HOUSE BILL REPORT
2SSB 6275

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to increasing patient access rights to timely and appropriate postacute care by addressing the medicaid functional assessment and financial eligibility process for medicaid funded long-term services and supports.

Brief Description: Increasing patient access rights to timely and appropriate postacute care.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Cleveland and O'Ban).

Brief History:
Committee Activity:
Health Care & Wellness: 2/26/20, 2/27/20 [DPA].

Brief Summary of Second Substitute Bill
(As Amended by Committee)

- Requires the Department of Social and Health Services (Department) to complete assessments for eligibility for long-term services and supports through Medicaid within 20 days.
- Allows patients, clients, health care providers, hospitals, facilities, and Department case managers to submit requests for additional personal care services through the Department's Exception to Rule Committee.
- Requires several state agencies to conduct reviews on the Department's method for determining staffing levels for assessing eligibility for home and community-based services, and barriers to accessing community alternatives for patients in hospital settings.
- Directs the Health Care Authority and the Department to submit a waiver to the federal government to authorize presumptive eligibility for long-term services and supports.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

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.

Majority Report: Do pass as amended. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Chambers, Chopp, Davis, DeBolt, Harris, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

Staff: Chris Blake (786-7392).

Background:

Long-Term Services and Supports Eligibility Determinations.

Long-term services and supports are for individuals who need assistance with daily living tasks such as bathing, dressing, ambulation, transfers, toileting, medication assistance or administration, personal hygiene, transportation, and other health-related tasks. The Department of Social and Health Services (Department) administers Medicaid funded long-term services and supports to eligible individuals in Washington. For an individual to receive long-term services and supports, they must be determined by the Department to be both functionally and financially eligible. The Department determines functional eligibility using the comprehensive assessment reporting evaluation (CARE) tool. The CARE tool functions as an assessment, service planning, and care coordination tool and is also used to establish the amount of care a client is eligible to receive. Once an individual is determined eligible for long-term services and supports, they have the option to receive services in their home, from a community residential services provider, or in a skilled nursing facility.

Current law requires the Department to work in partnership with hospitals in assisting patients and their families to find long-term services and supports. The Department must not delay hospital discharges but must assist and support the activities of hospital discharge planners. The Department guidelines require a hospital patient's functional assessment to be completed within 30 days of the date of receipt of referral.

Exception to Rule Process.

Current rules authorize Department staff to request an exception to a rule for individual cases when:

- the exception would not contradict a specific provision of federal law or state statute;
- the client's situation differs from the majority;
- it is in the interest of overall economy and the client's welfare; and
- either it increases opportunities for the client to function effectively or the client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment, and the client is at serious risk of institutionalization, or both.

The Department must inform clients within 10 days of deciding not to file, approve, or deny the exception to rule request.

Presumptive Eligibility.

Federal and state law allows participating hospitals, which are Washington State Medicaid providers, to determine eligibility for temporary Medicaid coverage. Those individuals potentially eligible for presumptive eligibility coverage include:

- children up to age 19;
- parents and caretaker relatives;
- adults not receiving Medicare, up to age 65; and
- former foster care children up to age 26.

Summary of Amended Bill:

Functional Assessments of Eligibility for Long-Term Care.

The Department of Social and Health Services (Department) must complete its assessment and determine if a patient is eligible for Medicaid long-term services and supports within 20 business days. If the Department is not able to meet the timelines because of patient-specific circumstances, it must notify the hospital of the reason for the delay, the status of the assessment and eligibility determination, and the expected completion date.

Subject to available funds, the Department must develop specialty contracts that prioritize the transition of long-length-of-stay clients who are unable to be discharged from acute care hospitals because of complex medical and behavioral needs requiring additional supports and funding.

Exception to Rule.

In addition to Department staff, patients, clients, health care providers, hospitals, facilities, and Department case managers may submit requests for additional personal care services to the Department's Exception to Rule Committee. The Exception to Rule Committee must provide the requester with a copy of its final decision and the reason for its decision. The Department must track and make publicly available data regarding exception to rule requests and decisions.

Studies of the Department's Functional Assessment Processes.

The Joint Legislative Audit and Review Committee (JLARC) must review the Department's staffing model and approach for transitioning individuals to eligibility for home and community-based services for patients in an acute care setting. The JLARC must submit its findings to the Office of Financial Management (OFM), the Research and Data Analysis Division (RDA) of the Department, and the appropriate committees of the Legislature by September 1, 2021.

The RDA must prepare a report regarding patients who remain in a hospital setting due to barriers in accessing community alternatives. The RDA must submit its findings to the OFM and the appropriate committees of the Legislature by November 15, 2021. The report must:

- describe the physical and behavioral health, cognitive performance, functional support, and housing needs of the patients;

- identify how the Department's assessment tool describes patients' personal care needs related to behavioral health and cognitive function;
- identify barriers for patients accessing postacute care settings that are not included in the Department's current assessment tool; and
- identify potential types and sources of funding that may be used to transition patients to a postacute care setting.

Presumptive Eligibility Waiver.

By December 31, 2021, the Health Care Authority and the Department must submit a waiver to the federal Department of Health and Human Services to authorize presumptive Medicaid eligibility determinations for clients preparing for acute care hospital discharge who may need long-term services and supports. The agencies must provide opportunities for public comment as the waiver is being developed. Once the waiver is submitted, the agencies must submit a report to the Governor and the appropriate committees of the Legislature describing the request and any necessary statutory changes that it would require.

Amended Bill Compared to Second Substitute Bill:

The amended bill removes the option for hospitals to enter an agreement with the Department of Social and Health Services (Department) to allow them to support the Department's functional assessment responsibilities through the preparation and submission of pre-assessment information for individuals who are hospitalized and likely to need long-term care. The Department's tracking system regarding delays in assessments for hospitalized persons is removed.

The amended bill removes the Washington State Institute for Public Policy review of the Department's assessment tool. The direction to the Department of Health to develop a statewide system for collecting data on difficult-to-discharge hospital patients is eliminated. The Joint Legislative Audit and Review Commission's staffing model study must focus on the transition of individuals to home and community-based services, rather than all eligibility assessments.

The amended bill limits the waiver to the federal government to requesting authorization for presumptive Medicaid eligibility determinations for clients preparing for acute care hospital discharge who may need long-term services and supports, rather than presumptive eligibility for all long-term services and supports.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) There are hundreds of patients in Washington spending thousands of days in hospitals unnecessarily due to complex barriers to discharge such as the aging population, complex patient needs, underfunding of the health system, and holes in the social safety net. Excessive numbers of avoidable hospital days in which a patient is in a bed for a non-medical reason prevents access to acute care beds for other patients in need. Having patients in the hospital longer than necessary puts them at risk for hospital-acquired conditions and causes delays for other patients who need the beds. There is a need to make improvements for patients who need community services after an acute care hospital stay.

The most common reason for placement delay is that the patients are dependent on Medicaid funding which requires an assessment by the Department of Social and Health Services (Department), which usually takes about 14 to 56 days. Hospitals cannot incorporate two weeks to two months into every hospital stay for patients who need to transition into long-term care. Hospitals generally receive no payment while the patient is waiting for this process. If the assessment is inaccurate, the stay at the hospital can be extended by days or weeks. If hospital staff were specially trained on the assessment, they could provide timely and accurate information about the patient's needs since they have direct care staff who know the patient's needs. The pre-assessment in the bill would improve the accuracy of the assessment and speed up the placement of patients in the community. There is no law to prevent the pre-assessment information from being submitted by hospitals, but the bill puts a structure in place and allows the Department to train hospital staff on the assessment tool. Allowing hospitals to do presumptive eligibility could be a game changer to address some of the processes that get in the way of timely patient placements.

This bill improves the exception to rule (ETR) process which is the only way for the Department to consider whether the patient's needs are greater than others with a similar assessment. Currently, an ETR can only be requested by the facility considering accepting the placement and it is sometimes easier for the facility to simply not accept the patient. This bill specifies that hospitals and others may request an ETR and that the Department will tell hospitals the results of the request which will remove the delay of information. This bill will help hospitals get patients to safe and appropriate care in the community.

The bill will help with understanding the issues preventing patients from accessing post-acute care and community resources. There has not been enough data to develop a common understanding of how to address the problem in the system. The most important study is the Department research project that will analyze the barriers to discharge and identify what patients need in order to live better, more productive lives in the community. The statewide data collection system on patients who are difficult to discharge will help the state understand why patients get stuck in hospitals. There needs to be greater transparency and accountability related to the assessment tool.

(Opposed) None.

(Other) This bill creates a large fiscal note around the staff needed to perform eligibility assessments on this compressed timeframe of 10 and 20 days. Federal Medicaid rules are strict about long-term services and supports not being authorized until determinations have been made of both functional eligibility, which requires an assessment, and financial eligibility, which relates to personal resources and assets over five years. These requirements

make determinations for long-term care eligibility stiffer and more narrow than determinations for medical services and behavioral health. The workload model is built to generate staff to meet Medicaid rules that allow a state 45 days to determine eligibility. The majority of people are moving out of the hospital within 30 days of referral from the hospital to the time of discharge. There is a small, but complicated group of clients who require very complex case planning to find a discharge plan that works. A lot of the bill can be done without statute. The Department already works with hospitals and uses medical records to get a more accurate picture of a client during the assessment. Definitions can vary between the agency and the hospitals, so having an employee to train hospital staff would be a positive thing.

Persons Testifying: (In support) Kim Cummins, MultiCare Health System; Kim Barwell, CHI Franciscan Health; Louise Simpson, University of Washington Medicine; and Zosia Stanley, Washington State Hospital Association.

(Other) Bea Rector, Aging and Long-Term Support Administration—Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.