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**SENATE BILL 5372**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Riccelli, Harris, Bateman, Liias, Nobles, and Valdez

AN ACT Relating to creating the medicaid access program; reenacting and amending RCW 43.84.092 and 43.84.092; adding a new chapter to Title 74 RCW; adding a new chapter to Title 48 RCW; creating a new section; providing an effective date; providing an expiration date; providing a contingent expiration date; and declaring an emergency.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter and chapter 48.--- RCW (the new chapter created in section 15 of this act) unless the context clearly requires otherwise.

(1) "Authority" means the Washington state health care authority.

(2) "Commissioner" means the insurance commissioner or his or her designee.

(3) "Covered lives" means all persons residing in Washington state who are covered:

(a) Under a fully insured individual or group health plan issued or delivered in Washington state; or

(b) By a medicaid managed care organization.

(4) "Health carrier" or "carrier" has the same meaning as defined in RCW 48.43.005.

(5) "Health plan" has the same meaning as defined in RCW 48.43.005 and does not include medicare advantage plans established under medicare part C or outpatient prescription drug plans established under medicare part D.

(6) "Medicaid managed care organization" means a managed health care system under contract with the state of Washington to provide services to medicaid enrollees under RCW 74.09.522.

NEW SECTION. **Sec.**  (1) By September 1, 2025, the authority shall submit any state plan amendments or waiver requests to the centers for medicare and medicaid services that are necessary to implement the medicaid access program established in section 6 of this act.

(2) The assessment, collection, and disbursement of funds for this program shall be conditional upon:

(a) Final approval by the centers for medicare and medicaid services of any state plan amendments or waiver requests that are necessary in order to implement the applicable sections of this chapter including, if necessary, waiver of the broad-based or uniformity requirements as specified under section 1903(w)(3)(E) of the federal social security act and 42 C.F.R. Sec. 433.68(e);

(b) To the extent necessary, amendment of contracts between the authority and managed care organizations to implement this chapter; and

(c) Certification by the office of financial management that appropriations have been adopted that fully support the rates established in section 3 of this act for the upcoming fiscal year.

NEW SECTION. **Sec.**  (1) All health carriers and medicaid managed care organizations shall pay an annual covered lives assessment beginning January 1st of the plan year following the approval in section 2(2)(a) of this act as follows:

(a) For assessments due the first plan year:

(i) The authority shall assess a per member per month assessment of $18 per covered life for medicaid managed care organizations; and

(ii) The commissioner shall assess a per member per month assessment of $0.50 per covered life for health carriers.

(b) On or before May 15th of the first plan year of assessments due and on or before May 15th of each subsequent year, the authority shall determine the covered lives assessment at the rate necessary to fund the professional services rate increases in section 6 of this act.

(c) The ratio of the total assessments collected from managed care organizations and health carriers must be set as 36 to one, respectively. Assessments for each calendar year shall be set utilizing the proportion of fully insured to medicaid managed care covered lives from the previous calendar year.

(2) The assessments as applied in subsection (1) of this section are limited to:

(a) The first 3,000,000 member months of fully insured lives per medicaid managed care organization on a per medicaid managed care organization basis; and

(b) The first 3,000,000 member months of fully insured lives per health carrier. For each health carrier, the assessment shall apply to member months of all group health plan lives first, followed by member months of individual health plans lives.

(3) If an assessment against a health carrier or medicaid managed care organization is prohibited by court order, the assessment for the remaining health carriers and medicaid managed care organizations may be adjusted in a manner consistent with subsection (1) of this section to ensure that the assessment amount calculated in subsection (1)(b) of this section will be collected.

(4) The authority shall annually notify, in writing, each medicaid managed care organization of the estimated total assessment and its payment obligation for the upcoming year. The authority shall determine a payment schedule for receipt of assessments under this section in accordance with the medicaid access program rules as defined by the authority. Payment collections may be made no more frequently than quarterly.

(5) Payments from managed care organizations are due to the authority within 45 days of the payment schedule determined under subsection (4) of this section. The authority shall charge interest as defined by RCW 43.17.240, which begins to accrue on the 46th day, on amounts received after the 45-day period. The authority may allow each managed care organization in arrears to submit a payment plan, subject to approval by the authority and initial payment under an approved payment plan.

(6) The authority may abate or defer, in whole or in part, the assessment of a managed care organization if, in the opinion of the authority, payment of the assessment would endanger the ability of the managed care organization to fulfill its contractual obligations under chapter 74.09 RCW. If an assessment against a managed care organization is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other managed care organizations in a manner consistent with the basis for assessments in subsection (1) of this section. The managed care organization receiving such abatement or deferment remains liable to the program for the deficiency plus interest the rate established in RCW 43.17.240. Upon receipt of payment of any abatement or deferment by a managed care organization, the authority shall adjust future assessments made against other managed care organizations under this subsection to reflect receipt of the payment.

(7) The authority shall deposit annual assessments and interest collected under this section with the state treasurer to the credit of the medicaid access program account created in section 5 of this act.

(8) Managed care organizations shall submit any annual statements or other reports deemed necessary by the authority to calculate the assessment under this section in a manner consistent with the schedule and procedures in accordance with the medicaid access program rules as defined by the authority.

NEW SECTION. **Sec.**  (1) All health carriers and medicaid managed care organizations shall pay an annual covered lives assessment under section 3 of this act.

(2) The commissioner shall assess a per member per month assessment for health carriers pursuant to section 3 of this act.

(3) The commissioner shall annually notify, in writing, each health carrier of the estimated total assessment and its payment obligation for the upcoming year. The commissioner shall determine a payment schedule for receipt of assessments under this section in accordance with the medicaid access program rules established by the authority. Payment collections may be made no more frequently than quarterly.

(4) Payments from health carriers are due to the commissioner within 45 days of the payment schedule determined under subsection (3) of this section. The commissioner shall charge interest as defined by RCW 43.17.240, which begins to accrue on the 46th day, on amounts received after the 45-day period. The commissioner may allow each health carrier in arrears to submit a payment plan, subject to approval by the commissioner and initial payment under an approved payment plan.

(5) The commissioner shall deposit annual assessments and interest collected under this section with the state treasurer to the credit of the medicaid access program account created in section 5 of this act.

(6) Health carriers shall submit any annual statements or other reports deemed necessary by the commissioner for the health care authority to calculate the assessment in a manner consistent with the schedule and procedures in accordance with section 3 of this act.

NEW SECTION. **Sec.**  (1) The medicaid access program account is created in the state treasury. All receipts from the assessments, interest, and penalties collected by the authority and commissioner under sections 3 and 4 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the administration and implementation of the medicaid access program as established in section 6 of this act.

(2) Disbursements from the account may be made only:

(a) To make payments to health care providers and managed care organizations;

(b) To medicaid managed care organizations to fund the nonfederal share of increased capitation payments based on their projected assessment obligation established by the medicaid access program and the medicaid managed care rate setting process;

(c) To refund erroneous or excessive payments made by health carriers and medicaid managed care organizations; and

(d) To repay the federal government for any excess payments made to health care providers from the account if the assessments or payment increases set forth by the medicaid access program are deemed out of compliance with federal statutes and regulations in a final determination by a court of competent jurisdiction with all appeals exhausted. In such a case, the authority may require health care providers receiving excess payments to refund the payments in question to the account. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a health care provider is unable to refund payments, the state shall develop either a payment plan, deduct moneys from future medicaid payments, or both.

NEW SECTION. **Sec.**  (1) The purpose of the medicaid access program is to increase, beginning January 1st of the second plan year after the conditions of section 2 of this act are met, subject to available funds and appropriations from the medicaid access program account, professional services rates covered by medicaid including fee-for-service and managed care up to the corresponding medicare rates as of December 31, 2024, for the same service and site of service. Rates for subsequent years shall be annually adjusted based on the inflation factor using the medicare economic index.

(2) The service categories for the professional services rate increases must include anesthesia, diagnostics, intense outpatient, opioid treatment programs, emergency room, inpatient and outpatient surgery, inpatient visits, low-level behavioral health, maternity services, office and home visits, consults, office administered drugs, and other physician services. If sufficient funds are not available to increase medicaid rates to corresponding medicare rates, the authority may increase medicaid rates to a percentage of corresponding medicare rates, applied uniformly across professional service categories included in this subsection.

NEW SECTION. **Sec.**  Nothing in this act shall be construed to alter the requirements: (1) Under 42 C.F.R. Sec. 438.4 that the rates paid by the state to managed care organizations be actuarially sound; and (2) that the state develop the rates in compliance with standards under 42 C.F.R. Sec. 438.5.

NEW SECTION. **Sec.**  The authority may adopt rules and undertake actions necessary to carry out sections 2, 3, and 6 of this act including, but not limited to, rules prescribing the medicaid access program plan of operations, measures to enforce reporting of covered lives, audits of covered lives reporting, and payment of applicable assessments.

NEW SECTION. **Sec.**  The commissioner may adopt rules and undertake actions necessary to carry out section 4 of this act including, but not limited to, rules prescribing the medicaid access program plan of operations, measures to enforce reporting of covered lives, audits of covered lives reporting, and payment of applicable assessments.

NEW SECTION. **Sec.**  The medicaid access program, health carriers and medicaid managed care organizations assessed by the program, the authority, and employees of the authority are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them for any action or inaction, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties assigned to the program. This section does not prohibit legal actions against the program to enforce the program's statutory or contractual duties or obligations.

NEW SECTION. **Sec.**  The medicaid access program, health carriers and medicaid managed care organizations assessed by the program, the commissioner, the commissioner's representatives, and the commissioner's employees are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them for any action or inaction, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties assigned to the program. This section does not prohibit legal actions against the program to enforce the program's statutory or contractual duties or obligations.

**Sec.**  RCW 43.84.092 and 2024 c 210 s 4 and 2024 c 168 s 12 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the clean fuels credit account, the clean fuels transportation investment account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the opioid abatement settlement account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the family medicine workforce development account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the higher education retirement plan supplemental benefit fund, the Washington student loan account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 5 bridge replacement project account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the medicaid access program account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the reserve officers' relief and pension principal fund, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the second injury fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state hazard mitigation revolving loan account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the JUDY transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tribal opioid prevention and treatment account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec.**  RCW 43.84.092 and 2024 c 210 s 5 and 2024 c 168 s 13 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the clean fuels credit account, the clean fuels transportation investment account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, 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Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  Sections 1 through 3, 5 through 8, and 10 of this act constitute a new chapter in Title 74 RCW.

NEW SECTION. **Sec.**  Sections 4, 9, and 11 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. **Sec.**  The provisions of this act are not severable. In the event that any portion of this act shall have been validly implemented and the entire act is later rendered ineffective, prior assessments and payments under the validly implemented portions shall not be affected.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  This act expires if by January 1, 2027, the federal centers for medicare and medicaid services does not provide final approval of the state plan amendment or waiver requests under section 2 of this act.

NEW SECTION. **Sec.**  Section 12 of this act expires July 1, 2028.

NEW SECTION. **Sec.**  Section 13 of this act takes effect July 1, 2028.

**--- END ---**