S-2073.1

SUBSTITUTE SENATE BILL 5630

State of Washington 57th Legislature 2001 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Costa, Thibaudeau, Deccio, Winsley, Rasmussen and Kohl-Welles)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to reimbursing nursing homes for direct care
2 costs; amending RCW 74.46.431; reenacting and amending RCW
3 74.46.506; adding a new section to chapter 74.46 RCW; creating a
4 new section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that absent changes
7 to the nursing home case mix reimbursement system for direct care
8 costs, unintended consequences of the system scheduled to be
9 implemented in the 2001-2003 biennium could negatively impact the
10 quality of care required by nursing home residents. In order to
11 assure that unanticipated rate reductions resulting in lowered
12 staffing levels do not occur, the legislature finds that a delay
13 in further implementation is warranted while the legislature
14 examines these issues and makes necessary corrections to the
15 system.

16 **Sec. 2.** RCW 74.46.431 and 1999 c 353 s 4 are each amended to read
17 as follows:

1 (1) Effective July 1, 1999, nursing facility medicaid payment
2 rate allocations shall be facility-specific and shall have seven
3 components: Direct care, therapy care, support services,
4 operations, property, financing allowance, and variable return.
5 The department shall establish and adjust each of these
6 components, as provided in this section and elsewhere in this
7 chapter, for each medicaid nursing facility in this state.
8 (2) All component rate allocations shall be based upon a
9 minimum facility occupancy of eighty-five percent of licensed
10 beds, regardless of how many beds are set up or in use.
11 (3) Information and data sources used in determining medicaid
12 payment rate allocations, including formulas, procedures, cost
13 report periods, resident assessment instrument formats, resident
14 assessment methodologies, and resident classification and case mix
15 weighting methodologies, may be substituted or altered from time
16 to time as determined by the department.
17 (4)(a) Direct care component rate allocations shall be
18 established using adjusted cost report data covering at least six
19 months. Adjusted cost report data from 1996 will be used for
20 October 1, 1998, through June 30, 2001, direct care component rate
21 allocations; adjusted cost report data from 1999 will be used for
22 July 1, 2001, through June 30, 2004, direct care component rate
23 allocations.
24 (b) Direct care component rate allocations based on 1996 cost
25 report data shall be adjusted annually for economic trends and
26 conditions by a factor or factors defined in the biennial
27 appropriations act. A different economic trends and conditions
28 adjustment factor or factors may be defined in the biennial
29 appropriations act for facilities whose direct care component rate
30 is set equal to their adjusted June 30, 1998, rate, as provided in
31 RCW 74.46.506(5)(k).
32 (c) Direct care component rate allocations based on 1999 cost
33 report data shall be adjusted annually for economic trends and
34 conditions by a factor or factors defined in the biennial
35 appropriations act. A different economic trends and conditions
36 adjustment factor or factors may be defined in the biennial

appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, ((~~1998~~)) <u>2000</u>, rate, as provided in RCW 74.46.506(5)(k).

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, therapy care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2004, therapy care component rate allocations.

(b) Therapy care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2004, support services component rate allocations.

(b) Support services component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2004, operations component rate allocations.

(b) Operations component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through

1 June 30, 1999, a facility's property and return on investment
2 component rates shall be rebased utilizing 1997 adjusted cost
3 report data covering at least six months of data.
4 (9) Total payment rates under the nursing facility medicaid
5 payment system shall not exceed facility rates charged to the
6 general public for comparable services.
7 (10) Medicaid contractors shall pay to all facility staff a
8 minimum wage of the greater of five dollars and fifteen cents per
9 hour or the federal minimum wage.
10 (11) The department shall establish in rule procedures,
11 principles, and conditions for determining component rate
12 allocations for facilities in circumstances not directly addressed
13 by this chapter, including but not limited to: The need to prorate
14 inflation for partial-period cost report data, newly constructed
15 facilities, existing facilities entering the medicaid program for
16 the first time or after a period of absence from the program,
17 existing facilities with expanded new bed capacity, existing
18 medicaid facilities following a change of ownership of the nursing
19 facility business, facilities banking beds or converting beds back
20 into service, facilities having less than six months of either
21 resident assessment, cost report data, or both, under the current
22 contractor prior to rate setting, and other circumstances.
23 (12) The department shall establish in rule procedures,
24 principles, and conditions, including necessary threshold costs,
25 for adjusting rates to reflect capital improvements or new
26 requirements imposed by the department or the federal government.
27 Any such rate adjustments are subject to the provisions of RCW
28 74.46.421.

29 **Sec. 3.** RCW 74.46.506 and 1999 c 353 s 5 and 1999 c 181 s 1 are
30 each reenacted and amended to read as follows:
31 (1) The direct care component rate allocation corresponds to
32 the provision of nursing care for one resident of a nursing
33 facility for one day, including direct care supplies. Therapy
34 services and supplies, which correspond to the therapy care
35 component rate, shall be excluded. The direct care component rate

includes elements of case mix determined consistent with the principles of this section and other applicable provisions of this chapter.

(2) Beginning October 1, 1998, the department shall determine and update quarterly for each nursing facility serving medicaid residents a facility-specific per-resident day direct care component rate allocation, to be effective on the first day of each calendar quarter. In determining direct care component rates the department shall utilize, as specified in this section, minimum data set resident assessment data for each resident of the facility, as transmitted to, and if necessary corrected by, the department in the resident assessment instrument format approved by federal authorities for use in this state.

(3) The department may question the accuracy of assessment data for any resident and utilize corrected or substitute information, however derived, in determining direct care component rates. The department is authorized to impose civil fines and to take adverse rate actions against a contractor, as specified by the department in rule, in order to obtain compliance with resident assessment and data transmission requirements and to ensure accuracy.

(4) Cost report data used in setting direct care component rate allocations shall be 1996 and 1999, for rate periods as specified in RCW 74.46.431(4)(a).

(5) Beginning October 1, 1998, the department shall rebase each nursing facility's direct care component rate allocation as described in RCW 74.46.431, adjust its direct care component rate allocation for economic trends and conditions as described in RCW 74.46.431, and update its medicaid average case mix index, consistent with the following:

(a) Reduce total direct care costs reported by each nursing facility for the applicable cost report period specified in RCW 74.46.431(4)(a) to reflect any department adjustments, and to eliminate reported resident therapy costs and adjustments, in order to derive the facility's total allowable direct care cost;

(b) Divide each facility's total allowable direct care cost by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy of eighty-five percent; that

is, the greater of actual or imputed occupancy at eighty-five percent of licensed beds, to derive the facility's allowable direct care cost per resident day;

(c) Adjust the facility's per resident day direct care cost by the applicable factor specified in RCW 74.46.431(4) (b) and (c) to derive its adjusted allowable direct care cost per resident day;

(d) Divide each facility's adjusted allowable direct care cost per resident day by the facility average case mix index for the applicable quarters specified by RCW 74.46.501(7)(b) to derive the facility's allowable direct care cost per case mix unit;

(e) Divide nursing facilities into two peer groups: Those located in metropolitan statistical areas as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government, and those not located in a metropolitan statistical area;

(f) Array separately the allowable direct care cost per case mix unit for all metropolitan statistical area and for all nonmetropolitan statistical area facilities, and determine the median allowable direct care cost per case mix unit for each peer group;

(g) Except as provided in (k) of this subsection, from October 1, 1998, through June 30, 2000, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than eighty-five percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to eighty-five percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred fifteen percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred fifteen percent of the peer group median, and shall have a direct care component rate

allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(iii) Any facility whose allowable cost per case mix unit is between eighty-five and one hundred fifteen percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(h) Except as provided in (k) of this subsection, from July 1, 2000, through June 30, ((~~2002~~)) <u>2003</u>, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than ninety percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to ninety percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred ten percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred ten percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(iii) Any facility whose allowable cost per case mix unit is between ninety and one hundred ten percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

1 (i) From July 1, ((~~2002~~)) 2003, through June 30, 2004,
2 determine each facility's quarterly direct care component rate as
3 follows:
4 (i) Any facility whose allowable cost per case mix unit is less
5 than ninety-five percent of the facility's peer group median
6 established under (f) of this subsection shall be assigned a cost
7 per case mix unit equal to ninety-five percent of the facility's
8 peer group median, and shall have a direct care component rate
9 allocation equal to the facility's assigned cost per case mix unit
10 multiplied by that facility's medicaid average case mix index from
11 the applicable quarter specified in RCW 74.46.501(7)(c);
12 (ii) Any facility whose allowable cost per case mix unit is
13 greater than one hundred five percent of the peer group median
14 established under (f) of this subsection shall be assigned a cost
15 per case mix unit equal to one hundred five percent of the peer
16 group median, and shall have a direct care component rate
17 allocation equal to the facility's assigned cost per case mix unit
18 multiplied by that facility's medicaid average case mix index from
19 the applicable quarter specified in RCW 74.46.501(7)(c);
20 (iii) Any facility whose allowable cost per case mix unit is
21 between ninety-five and one hundred five percent of the peer group
22 median established under (f) of this subsection shall have a
23 direct care component rate allocation equal to the facility's
24 allowable cost per case mix unit multiplied by that facility's
25 medicaid average case mix index from the applicable quarter
26 specified in RCW 74.46.501(7)(c);
27 (j) Beginning July 1, 2004, determine each facility's quarterly
28 direct care component rate by multiplying the facility's peer
29 group median allowable direct care cost per case mix unit by that
30 facility's medicaid average case mix index from the applicable
31 quarter as specified in RCW 74.46.501(7)(c).
32 (k)(i) Between October 1, 1998, and June 30, 2000, the
33 department shall compare each facility's direct care component
34 rate allocation calculated under (g) of this subsection with the
35 facility's nursing services component rate in effect on September
36 30, 1998, less therapy costs, plus any exceptional care offsets as

reported on the cost report, adjusted for economic trends and conditions as provided in RCW 74.46.431. A facility shall receive the higher of the two rates;

(ii) Between July 1, 2000, and June 30, ((~~2002~~)) 2003, the department shall compare each facility's direct care component rate allocation calculated under (h) of this subsection with the facility's direct care component rate in effect on June 30, 2000, adjusted for economic trends and conditions as provided in RCW 74.46.431. A facility shall receive the higher of the two rates.

(6) The direct care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) Payments resulting from increases in direct care component rates, granted under authority of RCW 74.46.508(1) for a facility's exceptional care residents, shall be offset against the facility's examined, allowable direct care costs, for each report year or partial period such increases are paid. Such reductions in allowable direct care costs shall be for rate setting, settlement, and other purposes deemed appropriate by the department.

NEW SECTION. **Sec. 4.** A new section is added to chapter 74.46 RCW to read as follows:

(1) The joint legislative task force on the nursing home reimbursement system is hereby created. Membership of the task force must consist of eight legislators. Four members of the senate including two members from the majority party and two members from the minority party will be appointed by the president of the senate. Four legislative members from the house of representatives including two members from each party will be appointed by the co-speakers of the house of representatives. Each body shall select representatives from the committees with jurisdiction over health and long-term care and fiscal matters. The task force may invite the participation of stakeholder groups.

(2) The task force is charged with reviewing the extent to which the reimbursement rates relate to the level of acuity and needs of the patients served, encourage nursing home providers to

staff appropriately to those demonstrated needs, and allow providers to both recruit and retain staff necessary to providing high quality patient care in a cost-effective manner.

(3) The task force shall complete its review and submit its recommendations in the form of a report to the legislature by December 1, 2001.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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