

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Wednesday, February 11, 2026, and filed with the agency secretary on Thursday, February 19, 2026.

AGENCY NAME: Alabama Medicaid Agency

INTENDED ACTION: Amend

RULE NO.: 560-X-22-.22
(If amended rule, give specific paragraph, subparagraphs, etc., being amended) **560-X-22-.22**

RULE TITLE: Unallowable Expenses

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted without changes

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLIV, ISSUE NO. 3, AAM,
DATED WEDNESDAY, DECEMBER 31, 2025.

STATUTORY RULEMAKING AUTHORITY: State Plan; Title XIX, Social Security Act; 42 C.F.R. §§447.200-.272, et seq.

(Date Filed)
(For IRS Use Only)
REC'D & FILED
FEB 19, 2026
LEGISLATIVE SVC AGENCY

Timothy "Bo" A. Offord, Jr.
Timothy Offord
Certifying Officer or his or her Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

(1) General:

(a) All payments to providers for services rendered must be based on the reasonable cost of such services covered by the Alabama State Plan. It is the intent of the program that providers will be reimbursed the reasonable costs which must be incurred in providing quality patient care. Implicit in the intent that reasonable costs be paid are the expectations that the provider seeks to minimize costs and that costs do not exceed what a prudent and cost-conscious buyer pays for a given item of service or product. If costs are determined to exceed the level that prudent buyers incur in the absence of clear evidence that the higher costs were unavoidable, the excess costs are not allowable.

(b) Costs related to patient care include necessary and proper costs involved in developing and maintaining the efficient operation of patient care facilities. Necessary and proper costs related to patient care are those which are usual and accepted expenses of similar providers.

(2) Costs Covered by Other Programs. Costs that are covered by other state and/or federal programs will not be allowed, and costs which are covered by other Alabama Medicaid Agency programs will not be reimbursed under the nursing home program. Examples of such costs include, but are not limited to:

- (a) Prescription Drugs.
- (b) Dental Expense (except consultant fees).
- (c) Physicians' Fees other than those required by licensure.
- (d) Laboratory Expense for Patients.
- (e) Oxygen (except for concentrators).
- (f) Ambulance Service.
- (g) Inhalation Therapy.
- (h) Group Therapy.
- (i) Medicare Part B Supplies.

(3) Administrative Costs. Items of administrative costs which will not be allowed are listed below. This listing is not intended to be all inclusive. Other administrative costs which

violate the prudent buyer concept or are not related to patient care will not be reimbursed by the Alabama Medicaid Agency.

(a) Management Fees: Management firms, individuals and consultants which duplicate services already provided, or in a facility in which a full-time licensed administrator is employed: Excluded from this rule are those management contracts required incident to a bond issue for a valid business purpose.

(b) Director's Fees and Other than Nominal Meeting Expenses.

(c) Compensation to owners and other personnel not performing necessary functions (See Rule 560-X-22-.10).

(d) Salaries which are paid to personnel performing overlapping or duplicate functions.

(e) Legal Fees and Expenses:

1. Retainers.
2. Relating to informal conference and fair hearings.
3. Relating to issuance and sale of capital stock and other securities.
4. Relating to creation of corporations or partnerships.
5. Relating to business reorganization.
6. Services for benefits of stockholders.
7. Acquisition of nursing facilities or other business enterprises.
8. Relating to sale of nursing facilities and other enterprises.
9. In connection with criminal actions resulting in a finding of guilt or equivalent action or plea.
10. Other legal services not related to patient care.

(f) Outside Accounting and Audit Fees and Expenses:

1. Personal tax returns.
2. Retainers.

3. Relating to informal conferences and fair hearings.
4. Relating to issuance and sale of capital stock and other securities.
5. Relating to creation of corporations or partnerships.
6. Relating to business reorganization.
7. Services for the benefits of stockholders.
8. Acquisition for nursing facilities or other business enterprises.
9. Relating to sale of nursing facilities and other enterprises.
10. In connection with participation in criminal actions resulting in guilt or equivalent action or plea.
11. Feasibility studies related to acquisition costs obtained after 10/1/84 (See Rule 560-X-22-.14(9)(g)).
12. Other Accounting services not related to patient care.

(g) Taxes:

1. Personal income.
2. Property not related to patient care.
3. Corporate income tax.
4. Vehicle tag & tax.

(h) Dues:

1. Club.
2. Civic.
3. Social.
4. Professional organization dues for individuals unless employment of individual negates need for qualified consultants.
5. Nonpatient care related organization:

(i) Insurance:

1. Life.
 2. Personal property not used in patient care.
 3. On real estate not used in providing patient care.
 4. Group life and health insurance premiums which favor owners of a provider or are for personnel not bona fide employees of the facility.
- (j) Advertising in excess of the limitations of Rule 560-X-22-.10.
- (k) Chaplains/Spiritual Advisors.
- (l) Special assessments from Nursing Home Association.
- (m) Bad debts and associated collection expenses.
- (n) Employment Agency/Employee Search Fees for other than Administrator and direct care personnel.
- (o) Employees relocation expenses.
- (p) Penalties:
1. Late Tax.
 2. Late payment charges. (Note: If a facility can fully document that a late payment charge is directly due to late Medicaid payments, the amount of the late payment charge will be an allowable cost.)
 3. Bank overdraft.
 4. Fines.
- (q) Certain Real Estate Expenses:
1. Appraisals obtained in connection with the sale or lease of a nursing facility (unless required by Medicaid).
 2. Costs associated with real estate not related to patient care.
- (r) Interest Expense:

1. Interest associated with real estate in excess of nursing facility needs or real estate not related to patient care.
2. Interest paid to unrelated parties on working capital loans will be limited to no more than 90 days interest on an amount not in excess of two months average allowable cost per cost reporting period.
3. Interest expenses applicable to penalties.
4. Construction Interest (must be capitalized).
5. Interest paid to a related party.
6. Interest on personal property not related to patient care.
7. Interest on loans not associated with patient care.
8. Interest expense generated by the refinancing of any long-term debt that exceeds the amount which would have been allowed had refinancing not occurred unless such excess interest meets the necessary and reasonableness tests of Rule 560-X-22-.11(1).

(s) Licenses:

1. Consultants.

(t) Donations and Contributions.

(u) Accreditation Surveys.

(v) Telephone Services:

1. Mobile telephones, beepers, (except for directors of nursing or maintenance personnel), telephone answering and recording devices, telephone call relays, automated dialing services, and off-premise telephones.
2. Long distance telephone calls of a personal nature.

(w) Organizational and Start-up Costs - All costs related to the issuance and sale of shares of capital stock, including underwriters' fees and commissions, accounting or legal fees incurred in establishing the business organization, costs of qualifying with the appropriate federal or state authorities, stamp taxes, etc., expenses of temporary directors, costs of

organizational meetings of directors and/or stockholders, incorporation fees.

(x) Any costs associated with corporate stock records maintenance.

(4) Prior Period Costs and Accounts Payable:

(a) The Medicaid reimbursement rate is calculated to provide adequate funds to pay business expenses in a timely manner. Costs incurred in prior periods but not paid must be accrued and reported in that period during which the costs were incurred. Payment of prior period cost in the current year is not an allowable cost. Exceptions will be allowed, based on reasonableness, for small invoices which, in total, do not exceed \$500 per fiscal period. These invoices must be as a result of no fault of the provider. Any pattern of abuse will cause the costs in question to be automatically disallowed by the Agency.

(b) Short-term liabilities must be paid within ninety (90) days from the date of invoice; otherwise, the expense will not be allowed unless the provider can establish to the satisfaction of Medicaid that the payment was not made during 90 days for a valid business reason.

(c) Actual payment must be made by cash or negotiable instrument. For this purpose, an instrument to be negotiable must be in writing and signed, must contain an unconditional promise or order to pay a certain sum of money on demand or at a fixed and determinable future time, and must be payable to order or to bearer. All voided instruments, whether voided in fact or by devise, are considered void from inception.

(d) A provider who files for and is awarded protection under Chapter 11 of the Federal Bankruptcy Code may be given consideration in a current year cost report for actual payment of prior period allowable costs which have been disallowed in prior period cost reports due to failure to make actual payment of the cost claimed. In order for payment of these prior year allowable costs to be considered under a current year cost report, they must have been paid pursuant to a court approved plan for reorganization under Chapter 11 of the Federal Bankruptcy Code. The allowable costs will not include any interest or penalty incurred for failure to make payment in the prior year. The Agency will not reimburse interest expense generated from loans incurred to pay any such allowable prior period costs. Any such (untrended) allowable cost per day shall be added to the per diem rate

after the normal rate setting process. It will be subject to the various cost ceilings, thus the provider's cost must be below the ceilings for any possible reimbursement of these prior period costs to occur.

(5) Noncovered Services:

(a) The costs of providing personal services and costs associated with income producing activities are not allowable and must be eliminated from cost. If all costs associated with the service or activity cannot be, or are not identified separately on the cost report, then the total income which was generated must be used to offset total reported costs.

(b) Examples of these services or activities are laundry and dry cleaning of personal apparel (subject to the provisions of Rule 560-X-22-.12), radio, television, telephone, and vending machines.

(c) The following are examples of costs associated with noncovered services or activities which are not reimbursable:

1. Materials or goods.
2. Supplies.
3. Salaries and Employee Benefits.
4. Applicable Fair Rental payment.

(6) Beauty and Barber Services:

(a) If the nursing facility makes no charge to the patient for beauty and barber services, and if this service is performed by employees of the facility or by volunteers, then the costs associated with the service are allowable for Medicaid reimbursement purposes.

(b) If the nursing facility makes a charge to the patient for beauty and barber services and if all costs associated with the service or activity cannot be, or are not identified separately on the cost report, then the total income which was generated from the service must be used to reduce or offset total reported costs.

(7) Miscellaneous or Other Nonallowable Expenses. The following is a list of expenses which have previously been submitted in cost reports that are unallowable. It is intended to typify unallowable transactions and is not intended to be all-inclusive:

(a) Nursing consultants, except those required by OBRA 87 requirements.

(b) Additional wages paid as a result of an audit by the Wage and Hour Administration which relate to a prior period. However, additional payments made as the result of workman's compensation audits conducted after the end of the relevant fiscal year will be considered allowable costs for the fiscal year in which such payments are made.

(c) Newspaper or magazine subscriptions in excess of \$250.

(d) Off-premise telephone service.

(e) Farm expense.

(f) Real estate costs associated with real estate ownership in excess of nursing facility needs and not related to patient care.

(g) Sitter services or private duty nurses.

(8) Gifts. The cost of gifts made by a provider in excess of \$20.00 per bona fide facility employee per fiscal year is an unallowable expense.

Author: Sandra Johnson, Director, Provider Audit

Statutory Authority: State Plan; Title XIX, Social Security Act; 42 C.F.R. §§447.200 - .272, et seq.

History: Rule effective October 1, 1982. Amended effective May 15, 1983; July 9, 1984; June 14, 1988; April 14, 1990; October 1, 1990. **Emergency rule** effective September 12, 1991. Amended effective December 12, 1991; August 12, 1992. **Amended:** Published February 27, 2026; effective April 13, 2026.