
SENATE BILL 5802

State of Washington

64th Legislature

2015 Regular Session

By Senators Becker and Keiser

Read first time 02/03/15. Referred to Committee on Health Care.

1 AN ACT Relating to assisted living payment rates; amending RCW
2 74.39A.030 and 74.39A.320; creating new sections; providing an
3 effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds the population of
6 senior citizens who utilize medicaid home and community-based
7 long-term care services will more than double over the next few years
8 and as such the legislature finds the need to maintain an array of
9 services in all service settings to address this growing population.
10 Transparency in payment rate methodology for residential providers is
11 necessary to safeguard against unnecessary utilization of services
12 and to assure that payments are consistent with efficiency, economy,
13 and quality of care in accordance with federal requirements for
14 methods of payment for medicaid service. While the client assessment
15 and classification system utilized to align payment with client
16 acuity are established in department rule; the principles and
17 procedures for provider payments are not found in rule, and are not
18 transparent to the public or the providers. As such, the baseline
19 data and payment methodology for publicly funded long-term care
20 residential services for vulnerable seniors and adults with
21 disabilities has not been reviewed or updated since 2001. It is the

1 intent of the legislature to outline the fundamental considerations
2 in the current payment system and to establish a consistent and
3 transparent practice of reviewing and updating the foundational data
4 used within the current payment system.

5 **Sec. 2.** RCW 74.39A.030 and 2012 c 10 s 66 are each amended to
6 read as follows:

7 (1) To the extent of available funding, the department shall
8 expand cost-effective options for home and community services for
9 consumers for whom the state participates in the cost of their care.

10 (2) In expanding home and community services, the department
11 shall: (a) Take full advantage of federal funding available under
12 Title XVIII and Title XIX of the federal social security act,
13 including home health, adult day care, waiver options, and state plan
14 services; and (b) be authorized to use funds available under its
15 community options program entry system waiver granted under section
16 1915(c) of the federal social security act to expand the availability
17 of in-home, adult residential care, adult family homes, enhanced
18 adult residential care, and assisted living services. By June 30,
19 1997, the department shall undertake to reduce the nursing home
20 medicaid census by at least one thousand six hundred by assisting
21 individuals who would otherwise require nursing facility services to
22 obtain services of their choice, including assisted living services,
23 enhanced adult residential care, and other home and community
24 services. If a resident, or his or her legal representative, objects
25 to a discharge decision initiated by the department, the resident
26 shall not be discharged if the resident has been assessed and
27 determined to require nursing facility services. In contracting with
28 nursing homes and assisted living facilities for enhanced adult
29 residential care placements, the department shall not require, by
30 contract or through other means, structural modifications to existing
31 building construction.

32 (3)(a) The department shall by rule establish principles and
33 procedures for payment rates for home and community services (~~that~~
34 ~~support the provision of cost-effective care~~) based on the client
35 assessment and classification system established in department rules.
36 The payment rates must support the provision of cost-effective care
37 and must be consistent with efficiency, economy, and quality of care
38 in accordance with federal requirements for methods of payment for

1 medicaid service. The payment rates shall be calculated and modeled
2 utilizing the following factors:

3 (i) Salary and wage costs shall be based on data published from
4 the United States bureau of labor and statistics;

5 (ii) Payroll taxes and fringe benefit costs shall be based on
6 data from the published nursing facility medicaid cost report;

7 (iii) Operational costs shall be based on data from the published
8 nursing facility medicaid cost reports and shall include relevant
9 costs including, but not limited to, costs for supplies, utilities,
10 food, business and operating and sales taxes, and required insurance;

11 (iv) Staff service hours shall be based on the relative resource
12 differences identified through a time study of direct care time
13 recorded for care and health related tasks of a statistically valid
14 sample size of medicaid contracted assisted living facilities as
15 follows:

16 (A) On or before June 30, 2017, the results of the 2001/2002 time
17 study shall serve as the benchmark for staff service hours.

18 (B) Beginning July 1, 2015, a new time study shall be conducted
19 and here to forward shall be updated no less than once every ten
20 years.

21 (C) Beginning July 1, 2017, the 2015 time study shall serve as
22 the benchmark for staff service hours;

23 (v) Payment for capital costs shall be based on the fair rental
24 value for one unit for one day. The base for capital costs shall
25 include valuation for land, building, and fixed and movable equipment
26 as follows:

27 (A) The average price per square foot for new assisted living
28 construction in Washington state based upon data from the marshall
29 valuation service;

30 (B) Costs for movable equipment based on data from the published
31 nursing facility medicaid cost report; and

32 (C) Land values as determined by assisted living assessed values
33 using a calculation that divides the assessed value by size standards
34 based on the median number of licensed beds by area and occupancy
35 rates based on a blend of data collected from lenders, developers,
36 appraisers, and assisted living providers.

37 (b) Effective July 1, 2015, (a)(i), (ii), and (iii) of this
38 subsection shall be rebased to source data from calendar year 2013,
39 which shall serve as the basis for rates from July 1, 2015, through
40 June 30, 2017. Beginning July 1, 2017, source data shall be rebased

1 biennially during every odd-numbered year thereafter using data from
2 two years prior to the rebase period, so data for calendar year 2015
3 is used for July 1, 2017, through June 30, 2019, and so forth.

4 (c) If source data identified in (a)(i), (ii), or (iii) of this
5 subsection is no longer published, the department must substitute
6 another comparable data source.

7 (d) Payment rates established under this section shall be
8 calculated based on the median of the data factors required in (a) of
9 this subsection according to geographical peer groups, and allocated
10 based on medical, cognitive, behavioral, and personal care needs
11 according to the client assessment and classification system
12 established in department rules. An annual adjustment factor may be
13 applied for economic trends and conditions by a factor provided in
14 the biennial appropriations act.

15 (e) The current funding rate component is established each fiscal
16 year to address assisted living facility mandated costs not found in
17 the base year calculations supporting the established rate components
18 as calculated per (a), (b), (c), and (d) of this subsection.

19 (f) In the event of any conflict between ((any such rule))
20 department rules established under this section and a collective
21 bargaining agreement entered into under RCW 74.39A.270 and
22 74.39A.300, the collective bargaining agreement prevails.

23 ((+b+)) (g) The department may authorize an enhanced adult
24 residential care rate for nursing homes that temporarily or
25 permanently convert their bed use for the purpose of providing
26 enhanced adult residential care under chapter 70.38 RCW, when the
27 department determines that payment of an enhanced rate is cost-
28 effective and necessary to foster expansion of contracted enhanced
29 adult residential care services. As an incentive for nursing homes to
30 permanently convert a portion of its nursing home bed capacity for
31 the purpose of providing enhanced adult residential care, the
32 department may authorize a supplemental add-on to the enhanced adult
33 residential care rate.

34 ((+e+)) (h) The department may authorize a supplemental assisted
35 living services rate for up to four years for facilities that convert
36 from nursing home use and do not retain rights to the converted
37 nursing home beds under chapter 70.38 RCW, if the department
38 determines that payment of a supplemental rate is cost-effective and
39 necessary to foster expansion of contracted assisted living services.

1 NEW SECTION. **Sec. 3.** The department of social and health
2 services shall conduct a time study of a statistically valid sample
3 size of assisted living facilities for the level of staff resource
4 hours required according to the classification groups for client
5 assessed needs established in department rule. The department of
6 social and health services shall review the current regional payment
7 structure of King, metropolitan, and nonmetropolitan counties for
8 potential revisions due to compression issues with wages and a
9 cost-of-living comparison. On or before December 15, 2015, the
10 department shall provide a progress report and a summary of data
11 collection to relevant legislative committees, the office of
12 financial management, Washington health care association, and
13 LeadingAge Washington. The final time study report must be completed
14 on or before July 1, 2016, and shall be provided to these groups for
15 review and comment no less than thirty days prior to finalization.

16 **Sec. 4.** RCW 74.39A.320 and 2012 c 10 s 67 are each amended to
17 read as follows:

18 (1) To the extent funds are appropriated for this purpose, the
19 department shall establish a (~~capital add-on rate~~) medicaid access
20 incentive payment, not less than the July 1, 2005, capital add-on
21 rate established by the department, for those assisted living
22 facilities contracting with the department that have a medicaid
23 occupancy percentage of sixty percent or greater.

24 (2) Effective for July 1, 2006, and for each July 1st
25 rate-setting period thereafter, the department shall determine the
26 facility's medicaid occupancy percentage using the last six months'
27 medicaid resident days from the preceding calendar year divided by
28 the product of all its licensed assisted living facility beds
29 irrespective of use, times calendar days for the six-month period.
30 For the purposes of this section, medicaid resident days include
31 those clients who are enrolled in a medicaid managed long-term care
32 program, including but not limited to the program for all inclusive
33 care and the medicaid integration project.

34 (3) The medicaid occupancy percentage established beginning on
35 July 1, 2006, and for each July 1st thereafter, shall be used to
36 determine whether an assisted living facility qualifies for the
37 (~~capital add-on rate~~) medicaid access incentive payment under this
38 section. Those facilities that qualify for the (~~capital add-on~~
39 ~~rate~~) medicaid access incentive payment shall receive the (~~capital~~

1 ~~add-on-rate))~~ medicaid access incentive payment throughout the
2 applicable fiscal year.

3 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of
5 the state government and its existing public institutions, and takes
6 effect July 1, 2015.

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