SENATE BILL REPORT
SB 5103

As of February 16, 2023

Title: An act relating to payment to acute care hospitals for difficult to discharge medicaid patients who do not need acute care but who are waiting in the hospital to be appropriately and timely discharged to postacute and community settings.

Brief Description: Concerning payment to acute care hospitals for difficult to discharge medicaid patients.

Sponsors: Senators Muzzall, Cleveland and Rivers.

Brief History:

Committee Activity: Health & Long Term Care: 1/17/23, 2/07/23 [DPS-WM, w/oRec]. Ways & Means: 2/16/23.

Brief Summary of First Substitute Bill

- Directs the Health Care Authority (HCA) and the Department of Social and Health Services to require or provide payment to the hospital at a rate of $700 per day for any day of a hospital stay for a patient that meets certain qualifications.
- Permits allowable medically necessary services performed for a patient awaiting discharge to be billed by and paid to the hospital separately from the daily rate.
- Directs HCA to adopt rules requiring managed care organizations to establish uniform administrative and review processes for the day rate payment.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5103 be substituted therefor, and the

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substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Holy, Padden, Randall and Van De Wege.

Minority Report: That it be referred without recommendation.

Signed by Senator Dhingra.

Staff: Julie Tran (786-7283)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sandy Stith (786-7710)

Background: The Health Care Authority (HCA) administers the Medicaid program, which is a state-federal program that pays for health care for low-income state residents who meet certain eligibility criteria. Washington's Medicaid program, known as Apple Health, offers a complete medical benefits package, including prescription drug coverage, to eligible families, children under age 19, low-income adults, certain disabled individuals, and pregnant people.

Reimbursement for Inpatient Hospital Stays. HCA pays for the hospital stays of Apple Health enrollees if the attending physician orders admission and the admission and treatment meet coverage standards. Hospital services include emergency room services; hospital room and board, including nursing care; inpatient services, supplies, equipment, and prescription drugs; surgery and anesthesia; diagnostic testing and laboratory work; and radiation and imaging services.

Hospitals may receive an administrative day rate for days of a hospital stay when a client does not meet the medical necessity criteria for acute inpatient care, but is not discharged because:

- an appropriate placement outside the hospital is not available, which is considered a no placement administrative day; or
- the postpartum parent's newborn remains on an inpatient claim for monitoring post-in utero exposure to substances leading to physiologic dependence and continuous care by the postpartum parent is appropriate first-line treatment, which is is considered a newborn administrative day.

HCA pays the administrative day rate to the hospital starting with the date of hospital admission if the admission is solely for a no placement administrative day. The administrative day rate is set annually using the statewide average nursing home rate as of that date. As of November 1, 2022, the current administrative day rate is $338.91.

Summary of Bill (First Substitute): HCA and the Department of Social and Health Services (DSHS) must require or provide payment to the hospital at a rate of $700 per day

for any day of a hospital stay for a patient enrolled in medical assistance, which includes patients receiving home and community services or patients with a Medicaid managed care organization, if the patient:

- does not meet the criteria for acute inpatient level of care;
- meets the criteria for discharge to any appropriate placement including, but not limited to, in a licensed nursing home, a licensed assisted living facility, a licensed adult family home, or a setting which residential services are provided or funded by DSHS Developmental Disabilities Administration, which includes supported living services; and
- is not discharged from the hospital because placement in the appropriate facility as listed above is not available.

Allowable medically necessary services performed during a hospital stay as described in the above-section must be billed by and paid to the hospital separately from the $700 daily rate. The services may include but are not limited to hemodialysis, laboratory charges, and x-rays. Pharmacy services and pharmaceuticals must be billed and paid separately.

These requirements do not alter requirements for inpatient care billing or payment.

HCA and DSHS may adopt, amend, or rescind such administrative rules necessary to facilitate calculation and payment of the amounts, including for clients of Medicaid managed care organizations.

HCA must adopt rules requiring Medicaid managed care organizations to establish specific and uniform administrative and review processes for the payment of the $700 daily rate.

EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Increases Administrative Day Rate from the average skilled nursing facility rate to $700 per day and clarifies that the qualifying patients include patients of a Medicaid managed care organization.
- Adds that allowable medically necessary services performed for a patient awaiting discharge shall be billed by and paid to the hospital separately from the daily rate, which may include, but are not limited to hemodialysis, laboratory charges, and x-rays.
- Clarifies that pharmacy services and pharmaceuticals shall be billed and paid separately.
- Specifies that the requirements for billing and payment for inpatient care remain unchanged.
- Directs HCA to adopt rules requiring managed care organizations to establish uniform administrative and review processes for the day rate payment.
- Replaces “placement” with “discharge” and broadens discharge location to include any appropriate placement location.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: The issue of difficult to discharge patients is substantial across our state. This bill is the first step to begin to remedy this issue and it only highlights one piece of a much larger problem. The real solution is to discharge these patients as soon as they no longer need our services.

This difficult to discharge challenge is a significant driver of the very challenging, unsustainable financial position that hospitals are finding themselves in. This bill increases reimbursements for hospitals that continue to care for these patients. The truth is that Managed care orgs pay less for these patients in the hospitals than they would for these patients in a nursing home setting despite that the costs are significantly higher at hospitals. There is support for investments in post-acute care reimbursements and for process changes needed to dramatically reduce the number of patients in our hospitals who do not need acute medical care.

This bill is a work in progress. The fiscal note is smaller than expected and an amendment has been requested to clarify this.

CON: The opposition today is not saying that there is not a problem to address. This needs a multi-faceted solution, and it is important to not just pass one component in isolation when addressing the difficult to discharge issue. Work should be done on other elements of the issue as well such as increasing funding for the Developmental Disabilities Administration and facilities, guardianship issues, and workforce challenges. It is important for patients to get the right care at the right place at the right time. There are questions about the fiscal note and what that end number should be.

OTHER: Most often, there are no supportive services, no temporary respite services, and no crisis beds for patients with developmental disabilities. There are no resources in the community for these patients. This is an issue because people go to the hospital without a medical need since it is the only place where they can get any services. Please consider additional services and funding in the developmental disabilities service system so patients don't have to stay in the hospital for months without resources and services. There needs to be a focus on preventing people from going into the hospital in the first place.

Persons Testifying (Health & Long Term Care): PRO: Senator Ron Muzzall, Prime

Sponsor; Zosia Stanley, Washington State Hospital Association; Sommer Kleweno-Walley, University of Washington Harborview Medical Center; June Altaras, MultiCare Health System; Jody Disney, LWVWA.

CON: Jennifer Ziegler, Association of Washington Health Care Plans.

OTHER: Betty Schwieterman, Developmental Disabilities Ombuds.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill addresses some of the issues we have with difficult to discharge. Harborview (HMC), for example has 120 of their 413 beds filled with difficult to discharge patients. Spread across the state this is a huge issue. While $338 is the rate, we know that some hospitals have been receiving as low as $200 per administrative bed day. We have heard that the cost to the hospital is between $800 to $1,600 per day, so $700 per day doesn't meet the lowest threshold of what the cost is to these hospitals. The goal is to get more beds available in the community to get people discharged, but in the short term, we need to pay hospitals for the time people are there. This is especially critical for small hospitals. The goal is to get patients placed into the most appropriate care milieu. We believe the need for this would decline over time and is just one piece of the solution. This will also help quantify the hidden cost of these patients over time. This would be more reflective of actual costs, provide more uniformity, and would allow hospitals to bill for services when patients are stuck. The rate is only part of the problem, but it is a big part of the problem. It is bad for the patient to be in the wrong setting. HMC loses $109 million per year. We have a pilot program we think can address this problem. These patients are expensive because they're so difficult.

OTHER: Signed is as "other" because I oppose the conditions that create the need for this bill. The state has failed to create a continuum of care capable of placements for these types of patients. We need to solve the bigger problem of how to care for people with nowhere to go. The DSHS tool doesn't address people who cannot be left alone, 24/7 need clients. This is a multi-faceted problem. We need more than just this bill. We need a range of solutions.

Persons Testifying (Ways & Means): PRO: Senator Ron Muzzall, Prime Sponsor; Katie Kolan, Washington State Hospital Association; Ian Goodhew, University of Washington Medicine.

OTHER: Loren Freeman, Freeman & Associates; Jennifer Ziegler, Association of Washington Health Care Plans.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.