

HOUSE BILL REPORT

ESHB 2082

As Amended by the Senate

Title: An act relating to reforming the disability lifeline program through essential needs and housing support for persons not likely to meet federal supplemental security income disability standards, continued aid and support for other disability lifeline recipients, and modification of the disability lifeline medical care services needed to receive federal funding.

Brief Description: Concerning the long-term disability assistance program and the essential needs and housing support program.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Darneille, Goodman, Dickerson, Roberts, Pettigrew, Appleton, Ryu, Fitzgibbon, Finn, Orwall, Ormsby, Ladenburg, Kenney and Moscoso).

Brief History:

Committee Activity:

Ways & Means: 5/5/11, 5/11/11 [DPS].

First Special Session

Floor Activity:

Passed House: 5/13/11, 53-36.

Senate Amended.

Passed Senate: 5/25/11, 43-2.

Brief Summary of Engrossed Substitute Bill

- Terminates all components of the Disability Lifeline Program.
- Creates the Long-term Disability Assistance, the Aged, Blind, and Disabled Assistance, and the Pregnant Women Assistance Programs effective November 1, 2011.
- Creates the Essential Needs and Housing Support Program (ENHS) and eliminates assistance in the form of a cash grant effective November 1, 2011.
- Requires the Department of Commerce (COM) to designate entities to provide services under the ENHS and to distribute appropriated funds based on a proportional formula.
- Provides that the COM, counties, and entities providing services under the ENHS are not civilly or criminally liable for acts under the program carried out in good faith.

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.

- Expressly states the eligibility standards for the Medical Care Services Program.
- Repeals the Disability Lifeline Housing Voucher Program and the provision requiring a report from the Washington State Institute for Public Policy relating to persons terminated from the Disability Lifeline Program due to time limits.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle, Dickerson, Haigh, Hudgins, Hunt, Kagi, Kenney, Ormsby, Pettigrew, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Haler, Hinkle, Parker, Ross, Schmick and Wilcox.

Staff: Melissa Palmer (786-7388).

Background:

Disability Lifeline Program.

Prior to 2010, an individual with a low income could be eligible for the General Assistance-Unemployable Program if he or she met income criteria and was: (1) pregnant and not eligible for Temporary Assistance for Needy Families (TANF); or (2) incapacitated from gainful employment because of physical or mental infirmity likely to continue for at least 90 days in duration. A person with an infirmity primarily due to a drug or alcohol addiction was not eligible for the General Assistance-Unemployable Program.

In 2010 the Legislature passed Engrossed Second Substitute House Bill (E2SHB 2782). Under that act, the General Assistance Program was renamed the Disability Lifeline Program. The eligibility requirements and conditions that were in place for the General Assistance Program remained the same. A time limit of 24 months in a 5-year period was established for Disability Lifeline (DL) benefits. This time limit was retroactive, and applied to persons already receiving benefits. Since the passage of E2SHB 2782, the Department of Social and Health Services (DSHS) has been restrained by court order from implementing the time limit provisions and the cash assistance grant has been reduced. The maximum monthly grant amount for a client, as of April 2011, is \$197. An individual is not eligible to receive DL benefits if he or she refuses without good cause to participate in needed treatment or other program services. Good cause includes an emotional or physical disability that prevents participation or the unavailability of treatment. The DL-Unemployable Program makes up the largest category of DL recipients.

Under E2SHB 2782, the DSHS was required to adopt medical criteria for DL incapacity determinations to ensure that the eligibility decisions were consistent with statutory requirements and based on clear, objective medical information. The standard for incapacity was not intended to be as stringent as the federal Supplemental Security Income (SSI) disability standards. The act provided that clear and convincing reasons are required for any eligibility decision which rejects uncontroverted medical opinion.

Medical Care Services.

Medical Care Services is a limited scope of medical care financed by state funds and offered to DL benefits recipients and recipients of drug and alcohol addiction services.

Disability Lifeline Expedited.

Persons eligible for DL and who have been determined to be likely eligible for federal SSI benefits are eligible for the DL Expedited Program. Under E2SHB 2782, the DSHS was required to implement the Early SSI Transition Project, beginning in three counties: King, Pierce, and Spokane. In the transition project, potentially eligible persons are systematically screened and evaluated for SSI benefits and provided case management services to support the transition to SSI and Medicaid benefits.

Housing Voucher Program.

The Department of Commerce (COM) and the DSHS were required to jointly develop a Housing Voucher (HV) Program. The COM administers the HV Program and must identify the current supply of private and public housing, including acquisition and rental of existing housing stock. The COM must also develop funding strategies and design the HV Program to maximize the ability of the DSHS to recover federal funding.

Under E2SHB 2782, homeless applicants assessed as needing chemical dependency or mental health treatment, or both, were required to agree as a condition of eligibility to accept a HV in place of a cash grant if a voucher is available. The dollar value of the HV is established by the DSHS and may differ from the value of the cash grant. Persons receiving a HV will also receive a \$50 cash stipend per month. Persons who refuse to accept a HV, but are otherwise eligible for DL benefits, remain eligible for medical care services benefits.

Referral to the Division of Vocational Rehabilitation.

The Economic Services Administration must work jointly with the Division of Vocational Rehabilitation (DVR) to develop an assessment tool to determine whether the programs offered by the DVR could assist persons receiving DL benefits in returning to the work force. The assessment tool was to be completed and in use no later than January 1, 2011. By December 10, 2011, the DSHS must report on the use of the tool and the success of DVR programs in returning persons to the work force.

Referral to the Department of Veterans Affairs.

During the application process for DL benefits, the DSHS must inquire as to whether the applicant has ever served in the United States Military. For any applicant who has served, the DSHS must confer with a veteran's benefit specialist with the Washington Department of Veterans Affairs to determine whether the applicant is eligible for any benefits or programs offered by either the state or federal government.

Access to Chemical Dependency Treatment.

If the DSHS or an entity that has contracted with the DSHS to provide medical care services to DL Program clients determines that chemical dependency treatment is necessary to improve his or her health status for transition to employment or transition to federal disability benefits, the DSHS or the contracting entity must give the client high priority to enroll in chemical dependency treatment within funds appropriated for chemical dependency treatment. The first priority goes to pregnant women and parents.

Washington State Institute for Public Policy.

By December 1, 2012, the Washington State Institute for Public Policy (WSIPP) is to analyze and report on the experience of persons terminated from DL benefits.

Summary of Engrossed Substitute Bill:

The Long-term Disability Assistance Program; the Aged, Blind, and Disabled Assistance Program; and the Pregnant Women Assistance Program.

All components of the DL Program are terminated and the Long-term Disability Assistance and the Aged, Blind, and Disabled Assistance Programs are established effective November 1, 2011. The DSHS is to provide a cash grant under the Long-term Disability Assistance Program to persons who were recipients of the DL-Expedited benefits on October 31, 2011, and continue to meet eligibility requirements provided in the act. Clients must meet income, resource, and incapacity standards, which include having a medical or mental health impairment that is likely to meet federal SSI disability standards. A person is ineligible for the Long-term Disability Assistance Program if there has been a final determination that he or she is not eligible for federal SSI.

Effective November 1, 2011, an Aged, Blind, and Disabled Assistance Program is established. To be eligible to receive benefits under the Aged, Blind, and Disabled Assistance Program, a person has to meet income, resource, and incapacity standards, including having one or more medical or mental health impairments that are likely to meet federal SSI disability standards.

Effective November 1, 2011, the Pregnant Women Assistance Program is established for persons who meet TANF income and resource standards but are ineligible for the TANF program for reasons other than failure to cooperate. Persons eligible for these programs are eligible to receive assistance in the form of a cash grant.

Essential Needs and Housing Support Program.

Effective November 1, 2011, the DL-Unemployable Program is terminated. The Essential Needs and Housing Support Program (ENHS) is created. Individuals that are eligible for medical care services, who are not recipients of alcohol and addiction services, must be referred to the ENHS. No cash grant is awarded under the ENHS.

The DSHS must review the cases of individuals, who are not recipients of alcohol and addiction treatment services and have received medical care services for 12 months, and annually thereafter, to determine whether they are likely to be eligible for the Long-term Disability Assistance Program.

Grants to Local Governments and Community-Based Organizations for the ENHS.

Distribution of Funds. The COM is required to distribute funds for the ENHS. The first distribution of funds must be completed by September 1, 2011. Funding is to be provided to the designated essential needs support and housing support entities. In each county, the COM shall designate the essential needs support entity and a housing support entity, and the entities shall begin providing support on November 1, 2011. Each designated entity must be a local government or community-based organization, and may administer the funding for essential needs support, housing support, or both.

The distribution to the designated entities within a county shall be proportional to the county's share of the estimated caseload. The funds shall be distributed in grants. Between 10 to 15 percent of the funds appropriated for the ENHS may be allocated for essential needs support. The COM shall distribute funding through a formula based upon the average number of eligible clients residing in the county in the three preceding fiscal years and shall update the formula annually.

The total funding for the ENHS will be based upon the projected Medical Care Services caseload, adjusted for discrepancies between the grant and medical caseloads, and the estimated monthly average of the cash assistance grant that is in effect July 1, 2011. In subsequent fiscal biennia, the funding for the program must retain the average per-client support level at a minimum.

The essential needs and housing support entities must not exceed the average per-client support level established in the State Omnibus Operating Appropriations Act (Operating Budget) for all clients or the maximum per-client support level established in the Operating Budget. Entities must give first priority to clients who are in stable housing and second priority to clients who are receiving care coordination services through the managed health care plan. The essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed and should attempt to leverage other sources of public and private funds to serve clients.

The COM, in collaboration with the DSHS, must develop a mechanism to allow the COM and essential needs and housing support entities to verify a person's eligibility for services. The COM must require Housing Support entities to enter data into the Homeless Client Management Information System, and in collaboration with the DSHS, report annually to the Legislature. The first report regarding recipients served and referred is due December 31, 2011, and must describe the actions taken to achieve the objectives of the act and efforts made to partner with other entities to leverage public and private funds.

The COM must review data submitted by the essential needs and housing support entities and make recommendations for program improvements and administrative efficiencies. The COM may change designated entities if performance or other aspects of the ENHS do not meet the requirements of the COM.

Civil Liability.

The COM, counties, and essential needs and housing support entities are not civilly or criminally liable and may not be subject to any cause of action regarding decisions related to

the type of housing arrangements supported with funds under this act as a result of good faith actions. Rights to enforce statutory or contractual duties and obligations remain.

Medical Care Services.

Persons are eligible for medical care services if they are incapacitated from gainful employment for a minimum of 90 days. To be eligible, a person must have countable income below \$339. Additionally, persons who qualify for the Aged, Blind, and Disabled Assistance Program or the Alcohol and Drug Addition Services are eligible for the Medical Care Services Program.

Chemical Dependency.

The provision related to DL terminations due to time limits is removed from the statute that specifies priority populations for drug and alcohol treatment.

Disability Lifeline Housing Voucher Program.

The statute authorizing the DL HV Program is repealed.

Washington State Institute for Public Policy.

The statute directing a WSIPP study regarding persons terminated from the DL Program is repealed.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment:

- terminates the DL Program and deletes all references to that program in the statute effective October 31, 2011;
- creates instead three assistance programs: the Aged, Blind, or Disabled Assistance Program; the Pregnant Women Assistance Program; and the ENHS effective November 1, 2011;
- specifies that a person must be likely to meet the federal supplemental security income disability standard to be considered disabled;
- provides, effective November 1, 2011, any person found eligible for the Medical Care Services Program who is not a recipient of the Alcohol and Addiction Services or the Aged, Blind, and Disabled Assistance Program must be provided with a referral for essential needs and housing support;
- requires that the COM is to distribute funds for the ENHS to entities and approve the expenditure plan submitted by those entities;
- creates a contingency fund solely for clients who are at substantial risk of losing stable housing;
- specifies that funding not included in the contingency fund must be used for servings clients who are homeless as defined in statute;
- provides that after July 1, 2013, designated housing support entities shall give first priority to clients who are homeless and second priority to clients at substantial risk of losing stable housing;
- specifies that the appropriation for the ENHS is based on a forecasted caseload and that the Caseload Forecast Council is to provide a courtesy forecast of the medical care services receipts population that are homeless;

- provides that administrative expenditures are capped for the COM at no more than 5 percent and for the ENHS entities at no more than 7 percent;
- expressly states the eligibility standards for the Medical Care Services Program; and
- repeals the DL Housing Vouchers Program and the provision requiring a report from the WSIPP relating to persons terminated from the DL Programs due to time limits.

Appropriation: None.

Fiscal Note: Requested on May 16, 2011.

Effective Date: The bill contains an emergency clause and takes effect immediately, except for section 6, relating to the statutory authority for the DL Program, which takes effect November 1, 2011, and section 8, relating to medical care services provisions, which contains an takes emergency clause and effect July 22, 2011.

Staff Summary of Public Testimony:

(In support) There has been a great process over the last months working with stakeholders in crafting this legislation. This bill is a work in progress. We continue to receive feedback and respond to concerns. Ultimately, this is a reform bill. The DL Program provides services to poor and disabled persons. We have tried to address the cash grant elements of the program. We are flipping the DL Program completely; it is now a care-not-cash program. This bill does not fix homelessness and we know we will not be able to provide housing support to everyone on the DL Program. The county and local entities will be partners in changing this from a cash system to a care system.

The DL Program is a resource of last resort. Continuing medical benefits for these clients will save lives. The medical benefits need to be augmented with housing resources and a small cash grant for basic needs. The reductions that have already taken place are impacting clients' ability to pay for prescriptions, food, and housing. When people are experiencing desperation, a compassionate safety net needs to be strengthened.

Disability Lifeline clients use the cash assistance for utilities, rent, and transportation. They rent rooms so that they do not have to live on the streets or in shelters. Please consider replacing essential needs banks with a small stipend. The drop-in cash assistance has already forced many out of housing situations into shelters. Without supports for vulnerable people, we can anticipate increased homelessness.

We need to preserve as much of the DL Program as possible. These people are most vulnerable. At its best, these changes will still have a negative impact. Please move this bill forward with as much resource as is possible. The theme is that everyone needs some cash. It is inefficient to distribute funding through entities for essential needs. It would be more cost effective to provide the cash support for essential needs directly to the recipients.

Disability Lifeline increases public safety. Many DL clients suffer from mental illness. It is important to maintain support services for these clients so that they do not decompensate. The DL Program currently provides assistance that can be used to pay a portion of the cost of

prescription drugs, for transportation to counseling appointments, a phone, or personal hygiene. These are big components for stabilizing behavior.

Domestic violence victims are often the forgotten group. For these people, the DL Program may be the difference between life and death. We would like to see the cash portion of the DL Program continued. There are needs that domestic violence victims have that may not be met through essential needs.

(Neutral) We contend it is not viable to implement new programs in the current structure. Making changes to the DL Program, while maintaining benefits, may result in savings that are not achievable. We conclude that the most viable approach is to terminate the existing program, repeal the existing statute, and establish a new statute for the new programs. We then would be able to achieve the reforms and savings the Legislature is seeking. Appreciating that this is a work in progress, there are concerns about the implementation dates included in this bill. If you are considering freezing medical services, consider similar provisions for the ENHS.

The Association of Counties does not have an official position on this legislation. We appreciate being part of the stakeholder group. We also know that there are many details to figure out such as administrative costs and priority populations. We look forward to continuing work on this.

(Available for questions) Washington has a waiver with a fair amount of flexibility, including the ability to freeze enrollment. However, one condition that is clear in the waiver provisions is that anyone who is on the DL Program at the time the waiver went into effect has to be able to stay on the DL Program. We cannot kick anyone off or oblige them to re-enroll.

(Commented) Allowing the medical enrollment to be frozen will lead to deterioration in a DL client's health. We request that this provision in the legislation be reconsidered. We ask that a small cash stipend be included. Many of the DL Program participants struggle with a variety of challenges and use DL to get back on their feet following an acute illness or injury. With the cash assistance, they are able to pay rent, get hygiene items, and take buses to go to appointments. Include a cash grant for recipients and maintain the personal dignity of these people.

(Opposed) None.

Persons Testifying: (In support) Representative Darneille, prime sponsor; Michael Ramos, Church Council of Greater Seattle; Grace Huang, Washington State Coalition Against Domestic Violence; Beth Elliott, FISH Food Banks of Pierce County; Carol Wood, United Way of King County; Troy Christensen, Pierce County; Robin Zukoski, Columbia Legal Services; and Joseph Fountain, Seattle Police Department.

(Neutral) Alexis Oliver, Office of the Governor; Tracy Guerin, Department of Social and Health Services; and Rashi Gupta, Washington State Association of Counties.

(Commented) Dan Wise, Catholic Community Services; and Tara Connor, Plymouth Housing Group.

(Available for questions) Doug Porter, Health Care Authority.

Persons Signed In To Testify But Not Testifying: None.