

HOUSE BILL REPORT

ESHB 1792

As Passed House:
March 6, 2018

Title: An act relating to investigative costs for residential services and supports programs.

Brief Description: Establishing a fee for certification for the residential services and supports program to cover investigative costs.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Kagi and Ormsby; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Appropriations: 2/13/17, 2/22/17 [DPS].

Floor Activity:

Passed House: 3/6/18, 50-48.

Brief Summary of Engrossed Substitute Bill

- Requires providers of residential services and supports to Department of Social and Health Services (DSHS) Developmental Disabilities Administration clients to an pay annual certification fee beginning July 1, 2018.
- Establishes that the fee amount may not exceed the DSHS' costs to investigate complaints about provider practice issues and individuals alleged to have been abused or neglected, and that it must include the DSHS' costs to reimburse providers for fees attributable to Medicaid clients.
- Requires the DSHS to use additional resources from the fees to address growth in their complaint workload and to intervene in a timelier manner when abuse or neglect has occurred.
- Renders the fee unenforceable if federal reimbursement is not available for fees paid by providers on behalf of Medicaid clients.

HOUSE COMMITTEE ON APPROPRIATIONS

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Nealey.

Staff: Mary Mulholland (786-7391).

Background:

Residential Services and Supports.

The Department of Social and Health Services (DSHS) Developmental Disabilities Administration (DDA) provides residential services and supports for clients who meet Medicaid functional and financial eligibility requirements. A "community residential service business" means a business that is certified by, and contracted with, the DSHS DDA to provide instruction and support to DDA clients. Residential services and supports may include assistance with activities of daily living (such as bathing, dressing, and eating), instrumental activities of daily living (such as meal preparation and ordinary housework), and habilitation services.

Supported living is one type of certified community residential service business. Supported living providers serve up to four clients living in homes that are owned, rented, or leased by the clients or their legal representatives.

Residential Care Services.

The Residential Care Services (RCS) unit within the DSHS Aging and Long-Term Support Administration (AL TSA) is responsible for licensing adult family homes, assisted living facilities, nursing facilities, enhanced services facilities (ESFs), and intermediate care facilities for individuals with intellectual disabilities, and for certifying community residential services businesses. The RCS is also responsible for investigating potential provider practice issues and taking enforcement action when provider practice issues are found.

Adult family homes, assisted living facilities, nursing homes, and ESFs pay fees per-bed at initial licensure and renewal. These fees are used to support RCS activities. The fee levels are established in the omnibus operating appropriations act and may not exceed the DSHS' costs for licensing and oversight. Providers are reimbursed using federal matching funds for fees paid on Medicaid client beds.

The RCS costs that are not funded by provider fee revenue are funded with State General Fund and federal Medicaid funds.

The DSHS reports that the number of RCS investigations among supported living providers has increased from 806 in fiscal year (FY) 2013 to 2,212 investigations in FY 2016.

Certification for Community Residential Services and Supports.

A certification means that the provider has complied with certain administrative requirements such as staffing, liability insurance, and the practices used by the provider to deliver services, as outlined in provisions in the Washington Administrative Code. The certification provided by the RCS allows a provider to continue to receive referrals and to provide services under a contract with the DDA. Certification may be granted to providers for up to two years. There is no fee for certification. Supported living is the only type of certified residential services and support that does not require licensure as an adult family home or assisted living facility.

Summary of Engrossed Substitute Bill:

Beginning July 1, 2018, providers of DDA community residential services and supports must pay an annual certification fee. The fee amount must be established in the omnibus operating appropriations act and may not exceed the DSHS' costs to investigate complaints about provider practice and individuals alleged to have been abused, neglected, abandoned, or exploited.

No certification fee will be required for government-operated programs, court-appointed receivers, or the portion of certified residential services and supports in which providers pay adult family home or assisted living facility licensing fees.

The DSHS must use the additional resources from certification fees to address growth in the complaint workload and to intervene for clients in a timelier manner when there is possible abuse or neglect.

If the federal Centers for Medicare and Medicaid Services determines that federal reimbursement is not available for fees paid by providers on behalf of Medicaid clients, the DSHS must cease collecting the fee and notify the Office of Financial Management and the appropriate legislative committees. Rules adopted under the act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2018.

Staff Summary of Public Testimony:

(In support) The fee will be \$856 per client per year at no cost to the provider or the state since the fee will be used to leverage federal funds. There are 142 supported living agencies statewide serving about 4,000 clients. In recent years hundreds of clients have been added to supported living, but there has been no investment in the DSHS staff to ensure that cases of abuse or neglect in supported living settings are investigated properly. Since 2013 there has been an increase of over 1,400 investigations, and this number is expected to grow as the

supported living program grows. The DSHS does not have enough staff to respond to the demand and has diverted staff from other core work to address the backlog of complaints in supported living settings. It is the DSHS' responsibility to make sure that supported living clients are safe and free from abuse or neglect, and the fee will help do that with minimum impact to providers and the state budget.

(Opposed) None.

(Others) Support for the fee is contingent upon receiving more resources for supported living staff wages. The growth in supported living complaints is directly tied to the turnover rate among supported living employees, which is 50 percent statewide. It is difficult to retain and hire quality staff at current rates paid by the state. The Legislature should look at preventing abuse and neglect by increasing supported living provider rates.

Persons Testifying: (In support) Evelyn Perez, Department of Social and Health Services.

(Other) Melissa Johnson, Community Residential Services Association.

Persons Signed In To Testify But Not Testifying: None.