postal mail, the department must deem the contractor to have received the department's notice five calendar days after the date of the notification letter, unless proof of the date of receipt of the department's notification letter exists, in which case the actual date of receipt must be used to determine the sixty day period for repayment. After the sixty day period, interest on any unpaid balance will accrue at one percent per month.

(12) Repayment will be without prejudice to obtain review of the settlement determination pursuant to WAC 388-96-901 and 388-96-904. If the payment obligation is reduced after an administrative hearing or judicial review, the department will rescind the difference between the accrued interest on the payment obligation and the interest that would have accrued on the reduced payment obligation from the date interest began to accrue on the original payment obligation.

(13) In determining whether a facility has forfeited unused rate funds in its direct care, therapy care, and support services component rates under WAC 388-96-211, the following rules apply:

(a) Federal or state survey officials must determine when a facility is not in substantial compliance or is providing substandard care, according to federal and state nursing facility survey regulations;

(b) Correspondence from state or federal survey officials notifying a facility of its compliance status must be used to determine the beginning and ending dates of any period of noncompliance; and

(c) Forfeiture must occur if the facility was out of substantial compliance more than ninety days during the settlement period. The ninety-day period need not be continuous if the number of days of noncompliance exceed ninety days during the settlement period regardless of the length of the settlement period. Also, forfeiture must occur if the nursing facility was determined to have provided substandard quality of care at any time during the settlement period.

[Statutory Authority: RCW 74.46.800, 74.46.561(1). WSR 17-22-037, § 388-96-218, filed 10/24/17, effective 11/24/17. Statutory Authority: Chapter 74.46 RCW, 2010 1st sp.s. c 34, and 2010 1st sp.s. c 37 § 958. WSR 11-05-068, § 388-96-218, filed 2/14/11, effective 2/26/11. Statutory Authority: RCW 74.46.155, 74.46.165, 74.46.431, chapter 74.46 RCW, 2004 c 276 § 913, 2001 1st sp.s. c 8. WSR 04-21-027, § 388-96-218, filed 10/13/04, effective 11/13/04. Statutory Authority: RCW 74.46.800. WSR 01-12-037, § 388-96-218, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 74.46 RCW, 1999 c 376 § 3 amending c 309 § 207. WSR 99-24-084, § 388-96-218, filed 11/30/99, effective 12/31/99. Statutory Authority: Chapter 74.46 RCW as amended by 1998 c 322 §§ 9 and 10 and RCW 74.46.800. WSR 98-20-023, § 388-96-218, filed 9/25/98, effective 10/1/98.]