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HOUSE BILL 1845

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Braddock, Franklin, Prentice, Cantwell, Leonard, Spanel and Wineberry.

Read first time February 12, 1991. Referred to Committee on Health Care.

1            AN ACT Relating to enhancement of community-based long-term care  
2 and support services; amending RCW 74.09.510 and 74.09.700; reenacting  
3 and amending RCW 74.09.520; adding new sections to chapter 74.09 RCW;  
4 adding a new section to chapter 71A.12 RCW; creating new sections;  
5 making appropriations; and providing a contingent effective date.

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

7            NEW SECTION.    **Sec. 1.**            The legislature recognizes that state-  
8 wide implementation of the community-based long-term care secured  
9 benefit program will require three to four years, to allow completion  
10 of necessary coordination with the federal government and sufficient  
11 testing of administrative models. It is the intent of the legislature  
12 that, during the transition from enactment and initial collection of  
13 dedicated community-based long-term care public insurance benefit funds  
14 to state-wide implementation, up to fifty percent of such public  
15 insurance benefit funds be made available for expansion of community-

1 based long-term care and support services, including medicaid services  
2 and other services that support families, communities, individuals, and  
3 agencies providing community-based long-term care and support services  
4 to functionally disabled persons. The legislature further intends that  
5 expenses for model administrative projects, including administration,  
6 monitoring, data collection, and evaluation also be derived from these  
7 public insurance benefit funds. The service expansions authorized by  
8 this act shall be temporary measures pending state-wide implementation  
9 of the community-based long-term care secured benefit program, at which  
10 time such expansions shall be incorporated, in whole or in part, into  
11 the state-wide program.

12 PART I

13 MEDICAID COMMUNITY-BASED LONG-TERM CARE SERVICES

14 EXPANSIONS

15 **Sec. 2.** RCW 74.09.510 and 1989 1st ex.s. c 10 s 8 are each amended  
16 to read as follows:

17 Medical assistance may be provided in accordance with eligibility  
18 requirements established by the department of social and health  
19 services, as defined in the social security Title XIX state plan for  
20 mandatory categorically needy persons and: (1) Individuals who would  
21 be eligible for cash assistance except for their institutional status;  
22 (2) individuals who are under twenty-one years of age, who would be  
23 eligible for aid to families with dependent children, but do not  
24 qualify as dependent children and who are in (a) foster care, (b)  
25 subsidized adoption, (c) an intermediate care facility or an  
26 intermediate care facility for the mentally retarded, or (d) inpatient  
27 psychiatric facilities; (3) the aged, blind, and disabled who: (a)  
28 Receive only a state supplement, or (b) would not be eligible for cash

1 assistance if they were not institutionalized; (4) individuals who  
2 would be eligible for but choose not to receive cash assistance; (5)  
3 individuals who are enrolled in managed health care systems, who have  
4 otherwise lost eligibility for medical assistance, but who have not  
5 completed a current six-month enrollment in a managed health care  
6 system, and who are eligible for federal financial participation under  
7 Title XIX of the social security act; (6) children and pregnant women  
8 allowed by federal statute for whom funding is appropriated; (7)  
9 disabled children eighteen years of age or younger who require a level  
10 of care provided in a hospital, nursing home, or intermediate care  
11 facility for the mentally retarded and can be cared for in the  
12 community for less than the cost of such institutional care, if such a  
13 child would be eligible for medical assistance if he or she were in a  
14 medical institution; and ~~((+7))~~ (8) other individuals eligible for  
15 medical services under RCW 74.09.035 and 74.09.700 for whom federal  
16 financial participation is available under Title XIX of the social  
17 security act.

18 **Sec. 3.** RCW 74.09.520 and 1990 c 33 s 594 and 1990 c 25 s 1 are  
19 each reenacted and amended to read as follows:

20 (1) The term "medical assistance" may include the following care  
21 and services: (a) Inpatient hospital services; (b) outpatient hospital  
22 services; (c) other laboratory and x-ray services; (d) skilled nursing  
23 home services; (e) physicians' services, which shall include prescribed  
24 medication and instruction on birth control devices; (f) medical care,  
25 or any other type of remedial care as may be established by the  
26 secretary; (g) home health care services; (h) private duty nursing  
27 services; (i) dental services; (j) physical therapy and related  
28 services; (k) prescribed drugs, dentures, and prosthetic devices; and  
29 eyeglasses prescribed by a physician skilled in diseases of the eye or

1 by an optometrist, whichever the individual may select; (l) personal  
2 care services, as provided in this section; (m) hospice services; (n)  
3 community-supported living arrangements for developmentally disabled  
4 persons; (o) other diagnostic, screening, preventive, and  
5 rehabilitative services; and ~~((+o))~~ (p) like services when furnished  
6 to a handicapped child by a school district as part of an  
7 individualized education program established pursuant to RCW  
8 28A.155.010 through 28A.155.100. For the purposes of this section, the  
9 department may not cut off any prescription medications, oxygen  
10 supplies, respiratory services, or other life-sustaining medical  
11 services or supplies.

12 "Medical assistance," notwithstanding any other provision of law,  
13 shall not include routine foot care, or dental services delivered by  
14 any health care provider, that are not mandated by Title XIX of the  
15 social security act unless there is a specific appropriation for these  
16 services. Services included in an individualized education program for  
17 a handicapped child under RCW 28A.155.010 through 28A.155.100 shall not  
18 qualify as medical assistance prior to the implementation of the  
19 funding process developed under RCW 74.09.524.

20 (2) The department shall amend the state plan for medical  
21 assistance under Title XIX of the federal social security act to  
22 include personal care services, as defined in 42 C.F.R. 440.170(f), in  
23 the categorically needy program.

24 (3) The department shall adopt, amend, or rescind such  
25 administrative rules as are necessary to ensure that Title XIX personal  
26 care services are provided to eligible persons in conformance with  
27 federal regulations.

28 (a) These administrative rules shall include financial eligibility  
29 indexed according to the requirements of the social security act  
30 providing for medicaid eligibility.

1 (b) The rules shall require clients be assessed as having a medical  
2 condition requiring assistance with personal care tasks. Plans of care  
3 must be approved by a physician and reviewed by a nurse every ninety  
4 days.

5 (4) The department shall design and implement a means to assess the  
6 level of functional disability of persons eligible for personal care  
7 services under this section. The personal care services benefit shall  
8 be provided to the extent funding is available according to the  
9 assessed level of functional disability. Any reductions in services  
10 made necessary for funding reasons should be accomplished in a manner  
11 that assures that priority for maintaining services is given to persons  
12 with the greatest need as determined by the assessment of functional  
13 disability.

14 (5) The department shall report to the appropriate fiscal  
15 committees of the legislature on the utilization and associated costs  
16 of the personal care option under Title XIX of the federal social  
17 security act, as defined in 42 C.F.R. 440.170(f), in the categorically  
18 needy program. This report shall be submitted by January 1, 1990, and  
19 submitted on a yearly basis thereafter.

20 (6) Effective July 1, 1989, the department shall offer hospice  
21 services in accordance with available funds. The department shall  
22 provide a complete accounting of the costs of providing hospice  
23 services under this section by December 20, 1990. The report shall  
24 include an assessment of cost savings which may result by providing  
25 hospice to persons who otherwise would use hospitals, nursing homes, or  
26 more expensive care. The hospice benefit under this section shall  
27 terminate on June 30, 1991, unless extended by the legislature.

28 **Sec. 4.** RCW 74.09.700 and 1989 c 87 s 3 are each amended to read  
29 as follows:

1 (1) To the extent of available funds, medical care may be provided  
2 under the limited casualty program to persons not otherwise eligible  
3 for medical assistance or medical care services who are medically needy  
4 as defined in the social security Title XIX state plan and medical  
5 indigents in accordance with medical eligibility requirements  
6 established by the department. This includes residents of skilled  
7 nursing homes, intermediate care facilities, and intermediate care  
8 facilities for the mentally retarded who are aged, blind, or disabled  
9 as defined in Title XVI of the federal social security act and whose  
10 income exceeds three hundred percent of the federal supplement security  
11 income benefit level.

12 (2) Determination of the amount, scope, and duration of medical  
13 coverage under the limited casualty program shall be the responsibility  
14 of the department, subject to the following:

15 (a) Only inpatient hospital services; outpatient hospital and rural  
16 health clinic services; physicians' and clinic services; prescribed  
17 drugs, dentures, prosthetic devices, and eyeglasses; skilled nursing  
18 home services, intermediate care facility services, and intermediate  
19 care facility services for the mentally retarded; home health services;  
20 other laboratory and x-ray services; rehabilitative services; medically  
21 necessary transportation; and other services for which funds are  
22 specifically provided in the omnibus appropriations act shall be  
23 covered;

24 (b) Personal care and hospice services shall be covered for persons  
25 who are medically needy as defined in the social security Title XIX  
26 state plan;

27 (c) Persons who are medically indigent and are not eligible for a  
28 federal aid program shall satisfy a deductible of not less than one  
29 hundred dollars nor more than five hundred dollars in any twelve-month  
30 period;

1       (~~(e)~~) (d) Medical care services provided to the medically  
2 indigent and received no more than seven days prior to the date of  
3 application shall be retroactively certified and approved for payment  
4 on behalf of a person who was otherwise eligible at the time the  
5 medical services were furnished: PROVIDED, That eligible persons who  
6 fail to apply within the seven-day time period for medical reasons or  
7 other good cause may be retroactively certified and approved for  
8 payment.

9       (3) The department shall establish standards of assistance and  
10 resource and income exemptions. All nonexempt income and resources of  
11 limited casualty program recipients shall be applied against the cost  
12 of their medical care services.

13       NEW SECTION. **Sec. 5.** A new section is added to chapter 74.09 RCW  
14 to read as follows:

15       The department shall make the following changes in the community  
16 options program entry system program waiver, to the extent such changes  
17 are permissible under section 1915(c) of the federal social security  
18 act, to increase that program's ability to meet the community-based  
19 long-term care needs of functionally disabled persons who would  
20 otherwise require nursing-home care:

21       (1) Cover services such as assisted living housing units, adult day  
22 care, respite care, home-delivered meals, home modifications, and  
23 electronic emergency response systems;

24       (2) Change the monthly service expenditure lid so that, in the  
25 aggregate, the cost of services to recipients does not exceed the cost  
26 of nursing-home care, rather than applying such test to each such  
27 individual recipient; and

1 (3) Provide that the personal maintenance costs that are covered  
2 with a recipient's own income are no longer counted against the monthly  
3 service expenditure lid on the cost of their care plan.

4 PART II  
5 COMMUNITY-BASED SERVICES FOR PERSONS  
6 WITH DEVELOPMENTAL DISABILITIES

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 71A.12 RCW  
8 to read as follows:

9 For each developmentally disabled person who is moved from a  
10 residential habilitation center into the community, a biennial amount  
11 adjusted for inflation equivalent to the amount of state funds that  
12 would have been spent to care for that individual in the residential  
13 habilitation center shall be deposited into the secured benefit fund  
14 established pursuant to section 20, chapter ..... (HB 1569), Laws of  
15 1991, to finance long-term care services in the community where the  
16 individual resides.

17 PART III  
18 SOCIAL HEALTH MAINTENANCE ORGANIZATION

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.09 RCW  
20 to read as follows:

21 The department shall make every practicable effort to develop, in  
22 cooperation with one or more health maintenance organizations  
23 registered pursuant to chapter 48.46 RCW, a request for a demonstration  
24 waiver under the federal social security act to establish a social  
25 health maintenance organization.

1 PART IV  
2 APPROPRIATIONS

3 NEW SECTION. **Sec. 8.** The sum of ..... dollars, or as much  
4 thereof as may be necessary, is appropriated for the biennium ending  
5 June 30, 1993, from the secured benefit fund to the department of  
6 social and health services, to carry out this act.

7 DEVELOPMENTAL DISABILITIES

8 (1) Of this amount, eight million dollars is provided solely for  
9 community support and family support services for developmentally  
10 disabled persons being cared for by their families.

11 (2) Of this amount, sixteen million nine hundred thousand dollars  
12 is provided solely for day programs and residential services for three  
13 thousand three hundred developmentally disabled persons on waiting  
14 lists for these services.

15 (3) Of this amount, five million nine hundred thousand dollars is  
16 provided solely for transition services for developmentally disabled  
17 persons leaving special education programs.

18 (4) Of this amount, two million seven hundred thirty thousand  
19 dollars is provided solely for services to six hundred twenty-seven  
20 developmentally disabled infants up to three years old and their  
21 families.

22 (5) Of this amount, seventeen million dollars is provided solely  
23 for increased rates for developmental disabilities day program and  
24 residential providers.

25 MENTAL HEALTH

1 (6) Of this amount, fifteen million dollars is provided solely for  
2 community support services, as defined in chapter 71.24 RCW for  
3 mentally ill persons.

4 (7) Of this amount, fifteen million dollars is provided solely for  
5 increased wages and benefits for mental health clinicians employed by  
6 or contracting with publicly funded mental health providers.

7 OTHER COMMUNITY-BASED SERVICES

8 (8) Of this amount, ..... dollars is provided solely for the  
9 medicaid expansions provided in sections 2 through 5 of this act.

10 (9) Of this amount, five million eight hundred thousand dollars is  
11 provided solely for respite services provided in accordance with  
12 chapter 74.41 RCW.

13 (10) Of this amount, ..... dollars is provided solely for adult  
14 day care and adult day health services.

15 (11) Of this amount, twenty million dollars is provided solely for:

16 (a) Increased wages and benefits to persons providing community-  
17 based long-term care services through the chore program, community  
18 options program entry system (COPES) program, Title XIX personal care  
19 program, and in congregate care facilities and assisted living; and

20 (b) Increased adult family home payment rates.

21 NEW SECTION. **Sec. 9.** This act shall become effective one  
22 hundred eighty days after enactment of the community-based long-term  
23 care secured benefit act, chapter .... (HB 1569), Laws of 1991. If  
24 House Bill No. 1569 is not enacted into law during the 1991 legislative  
25 session, this act shall be null and void.

26 NEW SECTION. **Sec. 10.** If any provision of this act or its  
27 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 11.** Part headings as used in this act do not  
4 constitute any part of the law.