

HOUSE BILL REPORT

ESB 6629

As of Second Reading:

March 12, 2008

Title: An act relating to making clarifications to the nursing facility medicaid payment system in relation to the use of minimum occupancy in setting cost limits and application of the statewide average payment rate specified in the biennial appropriations act.

Brief Description: Making clarifications to the nursing facility medicaid payment system in relation to the use of minimum occupancy in setting cost limits and application of the statewide average payment rate specified in the biennial appropriations act.

Sponsors: Senators Franklin and Prentice; by request of Department of Social and Health Services.

Brief History:

House Committee Activity:

None.

Senate Floor Activity:

Passed Senate: 3/11/08, 49-0.

Brief Summary of Bill

- Clarifies that retrospective final orders or final judgments will be paid according to the nursing facility rates that were in effect for the same period of time for which the order or judgment covers.
- Treats similarly the non capital nursing facility rate components by requiring the minimum occupancy in therapy care and support services to be adjusted prior to setting median cost limits.
- Clarifies that the direct care rate component is based on actual occupancy.
- The enactment of this amendment is meant to be curative, remedial, and retrospective applicable to July 1, 1998.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Carma Matti (786-7140).

Background:

There are about 230 nursing home facilities in Washington providing long-term care services to approximately 11,115 Medicaid clients. The nursing facility payment system was first enacted into statute in 1980. The system is administered by the Department of Social and Health Services (Department).

Nursing Facility Payment System and Median Cost Limits: The current payment system consists of four non capital rate components: direct care, therapy care, support services, and operations.

In several areas, median cost limits (MCLs), or caps, are applied to costs used to calculate the level of reimbursement available to a nursing facility. (For example, the MCL for "operations" is 100 percent of median, meaning that facilities whose "operations" costs are above the median relative to their peers have their reimbursement limited to the median level.)

In 2006 the Legislature amended the payment statute with a variety of changes that increased the level of reimbursement for many providers. A "hold harmless" to operations costs and direct care costs is included for certain providers who would not have had their reimbursement increased. Included in this amendment was a clarification that minimum occupancy adjustments are applied to operations' costs prior to the calculation of median cost limits or MCLs. Also included in this amendment was a clarification that direct care should not be subject to minimum occupancy. As the bill did not make changes to support services or therapy care, these sections were not amended. Existing statute defines these rate component allocations as including a minimum occupancy adjustment.

Nursing Facility Payment – Limits on Rates Set by the Operating Budget Act: In the biennial appropriations act, the Legislature sets a statewide weighted average nursing facility Medicaid payment rate, typically referred to as the "budget dial." The Department is required to ensure the aggregate actual rates paid to nursing facilities do not exceed the "budget dial." Under current statute when a retrospective judgment or order is awarded, the Department is obligated to pay the award according to the current payment rate or "budget dial" set forth in the appropriations act.

Appeals of Rates for Prior Years and Retroactive Payment: Nursing facilities have the right to appeal their reimbursement rate, which can result in hearings, lawsuits, or settlements.

Summary:

The bill addresses three issues:

- (1) The bill clarifies that the minimum occupancy adjustments are applied prior to the calculation of median cost limits for support services and therapy care as well as for operations.

- (2) The bill clarifies that any retroactive payments to nursing homes for a prior fiscal year may not exceed the "budget dial" for that same fiscal year.
- (3) The bill clarifies that nursing facilities should be paid for direct care based on actual occupancy (number of residents).

The Legislature intends that 2008 enactment of these sections is meant to be curative, remedial, and retroactively applied to July 1, 1998.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.