

HOUSE BILL REPORT

HB 3013

As Reported by House Committee On: Appropriations

Title: An act relating to making clarifications to the nursing facility medicaid payment system in relation to the use of minimum occupancy in setting cost limits and application of the statewide average payment rate specified in the biennial appropriations act.

Brief Description: Making clarifications to the nursing facility medicaid payment system in relation to the use of minimum occupancy in setting cost limits and application of the statewide average payment rate specified in the biennial appropriations act.

Sponsors: Representatives Cody, Morrell, Kenney and Linville; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Appropriations: 1/30/08, 1/31/08 [DP].

Brief Summary of Bill

- Clarifies that retrospective final orders or final judgments will be paid according to the nursing facility rates that were in effect for the same period of time for which the order or judgment covers.
- Treats the non-capital nursing facility rate components consistently by requiring the minimum occupancy in therapy care and support services to be adjusted prior to setting median cost limits.
- Declares that the enactment of this amendment is meant to be curative, remedial, and retrospective applicable to July 1, 1998.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 22 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 10 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Hinkle, Priest, Ross, Schmick and Walsh.

Staff: Carma Matti (786-7140).

Background:

There are about 224 nursing home facilities in Washington providing long-term care services to approximately 11,115 Medicaid clients. The nursing facility payment system was enacted into statute in 1980. It is administered by the Department of Social and Health Services (Department).

The current payment system consists of four non-capital components, two capital components, and one incentive component that is not tied to specific costs. The non-capital components are direct care, therapy care, support services, and operations.

- Direct care rates are based on the relative needs or the acuity of residents (typically referred to as "case mix"). This component represents around 55 percent of the total nursing facility payment and includes payment for nursing staff wages and benefits, non-prescription medication, and medical supplies.
- Therapy care rates include payments for physical, occupational, and speech therapy.
- Support services rates include payments for food, food preparation, laundry, and housekeeping.
- Operations rates include payment for administrative costs, office supplies, utilities, accounting, minor facility maintenance, and equipment repairs.

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. When setting rates for each component, the Department puts together an array of facilities' costs and uses this information to set a median cost limit (MCL). By statute, the operations component applies the minimum occupancy adjustment in making the array which is used to set the MCL. The statutes governing the therapy care and support services components do not use the same language as the operations component; however, the Department has consistently applied the minimum occupancy adjustment prior to making the arrays for all three rate components.

In the biennial appropriations act, the Legislature sets a statewide weighted average nursing facility Medicaid payment rate, typically referred to as the "budget dial." The Department is required to ensure the aggregate actual rates paid to nursing facilities do not exceed the budget dial. Under current statute, when a retrospective judgment or order is awarded, the Department is obligated to pay the award according to the current or budget dial set forth in the appropriations act.

Summary of Bill:

Retrospective final orders or final judgments will be paid according to the nursing facility rates that were in effect for the same period of time for which the order or judgment covers. The non-capital nursing facility rate components are treated consistently by requiring the minimum occupancy in therapy care and support services to be adjusted prior to setting median cost limits.

The enactment of this amendment is meant to be curative, remedial, and retrospective applicable to July 1, 1998.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) In order for the federal government to cover their portion of the rates in a retrospective settlement, the budget dial for that time period cannot be exceeded. Paying the settlements at the current rate rather than the rate that was in statute at the time of the dispute may cause the budget dial for that time period to be exceeded, resulting in the loss of federal funds. The Department has been applying minimum occupancy prior to setting cost limits in these three rate components since 1998. The Legislature put this methodology in statute for the operations component in 2006. This bill will assist the Department in settling disputes.

(Opposed) Constitutional retroactivity is being addressed in Thurston County Superior Court. The state should allow the legal process to run its course. There are concerns of the constitutionality of the budget dial. At times, the providers believe their rates have been inaccurately set and should be able to recover their accrued costs with the rates that are currently in effect.

Persons Testifying: (In support) Kathy Marshall, Department of Social and Health Services.

(Opposed) Robin Dale, Washington Health Care Association.

Persons Signed In To Testify But Not Testifying: None.