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HOUSE BILL 2515

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Tharinger, Schmick, Cody, Johnson, Jinkins, Harris, Robinson, Wylie, Pollet, and Ormsby

Read first time 01/10/18. Referred to Committee on Appropriations.

1 AN ACT Relating to updating the medicaid payment methodology for  
2 contracted assisted living, adult residential care, and enhanced  
3 adult residential care; amending RCW 74.39A.030; adding a new section  
4 to chapter 74.39A RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that  
7 Washington state has done an exemplary service for its citizens by  
8 expanding long-term care options for home and community-based  
9 services. Thousands of vulnerable low-income adults and seniors that  
10 would otherwise be in nursing facilities are able to receive the care  
11 they need in their own home, an assisted living unit, or an adult  
12 family home located near their family and friends, religious groups  
13 or other affiliations, and the neighborhoods they are familiar with.  
14 The legislature also recognizes that within the next ten years, the  
15 number of Washingtonians age seventy-one and older will grow by  
16 approximately sixty-three percent and within the next twenty-three  
17 years, this population will be about one hundred twenty percent of  
18 what it is today. In order to maintain and grow the current level of  
19 cost-effective options for long-term care, it is critical to update  
20 state policies including provider payment rates to ensure the  
21 availability of enrolled providers is sufficient to serve the number

1 of beneficiaries who wish to remain within geographic proximity to  
2 their home community.

3 (2) The legislature intends to replace the outdated payment  
4 system with a new methodology that is:

5 (a) Transparent and understandable to the providers and the  
6 public;

7 (b) Aligns payments to client acuity and contractual  
8 requirements; and

9 (c) Is supported by relevant, verifiable, and independent data to  
10 the extent possible.

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

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

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

38 (3)(a) The department shall by rule establish payment rates for  
39 home and community services that support the provision of cost-

1 effective care. Beginning July 1, 2019, the department shall adopt a  
2 data-driven medicaid payment methodology as specified in section 3 of  
3 this act for contracted assisted living, adult residential care, and  
4 enhanced adult residential care. In the event of any conflict between  
5 any such rule and a collective bargaining agreement entered into  
6 under RCW 74.39A.270 and 74.39A.300, the collective bargaining  
7 agreement prevails.

8 (b) The department may authorize an enhanced adult residential  
9 care rate for nursing homes that temporarily or permanently convert  
10 their bed use for the purpose of providing enhanced adult residential  
11 care under chapter 70.38 RCW, when the department determines that  
12 payment of an enhanced rate is cost-effective and necessary to foster  
13 expansion of contracted enhanced adult residential care services. As  
14 an incentive for nursing homes to permanently convert a portion of  
15 its nursing home bed capacity for the purpose of providing enhanced  
16 adult residential care, the department may authorize a supplemental  
17 add-on to the enhanced adult residential care rate.

18 (c) The department may authorize a supplemental assisted living  
19 services rate for up to four years for facilities that convert from  
20 nursing home use and do not retain rights to the converted nursing  
21 home beds under chapter 70.38 RCW, if the department determines that  
22 payment of a supplemental rate is cost-effective and necessary to  
23 foster expansion of contracted assisted living services.

24 NEW SECTION. Sec. 3. A new section is added to chapter 74.39A  
25 RCW to read as follows:

26 (1) The department shall establish in rule a new medicaid payment  
27 system for contracted assisted living, adult residential care, and  
28 enhanced adult residential care. Beginning July 1, 2019, payments for  
29 these contracts must be based on the new methodology. The new payment  
30 system must have these components: Client care, operations, and room  
31 and board.

32 (2) Client care is the labor component of the system and must  
33 include variables to recognize the time and intensity of client care  
34 and services, staff wages, and associated fringe benefits. The wage  
35 variable in the client care component must be adjusted according to  
36 service areas based on labor costs.

37 (a) The time variable is used to weight the client care payment  
38 to client acuity and must be scaled according to the classification  
39 levels utilized in the department's assessment tool. The initial

1 system shall establish a variable for time using the residential care  
2 time study conducted in 2001 and the department's corresponding  
3 estimate of the average staff hours per client by job position.

4 (b) The wage variable shall include recognition of staff  
5 positions needed to perform the functions required by contract,  
6 including nursing services. Data used to establish the wage variable  
7 must be adjusted so that no baseline wage is below the state minimum  
8 in effect at the time of implementation. The wage variable is a  
9 blended wage based on the federal bureau of labor statistics wage  
10 data and the distribution of time according to staff position.  
11 Blended wages are established for each county and then counties are  
12 arrayed from highest to lowest. Service areas are established and the  
13 median blended wage in each service area becomes the wage variable  
14 for all the assigned counties in that service area. The system must  
15 have no less than two service areas, one of which shall be a high  
16 labor cost service area and shall include counties at or above the  
17 ninety-fifth percentile in the array of blended wages.

18 (c) The fringe benefit variable recognizes employee benefits and  
19 payroll taxes. The factor to calculate the percentage of fringe  
20 benefits shall be established using the statewide nursing facility  
21 cost ratio of benefits and payroll taxes to in-house wages.

22 (3) The operations component must recognize costs that are  
23 allowable under federal medicaid rules for the federal matching  
24 percentage. The operations component is calculated at ninety percent  
25 or greater of the statewide median nursing facility costs associated  
26 with the following:

- 27 (a) Supplies;
- 28 (b) Nonlabor administrative expenses;
- 29 (c) Staff education and in-service training; and
- 30 (d) Operational overhead including licenses, insurance, and  
31 business and occupational taxes.

32 (4) The room and board component recognizes costs that do not  
33 qualify for federal financial participation under medicaid rules by  
34 compensating providers for the medicaid client's share of raw food  
35 and shelter costs including expenses related to the physical plant  
36 such as property taxes, property and liability insurance, debt  
37 service, and major capital repairs. The room and board component is  
38 subject to the department's and the Washington state health care  
39 authority's rules related to client financial responsibility.

1 (5) Subsections (2) and (3) of this section establish the rate  
2 for medicaid covered services. Subsection (4) of this section  
3 establishes the rate for nonmedicaid covered services.

4 (6) The rates paid on July 1, 2019, shall be based on data from  
5 the 2016 calendar year, except for the time variable under subsection  
6 (2)(a) of this section. The client care and operations components  
7 must be rebased in even-numbered years. Beginning with rates paid on  
8 July 1, 2020, wages, benefits and taxes, and operations costs shall  
9 be rebased using 2018 data.

10 (7) Beginning July 1, 2020, the room and board component shall be  
11 updated annually subject to the department's and the Washington state  
12 health care authority's rules related to client financial  
13 responsibility.

14 NEW SECTION. **Sec. 4.** By October 30, 2018, the department of  
15 social and health services shall review physical plant contract  
16 requirements for each residential care setting and determine if  
17 adjustments to the room and board component are necessary in order to  
18 reflect the relative differences in costs related to shelter and food  
19 according to each setting. The department shall include in its review  
20 the average level of client resources available by populations served  
21 within each care setting and evaluate any impacts to the state  
22 general fund for lowering or raising the room and board standards  
23 according to each service setting's requirements.

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