

SENATE BILL REPORT

2SSB 5103

As Amended by House, April 12, 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: Senate Committee on Ways & Means (originally sponsored by 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, 2/23/23 [DP2S].

Floor Activity: Passed Senate: 3/8/23, 49-0.
Passed House: 4/12/23, 97-0.

Brief Summary of Second Substitute Bill

- Requires hospitals to be reimbursed for medical assistance enrollees staying in a hospital when they do not meet inpatient care criteria and are not discharged from the hospital because an appropriate placement is not available.
- Directs the Health Care Authority to adopt rules to identify which health care services must be included in the daily reimbursement rate and which services may be billed separately for patients who are in a hospital and do not meet inpatient criteria.

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

Majority Report: That Second Substitute Senate Bill No. 5103 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

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 Second Substitute Bill: HCA must require or provide payment to the hospital for allowable necessary services performed during a hospital stay for any day of a hospital stay for a patient enrolled in medical assistance 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.

These 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 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 .

Hospitals are required to use existing swing beds or skilled nursing beds prior to billing for additional services if an appropriate bed is available.

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 on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* 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.

EFFECT OF HOUSE AMENDMENT(S):

- Specifies that the requirement that hospitals use swing beds and skilled nursing beds for patients meeting the payment methodology criteria applies to the extent that those services are available.
- Removes the restriction that the payment rates to hospitals be limited to amounts appropriated for patients who no longer require inpatient levels of care, but cannot be discharged due to a lack of an appropriate placement.
- Directs the Health Care Authority to submit a report to the fiscal committees of the Legislature with information about the rate established for hospitals with regard to patients

who are in a hospital and do not meet inpatient levels of care, but are not able to be discharged because there is no appropriate placement available.