

C. Self-Insurance Program.--Where a nonprofit provider chooses to self-assure by establishing its own reserve account, contributions to this reserve account are not allowable costs under the Medicare program. Where a nonprofit chain organization (or related organization) centrally operates an unemployment insurance reserve fund for some or all of its member (related) providers, the fund is considered a self-insurance program and payments made to it by the participating providers are not allowable costs under the Medicare program. This is because such a fund is simply an arrangement among related providers with the chain maintaining control over the fund. Thus, payments to the fund are not actually incurred costs, but rather a provision for establishing a central reserve from which unemployment costs are met as they are incurred. Moreover, any income earned from investment of the funds of the reserve account must be used to offset a provider's allowable interest expense under the Medicare program.

Certain costs associated with a self-insurance program are allowable, whether paid from the fund or directly by the provider. They are:

1. Any amounts paid to reimburse the State for unemployment compensation payments actually made by the State to the former employees of the provider.
2. Any premium costs for the purchase of commercial insurance which protects against catastrophic loss, provided the type, extent, and cost of coverage are not substantially out of line with those of other similar institutions in the same area.
3. The fees paid to an outside individual or firm (if any) to administer the program, to the extent such fees are considered reasonable for the services rendered. Such administration may consist of completing the claims forms from the State unemployment office, representing the provider at the appeals level, etc.
4. Any other reasonable administrative costs incurred by the provider in establishing and administering the program.

These costs are allowable for a chain organization program to the extent the costs are properly allocated among the providers which incurred them, e.g., unemployment compensation payments should be directly allocated to the provider whose unemployed employees were paid. (See § 2162ff for other self-insurance provisions.)

2122.6 Self-Insurance Program for Unemployment Compensation and Workers' Compensation Insurance Using a Reserve for Funding.--Where a provider or a group of providers, whether proprietary or nonprofit and whether related or not, chooses to self-insure against unemployment compensation and/or workers' compensation risks by establishing its own reserve account, the provisions of preceding §2122.5C apply. See §2162.7, which explains the self-insurance requirements that must be met before payments made into a trust can be included in allowable costs.

2122.7 Review of Reasonable Costs, Including Taxes. -- In general, reasonable costs claimed by a provider, including taxes, must be actually incurred. While a tax may fall under a category that is generally accepted as an allowable Medicare cost, the provider may only treat the net tax expense as the reasonable cost actually incurred for Medicare payment purposes. The net tax expense is the tax paid by the provider, reduced by payments the provider received that are associated with the assessed tax. Contractors will continue to determine whether taxes and other expenses are allowable based on reasonable cost principles set forth in the Medicare statute and regulations.