**Washington State**
**House of Representatives**
**Office of Program Research**

# BILL ANALYSIS

# Appropriations Committee

# HB 1275

**Brief Description:** Concerning nursing facility medicaid rate rebasing, inflation, and case mix.

**Sponsors:** Representatives Schmick, Macri, Shewmake, Eslick, Hackney, Chambers, Rule, Leavitt, Harris-Talley and Stonier; by request of Department of Social and Health Services.

**Brief Summary of Bill**

- Requires that the direct and indirect care components of the Medicaid nursing facility rate be rebased annually, beginning in fiscal year 2022.
- Requires that nursing homes' calendar year costs be adjusted annually for inflation by the most recent 24-month consumer price index for all urban consumers, as published by the Federal United States Bureau of Labor Statistics.
- Provides the Department of Social and Health Services with flexibility to determine how case mix, which represents the mix of resident needs within a nursing facility, is used to set the direct care component of the Medicaid nursing facility rate.

**Hearing Date:** 1/26/21

**Staff:** Mary Mulholland (786-7391).

**Background:**

Washington's Medicaid program includes long-term care assistance and services provided to low-income individuals. It is administered by the state in compliance with federal laws and

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regulations and is jointly financed by the federal and state government. Clients may be served in their own homes, in community residential settings, or in skilled nursing facilities (nursing facilities).

There are currently 179 Medicaid-contracted nursing facilities licensed in Washington to serve approximately 8,400 Medicaid residents on average per month under the most recent caseload forecast. Nursing facilities are licensed by the Department of Social and Health Services (Department) 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. The Medicaid nursing home payment system is administered by the Department. Medicaid rates in Washington are unique to each facility and reflect the acuity of each facility's residents.

Nursing facility rate methodology

In 2015 the Legislature adopted a new system for establishing nursing facility payment rates, effective July 1, 2016. The system consists of three primary components: direct care, indirect care, and capital. The direct care component represents nursing and related care provided to residents, including 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 nursing facilities to the Department 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 of the previous two calendar years. For example, rates were rebased in fiscal year (FY) 2021, effective July 1, 2020, 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 2019 cost reports.

The rate methodology considers the mix of resident needs in each facility. The Department classifies Medicaid nursing facility residents in various Resource Utilization Groups (RUGs) based on an assessment of each resident's relative use of nursing facility resources.

- The Department uses *all* RUG classifications in a nursing facility, regardless of payor source, to identify the Facility Average Case Mix Index (FACMI). The Department must use the average FACMI over the four calendar year quarters captured in each facility's semi-annual RUG reports to identify the statewide median costs, which are used as the base calculation for each facility's direct care rate component (as part of the rebase in odd-numbered fiscal years described above).

- The Department uses the *Medicaid-only* residents' RUG classifications in a nursing facility to identify the Medicaid Average Case Mix Index (MACMI), which is used to update each facility's direct care rate component in January and July of each year. The MACMI used for these semiannual updates shall be from the six-month period commencing nine months prior to the effective date of each semiannual update. In general, the more high-needs

Medicaid residents in a facility as expressed by RUG classifications captured in the MACMI, the higher the facility's direct care rate.

The Department may revise or update the resident assessment and classification methodology subject to federal requirements.

The federal Centers for Medicaid & Medicare Services (CMS) intends to sunset the use of RUGs for nursing facility residents, although no specific sunset date is defined. Current law does not provide the Department with flexibility to use a system other than RUGs to set the direct care rate component.

2020 Supplemental Operating Budget

The 2020 Supplemental Operating Budget included proviso language that expressed legislative intent to rebase the direct and indirect care components of the nursing facility rate in FY 2022. The proviso language also authorized a one-time adjustment of reported calendar year costs using the 24-month consumer price index (CPI) for all urban consumers, as published by the United States Bureau of Labor Statistics (BLS), effective May 1, 2020, through FY 2021. The Legislature expressed its intent to continue the funding provided in the inflation adjustment as a facility-specific rate add-on starting in FY 2022. Other than the proviso language, there is no authority or requirement in the statutory rate methodology that adjusts reported costs for inflation.

The 2020 Supplemental Operating Budget covers the state fiscal years 2020 and 2021. After FY 2021 ends on June 30, 2021, the Department no longer has statutory authority to rebase rates annually or to provide the inflation adjustment as a facility-specific rate add-on.

As required in the budget proviso, the Department completed an analysis of reported costs versus rates over the 2017 through 2019 period and submitted its report to the Legislature in December 2020. The report identifies gaps ranging from -$112.9 million to -$117.0 million per year between reported costs and rates paid over the 2017-2019 period. The report recommends that an annual rebase and periodic inflation adjustments be added to the nursing facility rate methodology in statute, although it notes that these two methodology changes alone will not completely close the gap between reported costs and rates paid.

**Summary of Bill:**

Beginning in FY 2022, the direct and indirect care rate components must be rebased every year rather than every other year. For example, rates paid in FY 2022 must be rebased using the cost reports submitted by nursing homes for calendar year 2019.

Also beginning in FY 2022, reported calendar year costs must be adjusted annually for inflation on July 1 of each year using the 24-month CPI. The 24-month CPI must be based on the most recently available monthly index published by the BLS that is available at the time of the

Department's rate calculation.

Specific language regarding the time periods from which the FACMI and MACMI are used for direct care rate updates is removed. Instead, the Department must establish a methodology to use the case mix to set the direct care rate component. Additionally, the Department is authorized to revise or update the case mix classification methodology to reflect information made available by the federal government, rather than subject to federal requirements. As a result, the Department has flexibility to determine how the case mix is used to set the direct care rate when CMS sunsets the RUG system and RUG data is no longer available.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.