
SENATE BILL 6163

State of Washington

61st Legislature

2009 Regular Session

By Senators Keiser and Tom

1 AN ACT Relating to the nursing facility medicaid payment system;
2 amending RCW 74.46.421 and 74.46.800; adding a new section to chapter
3 74.46 RCW; creating a new section; repealing RCW 74.46.431, 74.46.433,
4 74.46.435, 74.46.437, 74.46.439, 74.46.485, 74.46.496, 74.46.501,
5 74.46.506, 74.46.508, 74.46.511, 74.46.515, 74.46.521, and 74.46.533;
6 providing an effective date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature intends that the nursing
9 facility medicaid payment system be structured to promote quality care
10 and quality of life for residents. The legislature also intends that
11 the nursing facility medicaid payment system is efficient to
12 administer, accountable to the public and to the legislature, and
13 transparent to taxpayers and providers. The legislature finds that the
14 current statute governing the nursing facility medicaid payment system
15 is overly complex in contrast to Washington state's statutes governing
16 reimbursement systems for hospitals, physicians, boarding homes, and
17 other vendors, and that this complexity has made it difficult to focus
18 on systemic improvements in the nursing facility medicaid payment
19 system and in other long-term care policies.

1 (2) The legislature intends to simplify the existing nursing
2 facility medicaid payment system so that it is fair and predictable.
3 The legislature further intends that, effective July 1, 2009, the
4 essential structure of this simplified nursing facility medicaid
5 payment system must be described in statute, and the details of the
6 system must be described in rules adopted by the department of social
7 and health services.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.46 RCW
9 to read as follows:

10 The nursing facility medicaid payment system shall have the
11 following structure:

12 (1) Nursing facility medicaid payment rate allocations must be
13 cost-based and facility-specific and have at least four components:
14 Direct care, including therapy; support services; indirect care; and
15 capital costs. Additional noncapital components may be considered if
16 the entire nursing facility medicaid payment system is budget-neutral
17 in comparison to the statewide weighted average payment rate that would
18 have been calculated as of July 1, 2009, using the nursing facility
19 medicaid payment system in place before that date.

20 (2) The direct care component shall use a case mix system.

21 (3) Noncapital components shall be subject to limits based upon a
22 determination of the median of facilities' costs with respect to a
23 particular component.

24 (4) Noncapital rates must be determined from annual cost reports
25 filed by facilities, with costs rebased every two years. The capital
26 rate component shall be determined July 1st of each year, based on cost
27 reports filed by facilities for the preceding year.

28 (5) Facilities must be separated into peer groups, based on
29 location.

30 (6) Payments must be subject to a settlement procedure that
31 compares costs to rates received and recovers unspent moneys as
32 appropriate.

33 (7) An occupancy adjustment must be applied to the indirect and
34 capital cost centers.

35 (8) A statewide weighted average payment rate and adjustments to
36 medicaid rate components for economic trends and conditions shall be
37 specified in the biennial appropriations act and may adjust payments if

1 necessary to ensure compliance. Any economic trends and conditions
2 factor or factors defined in any earlier biennial appropriations act
3 shall not be applied solely nor compounded to the medicaid rate
4 components.

5 (9) The department of social and health services must ensure that
6 nursing facility medicaid payment rates, in the aggregate for all
7 participating nursing facilities, comply with the biennial
8 appropriations act.

9 (10) Capital spending on nursing facilities subject to the
10 requirement of a certificate of capital authorization must be limited
11 by annual authorization amounts specified by the legislature pursuant
12 to RCW 74.46.807.

13 (11) The department is authorized within funds appropriated in the
14 biennial appropriations act to establish payments linked to performance
15 measures.

16 **Sec. 3.** RCW 74.46.421 and 2008 c 263 s 1 are each amended to read
17 as follows:

18 ~~(1) ((The purpose of part E of this chapter is to determine nursing
19 facility medicaid payment rates that, in the aggregate for all
20 participating nursing facilities, are in accordance with the biennial
21 appropriations act.~~

22 ~~(2))~~(a) The department shall use the nursing facility medicaid
23 payment rate methodologies described in this chapter and in rules
24 adopted by the department to determine initial component rate
25 allocations for each medicaid nursing facility.

26 (b) The initial component rate allocations shall be subject to
27 adjustment as provided in this section in order to assure that the
28 statewide weighted average payment rate to nursing facilities is less
29 than or equal to the statewide weighted average payment rate specified
30 in the biennial appropriations act.

31 ~~((3))~~ (2) Nothing in this chapter shall be construed as creating
32 a legal right or entitlement to any payment that (a) has not been
33 adjusted under this section or (b) would cause the statewide weighted
34 average payment rate to exceed the statewide weighted average payment
35 rate specified in the biennial appropriations act.

36 ~~((4))~~ (3)(a) The statewide weighted average payment rate for any
37 state fiscal year under the nursing facility medicaid payment system,

1 weighted by patient days, shall not exceed the annual statewide
2 weighted average nursing facility payment rate identified for that
3 fiscal year in the biennial appropriations act.

4 (b) If the department determines that the weighted average nursing
5 facility payment rate calculated in accordance with this chapter is
6 likely to exceed the weighted average nursing facility payment rate
7 identified in the biennial appropriations act, then the department
8 shall adjust all nursing facility payment rates proportional to the
9 amount by which the weighted average rate allocations would otherwise
10 exceed the budgeted rate amount. Any such adjustments for the current
11 fiscal year shall only be made prospectively, not retrospectively, and
12 shall be applied proportionately to each component rate allocation for
13 each facility.

14 (c) If any final order or final judgment, including a final order
15 or final judgment resulting from an adjudicative proceeding or judicial
16 review permitted by chapter 34.05 RCW, would result in an increase to
17 a nursing facility's payment rate for a prior fiscal year or years, the
18 department shall consider whether the increased rate for that facility
19 would result in the statewide weighted average payment rate for all
20 facilities for such fiscal year or years to be exceeded. If the
21 increased rate would result in the statewide weighted average payment
22 rate for such year or years being exceeded, the department shall
23 increase that nursing facility's payment rate to meet the final order
24 or judgment only to the extent that it does not result in an increase
25 to the statewide weighted average payment rate for all facilities.

26 **Sec. 4.** RCW 74.46.800 and 1998 c 322 s 42 are each amended to read
27 as follows:

28 (1) Consistent with the principles and provisions described in
29 section 2 of this act, the department shall have authority to adopt,
30 amend, and rescind such administrative rules and definitions as it
31 deems necessary to carry out the policies and purposes of this chapter,
32 to administer the nursing facility medicaid payment system, to audit
33 nursing facilities, and to resolve issues and develop procedures that
34 it deems necessary to implement, update, and improve the case mix
35 elements of the nursing facility medicaid payment system. In adopting
36 rules, the department may consider the potential impact of the payment
37 system on the level and quality of services received by nursing

1 facility residents; the anticipated impact of the system on private pay
2 clients and on populations in other parts of the long-term care system;
3 and the special circumstances presented by changes of ownership of
4 nursing facilities, bed banking, exceptional care needs of residents,
5 addition or deletion of licensed beds, facilities located in nonurban
6 areas, closure of facilities, and facilities with low-occupancy levels,
7 as well as other concerns.

8 (2) Nothing in this chapter shall be construed to require the
9 department to adopt or employ any calculations, steps, tests,
10 methodologies, alternate methodologies, indexes, formulas, mathematical
11 or statistical models, concepts, or procedures for medicaid rate
12 setting or payment that are not expressly called for in this chapter.

13 (3) The department shall adopt comprehensive rules to describe and
14 administer the nursing facility medicaid payment system, to be
15 effective July 1, 2009. The system described in such rules must be
16 budget-neutral in comparison to the statewide weighted average payment
17 rate that would have been calculated as of July 1, 2009, using the
18 nursing facility medicaid payment system in place before that date.

19 NEW SECTION. Sec. 5. The following acts or parts of acts, as now
20 existing or hereafter amended, are each repealed:

21 (1) RCW 74.46.431 (Nursing facility medicaid payment rate
22 allocations--Components--Minimum wage--Rules) and 2008 c 263 s 2, 2007
23 c 508 s 2, 2006 c 258 s 2, 2005 c 518 s 944, 2004 c 276 s 913, 2001 1st
24 sp.s. c 8 s 5, 1999 c 353 s 4, & 1998 c 322 s 19;

25 (2) RCW 74.46.433 (Variable return component rate allocation) and
26 2006 c 258 s 3, 2001 1st sp.s. c 8 s 6, & 1999 c 353 s 9;

27 (3) RCW 74.46.435 (Property component rate allocation) and 2001 1st
28 sp.s. c 8 s 7, 1999 c 353 s 10, & 1998 c 322 s 29;

29 (4) RCW 74.46.437 (Financing allowance component rate allocation)
30 and 2001 1st sp.s. c 8 s 8 & 1999 c 353 s 11;

31 (5) RCW 74.46.439 (Facilities leased in arm's-length agreements--
32 Recomputation of financing allowance--Reimbursement for annualized
33 lease payments--Rate adjustment) and 1999 c 353 s 12;

34 (6) RCW 74.46.485 (Case mix classification methodology) and 1998 c
35 322 s 22;

36 (7) RCW 74.46.496 (Case mix weights--Determination--Revisions) and
37 2006 c 258 s 4 & 1998 c 322 s 23;

1 (8) RCW 74.46.501 (Average case mix indexes determined quarterly--
2 Facility average case mix index--Medicaid average case mix index) and
3 2006 c 258 s 5, 2001 1st sp.s. c 8 s 9, & 1998 c 322 s 24;

4 (9) RCW 74.46.506 (Direct care component rate allocations--
5 Determination--Quarterly updates--Fines) and 2007 c 508 s 3, 2006 c 258
6 s 6, & 2001 1st sp.s. c 8 s 10;

7 (10) RCW 74.46.508 (Direct care component rate allocation--
8 Increases--Rules) and 2003 1st sp.s. c 6 s 1 & 1999 c 181 s 2;

9 (11) RCW 74.46.511 (Therapy care component rate allocation--
10 Determination) and 2008 c 263 s 3, 2007 c 508 s 4, & 2001 1st sp.s. c
11 8 s 11;

12 (12) RCW 74.46.515 (Support services component rate allocation--
13 Determination--Emergency situations) and 2008 c 263 s 4, 2001 1st sp.s.
14 c 8 s 12, 1999 c 353 s 7, & 1998 c 322 s 27;

15 (13) RCW 74.46.521 (Operations component rate allocation--
16 Determination) and 2007 c 508 s 5, 2006 c 258 s 7, 2001 1st sp.s. c 8
17 s 13, 1999 c 353 s 8, & 1998 c 322 s 28; and

18 (14) RCW 74.46.533 (Combined and estimated rebased rates--
19 Determination--Hold harmless provision) and 2007 c 508 s 6.

20 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and takes effect
23 July 1, 2009.

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