

HOUSE BILL REPORT

ESHB 2746

As Amended by the Senate

Title: An act relating to refinancing of medicaid personal care services for individuals with developmental disabilities and individuals with long-term care needs through the community first choice option.

Brief Description: Refinancing of medicaid personal care services for individuals with developmental disabilities and individuals with long-term care needs through the community first choice option.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Green, Morrell, Tharinger, Fitzgibbon, Senn, Tarleton, Robinson, Kagi, Roberts, Ortiz-Self, Jinkins, Walsh, Habib, Bergquist, Dahlquist, Moscoso, Goodman, Riccelli, Pollet, Ormsby and Freeman).

Brief History:

Committee Activity:

Appropriations: 2/3/14, 2/10/14 [DPS].

Floor Activity:

Passed House: 2/14/14, 97-0.

Senate Amended.

Passed Senate: 3/13/14, 48-0.

Brief Summary of Engrossed Substitute Bill

- Directs the Department of Social and Health Services to refinance Medicaid personal care through an optional state plan service called the Community First Choice Option.
- Average per capita expenditures may not grow by more than 3 percent during the first year after implementation.
- Savings from refinancing existing services may be used to cover implementation costs.
- Remaining savings must be reserved for potential reinvestment into client services.

HOUSE COMMITTEE ON APPROPRIATIONS

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Christian, Cody, Dunshee, Fagan, Green, Haigh, Haler, Harris, Hudgins, G. Hunt, S. Hunt, Jinkins, Kagi, Lytton, Morrell, Parker, Pettigrew, Schmick, Seaquist, Springer, Sullivan, Taylor and Tharinger.

Staff: James Kettel (786-7123).

Background:

The state provides certain Medicaid clients with personal care services. Personal care refers to support with routine activities that people tend to complete without needing assistance, called activities of daily living (ADL). Common ADL needs include dressing, bathing, eating, toileting, transferring, and continence. Personal care may also refer to support with activities performed by a person living independently in a community setting, called instrumental activities of daily living (IADL). Common IADL needs include shopping, cooking, laundry, meal preparation, and housework.

Clients may receive personal care in their own home from a contracted individual provider, or from an employee working for a licensed home care agency. Clients may also receive personal care within a residential setting, such as an adult family home or an assisted living facility. In fiscal year 2013, approximately 60,000 clients within the Department of Social and Health Services (DSHS) received personal care services.

Currently, clients may access personal care through an optional state plan service, called Medicaid Personal Care (MPC), or through programs that provide home and community based services to individuals who would otherwise require institutionalization, called Medicaid waivers. Medicaid state plan services are an entitlement. Medicaid waivers are not an entitlement. Federal Medicaid matching funds cover 50 percent of the cost for personal care services under MPC, or a Medicaid waiver.

The Community First Choice Option (CFCO) is an optional entitlement program offered under the federal Affordable Care Act. To be eligible, clients must be assessed as needing nursing facility level of care and must have income that falls below 150 percent of the federal poverty level. States may also choose to include individuals who have higher incomes if those individuals receive medical assistance under certain waiver eligibility groups. Services offered under the CFCO must include: (1) assistance with ADLs, IADLs, and health-related tasks; (2) acquisition, maintenance, and enhancement of skills to complete ADLs, IADLs, and health-related tasks; (3) back-up systems that ensure the continuity of care and support; and (4) voluntary training on how to select, manage, and dismiss attendant care providers. Other services, such as transition assistance and employer training, may be included under the CFCO at the discretion of each state. Federal Medicaid matching funds would cover 56 percent of the cost for services provided under the CFCO, including personal care services.

Under federal requirements, services under the CFCO must be available statewide. The state may not cap enrollment or target clients based on age, severity of disability, or any other criteria. Services must be offered in the most integrated setting possible, given the individual

needs of a client. Also, during the first year of operation, states must maintain or exceed prior year Medicaid expenditures for optional services provided to elderly individuals and people with disabilities.

States must establish a development and implementation council (council) to collaborate on program design and implementation. A majority of the council's membership must consist of the elderly, people with disabilities, or their representatives. After implementation, states must incorporate consumer feedback, monitor health measures, and submit required reports to the Department of Health and Human Services.

Summary of Engrossed Substitute Bill:

The DSHS is directed to refinance Medicaid personal care through the CFCO. Implementation of the CFCO must occur as soon as July 1, 2015, but no later than June 30, 2016. The DSHS must design the CFCO in such a manner that all federal requirements are met, and average per capita expenditures do not increase by more than 3 percent during the first year after implementation. Savings from refinancing existing services may be used to offset the cost of implementation. Any remaining savings must be reserved for potential additional investment in home and community-based services for individuals with developmental disabilities and individuals with long-term care needs.

The Joint Legislative Executive Committee on Aging and Disability (Committee) and the council that the DSHS must convene prior to submitting the proposed CFCO to the Centers for Medicare and Medicaid Services (CMS), must both provide recommendations for investments in home and community-based services. At a minimum, the final report to the Legislature from the Committee must explore the cost and benefit of rate enhancements for providers of long-term services and supports, restoration of hours for in-home clients, additional investment in the family caregiver support program, and additional investment in the Individual and Family Services Program or other Medicaid services that support individuals with developmental disabilities.

EFFECT OF SENATE AMENDMENT(S):

Engrossed Substitute House Bill 2746 directs the DSHS to refinance Medicaid Personal Care under a new optional state plan service, called the Community First Choice Option (CFCO). The bill, as passed the House, states that the CFCO must be implemented as soon as July 1, 2015 and no later than June 30, 2016. The Senate Amendment limits the implementation timeframe by striking the House dates and inserting that the CFCO must be implemented no later than August 30, 2015. The Senate Amendment is consistent with the timeline assumption in the 2014 Supplemental Budget and the 2015-17 budget outlook.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is a good bill that is clear and concise. This is a rare bill with good policy that also pencils out well on the fiscal side. The CFCO requires person-centered planning and attendant services, which are both a good thing for clients. It also makes sense to take advantage of additional federal matching funds offered by the CFCO. Any state funds available after the CFCO is implemented should be reinvested into services for people with developmental disabilities and older adults. It is hard to talk to families waiting to receive paid services from the Developmental Disabilities Administration. This is a great way to offer the golden ticket to families. Services like respite and personal care allow families to participate in other activities, and help keep families together. The Family Caregiver Support Program (FCSP) is a program to keep in mind for further investment. The FCSP is a pre-Medicaid program that currently serves only 1 percent of family caregivers in the state. The restoration of recent cuts to home care hours is another possible investment for the Legislature to keep in mind. The State of Oregon recently went through the process of implementing the CFCO. Assisted living providers often operate facilities in both Oregon and Washington. Assisted living providers look forward to being a helpful partner as the CFCO is designed for Washington.

(Opposed) None.

Persons Testifying: Margaret Lee Thompson, Arc U.S.; Sue Elliot, Arc of Washington State; Donna Patrick, Developmental Disabilities Council; Kelli Church and Diane Perry, Arc of Snohomish County; Misha Werschkul, Service Employees International Union 775; Cathy Knight, Washington Association of Area Agencies on Aging; Mary Clogston, American Association of Retired Persons of Washington; and Dave Knutson, Washington Health Care Association.

Persons Signed In To Testify But Not Testifying: None.