

SENATE BILL REPORT

HB 1367

As Passed Senate, February 10, 2021

Title: An act relating to revising 2019-2021 fiscal biennium appropriations of state and federal funding for previously implemented medicaid rates and other medicaid expenditures in the developmental disabilities and long-term care programs in response to the COVID-19 pandemic.

Brief Description: Revising 2019-2021 fiscal biennium appropriations of state and federal funding for previously implemented medicaid rates and other medicaid expenditures in the developmental disabilities and long-term care programs in response to the COVID-19 pandemic.

Sponsors: Representatives Ormsby, Bergquist, Ramos, Callan, Gregerson, Simmons, Berry, Sullivan, Leavitt, Kloba, Macri, Ramel and Harris-Talley.

Brief History: Passed House: 2/1/21, 97-0.

Committee Activity: Ways & Means: 2/04/21 [DP].

Floor Activity:

Passed Senate: 2/10/21, 49-0.

Brief Summary of Bill

- Modifies funding sources for certain Medicaid-eligible COVID-19 related expenses incurred in calendar year 2020.
- Attributes funding for these expenses to a combination of the Budget Stabilization Account and federal Medicaid matching funds, rather than the federal Coronavirus Relief Fund (CRF), freeing up CRF for other allowable us

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Lias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Staff: Julie Murray (786-7711)

Background: A two-year biennial operating budget is adopted every odd-numbered year. Supplemental budgets frequently are enacted in each of the following two years after adoption of the biennial budget. Appropriations are made in the biennial and supplemental budgets for the operation of state government and its various agencies and institutions, including higher education, as well as allocations for the funding of K-12 public schools.

On January, 27, 2020, the United States Department of Health and Human Services declared a public health emergency due to the highly contagious and potentially deadly COVID-19 virus. On February 29, 2020, the Governor declared a statewide state of emergency that the COVID-19 outbreak is a public disaster affecting life, health, property and public peace. On March 27, 2020, the federal Coronavirus Aid, Relief, and Economic Security (CARES) act was enacted in response to COVID-19. The CARES act is one of several federal appropriation acts to respond to COVID-19. The CARES act included the Coronavirus Relief Fund (CRF), which provided approximately \$3 billion for Washington state and local government expenses related to the COVID-19 public health emergency. The Legislature was not in session when CRF funding was received and the Governor used the statutory unanticipated receipt (UAR) process to allocate CRF funding to state agencies.

Medicaid is a means-tested entitlement program that finances the delivery of primary and acute medical services as well as long-term services and supports. Medicaid is jointly funded by the federal government and the states. The federal government's share of most Medicaid expenditures is the federal medical assistance percentage (FMAP) and the remainder is the state share. The amount of Washington State's FMAP varies by program. On March 18, 2020, the federal Families First Coronavirus Response Act (FFCRA) was enacted in response to COVID-19. The FFCRA increased the FMAP by 6.2 percentage points, which is referred to as enhanced FMAP, and this enhancement will remain in effect until the end of the quarter in which the public health emergency is deemed to be over. The federal government recently extended the public health emergency to April 21, 2021, which means that enhanced FMAP will be available to the state through June 30, 2021.

Rates paid for services delivered to Medicaid clients through the Aging and Long Term Services and Developmental Disabilities Administrations of the Department of Social and Services (DSHS) are variable and are based on a number of factors, including but not limited to, setting type, geographical location, client acuity, and, in some cases, collective bargaining agreements. Through the statutory UAR process, the Governor allocated a

portion of the CRF funds in calendar year 2020, for enhancements to provider rates and for retainer payments for certain providers who are unable to deliver services to a Medicaid client due to COVID-19. These rate enhancements vary by the service setting, which includes, but is not limited to, skilled nursing facilities; adult family homes, assisted living facilities, supportive living, and other residential settings; and providers who deliver services in a client's home, including individual providers and home care agencies.

Under the original terms of the CARES act, CRF must be used for necessary COVID-19 costs incurred between March 1, 2020, and December 30, 2020. On December 27, 2020, the federal Consolidated Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act was signed into law. Among other things, the CRRSA extended the CRF deadline from December 30, 2020, to December 31, 2021.

The Budget Stabilization Account (BSA) was created by constitutional amendment in 2007. Funds may be appropriated from the BSA only by a three-fifths vote of both houses unless: (1) the estimated employment growth in any fiscal year is less than 1 percent; or (2) for declared disasters, and then only limited to that disaster. The estimated employment growth for fiscal year 2020 and 2021 is less than 1 percent.

Summary of Bill: Certain Medicaid-eligible COVID-19 related rate enhancements and incentive payments for calendar year 2020 are attributed to a combination of the Budget Stabilization Account and federal Medicaid matching funds rather than the CRF. This has the effect of making \$403 million of the CRF funds available for other allowable uses.

Appropriation: The bill contains an appropriation of \$164,260,000 from the Budget Stabilization Account and \$239,380,000 from the General Fund-Federal.

Fiscal Note: Requested on January 23, 2021.

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

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