

# SENATE BILL REPORT

## SB 6396

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As of January 29, 2020

**Title:** An act relating to ensuring the continued viability of skilled nursing facilities.

**Brief Description:** Ensuring the continued viability of skilled nursing facilities.

**Sponsors:** Senators O'Ban, Cleveland, Becker, Darneille, Hasegawa and Short.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/27/20.

**Brief Summary of Bill**

- Modifies the skilled nursing facility Medicaid rate methodology so rates are rebased every year rather than every other year.
- Requires the methodology to include an inflationary adjustment for the time between the midpoint of the base year to the midpoint of the rate year using the most recent calendar year average consumer-price index for all urban consumers in the medical expenditure category of nursing homes and adult day services.
- Includes a one-time rebase for the rates paid for the month after the bill is enacted through June 30, 2020.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

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

**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 home, in an assisted living facility, or in a skilled nursing facility (SNF).

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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.*

There are approximately 200 licensed SNFs in Washington to serve about 9,400 Medicaid clients per month. SNFs 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

Skilled Nursing Facility Medicaid Rate Methodology. The Medicaid SNF payment methodology is administered by DSHS. The Medicaid rates in Washington are unique to each facility and reflect the client acuity of each SNF's residents. In 2015, the Legislature established a new methodology for SNF payment rates. The methodology consists of three primary components: direct care, indirect care, and capital. The direct care component includes nursing and related care provided to residents, such as food, laundry, and dietary services. The indirect care rate component includes administrative expenses, maintenance costs, tax reimbursements, and housekeeping services.

Rates are based on cost reports submitted by SNFs to DSHS at the end of each calendar year. The direct and indirect care rate components are rebased in odd-numbered state fiscal years using cost reports submitted by nursing facilities for the period two calendar years previous. For example, rates will be rebased in fiscal year (FY) 2021 using calendar year 2018 cost reports. These rates will remain in effect through FY 2022 until rates are rebased again in FY 2023 using calendar year 2020 cost reports.

If, after rebasing, the percentage increase in the statewide average daily rate is less than the average rate of inflation, as determined by the skilled nursing facility market basket index published by the Centers for Medicare & Medicaid Services, DSHS is authorized to further increase rates to match the average rate of inflation. For example, if DSHS saw a 2.0 percent growth in direct and indirect care costs but a 4.8 percent rate of inflation, it would be authorized to increase the rate by an additional 2.8 percent. DSHS has never had to exercise this authority. While this allows DSHS to ensure that rates at least match the current rate of inflation, the methodology does not include a step of bringing costs from the cost report year up to the current year's dollars.

**Summary of Bill:** Beginning with rates paid on July 1, 2020, the direct and indirect care components must be rebased every year. A one-time rebase must occur for the rates paid for the month after the bill is enacted through June 30, 2020, using 2018 calendar year cost report information.

The direct and indirect components of the base year costs must be adjusted for inflation from the midpoint of the base year to the midpoint of the rate year using the most recent calendar year 12-month average consumer price index for all urban consumers in the medical expenditure category of nursing homes and adult day services as published by the United States Bureau of Labor Statistics.

Any savings as a result of over appropriations associated with the rebase for FY 2021 must be utilized to fund the new methodology.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:** PRO: The on-going inflator is necessary. We do not want to lose anymore SNFs. If anything, we need more SNFs and not less. The annual shortfall between the rates versus the costs is \$116 to \$120. The vast majority of SNFs are operating in the red with negative profit margins due to expenses far exceeding rates. Many of the expenses are unfunded mandates such as increased B&O taxes, minimum wage, and mandatory staffing requirements. This is leading to a large number of SNF closures which have negatively impacted the SNF residents and their families, and the employees. Many of the residents have to be relocated out of their community. An ongoing inflationary factor is critical to ensure rates keep pace with costs. We like the inflationary factors included in this bill and SB 6515, but we prefer the midpoint to midpoint factor used in this bill. We support both this bill and SB 6515 pulling the rebase forward to the month after the bill is passed. This is necessary for the SNFs that are barely hanging on.

**Persons Testifying:** PRO: Senator Steve O'Ban, Prime Sponsor; Robin Dale, Washington Health Care Association; Kate Fiola, EmpRes Health Care; Sandra Hurd, Avamere Health Services; Cliff Sears, McKay Healthcare; Heather Dartt, Martha & Mary; Melanie Smith, Washington State Long Term Care Ombuds Program; Serge Newberry, Five Oaks Healthcare.

**Persons Signed In To Testify But Not Testifying:** No one.