
HOUSE BILL 2597

State of Washington

66th Legislature

2020 Regular Session

By Representatives Robinson, Harris, Macri, J. Johnson, Tharinger, Santos, and Pollet

Read first time 01/16/20. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to increasing patient access rights to timely and
2 appropriate postacute care by addressing the medicaid functional
3 assessment and financial eligibility process for medicaid funded
4 long-term services and supports; amending RCW 74.39A.040; adding a
5 new section to chapter 74.39A RCW; creating new sections; and
6 providing an expiration date.

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

8 **Sec. 1.** RCW 74.39A.040 and 1995 1st sp.s. c 18 s 6 are each
9 amended to read as follows:

10 The department shall work in partnership with hospitals in
11 assisting patients and their families to find and gain timely access
12 to long-term care services of their choice. The department shall not
13 delay hospital discharges but shall assist and support the activities
14 of hospital discharge planners. The department also shall coordinate
15 with home health and hospice agencies whenever appropriate. The role
16 of the department is to assist the hospital and to assist patients
17 and their families in making informed choices by providing
18 information regarding home and community options to individuals who
19 are hospitalized and likely to need long-term care.

20 (1) To the extent of available funds, the department shall assess
21 individuals who:

1 (a) Are medicaid clients, medicaid applicants, or eligible for
2 both medicare and medicaid; and

3 (b) Apply or are likely to apply for admission to a nursing
4 facility.

5 (2) A hospital may, at its option, enter into an agreement with
6 the department to allow the hospital to support the department's
7 functional assessment of eligibility and level of care determination
8 for individuals who are hospitalized and likely to need long-term
9 care.

10 (a) If a hospital and the department enter into such an
11 agreement:

12 (i) The hospital may prepare and submit preassessment information
13 to the department. For purposes of this section, "preassessment
14 information" means information regarding an individual's specific
15 care needs, whether medical, behavioral, or cognitive, and ability to
16 perform activities of daily living; and

17 (ii) The department must take the submitted preassessment
18 information into consideration, and shall to the extent feasible, use
19 the information in completing the functional assessment of an
20 individual discharging from the hospital.

21 (b) The department shall make training on the department's
22 assessment tool and process available for hospital personnel. A
23 hospital employee or contractor who is qualified and has received the
24 department's training is eligible to prepare and submit preassessment
25 information to the department.

26 (c) The individual's medical record must substantiate any
27 preassessment information provided to the department.

28 (d) The department shall complete its assessment and determine a
29 hospitalized individual's eligibility for medicaid funded long-term
30 services and supports no later than ten business days after receipt
31 of preassessment information from a hospital or, if the hospital has
32 not submitted preassessment information, twenty business days after
33 receiving the request for an assessment. If the department is not
34 able to determine eligibility within the relevant timeline in this
35 section due to patient-specific situations beyond the control of the
36 department, the department shall notify the hospital where the
37 patient is located of the specific reason for the delay, the status
38 of the assessment and determination, and the expected completion
39 date. The department shall track and make publicly available data on
40 delays, including the number of and reasons for such delays.

1 (e) This subsection (2) does not impact assessments performed in
2 community settings or case management functions performed by
3 department employees.

4 (3) For individuals who are reasonably expected to become
5 medicaid recipients within one hundred eighty days of admission to a
6 nursing facility, the department shall, to the extent of available
7 funds, offer an assessment and information regarding appropriate in-
8 home and community services.

9 ~~((3))~~ (4) When the department finds, based on assessment, that
10 the individual prefers and could live appropriately and cost-
11 effectively at home or in some other community-based setting, the
12 department shall:

13 (a) Advise the individual that an in-home or other community
14 service is appropriate;

15 (b) Develop, with the individual or the individual's
16 representative, a comprehensive community service plan;

17 (c) Inform the individual regarding the availability of services
18 that could meet the applicant's needs as set forth in the community
19 service plan and explain the cost to the applicant of the available
20 in-home and community services relative to nursing facility care; and

21 (d) Discuss and evaluate the need for ongoing involvement with
22 the individual or the individual's representative.

23 ~~((4))~~ (5) When the department finds, based on assessment, that
24 the individual prefers and needs nursing facility care, the
25 department shall:

26 (a) Advise the individual that nursing facility care is
27 appropriate and inform the individual of the available nursing
28 facility vacancies;

29 (b) If appropriate, advise the individual that the stay in the
30 nursing facility may be short term; and

31 (c) Describe the role of the department in providing nursing
32 facility case management.

33 NEW SECTION. Sec. 2. A new section is added to chapter 74.39A
34 RCW to read as follows:

35 (1) A patient, client, health care provider, hospital, facility,
36 or department case manager may submit a request justifying the need
37 for additional personal care services and an increased daily rate to
38 the department's exception to rule committee.

39 (2) The exception to rule committee shall:

1 (a) Meet no less often than once a week to review requests;

2 (b) Make publicly available the steps involved in receiving,
3 analyzing, and responding to requests; and

4 (c) Provide the requesting person or entity with a copy of its
5 final decision, including whether the request was approved, modified,
6 or denied, and whether or not the individual differed from the
7 majority. The final decision must be made as expeditiously as
8 possible but in no case later than seven business days after the date
9 of the committee meeting at which the committee had the information
10 necessary to make a decision.

11 (3) If the exception to rule committee denies or modifies the
12 request or fails to meet the deadlines established under subsection
13 (2) of this section, the requesting person or entity may request a
14 review by the director of the home and community services division or
15 designee. No later than ten days after receiving the request, the
16 director or designee shall provide the requesting person or entity
17 with a copy of the director's or designee's decision, which must
18 identify the information that was taken into consideration in making
19 the decision.

20 NEW SECTION. **Sec. 3.** (1) The Washington state institute for
21 public policy shall conduct a review of the department of social and
22 health services' tool and process for assessing eligibility for home
23 and community-based services under chapter 74.39A RCW. In conducting
24 the review, the institute shall consult with the department and
25 relevant stakeholders, including the Washington state hospital
26 association, facilities as defined in RCW 74.39A.009, and individual
27 providers as defined in RCW 74.39A.009. No later than November 15,
28 2020, the institute shall submit a report with its findings to the
29 office of financial management, the research and data analysis
30 division of the department of social and health services, and the
31 appropriate committees of the legislature. At a minimum, the report
32 must:

33 (a) Covering a period beginning January 1, 2010, analyze data
34 from the department's assessment tool and other sources to identify
35 trends in:

36 (i) The total number of assessments requested each month;

37 (ii) The average and median length of time to perform each step
38 of the assessment process and to complete assessments, disaggregated
39 by county;

1 (iii) Patients' conditions and identified care needs;

2 (iv) The average rates offered under RCW 74.39A.032 using the
3 assessment tool;

4 (v) The percentage of assessments that have been subject to the
5 exception to rule process, disaggregated by county; and

6 (vi) The results of the exception to rule process, including what
7 percentage of requests are approved, modified, or denied, as well as
8 the reasons why requests are approved or modified, disaggregated by
9 county;

10 (b) Identify the number of full-time equivalent employees needed
11 to complete assessments within the time frames identified in RCW
12 74.39A.040 and the aging and long-term support administration's long-
13 term care manual; and

14 (c) Provide any recommendations for changes to the process or
15 tools used to determine individuals' level of care determination for
16 home and community-based services under chapter 74.39A RCW related to
17 adequately reflecting the impact of patient behaviors in the delivery
18 of long-term services and supports.

19 (2) The research and data analysis division of the department of
20 social and health services, in collaboration with the health care
21 authority, the Washington state hospital association, and other
22 stakeholders, shall prepare a report regarding patients who remain in
23 a hospital setting due to barriers in accessing community
24 alternatives.

25 (a) In preparing the report, the division may use administrative
26 data sources in the integrated client databases maintained by the
27 division. The division will consider information and recommendations
28 produced pursuant to subsection (1) of this section. The Washington
29 state hospital association and hospitals may provide data identifying
30 the target populations for the division to link to its integrated
31 client databases. The division will work with the Washington state
32 hospital association to develop the format hospitals may use in
33 providing the data.

34 (b) The report must, at a minimum:

35 (i) Describe the physical and behavioral health, cognitive
36 performance, functional support, and housing needs of these patients;

37 (ii) Identify how the department's current assessment tool
38 captures patients' personal care needs related to behavioral health
39 and cognitive function;

1 (iii) Identify barriers for patients accessing postacute
2 settings, including funding, services, and supports, that are not
3 captured or accounted for in the department's current assessment tool
4 and identify alternative sources for addressing and resolving the
5 identified barriers; and

6 (iv) Identify the potential types and sources of funding that may
7 be used to transition patients to a postacute care setting.

8 (c) The division shall submit the report to the office of
9 financial management and the appropriate committees of the
10 legislature by November 15, 2021.

11 (3) This section expires January 1, 2022.

12 NEW SECTION. **Sec. 4.** (1) No later than December 31, 2021, the
13 health care authority and the department of social and health
14 services shall submit a waiver request to the federal department of
15 health and human services to authorize presumptive eligibility for
16 long-term services and supports.

17 (2) The authority and the department shall hold ongoing
18 stakeholder discussions as they develop the waiver request and shall
19 provide opportunities for public review and comment as the request is
20 developed.

21 (3) Upon submission of the waiver request, the authority and the
22 department shall submit a report to the governor and the appropriate
23 committees of the legislature describing the request and identifying
24 any statutory changes that may be necessary if the request is
25 approved.

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