

# SENATE BILL REPORT

## SSB 6430

---

---

As Passed Senate, February 17, 2016

**Title:** An act relating to providing continuity of care for recipients of medical assistance during periods of incarceration.

**Brief Description:** Providing continuity of care for recipients of medical assistance during periods of incarceration.

**Sponsors:** Senate Committee on Human Services, Mental Health & Housing (originally sponsored by Senators Parlette, Darneille, O'Ban and Conway).

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 1/26/16, 2/01/16, 2/02/16, 2/04/16 [DPS-WM, w/oRec].

Ways & Means: 2/08/16, 2/09/16 [DPS(HSMH)].

Passed Senate: 2/17/16, 49-0.

---

### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Majority Report:** That Substitute Senate Bill No. 6430 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Hargrove.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Padden.

**Staff:** Kevin Black (786-7747)

---

### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6430 as recommended by Committee on Human Services, Mental Health & Housing be substituted therefor, and the substitute bill do pass.

Signed by Senators Hill, Chair; Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey,

---

*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.*

Becker, Billig, Brown, Conway, Darneille, Hasegawa, Hewitt, Nelson, O'Ban, Padden, Parlette, Pedersen, Rolfes, Schoesler and Warnick.

**Staff:** Sandy Stith (786-7710)

**Background:** Medicaid is a program which provides health insurance to low-income individuals and families. Medicaid is administered as a partnership between state and federal government, in which the federal government provides funding to the states to subsidize insurance in exchange for the state accepting restrictions on how the federal funds may be spent. One such rule, called the "inmate exclusion," prohibits the use of federal funding to provide Medicaid services to a person who is an inmate of a public institution. Another rule, the institution for mental diseases (IMD) rule, excludes the use of federal funds for treatment costs for persons aged 22-64 in a hospital larger than 16 beds which primarily provides mental health services.

The federal government grants waivers of existing Medicaid rules to states under certain circumstances. An example of this is a Section 1115 waiver, under which, subject to negotiation, the federal government allows a state to provide services or extend coverage under Medicaid in areas which would normally be disallowed in order to demonstrate the existence of an opportunity to increase the quality and efficiency of health networks or health care in a way that is budget neutral over time for the federal government. Washington currently holds several Medicaid waivers and is in the process of applying for more.

In 2004, the Center for Medicaid and Medicare Services sent a letter to state Medicaid directors encouraging all states to "suspend" and not "terminate" Medicaid services while a person is an inmate of a public institution or IMD.

**Summary of Substitute Bill:** The Washington State Health Care Authority (HCA) must suspend, rather than terminate, medical assistance benefits by July 1, 2017, for persons who are incarcerated or committed to a state hospital. HCA must allow a person to apply for medical assistance in suspense status during incarceration, whether or not the release date of the person is known. HCA must provide a progress report including a detailed fiscal estimate to the Governor and Legislature by December 1, 2016.

The Department of Social and Health Services (DSHS) and HCA must publish guidance and provide trainings to behavioral health organizations, managed care organizations, and behavioral health providers relating to how these entities may provide outreach, assistance, transition planning, and rehabilitation case management reimbursable under federal law to persons who are incarcerated, involuntarily hospitalized, or in the process of transitioning out of one of these services. The guidance and training may highlight preventive activities not reimbursable under federal law which may be cost-effective in a managed care environment. The purpose of the guidance and training is to champion best clinical practices. DSHS and HCA must provide a status update to the Legislature by December 31, 2016.

HCA must collaborate with DSHS, the Washington State Association of Counties, Washington Association of Sheriffs and Police Chiefs (WASPC), and accountable communities of health to request expenditure authority from the federal government to provide behavioral health services to persons who are incarcerated in local jails. HCA may

narrow its submission to discrete programs or regions of the state as deemed advisable to effectively demonstrate the potential to achieve savings by integrating medical assistance across community and correctional settings.

HCA must request permission from the federal government to allow the state to cover persons participating in work release or other partial confinement programs at the state, county, or city level under the state Medicaid program.

Upon request, a jail must share records about persons confined in jail with federal, state, or local agencies to determine eligibility for services such as medical, mental health, chemical dependency, or veterans' services, and to allow for provision of treatment during the jail stay or following release. Receiving agencies must hold the records in confidence, and comply with all relevant privacy statutes.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Human Services, Mental Health & Housing):** PRO: This was a recommendation of the Adult Behavioral Health Task Force. We want to get current information from HCA and find out how much this will cost. Medicaid suspension would address a number of the problems currently experienced by corrections entities and individuals. Access to medical care reduces recidivism and readmission. Incarcerated individuals are sicker than the general population. Suspension of Medicaid would prevent gaps in access to medical coverage. The federal government recommends for states to do this. This will prevent duplicative work by corrections entities. Lack of health care and health care costs are a major barrier to successful reentry. Preventing gaps in access will reduce the cost of care by allowing people to get help sooner. This is a huge issue. Individuals on work release go to free clinics or emergency rooms because they don't have access to good care. 94 percent of individuals with four or more jail bookings in one year in King County have a behavioral health disorder. Please amend the bill to allow jails to share more information from the jail registers. Please add WASPC as a consulting entity. References to incarcerations should include state hospitals. We must improve our ability to successfully manage transitions for persons with behavioral health disorders. The request to explore a demonstration waiver to provide behavioral health services in jail is a great step towards eliminating the operational barrier between the crisis system and the jails.

**Persons Testifying on Original Bill (Human Services, Mental Health & Housing):** PRO: Senator Parlette, prime sponsor; Nick Federici, Pioneer Human Services and Healthy WA Coalition; Elisabeth Smith, Northwest Health Law Advocates; Dave Murphy, King County; James McMahan, WA Assoc. of Sheriffs & Police Chiefs; Bob Cooper, WA Defender Assoc. & WA Assoc. of Criminal Defense Lawyers; Bob Cooper, National Assoc. of Social Workers WA Chapter; Seth Dawson, National Alliance on Mental Illness, NAMI Washington; Ann Christian, WA Council for Behavioral Health; Brian Enslow, WA State Assoc. of Counties.

**Persons Signed In To Testify But Not Testifying on Original Bill:** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: We support this bill. It comes highly recommended from the county commissioners that participated in the Adult Behavioral Health Task Force. We believe there are significant opportunities for savings in Medicaid if we can eliminate the lag time to reconnect people leaving jails to community services. This allows people to get the services they need without a break in eligibility which may otherwise lead to unnecessary crisis.

**Persons Testifying on First Substitute (Ways & Means):** PRO: Brian Enslow, WA State Association of Counties.

**Persons Signed In To Testify But Not Testifying on First Substitute:** Elisabeth Smith, Northwest Health Law Advocates