HOUSE BILL REPORT
HB 3202

As Reported by House Committee On:
Ways & Means

Title: An act relating to revising the medicaid nursing facility payment system by moving rebasing to even years, changing the case mix adjustment cycle to six months, establishing pay for performance, adjusting rates based upon rates of direct care staff turnover, and modifying components related to variable return, operations, property, and finance.

Brief Description: Concerning the nursing facility medicaid payment system.

Sponsors: Representative Cody.

Brief History:
Committee Activity:
Ways & Means: 3/8/10, 3/9/10 [DPS].

Brief Summary of Substitute Bill

- Makes a number of changes to nursing home rates.
- Postpones rebasing of nursing home rates for one year and the cycle for rebasing moves to every even-numbered year.
- Raises minimum occupancy in operations, property, and finance components to 92 percent for non-essential community providers, holding facilities with 60 beds or less at 90 percent minimum occupancy and essential community providers at 85 percent minimum occupancy.
- Eliminates the variable return rate component.
- Eliminates bed banking.
- Changes the case mix adjustment cycle to once every six months from once every quarter.
- Reduces the rate on return in the finance component from 8.5 percent to 7.5 percent for tangible assets purchased on or after May 17, 1999.
- Freezes the 2 percent allowance for capital growth.
- Requires the Department of Social and Health Services to establish a pay-for-performance subsidy system and to the extent funds are made available,

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establishes a payment subsidy that will reward facilities with low turnover in direct care staff.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Sullivan, Vice Chair; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew and Seaquist.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Hinkle, Priest, Ross and Schmick.

Staff: Carma Matti-Jackson (786-7140).

Background:

The Washington State Medicaid (Medicaid) program includes long-term care assistance and services provided to low-income individuals. Clients may be served in their own homes, in community residential settings, and in skilled nursing facilities.

There are just over 250 skilled nursing facilities licensed in Washington that provide 24-hour long-term care services for approximately 10,900 Medicaid-eligible clients. The Medicaid nursing home payment system is administered by the Department of Social and Health Services (DSHS). The Medicaid rates in Washington are unique to each facility and are generally based on the facility's costs, occupancy rate, and client acuity (sometimes called the "case mix"). In the biennial appropriations act, the Legislature sets a statewide weighted average Medicaid payment rate, sometimes referred to as the "budget dial." If the actual statewide nursing facility payments exceed the budget dial, the DSHS is required to proportionally adjust downward all nursing facility payment rates to meet the budget dial.

The payment system consists of seven different rate components: direct care, therapy care, support services, operations, property, financing allowance, and variable return.

- The direct care rate component is based on the relative care needs of the residents, also known as "case mix." The minimum data set is reviewed quarterly and adjustments in payments are made based on the patient acuity of the clients being served. Direct care represents around 55 percent of the total nursing facility payment and includes payment for direct care staff wages and benefits, non-prescription medication, and medical supplies.
- The therapy care component includes payments for physical, occupational, and speech therapy.
- The support services component includes payments for food, food preparation, laundry, and housekeeping.
- The operations component includes payment for administrative costs, office supplies, utilities, accounting, minor facility maintenance, and equipment repairs.

- Property and finance rate components pay for facility capital costs. The finance component includes an allowable rate of return on the net book value of a facility's tangible fixed assets of 8.5 percent for assets acquired on or after May 17, 1999, and 10 percent for assets acquired before May 17, 1999. The statute currently allows less than 2 percent per year growth in the capital components of Property and Financing Allowance.
- The variable return rate component does not reimburse specific costs. It is an efficiency incentive provided to nursing facilities that serve residents at the lowest cost. It is calculated based on a percentage of the combined costs of direct care, therapy care, support services, and operations. The facilities with the lowest costs receive the highest dollar amount. The facilities with the highest costs receive the lowest dollar amount.

All rate components except for direct care are subject to minimum occupancy adjustments. Aside from specific cases where a "hold harmless" applies, if a facility does not meet the minimum occupancy requirements, the rates are adjusted downward. Currently, the minimum occupancy requirements in the operations, property, and finance components are 90 percent for all facilities except Essential Community Providers (ECP). The minimum occupancy for ECPs is 85 percent. Under current statute, facilities can reduce the effects of minimum occupancy through bed banking (temporarily reducing the number of patient beds for which they are licensed). Beds can be banked for up to eight years before the facility has to decide whether to renew the Medicaid licensing on them, sell them, or relinquish them.

Regular cost reports are required by the nursing homes. Review is also required. Costs and payments are part of the review. Rates are regularly rebased through this process. The property and finance rate components are rebased annually. All other rate components except for variable return are rebased every odd-numbered year. Variable return rates are currently frozen at the June 30, 2006, level.

Summary of Substitute Bill:

The minimum occupancy in the operations, finance, and property components for non-essential community providers is raised from 90 percent to 92 percent. Facilities with 60 beds or less remain at 90 percent minimum occupancy. Essential community providers would remain at 85 percent minimum occupancy. Bed banking is eliminated.

The case mix adjustment cycle is changed to every six months instead of every quarter. Rebasing is postponed for one year and the cycle for rebasing moves to every even-numbered year. The rebase schedule is thus 2007, 2009, 2012, 2014, 2016, and so on.

The finance component's rate on return for tangible assets purchased on or after May 17, 1999, is reduced from 8.5 percent to 7.5 percent. There are no changes to the rate on return for assets purchased before May 17, 1999. Capital growth is frozen and new capital projects are put on hold.

The variable return component is eliminated.

The DSHS is required to establish a pay for performance supplemental payment structure that provides payment add-ons for high performing facilities. To the extent that funds are appropriated for the purpose, the pay-for-performance structure will include a 1 percent reduction to facilities that have direct care staff turnover above 75 percent and a payment add-on to facilities that maintain direct care staff turnover below 75 percent.

Substitute Bill Compared to Original Bill:

Technical changes are made to provide consistency in the bill. A reference to bed banking is deleted; a reference is added for holding minimum occupancy at 90 percent for nonessential community providers with 60 or fewer beds; and two corrections are made to lineup the case mix adjustment schedule with other places in the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This is a reduction that we will have to work hard to manage, but we can do that. The bill maintains the integrity of the nursing home payment system and supports quality of care while demanding efficiency and economy. It is not a good idea to delay the adjustments for case mix because it will cause a real disconnect from payments and a key principle of the payment system. The direction to implement a pay-for-performance type of system is a good direction that incentives quality of care by rewarding lower turnover of direct care staff. This is a far better measure than survey findings. Surveys only measure minimum standards which are not a measure of quality. Research supports that direct care staff turnover is a key measure of quality of care. A few years ago, this Legislature in a bipartisan effort undertook a reform which is reflected in the payment system we have today. The one element that was not reformed in that process was variable return. Variable return does not make sense in the current system and it is time for this component to be eliminated and for those funds to be put to other purposes such as performance pay. A higher turnover rate equals higher costs and therefore the notion of incentive based on retention is strongly supported. Lower turnover equals higher quality and lower costs.

(In support with concerns) The effort to restore the first fiscal year rates and to fund the second fiscal year rates as close as possible to the current levels is appreciated. Don't eliminate variable return. All but 12 facilities in this state do not receive full reimbursement for direct care costs. These facilities use the flexible variable return funds to cover the difference. Keep the minimum occupancy levels where they are today. Ninety-two percent is just below what a full building would be. It is not a reasonable expectation for the nursing homes to stay at that level all the time. Instead, secure the funding to restore these two things by freezing the case mix adjustments for nine months and forgo the retrospective adjustments. The minimum data set will be upgraded to 3.0 to meet federal requirements and the case mix will be frozen during the nine-month period regardless of the changes in this bill. The state might see lower costs in case mix just on the basis of the way the new data system is set up. The industry will have to live with the new data set anyway which will likely produce lower costs to the state. If you are going to cut the rate for return on investment, just do it for a year rather than permanently so the impacts can be reviewed. Instead of moving forward with a pay-for-performance system, have the department put together a workgroup of providers, residents, and workers to come up with a good performance measure that addresses retention, training, quality of care, and quality of life.

(With concerns) Variable return does not necessarily encourage the right incentive but it is used to offset costs in direct care so it should not be eliminated. The staff turnover incentive is not the right incentive for performance. It picks winners and losers by rewarding those who already have a lot of cash on hand to pay their workers bonuses. The state should put additional funds towards rewarding those who move upward as opposed to rewarding those that are already in a good place.

(Opposed) None.

Persons Testifying: (In support) Deb Murphy, Aging Services of Washington; and Linda Hull, Sisters of Providence.

(In support with concerns) Gary Weeks, Washington Health Care Association.

(With concerns) Nick Federici, Washington United for Quality Nursing Home Care.

Persons Signed In To Testify But Not Testifying: None.