

SENATE BILL REPORT

SB 5341

As Reported By Senate Committee On:
Health & Long-Term Care, February 20, 2003
Ways & Means, April 3, 2003

Title: An act relating to a quality maintenance fee levied on nursing facilities.

Brief Description: Establishing a quality maintenance fee on nursing facilities.

Sponsors: Senators Winsley, Kline, Thibaudeau, Carlson, Parlette and Kohl-Welles.

Brief History:

Committee Activity: Health & Long-Term Care: 2/4/03, 2/20/03 [DPS-WM].
Ways & Means: 4/3/03 [DP2S, DNP].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5341 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Deccio, Chair; Winsley, Vice Chair; Brandland, Keiser and Parlette.

Staff: Rhoda Donkin (786-7198)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5341 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Doumit, Fraser, Hale, Honeyford, Johnson, Parlette, Poulsen, Regala, Roach, Sheahan, B. Sheldon and Winsley.

Minority Report: Do not pass.

Signed by Senator Brown.

Staff: Tim Yowell (785-7435)

Background: Historically, state Medicaid programs have used a variety of mechanisms such as provider taxes, provider donations, and intergovernmental transfers to increase federal Medicaid revenues. The federal government has placed restrictions on these mechanisms, in order to limit the extent to which states may use federal funds to cover the state share of Medicaid costs. These restrictions include requirements that provider taxes be broad-based, which means the tax must apply to all providers of the same class, regardless of whether the provider participates in Medicaid or not. Provider taxes must also be imposed at a uniform rate, and they may not include any direct or indirect "hold harmless" provision which guarantees repayment of the tax to all providers.

Summary of Second Substitute Bill: A quality maintenance fee is imposed on nursing homes. All non-exempt nursing homes must pay a fee of \$6.50, multiplied by each facility's total number of patient days (excluding Medicare days). The Department of Social and Health Services shall request a waiver of federal rules in order to exempt state-operated facilities, public hospital districts, and nursing homes with low rates of Medicaid occupancy from the fee. No fee is due from the facilities named in the waiver request pending a final federal decision. If the waiver request is not approved, the fee is payable in full.

The quality maintenance fee is terminated if it is disallowed under the federal Medicaid program.

Second Substitute Bill Compared to Substitute Bill: The substitute bill set the fee at \$9.25 for the first year, and at 6 percent of facility revenues in the subsequent year. The second substitute continues the fee indefinitely, whereas the substitute bill terminates it on June 30, 2005. The second substitute bill deposits the fee revenue into the general fund, whereas the substitute bill deposits it into a new account dedicated to nursing home reimbursement. The second substitute bill provides an opportunity for certain facilities to be exempt from the fee, whereas the substitute bill does not.

Substitute Bill Compared to Original Bill: Language is clarified for purposes of fee collection. The department is directed to submit to the federal government an amendment to the state's medical plan to include the quality maintenance fee.

Appropriation: None.

Fiscal Note: Available.

Effective Date: July 1, 2003.

Testimony For (Health & Long-Term Care): This is a creative way to increase revenue to pay higher rates to nursing facilities. We are missing an opportunity if this fee isn't collected.

Testimony Against (Health & Long-Term Care): This tax will force some private nursing facilities to close. It will also push more private pay individuals onto Medicaid sooner. The way the bill is drafted conflicts with Medicaid rules.

Testified (Health & Long-Term Care): Brendan Williams, WHCA (pro); Ed Mayne, Frank Tobey Jones (con); Pam Matiko, Anderson House (con); Tom Gray, Bethany of the NW (pro); Kathy Marshall, DSHS (con); Robert Hellrigel, Providence Health System (con); David Rogge, Hilltop Health Care (pro); Kary Hyre, LTC Ombudsman (pro).

Testimony For (Ways & Means): Current Medicaid payment rates to nursing homes are inadequate. As a result, many nursing homes are losing money; going bankrupt; and facing very high staff turnover rates which hurt the quality of patient care. Medicare has reduced its payment rates, because it is unwilling to continue subsidizing low Medicaid payment rates by the states. This is making nursing homes' already serious financial situation even more severe, as are rising utility, insurance, and workers' comp costs, none of which are accounted for in current state payment rates. The proposed quality maintenance fee is an innovative

solution. A number of states already levy such taxes, and more are looking at the possibility. Private-pay patients are already being taxed by the state's low payment rates. Many nursing homes are pledging that, if both the tax and the related spending bill are enacted, they will not pass the cost of the tax on to their private-pay patients.

Testimony Against (Ways & Means): A tax on private-pay patients is not the solution to the problem of inadequate Medicaid payment rates. For this reason, many homes oppose the bill, even though they would be net "winners" under the proposed arrangement. It is unfair and unwise to tax people who are paying for their own long-term care, because they have saved and purchased insurance, in order to subsidize care for those who have not. People who pay privately for their care face the same escalating cost of care as Medicaid facilities, but they wouldn't benefit from the tax. DSHS suggests that the bill needs at least five changes in order to avoid federal disallowance. The bill should be amended so that the revenues could also benefit other long-term care providers, such as assisted living facilities.

Testified (Ways & Means): PRO: Brendan Williams, WA Health Care Association; Jim Scadlock, Life Care Centers of America; Jeff Marshall, Eagle Healthcare; Rick Guthrie; Tom Gray, Bethany Northwest; Kelly Rhoads, Sunshine Gardens. CON: Jeff Larkin, WA Association of Homes and Services for the Aging; Robert Helrigel, Sisters of Providence Health Systems; Remy Trupin, Jewish Federation of Washington; Catherine Moody, Eugene Hall, & Jean Gallios, Emerald Heights Retirement Community; Pam Matiko, Anderson House; Len McComb, WA Hospital Association. CONCERNS: Kathy Marshall, DSHS Aging & Disability Services; Laurie St. Ours, Northwest Association of Assisted Living Facilities.