
**Health & Human Services Appropriations
& Oversight Committee**

HB 1982

Brief Description: Regarding providing quality nursing home care.

Sponsors: Representative Kretz.

Brief Summary of Bill

- Authorizes nursing facilities to assign qualified staff to perform duties concurrently in units that have beds serving clients with acuity needs that meet nursing facility level of care and in units where beds have been converted to serve lesser acuity clients.
- Reduces minimum occupancy from 85 to 80 percent for essential community providers in the nursing home rate components of therapy, support services, operations, and property.
- Establishes a quality incentive payment system through a temporary nursing home licensing fee surcharge.
- Places revenue into the Nursing Facility Quality Assurance Trust Fund (Fund) to provide for Medicaid payments and quality incentive payments to nursing facilities.
- Requires that any funds remaining in Fund at the end of the year be refunded to nursing facilities.
- Requires the Department of Social and Health Services, the Department of Health, the Washington State Health Care Association, and Aging Services of Washington to design a system of quality incentive payments.

Hearing Date: 2/18/11

Staff: Carma Matti-Jackson (786-7140).

Background:

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.

Nursing homes provide continuous 24-hour convalescent and chronic care. Care may include skilled nursing, therapy care, nutrition management, administration of medications, personal care, application of dressings and bandages, and carrying out treatments prescribed by licensed health care providers.

Certificate of Need Program.

The certificate of need process evaluates a proposal by certain health care providers to expand health care activities and the potential impact of the expansion on a community's need for the service. A certificate of need from the Department of Health (DOH) is required prior to the construction, renovation, or sale of a health care facility; changes in bed capacity; or the addition of specialized health services.

Nursing homes are generally subject to certificate of need review prior to acting upon a proposal to increase the total number of licensed beds or redistribute those beds among nursing home and boarding home care. There is an exception to the certificate of need requirement for nursing homes that voluntarily reduce their number of licensed beds to provide a less intensive type of care, such as assisted living or boarding home care, and then increase the number of nursing home beds up to the previous amount.

Licensing.

There are approximately 22,788 nursing home beds in Washington. The Department of Social and Health Services (DSHS) is responsible for the licensing of these nursing home beds. Licensing functions include processing applications for new providers, performing inspections, complaint investigations, and enforcement if resolution is not met. The DSHS is directed to set the nursing home license fee in an amount adequate to fully recover the costs of the licensure.

Provider Fees/Taxes.

Under federal law and regulations, states have the ability to use provider-specific revenue to fund a portion of their state share of Medicaid expenditures. In this process, states can authorize revenue collections from specified categories of providers, use the proceeds from these revenues to make Medicaid provider payments, and claim the federal matching share for those payments. In order to qualify for the federal matching funds, the provider revenue cannot exceed 6.0 percent of the total provider revenues. Federal regulations require the revenue to be broad-based, or apply to all providers within a class, be uniformly applied, and avoid hold-harmless arrangements. The broad-based and uniformity requirements are waivable under certain criteria defined and approved by the Centers for Medicaid and Medicare Services.

Medicaid Payments.

The DSHS administers Medicaid payments to nursing facilities that provide care in publicly funded beds. The payment methodology is detailed in statute. The payment rates are unique to each facility. They are generally based on the individual facility's allowable costs, occupancy rates, and the acuity of the clients that are cared for by that facility.

There are seven rate components: direct care, therapy care, support services, property, operations, financing allowance and variable return.

There are three provider types defined in statute:

- large providers are facilities with 60 beds or more;

- small providers are facilities with fewer than 60 beds; and
- essential community providers (ECP) are the only facility within a 40 minute radius when traveling by automobile.

All rate components except for direct care and variable return are subject to minimum occupancy adjustments. If a facility does not meet the minimum occupancy requirements, the rates are adjusted downward. Currently, the minimum occupancy requirement in therapy care and support services is 85 percent for all providers. The minimum occupancy requirements in the operations, property, and finance components are 92 percent for large facilities, 90 percent for small facilities, and 85 percent for ECP.

Using cost reports, the non capital rates are rebased on a schedule defined in statute which is typically every other year. Currently, the rebase schedule is every-even year.

In the biennial appropriation act, the Legislature sets a statewide weighted average referred to as the "budget dial." If the actual statewide nursing facility payments exceed the budget dial, the DSHS is required to proportionally adjust downward all nursing facility payment rates to meet the budget dial.

Summary of Bill:

Nursing homes that have voluntarily reduced their bed capacity to less intensive types of care under the certificate of need laws may allow their staff to perform their duties in both the nursing home units and the lesser care units, such as units licensed for assisted living and boarding home care. The staff levels must meet the DSHS standards for the highest acuity patient in the unit.

Minimum occupancy is adjusted downward from 85 to 80 percent for ECP in the rate components for therapy care, support services, operations, and property.

The DSHS is required to collect a nursing facility licensing surcharge of 275 percent of the license fee established in statute. The DSHS, in cooperation with the Office of Financial Management, has the authority to adjust the fee downward if sufficient other funds are available to reimburse the nursing home rates. The fee must be the minimum level necessary to support the reimbursement rates.

Adjustments to the fee must be submitted to Washington Health Care Association (WHCA) and Aging Services of Washington (ASW) 60 days prior to implementation for review and comment. The DSHS must report the fund balance and the amount of surcharges paid by each nursing facility to the WHCA and ASW by November 30th of each year.

A Nursing Facility Quality Assurance Trust Fund (Fund) is established. All revenue collected from the surcharge must be deposited into the Fund.

The DSHS is required to seek a provider assessment waiver that would allow the revenue collected from the surcharge to be matched by federal funds. The DSHS may exempt state-operated nursing facilities, facilities that are hospital-based, and nursing facilities with disproportionately few or no Medicaid-funded residents pursuant to federal law.

Funds in the Fund may be used to obtain federal financial participation. Disbursements from the Fund must only be used to reimburse the Medicaid share of the nursing facility licensing fee surcharge; to make Medicaid payments sufficient for maintenance and enhancement of the rates paid on June 30, 2010, and for subsequent enhancements to the rates; for funding new standards imposed by the federal government; and for quality incentive payments. No money in the fund reverts to the State General Fund at any time. Any positive balance remaining in the Fund at the end of the fiscal year must be refunded to nursing facilities in proportion to the amounts paid by such facilities.

The imposition, collection, and disbursement of funds becomes null and void if the appropriations act does not support the rates and quality incentive payments established in this bill, if federal financial participation is not received by the state, or if the waiver request is not approved.

The DSHS, the DOH, the WHCA, and ASW must design a system of quality incentive payments. The system is based on evidence-based treatment, effective purchasing strategies, quality measures, benchmarks for quality improvement, and performance.

Appropriation: None.

Fiscal Note: Not requested.

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