
SENATE BILL 5736

State of Washington 60th Legislature 2007 Regular Session

By Senators Keiser, Kastama, Kohl-Welles, Rockefeller, Pridemore and Kline

Read first time 01/30/2007. Referred to Committee on Ways & Means.

1 AN ACT Relating to revising the nursing facility payment system;
2 amending RCW 74.46.431, 74.46.433, 74.46.506, 74.46.511, 74.46.515, and
3 74.46.521; adding a new section to chapter 74.46 RCW; providing an
4 effective date; providing an expiration date; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 74.46.431 and 2006 c 258 s 2 are each amended to read
8 as follows:

9 (1) Effective July 1, 1999, nursing facility medicaid payment rate
10 allocations shall be facility-specific and shall have seven components:
11 Direct care, therapy care, support services, operations, property,
12 financing allowance, and variable return. The department shall
13 establish and adjust each of these components, as provided in this
14 section and elsewhere in this chapter, for each medicaid nursing
15 facility in this state.

16 (2) Component rate allocations in therapy care, support services,
17 variable return, operations, property, and financing allowance for
18 essential community providers as defined in this chapter shall be based
19 upon a minimum facility occupancy of eighty-five percent of licensed

1 beds, regardless of how many beds are set up or in use. For all
2 facilities other than essential community providers, effective July 1,
3 2001, component rate allocations in direct care, therapy care, support
4 services, variable return, operations, property, and financing
5 allowance shall continue to be based upon a minimum facility occupancy
6 of eighty-five percent of licensed beds. For all facilities other than
7 essential community providers, effective July 1, 2002, the component
8 rate allocations in operations, property, and financing allowance shall
9 be based upon a minimum facility occupancy of ninety percent of
10 licensed beds, regardless of how many beds are set up or in use. For
11 all facilities, effective July 1, 2006, the component rate allocation
12 in direct care shall be based upon actual facility occupancy.

13 (3) Information and data sources used in determining medicaid
14 payment rate allocations, including formulas, procedures, cost report
15 periods, resident assessment instrument formats, resident assessment
16 methodologies, and resident classification and case mix weighting
17 methodologies, may be substituted or altered from time to time as
18 determined by the department.

19 (4)(a) Direct care component rate allocations shall be established
20 using adjusted cost report data covering at least six months. Adjusted
21 cost report data from 1996 will be used for October 1, 1998, through
22 June 30, 2001, direct care component rate allocations; adjusted cost
23 report data from 1999 will be used for July 1, 2001, through June 30,
24 2006, direct care component rate allocations(~~(-)~~); adjusted cost report
25 data from 2003 will be used for July 1, 2006, (~~and later~~) through
26 June 30, 2007, direct care component rate allocations; adjusted cost
27 report data from 2005 will be used for July 1, 2007, through June 30,
28 2009, direct care component rate allocations. Effective July 1, 2009,
29 and thereafter for each odd-numbered year beginning on July 1st, direct
30 care component rate allocations shall be cost rebased and established
31 using the adjusted cost report data from the year, two years
32 immediately preceding the rate rebase period; so that: Adjusted cost
33 report data from 2007 is used for July 1, 2009, through June 30, 2011,
34 direct care component rate allocations; adjusted cost report data from
35 2009 is used for July 1, 2011, through June 30, 2013, direct care
36 component rate allocations; and so forth.

37 (b) Direct care component rate allocations based on 1996 cost
38 report data shall be adjusted annually for economic trends and

1 conditions by a factor or factors defined in the biennial
2 appropriations act. A different economic trends and conditions
3 adjustment factor or factors may be defined in the biennial
4 appropriations act for facilities whose direct care component rate is
5 set equal to their adjusted June 30, 1998, rate, as provided in RCW
6 74.46.506(5)(i).

7 (c) Direct care component rate allocations based on 1999 cost
8 report data shall be adjusted annually for economic trends and
9 conditions by a factor or factors defined in the biennial
10 appropriations act. A different economic trends and conditions
11 adjustment factor or factors may be defined in the biennial
12 appropriations act for facilities whose direct care component rate is
13 set equal to their adjusted June 30, 1998, rate, as provided in RCW
14 74.46.506(5)(i).

15 (d) Direct care component rate allocations based on 2003 cost
16 report data shall be adjusted annually for economic trends and
17 conditions by a factor or factors defined in the biennial
18 appropriations act. A different economic trends and conditions
19 adjustment factor or factors may be defined in the biennial
20 appropriations act for facilities whose direct care component rate is
21 set equal to their adjusted June 30, 2006, rate, as provided in RCW
22 74.46.506(5)(i).

23 (e) Beginning on July 1, 2007, direct care component rate
24 allocations established using the 2005 cost report data, and direct
25 care component rate allocations established using cost report data in
26 subsequent July 1st odd-numbered year periods, as described in (a) of
27 this subsection, shall be adjusted for economic trends and conditions
28 by the lower of a factor determined by the percentage change in the
29 consumer price index for all urban consumers from the actual index of
30 the quarter ending June 30, from the year two years immediately
31 preceding the rate period to the forecasted index of the quarter ending
32 June 30, immediately preceding the rate period from the data provided
33 by the bureau of labor statistics, titled the consumer price index for
34 all urban consumers, as is published for the quarter ending June 30,
35 one year immediately preceding the rate period; or six percent; so
36 that: For the rate period commencing July 1, 2007, through June 30,
37 2008, the adjustment for economic trends and conditions is the lower of
38 the calculated percentage change of the actual index from the quarter

1 ending June 30, 2005, compared to the forecasted index for the quarter
2 ending June 30, 2007, or six percent; and so forth for subsequent odd-
3 numbered year July 1st rate periods.

4 (f) Beginning on July 1, 2008, the direct care component rate
5 allocations established as of July 1st in each even-numbered year shall
6 be adjusted by a factor determined by the percentage change in the
7 consumer price index for all urban consumers from the actual index of
8 the quarter ending June 30, from the year two years immediately
9 preceding the rate period to the forecasted index of the quarter ending
10 June 30, from the year one year immediately preceding the rate period
11 from the data provided by the bureau of labor statistics, titled the
12 consumer price index for all urban consumers, as is published for the
13 quarter ending June 30, in the year two years immediately preceding the
14 rate period; so that: For the rate period commencing July 2008, the
15 adjustment for economic trends and conditions is the calculated
16 percentage change of the actual index from the quarter ending June 30,
17 2006, compared to the forecasted index for the quarter ending June 30,
18 2007; and so forth for subsequent even-numbered year rate periods.
19 This adjustment factor shall be multiplied by the direct care component
20 rate allocation existing on June 30, 2008, and the direct care
21 component rate allocation existing on each subsequent June 30 in even-
22 numbered year periods.

23 (5)(a) Therapy care component rate allocations shall be established
24 using adjusted cost report data covering at least six months. Adjusted
25 cost report data from 1996 will be used for October 1, 1998, through
26 June 30, 2001, therapy care component rate allocations; adjusted cost
27 report data from 1999 will be used for July 1, 2001, through June 30,
28 ~~((2005))~~ 2007, therapy care component rate allocations. ~~((Adjusted~~
29 ~~cost report data from 1999 will continue to be used for July 1, 2005,~~
30 ~~and later therapy care component rate allocations.))~~ Effective July 1,
31 2007, and thereafter for each odd-numbered year beginning on July 1st,
32 therapy care component rate allocations shall be cost rebased and
33 established using the adjusted cost report data from the year, two
34 years immediately preceding the rate rebase period; so that: Adjusted
35 cost report data from 2007 is used for July 1, 2009, through June 30,
36 2011, therapy care component rate allocations; adjusted cost report
37 data from 2009 is used for July 1, 2011, through June 30, 2013, therapy
38 care component rate allocations; and so forth.

1 (b) Therapy care component rate allocations shall be adjusted
2 annually for economic trends and conditions by a factor or factors
3 defined in the biennial appropriations act until June 30, 2007.

4 (c) Beginning on July 1, 2007, therapy care component rate
5 allocations established using the 2005 cost report data, and therapy
6 care component rate allocations established using cost report data on
7 subsequent July 1st odd-numbered year periods, as described in (a) of
8 this subsection, shall be adjusted for economic trends and conditions
9 by the lower of a factor determined by the percentage change in the
10 consumer price index for all urban consumers from the actual index of
11 the quarter ending June 30, from the year two years immediately
12 preceding the rate period to the forecasted index of the quarter ending
13 June 30, immediately preceding the rate period from the data provided
14 by the bureau of labor statistics, titled the consumer price index for
15 all urban consumers, as is published for the quarter ending June 30,
16 one year immediately preceding the rate period; or six percent; so
17 that: For the rate period commencing July 1, 2007, through June 30,
18 2008, the adjustment for economic trends and conditions is the lower of
19 the calculated percentage change of the actual index from the quarter
20 ending June 30, 2005, compared to the forecasted index for the quarter
21 ending June 30, 2007, or six percent; and so forth for subsequent odd-
22 numbered year July 1st rate periods.

23 (d) Beginning on July 1, 2008, the therapy care component rate
24 allocations established as of July 1st in each even-numbered year shall
25 be adjusted by a factor determined by the percentage change in the
26 consumer price index for all urban consumers from the actual index of
27 the quarter ending June 30, from the year two years immediately
28 preceding the rate period to the forecasted index of the quarter ending
29 June 30, from the year one year immediately preceding the rate period
30 from the data provided by the bureau of labor statistics, titled the
31 consumer price index for all urban consumers, as is published for the
32 quarter ending June 30, in the year two years immediately preceding the
33 rate period; so that: For the rate period commencing July 2008, the
34 adjustment for economic trends and conditions is the calculated
35 percentage change of the actual index from the quarter ending June 30,
36 2006, compared to the forecasted index for the quarter ending June 30,
37 2007; and so forth for subsequent even-numbered year rate periods.
38 This adjustment factor shall be multiplied by the therapy care

1 component rate allocation existing on June 30, 2008, and the therapy
2 care component rate allocation existing on each subsequent June 30 in
3 even-numbered year periods.

4 (6)(a) Support services component rate allocations shall be
5 established using adjusted cost report data covering at least six
6 months. Adjusted cost report data from 1996 shall be used for October
7 1, 1998, through June 30, 2001, support services component rate
8 allocations; adjusted cost report data from 1999 shall be used for July
9 1, 2001, through June 30, ~~((2005))~~ 2007, support services component
10 rate allocations. ~~((Adjusted cost report data from 1999 will continue~~
11 ~~to be used for July 1, 2005, and later support services component rate~~
12 ~~allocations.))~~ Effective July 1, 2007, and thereafter for each odd-
13 numbered year beginning on July 1st, support services component rate
14 allocations shall be cost rebased and established using the adjusted
15 cost report data from the year, two years immediately preceding the
16 rate rebase period; so that: Adjusted cost report data from 2007 is
17 used for July 1, 2009, through June 30, 2011, support services
18 component rate allocations; adjusted cost report data from 2009 is used
19 for July 1, 2011, through June 30, 2013, support services component
20 rate allocations; and so forth.

21 (b) Support services component rate allocations shall be adjusted
22 annually for economic trends and conditions by a factor or factors
23 defined in the biennial appropriations act until June 30, 2007.

24 (c) Beginning on July 1, 2007, support services component rate
25 allocations established using the 2005 cost report data, and support
26 services component rate allocations established using cost report data
27 in subsequent July 1st odd-numbered year periods, as described in(a) of
28 this subsection, shall be adjusted for economic trends and conditions
29 by the lower of a factor determined by the percentage change in the
30 consumer price index for all urban consumers from the actual index of
31 the quarter ending June 30, from the year two years immediately
32 preceding the rate period to the forecasted index of the quarter ending
33 June 30, immediately preceding the rate period from the data provided
34 by the bureau of labor statistics, titled the consumer price index for
35 all urban consumers, as is published for the quarter ending June 30,
36 one year immediately preceding the rate period; or six percent; so
37 that: For the rate period commencing July 1, 2007, through June 30,
38 2008, the adjustment for economic trends and conditions is the lower of

1 the calculated percentage change of the actual index from the quarter
2 ending June 30, 2005, compared to the forecasted index for the quarter
3 ending June 30, 2007, or six percent; and so forth for subsequent odd-
4 numbered year July 1st rate periods.

5 (d) Beginning on July 1, 2008, the support services component rate
6 allocations established as of July 1st in each even-numbered year shall
7 be adjusted by a factor determined by the percentage change in the
8 consumer price index for all urban consumers from the actual index of
9 the quarter ending June 30, from the year two years immediately
10 preceding the rate period to the forecasted index of the quarter ending
11 June 30, from the year one year immediately preceding the rate period
12 from the data provided by the bureau of labor statistics, titled the
13 consumer price index for all urban consumers, as is published for the
14 quarter ending June 30, in the year two years immediately preceding the
15 rate period; so that: For the rate period commencing July 2008, the
16 adjustment for economic trends and conditions is the calculated
17 percentage change of the actual index from the quarter ending June 30,
18 2006, compared to the forecasted index for the quarter ending June 30,
19 2007; and so forth for subsequent even-numbered year rate periods.
20 This adjustment factor shall be multiplied by the support services
21 component rate allocation existing on June 30, 2008, and the support
22 services component rate allocation existing on each subsequent June 30
23 in even-numbered year periods.

24 (7)(a) Operations component rate allocations shall be established
25 using adjusted cost report data covering at least six months. Adjusted
26 cost report data from 1996 shall be used for October 1, 1998, through
27 June 30, 2001, operations component rate allocations; adjusted cost
28 report data from 1999 shall be used for July 1, 2001, through June 30,
29 2006, operations component rate allocations(~~(-)~~); adjusted cost report
30 data from 2003 will be used for July 1, 2006, (~~and later~~) through
31 June 30, 2007, operations component rate allocations; adjusted cost
32 report data from 2005 will be used for July 1, 2007, through June 30,
33 2009, operations component rate allocations. Effective July 1, 2009,
34 and thereafter for each odd-numbered year beginning on July 1st,
35 operations component rate allocations shall be cost rebased and
36 established using the adjusted cost report data from the year, two
37 years immediately preceding the rate rebase period; so that: Adjusted
38 cost report data from 2007 is used for July 1, 2009, through June 30,

1 2011, operations component rate allocations; adjusted cost report data
2 from 2009 is used for July 1, 2011, through June 30, 2013, operations
3 component rate allocations; and so forth.

4 (b) Operations component rate allocations shall be adjusted
5 annually for economic trends and conditions by a factor or factors
6 defined in the biennial appropriations act. A different economic
7 trends and conditions adjustment factor or factors may be defined in
8 the biennial appropriations act for facilities whose operations
9 component rate is set equal to their adjusted June 30, 2006, rate, as
10 provided in RCW 74.46.521(4).

11 (c) Beginning on July 1, 2007, operations component rate
12 allocations established using the 2005 cost report data, and operations
13 component rate allocations established using cost report data in
14 subsequent July 1st odd-numbered year periods, as described in (a) of
15 this subsection, shall be adjusted for economic trends and conditions
16 by the lower of a factor determined by the percentage change in the
17 consumer price index for all urban consumers from the actual index of
18 the quarter ending June 30, from the year two years immediately
19 preceding the rate period to the forecasted index of the quarter ending
20 June 30, immediately preceding the rate period from the data provided
21 by the bureau of labor statistics, titled the consumer price index for
22 all urban consumers, as is published for the quarter ending June 30,
23 one year immediately preceding the rate period; or six percent; so
24 that: For the rate period commencing July 1, 2007, through June 30,
25 2008, the adjustment for economic trends and conditions is the lower of
26 the calculated percentage change of the actual index from the quarter
27 ending June 30, 2005, compared to the forecasted index for the quarter
28 ending June 30, 2007, or six percent; and so forth for subsequent
29 odd-numbered year July 1st rate periods.

30 (d) Beginning on July 1, 2008, the operations component rate
31 allocations established as of July 1st in each even-numbered year shall
32 be adjusted by a factor determined by the percentage change in the
33 consumer price index for all urban consumers from the actual index of
34 the quarter ending June 30, from the year two years immediately
35 preceding the rate period to the forecasted index of the quarter ending
36 June 30, from the year one year immediately preceding the rate period
37 from the data provided by the bureau of labor statistics, titled the
38 consumer price index for all urban consumers, as is published for the

1 quarter ending June 30, in the year two years immediately preceding the
2 rate period; so that: For the rate period commencing July 2008, the
3 adjustment for economic trends and conditions is the calculated
4 percentage change of the actual index from the quarter ending June 30,
5 2006, compared to the forecasted index for the quarter ending June 30,
6 2007; and so forth for subsequent even-numbered year rate periods.
7 This adjustment factor shall be multiplied by the operations component
8 rate allocation existing on June 30, 2008, and the operations component
9 rate allocation existing on each subsequent June 30 in even-numbered
10 year periods.

11 (8) For July 1, 1998, through September 30, 1998, a facility's
12 property and return on investment component rates shall be the
13 facility's June 30, 1998, property and return on investment component
14 rates, without increase. For October 1, 1998, through June 30, 1999,
15 a facility's property and return on investment component rates shall be
16 rebased utilizing 1997 adjusted cost report data covering at least six
17 months of data.

18 (9) Total payment rates under the nursing facility medicaid payment
19 system shall not exceed facility rates charged to the general public
20 for comparable services.

21 (10) Medicaid contractors shall pay to all facility staff a minimum
22 wage of the greater of the state minimum wage or the federal minimum
23 wage.

24 (11) The department shall establish in rule procedures, principles,
25 and conditions for determining component rate allocations for
26 facilities in circumstances not directly addressed by this chapter,
27 including but not limited to: The need to prorate inflation for
28 partial-period cost report data, newly constructed facilities, existing
29 facilities entering the medicaid program for the first time or after a
30 period of absence from the program, existing facilities with expanded
31 new bed capacity, existing medicaid facilities following a change of
32 ownership of the nursing facility business, facilities banking beds or
33 converting beds back into service, facilities temporarily reducing the
34 number of set-up beds during a remodel, facilities having less than six
35 months of either resident assessment, cost report data, or both, under
36 the current contractor prior to rate setting, and other circumstances.

37 (12) The department shall establish in rule procedures, principles,
38 and conditions, including necessary threshold costs, for adjusting

1 rates to reflect capital improvements or new requirements imposed by
2 the department or the federal government. Any such rate adjustments
3 are subject to the provisions of RCW 74.46.421.

4 (13) Effective July 1, 2001, medicaid rates shall continue to be
5 revised downward in all components, in accordance with department
6 rules, for facilities converting banked beds to active service under
7 chapter 70.38 RCW, by using the facility's increased licensed bed
8 capacity to recalculate minimum occupancy for rate setting. However,
9 for facilities other than essential community providers which bank beds
10 under chapter 70.38 RCW, after May 25, 2001, medicaid rates shall be
11 revised upward, in accordance with department rules, in direct care,
12 therapy care, support services, and variable return components only, by
13 using the facility's decreased licensed bed capacity to recalculate
14 minimum occupancy for rate setting, but no upward revision shall be
15 made to operations, property, or financing allowance component rates.
16 The direct care component rate allocation shall be adjusted, without
17 using the minimum occupancy assumption, for facilities that convert
18 banked beds to active service, under chapter 70.38 RCW, beginning on
19 July 1, 2006.

20 (14) Facilities obtaining a certificate of need or a certificate of
21 need exemption under chapter 70.38 RCW after June 30, 2001, must have
22 a certificate of capital authorization in order for (a) the
23 depreciation resulting from the capitalized addition to be included in
24 calculation of the facility's property component rate allocation; and
25 (b) the net invested funds associated with the capitalized addition to
26 be included in calculation of the facility's financing allowance rate
27 allocation.

28 **Sec. 2.** RCW 74.46.433 and 2006 c 258 s 3 are each amended to read
29 as follows:

30 (1) The department shall establish for each medicaid nursing
31 facility a variable return component rate allocation. In determining
32 the variable return allowance:

33 (a) (~~Except as provided in (e) of this subsection,~~) The variable
34 return array and percentage shall be assigned whenever rebasing of
35 noncapital rate allocations is scheduled under RCW 74.46.431 (4), (5),
36 (6), and (7).

1 (b) To calculate the array of facilities for the July 1, 2001, rate
2 setting, the department, without using peer groups, shall first rank
3 all facilities in numerical order from highest to lowest according to
4 each facility's examined and documented, but unlidged, combined direct
5 care, therapy care, support services, and operations per resident day
6 cost from the 1999 cost report period. However, before being combined
7 with other per resident day costs and ranked, a facility's direct care
8 cost per resident day shall be adjusted to reflect its facility average
9 case mix index, to be averaged from the four calendar quarters of 1999,
10 weighted by the facility's resident days from each quarter, under RCW
11 74.46.501(7)(b)(ii). The array shall then be divided into four
12 quartiles, each containing, as nearly as possible, an equal number of
13 facilities, and four percent shall be assigned to facilities in the
14 lowest quartile, three percent to facilities in the next lowest
15 quartile, two percent to facilities in the next highest quartile, and
16 one percent to facilities in the highest quartile.

17 (c) To calculate the array of facilities for July 1, 2007, rate
18 setting, and each subsequent July 1st rate setting occurring in an odd-
19 numbered year, the department, without using peer groups, shall first
20 rank all facilities in numerical order from highest to lowest according
21 to each facility's examined and documented, but unlidged, combined
22 direct care, therapy care, support services, and operations per
23 resident day cost from the calendar year cost report period specified
24 in RCW 74.46.431. However, before being combined with other per
25 resident day costs and ranked, a facility's direct care cost per
26 resident day shall be adjusted to reflect its facility average case mix
27 index, to be averaged from the four calendar quarters of the cost
28 report period used to rebase each odd-numbered year's July 1st
29 component rate allocations, weighted by the facility's resident days
30 from each quarter under RCW 74.46.501(7)(b)(iii). The array shall then
31 be divided into four quartiles, each containing, as nearly as possible,
32 an equal number of facilities, and four percent shall be assigned to
33 facilities in the lowest quartile, three percent to facilities in the
34 next lowest quartile, two percent to facilities in the next highest
35 quartile, and one percent to facilities in the highest quartile. The
36 department shall~~((, subject to (d) of this subsection,)) compute the
37 variable return allowance by multiplying a facility's assigned~~

1 percentage by the sum of the facility's direct care, therapy care,
2 support services, and operations component rates determined in
3 accordance with this chapter and rules adopted by the department.

4 ~~(d) ((Effective July 1, 2001, if a facility's examined and~~
5 ~~documented direct care cost per resident day for the preceding report~~
6 ~~year is lower than its average direct care component rate weighted by~~
7 ~~medicaid resident days for the same year, the facility's direct care~~
8 ~~cost shall be substituted for its July 1, 2001, direct care component~~
9 ~~rate, and its variable return component rate shall be determined or~~
10 ~~adjusted each July 1st by multiplying the facility's assigned~~
11 ~~percentage by the sum of the facility's July 1, 2001, therapy care,~~
12 ~~support services, and operations component rates, and its direct care~~
13 ~~cost per resident day for the preceding year.~~

14 ~~(e))~~ Effective July 1, 2006, through June 30, 2007, the variable
15 return component rate allocation for each facility shall be the
16 facility's June 30, 2006, variable return component rate allocation.

17 (2) The variable return rate allocation calculated in accordance
18 with this section shall be adjusted to the extent necessary to comply
19 with RCW 74.46.421.

20 **Sec. 3.** RCW 74.46.506 and 2006 c 258 s 6 are each amended to read
21 as follows:

22 (1) The direct care component rate allocation corresponds to the
23 provision of nursing care for one resident of a nursing facility for
24 one day, including direct care supplies. Therapy services and
25 supplies, which correspond to the therapy care component rate, shall be
26 excluded. The direct care component rate includes elements of case mix
27 determined consistent with the principles of this section and other
28 applicable provisions of this chapter.

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

1 assessment instrument format approved by federal authorities for use in
2 this state.

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

10 (4) Cost report data used in setting direct care component rate
11 allocations shall be 1996, 1999, and 2003 for rate periods ending June
12 30, 2007, and shall be the cost report data from the two-year time
13 period that immediately precedes the direct care component rate
14 allocations established on July 1, 2007, and each subsequent July 1st
15 occurring in an odd-numbered year, as specified in RCW 74.46.431(4)(a).

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

22 (a) Reduce total direct care costs reported by each nursing
23 facility for the applicable cost report period specified in RCW
24 74.46.431(4)(a) to reflect any department adjustments, and to eliminate
25 reported resident therapy costs and adjustments, in order to derive the
26 facility's total allowable direct care cost;

27 (b) Divide each facility's total allowable direct care cost by its
28 adjusted resident days for the same report period, increased if
29 necessary to a minimum occupancy of eighty-five percent; that is, the
30 greater of actual or imputed occupancy at eighty-five percent of
31 licensed beds, to derive the facility's allowable direct care cost per
32 resident day. However, effective July 1, 2006, and for all future rate
33 setting, each facility's allowable direct care costs shall be divided
34 by its adjusted resident days without application of a minimum
35 occupancy assumption;

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

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

5 (e) Effective for July 1, 2001, rate setting, divide nursing
6 facilities into at least two and, if applicable, three peer groups:
7 Those located in nonurban counties; those located in high labor-cost
8 counties, if any; and those located in other urban counties;

9 (f) Array separately the allowable direct care cost per case mix
10 unit for all facilities in nonurban counties; for all facilities in
11 high labor-cost counties, if applicable; and for all facilities in
12 other urban counties, and determine the median allowable direct care
13 cost per case mix unit for each peer group;

14 (g) Except as provided in (i) of this subsection, from October 1,
15 1998, through June 30, 2000, determine each facility's quarterly direct
16 care component rate as follows:

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

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

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

1 (h) Except as provided in (i) of this subsection, from July 1,
2 2000, through June 30, 2006, determine each facility's quarterly direct
3 care component rate as follows:

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

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

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

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

33 (ii) Between July 1, 2000, and June 30, 2002, the department shall
34 compare each facility's direct care component rate allocation
35 calculated under (h) of this subsection with the facility's direct care
36 component rate in effect on June 30, 2000. A facility shall receive
37 the higher of the two rates. Between July 1, 2001, and June 30, 2002,
38 if during any quarter a facility whose rate paid under (h) of this

1 subsection is greater than either the direct care rate in effect on
2 June 30, 2000, or than that facility's allowable direct care cost per
3 case mix unit calculated in (d) of this subsection multiplied by that
4 facility's medicaid average case mix index from the applicable quarter
5 specified in RCW 74.46.501(7)(c), the facility shall be paid in that
6 and each subsequent quarter pursuant to (h) of this subsection and
7 shall not be entitled to the greater of the two rates.

8 (iii) Between July 1, 2002, and June 30, 2006, all direct care
9 component rate allocations shall be as determined under (h) of this
10 subsection.

11 (iv) Effective July 1, 2006, for all providers, except vital local
12 providers as defined in this chapter and then only until June 30, 2007,
13 all direct care component rate allocations shall be as determined under
14 (j) of this subsection.

15 (v) Effective July 1, 2006, through June 30, 2007, for vital local
16 providers, as defined in this chapter, direct care component rate
17 allocations shall be determined as follows:

18 (A) The department shall calculate:

19 (I) The sum of each facility's July 1, 2006, direct care component
20 rate allocation calculated under (j) of this subsection and July 1,
21 2006, operations component rate calculated under RCW 74.46.521; and

22 (II) The sum of each facility's June 30, 2006, direct care and
23 operations component rates.

24 (B) If the sum calculated under (i)(v)(A)(I) of this subsection is
25 less than the sum calculated under (i)(v)(A)(II) of this subsection,
26 the facility shall have a direct care component rate allocation equal
27 to the facility's June 30, 2006, direct care component rate allocation.

28 (C) If the sum calculated under (i)(v)(A)(I) of this subsection is
29 greater than or equal to the sum calculated under (i)(v)(A)(II) of this
30 subsection, the facility's direct care component rate shall be
31 calculated under (j) of this subsection;

32 (j) Except as provided in (i) of this subsection, from July 1,
33 2006, forward, and for all future rate setting, determine each
34 facility's quarterly direct care component rate as follows:

35 (i) Any facility whose allowable cost per case mix unit is greater
36 than one hundred twelve percent of the peer group median established
37 under (f) of this subsection shall be assigned a cost per case mix unit
38 equal to one hundred twelve percent of the peer group median, and shall

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

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

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

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

21 **Sec. 4.** RCW 74.46.511 and 2001 1st sp.s. c 8 s 11 are each amended
22 to read as follows:

23 (1) The therapy care component rate allocation corresponds to the
24 provision of medicaid one-on-one therapy provided by a qualified
25 therapist as defined in this chapter, including therapy supplies and
26 therapy consultation, for one day for one medicaid resident of a
27 nursing facility. The therapy care component rate allocation for
28 October 1, 1998, through June 30, 2001, shall be based on adjusted
29 therapy costs and days from calendar year 1996. The therapy component
30 rate allocation for July 1, 2001, through June 30, (~~2004~~) 2007, shall
31 be based on adjusted therapy costs and days from calendar year 1999.
32 For July 1, 2007, and each subsequent July 1st occurring in an odd-
33 numbered year, therapy care component rate allocations shall be based
34 on adjusted therapy costs and days as described in RCW 74.46.431(5)(a).
35 The therapy care component rate shall be adjusted for economic trends
36 and conditions as specified in RCW 74.46.431(5)(~~(b)~~), and shall be
37 determined in accordance with this section.

1 (2) In rebasing, as provided in RCW 74.46.431(5)(a), the department
2 shall take from the cost reports of facilities the following reported
3 information:

4 (a) Direct one-on-one therapy charges for all residents by payer
5 including charges for supplies;

6 (b) The total units or modules of therapy care for all residents by
7 type of therapy provided, for example, speech or physical. A unit or
8 module of therapy care is considered to be fifteen minutes of one-on-
9 one therapy provided by a qualified therapist or support personnel; and

10 (c) Therapy consulting expenses for all residents.

11 (3) The department shall determine for all residents the total cost
12 per unit of therapy for each type of therapy by dividing the total
13 adjusted one-on-one therapy expense for each type by the total units
14 provided for that therapy type.

15 (4) The department shall divide medicaid nursing facilities in this
16 state into two peer groups:

17 (a) Those facilities located within urban counties; and

18 (b) Those located within nonurban counties.

19 The department shall array the facilities in each peer group from
20 highest to lowest based on their total cost per unit of therapy for
21 each therapy type. The department shall determine the median total
22 cost per unit of therapy for each therapy type and add ten percent of
23 median total cost per unit of therapy. The cost per unit of therapy
24 for each therapy type at a nursing facility shall be the lesser of its
25 cost per unit of therapy for each therapy type or the median total cost
26 per unit plus ten percent for each therapy type for its peer group.

27 (5) The department shall calculate each nursing facility's therapy
28 care component rate allocation as follows:

29 (a) To determine the allowable total therapy cost for each therapy
30 type, the allowable cost per unit of therapy for each type of therapy
31 shall be multiplied by the total therapy units for each type of
32 therapy;

33 (b) The medicaid allowable one-on-one therapy expense shall be
34 calculated taking the allowable total therapy cost for each therapy
35 type times the medicaid percent of total therapy charges for each
36 therapy type;

37 (c) The medicaid allowable one-on-one therapy expense for each

1 therapy type shall be divided by total adjusted medicaid days to arrive
2 at the medicaid one-on-one therapy cost per patient day for each
3 therapy type;

4 (d) The medicaid one-on-one therapy cost per patient day for each
5 therapy type shall be multiplied by total adjusted patient days for all
6 residents to calculate the total allowable one-on-one therapy expense.
7 The lesser of the total allowable therapy consultant expense for the
8 therapy type or a reasonable percentage of allowable therapy consultant
9 expense for each therapy type, as established in rule by the
10 department, shall be added to the total allowable one-on-one therapy
11 expense to determine the allowable therapy cost for each therapy type;

12 (e) The allowable therapy cost for each therapy type shall be added
13 together, the sum of which shall be the total allowable therapy expense
14 for the nursing facility;

15 (f) The total allowable therapy expense will be divided by the
16 greater of adjusted total patient days from the cost report on which
17 the therapy expenses were reported, or patient days at eighty-five
18 percent occupancy of licensed beds. The outcome shall be the nursing
19 facility's therapy care component rate allocation.

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

23 (7) The therapy care component rate shall be suspended for medicaid
24 residents in qualified nursing facilities designated by the department
25 who are receiving therapy paid by the department outside the facility
26 daily rate under RCW 74.46.508(2).

27 **Sec. 5.** RCW 74.46.515 and 2001 1st sp.s. c 8 s 12 are each amended
28 to read as follows:

29 (1) The support services component rate allocation corresponds to
30 the provision of food, food preparation, dietary, housekeeping, and
31 laundry services for one resident for one day.

32 (2) Beginning October 1, 1998, the department shall determine each
33 medicaid nursing facility's support services component rate allocation
34 using cost report data specified by RCW 74.46.431(6)(a).

35 (3) To determine each facility's support services component rate
36 allocation, the department shall:

1 (a) Array facilities' adjusted support services costs per adjusted
2 resident day for each facility from facilities' cost reports from the
3 applicable report year, for facilities located within urban counties,
4 and for those located within nonurban counties and determine the median
5 adjusted cost for each peer group;

6 (b) Set each facility's support services component rate at the
7 lower of the facility's per resident day adjusted support services
8 costs from the applicable cost report period or the adjusted median per
9 resident day support services cost for that facility's peer group,
10 either urban counties or nonurban counties, plus ten percent; and

11 (c) Adjust each facility's support services component rate for
12 economic trends and conditions as provided in RCW 74.46.431(6).

13 (4) The support services component rate allocations calculated in
14 accordance with this section shall be adjusted to the extent necessary
15 to comply with RCW 74.46.421.

16 **Sec. 6.** RCW 74.46.521 and 2006 c 258 s 7 are each amended to read
17 as follows:

18 (1) The operations component rate allocation corresponds to the
19 general operation of a nursing facility for one resident for one day,
20 including but not limited to management, administration, utilities,
21 office supplies, accounting and bookkeeping, minor building
22 maintenance, minor equipment repairs and replacements, and other
23 supplies and services, exclusive of direct care, therapy care, support
24 services, property, financing allowance, and variable return.

25 (2) Except as provided in subsection (4) of this section, beginning
26 October 1, 1998, the department shall determine each medicaid nursing
27 facility's operations component rate allocation using cost report data
28 specified by RCW 74.46.431(7)(a). Effective July 1, 2002, operations
29 component rates for all facilities except essential community providers
30 shall be based upon a minimum occupancy of ninety percent of licensed
31 beds, and no operations component rate shall be revised in response to
32 beds banked on or after May 25, 2001, under chapter 70.38 RCW.

33 (3) Except as provided in subsection (4) of this section, to
34 determine each facility's operations component rate the department
35 shall:

36 (a) Array facilities' adjusted general operations costs per
37 adjusted resident day, as determined by dividing each facility's total

1 allowable operations cost by its adjusted resident days for the same
2 report period, increased if necessary to a minimum occupancy of ninety
3 percent; that is, the greater of actual or imputed occupancy at ninety
4 percent of licensed beds, for each facility from facilities' cost
5 reports from the applicable report year, for facilities located within
6 urban counties and for those located within nonurban counties and
7 determine the median adjusted cost for each peer group;

8 (b) Set each facility's operations component rate at the lower of:

9 (i) The facility's per resident day adjusted operations costs from
10 the applicable cost report period adjusted if necessary to a minimum
11 occupancy of eighty-five percent of licensed beds before July 1, 2002,
12 and ninety percent effective July 1, 2002; or

13 (ii) The adjusted median per resident day general operations cost
14 for that facility's peer group, urban counties or nonurban counties;
15 and

16 (c) Adjust each facility's operations component rate for economic
17 trends and conditions as provided in RCW 74.46.431(7)((~~b~~)).

18 (4)(a) Effective July 1, 2006, through June 30, 2007, for any
19 facility whose direct care component rate allocation is set equal to
20 its June 30, 2006, direct care component rate allocation, as provided
21 in RCW 74.46.506(5)(i), the facility's operations component rate
22 allocation shall also be set equal to the facility's June 30, 2006,
23 operations component rate allocation.

24 (b) The operations component rate allocation for facilities whose
25 operations component rate is set equal to their June 30, 2006,
26 operations component rate, shall be adjusted for economic trends and
27 conditions as provided in RCW 74.46.431(7)(b) until June 30, 2007.

28 (5) The operations component rate allocations calculated in
29 accordance with this section shall be adjusted to the extent necessary
30 to comply with RCW 74.46.421.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.46 RCW
32 to read as follows:

33 (1) Effective July 1, 2007, through June 30, 2009, there shall be
34 a labor enhancement rate, added to each nursing facility's total rate
35 allocation and after application of all other provisions of RCW
36 74.46.506, 74.46.511, 74.46.515, and 74.46.521, to increase funding
37 available to improve resident quality of care or quality of life by

1 reducing staff turnover, improving wages or benefits, increasing the
2 hours of staffing available to residents, or making available peer
3 mentoring or career development programs.

4 (2) To calculate the labor enhancement rate, the department shall
5 determine four tiered groupings based on the percentage of medicaid
6 residents served in each facility. The labor enhancement rate shall be
7 two dollars per resident day for those facilities that, during calendar
8 year 2005, had medicaid resident occupancy rounded to the nearest tenth
9 of a percent of: Seventy-five point one percent or greater; one dollar
10 fifty cents per resident day for those facilities that had a medicaid
11 resident occupancy of at least fifty point one percent but not more
12 than seventy-five percent; one dollar per resident day for those
13 facilities that had a medicaid resident occupancy of at least twenty-
14 five point one percent but not more than fifty percent; and fifty cents
15 per resident day for those facilities that had a medicaid occupancy of
16 twenty-five percent or less.

17 (3) Any nursing facility that does not reflect, on its 2008 cost
18 report, a direct care employee turnover ratio that is less than the
19 industry average direct care employee turnover ratio as reported during
20 2008, shall repay, to the department, the labor enhancement rate
21 amounts received between July 1, 2007, and June 30, 2009.

22 (4) The department may establish rules to implement this section.

23 (5) This section expires July 1, 2009.

24 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 July 1, 2007.

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