February 5, 2024

Last week the DSHS Department of Rates released cost report settlements for 2022 and a “Wage Equity Review Settlement for 2022 Cost Report.” These reports should be reviewed in tandem.

As you recall, the 2022 legislature passed ESSB 5693 [Sec 204], funding roughly 48 million to nursing home Providers to spend increasing the wage of low wage workers. Providers could increase wages for low wage workers by up to $4 / hour over the December 2021 average wage. The measurement period was July 1, 2022, through June 30, 2023. Reports were due to DSHS by August 31, 2023. The original Proviso is attached.

Each provider should have received a settlement worksheet indicating what the Department’s calculation was and whether the Provider owes money back. The Department did not issue “adjustments” to the original schedule and therefore the Provider should review the Department’s worksheet against what was submitted in an effort to determine what, if anything, changed.

Important to this process is that if the provider did not spend the low wage equity funds as directed, it owes money back. The worksheet settles Direct Care separately from Indirect care. Further, if the provider owes money on the WERF worksheet in Direct Care AND has a payback on the 2022 Medicaid cost report, the Department should offset the Direct Care Payback against the amount owed for Low Wage Equity Funding

Critically, the Provider has the opportunity to appeal both the Final Settlement of the 2022 cost and the Wage Equity Fund calculation. The Settlement letter outlining the WERF settlement for 2022 contains language as follows:

*Under WACs 388-96-218 (2) (b), 388-96-901, and 388-96-904, if you wish to contest your Wage Equity Settlement, you must request an administrative review conference in writing within twenty-eight (28) days of your receipt of the Wage Equity Settlement. Please send your request to the Office of Rates Management, Post Office Box 45600, Olympia, Washington, 98504-5600.* ***Any administrative review of a Wage Equity Settlement shall be limited to the application of settlement principles and rules and shall not examine or re-examine other issues.***

A Provider has the legal right to appeal not only issues of settlement but also any other use related to the worksheet. We confirmed with the Department that to file an appeal the Provider should upload the appeal to the MFT site and email rates at NFRates@dshs.wa.gov to let them know to go download the information.

In reviewing your calculations; here are some items to consider:

* Review the average starting wage for December 2021. How was it derived? In cases where there is a new position, make sure you agree with and understand how that comparison wage was derived.
* Review the average wage for the measurement period [7/1/22 – 6/30/23]. How was it derived? Make sure you agree with and understand how that comparison wage was derived.
* Review whether the correct hours are used. Do you agree with the hours on the worksheet?
* Review whether the correct census was used. Does it match what you submitted? Does it match your MMIS Report?
* Review whether all positions were included and whether they are correctly identified as either Direct or Indirect.
* Review the allocation of settlement between 2022 and 2023. The Department seems to split the settlement in half and perhaps it would be more beneficial to allocate that settlement based on Medicaid days in each period.

Finally, please note that in the case of a pay back in Direct Care, half of the amount owed is reserved for the 2023 settlement and this may or may not be owed back at that time depending direct care spending for that year.

The Provider should work with their cost report preparer in reviewing these settlements. Should you have further questions, please contact Bill Ulrich by email at [bill-ulrich@billing-services.com](mailto:bill-ulrich@billing-services.com)