
HOUSE BILL 2230

State of Washington 57th Legislature 2001 Regular Session

By Representatives Cody, Pflug, Linville, G. Chandler and Quall

Read first time 04/02/2001. Referred to Committee on Health Care.

1 AN ACT Relating to state health and employment support benefits for
2 incapacitated or disabled individuals; amending RCW 74.04.005 and
3 74.09.035; reenacting and amending RCW 74.09.510; adding a new section
4 to chapter 74.09 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that individuals with
7 disabilities face many barriers and disincentives to employment.
8 Individuals with disabilities are often unable to obtain health
9 insurance that provides the services and supports necessary to allow
10 them to live independently and enter or rejoin the work force. The
11 legislature finds that there is a compelling public interest in
12 eliminating barriers to work by continuing needed health care coverage
13 for individuals with disabilities who enter and maintain employment.

14 The legislature intends to strengthen the state's policy of
15 supporting individuals with disabilities in leading fully productive
16 lives by supporting the implementation of the federal ticket to work
17 and work incentives improvement act of 1999, Public Law 106-170. This
18 shall include improving incentives to work by continuing coverage for
19 health care and support services, by seeking federal funding for

1 innovative programs, and by exploring options which provide individuals
2 with disabilities a choice in receiving services needed to obtain and
3 maintain employment.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW
5 to read as follows:

6 (1) It is the intent of the legislature to remove barriers to
7 employment for individuals with disabilities by providing medical
8 assistance to the working disabled through a buy-in program in
9 accordance with section 1902(a)(10)(A)(ii) of the social security act
10 and eligibility and cost-sharing requirements established by the
11 department.

12 (2) The department shall establish income, resource, and cost-
13 sharing requirements for the buy-in program in accordance with federal
14 law and this subsection. The income and cost-sharing requirements for
15 the buy-in program shall be as follows:

16 (a) Income eligibility must be limited to persons with income up to
17 four hundred fifty percent of the federal poverty level, as determined
18 annually by the federal department of health and human services;

19 (b) Monthly premiums must be equal to five percent of all unearned
20 monthly income, plus five percent of earned income after disregarding
21 the first sixty-five dollars of monthly earned income and one-half of
22 the remaining monthly earned income; and

23 (c) In addition to premiums, all enrollees must pay a monthly cost
24 share fee equal to unearned income in excess of five hundred thirty-
25 nine dollars per month.

26 The department shall make every effort to coordinate benefits with
27 employer-sponsored coverage available to the working disabled receiving
28 benefits under this chapter.

29 (3) In an effort to administer the program within available funds,
30 the department is authorized to submit a request for a federal section
31 1115 waiver to the federal department of health and human services that
32 would allow the department to establish a waiting list for new
33 enrollment in the program if it appears that available funds are
34 insufficient to support the anticipated demand for enrollment. The
35 decision to seek a federal 1115 waiver must not result in a delay in
36 implementation of the program on January 1, 2003.

37 (4) By December 2004, the department shall report the following
38 information to relevant committees of the legislature:

- 1 (a) The number of persons participating in the buy-in program;
2 (b) The income level of persons participating in the buy-in
3 program;
4 (c) The state and federal cost, on a per capita basis, of coverage
5 under the buy-in program.

6 The report may include recommendations regarding changes to the
7 eligibility and cost-sharing criteria under subsection (2)(b) of this
8 section.

9 **Sec. 3.** RCW 74.09.510 and 1997 c 58 s 201 and 1997 c 59 s 14 are
10 each reenacted and amended to read as follows:

11 Medical assistance may be provided in accordance with eligibility
12 requirements established by the department, as defined in the social
13 security Title XIX state plan for mandatory categorically needy persons
14 and: (1) Individuals who would be eligible for cash assistance except
15 for their institutional status; (2) individuals who are under twenty-
16 one years of age, who would be eligible for temporary assistance for
17 needy families, but do not qualify as dependent children and who are in
18 (a) foster care, (b) subsidized adoption, (c) a nursing facility or an
19 intermediate care facility for the mentally retarded, or (d) inpatient
20 psychiatric facilities; (3) the aged, blind, and disabled who: (a)
21 Receive only a state supplement, or (b) would not be eligible for cash
22 assistance if they were not institutionalized; (4) categorically
23 eligible individuals who meet the income and resource requirements of
24 the cash assistance programs; (5) individuals who are enrolled in
25 managed health care systems, who have otherwise lost eligibility for
26 medical assistance, but who have not completed a current six-month
27 enrollment in a managed health care system, and who are eligible for
28 federal financial participation under Title XIX of the social security
29 act; (6) children and pregnant women allowed by federal statute for
30 whom funding is appropriated; (7) working individuals with disabilities
31 authorized under section 1902(a)(10)(A)(ii) of the social security act
32 for whom funding is appropriated; (8) other individuals eligible for
33 medical services under RCW 74.09.035 and 74.09.700 for whom federal
34 financial participation is available under Title XIX of the social
35 security act; and ~~((+8+))~~ (9) persons allowed by section 1931 of the
36 social security act for whom funding is appropriated.

1 **Sec. 4.** RCW 74.04.005 and 2000 c 218 s 1 are each amended to read
2 as follows:

3 For the purposes of this title, unless the context indicates
4 otherwise, the following definitions shall apply:

5 (1) "Public assistance" or "assistance"--Public aid to persons in
6 need thereof for any cause, including services, medical care,
7 assistance grants, disbursing orders, work relief, general assistance
8 and federal-aid assistance.

9 (2) "Department"--The department of social and health services.

10 (3) "County or local office"--The administrative office for one or
11 more counties or designated service areas.

12 (4) "Director" or "secretary" means the secretary of social and
13 health services.

14 (5) "Federal-aid assistance"--The specific categories of assistance
15 for which provision is made in any federal law existing or hereafter
16 passed by which payments are made from the federal government to the
17 state in aid or in respect to payment by the state for public
18 assistance rendered to any category of needy persons for which
19 provision for federal funds or aid may from time to time be made, or a
20 federally administered needs-based program.

21 (6)(a) "General assistance"--Aid to persons in need who:

22 (i) Are not eligible to receive federal-aid assistance, other than
23 food stamps or food stamp benefits transferred electronically and
24 medical assistance; however, an individual who refuses or fails to
25 cooperate in obtaining federal-aid assistance, without good cause, is
26 not eligible for general assistance;

27 (ii) Meet one of the following conditions:

28 (A) Pregnant: PROVIDED, That need is based on the current income
29 and resource requirements of the federal temporary assistance for needy
30 families program; or

31 (B) Subject to chapter 165, Laws of 1992, incapacitated from
32 gainful employment by reason of bodily or mental infirmity that will
33 likely continue for a minimum of ninety days as determined by the
34 department.

35 (C) Persons who are unemployable due to alcohol or drug addiction
36 are not eligible for general assistance. Persons receiving general
37 assistance on July 26, 1987, or becoming eligible for such assistance
38 thereafter, due to an alcohol or drug-related incapacity, shall be
39 referred to appropriate assessment, treatment, shelter, or supplemental

1 security income referral services as authorized under chapter 74.50
2 RCW. Referrals shall be made at the time of application or at the time
3 of eligibility review. Alcoholic and drug addicted clients who are
4 receiving general assistance on July 26, 1987, may remain on general
5 assistance if they otherwise retain their eligibility until they are
6 assessed for services under chapter 74.50 RCW. Subsection
7 (6)(a)(ii)(B) of this section shall not be construed to prohibit the
8 department from granting general assistance benefits to alcoholics and
9 drug addicts who are incapacitated due to other physical or mental
10 conditions that meet the eligibility criteria for the general
11 assistance program;

12 (iii) Are citizens or aliens lawfully admitted for permanent
13 residence or otherwise residing in the United States under color of
14 law; and

15 (iv) Have furnished the department their social security account
16 number. If the social security account number cannot be furnished
17 because it has not been issued or is not known, an application for a
18 number shall be made prior to authorization of assistance, and the
19 social security number shall be provided to the department upon
20 receipt.

21 (b) Notwithstanding the provisions of subsection (6)(a)(i), (ii),
22 and (c) of this section, general assistance shall be provided to the
23 following recipients of federal-aid assistance:

24 (i) Recipients of supplemental security income whose need, as
25 defined in this section, is not met by such supplemental security
26 income grant because of separation from a spouse; or

27 (ii) To the extent authorized by the legislature in the biennial
28 appropriations act, to recipients of temporary assistance for needy
29 families whose needs are not being met because of a temporary reduction
30 in monthly income below the entitled benefit payment level caused by
31 loss or reduction of wages or unemployment compensation benefits or
32 some other unforeseen circumstances. The amount of general assistance
33 authorized shall not exceed the difference between the entitled benefit
34 payment level and the amount of income actually received.

35 (c) General assistance shall be provided only to persons who are
36 not members of assistance units receiving federal aid assistance,
37 except as provided in subsection (6)(a)(ii)(A) and (b) of this section,
38 and will accept available services which can reasonably be expected to
39 enable the person to work or reduce the need for assistance unless

1 there is good cause to refuse. Failure to accept such services shall
2 result in termination until the person agrees to cooperate in accepting
3 such services and subject to the following maximum periods of
4 ineligibility after reapplication:

5 (i) First failure: One week;

6 (ii) Second failure within six months: One month;

7 (iii) Third and subsequent failure within one year: Two months.

8 Failure to accept available services that can reasonably be
9 expected to enable the person to work, unless there is good cause to
10 refuse, shall result in termination of general assistance benefits for
11 those persons offered job development and placement services, and other
12 supportive services, through community services offices participating
13 in the department's Workplus employment support project.

14 (d) Persons found eligible for general assistance based on
15 incapacity from gainful employment may, if otherwise eligible, receive
16 general assistance pending application for federal supplemental
17 security income benefits. Any general assistance that is subsequently
18 duplicated by the person's receipt of supplemental security income for
19 the same period shall be considered a debt due the state and shall by
20 operation of law be subject to recovery through all available legal
21 remedies.

22 (e) The department shall adopt by rule medical criteria for general
23 assistance eligibility to ensure that eligibility decisions are
24 consistent with statutory requirements and are based on clear,
25 objective medical information.

26 (f) The process implementing the medical criteria shall involve
27 consideration of opinions of the treating or consulting physicians or
28 health care professionals regarding incapacity, and any eligibility
29 decision which rejects uncontroverted medical opinion must set forth
30 clear and convincing reasons for doing so.

31 (g) Recipients of general assistance based upon a finding of
32 incapacity from gainful employment who remain otherwise eligible shall
33 not have their benefits terminated absent a clear showing of material
34 improvement in their medical or mental condition or specific error in
35 the prior determination that found the recipient eligible by reason of
36 incapacitation. Recipients of general assistance based upon pregnancy
37 who relinquish their child for adoption, remain otherwise eligible, and
38 are not eligible to receive benefits under the federal temporary
39 assistance for needy families program shall not have their benefits

1 terminated until the end of the month in which the period of six weeks
2 following the birth of the recipient's child falls. Recipients of the
3 federal temporary assistance for needy families program who lose their
4 eligibility solely because of the birth and relinquishment of the
5 qualifying child may receive general assistance through the end of the
6 month in which the period of six weeks following the birth of the child
7 falls.

8 (h) No person may be considered an eligible individual for general
9 assistance with respect to any month if during that month the person:

10 (i) Is fleeing to avoid prosecution of, or to avoid custody or
11 confinement for conviction of, a felony, or an attempt to commit a
12 felony, under the laws of the state of Washington or the place from
13 which the person flees; or

14 (ii) Is violating a condition of probation, community supervision,
15 or parole imposed under federal or state law for a felony or gross
16 misdemeanor conviction.

17 (7) "Applicant"--Any person who has made a request, or on behalf of
18 whom a request has been made, to any county or local office for
19 assistance.

20 (8) "Recipient"--Any person receiving assistance and in addition
21 those dependents whose needs are included in the recipient's
22 assistance.

23 (9) "Standards of assistance"--The level of income required by an
24 applicant or recipient to maintain a level of living specified by the
25 department.

26 (10) "Resource"--Any asset, tangible or intangible, owned by or
27 available to the applicant at the time of application, which can be
28 applied toward meeting the applicant's need, either directly or by
29 conversion into money or its equivalent. The department may by rule
30 designate resources that an applicant may retain and not be ineligible
31 for public assistance because of such resources. Exempt resources
32 shall include, but are not limited to:

33 (a) A home that an applicant, recipient, or their dependents is
34 living in, including the surrounding property;

35 (b) Household furnishings and personal effects;

36 (c) A motor vehicle, other than a motor home, used and useful
37 having an equity value not to exceed five thousand dollars;

1 (d) A motor vehicle necessary to transport a physically disabled
2 household member. This exclusion is limited to one vehicle per
3 physically disabled person;

4 (e) All other resources, including any excess of values exempted,
5 not to exceed one thousand dollars or other limit as set by the
6 department, to be consistent with limitations on resources and
7 exemptions necessary for federal aid assistance. The department shall
8 also allow recipients of temporary assistance for needy families to
9 exempt savings accounts with combined balances of up to an additional
10 three thousand dollars;

11 (f) Applicants for or recipients of general assistance shall have
12 their eligibility based on resource limitations consistent with the
13 temporary assistance for needy families program rules adopted by the
14 department; and

15 (g) If an applicant for or recipient of public assistance possesses
16 property and belongings in excess of the ceiling value, such value
17 shall be used in determining the need of the applicant or recipient,
18 except that: (i) The department may exempt resources or income when
19 the income and resources are determined necessary to the applicant's or
20 recipient's restoration to independence, to decrease the need for
21 public assistance, or to aid in rehabilitating the applicant or
22 recipient or a dependent of the applicant or recipient; and (ii) the
23 department may provide grant assistance for a period not to exceed nine
24 months from the date the agreement is signed pursuant to this section
25 to persons who are otherwise ineligible because of excess real property
26 owned by such persons when they are making a good faith effort to
27 dispose of that property: PROVIDED, That:

28 (A) The applicant or recipient signs an agreement to repay the
29 lesser of the amount of aid received or the net proceeds of such sale;

30 (B) If the owner of the excess property ceases to make good faith
31 efforts to sell the property, the entire amount of assistance may
32 become an overpayment and a debt due the state and may be recovered
33 pursuant to RCW 43.20B.630;

34 (C) Applicants and recipients are advised of their right to a fair
35 hearing and afforded the opportunity to challenge a decision that good
36 faith efforts to sell have ceased, prior to assessment of an
37 overpayment under this section; and

38 (D) At the time assistance is authorized, the department files a
39 lien without a sum certain on the specific property.

1 (11) "Income"--(a) All appreciable gains in real or personal
2 property (cash or kind) or other assets, which are received by or
3 become available for use and enjoyment by an applicant or recipient
4 during the month of application or after applying for or receiving
5 public assistance. The department may by rule and regulation exempt
6 income received by an applicant for or recipient of public assistance
7 which can be used by him or her to decrease his or her need for public
8 assistance or to aid in rehabilitating him or her or his or her
9 dependents, but such exemption shall not, unless otherwise provided in
10 this title, exceed the exemptions of resources granted under this
11 chapter to an applicant for public assistance. In addition, for cash
12 assistance the department may disregard income pursuant to RCW
13 74.08A.230 and 74.12.350.

14 (b) If, under applicable federal requirements, the state has the
15 option of considering property in the form of lump sum compensatory
16 awards or related settlements received by an applicant or recipient as
17 income or as a resource, the department shall consider such property to
18 be a resource.

19 (12) "Need"--The difference between the applicant's or recipient's
20 standards of assistance for himself or herself and the dependent
21 members of his or her family, as measured by the standards of the
22 department, and value of all nonexempt resources and nonexempt income
23 received by or available to the applicant or recipient and the
24 dependent members of his or her family.

25 (13) For purposes of determining eligibility for public assistance
26 and participation levels in the cost of medical care, the department
27 shall exempt restitution payments made to people of Japanese and Aleut
28 ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian
29 and Pribilof Island Restitution Act passed by congress, P.L. 100-383,
30 including all income and resources derived therefrom.

31 (14) In the construction of words and phrases used in this title,
32 the singular number shall include the plural, the masculine gender
33 shall include both the feminine and neuter genders and the present
34 tense shall include the past and future tenses, unless the context
35 thereof shall clearly indicate to the contrary.

36 **Sec. 5.** RCW 74.09.035 and 1987 c 406 s 12 are each amended to read
37 as follows:

1 (1) To the extent of available funds, medical care services may be
2 provided to recipients of general assistance, and recipients of alcohol
3 and drug addiction services provided under chapter 74.50 RCW, in
4 accordance with medical eligibility requirements established by the
5 department.

6 (2) Determination of the amount, scope, and duration of medical
7 care services shall be limited to coverage as defined by the
8 department, except that adult dental, and routine foot care shall not
9 be included unless there is a specific appropriation for these
10 services.

11 (3) The department shall establish standards of assistance and
12 resource and income exemptions, which may include (~~deductibles and co-~~
13 ~~insurance~~) premium and point-of-service cost-sharing provisions. In
14 addition, the department may include a prohibition against the
15 voluntary assignment of property or cash for the purpose of qualifying
16 for assistance.

17 (4) Residents of skilled nursing homes, intermediate care
18 facilities, and intermediate care facilities for the mentally retarded
19 who are eligible for medical care services shall be provided medical
20 services to the same extent as provided to those persons eligible under
21 the medical assistance program.

22 (5) Payments made by the department under this program shall be the
23 limit of expenditures for medical care services solely from state
24 funds.

25 (6) Eligibility for medical care services shall commence with the
26 date of certification for general assistance or the date of eligibility
27 for alcohol and drug addiction services provided under chapter 74.50
28 RCW.

29 (7) The department may extend medical care services for up to nine
30 months to a person whose eligibility for cash assistance under general
31 assistance or alcohol and drug addiction services ends due to
32 employment. The department is authorized to establish and modify
33 eligibility and cost-sharing requirements in order to administer the
34 program within available funds. The department shall make every effort
35 to coordinate benefits with employer-sponsored coverage available to
36 the working disabled receiving benefits under this chapter.

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