

30-10-24. Compensation of owners, 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. 30-10-1a, 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-resident-related expense section of the cost report.

(b) Services related to resident care.

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

(A) The reasonable cost that would have been incurred to pay a non-owner employee to perform the resident-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(B) the amount of cash and other assets actually withdrawn by the owner or related parties.

(2) The resident-related functions shall be limited to those functions that are normally performed by non-owner employees common to the industry and for which cost data is available. The job titles for administrative and supervisory duties performed by

an owner or related party shall be limited to the work activities included in the schedule of the owner or related party salary limitations.

(3) The salary limit shall be prorated in accordance with subsection (c) of this regulation. The limitation shall not exceed the highest salary limit on the civil-service-based chart.

(4) The owner or related party shall be professionally qualified for those functions performed that 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(5) Cash and other assets actually withdrawn shall include only those amounts or items actually paid or transferred during the cost reporting period in which the services were rendered and reported to the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) The owner or related party shall pay any liabilities established in cash within 75 days after the end of the accounting period.

(c) Allocation of owner or related party total work time for resident-related functions. When any owner or related party performs a resident-related function for less than a full-time-equivalent work week, defined as 40 hours per week, the compensation limit shall be prorated. The time spent on each function within a facility or within all facilities in which the owner or related party has an ownership or management interest shall be prorated separately by function, but shall not exceed 100 percent 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 or related party compensation on cost report. The provider shall report owner or related party compensation 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 five percent or more, including employees at the central office of a chain organization, shall be deemed owner compensation. Providers with any professionally qualified owner or related party employees performing duties other than those for which they are professionally qualified shall report the cost for these duties in the operating 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 operating cost center. This limitation shall apply to the salaries 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 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 operating cost center and shall be subject to the owner-administrator compensation limitation. The provider shall include all owner-administrator compensation in excess of the limitation in the administrative costs used to compute the incentive factor.

(f) Management consultant fees. Fees for consulting services provided by owners and related parties shall be deemed owner's compensation subject to the owner-administrator compensation limit. The provider shall report fees on the owner compensation line in the operating cost center if the actual cost of the service is not

submitted with the adult care home financial and statistical report:

- (1) Related parties as defined in K.A.R. 30-10-1a;
  - (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 resident care. An allowance shall not be made for costs related to investigation of investment opportunities, travel, entertainment, goodwill, or administrative or managerial activities performed by owners or other related parties that are not directly related to resident care.
- (h) This regulation shall be effective on and after July 1, 2002. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Dec. 29, 1995; amended July 1, 2002.)