

Kansas Administrative Regulations

Kansas Department for Children and Families

Article 10.—Adult Care Home Program

30-10-221. ICF-MR compensation of owners, spouses, related parties and administrators.

(a) Non-working owners and related parties. Remunerations paid to non-working owners or other related parties, as defined in K.A.R. 30-10-200, shall not be considered an allowable cost regardless of the name assigned to the transfer or accrual or the type of provider entity making the payment. Each payment shall be separately identified and reported as owner compensation in the non-reimbursable and non-client related expense section of the cost report.

(b) Services related to client care.

(1) If owners with 5% or more ownership interest, spouses, or related parties actually perform a necessary function directly contributing to client care, a reasonable amount shall be allowed for such client care activity. The reasonable amount allowed shall be the lesser of:

(A) The reasonable cost that would have been incurred to pay a non-owner employee to perform the client-related services actually performed by owners or other related parties, limited by a schedule of salaries and wages based on the state civil service salary schedule in effect when the cost report is processed until the subsequent cost report is filed; or

(B) the amount of cash and other assets actually withdrawn by the owner, spouse, or related parties.

(2) The client-related functions shall be limited to those functions common to the industry and for which cost data is available which are normally performed by non-owner employees. The job titles for administrative and supervisory duties performed by an owner, spouse, or related party shall be limited to the work activities included in the schedule of the owner, spouse, or related party salary limitations.

(3) The salary limit shall also be pro-rated in accordance with subsection (c) of this regulation. In no case shall the limitation exceed the highest salary limit on the civil-service-based chart.

(4) The owner, spouse, or related party shall be professionally qualified for those functions performed which require licensure or certification.

(5) Cash and other assets actually withdrawn shall include only those amounts or items actually paid or transferred during the cost reporting period in which the services were rendered and reported to the internal revenue service.

(6) Any liabilities of the provider shall be paid in cash within 75 days after the end of the accounting period.

(c) Allocation of owner, spouse, or related party total work time for client-related functions. When any owner, spouse, or related party performs a client-related function for less than a full-time-equivalent work week, the compensation limit shall be pro-rated. The time spent on each function within a facility or within all facilities in which they have an ownership or management interest, shall be pro-rated separately by function, but shall not exceed 100% of that person's total work time. Time spent on other non-related business interests or work activities shall not be included in calculations of total work time.

(d) Reporting owner, spouse, or related party compensation on cost report. Owner, spouse, or related party compensation shall be reported on the owner compensation line in the appropriate cost center for the work activity involved. Any compensation paid to employees who have an ownership interest of 5% or more, including employees at the central office of a chain organization, shall be considered to be owner compensation. Providers with professionally qualified owner, spouse, or related party employees performing duties other than those for which they are professionally qualified shall report the cost for such duties in the administrative cost center.

(e) Owner-administrator compensation limitation.

(1) Reasonable limits shall be determined by the agency for owner-administrator compensation based upon the current civil service salary schedule.

(2) This limitation shall apply to the salaries of each administrator and co-administrator of that facility and to owner compensation reported in the administrative

cost center of the cost report. This limitation shall apply to the salary of the administrator and co-administrator, regardless of whether they have any ownership interest in the business entity.

(3) Each salary in excess of the owner, spouse, or related party limitations determined in accordance with subsections (b) and (c) of this regulation shall be transferred to the owner compensation line in the administrative cost center and shall be subject to the owner-administrator compensation limitation.

(f) Management consultant fees. Fees for consulting services provided by the following professionally qualified people shall be considered owner's compensation subject to the owner-administrator compensation limit and shall be reported on the owner compensation line in the administrative cost center if the actual cost of the service is not submitted with the ICF-MR financial and statistical report:

- (1) Related parties as defined in K.A.R. 30-10-200;
- (2) current owners of the provider agreement and operators of the facility;
- (3) current owners of the facility in a lessee-lessor relationship;
- (4) management consulting firms owned and operated by former business associates of the current owners in this and other states;
- (5) owners who sell and enter into management contracts with the new owner to operate the facility; and
- (6) accountants, lawyers and other professional people who have common ownership interests in other facilities, in this or other states, with the owners of the facility from which the consulting fee is received.

(g) Costs not related to client care. An allowance shall not be made for costs related to investigation of investment opportunities, travel, entertainment, goodwill, administrative or managerial activities performed by owners or other related parties that are not directly related to client care. The effective date of this regulation shall be October 1, 1991.

(Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective, T-30-12-28-90, Dec. 28, 1990; effective March 4, 1991; amended Oct. 1, 1991.)