

# HOUSE BILL REPORT

## HB 2359

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### As Reported By House Committee On:

Health Care  
Appropriations

**Title:** An act relating to the nursing facility payment system.

**Brief Description:** Concerning the nursing facility payment rate.

**Sponsors:** Representatives Parlette, Cody, Edmonds, Rockefeller, B. Chandler, Schoesler, Kenney, Conway, McDonald and Van Luven.

### Brief History:

#### Committee Activity:

Health Care: 1/21/00, 2/4/00 [DPS];

Appropriations: 2/7/00, 2/8/00 [DP2S (w/o sub HC)].

#### Brief Summary of Second Substitute Bill

- Restores nursing homes' working capital payment component effective July 1, 2000.
- Permits refunds to nursing homes if the Department of Social and Health Services (DSHS) makes rate reductions greater than necessary to comply with state law in either the capital or non-capital portion of the rate.
- At the end of a fiscal year, if pro-rata reductions were needed for one portion of the rate but not the other, any available funds in the other portion of the rate will be used to mitigate any rate reduction.
- Makes permanent the capital payment system statute which otherwise would expire June 30, 2001.

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HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Democratic Co-Chair; Parlette, Republican Co-Chair; Pflug, Republican Vice Chair; Schual-Berke, Democratic Vice Chair; Alexander; Campbell; Conway; Edmonds; Edwards; Mulliken; Pennington and Ruderman.

**Staff:** Antonio Sanchez (786-7383).

**Background:**

The state purchases, through Medicaid, about two-thirds of all nursing home care delivered in the state. This year the average daily cost, per person, for nursing home care is estimated to be \$118.56.

Nursing Home Rate Setting - The Current Payment System: The Washington nursing home rate refers to the Medicaid payment made to a nursing home operator to care for one person for one day. The Washington nursing home payment system may be characterized as prospective and based on total facility costs and patient acuity. The nursing home payment statute currently directs the department to set (rebase) October 1, 1998, through July 1, 2001, rates based on 1996 costs and to adjust those 1996 costs for inflation by a factor specified in the appropriations act. When setting facilities' July 1, 2001, through June 30, 2004, rates, the department may again be directed to adjust 1999 costs for inflation by a factor specified in the biennial budget. The 1999-2000 biennial budget provided for an adjustment of 2 percent, per year, for all rate components. Facilities who already were receiving a direct care rate in excess of what they would receive under case mix, were allowed to retain the higher rate. That rate was increased by 2 percent rather than 1 percent. Property and financing allowances, which are specific to facilities' investments, are rebased each year.

Multiple Components to the Rate: The rates paid to nursing facilities are based on seven different components. These components include, direct care, operations, support services, therapy care, property, financing allowance and variable return. Each individual facility is paid the lower of their actual cost of providing a component of care, or they are paid up to the ceiling for that component. For the other components, the nursing homes receive their rate. The following is a description of the component rate setting system:

- Direct Care Component: This component is the largest of the seven components, and includes the costs related to the direct provision of nursing and related care including, fringe benefits and payroll taxes for the nursing and related care personnel, and the cost of nursing supplies. The payments made for direct nursing care are tied to the amount of care needed for each individual resident by using a case mix system. Facilities who were paid a higher rate for direct care

services prior to implementation of case mix are allowed to retain that higher rate until June 30, 2002.

- Operations Component: The operations component includes such things as utilities, office supplies, accounting and bookkeeping, minor maintenance, etc.
- Support Services Component: The support services component includes costs relating to food, food preparation, dietary, housekeeping and laundry services.
- Therapy Care Component: The therapy care component includes: physical, speech, occupational, and respiratory therapy and mental health and mental retardation therapy.
- Property Component: The property cost component is calculated by dividing allowable depreciation from the prior year by the greater of a facility's total resident days for the facility in the prior period or resident days as calculated on 85 percent occupancy. Allowable depreciation is based on the estimated economic life of the building according to the American Hospital Depreciation Schedule, but in no case can the life be shorter than 40 years. For example, a building with a 40-year life will be depreciated at one fortieth of its value each year. The property component sunsets June 30, 2001.
- Variable Return Component: This component does not provide reimbursement for a specific nursing home cost. Instead, the variable return cost component is intended to provide an incentive for facilities to operate efficiently, and to allow for a profit. Each facility is paid a rate of 1 percent to 4 percent on the remainder of the rate (excluding property and financing).
- Financing Allowance Component: The financing allowance makes up 5 percent of the total rate and, in combination with the property component, pays for the cost of the building, building improvements and for equipment purchases. The financing allowance is calculated by multiplying net book value (fixed assets minus depreciation) by 10 percent (8.5 percent for assets acquired after July 1, 1999) and dividing by total resident days at the greater of actual resident days or 85 percent occupancy. Prior to July 1, 1999, this component also included an allowance for working capital. The financing allowance component sunsets June 30, 2001.
- Statewide Average Payment Rates (Budget Dial): Under current law, the legislature is directed to set two state wide average payment rates in the biennial budget. The first one covers the capital rate related components (property and financing allowance) and the second one covers all of the non-capital rate related components (including direct care, therapy services, support services, operations and variable return). If the statewide weighted average rate is expected to exceed

the rate(s) established in the budget, the DSHS is directed to reduced rates paid to all providers on a pro-rata basis. If the rate is expected to exceed the level set in the budget for only one portion of the rate (for example capital), the reductions only affect that part of the rate (in this case, the property and financing allowance components. If DSHS implements pro-rata reductions in excess of the amounts needed to stay within the rates established in the budget, there is no clear authority for the DSHS to refund those amounts back to providers.

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**Summary of Substitute Bill:**

Facilities will be paid an allowance for working capital starting July 1, 2000. The average payment for working capital will be approximately \$0.55 per patient day. If the DSHS invokes an across the board rate reduction that exceeds what is necessary to prevent the statewide weighted average rate from exceeding the amount set in the budget, the DSHS is required to refund that amount.

Increases the rate set in the budget for the capital portion of the rate from \$10.36 to \$10.85 per patient day in fiscal year 2000 and from \$10.57 to \$12.00 per patient day in fiscal year 2001. Discontinues the total rate hold harmless provision effective March 30, 2000.

Repeals a provision of current law which would have sunsetted the existing property payment provisions June 30, 2001. By doing so, it makes the property related statutes permanent.

**Substitute Bill Compared to Original Bill:** Funding is provided to increase the property rates paid nursing facilities by a total of approximately \$8.2 million (all funds) in the 1999-2001 biennium. The proposed single statewide payment cap referred to as the combined budget dial is eliminated and separate payment caps are maintained for both the capital and non-capital portions of the rate. The proposed requirement that the state-wide average payment rate specified in the budget be determined by applying the payment rate methodologies and that they allow for a reasonable growth rate in the property and case mix components is eliminated. The proposal to require mandatory annual inflation adjustments for most rate components using the national inflation factor established by the Health Care Finance Administration (HCFA) is removed. The proposal to require the rate paid nursing home facilities under the "direct care hold harmless" provision to increase by 2 percent per year is eliminated. The number of years that a nursing home facility can use to calculate depreciation of its building structure is maintained at 40 years rather than the proposed 30 years. Funding is provided to cancel the prorata reduction in property payments that the department is required to apply on April 1, 1999, under current law.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 12, 2000.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Failing to provide adequate resources to meet the cost of providing high quality care in nursing homes will lead towards a deterioration of the system of care for the frail elderly, disabled, and vulnerable people that need the services. Adequate funding is necessary to make ongoing capital investments. The changes made to the nursing home reimbursement system last year caused some unexpected and unintended consequences resulting in the lowering of reimbursement to some nursing homes this year and into the future. This bill would correct this problem.

**Testimony Against:** It is not in the state budget.

**Testified:** (In support) Jerry Reilly, Washington Health Care Association; Karen Tynes, Washington Association of Housing and Services for the Aging; Chuck Hawley, Sisters of Providence; Brenda Jennings, Providence Mt. St. Vincent; and Bob Howell, CRISTA.

(Oppose) Jim Lochner, Department of Social and Health Services.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care. Signed by 32 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Alexander; Benson; Boldt; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Sump; Tokuda and Wensman.

**Staff:** Dave Johnson (786-7154).

**Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Health Care:** The second substitute bill removes the section that directly amended the operating budget to increase the capital portion of the rate. A provision was added so that at the end of a fiscal year, if pro rata reductions were needed for one portion of the rate but not the other portion of the

rate, any available funds in the other portion of the rate will be used to mitigate the rate reduction.

**Appropriation:** None.

**Fiscal Note:** Requested for the Substitute Bill on February 8, 2000.

**Effective Date of Second Substitute Bill:** Sections 2 and 3 of this act contain an emergency clause and take effect immediately. Section 1 takes effect on July 1, 2000.

**Testimony For:** Washington has one of the best nursing home systems in the country but payment rates have failed to keep pace with costs. The result is that the nursing home system in this state is facing a crisis. Quality of care has begun to decline. This bill helps stabilize the property component of the rate and thus makes an important step. But more help is needed, especially on the issue of wages. Elimination of the total rate hold harmless provision is a good move.

**Testimony Against:** The wage issue needs to be addressed. Facilities are having difficulties finding qualified staff, especially in individual labor markets where competition for employees is fierce. The work force is fragile, as are our clients. Immigration laws, English as a second language, wages benefits and scrutiny of facilities are all problems that nursing home providers are facing. The so-called higher cost facilities need a 2 percent rate increase rather than a 1 percent increase. This was not included in the substitute versions of the bill. The bill does not meet the Department of Social and Health Services' goal of providing cost-effective long term care services. Washington has one of the highest payment rates in the country and this bill only increases the rate. The bill also reverses action taken last session.

**Testified:** (In support with changes) Chuck Hawley, Sisters of Providence; Jerry Reilly, Washington Health Care; Karen Tynes, Washington Association of Homes and Services for the Aging.

(opposed) Jim Lochner, Department of Social and Health Services.