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SENATE BILL 5802

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State of Washington

64th Legislature

2015 Regular Session

By Senators Becker and Keiser

1 AN ACT Relating to assisted living payment rates; amending RCW  
2 74.39A.030 and 74.39A.320; creating new sections; providing an  
3 effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds the population of  
6 senior citizens who utilize medicaid home and community-based  
7 long-term care services will more than double over the next few years  
8 and as such the legislature finds the need to maintain an array of  
9 services in all service settings to address this growing population.  
10 Transparency in payment rate methodology for residential providers is  
11 necessary to safeguard against unnecessary utilization of services  
12 and to assure that payments are consistent with efficiency, economy,  
13 and quality of care in accordance with federal requirements for  
14 methods of payment for medicaid service. While the client assessment  
15 and classification system utilized to align payment with client  
16 acuity are established in department rule; the principles and  
17 procedures for provider payments are not found in rule, and are not  
18 transparent to the public or the providers. As such, the baseline  
19 data and payment methodology for publicly funded long-term care  
20 residential services for vulnerable seniors and adults with  
21 disabilities has not been reviewed or updated since 2001. It is the

1 intent of the legislature to outline the fundamental considerations  
2 in the current payment system and to establish a consistent and  
3 transparent practice of reviewing and updating the foundational data  
4 used within the current payment system.

5 **Sec. 2.** RCW 74.39A.030 and 2012 c 10 s 66 are each amended to  
6 read as follows:

7 (1) To the extent of available funding, the department shall  
8 expand cost-effective options for home and community services for  
9 consumers for whom the state participates in the cost of their care.

10 (2) In expanding home and community services, the department  
11 shall: (a) Take full advantage of federal funding available under  
12 Title XVIII and Title XIX of the federal social security act,  
13 including home health, adult day care, waiver options, and state plan  
14 services; and (b) be authorized to use funds available under its  
15 community options program entry system waiver granted under section  
16 1915(c) of the federal social security act to expand the availability  
17 of in-home, adult residential care, adult family homes, enhanced  
18 adult residential care, and assisted living services. By June 30,  
19 1997, the department shall undertake to reduce the nursing home  
20 medicaid census by at least one thousand six hundred by assisting  
21 individuals who would otherwise require nursing facility services to  
22 obtain services of their choice, including assisted living services,  
23 enhanced adult residential care, and other home and community  
24 services. If a resident, or his or her legal representative, objects  
25 to a discharge decision initiated by the department, the resident  
26 shall not be discharged if the resident has been assessed and  
27 determined to require nursing facility services. In contracting with  
28 nursing homes and assisted living facilities for enhanced adult  
29 residential care placements, the department shall not require, by  
30 contract or through other means, structural modifications to existing  
31 building construction.

32 (3)(a) The department shall by rule establish principles and  
33 procedures for payment rates for home and community services (~~that~~  
34 ~~support the provision of cost-effective care~~) based on the client  
35 assessment and classification system established in department rules.  
36 The payment rates must support the provision of cost-effective care  
37 and must be consistent with efficiency, economy, and quality of care  
38 in accordance with federal requirements for methods of payment for

1 medicaid service. The payment rates shall be calculated and modeled  
2 utilizing the following factors:

3 (i) Salary and wage costs shall be based on data published from  
4 the United States bureau of labor and statistics;

5 (ii) Payroll taxes and fringe benefit costs shall be based on  
6 data from the published nursing facility medicaid cost report;

7 (iii) Operational costs shall be based on data from the published  
8 nursing facility medicaid cost reports and shall include relevant  
9 costs including, but not limited to, costs for supplies, utilities,  
10 food, business and operating and sales taxes, and required insurance;

11 (iv) Staff service hours shall be based on the relative resource  
12 differences identified through a time study of direct care time  
13 recorded for care and health related tasks of a statistically valid  
14 sample size of medicaid contracted assisted living facilities as  
15 follows:

16 (A) On or before June 30, 2017, the results of the 2001/2002 time  
17 study shall serve as the benchmark for staff service hours.

18 (B) Beginning July 1, 2015, a new time study shall be conducted  
19 and here to forward shall be updated no less than once every ten  
20 years.

21 (C) Beginning July 1, 2017, the 2015 time study shall serve as  
22 the benchmark for staff service hours;

23 (v) Payment for capital costs shall be based on the fair rental  
24 value for one unit for one day. The base for capital costs shall  
25 include valuation for land, building, and fixed and movable equipment  
26 as follows:

27 (A) The average price per square foot for new assisted living  
28 construction in Washington state based upon data from the marshall  
29 valuation service;

30 (B) Costs for movable equipment based on data from the published  
31 nursing facility medicaid cost report; and

32 (C) Land values as determined by assisted living assessed values  
33 using a calculation that divides the assessed value by size standards  
34 based on the median number of licensed beds by area and occupancy  
35 rates based on a blend of data collected from lenders, developers,  
36 appraisers, and assisted living providers.

37 (b) Effective July 1, 2015, (a)(i), (ii), and (iii) of this  
38 subsection shall be rebased to source data from calendar year 2013,  
39 which shall serve as the basis for rates from July 1, 2015, through  
40 June 30, 2017. Beginning July 1, 2017, source data shall be rebased

1 biennially during every odd-numbered year thereafter using data from  
2 two years prior to the rebase period, so data for calendar year 2015  
3 is used for July 1, 2017, through June 30, 2019, and so forth.

4 (c) If source data identified in (a)(i), (ii), or (iii) of this  
5 subsection is no longer published, the department must substitute  
6 another comparable data source.

7 (d) Payment rates established under this section shall be  
8 calculated based on the median of the data factors required in (a) of  
9 this subsection according to geographical peer groups, and allocated  
10 based on medical, cognitive, behavioral, and personal care needs  
11 according to the client assessment and classification system  
12 established in department rules. An annual adjustment factor may be  
13 applied for economic trends and conditions by a factor provided in  
14 the biennial appropriations act.

15 (e) The current funding rate component is established each fiscal  
16 year to address assisted living facility mandated costs not found in  
17 the base year calculations supporting the established rate components  
18 as calculated per (a), (b), (c), and (d) of this subsection.

19 (f) In the event of any conflict between ((any such rule))  
20 department rules established under this section and a collective  
21 bargaining agreement entered into under RCW 74.39A.270 and  
22 74.39A.300, the collective bargaining agreement prevails.

23 ((+b+)) (g) The department may authorize an enhanced adult  
24 residential care rate for nursing homes that temporarily or  
25 permanently convert their bed use for the purpose of providing  
26 enhanced adult residential care under chapter 70.38 RCW, when the  
27 department determines that payment of an enhanced rate is cost-  
28 effective and necessary to foster expansion of contracted enhanced  
29 adult residential care services. As an incentive for nursing homes to  
30 permanently convert a portion of its nursing home bed capacity for  
31 the purpose of providing enhanced adult residential care, the  
32 department may authorize a supplemental add-on to the enhanced adult  
33 residential care rate.

34 ((+e+)) (h) The department may authorize a supplemental assisted  
35 living services rate for up to four years for facilities that convert  
36 from nursing home use and do not retain rights to the converted  
37 nursing home beds under chapter 70.38 RCW, if the department  
38 determines that payment of a supplemental rate is cost-effective and  
39 necessary to foster expansion of contracted assisted living services.

1        NEW SECTION.        **Sec. 3.**        The department of social and health  
2 services shall conduct a time study of a statistically valid sample  
3 size of assisted living facilities for the level of staff resource  
4 hours required according to the classification groups for client  
5 assessed needs established in department rule. The department of  
6 social and health services shall review the current regional payment  
7 structure of King, metropolitan, and nonmetropolitan counties for  
8 potential revisions due to compression issues with wages and a  
9 cost-of-living comparison. On or before December 15, 2015, the  
10 department shall provide a progress report and a summary of data  
11 collection to relevant legislative committees, the office of  
12 financial management, Washington health care association, and  
13 LeadingAge Washington. The final time study report must be completed  
14 on or before July 1, 2016, and shall be provided to these groups for  
15 review and comment no less than thirty days prior to finalization.

16        **Sec. 4.**        RCW 74.39A.320 and 2012 c 10 s 67 are each amended to  
17 read as follows:

18        (1) To the extent funds are appropriated for this purpose, the  
19 department shall establish a (~~capital add-on rate~~) medicaid access  
20 incentive payment, not less than the July 1, 2005, capital add-on  
21 rate established by the department, for those assisted living  
22 facilities contracting with the department that have a medicaid  
23 occupancy percentage of sixty percent or greater.

24        (2) Effective for July 1, 2006, and for each July 1st  
25 rate-setting period thereafter, the department shall determine the  
26 facility's medicaid occupancy percentage using the last six months'  
27 medicaid resident days from the preceding calendar year divided by  
28 the product of all its licensed assisted living facility beds  
29 irrespective of use, times calendar days for the six-month period.  
30 For the purposes of this section, medicaid resident days include  
31 those clients who are enrolled in a medicaid managed long-term care  
32 program, including but not limited to the program for all inclusive  
33 care and the medicaid integration project.

34        (3) The medicaid occupancy percentage established beginning on  
35 July 1, 2006, and for each July 1st thereafter, shall be used to  
36 determine whether an assisted living facility qualifies for the  
37 (~~capital add-on rate~~) medicaid access incentive payment under this  
38 section. Those facilities that qualify for the (~~capital add-on~~  
39 ~~rate~~) medicaid access incentive payment shall receive the (~~capital~~

1 ~~add-on-rate))~~ medicaid access incentive payment throughout the  
2 applicable fiscal year.

3 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of  
5 the state government and its existing public institutions, and takes  
6 effect July 1, 2015.

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