

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2515

Chapter 225, Laws of 2018

65th Legislature
2018 Regular Session

MEDICAID PAYMENT METHODOLOGY--ASSISTED LIVING FACILITIES

EFFECTIVE DATE: June 7, 2018

Passed by the House February 14, 2018
Yeas 97 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 2, 2018
Yeas 48 Nays 0

KAREN KEISER

President of the Senate

Approved March 22, 2018 4:16 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2515** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 26, 2018

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2515

Passed Legislature - 2018 Regular Session

State of Washington 65th Legislature 2018 Regular Session

By House Appropriations (originally sponsored by Representatives Tharinger, Schmick, Cody, Johnson, Jinkins, Harris, Robinson, Wylie, Pollet, and Ormsby)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to updating the medicaid payment methodology for
2 contracted assisted living, adult residential care, and enhanced
3 adult residential care; amending RCW 74.39A.030; adding a new section
4 to chapter 74.39A RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that
7 Washington state has done an exemplary service for its citizens by
8 expanding long-term care options for home and community-based
9 services. Thousands of vulnerable low-income adults and seniors that
10 would otherwise be in nursing facilities are able to receive the care
11 they need in their own home, an assisted living unit, or an adult
12 family home located near their family and friends, religious groups
13 or other affiliations, and the neighborhoods they are familiar with.
14 The legislature also recognizes that within the next ten years, the
15 number of Washingtonians age seventy-one and older will grow by
16 approximately sixty-three percent and within the next twenty-three
17 years, this population will be about one hundred twenty percent of
18 what it is today. In order to maintain and grow the current level of
19 cost-effective options for long-term care, it is critical to update
20 state policies including provider payment rates to ensure the
21 availability of enrolled providers is sufficient to serve the number

1 of beneficiaries who wish to remain within geographic proximity to
2 their home community.

3 (2) The legislature intends to replace the outdated payment
4 system with a new methodology that is:

5 (a) Transparent and understandable to the providers and the
6 public;

7 (b) Aligns payments to client acuity and contractual
8 requirements; and

9 (c) Is supported by relevant, verifiable, and independent data to
10 the extent possible.

11 **Sec. 2.** RCW 74.39A.030 and 2012 c 10 s 66 are each amended to
12 read as follows:

13 (1) To the extent of available funding, the department shall
14 expand cost-effective options for home and community services for
15 consumers for whom the state participates in the cost of their care.

16 (2) In expanding home and community services, the department
17 shall: (a) Take full advantage of federal funding available under
18 Title XVIII and Title XIX of the federal social security act,
19 including home health, adult day care, waiver options, and state plan
20 services; and (b) be authorized to use funds available under its
21 community options program entry system waiver granted under section
22 1915(c) of the federal social security act to expand the availability
23 of in-home, adult residential care, adult family homes, enhanced
24 adult residential care, and assisted living services. By June 30,
25 1997, the department shall undertake to reduce the nursing home
26 medicaid census by at least one thousand six hundred by assisting
27 individuals who would otherwise require nursing facility services to
28 obtain services of their choice, including assisted living services,
29 enhanced adult residential care, and other home and community
30 services. If a resident, or his or her legal representative, objects
31 to a discharge decision initiated by the department, the resident
32 shall not be discharged if the resident has been assessed and
33 determined to require nursing facility services. In contracting with
34 nursing homes and assisted living facilities for enhanced adult
35 residential care placements, the department shall not require, by
36 contract or through other means, structural modifications to existing
37 building construction.

38 (3)(a) The department shall by rule establish payment rates for
39 home and community services that support the provision of cost-

1 effective care. Beginning July 1, 2019, the department shall adopt a
2 data-driven medicaid payment methodology as specified in section 3 of
3 this act for contracted assisted living, adult residential care, and
4 enhanced adult residential care. In the event of any conflict between
5 any such rule and a collective bargaining agreement entered into
6 under RCW 74.39A.270 and 74.39A.300, the collective bargaining
7 agreement prevails.

8 (b) The department may authorize an enhanced adult residential
9 care rate for nursing homes that temporarily or permanently convert
10 their bed use for the purpose of providing enhanced adult residential
11 care under chapter 70.38 RCW, when the department determines that
12 payment of an enhanced rate is cost-effective and necessary to foster
13 expansion of contracted enhanced adult residential care services. As
14 an incentive for nursing homes to permanently convert a portion of
15 its nursing home bed capacity for the purpose of providing enhanced
16 adult residential care, the department may authorize a supplemental
17 add-on to the enhanced adult residential care rate.

18 (c) The department may authorize a supplemental assisted living
19 services rate for up to four years for facilities that convert from
20 nursing home use and do not retain rights to the converted nursing
21 home beds under chapter 70.38 RCW, if the department determines that
22 payment of a supplemental rate is cost-effective and necessary to
23 foster expansion of contracted assisted living services.

24 NEW SECTION. Sec. 3. A new section is added to chapter 74.39A
25 RCW to read as follows:

26 (1) The department shall establish in rule a new medicaid payment
27 system for contracted assisted living, adult residential care, and
28 enhanced adult residential care. Beginning July 1, 2019, payments for
29 these contracts must be based on the new methodology which must be
30 phased-in to full implementation according to funding made available
31 by the legislature for this purpose. The new payment system must have
32 these components: Client care, operations, and room and board.

33 (2) Client care is the labor component of the system and must
34 include variables to recognize the time and intensity of client care
35 and services, staff wages, and associated fringe benefits. The wage
36 variable in the client care component must be adjusted according to
37 service areas based on labor costs.

38 (a) The time variable is used to weight the client care payment
39 to client acuity and must be scaled according to the classification

1 levels utilized in the department's assessment tool. The initial
2 system shall establish a variable for time using the residential care
3 time study conducted in 2001 and the department's corresponding
4 estimate of the average staff hours per client by job position.

5 (b) The wage variable shall include recognition of staff
6 positions needed to perform the functions required by contract,
7 including nursing services. Data used to establish the wage variable
8 must be adjusted so that no baseline wage is below the state minimum
9 in effect at the time of implementation. The wage variable is a
10 blended wage based on the federal bureau of labor statistics wage
11 data and the distribution of time according to staff position.
12 Blended wages are established for each county and then counties are
13 arrayed from highest to lowest. Service areas are established and the
14 median blended wage in each service area becomes the wage variable
15 for all the assigned counties in that service area. The system must
16 have no less than two service areas, one of which shall be a high
17 labor cost service area and shall include counties at or above the
18 ninety-fifth percentile in the array of blended wages.

19 (c) The fringe benefit variable recognizes employee benefits and
20 payroll taxes. The factor to calculate the percentage of fringe
21 benefits shall be established using the statewide nursing facility
22 cost ratio of benefits and payroll taxes to in-house wages.

23 (3) The operations component must recognize costs that are
24 allowable under federal medicaid rules for the federal matching
25 percentage. The operations component is calculated at ninety percent
26 or greater of the statewide median nursing facility costs associated
27 with the following:

- 28 (a) Supplies;
- 29 (b) Nonlabor administrative expenses;
- 30 (c) Staff education and in-service training; and
- 31 (d) Operational overhead including licenses, insurance, and
32 business and occupational taxes.

33 (4) The room and board component recognizes costs that do not
34 qualify for federal financial participation under medicaid rules by
35 compensating providers for the medicaid client's share of raw food
36 and shelter costs including expenses related to the physical plant
37 such as property taxes, property and liability insurance, debt
38 service, and major capital repairs. The room and board component is
39 subject to the department's and the Washington state health care
40 authority's rules related to client financial responsibility.

1 (5) Subsections (2) and (3) of this section establish the rate
2 for medicaid covered services. Subsection (4) of this section
3 establishes the rate for nonmedicaid covered services.

4 (6) The rates paid on July 1, 2019, shall be based on data from
5 the 2016 calendar year, except for the time variable under subsection
6 (2)(a) of this section. The client care and operations components
7 must be rebased in even-numbered years. Beginning with rates paid on
8 July 1, 2020, wages, benefits and taxes, and operations costs shall
9 be rebased using 2018 data.

10 (7) Beginning July 1, 2020, the room and board component shall be
11 updated annually subject to the department's and the Washington state
12 health care authority's rules related to client financial
13 responsibility.

14 NEW SECTION. **Sec. 4.** By October 30, 2018, the department of
15 social and health services shall review physical plant contract
16 requirements for each residential care setting and determine if
17 adjustments to the room and board component are necessary in order to
18 reflect the relative differences in costs related to shelter and food
19 according to each setting. The department shall include in its review
20 the average level of client resources available by populations served
21 within each care setting and evaluate any impacts to the state
22 general fund for lowering or raising the room and board standards
23 according to each service setting's requirements.

Passed by the House February 14, 2018.

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Approved by the Governor March 22, 2018.

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