SB 5715 - H COMM AMD
By Committee on Appropriations

ADOPTED 04/10/2017

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.46.485 and 2011 1st sp.s. c 7 s 4 are each amended to read as follows:

(1) The legislature recognizes that staff and resources needed to adequately care for individuals with cognitive or behavioral impairments is not limited to support for activities of daily living. Therefore, the department shall:

(a) Employ the resource utilization group ((~~III~~)) IV case mix classification methodology. The department shall use the ((~~forty-four~~)) fifty-seven group index maximizing model for the resource utilization group ((~~III~~)) IV grouper version ((~~5.10~~)) MDS 3.05, but the department may revise or update the classification methodology to reflect advances or refinements in resident assessment or classification, subject to federal requirements. The department may adjust by no more than thirteen percent the case mix index for ((~~any of the lowest ten~~)) resource utilization group categories beginning with PA1 through ((~~PE2~~)) PB2 to any case mix index that aids in achieving the purpose and intent of RCW 74.39A.007 and cost-efficient care, excluding behaviors, and allowing for exceptions for limited placement options; and

(b) Implement minimum data set 3.0 under the authority of this section ((~~and RCW 74.46.431(3)~~)). The department must notify nursing home contractors twenty-eight days in advance the date of implementation of the minimum data set 3.0. In the notification, the department must identify for all semiannual rate settings following the date of minimum data set 3.0 implementation a previously established semiannual case mix adjustment established for the semiannual rate settings that will be used for semiannual case mix calculations in direct care until minimum data set 3.0 is fully implemented.

(2) The department is authorized to adjust upward the weights for resource utilization groups BA1-BB2 related to cognitive or behavioral health to ensure adequate access to appropriate levels of care.

(3) A default case mix group shall be established for cases in which the resident dies or is discharged for any purpose prior to completion of the resident's initial assessment. The default case mix group and case mix weight for these cases shall be designated by the department.

((~~(3)~~)) (4) A default case mix group may also be established for cases in which there is an untimely assessment for the resident. The default case mix group and case mix weight for these cases shall be designated by the department.

Sec. 2. RCW 74.46.561 and 2016 c 131 s 1 are each amended to read as follows:

(1) The legislature adopts a new system for establishing nursing home payment rates beginning July 1, 2016. Any payments to nursing homes for services provided after June 30, 2016, must be based on the new system. The new system must be designed in such a manner as to decrease administrative complexity associated with the payment methodology, reward nursing homes providing care for high acuity residents, incentivize quality care for residents of nursing homes, and establish minimum staffing standards for direct care.

(2) The new system must be based primarily on industry-wide costs, and have three main components: Direct care, indirect care, and capital.

(3) The direct care component must include the direct care and therapy care components of the previous system, along with food, laundry, and dietary services. Direct care must be paid at a fixed rate, based on one hundred percent or greater of statewide case mix neutral median costs, but shall be set so that a nursing home provider's direct care rate does not exceed one hundred eighteen percent of its base year's direct care allowable costs except if the provider is below the minimum staffing standard established in RCW 74.42.360(2). Direct care must be performance-adjusted for acuity every six months, using case mix principles. Direct care must be regionally adjusted using county wide wage index information available through the United States department of labor's bureau of labor statistics. There is no minimum occupancy for direct care. The

direct care component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(4) The indirect care component must include the elements of administrative expenses, maintenance costs, and housekeeping services from the previous system. A minimum occupancy assumption of ninety percent must be applied to indirect care. Indirect care must be paid at a fixed rate, based on ninety percent or greater of statewide median costs. The indirect care component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(5) The capital component must use a fair market rental system to set a price per bed. The capital component must be adjusted for the age of the facility, and must use a minimum occupancy assumption of ninety percent.

(a) Beginning July 1, 2016, the fair rental rate allocation for each facility must be determined by multiplying the allowable nursing home square footage in (c) of this subsection by the RS means rental rate in (d) of this subsection and by the number of licensed beds yielding the gross unadjusted building value. An equipment allowance of ten percent must be added to the unadjusted building value. The sum of the unadjusted building value and equipment allowance must then be reduced by the average age of the facility as determined by (e) of this subsection using a depreciation rate of one and one-half percent. The depreciated building and equipment plus land valued at ten percent of the gross unadjusted building value before depreciation must then be multiplied by the rental rate at seven and one-half percent to yield an allowable fair rental value for the land, building, and equipment.

(b) The fair rental value determined in (a) of this subsection must be divided by the greater of the actual total facility census from the prior full calendar year or imputed census based on the number of licensed beds at ninety percent occupancy.

(c) For the rate year beginning July 1, 2016, all facilities must be reimbursed using four hundred square feet. For the rate year beginning July 1, 2017, allowable nursing facility square footage must be determined using the total nursing facility square footage as reported on the medicaid cost reports submitted to the department in compliance with this chapter. The maximum allowable square feet per bed may not exceed four hundred fifty.

(d) Each facility must be paid at eighty-three percent or greater of the median nursing facility RS means construction index value per square foot for Washington state. The department may use updated RS means construction index information when more recent square footage data becomes available. The statewide value per square foot must be indexed based on facility zip code by multiplying the statewide value per square foot times the appropriate zip code based index. For the purpose of implementing this section, the value per square foot effective July 1, 2016, must be set so that the weighted average FRV [fair rental value] rate is not less than ten dollars and eighty cents ppd [per patient day]. The capital component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(e) The average age is the actual facility age reduced for significant renovations. Significant renovations are defined as those renovations that exceed two thousand dollars per bed in a calendar year as reported on the annual cost report submitted in accordance with this chapter. For the rate beginning July 1, 2016, the department shall use renovation data back to 1994 as submitted on facility cost reports. Beginning July 1, 2016, facility ages must be reduced in future years if the value of the renovation completed in any year exceeds two thousand dollars times the number of licensed beds. The cost of the renovation must be divided by the accumulated depreciation per bed in the year of the renovation to determine the equivalent number of new replacement beds. The new age for the facility is a weighted average with the replacement bed equivalents reflecting an age of zero and the existing licensed beds, minus the new bed equivalents, reflecting their age in the year of the renovation. At no time may the depreciated age be less than zero or greater than forty-four years.

(f) A nursing facility's capital component rate allocation must be rebased annually, effective July 1, 2016, in accordance with this section and this chapter.

(6) A quality incentive must be offered as a rate enhancement beginning July 1, 2016.

(a) An enhancement no larger than five percent and no less than one percent of the statewide average daily rate must be paid to facilities that meet or exceed the standard established for the quality incentive. All providers must have the opportunity to earn the full quality incentive payment.

(b) The quality incentive component must be determined by calculating an overall facility quality score composed of four to six quality measures. For fiscal year 2017 there shall be four quality measures, and for fiscal year 2018 there shall be six quality measures. Initially, the quality incentive component must be based on minimum data set quality measures for the percentage of long-stay residents who self-report moderate to severe pain, the percentage of high-risk long-stay residents with pressure ulcers, the percentage of long-stay residents experiencing one or more falls with major injury, and the percentage of long-stay residents with a urinary tract infection. Quality measures must be reviewed on an annual basis by a stakeholder work group established by the department. Upon review, quality measures may be added or changed. The department may risk adjust individual quality measures as it deems appropriate.

(c) The facility quality score must be point based, using at a minimum the facility's most recent available three-quarter average CMS [centers for medicare and medicaid services] quality data. Point thresholds for each quality measure must be established using the corresponding statistical values for the quality measure (QM) point determinants of eighty QM points, sixty QM points, forty QM points, and twenty QM points, identified in the most recent available five-star quality rating system technical user's guide published by the center for medicare and medicaid services.

(d) Facilities meeting or exceeding the highest performance threshold (top level) for a quality measure receive twenty-five points. Facilities meeting the second highest performance threshold receive twenty points. Facilities meeting the third level of performance threshold receive fifteen points. Facilities in the bottom performance threshold level receive no points. Points from all quality measures must then be summed into a single aggregate quality score for each facility.

(e) Facilities receiving an aggregate quality score of eighty percent of the overall available total score or higher must be placed in the highest tier (tier V), facilities receiving an aggregate score of between seventy and seventy-nine percent of the overall available total score must be placed in the second highest tier (tier IV), facilities receiving an aggregate score of between sixty and sixty-nine percent of the overall available total score must be placed in the third highest tier (tier III), facilities receiving an aggregate score of between fifty and fifty-nine percent of the overall

1 available total score must be placed in the fourth highest tier (tier
2 II), and facilities receiving less than fifty percent of the overall
3 available total score must be placed in the lowest tier (tier I).

4 (f) The tier system must be used to determine the amount of each
5 facility's per patient day quality incentive component. The per
6 patient day quality incentive component for tier IV is seventy-five
7 percent of the per patient day quality incentive component for tier
8 V, the per patient day quality incentive component for tier III is
9 fifty percent of the per patient day quality incentive component for
10 tier V, and the per patient day quality incentive component for tier
11 II is twenty-five percent of the per patient day quality incentive
12 component for tier V. Facilities in tier I receive no quality
13 incentive component.

14 (g) Tier system payments must be set in a manner that ensures
15 that the entire biennial appropriation for the quality incentive
16 program is allocated.

17 (h) Facilities with insufficient three-quarter average CMS
18 [centers for medicare and medicaid services] quality data must be
19 assigned to the tier corresponding to their five-star quality rating.
20 Facilities with a five-star quality rating must be assigned to the
21 highest tier (tier V) and facilities with a one-star quality rating
22 must be assigned to the lowest tier (tier I). The use of a facility's
23 five-star quality rating shall only occur in the case of insufficient
24 CMS [centers for medicare and medicaid services] minimum data set
25 information.

26 (i) The quality incentive rates must be adjusted semiannually on
27 July 1 and January 1 of each year using, at a minimum, the most
28 recent available three-quarter average CMS [centers for medicare and
29 medicaid services] quality data.

30 (j) Beginning July 1, 2017, the percentage of short-stay
31 residents who newly received an antipsychotic medication must be
32 added as a quality measure. The department must determine the quality
33 incentive thresholds for this quality measure in a manner consistent
34 with those outlined in (b) through (h) of this subsection using the
35 centers for medicare and medicaid services quality data.

36 (k) Beginning July 1, 2017, the percentage of direct care staff
37 turnover must be added as a quality measure using the centers for
38 medicare and medicaid services' payroll-based journal and nursing
39 home facility payroll data. Turnover is defined as an employee
40 departure. The department must determine the quality incentive

1 thresholds for this quality measure using data from the centers for
2 medicare and medicaid services' payroll-based journal, unless such
3 data is not available, in which case the department shall use direct
4 care staffing turnover data from the most recent medicaid cost
5 report.

6 (7) Reimbursement of the safety net assessment imposed by chapter
7 74.48 RCW and paid in relation to medicaid residents must be
8 continued.

9 (8) The direct care and indirect care components must be rebased
10 in even-numbered years, beginning with rates paid on July 1, 2016.
11 Rates paid on July 1, 2016, must be based on the 2014 calendar year
12 cost report. On a percentage basis, after rebasing, the department
13 must confirm that the statewide average daily rate has increased at
14 least as much as the average rate of inflation, as determined by the
15 skilled nursing facility market basket index published by the centers
16 for medicare and medicaid services, or a comparable index. If after
17 rebasing, the percentage increase to the statewide average daily rate
18 is less than the average rate of inflation for the same time period,
19 the department is authorized to increase rates by the difference
20 between the percentage increase after rebasing and the average rate
21 of inflation.

22 (9) The direct care component provided in subsection (3) of this
23 section is subject to the reconciliation and settlement process
24 provided in RCW 74.46.022(6). Beginning July 1, 2016, pursuant to
25 rules established by the department, funds that are received through
26 the reconciliation and settlement process provided in RCW
27 74.46.022(6) must be used for technical assistance, specialized
28 training, or an increase to the quality enhancement established in
29 subsection (6) of this section. The legislature intends to review the
30 utility of maintaining the reconciliation and settlement process
31 under a price-based payment methodology, and may discontinue the
32 reconciliation and settlement process after the 2017-2019 fiscal
33 biennium.

34 (10) Compared to the rate in effect June 30, 2016, including all
35 cost components and rate add-ons, no facility may receive a rate
36 reduction of more than one percent on July 1, 2016, more than two
37 percent on July 1, 2017, or more than five percent on July 1, 2018.
38 To ensure that the appropriation for nursing homes remains cost
39 neutral, the department is authorized to cap the rate increase for
40 facilities in fiscal years 2017, 2018, and 2019.

1 NEW SECTION. **Sec. 3.** If specific funding for the purpose of
2 this act, referencing the act by bill or chapter number, is not
3 provided by June 30, 2017, in the omnibus appropriations act, this
4 act is null and void."

5 Correct the title.

EFFECT: Caps the direct care portion of the nursing home payment rate at 118 percent of allowable costs unless the nursing home is below minimum staffing standards. Makes the bill null and void unless specific funding is provided in the budget.

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