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**SUBSTITUTE SENATE BILL 5103**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Muzzall, Cleveland, and Rivers)

READ FIRST TIME 02/08/23.

1           AN ACT Relating to payment to acute care hospitals for difficult  
2 to discharge medicaid patients who do not need acute care but who are  
3 waiting in the hospital to be appropriately and timely discharged to  
4 postacute and community settings; and amending RCW 74.09.520.

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

6           **Sec. 1.** RCW 74.09.520 and 2022 c 255 s 4 are each amended to  
7 read as follows:

8           (1) The term "medical assistance" may include the following care  
9 and services subject to rules adopted by the authority or department:  
10 (a) Inpatient hospital services; (b) outpatient hospital services;  
11 (c) other laboratory and X-ray services; (d) nursing facility  
12 services; (e) physicians' services, which shall include prescribed  
13 medication and instruction on birth control devices; (f) medical  
14 care, or any other type of remedial care as may be established by the  
15 secretary or director; (g) home health care services; (h) private  
16 duty nursing services; (i) dental services; (j) physical and  
17 occupational therapy and related services; (k) prescribed drugs,  
18 dentures, and prosthetic devices; and eyeglasses prescribed by a  
19 physician skilled in diseases of the eye or by an optometrist,  
20 whichever the individual may select; (l) personal care services, as  
21 provided in this section; (m) hospice services; (n) other diagnostic,

1 screening, preventive, and rehabilitative services; and (o) like  
2 services when furnished to a child by a school district in a manner  
3 consistent with the requirements of this chapter. For the purposes of  
4 this section, neither the authority nor the department may cut off  
5 any prescription medications, oxygen supplies, respiratory services,  
6 or other life-sustaining medical services or supplies.

7 "Medical assistance," notwithstanding any other provision of law,  
8 shall not include routine foot care, or dental services delivered by  
9 any health care provider, that are not mandated by Title XIX of the  
10 social security act unless there is a specific appropriation for  
11 these services.

12 (2) The department shall adopt, amend, or rescind such  
13 administrative rules as are necessary to ensure that Title XIX  
14 personal care services are provided to eligible persons in  
15 conformance with federal regulations.

16 (a) These administrative rules shall include financial  
17 eligibility indexed according to the requirements of the social  
18 security act providing for medicaid eligibility.

19 (b) The rules shall require clients be assessed as having a  
20 medical condition requiring assistance with personal care tasks.  
21 Plans of care for clients requiring health-related consultation for  
22 assessment and service planning may be reviewed by a nurse.

23 (c) The department shall determine by rule which clients have a  
24 health-related assessment or service planning need requiring  
25 registered nurse consultation or review. This definition may include  
26 clients that meet indicators or protocols for review, consultation,  
27 or visit.

28 (3) The department shall design and implement a means to assess  
29 the level of functional disability of persons eligible for personal  
30 care services under this section. The personal care services benefit  
31 shall be provided to the extent funding is available according to the  
32 assessed level of functional disability. Any reductions in services  
33 made necessary for funding reasons should be accomplished in a manner  
34 that assures that priority for maintaining services is given to  
35 persons with the greatest need as determined by the assessment of  
36 functional disability.

37 (4) Effective July 1, 1989, the authority shall offer hospice  
38 services in accordance with available funds.

39 (5) For Title XIX personal care services administered by the  
40 department, the department shall contract with area agencies on aging

1 or may contract with a federally recognized Indian tribe under RCW  
2 74.39A.090(3):

3 (a) To provide case management services to individuals receiving  
4 Title XIX personal care services in their own home; and

5 (b) To reassess and reauthorize Title XIX personal care services  
6 or other home and community services as defined in RCW 74.39A.009 in  
7 home or in other settings for individuals consistent with the intent  
8 of this section:

9 (i) Who have been initially authorized by the department to  
10 receive Title XIX personal care services or other home and community  
11 services as defined in RCW 74.39A.009; and

12 (ii) Who, at the time of reassessment and reauthorization, are  
13 receiving such services in their own home.

14 (6) In the event that an area agency on aging or federally  
15 recognized Indian tribe is unwilling to enter into or satisfactorily  
16 fulfill a contract or an individual consumer's need for case  
17 management services will be met through an alternative delivery  
18 system, the department is authorized to:

19 (a) Obtain the services through competitive bid; and

20 (b) Provide the services directly until a qualified contractor  
21 can be found.

22 (7) Subject to the availability of amounts appropriated for this  
23 specific purpose, the authority may offer medicare part D  
24 prescription drug copayment coverage to full benefit dual eligible  
25 beneficiaries.

26 (8) Effective January 1, 2016, the authority shall require  
27 universal screening and provider payment for autism and developmental  
28 delays as recommended by the bright futures guidelines of the  
29 American academy of pediatrics, as they existed on August 27, 2015.  
30 This requirement is subject to the availability of funds.

31 (9) Subject to the availability of amounts appropriated for this  
32 specific purpose, effective January 1, 2018, the authority shall  
33 require provider payment for annual depression screening for youth  
34 ages twelve through eighteen as recommended by the bright futures  
35 guidelines of the American academy of pediatrics, as they existed on  
36 January 1, 2017. Providers may include, but are not limited to,  
37 primary care providers, public health nurses, and other providers in  
38 a clinical setting. This requirement is subject to the availability  
39 of funds appropriated for this specific purpose.

1 (10) Subject to the availability of amounts appropriated for this  
2 specific purpose, effective January 1, 2018, the authority shall  
3 require provider payment for maternal depression screening for  
4 mothers of children ages birth to six months. This requirement is  
5 subject to the availability of funds appropriated for this specific  
6 purpose.

7 (11) Subject to the availability of amounts appropriated for this  
8 specific purpose, the authority shall:

9 (a) Allow otherwise eligible reimbursement for the following  
10 related to mental health assessment and diagnosis of children from  
11 birth through five years of age:

12 (i) Up to five sessions for purposes of intake and assessment, if  
13 necessary;

14 (ii) Assessments in home or community settings, including  
15 reimbursement for provider travel; and

16 (b) Require providers to use the current version of the DC:0-5  
17 diagnostic classification system for mental health assessment and  
18 diagnosis of children from birth through five years of age.

19 (12)(a) Subject to the availability of amounts appropriated for  
20 this specific purpose, the authority and department shall require or  
21 provide payment to the hospital for any day of a hospital stay in  
22 which a patient enrolled in medical assistance, including home and  
23 community services or with a medicaid managed care organization,  
24 under this chapter:

25 (i) Does not meet the criteria for acute inpatient level of care  
26 as defined by the authority;

27 (ii) Meets the criteria for discharge, as defined by the  
28 authority or department, to any appropriate placement including, but  
29 not limited to:

30 (A) A nursing home licensed under chapter 18.51 RCW;

31 (B) An assisted living facility licensed under chapter 18.20 RCW;

32 (C) An adult family home licensed under chapter 70.128 RCW; or

33 (D) A setting in which residential services are provided or  
34 funded by the developmental disabilities administration of the  
35 department, including supported living as defined in RCW 71A.10.020;  
36 and

37 (iii) Is not discharged from the hospital because placement in  
38 the appropriate location described in (a)(ii) of this subsection is  
39 not available.

1 (b) Payment for any stay that meets the criteria described in (a)  
2 of this subsection shall be \$700 per day.

3 (c) Allowable medically necessary services performed during a  
4 stay described in (a) of this subsection shall be billed by and paid  
5 to the hospital separately from the daily rate described in this  
6 subsection. Such services may include but are not limited to  
7 hemodialysis, laboratory charges, and x-rays.

8 (d) Pharmacy services and pharmaceuticals shall be billed and  
9 paid separately.

10 (e) The requirements of this subsection do not alter requirements  
11 for billing or payment for inpatient care.

12 (f) The authority and department shall adopt, amend, or rescind  
13 such administrative rules as necessary to facilitate calculation and  
14 payment of the amounts described in this subsection, including for  
15 clients of medicaid managed care organizations.

16 (g) The authority shall adopt rules requiring medicaid managed  
17 care organizations to establish specific and uniform administrative  
18 and review processes for payment under this subsection.

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