

# SENATE BILL REPORT

## SB 6777

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As of February 6, 2010

**Title:** An act relating to modifying state payments for in-home care.

**Brief Description:** Modifying state payments for in-home care.

**Sponsors:** Senators Fairley and Parlette.

**Brief History:**

**Committee Activity:** Ways & Means:

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Megan Atkinson (786-7446)

**Background:** Various programs in the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities divisions provide personal care services to elderly or disabled clients who are eligible for publicly funded services. These services may be provided in the client's home by individual providers who contract directly with the DSHS or by agency providers who are employees of a licensed home care agency. The paid provider may be a relative or a household member, although neither the client's spouse nor the parent of a minor child may be a paid provider under most programs. Personal care services include assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores.

A plan of care is developed for each client to determine the services allowed. The client may choose whether to obtain services through an individual provider or an agency provider, but federal law requires the benefits to be the same in amount, duration, and scope under either service option. Currently, family member providers must be individual providers and cannot be compensated as agency providers. However, DSHS can make exceptions to this requirement based on the client's health and safety.

Individual providers who contract with DSHS are compensated at rates established through collective bargaining and funded in the state's operating budget. Agency providers are paid by their employers who are reimbursed by DSHS based on a vendor rate that provides parity with the compensation established for individual providers. By statute DSHS must, in determining the agency vendor rate, use a formula that accounts for:

- wages and fringe benefits;

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- payroll taxes;
- mileage;
- any contributions that the state pays to the Training Partnership (a program to provide training for individual providers); and
- average increases in workers' compensation costs.

In many instances, the care hours for a single client are provided by more than one provider, and in some instances, both a family member individual provider and non-related agency provider provide care to the client.

**Summary of Bill:** Legislative intent is clarified that instances in which a client receiving in-home care services from a family member but does not have the capacity to supervise the provider raises concerns because in those instances the person providing care is essentially supervising themselves. If no other qualified person is willing to accept in writing the responsibilities and obligations of supervising the care provider, then DSHS may pay a home care agency for the care provided by the family member provider.

Qualified person is defined as an individual age 21 or older who is selected by the client or the client's legal representative, meets the DSHS's background check requirements, and does not receive payment from DSHS for providing services to the client.

A person is considered unable to supervise the care provider if so determined by the comprehensive assessment reporting evaluation tool used by the department or if the client's inability to supervise the care provider is certified by the client's treating physician.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.