
HOUSE BILL 2863

State of Washington 57th Legislature 2002 Regular Session

By Representatives Chase, Linville, Conway and Edwards

Read first time 01/30/2002. Referred to Committee on Health Care.

1 AN ACT Relating to state payment for long-term care services;
2 amending RCW 74.39A.005, 74.39A.009, 74.39A.030, and 74.46.190; adding
3 a new section to chapter 82.01 RCW; adding a new section to chapter
4 74.39A RCW; creating a new section; providing a contingent effective
5 date; and providing for submission of this act to a vote of the people.

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

7 **Sec. 1.** RCW 74.39A.005 and 2000 c 121 s 9 are each amended to read
8 as follows:

9 The legislature finds that the aging of the population and advanced
10 medical technology have resulted in a growing number of persons who
11 require assistance. The primary resource for long-term care continues
12 to be family and friends. However, these traditional caregivers are
13 increasingly employed outside the home. There is a growing demand for
14 improvement and expansion of home and community-based long-term care
15 services to support and complement the services provided by these
16 informal caregivers.

17 The legislature further finds that the public interest would best
18 be served by a broad array of long-term care services that support

1 persons who need such services at home or in the community whenever
2 practicable and that promote individual autonomy, dignity, and choice.

3 The legislature finds that as other long-term care options become
4 more available, the relative need for nursing home beds is likely to
5 decline. The legislature recognizes, however, that nursing home care
6 will continue to be a critical part of the state's long-term care
7 options, and that such services should promote individual dignity,
8 autonomy, and a homelike environment.

9 The legislature finds that many recipients of in-home services are
10 vulnerable and their health and well-being are dependent on their
11 caregivers. The quality, skills, and knowledge of their caregivers are
12 often the key to good care. The legislature finds that the need for
13 well-trained caregivers is growing as the state's population ages and
14 clients' needs increase. The legislature intends that current training
15 standards be enhanced.

16 The legislature finds that quality care cannot be assured by state
17 mandates alone. Sufficient resources must be dedicated to long-term
18 care services to facilitate competitive salaries that will attract and
19 retain quality caregivers. The legislature recognizes that past
20 failure to provide such resources has contributed to caregiver
21 recruitment and retention problems in all long-term care settings.
22 These problems can only degrade the continuity and quality of care for
23 those persons dependent upon such care.

24 The legislature finds that state government has assumed the
25 responsibility of purchasing long-term care services for a large
26 proportion of those receiving such services. The legislature further
27 finds that to ensure that state government's expectations concerning
28 the quality of long-term care services are met, its payments for those
29 services should be fair and reasonable and adequately compensate the
30 current costs incurred in providing those services.

31 **Sec. 2.** RCW 74.39A.009 and 1997 c 392 s 103 are each amended to
32 read as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) "Adult family home" means a home licensed under chapter 70.128
36 RCW.

1 (2) "Adult residential care services" means services provided by a
2 boarding home that is licensed under chapter 18.20 RCW and that has a
3 contract with the department under RCW 74.39A.020.

4 (3) "Assisted living services" means services provided by a
5 boarding home that has a contract with the department under RCW
6 74.39A.010 and the resident is housed in a private apartment-like unit.

7 (4) "Boarding home" means a facility licensed under chapter 18.20
8 RCW.

9 (5) "Cost-effective care" means care provided, in conformity with
10 applicable laws, rules, regulations, and expectations of the state and
11 federal governments, in a setting of an individual's choice that is
12 necessary to promote the ((~~most appropriate~~)) highest practicable level
13 of physical, mental, and psychosocial well-being consistent with client
14 choice, in an environment that is appropriate to the care and safety
15 needs of the individual, and such care cannot be provided at a lower
16 cost in any other setting. But this in no way precludes an individual
17 from choosing a different residential setting to achieve his or her
18 desired quality of life.

19 (6) "Department" means the department of social and health
20 services.

21 (7) "Enhanced adult residential care services" means services
22 provided by a boarding home that is licensed under chapter 18.20 RCW
23 and that has a contract with the department under RCW 74.39A.010.

24 (8) "Functionally disabled person" is synonymous with chronic
25 functionally disabled and means a person who because of a recognized
26 chronic physical or mental condition or disease, including chemical
27 dependency, is impaired to the extent of being dependent upon others
28 for direct care, support, supervision, or monitoring to perform
29 activities of daily living. "Activities of daily living", in this
30 context, means self-care abilities related to personal care such as
31 bathing, eating, using the toilet, dressing, and transfer.
32 Instrumental activities of daily living may also be used to assess a
33 person's functional abilities as they are related to the mental
34 capacity to perform activities in the home and the community such as
35 cooking, shopping, house cleaning, doing laundry, working, and managing
36 personal finances.

37 (9) "Home and community services" means adult family homes, in-home
38 services, adult day services, and other services administered or
39 provided by contract by the department directly or through contract

1 with area agencies on aging or similar services provided by facilities
2 and agencies licensed by the department.

3 (10) "Long-term care" is synonymous with chronic care and means
4 care and supports delivered indefinitely, intermittently, or over a
5 sustained time to persons of any age disabled by chronic mental or
6 physical illness, disease, chemical dependency, or a medical condition
7 that is permanent, not reversible or curable, or is long-lasting and
8 severely limits their mental or physical capacity for self-care. The
9 use of this definition is not intended to expand the scope of services,
10 care, or assistance by any individuals, groups, residential care
11 settings, or professions unless otherwise expressed by law.

12 (11) "Nursing home" means a facility licensed under chapter 18.51
13 RCW.

14 (12) "Nursing home services" means services provided by a nursing
15 home that has a contract with the department under chapter 74.46 RCW.

16 (13) "Secretary" means the secretary of social and health services.

17 ~~((13))~~ (14) "Tribally licensed boarding home" means a boarding
18 home licensed by a federally recognized Indian tribe which home
19 provides services similar to boarding homes licensed under chapter
20 18.20 RCW.

21 **Sec. 3.** RCW 74.39A.030 and 2002 c 3 s 10 (Initiative Measure No.
22 775) are each amended to read as follows:

23 (1) To the extent of available funding, the department shall expand
24 cost-effective options for home and community services for consumers
25 for whom the state participates in the cost of their care.

26 (2) In expanding home and community services, the department shall:
27 (a) Take full advantage of federal funding available under Title XVIII
28 and Title XIX of the federal social security act, including home
29 health, adult day ~~((eare))~~ services, waiver options, and state plan
30 services; and (b) be authorized to use funds available under its
31 community options program entry system waiver granted under section
32 1915(c) of the federal social security act to expand the availability
33 of in-home, adult residential care, adult family homes, enhanced adult
34 residential care, and assisted living services. By June 30, 1997, the
35 department shall undertake to reduce the nursing home medicaid census
36 by at least one thousand six hundred by assisting individuals who would
37 otherwise require nursing facility services to obtain services of their
38 choice, including assisted living services, enhanced adult residential

1 care, and other home and community services. If a resident, or his or
2 her legal representative, objects to a discharge decision initiated by
3 the department, the resident shall not be discharged if the resident
4 has been assessed and determined to require nursing facility services.
5 In contracting with nursing homes and boarding homes for enhanced adult
6 residential care placements, the department shall not require, by
7 contract or through other means, structural modifications to existing
8 building construction.

9 (3)(a) The department shall by rule establish payment rates for
10 home and community services (~~that~~), adult and enhanced adult
11 residential care services, assisted living services, and nursing home
12 services, that are fair and reasonable and adequately pay for current
13 costs incurred to support the provision of cost-effective care and
14 services. In the event of any conflict between any such rule and a
15 collective bargaining agreement entered into under RCW 74.39A.270 and
16 74.39A.300, the collective bargaining agreement prevails.

17 (b) The department may authorize an enhanced adult residential care
18 rate for nursing homes that temporarily or permanently convert their
19 bed use for the purpose of providing enhanced adult residential care
20 under chapter 70.38 RCW, when the department determines that payment of
21 an enhanced rate is cost-effective and necessary to foster expansion of
22 contracted enhanced adult residential care services. As an incentive
23 for nursing homes to permanently convert a portion of its nursing home
24 bed capacity for the purpose of providing enhanced adult residential
25 care, the department may authorize a supplemental add-on to the
26 enhanced adult residential care rate.

27 (c) The department may authorize a supplemental assisted living
28 services rate for up to four years for facilities that convert from
29 nursing home use and do not retain rights to the converted nursing home
30 beds under chapter 70.38 RCW, if the department determines that payment
31 of a supplemental rate is cost-effective and necessary to foster
32 expansion of contracted assisted living services.

33 **Sec. 4.** RCW 74.46.190 and 1998 c 322 s 11 are each amended to read
34 as follows:

35 (1) The substance of a transaction will prevail over its form.

36 (2) All documented costs which are ordinary, necessary, related to
37 care of medical care recipients, and not expressly unallowable under
38 this chapter (~~or department rule~~), are to be allowable and will be

1 fully reimbursed by the department. Costs of providing therapy care
2 are allowable, subject to any applicable limit contained in this
3 chapter, provided documentation establishes the costs were incurred for
4 medical care recipients and other sources of payment to which
5 recipients may be legally entitled, such as private insurance or
6 medicare, were first fully utilized.

7 (3) The payment for property usage is to be independent of
8 ownership structure and financing arrangements.

9 (4) Allowable costs shall not include costs reported by a
10 contractor for a prior period to the extent such costs, due to
11 statutory exemption, will not be incurred by the nursing facility in
12 the period to be covered by the rate.

13 (5) Any costs deemed allowable under this chapter are subject to
14 the provisions of RCW 74.46.421. (~~The allowability of a cost shall
15 not be construed as creating a legal right or entitlement to
16 reimbursement of the cost.~~)

17 NEW SECTION. Sec. 5. A new section is added to chapter 82.01 RCW
18 to read as follows:

19 The department must develop a long-term care payroll premium
20 deduction.

21 NEW SECTION. Sec. 6. A new section is added to chapter 74.39A RCW
22 to read as follows:

23 (1) The long-term care quality fund is established in the state
24 treasury. All receipts from RCW 74.39A.030 must be deposited into the
25 fund. Moneys in the fund may be spent only after appropriation.

26 (2) The legislature may appropriate moneys from the long-term care
27 quality fund only to enhance payments to those contracting with the
28 state to provide long-term care under this chapter and chapter 74.46
29 RCW.

30 NEW SECTION. Sec. 7. This act may be known and cited as the
31 Washington long-term care consumer quality assurance act.

32 NEW SECTION. Sec. 8. The secretary of state shall submit this act
33 to the people for their adoption and ratification, or rejection, at the
34 next general election to be held in this state, in accordance with

1 Article II, section 1 of the state Constitution and the laws adopted to
2 facilitate its operation.

3 NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act take effect
4 July 1, 2003, if the people adopt and ratify this act under section 8
5 of this act.

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