

INTERPRETATIVE GUIDELINES

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CHAPTER 1187

NURSING FACILITY SERVICES

SUBCHAPTER E. ALLOWABLE PROGRAM COSTS AND POLICIES

§ 1187.51. Scope.

(a) This subchapter sets forth principles for determining the allowable costs of nursing facilities.

(b) The *Medicare Provider Reimbursement Manual* (CMS Pub. 15-1) and the Federal regulations at 42 CFR Part 489 (relating to provider and supplier agreements) appropriate to the reimbursement for nursing facility services under the Medicare Program are a supplement to this chapter. If a cost is included in this subchapter as allowable, the CMS Pub. 15-1 and applicable Federal regulations may be used as a source for more detailed information on that cost. The CMS Pub. 15-1 and applicable Federal regulations will not be used for a cost that is nonallowable either by a statement to that effect in this chapter or because the cost is not addressed in this chapter or in the MA-11. The CMS Pub. 15-1 or applicable Federal regulations will not be used to alter the treatment of a cost provided for in this subchapter or the MA-11.

The definition as cited at §1187.2 of allowable costs is: Costs as identified in this chapter which are necessary and reasonable for an efficiently and economically operated nursing facility to provide services to MA residents.

For example: This subchapter at §1187.58 specifies the treatment of costs of related parties. The Provider Reimbursement Manual at Section 1010 addresses an exception to the related organization principle which would alter §1187.58. Therefore, the Federal regulations will not be used.

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(c) The Department's payment rate for nursing facility services to eligible residents in participating nursing facilities includes allowable costs for routine services. Routine services may include the following:

(1) Regular room, dietary and nursing services, social services and other services required to meet certification standards, medical and surgical supplies and the use of equipment and facilities.

(2) General nursing services, including administration of oxygen and related medications, hand feeding, incontinency care, tray service and enemas.

(3) Items furnished routinely and uniformly to residents, such as resident gowns, water pitchers, basins and bedpans.

(4) Items furnished, distributed to residents or used individually by residents in small quantities such as alcohol, applicators, cotton balls, band aids, antacids, aspirin (and other nonlegend drugs ordinarily kept on hand), suppositories and tongue depressors.

(5) Reusable items furnished to residents, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment and other durable medical equipment.

(6) Special dietary supplements used for tube

If DME is not medically necessary, the nursing facility is not required to use it, although it may elect to do so. The cost is nonallowable for DME which is not medically necessary and which is furnished for the convenience of a nursing facility or a resident.

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feeding or oral feeding, such as elemental high nitrogen diet, even if written as a prescription item by a physician.

(7) Basic laundry services.

(8) Nonemergency transportation.

(9) Beauty and barber services.

(10) Other special medical services of a rehabilitative, restorative or maintenance nature, designed to restore or maintain the resident's physical and social capacities.

(d) Nursing facilities will receive payment for allowable costs in four general cost centers:

(1) Resident care costs.

(2) Other resident related costs.

(3) Administrative costs.

(4) Capital costs.

(e) Within the limits of this subchapter, allowable costs for purposes of cost reporting include those costs necessary to provide nursing facility services. These may include costs related to the following:

(1) Resident *care costs*.

Costs directly related to resident care. Costs that generally vary as resident's condition varies.

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- (i) Nursing.
- (ii) Director of nursing.
- (iii) Related clerical staff.
- (iv) Practitioners.
- (v) Medical director.
- (vi) Utilization and medical review.
- (vii) Social services.
- (viii) Resident activities.
- (ix) Volunteer services.
- (x) Over-the-counter drugs.
- (xi) Medical supplies.
- (xii) Physical, occupational and speech therapy.
- (xiii) Oxygen.
- (xiv) Beauty and barber.
- (xv) Supplies and minor movable property acquired during cost report periods beginning on or after January 1, 2001, used in a nursing facility in the course of providing a

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<p>§ 1187.51(e)(1)</p> <p>service or engaging in an activity identified in paragraph (e)(1).</p> <p>(2) Other <i>resident related costs</i>.</p> <p>(i) Dietary, including food, food preparation, food service, and kitchen and dining supplies.</p> <p>(ii) Laundry and linens.</p> <p>(iii) Housekeeping.</p> <p>(iv) Plant operation and maintenance, including the repair, maintenance and service of movable property.</p> <p>(v) Supplies and minor movable property acquired during cost report periods beginning on or after January 1, 2001, used in a nursing facility in the course of providing a service or engaging in an activity identified in paragraph (e)(2).</p> <p>(3) Administrative <i>costs</i>.</p> <p>(i) Administrator.</p> <p>(ii) Office personnel.</p> <p>(iii) Management fees.</p>	<p>Costs directly related to resident care. Costs which generally do not vary as resident conditions vary.</p> <p>Costs not directly related to resident care.</p>
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<p>§ 1187.51(e)(3)</p> <ul style="list-style-type: none">(iv) Home office costs.(v) Professional services.(vi) Determination of eligibility.(vii) Advertising.(viii) Travel/entertainment.(ix) Telephone.(x) Insurance.(xi) Interest other than that disallowed under § 1187.59(a)(24) (relating to nonallowable costs).(xii) Legal fees.(xiii) Amortization - administrative costs.(xiv) Supplies and minor movable property acquired during cost report periods beginning on or after January 1, 2001, used in a nursing facility in connection with an activity identified in paragraph (e)(3). <p>(4) Capital costs.</p> <ul style="list-style-type: none">(i) Fair rental value of fixed property.(ii) Movable property.	

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(A) When the nursing facility's most recent audited MA-11 cost report available in the NIS database for rate setting is for a cost report period beginning prior to January 1, 2001, the fair rental value of major and minor movable property.

(B) When the nursing facility's most recent audited MA-11 cost report available in the NIS database for rate setting is for a cost report period beginning on or after January 1, 2001, the audited acquisition cost of major movable property.

(iii) Real estate tax cost.

§ 1187.52. Allowable cost policies.

(a) The Department will incorporate a nursing facility's direct and indirect allowable costs related to the care of residents into the NIS database. The Department will consider these costs in the setting of prices.

(b) Costs that are not recognized as allowable costs in a fiscal year may not be carried forward or backward to other fiscal years for inclusion in reporting allowable costs. For the cost to be allowable, short-term liabilities shall be liquidated within 1 year after the end of the cost reporting period in which the liability is incurred.

Contingent liabilities are not regarded as short-term liabilities. For example, the Department will recognize workers' compensation audit amounts in the period in which they occur.

Regarding the treatment of unliquidated costs in situations where the nursing facility is a debtor in bankruptcy, the facility may petition and request that the Department waive application

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of this regulation. If a waiver is not requested, or is requested but not granted, the auditor will be required by §1187.52(b) to disallow any unliquidated costs.

§ 1187.53. Allocating cost centers.

(a) The nursing facility shall allocate costs between nursing facility and residential in accordance with the allocation bases established by the Department as contained in this chapter and the MA-11. If the nursing facility has its own more accurate method of allocation, it may be used only if the nursing facility receives written approval from the Department prior to the first day of the applicable cost report year.

Allocation may always be based on actual costs. Prior written approval is not needed to use actual costs.

Prior written approval is needed to revert from actual costs to any allocation method other than the preprinted or to change to any other allocation method.

For a nursing facility to allocate costs from the MA-336, the facility must meet the definition of a Hospital-based nursing facility per §1187.2.

Time or usage studies, based on fourteen consecutive days per quarter, may be used where actual statistics are not available. Only use studies where no actual statistics can be feasibly determined.

(b) The absence of documentation to support allocation or the use of other methods which do not properly reflect use of the Department's required allocation bases or approved changes in bases shall result in disallowances being imposed for each affected line item.

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§ 1187.54. Changes in bed complement during a cost reporting period.

(a) When the nursing facility's bed complement changes during a cost reporting period, the allocation bases are subject to verification at audit

(b) The nursing facility shall keep adequate documentation of the costs related to bed complement changes during a cost reporting period. The nursing facility shall submit a supplemental Schedule C, (computation and allocation of allowable cost) which identifies costs being allocated by the required statistical methods for each period of change.

§ 1187.55. Selected resident care and other resident related cost policies.

Policies for selected resident care and other resident related costs are as follows:

(1) Drug *services*.

(i) The costs of nonlegend drugs, such as laxatives, aspirin and antacids that are provided directly by a nursing facility from its own supply are allowable costs if the drugs are medically necessary and administered according to a physician's written order or prescription.

(ii) Costs of legend drugs are not allowable costs.

Nonlegend drugs are drug preparations that can be obtained over the counter without a prescription from a licensed physician.

Legend drugs are controlled substances, which by law require a prescription from a licensed physician to be obtained.

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(iii) Costs related to a pharmacy consultant shall be reported as general administrative costs on the cost report.

(2) *Practitioner and therapy services.*

(i) Costs for practitioner and therapy services which are provided on a contract or salary basis by the nursing facility are allowable costs.

(ii) The direct and indirect costs associated with noncompensable cost centers, such as a pharmacy or space rented or used by an independent practitioner, are not allowable costs.

Legend drug costs are not allowable. This includes all legend drugs administered by any means including:

- Oral, including sublingual such as a nitro pill
- Intravenous, including legend drugs used in IV Therapy (antibiotics/chemotherapy) and IV Feeding (parenteral nutrition)
- Injection
- Inhalation
- Rectal, such as suppositories
- Topical, such as cream and patch
- Drops, such as eye and ear

Legend drugs are reimbursable directly to a licensed pharmacy by the MA Program. Therefore, these prescribed drugs are not allowable costs.

Space in a facility not licensed as a pharmacy which is used to store pharmaceuticals for the exclusive use of facility residents is not considered a noncompensable cost center even if the area is called a pharmacy by the facility

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(3) *Volunteer and donated services of individuals.*

(i) The actual costs that a nursing facility incurs when the nursing facility regularly uses the services of volunteer or religious organizations in positions that are normally held by full-time employees who provide resident care or assist with the operation of the nursing facility are allowable costs. The following conditions and limitations apply:

(A) The costs shall be limited to the fair market value of customary compensation of full-time personnel who perform similar services.

(B) The costs shall be based on regular working hours, excluding overtime.

(C) The actual costs for these services shall be supported by substantiating documentation.

(D) The costs will be reimbursed as part of the net operating costs.

(ii) The Department will recognize costs as allowable for nonpaid workers only if the following conditions are met:

(A) The nonpaid workers shall be members of an organization of nonpaid workers.

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(B) Membership of a nonpaid worker in the organization shall be substantiated by adequate documentation in the files of the organization of nonpaid workers.

(C) A legally enforceable agreement between the nursing facility and the organization of nonpaid workers shall exist and establish the nursing facility's obligation to remunerate the organization for services rendered. If the nursing facility's legal obligation to pay the organization of nonpaid workers is nullified by an offsetting legal obligation by the organization of nonpaid workers to pay or make a contribution to the nursing facility of all or part of the salary liability, the amount paid or contributed by the organization of nonpaid workers is not an allowable cost.

(iii) A payment made by the organization of nonpaid workers to the nursing facility for the nonpaid workers' maintenance, perquisites or fringe benefits shall be used as an offset to the total of the cost actually incurred by the nursing facility.

(iv) Staff services relating to the use of volunteer workers are allowable costs.

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(4) Pastoral services.

(i) Salary costs for pastoral services rendered directly to residents by professional staff employed by, or under contract with, the nursing facility are allowable costs.

(ii) Costs for a chaplaincy training program and pastoral housing are not allowable costs.

A housing allowance to a Chaplain is not an allowable cost.

§ 1187.56. Selected administrative cost policies.

Policies for selected administrative costs are as follows:

(1) Administrative allowance.

(i) The allowable administrative costs incurred by a nursing facility to provide services are subject to the following limitation: the allowable administrative costs will be determined so that all other allowable costs, excluding capital costs, equal no less than 88% of the allowable net operating costs.

(ii) Home office cost allocations and management fees are subject to the following conditions and limitations:

(A) Home office cost allocations and management fees between related parties shall be reported without markup by the nursing facility.

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(B) Costs which are not allowable, such as those related to nonworking officers or officers' life insurance, may not be included in home office allocations or management fees.

(C) Documentation relating to home office and management costs shall be provided to the Department's auditors upon request.

(D) Home office allocations, including administratively allowable depreciation and interest costs shall be reported on the administrative line in the MA-11.

(iii) A nursing facility providing nursing, residential and other services shall allocate the total administrative cost to nursing, residential and other services on the basis of a percentage of these costs to the total net operating costs.

(2) Other *interest allowance*.

(i) Other interest is an allowable administrative cost if it is necessary and proper. To be considered allowable, necessary and proper, the interest expense shall be incurred and paid within 90 days of the close of the cost reporting period on a loan made to satisfy a financial need of the nursing facility and for a purpose related to resident care. Interest incurred to pay

All costs from the home office are classified as administrative costs.

Costs from related parties for interest expense are nonallowable using §1187.51(b). The Medicare Provider Reimbursement Manual at §218 Interest on Loans from Lenders Related to the Provider states: One of the elements required for interest to be 'proper' is that interest be paid to a lender not related through control, ownership, or personal relationship to the borrowing organization. Presence of any of these factors could affect the 'bargaining' process that usually accompanies the making of a loan, and could thus be

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<p>§ 1187.56(2)</p> <p>interest is nonallowable.</p> <p>(ii) Other interest shall not exceed that amount which a prudent borrower would pay as described in the Medicare Provider Reimbursement Manual (CMS Pub. 15-1).</p> <p>(iii) Other interest is allowable if paid on loans from the nursing facility's donor-restricted funds, the funded depreciation account or the nursing facility's qualified pension fund.</p> <p>(iv) Monies borrowed for the purchase or redemption of capital stock will be considered a loan for investment purposes. The interest paid on these borrowed funds is a nonallowable cost. The use of funds by the nursing facility for the redemption of capital stock will be considered as an investment of available funds.</p> <p>(3) <i>Investment Income.</i></p> <p>(i) Investment income is used to reduce allowable other interest unless the investment income is from one of the</p>	<p>suggestive of an agreement for higher rates of interest or for unnecessary loans. This provision is intended to assure that loans are legitimate and needed, and that the interest rate is reasonable. Exceptions to this general rule are contained in §218.2 (loans made prior to July 1, 1966) and §220 (interest paid to the mother house or other governing body of a religious order).</p> <p>Investment income is only used to reduce other interest expense in the administrative cost center. If there is no other interest, investment income is not offset. If there is other</p>
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<p>§ 1187.56(3)</p> <p>following:</p> <p style="margin-left: 40px;">(A) Gifts or grants of which the corpus and interest are restricted by the donor.</p> <p style="margin-left: 40px;">(B) Funded depreciation maintained in accordance with Federal regulations.</p> <p style="margin-left: 40px;">(C) The nursing facility's qualified pension fund, if the interest earned remains in the fund.</p> <p style="margin-left: 40px;">(D) Issuer specified designated capital bond funds or debt service reserve funds.</p> <p style="margin-left: 20px;">(ii) Investment income on funds found to be used for purposes other than their designated purpose or commingled with other funds will be used to reduce allowable administrative interest expense.</p> <p style="margin-left: 20px;">(4) <i>General administration expenses.</i></p> <p style="margin-left: 40px;">(i) Salaries of the nursing facility's administrator, comptroller, purchasing agent, personnel director, pharmacy consultant and</p>	<p>interest, investment income is offset only to the allowable other interest amount. At audit, the auditor will correct investment income offsets made by the provider.</p> <p>Home office and nursing facility investment income offset home office and nursing facility interest expense.</p> <p>Costs of accounting functions such as billing, receivables, and payables are administrative costs including personnel costs related to payroll or a Common Paymaster. Costs related to</p>
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other persons performing general supervision or management duties are allowable as general administrative costs.

(ii) The salary or compensation costs of owners, operators or persons other than nursing facility employees shall be included as allowable costs only to the extent of their documented time and involvement in the required management of a nursing facility. These costs mean actual payment made during the cost reporting period on a current basis of salary or benefits for services rendered to the nursing facility.

(iii) If a person performs work customarily performed by different or several types of employees, the cost of the salary and other compensation allowable for the person shall be determined by the prorated customary salary and other compensation paid to employees for performing the same types of work. This cost is allowable only if adequate documentation verifying the cost is supplied by the nursing facility.

(iv) The allowable cost for a person performing necessary duties may not exceed

purchasing and receiving are administrative costs.

The costs of departmental supervisors whose duties fall in a specific cost center, such as a plant operation and maintenance supervisor would be included in that cost center. All records, including the job description, must support the time and involvement for the expense to be allowable.

Treatment of owner salary/compensation is on the cash basis of accounting, not the accrual basis. All records, including the job description, must support the time and involvement for the expense to be allowable.

For instance, if a person works as both a dietary aide and a nurses aide, their salary will be limited by the prorated customary salary for those positions. All compensation to the person who is the administrator of a facility is an administrative cost. All records, including the job description, must support the time and involvement for the expense to be allowable.

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the customary compensation and fringe benefits that an employe would normally receive while performing that work.

(5) Contracted management services.

(i) In lieu of home office allocations or management fees, a nursing facility may contract with a nonrelated management service. The cost of this contract shall be shown as an administrative cost and may not be allocated among other cost centers.

The Department will allow only the costs of either a home office or of a nonrelated management company for the general administrative management of the facility, but not both. These costs cannot be allocated to any other cost center.

All management fees are administrative costs. If an unrelated management company assumes a nursing facility departmental function such as dietary where it could reasonably be expected that its charges to the nursing facility include a management component in addition to the direct costs of fulfilling the function, that management component will be considered an administrative cost. This management component must be recognized and reclassified to Administrative Costs by the provider. If this is not done, at audit, an amount will be imputed based upon the percentage of reported administrative costs in Column D of the MA-11 to reported Net Operating Costs in Column D of the MA-11 less the entire line item(s) as reported in Column D of the MA-11 for that function.

For example, a nursing facility contracts to have its dietary and housekeeping functions performed by an unrelated entity and the total line item costs as reported in Column D are as follows:

Dietary and Food	\$ 200,000
Housekeeping	\$ 50,000
Administrative (Schedule G)	\$ 100,000
Total Net Operating (NO) Costs	\$ 1,000,000

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(ii) Management services contracted with a related party shall be treated as home office allocations.

§ 1187.57. Selected capital cost policies.

The Department will establish a prospective facility-specific capital rate annually for each nursing facility. That rate will consist of three components: the fixed property component, the movable property component, and the real estate tax component.

(1) *Fixed property component.*

(i) The Department will base the nursing facility's fixed property component on the depreciated replacement cost of the nursing facility's fixed property and the associated financial yield rate.

(ii) On an annual basis, the Department will determine the depreciated replacement cost of each nursing facility's fixed property as of

The percentage is: Numerator = **\$100,000** = **13.33%**
Denominator **\$750,000**

(Where the denominator is \$1,000,000 less \$200,000 less \$50,000)

The imputed reclassification of each line items Column D reported cost to Column D administrative cost for a management component will be:

Dietary \$200,000 times 13.33% or \$26,660

Housekeeping \$50,000 times 13.33% or \$6,665

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March 31, and will use that determination in setting the fixed property component for the rate year beginning on the following July 1.

(iii) The basis for the Department's determination of the depreciated replacement cost of the nursing facility's fixed property will be the most recent of the following appraisals, as modified by any limited appraisals, as of March 31:

(A) An initial appraisal;

(B) A reappraisal; or

(C) An updated appraisal.

(iv) An initial appraisal of the nursing facility's fixed property will be conducted for any new nursing facility.

(v) A reappraisal of the nursing facility's fixed property will be conducted at least every five years.

(vi) In situations where neither an initial appraisal nor a reappraisal has been done within the 12-month period preceding March 31, the depreciated replacement cost will be based upon an updated appraisal.

(vii) A limited appraisal will be conducted if the nursing facility notifies the Department

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that a limited appraisal is needed. In order for the results of a limited appraisal to be included in the determination of a nursing facility's fixed property component for the next rate year, a limited appraisal must be requested by the nursing facility no later than January 31 of the preceding rate year.

(viii) The depreciated replacement cost of the nursing facility's fixed property is subject to the cost per bed limitation set forth at § 1187.112 (relating to cost per bed limitation adjustment) and, if applicable, the bed moratorium limitation set forth in §1187.113 (relating to capital component payment limitation).

(ix) The cost to purchase, construct, or renovate the fixed property of the nursing facility will not be a factor in determining the appraised depreciated replacement cost.

(x) When there is a change in nursing facility ownership, the new nursing facility owner is deemed to have the same appraised depreciated replacement cost as the former owner.

(xi) All appraisals of fixed property will be performed by qualified personnel from an independent appraisal firm under contract with the Department.

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(2) *Movable property component*

(i) When the nursing facility's most recent audited MA-11 cost report available in the NIS database for rate setting is for a cost report period beginning prior to January 1, 2001, the Department will determine the movable property component of each nursing facility's capital rate as follows:

(A) The Department will base the nursing facility's movable property component on the depreciated replacement cost of the nursing facility's major and minor movable property and the associated financial yield rate.

(B) On an annual basis, the Department will determine the depreciated replacement cost of each nursing facility's movable property as of March 31, and will use that determination in setting the movable property component for the rate year beginning on the following July 1.

(C) The Department will base the determination of the depreciated replacement cost of each nursing facility's movable property on a movable property appraisal.

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(D) When there is a change in nursing facility ownership, the new nursing facility owner is deemed to have the same appraised depreciated replacement cost as the former owner.

(ii) When the nursing facility's most recent audited MA-11 cost report available in the NIS database for rate setting is for a cost report period beginning on or after January 1, 2001, the Department will determine the movable property component of each nursing facility's capital rate as follows:

(A) The Department will base the nursing facility's movable property component on the nursing facility's audited cost of major movable property, as set forth in that MA-11.

(B) Each nursing facility shall report the acquisition cost of all major movable property on the major movable property line of its MA-11 and shall report the cost of minor movable property and the cost of supplies as net operating costs in accordance with § 1187.51 (relating to scope) and instructions for the MA-11.

(3) *Real estate tax cost component.*

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A nursing facility's real estate tax component will be based solely upon the audited cost of that nursing facility's 12-month real estate tax cost, as set forth on the most recent audited MA-11 cost report available in the NIS database.

§ 1187.58 **Costs of related parties.**

Costs applicable to services, movable property and supplies, furnished to the nursing facility by organizations related to the nursing facility by common ownership or control shall be included as an allowable cost of the nursing facility at the cost to the related organization. This cost may not exceed the price of comparable services, movable property, or supplies that could be purchased elsewhere.

Reasonable payment made in lieu of real estate taxes is allowable. "In lieu of" payments are made to the taxing authority – school district, township/ municipality or county – and must be documented to be allowable. There must be a PILOT agreement or settlement with the applicable taxing authority. Donations to fire companies and the like do not qualify as "in lieu of" payments.

Profit must be removed from related party transactions. The difference between the related organization's cost for the item or service and its higher charge to the nursing facility for the item or service would be the profit. The Department will verify profit removal on a case by case basis to determine the cost to the related party subject to the prudent buyer concept. There is no adjustment if the related organization charges the nursing facility less than its cost.

A related party is a person or entity, including vendors and integrated companies providing multiple services/supplies, that is associated or affiliated with or has control of or is controlled by the nursing facility or has any ownership or equity interest in the nursing facility. Control as used in this definition means the direct or indirect power to influence or direct the actions or policies of an organization, institution or person.

Common ownership, regardless of ownership percentage, as well as the following family relationships are significant: father, mother, son, daughter, grandfather, grandmother, grandson, granddaughter, aunt, uncle, nephew, niece, by blood or adoption plus father-in-law, mother-in-law, son-in-law, and daughter-in-law. Examples of related parties would include,

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but not be limited to, members of the board of directors, nursing home administrators, brother/sister/parent/subsidiary corporations, and partnerships.

If a nursing facility contracts with a related or an unrelated management company, and a company that is related to the management company also supplies goods or other services to the nursing home, that supplying company is considered as a related party due to common control.

§ 1187.59. **Nonallowable costs.**

(a) *Nonallowable costs related to expenses and revenues.*

The Department will not recognize as allowable costs the expenses or revenues of a nursing facility related to:

- (1) Nonworking officers' or owners' salaries.
- (2) Fundraising expenses for capital and replacement items exceeding 5% of the amount raised and, for operating expenses and cash flow, fundraising expenses exceeding 10% of the amount raised.
- (3) Free care or discounted services.
- (4) Parties and social activities not related to resident care.
- (5) Organizational memberships not necessary to resident care.
- (6) Personal telephone service.

Costs of parties and social activities for employees such as staff luncheons or picnics and holiday parties.

For example, social and fraternal organization memberships.

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<p>§ 1187.59.(a)</p> <p>(7) Personal television service.</p> <p>(8) The direct and indirect costs related to nonallowable cost centers, including gift, flower and coffee shops, homes for administrators or pastors, convent areas and nurses' quarters, except as provided in § 1187.55(3) (relating to selected resident care and other resident related cost policies).</p> <p>(9) Vending machines.</p> <p>(10) Charitable contributions.</p> <p>(11) Employee and guest meals.</p> <p>(12) Pennsylvania Capital Stock and Franchise Tax.</p> <p>(13) Income Tax.</p>	<p>The cost of cable television for all purpose rooms or if available to all resident rooms at no charge to the residents is an allowable cost. The cost for individual rooms if the residents are charged for cable television is not allowable and the cost or revenue must be offset.</p> <p>Direct costs may include costs which may apply only part of the time. For example, clerical staff may perform patient billing on behalf of a pharmacist. The portion of clerical time, etc., devoted to the billing process is not allowable and must be eliminated.</p> <p>Indirect costs related to nonallowable cost centers such as a pharmacy or living quarters would usually include housekeeping, plant operation & maintenance, administrative and real estate tax. The nonallowable indirect expenses should be allocated on a reasonable and consistent basis. As a general rule an allocation based upon square footage is acceptable, unless a more accurate method is identified.</p> <p>Cost of meals for the nursing and residential/other residents is allocated. Cost of all other meals including those prepared for Meals on Wheels programs are nonallowable nursing facility costs to include employee snack & break supplies and day care, volunteer and visitor meals.</p> <p>A tax based on nursing facilities organized as corporations. Not a real estate tax.</p>

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<p>§ 1187.59(a)</p> <p>(16) Late payment penalties.</p> <p>(17) Taxes based upon net income.</p> <p>(18) Officers' and directors' life insurance, including life insurance premiums necessary to obtain mortgages and other loans.</p> <p>(19) Bad debts or contractual adjustments.</p> <p>(20) Collection expenses associated with bad debts.</p> <p>(21) Losses on the sale of fixed and movable assets.</p> <p>(22) Remuneration of any kind for any purpose, including travel expenses for members of the Board of Directors.</p> <p>(23) Dry cleaning, mending or other specialty laundry services.</p> <p>(24) Depreciation on fixed or movable property, capital interest, amortization - capital costs and rental expense for fixed property.</p> <p>(25) Expenses or revenues not necessary to resident care.</p>	<p>advertising charges and are nonallowable.</p> <p>Penalties may also be referred to as fees or fines.</p> <p>Mercantile or business privilege taxes and those based on receivables or gross receipts are allowable administrative costs.</p> <p>Premiums paid by an organization to provide liability insurance for its directors and officers are an allowable cost.</p> <p>These costs related to resident personal laundry are nonallowable as specified in the current Code of Federal Regulations.</p> <p>Expenses related to Investments such as bank service fees or charges and investment management or adviser fees on</p>

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Security Act (42 U.S.C.A. §§ 1395 - 1395yy) if the sale or purchase was made on or after July 18, 1984.

(27) Letter of credit costs.

(28) Legal expenses related to an appeal or action challenging a payment determination under this chapter unless and until a final adjudication is issued sustaining the nursing facility's appeal. If the nursing facility prevails on some but not all issues raised in the appeal or action, a percentage of the reasonable legal expenses is allowable based upon the proportion of additional reimbursement received to the total additional reimbursement sought on appeal.

(29) Nonstandard or nonuniform fringe benefits.

At audit the auditor will disallow legal fees related to an appeal or action challenging a payment determination under Chapter 1187. Recognition of the legal fees as allowable costs will be deferred until final adjudication of the nursing facility's appeal. The nursing facility may then recognize the applicable legal fees as an adjustment to expenses on Schedule E. It is the provider's responsibility to recognize past legal fees and provide evidence of allowability at the time of audit. Adjudication means a court decision.

The definitions at §1187.2 are:

Benefits, fringe: Nondiscriminatory employee benefits which are normally provided to nursing facility employees in conjunction with their employment status.

Benefits, nonstandard or nonuniform: Employee benefits provided to selected individuals, which are not provided to all nursing facility employees in conjunction with their employment status, or benefits which are not normally provided to employees.

Standard and uniform fringe benefits the Department recognizes as allowable include employer payroll taxes, health insurance, life insurance, job-related tuition reimbursement, and workers compensation insurance.

Note that workers compensation coverage cost is considered a fringe benefit, not an administrative cost, unlike the Provider

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Reimbursement Manual Sec. 2161.

Fringe benefits that are not normally provided to employees or are only available for selected employees or are discriminatory are nonallowable. For example, if life and medical insurance coverage for officers and executives offers significantly better coverage than that offered to other administrative employees the excess coverage is not allowable. A similar situation could exist with pension plans. If a plan is only available to officers and executives then the expense is not allowable. Under any circumstances, payments for insurance policies where the facility/company is the beneficiary are not allowable.

Fringe disallowance is calculated by determining the percent of total fringes to total salaries, and applying that percentage to the bonuses.

Employee transportation, meals, day care centers, and stock options programs are nonstandard and therefore nonallowable.

Beginning with new audits issued 4/1/04 and thereafter, bonuses included on the W-2 of the employee that are offered to all nursing facility employees in conjunction with their employment status, regarding longevity, attendance, deminimus holiday turkeys, etc. will be considered allowable expense within the applicable employee's Cost Center. Additionally, sign-on incentives for nurses, if included on the employee's W-2, will be allowable in the Resident Care Cost Center. Due to the current critical shortage of nursing staff, sign-on incentives for nurses, are not considered as a fringe benefit, but are considered instead as a necessary cost of attracting qualified staff and is currently standard practice within the industry.

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<p>§ 1187.59(a)</p> <p style="padding-left: 40px;">(30) Return on net equity and net worth.</p> <p style="padding-left: 40px;"><i>(b) Nonallowable costs related to revenue producing items.</i> In determining the operating costs of a nursing facility, the Department will not allow costs related to:</p> <p style="padding-left: 40px;">(1) The sale of laundry and linen service.</p> <p style="padding-left: 40px;">(2) The sale of drugs to nonresidents.</p> <p style="padding-left: 40px;">(3) The sale of medical and surgical supplies to nonresidents.</p> <p style="padding-left: 40px;">(4) The sale of clinical records and abstracts.</p> <p style="padding-left: 40px;">(5) The rental of quarters to employes and others.</p> <p style="padding-left: 40px;">(6) The rental of space within the nursing facility.</p> <p style="padding-left: 40px;">(7) The payments received from clinical specialists.</p> <p style="padding-left: 40px;">(8) Discounts on purchases which include trade, quantity and time.</p> <p style="padding-left: 40px;">(9) Rebates and refunds of expenses.</p> <p style="padding-left: 40px;"><i>(c) Income that reduces allowable costs.</i></p> <p style="padding-left: 40px;">(1) Except as provided in § 1187.56(3)(i) (relating to selected administrative cost policies), any form of investment income shall be used to reduce the</p>	<p>Shift differentials, as in the past, continue to be allowable costs within the applicable employee's Cost Center.</p> <p>To residents & nonresidents</p> <p>Leased space within the nursing facility would be treated as a nonallowable cost center.</p> <p>The definition of investment income at §1187.2 is: Actual or imputed income available to or accrued by a nursing facility from funds which are invested, loaned or which are held by</p>
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allowable administrative interest expense.

(2) Grants, gifts and income designated by the donor for specific operating expenses are used to reduce the allowable costs relating to the specific operating expense.

(3) Recovery of insured loss shall be used to reduce the allowable costs relating to the insured loss.

(4) Applicable revenue producing items, other than room and board, shall be used to reduce the related allowable costs.

(5) Payments received pursuant to an exceptional DME grant reduce the allowable cost of the major movable property and related services and items in the cost centers where the costs were originally reported in the MA-11.

others for the benefit of the nursing facility. The Department will impute income in accordance with Accounting Principles Board Opinion 21 (APB21).

The cost of items or services for which the nursing facility has received revenue must be offset. If the cost is unknown, then the revenue must be offset. Revenues for which this is applicable include, but are not limited to: Barber and Beauty, Non Emergency Transportation, Activities/Special Events, and Personal Purchases.

The amount of the exceptional payments authorized by the grant is deemed to be the necessary, reasonable and prudent cost of the exceptional DME and the related services and items identified in the nursing facility's grant. In identifying the nursing facility's allowable costs, the nursing facility shall adjust those reported costs to the necessary, reasonable and prudent cost amounts identified in the nursing facility's grant.

In the MA-11 the nursing facility will identify the costs related to the acquisition of exceptional DME and related services and items. An adjustment will be made on Schedule D to offset the grant payment. An adjustment will be made on Schedule E to disallow costs in excess of the grant.

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(d) Nonallowable *direct nursing facility payments*. Costs for prescription drugs, physician services, dental services, dentures, podiatry services, eyeglasses, appliances, x-rays, laboratory services and other materials or services covered by payments, other than MA or Medicare Part A, made directly to nursing facilities, including Medicare Part B, Champus, Blue Cross, Blue Shield or other insurers or third parties, are not allowable in determining net operating costs.

§ 1187.60. Prudent buyer concept.

The purchase or rental by a nursing facility of services, movable property and supplies, including pharmaceuticals, may not exceed the cost that a prudent buyer would pay in the open market to obtain these items, as described in Medicare Provider Reimbursement Manual (CMS Pub. 15-1).

If direct payment is made, or may be made, in addition to the case-mix per diem to the nursing facility by Medicaid, the cost is nonallowable on the MA-11. Direct payments are made for, but not limited to, physician services to include Dentistry, Orthopedics, Podiatry, Optometry, Ophthalmology, Psychiatry, Audiology, Pulmonology, and Physiatrist. Direct payments also include, but are not limited to, Pharmacy, Laboratory and X-Ray, Ambulance Company for emergency ambulance transportation.

The Provider Reimbursement Manual at §2103 gives the general principle, its application and examples. The general prudent buyer principle for costs related to resident care is: The prudent and cost conscious buyer not only refuses to pay more than the going price for an item or service, he/she also seeks to economize by minimizing cost. This is especially so when the buyer is an institution or organization, which makes bulk purchases and can, therefore, often gain discounts because of the size of its purchases. In addition, bulk purchase of items or services often gives the buyer leverage in bargaining with suppliers for other items or services. Another way to minimize cost is to obtain free replacements or reduced charges under warranties for medical devices. Any alert and cost conscious buyer seeks such advantages, and it is expected that Medicare providers of services will also seek them.

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§1187.61. Movable property cost policies

(a) Except as otherwise specified in this section and subject to §§ 1187.58 (relating to costs of related parties) and 1187.60 (relating to the prudent buyer concept), a nursing facility's allowable movable property shall be limited to the nursing facility's actual acquisition cost of movable property placed in service during the cost report period.

(b) Except in situations where an item of movable property is obtained from a related party, the acquisition cost of that item shall be determined as follows:

(1) Acquisition cost is determined on a per-unit basis.

(2) When an item is purchased, the acquisition cost of that item is equal to the total actual purchase price of the item, regardless of whether the total price is paid in full at the time of purchase or over a period of time, plus the following: any required sales tax, shipping charges and installation charges.

(3) When an item of movable property is leased or rented, the acquisition cost is limited to the lower of:
(a) the actual annual lease or rental payments

made by the nursing facility; or (b) the imputed purchase price of the item, pro-rated on a straight-line basis over the useful life of the item, as identified in the most recent Uniform Chart of Accounts and Definitions for Hospitals published by the American Hospital Association at the time the

The acquisition cost does not include interest or financing charges.

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item is leased or rented. For purposes of this section, the imputed purchase price of a leased or rented item is the lesser of:

- (i) The suggested list price from the manufacturer of the item;
- (ii) The actual discounted price of the item available at the time of lease or rental;
- (iii) The purchase price for the item set forth in the lease or rental agreement;
- (iv) If the lessor is a related party, the related party's acquisition cost as determined in accordance with paragraph (2).

(4) When an item is acquired as the result of a gift or donation, the acquisition cost of that item is deemed to be the appraised depreciated replacement cost of the item provided that, on a date prior to the submission of the MA-11 for the period in which the item is acquired, the nursing facility obtains an appraisal of the item's depreciated replacement cost from a licensed appraiser and submits a copy of the written report of the appraisal to the Department with its MA-11. If the nursing facility fails to obtain an appraisal of the item's depreciated replacement cost from a licensed appraiser within the time period set forth above or if the nursing facility fails to submit a copy of the written report of the appraisal to the

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Department with its MA-11, the acquisition cost of the donated item or gift is deemed to be zero (\$0).

(5) When an item is acquired by a trade-in, the acquisition cost of the item shall be the sum of the remaining book value of the item traded-in plus any acquisition cost of the newly acquired item, computed in accordance with paragraphs 2, 3, and 4. The remaining book value of the item shall be determined based upon the useful life of the item, using the Uniform Chart of Accounts and Definitions for Hospitals published by the American Hospital Association, and depreciation computed on a straight-line basis.

(6) When an item is loaned to the nursing facility without charge, the acquisition cost of that item is deemed to be zero (\$0).

(7) When an item is covered by a standard express warranty, the cost of that warranty is included in the acquisition cost of the item. The cost of any extended warranty is not included in the acquisition cost of the item.

(8) When an item is acquired from a related party, the acquisition cost of the item shall be determined pursuant to § 1187.58 (relating to costs of related parties).

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(c) Offsets to reported cost of movable property.

(1) If a nursing facility conveys or otherwise transfers movable property acquired during a cost report period beginning on or after January 1, 2001, to any other person as the result of a sale, trade-in, gift, assignment or other transaction, an offset will be made against the nursing facility's allowable movable property costs in the year in which the conveyance or transfer occurs. The amount of the offset will be the greater of the amount paid or credited to the nursing facility for the item by the person to whom the item is conveyed or transferred or the remaining book value of the item on the date the item is conveyed or transferred, as determined based upon the useful life of the item, using the Uniform Chart of Accounts and Definitions for Hospitals published by the American Hospital Association, and depreciation computed on a straight-line basis.

(2) If a nursing facility removes from service an item acquired during a cost report period beginning on or after January 1, 2001, before the expiration of the useful life of the item, determined using the Uniform Chart of Accounts and Definitions for Hospitals published by the American Hospital Association, an offset will be made against the nursing facility's allowable movable property costs in the year in which the item is removed from service. The amount of the offset will be the remaining book

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value of the item, as determined based upon the Uniform Chart of Accounts and Definitions for Hospitals published by the American Hospital Association, and depreciation computed on a straight-line basis.

(3) If, for movable property acquired during a cost report period beginning on or after January 1, 2001, a nursing facility receives a refund, money or credit under a lease or rental agreement; or money or credit as a result of a trade-in; or money, including insurance proceeds or damages, as the result of recovery of a loss related to that movable property, the amount received by the nursing facility will be offset against the nursing facility's allowable movable property costs in the year in which the refund money or credit is received.

(4) If a nursing facility fails to pay all or part of the acquisition cost of an item reported on the MA-11 during a cost report period beginning on or after January 1, 2001 in accordance with §1187.52(b) (relating to allowable cost policy) the unpaid amount will be offset against the nursing facility's allowable movable property cost in a subsequent fiscal period.

(5) If a nursing facility receives a rebate on an item acquired during a cost report period beginning on or after January 1, 2001, the rebate amount received by the nursing facility will be offset against the nursing facility's allowable movable property costs in the year in which the refund money or credit is

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received.

(d) Losses incurred on the sale, transfer or disposal of movable property are not allowable costs.

(e) The acquisition cost of movable property that is rented or leased is an allowable cost only if the following requirements are met:

(1) The agreement to rent or lease the movable property must be in writing, identify each item of movable property that is being rented or leased, identify any other services or supplies that are being provided under the agreement, identify the term of the agreement, the payment intervals, and the amount of the periodic payments and total payments due under the agreement.

(2) The agreement to rent or lease the movable property must set forth a suggested purchase price for each item of movable property rented or leased.

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SUBCHAPTER F. COST REPORTING AND AUDIT REQUIREMENTS

§ 1187.71. Cost reporting.

(a) A nursing facility shall report costs to the MA Program by filing an acceptable MA-11 with the Department. Costs in the MA-11 are:

(1) Resident *care costs*.

(i) Nursing.

This section details where costs are reported in the MA-11 regardless of whether these costs are allowable or nonallowable.

In an acceptable MA-II, providers will report costs in Columns A through D of Schedule C in accordance with their GAAP (Generally Accepted Accounting Principles) General Ledger or other auditable books of record. In Column E of Schedule C providers will make required regulatory accounting adjustments in accordance with Chapter 1187. Column F of Schedule C will then report allowable costs in accordance with Chapter 1187.

Costs directly related to resident care that vary as residents' conditions vary. The nursing care and related services provided to residents who require medical or nursing care, rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or on a regular basis, health-related care and services provided to individuals who because of their mental or physical condition require care and services which can only be provided in an institutional setting.

Salary and benefit costs of staff involved in direct nursing care of residents such as registered nurses, licensed practical nurses, nurse aides, and orderlies and attendants.

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<p>§ 1187.71(a)(1)</p>	<p>Other expenses in the nursing line include registry, pooled or contract staffing for direct nursing care of residents, and inservice training and continuing education of this staff. Reasonable and appropriate costs of a State-approved Nurse Aide Training and Competency Evaluation Program (NATCEP) or a Competency Evaluation Program (CEP) that meet Federal requirements. Additional cost incurred in training staff in American Sign Language is an allowable cost.</p>
<p>(ii) Director of nursing.</p>	<p>Salary and benefit costs and/or contract Director of Nursing services including RNAC, unless the individual(s) routinely provides resident care, whereupon the costs should be included with Nursing. Other expenses include inservice training and continuing education of this staff.</p>
<p>(iii) Related clerical staff.</p>	<p>Salary and benefit costs and/or contract clerical staff services related to the health care cost center to maintain medical/clinical records.</p>
<p>(iv) Practitioners.</p>	<p>Salary and benefit costs and/or contract practitioners' services including physicians, dentists, and podiatrists. Services on a fee-for-service basis are not allowable costs. If direct provider payment is available practitioner costs are not allowable. §1187.59(d) may apply to these costs.</p>
<p>(v) Medical director.</p>	<p>Salary and benefit costs and/or contract Medical Director services.</p>
<p>(vi) Utilization and medical review.</p>	<p>Reimbursement to physicians on the UR Committee and other staff functions related to the facility's UR plan and costs of medical review of resident's level of care. The costs of a continuous review of the quality of resident medical and</p>

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<p>§ 1187.71(a)(1)</p> <p>(ix) Volunteer services.</p> <p>(x) Pharmacy-prescription drugs.</p> <p>(xi) Over-the-counter drugs.</p> <p>(xii) Medical supplies.</p> <p>(xiii) Laboratory and X-rays.</p> <p>(xiv) Physical, occupational and speech therapy.</p> <p>(xv) Oxygen.</p> <p>(xvi) Beauty and barber services.</p>	<p>Costs necessary for support of volunteers who serve to improve the quality of resident care.</p> <p>The cost for prescription/legend drugs.</p> <p>The cost of non-prescription drugs provided directly to a resident by a facility from its own supply. Examples: laxatives, aspirin, soda bicarbonate, spirits of peppermint, antacid, etc.</p> <p>Minor medical and surgical supplies routinely provided to residents as part of routine nursing care. For example, cotton, elastic bandages, gauze, syringes, etc. Medical supplies include: wound dressings; tubing to include that used in IV lines and PEN; incontinence care supplies to include catheters and diapers; test strips/lancelets. Medical supplies also include: Hydration solutions (nonlegend) for IV Therapy. Common solutions used in hydration therapy are saline, lactated ringers, and different concentrations of dextrose and water.</p> <p>Salary and benefit costs and/or contract services and related supplies. Radiology and Laboratory services.</p> <p>Salary and benefit costs and/or contract services and therapeutic supplies for physical, occupational and speech therapy.</p> <p>Cost of oxygen and its administration. Respiratory or inhalation therapy. The cost of legend drugs is not allowable.</p> <p>Salary and benefit costs and/or contract services and supplies</p>

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<p>§ 1187.71(a)(1)</p> <p>(xvii) Minor movable property.</p> <p>(xviii) Other supplies and other resident care costs.</p> <p>(2) <i>Other resident related costs.</i></p> <p>(i) Dietary, including food, food preparation, food service, and kitchen and dining supplies.</p> <p>(ii) Laundry and linens.</p>	<p>to provide beauty and barber services.</p> <p>Minor movable property and supplies used to provide direct resident care such as: walkers, bed pans; grip balls, buttoners, grippers, weights.</p> <p>Supplies for resident care personal hygiene such as soap, toothpaste, toothbrushes and shampoo. The cost of engraving Dentures.</p> <p>Only in rare incidents when MA nursing home eligible residents do not have patient pay or any other resources available for such expenses as eyeglasses, dentures, hearing aids, etc., may the facility enter these costs on the cost report. The costs would be entered on a resident care blank line on the cost report and the entry identified as costs of indigent MA residents.</p> <p>Costs that are resident related but not direct hands on care. Costs related to resident care but not varying as residents' conditions vary. The room & board costs.</p> <p>Salary and benefit costs and/or contract services, cost of food, kitchen and dining supplies, cost of food preparation, and food service. Dietary aides. Enteral nutrients used in tube feeding All food costs including snacks and food served at resident activities.</p> <p>Salary and benefit costs and/or contract services for laundry, ironing and sewing help, laundry soaps and supplies, and outside laundry services.</p>
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<p>§ 1187.71(a)(3)</p> <p>(3) Administrative <i>costs</i>.</p> <p style="padding-left: 20px;">(i) Administrator.</p> <p style="padding-left: 20px;">(ii) Office personnel.</p> <p style="padding-left: 20px;">(iii) Management fees.</p> <p style="padding-left: 20px;">(iv) Home office costs.</p> <p style="padding-left: 20px;">(v) Professional services.</p> <p style="padding-left: 20px;">(vi) Determination of eligibility.</p> <p style="padding-left: 20px;">(vii) Gift shop.</p> <p style="padding-left: 20px;">(viii) Advertising.</p>	<p>for repair & maintenance</p> <p>The salary and benefit and/or contract costs for the administrator and the assistant administrator, where applicable.</p> <p>The salary and benefit costs for personnel performing general supervision or management duties and other administrative personnel to include comptroller and accounting functions such as billing, payroll, etc., purchasing and procurement, admissions, marketing and public relations, personnel director, pharmacy consultant, and other persons to include the receptionist and general clerical staff.</p> <p>Costs incurred at the home office level are administrative and not to be allocated to other cost centers.</p> <p>Salary and benefit cost and/or contract costs for professional services such as accounting and auditing services, consulting services, etc. Pharmacy consultant fees.</p> <p>That portion of Social Services staff salary, employer fringe benefits and other expenses that have been incurred in determining the eligibility of residents for Medical Assistance.</p> <p>Advertising is a nonallowable cost unless for hiring personnel or a minimum yellow page listing.</p> <p>Costs of hiring personnel include employe hiring or recruitment</p>
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<p>§ 1187.71(a)(3)</p> <p>(xiv) Federal/State Corporate/Capital Stock Tax.</p> <p>(xv) Officers' life insurance.</p> <p>(xvi) Amortization-administrative costs.</p> <p>(xvii) Office supplies</p> <p>(xviii) Minor movable property.</p> <p>(xix) Other supplies and other administrative costs.</p>	<p>Costs not related to capital formation and development, which are required by Generally Accepted Accounting Principles to be amortized. Start up costs.</p> <p>Office supply type items regardless of where used are reported as administrative costs. These supplies include: paper, pens, pencils; ink or toner for printers and copiers; printing; postage and mailing costs; microfilming; computer supplies; forms (Except MDS forms, Doctor's Orders, and medically required forms may remain in the cost center that incurred the cost – per IGT Negotiations, this pertains to new audits issued after 9/30/04).</p> <p>Computer software and software license costs may remain in the cost center that incurred the cost, unless the major or minor movable equipment regulations apply (per IGT Negotiations, this pertains to new audits issued after 9/30/04.).</p> <p>Minor movable property and supplies related to administrative activities such as: small manual and electric office equipment; wall hangings, desks, window treatments, chairs and other furnishings in non-resident care areas such as nurses stations, kitchen.</p> <p>Other administrative costs include: Dues, publications, subscriptions, books, and periodicals may remain in the cost center that incurred the cost. The</p>

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<p>§ 1187.71(a)(4)</p> <p style="margin-left: 40px;">(ii) Major movable property.</p> <p style="margin-left: 40px;">(iii) Depreciation.</p> <p style="margin-left: 40px;">(iv) Capital interest.</p> <p style="margin-left: 40px;">(v) Rent of nursing facility.</p> <p style="margin-left: 40px;">(vi) Amortization - capital costs.</p> <p style="margin-left: 40px;">(b) The MA-11 shall identify allowable direct, indirect, ancillary, labor and related party costs for the nursing facility and residential or other facility.</p> <p style="margin-left: 40px;">(c) The MA-11 shall identify costs of services, movable property and supplies furnished to the nursing facility by a related party and the rental of the nursing facility from a related party.</p> <p style="margin-left: 40px;">(d) The MA-11 shall be based on accrual basis financial and statistical records maintained by the nursing facility. The cost information contained in the cost report and in the nursing facility's records shall be current, accurate and in sufficient detail to support the reported costs.</p>	<p>charges assessed on a real estate tax bill such as sewer rent, trash collection, or water are not property taxes but rather plant operation and maintenance costs. Taxes based on gross receipts or revenues are Administrative Costs.</p> <p>Additions or deletions of any movable property that has an acquisition cost of \$500 or more.</p> <p>Total depreciation brought forward from Schedule F.</p> <p>Interest on capital indebtedness expense incurred for funds borrowed for capital purposes. Trustee fees for bond issues and mortgage insurance.</p> <p>Rent paid to lease the land and buildings used to operate the nursing facility.</p> <p>Providers shall make fiscal records readily available at audit as cited at 55 Pa. Code § 1101.51, which specifies record keeping requirements and onsite access.</p>
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(e) An acceptable cost report is one that meets the following requirements:

(1) Applicable items are fully completed in accordance with the instructions incorporated in the MA-11, including the necessary original signatures on the required number of copies.

(2) Computations carried out on the MA-11 are accurate and consistent with other related computations.

(3) The treatment of costs conforms to the applicable requirements of this chapter.

(4) Required documentation is included.

(5) The MA-11 is filed with the Department within the time limits in §§ 1187.73, 1187.75 and 1187.76 (relating to annual reporting; final reporting and reporting for new nursing facilities).

(f) The nursing facility shall maintain adequate financial records and statistical data for proper determination of costs under the MA Program. The financial records shall include lease agreements, rental agreements, ledgers, books, records and original evidence of cost--purchase requisitions, purchase orders, vouchers, vendor invoices, inventories, time cards, payrolls, bases for apportioning costs and the like--which pertain to the determination of reasonable costs.

Reported costs will be disallowed as unsubstantiated unless records and other information in sufficient detail to support the reported costs are provided at audit.

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(g) Records and other information described in subsection (d) are subject to periodic verification and audit. Costs which are adequately documented are allowable.

(h) The nursing facility shall maintain the records pertaining to each cost report for at least 4 years following the date the nursing facility submits the MA-11 to the Department.

§ 1187.72. Cost reporting for Medicare Part B type services.

(a) Nursing facilities shall utilize Medicare as a primary payor resource when appropriate, under § 1187.102 (relating to utilizing Medicare as a resource)

(b) If Medicare is the primary payor resource, the nursing facility shall exclude from allowable costs operating costs incurred in or income derived from the provision of Medicare Part B coverable services to nursing facility residents. The nursing facility shall attach to the MA-11 a copy of the cost report the nursing facility submits to Medicare for the Part B services and, when available, submit a copy of the Medicare final audit, including audit adjustments.

Auditing is not 100% verification of all reported costs. A reported cost may be treated differently between years depending on the scope of the audit, the auditor's sampling methodology, and the documentation available. Even though a reported cost is not disallowed in one year, it may be found to be nonallowable in another year.

Where a service is covered by Medicare Part B but reimbursement is not claimed or received from Medicare Part B because of facility error or policy, the costs for those services which should have been covered by Medicare Part B are nonallowable. The facility is obligated to know whether a recipient has Medicare Part B coverage and has a duty to seek payment for covered services whether or not the facility is a participating provider in the Medicare Program.

It is the provider's option to exclude from allowable costs either operating costs incurred in or income derived from providing all Medicare Part B coverable services to nursing facility residents to include therapies, medical supplies, enterals, etc.

Where income is used, it is the gross Part B revenues as shown on the nursing facility's trial balance kept in accordance with Generally Accepted Accounting Principles.

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(c) If there is a discrepancy between the costs on the Medicare cost report or, if available, the Medicare audit report, and the adjustments made by the nursing facility on the MA-11 to exclude Medicare Part B costs, the Department will make the necessary adjustments to conform to the Medicare report.

§ 1187.73 Annual reporting.

(a) The fiscal year, for purposes of the MA Program for nursing facilities, shall be either January 1 through December 31 or July 1 through June 30 as designated by the nursing facility. The fiscal year designated by the nursing facility may not be changed except in the event of the sale of the nursing facility to a new owner.

(b) A nursing facility shall submit an acceptable MA-11 to the Department within 120 days following the June 30 or December 31 close of each fiscal year as designated by the nursing facility. An acceptable MA-11 is one that meets the requirements in § 1187.71(e) (relating to cost reporting). No request for an extension to file an annual cost report shall be granted except in accordance with § 1187.1(d)(2) (relating to

Where cost is used, it is the result of the multiplication of the Ratio of Cost to Charges from the Medicare Report and the gross Part B revenues as shown on the nursing facility's trial balance kept in accordance with Generally Accepted Accounting Principles.

Where the requisite information, including the Medicare Report, is not provided to the Department, the entire cost in the cost center line item will be disallowed at audit.

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policy). The report shall be prepared using the accrual basis of accounting and shall cover a fiscal period of 12 consecutive months.

§ 1187.74. Interim reporting.

A nursing facility may not file interim cost reports.

§ 1187.75. Final reporting.

(a) A nursing facility that enters into a termination agreement or an agreement of sale, or is otherwise undergoing a change of ownership or is withdrawing or being terminated as a nursing facility, shall file an acceptable final MA-11 cost report as well as outstanding annual cost reports with the Department within 90 days of the effective date of the termination, transfer, withdrawal or change of ownership and shall provide financial and statistical records to the Department for auditing. An acceptable MA-11 is one that meets the requirements in § 1187.71(e) (relating to cost reporting).

(b) A nursing facility may request an extension to file its final cost reports as required by subsection (a) of up to 30 days from the date the cost reports are due if the nursing facility's request is received by the Department prior to the expiration of the 60th day of the 90-day period specified in subsection (a); the reasons for the extension request and the amount of time requested are specified; and the requirements of § 1187.1(d) (relating to policy) are met. Further extensions will not be granted. The denial of a request for an extension is an adverse action appealable in accordance with § 1187.141 (relating to

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nursing facility's right to appeal and to a hearing). Failure to appeal a denial within the time period provided precludes any appeal or challenge relating to the denial in another proceeding.

§ 1187.76. Reporting for new nursing facilities.

Nursing facilities beginning operations during a fiscal period shall prepare an MA-11 from the date of certification for participation to the end of the nursing facility's fiscal year.

§ 1187.77. Auditing requirements related to cost report.

(a) The Department will audit acceptable cost reports filed to verify nursing facility compliance with:

- (1) This chapter.
- (2) Chapter 1101 (relating to general provisions).
- (3) The schedules and instructions attached to the MA-11.

(b) A nursing facility shall make financial and statistical records to support the nursing facility's cost reports available to State and Federal representatives upon request.

(c) The Department will conduct audits in accordance with auditing requirements set forth in Federal regulations and generally accepted government auditing standards.

(d) The Department will conduct an audit of each

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acceptable cost report with an end date of June 30, 1996, or December 31, 1996, and thereafter within 1 year of the Department's acceptance of the cost report. This subsection will not apply if the nursing facility is under investigation by the Attorney General.

(e) The auditor will certify to the Department the allowable cost for the nursing facility to be input into the NIS database for use in determining the median costs.

(f) A nursing facility that has certified financial statements, Medicare intermediary audit reports with adjustments and Medicare reports for the reporting period shall submit these reports with its cost report, at audit or when available.

§ 1187.78. **Accountability requirements related to resident personal fund management.**

(a) A nursing facility may not require residents to deposit their personal funds with the nursing facility. A nursing facility shall hold, safeguard and account for a resident's personal funds upon written authorization from the resident in accordance with the requirements of this section and other applicable provisions in State and Federal law.

If not submitted with the cost report, financial statements and Medicare reports must be submitted as soon as each is available.

OBRA requires nursing facilities to maintain resident funds when so requested by the resident.

The nursing facility must have on file a written authorization from each resident to maintain his/her funds.

Federal regulations require that all funds of a resident be first deposited to the resident's account prior to disbursement, including payment to the facility. All resident funds must be first deposited in the resident's account to include social security, pension, and Property Tax/Rent Rebate Program receipts for residents.

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(b) A resident's personal funds may not be commingled with nursing facility funds or with the funds of a person other than another resident.

(c) A resident's personal funds in excess of \$50 shall be maintained in an interest bearing account, and interest earned shall be credited to that account.

(d) A resident's personal funds that do not exceed \$50 may be maintained in a noninterest bearing account, interest bearing account or petty cash fund.

(e) Statements regarding a resident's financial record shall be available upon request to the resident or to the resident's legal representative.

(f) The nursing facility shall notify each resident that receives MA benefits when the amount in the resident's personal fund account reaches \$200 less than the SSI resource limit for one person.

(g) Within 60 days of the death of a resident, the nursing facility shall convey the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate.

(h) The nursing facility may not impose a charge against the personal funds of a resident for an item or service for which payment is made under MA or Medicare.

A nursing facility may make no deductions from a resident's personal funds account without the consent of the resident or the resident's representative.

Monthly MA residents are allowed to keep \$30 of their own income for their personal use. If the resident has no income, he/she receives \$30 per month in SSI funds for personal use.

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Federal regulations at 42 CFR 483.10(i)(E) require that during the course of a covered Medicare or Medicaid stay, facilities may not charge a resident for routine personal hygiene items and services including basic personal laundry.

Nursing facilities must provide basic hygiene. Each facility must have a posted policy of what barber and beauty services a resident is provided as part of the MA per diem. Above and beyond that policy, the nursing facility may charge the resident for barber & beauty services used by the resident. For example, if a MA resident wants one haircut per month and the facility policy is one haircut every two months for men, the resident must pay and resident funds can be charged for the extra haircut every other month.

Personal laundry is an allowable expense included in the MA per diem rate. MA Residents should not be charged for basic personal laundry.

A nursing facility may not impose a charge for managing personal funds on the MA resident. The cost of managing personal funds whether by facility personnel or an outside financial institution is an allowable administrative cost and is included in the MA per diem rate.

A resident or a responsible family member can elect to have an outside company other than the facility or its chosen delegate manage the resident's assets. The fees for this service are not allowed on the MA-309C and they are not allowed on the MA-11. This would have to be paid from the resident's personal funds.

Residents' personal fund accounts and/or patient pay resources are not to be used to supplement covered services.

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The practice of charging an additional administrative or handling charge violates federal anti-supplementation provisions at 42 CFR 483.12(d). A resident must be informed before a service or item is rendered that it is not covered by MA.

Costs that may be charged to resident personal funds include: telephone for personal use; television/radio for personal use; personal comfort items such as smoking materials, novelties and confections; cosmetic and grooming items and services in excess of those made available under MA; personal clothing; dry cleaning, mending or other specialty laundry services; reading matter for personal use; gifts; flowers and plants; non-covered special care services; items furnished by the nursing facility but resident wants personal preference of choice; and any other items purchased at the residents discretion.

Federal regulations at 42 CFR489.32 state that facilities may charge residents the difference in cost between requested services that are more expensive or in excess of covered services. For example if a facility normally provides a generic analgesic, but a resident requests a specific brand name as a personal preference of choice, the facility may charge the resident only for the difference in cost.

Allowable deductions against patient pay on the 309C include: Drug Deduction, Insurance Premium and Other Medical Expenses. Most drugs are covered through Outpatient Programs; deductions should be minimal. Only medical insurance premiums are allowable such as a Medigap policy premium. Other medical expenses include dentures, orthopedic shoes, eyeglasses, hearing aids and batteries, etc.

If an MA resident is indigent (has no patient pay amount or has

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(i) The nursing facility shall maintain records relating to its management of residents' personal funds for a minimum of 4 years. These records shall be available to Federal and State representatives upon request.

(j) The nursing facility shall purchase a surety bond or otherwise provide assurances of the security of personal funds of the residents deposited with the nursing facility.

insufficient resources to cover the cost of any allowable deductions on the MA-309C) the cost to the nursing facility of providing these services or items with the exception of legend drugs would be an allowable cost on the MA-11. The costs would be entered on a blank line of the cost report and the entry identified. The provider must clearly disclose this in the MA-11 filing and substantiate the resident's indigent status or the cost will be disallowed.

If an MA resident has been declared incompetent by a court and has a court appointed guardian, the court appointed guardian might be paid a fee. Per the Office of Income Maintenance a maximum of \$100 a month is an allowable deduction on the MA-309C against the patient pay amount to pay an MA resident's guardianship fee. Also prior medical debts and bad debts incurred before a resident becomes eligible for MA can be claimed on the 309C. Guardianship fees and prior debts of the resident are not allowable expenses on the MA-11.

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§ 1187.79. Auditing requirements related to resident personal fund management.

(a) The Department will periodically audit residents' personal fund accounts.

(b) If discrepancies are found at audit, the nursing facility shall make restitution to the residents for funds improperly handled, accounted for or disbursed. The Department may sanction the nursing facility in accordance with Subchapter I (relating to enforcement of compliance for nursing facilities with deficiencies).

§ 1187.80. Failure to file an MA-11.

(a) Failure by the nursing facility to file a timely MA-11, other than a final MA-11 and annual MA-11s due along with a final MA-11, may result in termination of the nursing facility's provider agreement and will result in adjustment of the nursing facility's per diem rate as provided in this subsection. An MA-11 is considered timely filed if the MA-11 is received within 120 days following the June 30 or December 31 close of each fiscal year as designated by the nursing facility, or if an extension has been granted, within the additional time allowed by the extension. The Department may also seek injunctive relief to require proper filing, as the Department may deem is in the best interest of the efficient and economic administration of the MA program.

(1) *Cost report periods prior to January 1, 2001.*

(i) If an MA-11 is not timely filed, the nursing facility's per diem rate will be adjusted downward by 5% beginning the first day of the next month and will remain in effect until the date that an acceptable

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MA-11 is filed with the Department.

(ii) If an MA-11 is timely filed and is unacceptable, the Department will return the MA-11 to the nursing facility for correction. If an acceptable MA-11 is not filed by the end of the 30th day from the date of the letter returning the unacceptable MA-11 from the Department, the nursing facility's per diem rate will be adjusted downward by 5% beginning the first day of the next month and will remain in effect until the date that an acceptable MA-11 is filed with the Department.

(2) Cost report periods beginning January 1, 2001, and thereafter.

(i) If an MA-11 is not timely filed, the net operating components of the nursing facility's per diem rate will be adjusted downward by 5% and the movable property component of the nursing facility's capital per diem rate will be reduced to zero (\$0). This per diem rate reduction will begin the first day of the next month and remain in effect until the date that an acceptable MA-11 is filed with the Department.

(ii) If an MA-11 is timely filed and is unacceptable, the Department will return the MA-11 to the nursing facility for correction. If an acceptable MA-11 is not filed by the end of the 30th day from the date of the letter returning the unacceptable MA-11 from the Department, the net operating components of the nursing facility's per diem rate will be adjusted

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downward by 5% and the movable property component of the nursing facility's capital per diem rate will be reduced to zero (\$0). This per diem rate reduction will begin the first day of the next month and remain in effect until an acceptable MA-11 is filed with the Department.

(b) If a nursing facility fails to file a timely final MA-11 and outstanding annual MA-11s:

(1) The net operating components of the nursing facility's per diem rate will be determined on the basis of the nursing facility's peer group medians, prior to the percent of median adjustment in accordance with § 1187.96 (relating to price and rate setting computations), for the last fiscal period for which the nursing facility has an acceptable MA-11 on file.

(2) The capital component of the nursing facility's per diem rate will be set at \$0.

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