SENATE BILL REPORT
SB 6872

As Reported by Senate Committee On:
Ways & Means, March 8, 2010

Title: An act relating to medicaid nursing facility payments.

Brief Description: Concerning medicaid nursing facility payments.

Sponsors: Senator Keiser.

Brief History:
Committee Activity: Ways & Means: 3/04/10, 3/08/10 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6872 be substituted therefor, and the substitute bill do pass.
Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley, Keiser, Kline, Kohl-Welles, McDermott, Murray, Pridemore, Regala and Rockefeller.

Minority Report: Do not pass.
Signed by Senator Schoesler.

Minority Report: That it be referred without recommendation.
Signed by Senators Brandland, Honeyford, Parlette and Pflug.

Staff: Megan Atkinson (786-7446)

Background: Skilled nursing facilities (nursing homes) are licensed by the Department of Social and Health Services (DSHS) and provide 24-hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, laundry services, and room and board to three or more residents. Currently, there are over 200 licensed facilities throughout the state. Medicaid rates for nursing facilities (i.e., payments for providing care and services to eligible, low-income residents) are generally based on a facility's costs, its occupancy level, and the individual care needs of its residents.

The current nursing home rate methodology, including formula variables, allowable costs, and accounting/auditing procedures, is specified in statute (RCW 74.46) and is based on calculations for seven different components: direct care, therapy care, support services,

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operations, variable return, property, and a financing allowance. The rate calculations for these seven components are based on actual facility cost reports and are updated either annually or biennially, depending on the specific component. Additional factors that enter into the rate calculations are resident days (the total of the days in residence for all eligible residents), certain median lids (a percent of the median costs for all facilities in a peer group), and geographical location.

Finally, RCW 74.46.421 imposes a rate ceiling, commonly referred to as the budget dial. The budget dial is a single daily rate amount calculated as the statewide weighted average maximum payment rate for a fiscal year. This amount is specified in the Appropriations Act (i.e., the budget dial for Fiscal Year 2010 is $156.37) and DSHS must manage all facility specific rates so the budget dial is not exceeded.

Payments to nursing facilities is one of the largest budget units within the Aging and Disability Services Program. The Fiscal Year 2010 nursing home payments are estimated to total about $476 million from all funds with approximately $179 million from general fund-state resources.

Summary of Bill (Recommended Substitute): Several changes are made to the current nursing facility rate statute. However, the changes can be grouped into two major categories: (1) changes to shorten and update the current statutory sections (RCW 74.46) that deal with calculating nursing home Medicaid rates; and (2) changes to the methodology used to calculate nursing facility rates. These two categories of changes are described in detail below.

Changes to shorten and update RCW 74.46. Specifically, the act would:

- Add one new section specifying 11 broad principles – all consistent with the existing payment system – to guide in the implementation of a payment methodology in rule. It also includes a separate grant of rulemaking authority to DSHS.
- Amend various sections – including the sections dealing with rate setting, commonly referred to as Part E. The majority of the Part E sections are retained but amended to reflect subsequent legislative changes and to remove unnecessary material and references. References to the AIDS pilot nursing facility are left in place. This pilot facility refers to the Bailey-Boushay House in Seattle. A reference to an older three year rate-setting cycle is deleted. The present, unique status of Bailey-Boushay House is not changed.
- Repeal 52 current sections.
- Leave in place the current mechanisms surrounding the budget dial.

Changes to nursing home rate methodology. The current nursing facility rate methodology is modified so that the rate formula is based on six, not seven, components: direct care, therapy care, support services, operations, property, and a financing allowance – eliminating variable return. Additionally, the percentage occupancy constants used in the formula and the median lids are adjusted.

Specifically, the act would:

- Provide rate allocations for support services at not more than 100 percent of the median for allowable costs of all facilities. The current methodology uses not more than 110 percent.

- Provide rate allocations for therapy care, support services, operations, property, and a financing allowance assuming all facilities operate at 95 percent occupancy. The current methodology uses 90 percent occupancy for most facilities and 85 percent occupancy for essential community providers.
- Provide a financing allowance of 4 percent of all assets acquired on or after May 17, 1999. The current methodology uses 8.5 percent.
- Eliminate variable return.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): The substitute removes the changes the original bill made to the direct care median standard (lowering it from 112 percent of the median to 100 percent) and removes the changes the original bill made to freeze the case mix adjustment at the January 1, 2010, through March 31, 2010, calendar quarter. Thus, the effect of the substitute is to have the direct care median calculation and case mix adjustment calculation remain as in current law.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: CON: This bill essentially balances the budget on the Medicaid program. Would rather have support of the Quality Assurance Fee proposal in Senate Bill 6751. This bill makes reductions to the direct care rate which will be very damaging to quality care in nursing homes. Also concerning is the increase to the occupancy standard and the case mix freeze. Those changes will make providing quality care a real challenge. This is very damaging to the nursing home rate payment system. The bill takes away variable return which many homes use to supplement the direct care reimbursement rate homes receive. The bill will lower the financing standard to 4 percent and most nursing homes use a line of credit which costs much more than 4 percent. This bill will mean a reduction in the quality of care. The current system was designed to have the payment follow the client's acuity, freezing the case mix adjustment breaks this link. This bill really does dismantle the current system.

OTHER: Concerned that this bill will have negative impacts on the quality of care. The changes to the direct care components are the most concerning.

Persons Testifying: CON: Nick Federici, Washington United for Quality Nursing Homes; Gary Weeks, Washington Health Care Association; Misha Werschkul, SEIU Healthcare 775NW; Faye Lincoln, Avalon Health Care; Linda Hull, Providence Health and Services; Deb Murphy, Aging Services of Washington.

OTHER: Louise Ryan, Washington Long Term Care Ombudsman.