

HOUSE BILL REPORT

HB 1304

As Reported by House Committee On:
Early Learning & Human Services

Title: An act relating to individuals receiving both employment and community access services.

Brief Description: Concerning individuals receiving both employment and community access services.

Sponsors: Representatives Kilduff, Muri, Gregerson, Kagi, Jinkins, Santos, Young and Stambaugh.

Brief History:

Committee Activity:

Early Learning & Human Services: 1/25/17, 2/17/17 [DPS].

Brief Summary of Substitute Bill

- Establishes a two-year pilot program in which the Developmental Disability Administration selects two counties that would allow high acuity clients to access both employment and community access services and new clients who are not high acuity to receive either employment or community access services without engaging in employment services for nine months.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kagi, Chair; Senn, Vice Chair; Dent, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Frame, Goodman, Griffey, Kilduff, Klippert, Lovick, McCaslin, Muri and Ortiz-Self.

Staff: Luke Wickham (786-7146).

Background:

[Developmental Disabilities Administration.](#)

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.

The Department of Social and Health Services' (DSHS) Developmental Disability Administration (DDA) assists individuals with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs.

While some DDA clients live in Residential Habilitation Centers, an institutional setting, most clients live in the community.

Home and Community Based Services (HCBS) waivers are designed to allow clients who live in community settings to receive the same level of services that he or she would receive in an institutional setting. The DDA offers services under four Medicaid HCBS waivers. To be eligible for a HCBS waiver, the individual must:

- have a qualifying developmental disability;
- meet the intermediate care facility for individuals with an intellectual disability level of care;
- have a disability according to criteria established in the Social Security Act;
- meet financial eligibility criteria;
- choose to receive services in the community rather than in an intermediate care facility;
- have an Individual Support Plan showing how the individual's health, safety, and habilitation needs can be met in the community with a monthly waiver service;
- not be residing in a hospital, jail, prison, nursing facility, intermediate care facility, or other institution; and
- meet additional criteria for the Children's Intensive In-Home Behavioral Support Program.

The services provided to clients are designed to promote everyday activities, routines, and relationships common to most citizens, and they include employment services and community access services, which are contracted with counties.

Employment and Community Access Services.

Employment services provide ongoing support services and training for eligible persons in a variety of settings and work sites. These include individual supported employment, group supported employment, prevocational services, and preemployment services.

Community access services assist individuals to participate in activities that promote individualized skill development, independent living, and community integration.

Since 2004 the DDA has had in place a policy that did not authorize services for clients aged 21 through 61 if those services did not emphasize the pursuit or maintenance of employment in integrated settings. For an adult over age 21, but younger than age 62, no community access services were available unless the DSHS granted an exception to its policy.

In 2011 the DDA modified its policy to allow services that do not emphasize the pursuit or maintenance of employment in integrated settings when the client has demonstrated that he or she has pursued employment for at least nine months through the DDA without satisfaction.

In 2012 the Legislature enacted Substitute Senate Bill 6384, which:

- required that the DDA allow clients to transfer from employment services to community access services after nine months of enrollment;
 - does not allow clients to enroll in both community access and employment services at one time; and
 - required the DDA to establish rules for exceptions to the rule that clients enroll in employment services for nine months before transferring to community access services.
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Summary of Substitute Bill:

The DDA shall select two counties, one from each side of the Cascades, for a two-year pilot program that allows: (1) clients identified as high acuity to access both community access and employment services; and (2) clients beginning to receive services for the first time who are not high acuity to receive either community access or employment services without nine months of employment services.

The DDA must submit a report to the Governor and the Legislature by December 1, 2018, that includes: (1) the number of individuals who select employment, community access, or both services; (2) the average number of client hours authorized and received for those services; and (3) the average cost per hour for both services.

Substitute Bill Compared to Original Bill:

The substitute bill replaces the underlying bill with a two county, two-year pilot program and report developed by the DDA.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 17, 2017.

Effective Date of Substitute Bill: 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 would be a tectonic shift in the way that services are provided for individuals with developmental disability services. With the employment first policy, what happened was that most people had nothing. After 13 years, 78 percent of individuals with developmental disabilities are not employed. Sixty-eight percent of individuals with developmental disabilities are living with their families. Because so few individuals with developmental disabilities are employed, other family members are working. Individuals with developmental disabilities have a wide range of needs. Seventy-eight percent of individuals with developmental disabilities are at home without services. This bill is not driving people out of work. This bill is about providing a spectrum of options for a spectrum

of people. Many families are told that the only option is working toward a paid and unsupported position.

Employment is valued, and it is important to support loved ones in their efforts toward employment. A "one size fits all" philosophy does not work and does not fit the individual person-centered case planning process. Community partners support allowing both services for clients of the DDA. Retaining the nine-month employment requirement would be fine so long as those individuals could access both community access and employment services. Language could be considered regarding up to 20 hours of community access participation.

According to the DDA, one hour of employment at minimum wage meets the definition of employment. The choices of employment continue to narrow, prevocational services are going away, and group-supported employment is no longer as prevalent. Many individuals have their needs best met in a group-supported employment setting. To fulfill the Center for Medicare and Medicaid Services person-centered philosophy, individuals should have more service options.

Employment vendors begin working with individuals during their last year of high school. Many DDA clients receive services for around six hours per week. It is up to a family to fill the rest of the hours in a week.

When you force individuals with developmental disabilities into uncomfortable settings, the results are bad. For some, this "one size fits all" policy works out. However, many individuals do not fit into that box.

A person-centered approach allows an individual to select from a "cafeteria style" menu instead of providing an "either-or" choice. It is not fair to give individuals a choice of remaining at their two-hour-per-week job or getting community access services.

For many families caring for individuals with developmental disabilities, family members are struggling to remain employed so that they can keep their family member at home instead of in an institutional setting. Ironically, the focus for many of these services is on supporting the employment of the individual with the developmental disability. States with successful employment services must have service alternatives to employment.

(Opposed) Despite dedicating significant efforts toward employment, many individuals with developmental disabilities remain underemployed. Access to more than one service is currently not allowed. There are negligible hours provided to most families. Many family members are the primary caregivers for individuals with developmental disabilities. New waiver services are provided to the individuals who are most capable of working but not to everyone. It is important to educate individuals about all of the service options available.

(Other) A lot of individuals with developmental disabilities are seeking employment and could also use community access services. A lot of times, after working hard all day, individuals with developmental disabilities want to go out into the community. Individuals with developmental disabilities should have access to both employment and community access services. However, the employment first policy should remain in the law. Individuals

with developmental disabilities should be expected to work. Individuals with developmental disabilities should be able to work and play.

Employment support providers support the effort to increase community access services. An array of employment and day services should be available to individuals with developmental disabilities. The largest need in employment services is during the first nine months between phase one and phase two of employment services. Community access would enhance the job discovery and preparation for employment. Stakeholders agree that there should be an increase in waiver services. Other states that have an employment first policy provide two services or more, not just one service.

Individuals with developmental disabilities should have access to both employment and community access services. However, individuals with developmental disabilities need to be pushed toward employment. Person-centered planning can be incorporated in the employment search. Employment should still be the first choice.

The employment first policy should remain in statute. Many individuals have been thought to be unemployable but find jobs due to the employment first policy. The Department of Labor has a priority to integrate individuals in community employment options and lauds the employment first policy. The DDA is undergoing a waiver renewal process. The DDA is exploring options in the waiver renewal to allow individuals to access both community access and employment services.

Everyone needs to feel that they are contributing to the world. The employment first initiative raised the bar by allowing individuals with developmental disabilities the opportunity for employment. It is challenging for families to piece together the hours of the day. On a practical level, although providing two services will be costly, it is important to think of which clients should have access to both services. Everyone should be integrated into their local community and have access to the services they enjoy.

Five years ago, the employment first policy was put into law. The nine-month number came from experience that it generally took nine months for individuals with developmental disabilities to gain employment after high school. Every individual should have the opportunity to give employment a shot. Many people don't think that they will be able to work but are able to after being given an opportunity.

The highest growth in employment among those served by DDA are people that may not have had an opportunity to be employed without the employment first policy.

The state contracts with counties to provide services to individuals with developmental disabilities. Removing the nine-month work requirement would remove the opportunity for many individuals to become employed. It is unclear what services will be included in the requirement to provide access to the 20 hours per week in the community.

Persons Testifying: (In support) Representative Kilduff, prime sponsor; Deborah Gill; Francie Peltier; Kelley Nesbitt; Jo Simms; and Loren Freeman, Freeman & Associates.

(Opposed) Arzu Forough, Washington Autism Alliance & Advocacy.

(Other) Ivanova Smith; Marcie Taylor, Community Employment Alliance; Noah Seidel, Self Advocates in Leadership; Margaret-Lee Thompson; Cathy Murahashi, The Arc of King County; Lance Moorehouse, Sherwood Community Services; Becky Bisbee; and Juliana Roe, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.