

Medicaid: Nursing Home Ruled Inefficient For Paying Wages Above Prevailing Labor Market Rates.

Based on financial audits by state officials, a nursing home was denied Medicaid reimbursement by its state fiscal intermediary for certain costs it claimed during a five year period. The nursing home appealed. A state administrative hearing officer ruled that the nursing home's employee wage and benefit package significantly exceeded the wages and benefits being paid at other comparable facilities in the same labor market, and disallowed the nursing home's labor costs to the extent they had been found by the auditor to exceed the applicable Medicaid reimbursement cap.

The state hearing examiner ruled that the desire to provide a maximum quality of care to residents is an admirable goal, but that Medicaid is intended to reimburse extended-care nursing facilities only to the extent their costs are necessary to provide the minimum standard of care mandated by state and Federal law.

The Supreme Court of Idaho upheld the hearing examiner's decision. The court accepted testimony from an accountant who was qualified as an expert witness in nursing home financial management.

The accountant conceded that paying above-market wages and benefits to unskilled nursing home employees can result in a significantly lower than average turnover rate, which in turn can result in a higher than average quality of care for a nursing home's indigent elderly residents.

Nonetheless, according to the court, paying higher than average wages to achieve laudable goals in the area of quality of patient care is a "substitute for good management practices." It is inefficient to pay higher than average wages and benefits, the court said, and paying better wages and benefits shows a "lack of control over employment, salary and benefits issues." Idaho County vs. Idaho Department of Health and Welfare, 920 P. 2d 62 (Idaho, 1996).

Paying above-market wages and benefits to unskilled nursing-home employees is an inefficient use of resources and can result in partial denial of Medicaid cost reimbursement.

Nursing homes are reimbursed under Medicaid only for efficient operating costs.

Efficient means prudent, reasonable and responsible management, that is, producing the desired result with the minimum expenditure of energy, time, money and materials.

A low turnover rate among unskilled nursing-home employees can suggest they are turning their jobs into career positions because their employer has higher wages and better benefits.

Even if a nursing home seeks to create a quality of care beyond the minimum standards set by state and Federal law, by paying higher wages leading to a lower turnover rate of unskilled staff, the nursing home still is not entitled to reimbursement under Medicaid for costs expended to provide care which exceeds minimum standards.

SUPREME COURT OF IDAHO, 1996.

Nursing Home Resident's Fall: Residents Must Be Assisted While Walking When Off The Nursing Home's Premises.

The Supreme Court of Nebraska ruled in a recent case that the legal doctrine of assumption of risk does not apply when a ninety-three-year-old nursing home resident, who has poor vision due to macular degeneration and glaucoma and whose mental state is slightly confused, falls and breaks her hip because the staff of the nursing home has neglected to assist her with walking while she is on an outing from the nursing home.

In this case, the nursing home van carrying the residents had stopped so the residents could use the restroom. The van was parked so that residents had to walk across an unpaved parking lot covered with loose gravel to reach the restroom.

When the resident fell, the two staff members with the residents claimed they were busy, one making a phone call and the other checking the tires on the van.

After the resident fell, broke her hip, and sued the nursing home for negligence, the nursing home tried unsuccessfully to argue that she had assumed the risk of falling, by starting out on her own across the parking lot.

To argue successfully in court that an injured party has assumed the risk and is not entitled to sue for damages, the party defending the suit must prove that the injured party fully appreciated the danger he or she was encountering, and voluntarily and unreasonably went forward to encounter the danger.

The court ruled it is inappropriate for the law to consider frail, elderly, confused nursing home residents with visual impairments themselves at fault when they fall because caregivers fail to give residents the assistance they require. Williamson vs. Provident Group, Inc., 550 N.W. 2d 338 (Neb., 1996).