

***Health Care Committee***

***HB 1576***

***Brief Description:*** *Improving the quality of in-home long-term care services provided by state funded individual providers.*

***Sponsors:*** *Representatives Cody (co-prime sponsor), Campbell (co-prime sponsor), Edmonds, Marine, Ruderman, DeBolt, Conway, Boldt, Pennington, Schual-Berke, Darneille, Gombosky, Kagi, Dunshee, Kenney, Talcott and Wood.*

***Brief Summary of Bill***

- *The Governor is given the authority to create the Home Care Quality Authority (HCQA) made up of nine members.*
- *The HCQA recruits and establishes referral lists of qualified in-home care workers to provide services to state funded functionally disabled persons, provides fill-in workers in cases of emergency or for respite care, verifies the qualifications and background of potential workers, provides training opportunities to workers and consumers.*
- *The HCQA is the employer of record of individual providers, and enters into collective bargaining with independent care providers.*
- *Employees are not considered state employees.*
- *Both the state and the HCQA are insulated from liability due to a worker's negligence or intentional harm to a client.*
- *By July 30, 2003, the Joint Legislative Audit and Review Committee is required to conduct a performance review of the HCQA.*

***Hearing Date:*** *2/8/01*

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

***Background:***

## **IN-HOME CARE**

*In-home care services are available through Medicaid to seniors and individuals with disabilities. These individuals are able to remain at home if they receive personal care assistance with tasks such as bathing, ambulating, and meal preparation. Approximately 20,864 clients in Washington State receive Medicaid-funded in-home care services. The number of clients in the in-home care program has increased over 60 percent in the last eight years.*

*According to the Aging and Adult Services Administration, expenditures for personal care services in FY 2001 were \$204.335 million with 50 percent coming from the state general fund. In FY 2001, the average monthly cost per client for in-home services was approximately \$839.28. Individual Providers (IPs) are currently reimbursed at a rate of \$7.18 per hour, and agencies are reimbursed \$12.62 per hour. The program is administered by the Department of Social and Health Services (DSHS) Aging and Adult Services Administration (AASA), and most services are coordinated by 13 Area Agencies on Aging (AAA).*

*There are two types of in-home care delivery options:*

*A client can choose to receive services from a home care agency, which recruits and hires caregivers and is responsible for ensuring a worker is available for the clients scheduled hours.*

*The other option is to use an Individual Provider, a caregiver whose services are funded by the state but who is actually a direct employee of the client. The employer of record is the client. With assistance from the AAA case manager, the client is responsible for hiring, supervising, and finding replacements for the caregiver. Approximately 15,000 individual providers are employed in this state.*

## **QUALIFICATIONS TO BE AN INDIVIDUAL PROVIDER**

*To be an Individual Provider, you must:*

*Be 18 years of age or older;*

*Not be the spouse of the person employing you (unless employed under the Chore Program);*

*Complete and pass the required 22 hours of training.*

*Must have the skills and ability to:*

*Read and understand plans of care.;*

*Understand and communicate spoken information about written plans of care;*

*Complete records;*

*Understand specific directions for providing care;*

*Look for changes in health condition, such as weakness, confusion, or loss of appetite;*

*Identify problem situations and take the necessary action;*

*Respond to emergencies without direct supervision;*

*Do housekeeping such as cooking, laundry, cleaning, etc.;*

*Do personal care tasks for the client, such as bathing, dressing, and toileting;*

*Work independently.*

*The employee must also:*

*Complete a Criminal History Background Check Form. The employer (the client) obtains the results; otherwise this information is private. The client (your employer) uses this information to help decide whether to hire the potential employee.*

*Training*

*All IPs are required to complete either the Fundamentals of Caregiving or Modified Fundamentals of Caregiving course within 120 days after hiring. Fundamentals of Caregiving teaches basic caregiving skills.*

*After successfully completing the fundamentals of caregiving the IP may take the Modified Fundamentals of Caregiving. This class builds on past training and teaches about client rights. After taking either of these classes, the IP must attend 10 hours of approved continuing care giving education each calendar year (between January and December).*

*Client Vulnerability*

*The IP caseload is growing at a faster rate than the agency caseload, which means an increasing percentage of clients are entering the part of the in-home care system that has fewer quality assurance oversight elements in place.*

*According to a recent study on this program by the Joint Legislative Audit and Review Committee (JLARC) IP-served clients score higher on vulnerability indicators than agency-serviced clients.– Why these more vulnerable– clients are more likely to use IPs was not fully apparent. Both personal factors, such as living situations and language skills, and some state policies appear to influence a clients choice– of provider.*

*IP Payment System*

*The JLARC study also found that IPs report working a significantly higher percentage of their authorized hours than do agency workers. While there may be some legitimate reasons for the difference, the limited accountability and controls within the IP payment system were reported as a cause for concern.*

*Who refers the worker to the clients?*

*Currently, no entity is officially responsible for sending a potential worker to a disabled IP client. The disabled IP client is required to find and hire their own workers.*

*How are IP worker complaints handled?*

*The DSHS or the Area Agency on Aging, must respond to complaints on issues that may cause client harm. The department has the ability to suspend the contract of an IP worker if needed. The caseworker can provide suggestions about dealing with workers, however,*

*the client is responsible for the direct oversight and employment of the IP worker.*

## **HISTORY OF IN-HOME CARE**

*Significant changes in Washington States long-term care system have taken place in recent years. In accordance with state policy, alternatives to nursing facilities have been increasing in number and popularity. Among these is of in-home care for frail elderly and disabled persons. Beginning in the 1970s, the AASA began authorizing CHORE services to elderly clients, which provided assistance with daily household tasks such as cooking and cleaning. The AASA first used the IP program to deliver these services, through which independent caregivers contract with the state to provide in-home services to clients. In the late 1970s, the AASA also began contracting with home care agencies to deliver CHORE services.*

*In 1983, the federal Medicaid waiver program COPES (Community Options Program Entry System) was launched to provide low-income, nursing home-eligible, clients with assistance with personal care tasks, thereby enabling them to remain at home rather than be admitted to a nursing facility. In 1990, the state also began participating in the federal Medicaid Personal Care (MPC) program, which provides personal care assistance to elderly, low-income, clients in their homes. The AASA contracted with the AAAs to provide case management and to coordinate the delivery of these services to elderly clients. In 1995, AAA case management responsibilities were expanded to include the younger (under 60) disabled population.*

*These changes in federal and state policy meant that some clients who would previously have been admitted to, or at risk of being placed in, a nursing facility could now receive care at home. This necessitated a change in the type of in-home care required, shifting from more routine household task assistance, to personal care tasks such as physical assistance with ambulating, bathing, and toileting. The amount of daily or weekly assistance needed for in-home care clients also increased.*

*It is important to note that these in-home care services are not medical in nature. While in-home care clients may have multiple medical problems, personal care services are intended to assist clients with compensating for physical and cognitive functional disabilities. There are other programs, such as Home Health, whose purpose it is to provide health care and medical treatments to clients in their homes.*

### **Summary of Bill:**

*The Governor is given the authority to create a new political subdivision of the state called the Home Care Quality Authority– (HCQA). The HCQA is to be made up of nine members appointed by the Governor. Five of the members are to be current or former consumers of home care services. Terms for the members are established. The new public authority is given the following responsibilities:*

*Recruits and establishes referral lists of qualified in-home care workers to provide services to functionally disabled persons authorized to receive medicaid personal care, COPES care, or chore services through an individual provider chosen and supervised*

*by the disabled client;*

*Provides fill-in workers to clients in cases of emergency or when a worker needs time off;*

*Verifies the qualifications and background of potential workers and check to see if workers are not on any abuse or neglect registry;*

*Provides training opportunities for workers and consumers and give preference to the training and employment of recipients of public assistance; and*

*Works with the Department of Social and Health Services and local Area Agencies on Aging to address client complaints.*

*The HCQA is considered the employer of record of individual providers, including collective bargaining purposes. Employees are not considered state employees. Individual providers would not have the right to strike. The current individual provider program system which considers the disabled client and the state as the employer of record is modified and the responsibilities as employer of record are shifted to the HCQA.*

*All disabled clients receiving care assistance through the individual provider program retain their right to select, supervise, and terminate the work of any individual provider providing work to them. However, if all appropriate background checks have been correctly conducted by the HCQA, both the state and the HCQA are insulated from liability due to a workers negligence or intentional harm, whether the worker has been referred by the HCQA or not. Clients are given the option of hiring workers who are not referred to them by the HCQA. The HCQA is allowed to enter into contracts to conduct its operational duties. The state will remain the responsible entity for processing the payroll and unemployment insurance.*

*By July 30, 2003, the Joint Legislative Audit and Review Committee is required to conduct a performance review of the amount of services delivered, client satisfaction, client outcomes, and other issues as determined necessary by the committee. The performance report must contain finding and recommendations regarding the appropriateness of the HCQA assuming responsibilities. The report must be submitted to the Legislature and the Governor by December 1, 2004.*

***Appropriation:*** *None.*

***Fiscal Note:*** *Requested on February 1, 2001.*

***Effective Date:*** *Ninety days after adjournment of session in which bill is passed except for section 10 which takes effect January 1, 2002.*