

# SENATE BILL REPORT

## EHB 1564

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As Passed Senate - Amended, April 15, 2019

**Title:** An act relating to the nursing facility medicaid payment system.

**Brief Description:** Concerning the nursing facility medicaid payment system.

**Sponsors:** Representatives Macri, Schmick, Cody, Tharinger, Jenkins, Kilduff, Appleton and Lekanoff; by request of Department of Social and Health Services.

**Brief History:** Passed House: 3/08/19, 98-0.

**Committee Activity:** Health & Long Term Care: 3/18/19, 3/20/19 [DP-WM, DNP, w/oRec].

Ways & Means: 3/26/19, 4/08/19 [DPA].

**Floor Activity:**

Passed Senate - Amended: 4/15/19, 47-1.

### Brief Summary of Bill (As Amended by Senate)

- Makes technical corrections to the Medicaid nursing home rate methodology.
- Exempts nursing homes operated by the federal Indian Health Service, a tribe, or a tribal organization from the nursing home rate methodology and allows for alternate rates subject to federal approval.
- Prohibits nursing homes with more than 60 licensed beds from including the Director of Nursing Services' hours in the minimum staffing standards calculation of direct care staff hours per resident day.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; O'Ban, Ranking Member; Conway, Frockt, Keiser and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senator Bailey.

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*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.*

**Minority Report:** That it be referred without recommendation.

Signed by Senator Becker.

**Staff:** LeighBeth Merrick (786-7445)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner and Warnick.

**Staff:** Michele Alishahi (786-7433)

**Background:** 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 (DSHS) administers Medicaid funded long-term services and supports to eligible individuals in Washington State. Individuals may receive these services in their home, in an adult day center, in an adult family, in an assisted living facility, or in a nursing home.

There are currently 196 nursing homes licensed in Washington to serve about 9700 Medicaid clients. Nursing homes are licensed by DSHS and provide 24-hour supervised nursing care, personal care, therapies, nutrition management, organized activities, social services, laundry services, and room and board to three or more residents.

Medicaid Rate Methodology for Nursing Homes. The Medicaid nursing home payment system is administered by DSHS. The Medicaid rates in Washington are unique to each facility and reflect the client acuity—sometimes called the case mix—of each facility's residents. In 2015 and 2016, the Legislature modified the nursing home rate methodology. Any Medicaid payments to nursing homes made after June 30, 2016, must be based on the new methodology.

Medicaid payments for nursing home residents are shared by the state and federal governments at the state's Federal Matching Assistance Percentage (FMAP) rate. The current FMAP rate in Washington is 50 percent.

Tribal Nursing Homes. Washington's 29 federally recognized Indian tribes, as well as tribal organizations and the federal Indian Health Service, may operate nursing homes. Currently, only the Confederated Tribes of the Colville Nation operates a nursing home. Tribal nursing homes in Washington are subject to the same Medicaid rate methodology as all other nursing homes. The federal Centers for Medicare and Medicaid Services (CMS) permit alternate or enhanced rates for American Indian/Alaska Native clients in tribal nursing homes. It may also reimburse for such services with 100 percent federal funding rather than at the standard 50 percent.

Nursing Home Minimum Staffing Levels. Nursing homes must meet certain staffing level requirements. The standards require that nursing homes maintain levels of direct care staff that are adequate to provide at least 3.4 hours of direct care per resident per day.

**Summary of Amended Bill:** Numerous technical corrections are made to the nursing home rate methodology statute to clarify terms and modify dates.

Nursing homes operated by the federal Indian Health Service, a tribe, or a tribal organization are exempt from the state's Medicaid nursing home rate methodology, and may be paid at alternate rates subject to CMS approval. DSHS may adopt emergency rules to implement this provision.

Nursing homes with more than 60 licensed beds are prohibited from including the Director of Nursing Services' hours in the minimum staffing standards calculation of direct care staff hours per resident day.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Engrossed House Bill (Health & Long Term Care):** PRO: It is important that the long-term care system is adequately resourced so that it can provide the necessary care. This bill is agency request legislation, and ensures that there is access to nursing home care in rural areas and helps address health disparities. There is one tribal nursing home in the state, and it is struggling to maintain operations under the current Medicaid payment methodology. Tribes are working to keep their elders in their community. By 2030, the number of Native American elders is expected to be two and half times more than it was in 2012. Tribal nursing facilities are rare, but an enhanced rate would allow more tribes to provide nursing home care so that tribal elders can receive care in their community. These nursing homes also create jobs within in the tribe so that tribe members can care for their elders.

**Persons Testifying (Health & Long Term Care):** PRO: Representative Nicole Macri, Prime Sponsor; Michael Moran, Confederated Tribes of the Colville Reservation; Janet Nicholson, Confederated Tribes of the Colville Reservation; Andy Joseph, Confederated Tribes of the Colville Reservation; Bea Rector, DSHS.

**Persons Signed In To Testify But Not Testifying (Health & Long Term Care):** No one.

**Staff Summary of Public Testimony on Engrossed House Bill (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* PRO: Of the state's 29 tribes, Colville is the only one to operate a nursing facility in Washington. This facility is important to the tribal community. It has 44 beds and an average census of 27. At

that level, it is too small to take advantage of economies of scale. Passage of this bill will help sustain the nursing facility and keep tribe members close to home. There is no GFS funding involved in this bill. It captures federal funds and allows better rural healthcare for rural citizens.

We offer a jointly supported amendment to exclude the director of nursing services position from the calculation of minimum staffing for facilities with greater than sixty licensed bed. This will help address industry workforce needs.

**Persons Testifying (Ways & Means):** PRO: Michael Moran, Confederated Tribes of the Colville Reservation; Nick Federici, Service Employees International Union 775; Robin Dale, Washington Healthcare Association; Scott Sigmund, Leading Age Washington; Bea Rector, DSHS.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.