
SENATE BILL 5630

State of Washington

57th Legislature

2001 Regular Session

By Senators Costa, Thibaudeau, Deccio, Winsley, Rasmussen and Kohl-Welles

Read first time 01/29/2001. Referred to Committee on Health & Long-Term Care.

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
37 appropriations act for facilities whose direct care component rate

1 is set equal to their adjusted June 30, (~~1998~~) 2000, rate, as
2 provided in RCW 74.46.506(5)(k).

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

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

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

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

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

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

33 (8) For July 1, 1998, through September 30, 1998, a facility's
34 property and return on investment component rates shall be the
35 facility's June 30, 1998, property and return on investment
36 component rates, without increase. For October 1, 1998, through
37 June 30, 1999, a facility's property and return on investment

1 component rates shall be rebased utilizing 1997 adjusted cost
2 report data covering at least six months of data.

3 (9) Total payment rates under the nursing facility medicaid
4 payment system shall not exceed facility rates charged to the
5 general public for comparable services.

6 (10) Medicaid contractors shall pay to all facility staff a
7 minimum wage of the greater of five dollars and fifteen cents per
8 hour or the federal minimum wage.

9 (11) The department shall establish in rule procedures,
10 principles, and conditions for determining component rate
11 allocations for facilities in circumstances not directly addressed
12 by this chapter, including but not limited to: The need to prorate
13 inflation for partial-period cost report data, newly constructed
14 facilities, existing facilities entering the medicaid program for
15 the first time or after a period of absence from the program,
16 existing facilities with expanded new bed capacity, existing
17 medicaid facilities following a change of ownership of the nursing
18 facility business, facilities banking beds or converting beds back
19 into service, facilities having less than six months of either
20 resident assessment, cost report data, or both, under the current
21 contractor prior to rate setting, and other circumstances.

22 (12) The department shall establish in rule procedures,
23 principles, and conditions, including necessary threshold costs,
24 for adjusting rates to reflect capital improvements or new
25 requirements imposed by the department or the federal government.
26 Any such rate adjustments are subject to the provisions of RCW
27 74.46.421.

28 **Sec. 3.** RCW 74.46.506 and 1999 c 353 s 5 and 1999 c 181 s 1 are
29 each reenacted and amended to read as follows:

30 (1) The direct care component rate allocation corresponds to
31 the provision of nursing care for one resident of a nursing
32 facility for one day, including direct care supplies. Therapy
33 services and supplies, which correspond to the therapy care
34 component rate, shall be excluded. The direct care component rate
35 includes elements of case mix determined consistent with the
36 principles of this section and other applicable provisions of this
37 chapter.

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

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

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

21 (5) Beginning October 1, 1998, the department shall rebase each
22 nursing facility's direct care component rate allocation as
23 described in RCW 74.46.431, adjust its direct care component rate
24 allocation for economic trends and conditions as described in RCW
25 74.46.431, and update its medicaid average case mix index,
26 consistent with the following:

27 (a) Reduce total direct care costs reported by each nursing
28 facility for the applicable cost report period specified in RCW
29 74.46.431(4)(a) to reflect any department adjustments, and to
30 eliminate reported resident therapy costs and adjustments, in
31 order to derive the facility's total allowable direct care cost;

32 (b) Divide each facility's total allowable direct care cost by
33 its adjusted resident days for the same report period, increased
34 if necessary to a minimum occupancy of eighty-five percent; that
35 is, the greater of actual or imputed occupancy at eighty-five
36 percent of licensed beds, to derive the facility's allowable
37 direct care cost per resident day;

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

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

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

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

18 (g) Except as provided in (k) of this subsection, from October
19 1, 1998, through June 30, 2000, determine each facility's
20 quarterly direct care component rate as follows:

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

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

37 (iii) Any facility whose allowable cost per case mix unit is
38 between eighty-five and one hundred fifteen percent of the peer

1 group median established under (f) of this subsection shall have a
2 direct care component rate allocation equal to the facility's
3 allowable cost per case mix unit multiplied by that facility's
4 medicaid average case mix index from the applicable quarter
5 specified in RCW 74.46.501(7)(c);

6 (h) Except as provided in (k) of this subsection, from July 1,
7 2000, through June 30, (~~2002~~) 2003, determine each facility's
8 quarterly direct care component rate as follows:

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

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

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

32 (i) From July 1, (~~2002~~) 2003, through June 30, 2004,
33 determine each facility's quarterly direct care component rate as
34 follows:

35 (i) Any facility whose allowable cost per case mix unit is less
36 than ninety-five percent of the facility's peer group median
37 established under (f) of this subsection shall be assigned a cost
38 per case mix unit equal to ninety-five percent of the facility's

1 peer group median, and shall have a direct care component rate
2 allocation equal to the facility's assigned cost per case mix unit
3 multiplied by that facility's medicaid average case mix index from
4 the applicable quarter specified in RCW 74.46.501(7)(c);

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

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

20 (j) Beginning July 1, 2004, determine each facility's quarterly
21 direct care component rate by multiplying the facility's peer
22 group median allowable direct care cost per case mix unit by that
23 facility's medicaid average case mix index from the applicable
24 quarter as specified in RCW 74.46.501(7)(c).

25 (k)(i) Between October 1, 1998, and June 30, 2000, the
26 department shall compare each facility's direct care component
27 rate allocation calculated under (g) of this subsection with the
28 facility's nursing services component rate in effect on September
29 30, 1998, less therapy costs, plus any exceptional care offsets as
30 reported on the cost report, adjusted for economic trends and
31 conditions as provided in RCW 74.46.431. A facility shall receive
32 the higher of the two rates;

33 (ii) Between July 1, 2000, and June 30, (~~2002~~) 2003, the
34 department shall compare each facility's direct care component
35 rate allocation calculated under (h) of this subsection with the
36 facility's direct care component rate in effect on June 30, 2000,
37 adjusted for economic trends and conditions as provided in RCW
38 74.46.431. A facility shall receive the higher of the two rates.

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

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

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

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

25 (2) The task force is charged with reviewing the extent to
26 which the direct care reimbursement rates relate to the level of
27 acuity and needs of the patients served, encourage nursing home
28 providers to staff appropriately to those demonstrated needs, and
29 allow providers to both recruit and retain staff necessary to
30 providing high quality patient care in a cost-effective manner.

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

34 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of

- 1 the state government and its existing public institutions, and
- 2 takes effect immediately.

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