
HOUSE BILL 1535

State of Washington

66th Legislature

2019 Regular Session

By Representatives Schmick, Kilduff, Klippert, and Leavitt

Read first time 01/23/19. Referred to Committee on Human Services & Early Learning.

1 AN ACT Relating to choice in service for individuals eligible to
2 receive employment and day program services; amending RCW 71A.10.015,
3 71A.22.020, and 71A.12.020; reenacting and amending RCW 71A.10.020;
4 adding a new section to chapter 71A.12 RCW; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 71A.10.015 and 1988 c 176 s 101 are each amended to
8 read as follows:

9 (1) The legislature recognizes the capacity of all persons,
10 including those with developmental disabilities, to be personally and
11 socially productive. The legislature finds that the public interest
12 and the interest of individuals with developmental disabilities would
13 best be served by the provision of a broad array of employment and
14 day program services that:

15 (a) Promote active treatment as required by the centers for
16 medicare and medicaid services in 42 C.F.R. Sec. 483.440;

17 (b) Support these persons in the community, as practicable;

18 (c) Include services provided by day training centers, as defined
19 in RCW 71A.22.020; and

20 (d) Ensure autonomy, dignity, and choice.

1 (2) The legislature further recognizes the state's obligation to
2 provide aid to persons with developmental disabilities through a
3 uniform, coordinated system of services (~~((to enable them))~~) based on
4 client choice and the individual's person-centered service plan. The
5 state shall enable persons with developmental disabilities to achieve
6 a greater measure of independence and fulfillment by providing
7 individual choice of service and (~~((to enjoy))~~) enjoyment of all rights
8 and privileges under the Constitution and laws of the United States
9 and the state of Washington.

10 **Sec. 2.** RCW 71A.10.020 and 2014 c 139 s 2 are each reenacted and
11 amended to read as follows:

12 As used in this title, the following terms have the meanings
13 indicated unless the context clearly requires otherwise.

14 (1) "Assessment" means an evaluation is provided by the
15 department to determine:

16 (a) If the individual meets functional and financial criteria for
17 medicaid services; and

18 (b) The individual's support needs for service determination.

19 (2) "Community residential support services," or "community
20 support services," and "in-home services" means one or more of the
21 services listed in RCW 71A.12.040.

22 (3) "Crisis stabilization services" means services provided to
23 persons with developmental disabilities who are experiencing
24 behaviors that jeopardize the safety and stability of their current
25 living situation. Crisis stabilization services include:

26 (a) Temporary intensive services and supports, typically not to
27 exceed sixty days, to prevent psychiatric hospitalization,
28 institutional placement, or other out-of-home placement; and

29 (b) Services designed to stabilize the person and strengthen
30 their current living situation so the person may continue to safely
31 reside in the community during and beyond the crisis period.

32 (4) "Department" means the department of social and health
33 services.

34 (5) "Developmental disability" means a disability attributable to
35 intellectual disability, cerebral palsy, epilepsy, autism, or another
36 neurological or other condition of an individual found by the
37 secretary to be closely related to an intellectual disability or to
38 require treatment similar to that required for individuals with
39 intellectual disabilities, which disability originates before the

1 individual attains age eighteen, which has continued or can be
2 expected to continue indefinitely, and which constitutes a
3 substantial limitation to the individual. By January 1, 1989, the
4 department shall promulgate rules which define neurological or other
5 conditions in a way that is not limited to intelligence quotient
6 scores as the sole determinant of these conditions, and notify the
7 legislature of this action.

8 (6) "Eligible person" means a person who has been found by the
9 secretary under RCW 71A.16.040 to be eligible for services.

10 (7) "Habilitative services" means those services provided by
11 program personnel to assist persons in acquiring and maintaining life
12 skills and to raise their levels of physical, mental, social, and
13 vocational functioning. Habilitative services include education,
14 training for employment, and therapy. This includes services provided
15 by a day training center.

16 (8) "Legal representative" means a parent of a person who is
17 under eighteen years of age, a person's legal guardian, a person's
18 limited guardian when the subject matter is within the scope of the
19 limited guardianship, a person's attorney-at-law, a person's
20 attorney-in-fact, or any other person who is authorized by law to act
21 for another person.

22 (9) "Notice" or "notification" of an action of the secretary
23 means notice in compliance with RCW 71A.10.060.

24 (10) "Residential habilitation center" means a state-operated
25 facility for persons with developmental disabilities governed by
26 chapter 71A.20 RCW.

27 (11) "Respite services" means relief for families and other
28 caregivers of people with disabilities, typically not to exceed
29 ninety days, to include both in-home and out-of-home respite care on
30 an hourly and daily basis, including twenty-four hour care for
31 several consecutive days. Respite care workers provide supervision,
32 companionship, and personal care services temporarily replacing those
33 provided by the primary caregiver of the person with disabilities.
34 Respite care may include other services needed by the client,
35 including medical care which must be provided by a licensed health
36 care practitioner.

37 (12) "Secretary" means the secretary of social and health
38 services or the secretary's designee.

39 (13) "Service" or "services" means services provided by state or
40 local government to carry out this title.

1 (14) "Service request list" means a list of eligible persons who
2 have received an assessment for service determination and their
3 assessment shows that they meet the eligibility requirements for the
4 requested service but were denied access due to funding limits.

5 (15) "State-operated living alternative" means programs for
6 community residential services which may include assistance with
7 activities of daily living, behavioral, habilitative, interpersonal,
8 protective, medical, nursing, and mobility supports to individuals
9 who have been assessed by the department as meeting state and federal
10 requirements for eligibility in home and community-based waiver
11 programs for individuals with developmental disabilities. State-
12 operated living alternatives are operated and staffed with state
13 employees.

14 (16) "Supported living" means community residential services and
15 housing which may include assistance with activities of daily living,
16 behavioral, habilitative, interpersonal, protective, medical,
17 nursing, and mobility supports provided to individuals with
18 disabilities who have been assessed by the department as meeting
19 state and federal requirements for eligibility in home and community-
20 based waiver programs for individuals with developmental
21 disabilities. Supported living services are provided under contracts
22 with private agencies or with individuals who are not state
23 employees.

24 (17) "Vacancy" means an opening at a residential habilitation
25 center, which when filled, would not require the center to exceed its
26 biennially budgeted capacity.

27 (18) "Day training center" has the same meaning as defined in RCW
28 71A.22.020.

29 **Sec. 3.** RCW 71A.22.020 and 1988 c 176 s 802 are each amended to
30 read as follows:

31 As used in this chapter:

32 (1) "Day training center" means a facility equipped, supervised,
33 managed, and operated at least three days per week by any person,
34 association, or corporation on a nonprofit basis for the day-care,
35 treatment, training, and maintenance of persons with developmental
36 disabilities, and approved under this chapter and the standards under
37 rules adopted by the secretary. Services provided by a day training
38 center are habilitative services for the purposes of this title, and

1 may not be considered community access services nor be subject to the
2 nine-month transition period described in RCW 71A.12.290.

3 (2) "Group training home" means a facility equipped, supervised,
4 managed, and operated on a full-time basis by any person,
5 association, or corporation on a nonprofit basis for the full-time
6 care, treatment, training, and maintenance of persons with
7 developmental disabilities, and approved under this chapter and the
8 standards under the rules adopted by the secretary.

9 **Sec. 4.** RCW 71A.12.020 and 1988 c 176 s 202 are each amended to
10 read as follows:

11 (1) To the extent that state, federal, or other funds designated
12 for services to persons with developmental disabilities are
13 available, the secretary shall provide every eligible person with
14 habilitative services suited to the person's needs, regardless of age
15 or degree of developmental disability.

16 (2) The secretary shall provide persons who receive services with
17 the opportunity for integration with nonhandicapped and less
18 handicapped persons to the greatest extent possible.

19 (3) The secretary shall establish minimum standards for
20 habilitative services. Consumers, parents and family members,
21 advocates, service providers, appropriate professionals, and local
22 government agencies shall be involved in the development of the
23 standards.

24 (4) The secretary shall ensure that the needs and choices of each
25 individual receiving employment and day program services are being
26 met through the provision of habilitative services, as defined in RCW
27 71A.10.020, in an appropriate setting based upon the client's person-
28 centered service plan, and appropriate to the client's needs.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.12
30 RCW to read as follows:

31 (1) The department shall work with counties and stakeholders to
32 strengthen and expand services provided by day training centers. This
33 includes seeking funding from federal, local, and private sector
34 sources for these services. Providing day training center services
35 should emphasize choice for the clients so that clients are able to
36 participate in activities that integrate them into their community
37 and support independent living and skills.

1 (2) By July 1, 2019, the department shall amend its state plan
2 and waiver services to include services provided by day training
3 centers that are delivered in settings that are in compliance with
4 the centers for medicare and medicaid services home and community
5 based settings requirements.

6 (3) Subject to the availability of amounts appropriated for this
7 specific purpose, by January 1, 2020, the department shall develop
8 and administer a grant program to provide funding for counties that
9 offer day training center services to eligible clients who are not
10 currently receiving services in employment or day programs. The
11 department must report to the appropriate committees of the
12 legislature on the number of clients served, number of grants
13 awarded, the amount of each grant, the number of monthly hours of
14 services received by each client, and the counties that received
15 grant funding.

16 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of
18 the state government and its existing public institutions, and takes
19 effect immediately.

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