

2SSB 6515 - S AMD 1234

By Senator Van De Wege

ADOPTED 03/04/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 18.51.091 and 1987 c 476 s 24 are each amended to
4 read as follows:

5 The department shall (~~make or cause to be made at least one~~
6 ~~inspection of~~) inspect each nursing home (~~prior to license renewal~~
7 ~~and shall inspect community-based services as part of the licensing~~
8 ~~renewal survey~~) periodically in accordance with federal standards
9 under 42 C.F.R. Part 488, Subpart E. The inspection shall be made
10 without providing advance notice of it. Every inspection may include
11 an inspection of every part of the premises and an examination of all
12 records, methods of administration, the general and special dietary
13 and the stores and methods of supply. Those nursing homes that
14 provide community-based care shall establish and maintain separate
15 and distinct accounting and other essential records for the purpose
16 of appropriately allocating costs of the providing of such care:
17 PROVIDED, That such costs shall not be considered allowable costs for
18 reimbursement purposes under chapter 74.46 RCW. Following such
19 inspection or inspections, written notice of any violation of this
20 law or the rules and regulations promulgated hereunder, shall be
21 given to the applicant or licensee and the department. The notice
22 shall describe the reasons for the facility's noncompliance. The
23 department may prescribe by regulations that any licensee or
24 applicant desiring to make specified types of alterations or
25 additions to its facilities or to construct new facilities shall,
26 before commencing such alteration, addition or new construction,
27 submit its plans and specifications therefor to the department for
28 preliminary inspection and approval or recommendations with respect
29 to compliance with the regulations and standards herein authorized.

30 **Sec. 2.** RCW 18.51.230 and 1981 2nd ex.s. c 11 s 4 are each
31 amended to read as follows:

1 The department shall, in addition to any inspections conducted
2 pursuant to complaints filed pursuant to RCW 18.51.190, conduct (~~at~~
3 ~~least one general inspection prior to license renewal of all nursing~~
4 ~~homes in the state without providing advance notice of such~~
5 ~~inspection. Periodically, such inspection shall take place in part~~
6 ~~between the hours of 7 p.m. and 5 a.m. or on weekends)) a periodic
7 general inspection of each nursing home in the state without
8 providing advance notice of such inspection. Such inspections must
9 conform to the federal standards for surveys under 42 C.F.R. Part
10 488, Subpart E.~~

11 **Sec. 3.** RCW 74.42.360 and 2019 c 12 s 2 are each amended to read
12 as follows:

13 (1) The facility shall have staff on duty twenty-four hours daily
14 sufficient in number and qualifications to carry out the provisions
15 of RCW 74.42.010 through 74.42.570 and the policies,
16 responsibilities, and programs of the facility.

17 (2) The department shall institute minimum staffing standards for
18 nursing homes. Beginning July 1, 2016, facilities must provide a
19 minimum of 3.4 hours per resident day of direct care. Direct care
20 staff has the same meaning as defined in RCW 74.42.010. The minimum
21 staffing standard includes the time when such staff are providing
22 hands-on care related to activities of daily living and nursing-
23 related tasks, as well as care planning. The legislature intends to
24 increase the minimum staffing standard to 4.1 hours per resident day
25 of direct care, but the effective date of a standard higher than 3.4
26 hours per resident day of direct care will be identified if and only
27 if funding is provided explicitly for an increase of the minimum
28 staffing standard for direct care.

29 (a) The department shall establish in rule a system of compliance
30 of minimum direct care staffing standards by January 1, 2016.
31 Oversight must be done at least quarterly using the centers for
32 medicare and medicaid services' payroll-based journal and nursing
33 home facility census and payroll data.

34 (b) The department shall establish in rule by January 1, 2016, a
35 system of financial penalties for facilities out of compliance with
36 minimum staffing standards. No monetary penalty may be issued during
37 the implementation period of July 1, 2016, through September 30,
38 2016. If a facility is found noncompliant during the implementation
39 period, the department shall provide a written notice identifying the

1 staffing deficiency and require the facility to provide a
2 sufficiently detailed correction plan to meet the statutory minimum
3 staffing levels. Monetary penalties begin October 1, 2016. Monetary
4 penalties must be established based on a formula that calculates the
5 cost of wages and benefits for the missing staff hours. If a facility
6 meets the requirements in subsection (3) or (4) of this section, the
7 penalty amount must be based solely on the wages and benefits of
8 certified nurse aides. The first monetary penalty for noncompliance
9 must be at a lower amount than subsequent findings of noncompliance.
10 Monetary penalties established by the department may not exceed two
11 hundred percent of the wage and benefit costs that would have
12 otherwise been expended to achieve the required staffing minimum
13 hours per resident day for the quarter. A facility found out of
14 compliance must be assessed a monetary penalty at the lowest penalty
15 level if the facility has met or exceeded the requirements in
16 subsection (2) of this section for three or more consecutive years.
17 Beginning July 1, 2016, pursuant to rules established by the
18 department, funds that are received from financial penalties must be
19 used for technical assistance, specialized training, or an increase
20 to the quality enhancement established in RCW 74.46.561.

21 (c) The department shall establish in rule an exception allowing
22 geriatric behavioral health workers as defined in RCW 74.42.010 to be
23 recognized in the minimum staffing requirements as part of the direct
24 care service delivery to individuals who have a behavioral health
25 condition. Hours worked by geriatric behavioral health workers may be
26 recognized as direct care hours for purposes of the minimum staffing
27 requirements only up to a portion of the total hours equal to the
28 proportion of resident days of clients with a behavioral health
29 condition identified at that facility on the most recent semiannual
30 minimum data set. In order to qualify for the exception:

31 (i) The worker must:

32 (A) Have a bachelor's or master's degree in social work,
33 behavioral health, or other related areas; or

34 (B) Have at least three years experience providing care for
35 individuals with chronic mental health issues, dementia, or
36 intellectual and developmental disabilities in a long-term care or
37 behavioral health care setting; or

38 (C) Have successfully completed a facility-based behavioral
39 health curriculum approved by the department under RCW 74.39A.078;

1 (ii) Any geriatric behavioral health worker holding less than a
2 master's degree in social work must be directly supervised by an
3 employee who has a master's degree in social work or a registered
4 nurse.

5 (d) (i) The department shall establish a limited exception to the
6 3.4 hours per resident day staffing requirement for facilities
7 demonstrating a good faith effort to hire and retain staff.

8 (ii) To determine initial facility eligibility for exception
9 consideration, the department shall send surveys to facilities
10 anticipated to be below, at, or slightly above the 3.4 hours per
11 resident day requirement. These surveys must measure the hours per
12 resident day in a manner as similar as possible to the centers for
13 medicare and medicaid services' payroll-based journal and cover the
14 staffing of a facility from October through December of 2015, January
15 through March of 2016, and April through June of 2016. A facility
16 must be below the 3.4 staffing standard on all three surveys to be
17 eligible for exception consideration. If the staffing hours per
18 resident day for a facility declines from any quarter to another
19 during the survey period, the facility must provide sufficient
20 information to the department to allow the department to determine if
21 the staffing decrease was deliberate or a result of neglect, which is
22 the lack of evidence demonstrating the facility's efforts to maintain
23 or improve its staffing ratio. The burden of proof is on the facility
24 and the determination of whether or not the decrease was deliberate
25 or due to neglect is entirely at the discretion of the department. If
26 the department determines a facility's decline was deliberate or due
27 to neglect, that facility is not eligible for an exception
28 consideration.

29 (iii) To determine eligibility for exception approval, the
30 department shall review the plan of correction submitted by the
31 facility. Before a facility's exception may be renewed, the
32 department must determine that sufficient progress is being made
33 towards reaching the 3.4 hours per resident day staffing requirement.
34 When reviewing whether to grant or renew an exception, the department
35 must consider factors including but not limited to: Financial
36 incentives offered by the facilities such as recruitment bonuses and
37 other incentives; the robustness of the recruitment process; county
38 employment data; specific steps the facility has undertaken to
39 improve retention; improvements in the staffing ratio compared to the
40 baseline established in the surveys and whether this trend is

1 continuing; and compliance with the process of submitting staffing
2 data, adherence to the plan of correction, and any progress toward
3 meeting this plan, as determined by the department.

4 (iv) Only facilities that have their direct care component rate
5 increase capped according to RCW 74.46.561 are eligible for exception
6 consideration. Facilities that will have their direct care component
7 rate increase capped for one or two years are eligible for exception
8 consideration through June 30, 2017. Facilities that will have their
9 direct care component rate increase capped for three years are
10 eligible for exception consideration through June 30, 2018.

11 (v) The department may not grant or renew a facility's exception
12 if the facility meets the 3.4 hours per resident day staffing
13 requirement and subsequently drops below the 3.4 hours per resident
14 day staffing requirement.

15 (vi) The department may grant exceptions for a six-month period
16 per exception. The department's authority to grant exceptions to the
17 3.4 hours per resident day staffing requirement expires June 30,
18 2018.

19 (3) (a) Large nonessential community providers must have a
20 registered nurse on duty directly supervising resident care twenty-
21 four hours per day, seven days per week.

22 (b) (i) The department shall establish a limited exception process
23 ~~((to facilities))~~ for large nonessential community providers that can
24 demonstrate a good faith effort to hire a registered nurse for the
25 last eight hours of required coverage per day. In granting an
26 exception, the department may consider the competitiveness of the
27 wages and benefits offered as compared to nursing facilities in
28 comparable geographic or metropolitan areas within Washington state,
29 the provider's recruitment and retention efforts, and the
30 availability of registered nurses in the particular geographic area.
31 A one-year exception may be granted and may be renewable ~~((for up to~~
32 ~~three consecutive years))~~; however, the department may limit the
33 admission of new residents, based on medical conditions or
34 complexities, when a registered nurse is not on-site and readily
35 available. If a ~~((facility))~~ large nonessential community provider
36 receives an ~~((exemption))~~ exception, that information must be
37 included in the department's nursing home locator. ~~((After June 30,~~
38 ~~2019))~~

39 (ii) By August 1, 2023, and every three years thereafter, the
40 department, along with a stakeholder work group established by the

1 department, shall conduct a review of the exceptions process to
2 determine if it is still necessary. As part of this review, the
3 department shall provide the legislature with a report that includes
4 enforcement and citation data for large nonessential community
5 providers that were granted an exception in the three previous fiscal
6 years in comparison to those without an exception. The report must
7 include a similar comparison of data, provided to the department by
8 the long-term care ombuds, on long-term care ombuds referrals for
9 large nonessential community providers that were granted an exception
10 in the three previous fiscal years and those without an exception.
11 This report, along with a recommendation as to whether the exceptions
12 process should continue, is due to the legislature by December 1st of
13 each year in which a review is conducted. Based on the
14 recommendations outlined in this report, the legislature may take
15 action to end the exceptions process.

16 (4) Essential community providers and small nonessential
17 community providers must have a registered nurse on duty directly
18 supervising resident care a minimum of sixteen hours per day, seven
19 days per week, and a registered nurse or a licensed practical nurse
20 on duty directly supervising resident care the remaining eight hours
21 per day, seven days per week.

22 (5) For the purposes of this section, "behavioral health
23 condition" means one or more of the behavioral symptoms specified in
24 section E of the minimum data set.

25 **Sec. 4.** RCW 74.46.561 and 2019 c 301 s 1 are each amended to
26 read as follows:

27 (1) The legislature adopts a new system for establishing nursing
28 home payment rates beginning July 1, 2016. Any payments to nursing
29 homes for services provided after June 30, 2016, must be based on the
30 new system. The new system must be designed in such a manner as to
31 decrease administrative complexity associated with the payment
32 methodology, reward nursing homes providing care for high acuity
33 residents, incentivize quality care for residents of nursing homes,
34 and establish minimum staffing standards for direct care.

35 (2) The new system must be based primarily on industry-wide
36 costs, and have three main components: Direct care, indirect care,
37 and capital.

38 (3) The direct care component must include the direct care and
39 therapy care components of the previous system, along with food,

1 laundry, and dietary services. Direct care must be paid at a fixed
2 rate, based on one hundred percent or greater of statewide case mix
3 neutral median costs, but shall be set so that a nursing home
4 provider's direct care rate does not exceed one hundred eighteen
5 percent of its base year's direct care allowable costs except if the
6 provider is below the minimum staffing standard established in RCW
7 74.42.360(2). Direct care must be performance-adjusted for acuity
8 every six months, using case mix principles. Direct care must be
9 regionally adjusted using county wide wage index information
10 available through the United States department of labor's bureau of
11 labor statistics. There is no minimum occupancy for direct care. The
12 direct care component rate allocations calculated in accordance with
13 this section must be adjusted to the extent necessary to comply with
14 RCW 74.46.421.

15 (4) The indirect care component must include the elements of
16 administrative expenses, maintenance costs, and housekeeping services
17 from the previous system. A minimum occupancy assumption of ninety
18 percent must be applied to indirect care. Indirect care must be paid
19 at a fixed rate, based on ninety percent or greater of statewide
20 median costs. The indirect care component rate allocations calculated
21 in accordance with this section must be adjusted to the extent
22 necessary to comply with RCW 74.46.421.

23 (5) The capital component must use a fair market rental system to
24 set a price per bed. The capital component must be adjusted for the
25 age of the facility, and must use a minimum occupancy assumption of
26 ninety percent.

27 (a) Beginning July 1, 2016, the fair rental rate allocation for
28 each facility must be determined by multiplying the allowable nursing
29 home square footage in (c) of this subsection by the RSMMeans rental
30 rate in (d) of this subsection and by the number of licensed beds
31 yielding the gross unadjusted building value. An equipment allowance
32 of ten percent must be added to the unadjusted building value. The
33 sum of the unadjusted building value and equipment allowance must
34 then be reduced by the average age of the facility as determined by
35 (e) of this subsection using a depreciation rate of one and one-half
36 percent. The depreciated building and equipment plus land valued at
37 ten percent of the gross unadjusted building value before
38 depreciation must then be multiplied by the rental rate at seven and
39 one-half percent to yield an allowable fair rental value for the
40 land, building, and equipment.

1 (b) The fair rental value determined in (a) of this subsection
2 must be divided by the greater of the actual total facility census
3 from the prior full calendar year or imputed census based on the
4 number of licensed beds at ninety percent occupancy.

5 (c) For the rate year beginning July 1, 2016, all facilities must
6 be reimbursed using four hundred square feet. For the rate year
7 beginning July 1, 2017, allowable nursing facility square footage
8 must be determined using the total nursing facility square footage as
9 reported on the medicaid cost reports submitted to the department in
10 compliance with this chapter. The maximum allowable square feet per
11 bed may not exceed four hundred fifty.

12 (d) Each facility must be paid at eighty-three percent or greater
13 of the median nursing facility RSMeans construction index value per
14 square foot. The department may use updated RSMeans construction
15 index information when more recent square footage data becomes
16 available. The statewide value per square foot must be indexed based
17 on facility zip code by multiplying the statewide value per square
18 foot times the appropriate zip code based index. For the purpose of
19 implementing this section, the value per square foot effective July
20 1, 2016, must be set so that the weighted average fair rental value
21 rate is not less than ten dollars and eighty cents per patient day.
22 The capital component rate allocations calculated in accordance with
23 this section must be adjusted to the extent necessary to comply with
24 RCW 74.46.421.

25 (e) The average age is the actual facility age reduced for
26 significant renovations. Significant renovations are defined as those
27 renovations that exceed two thousand dollars per bed in a calendar
28 year as reported on the annual cost report submitted in accordance
29 with this chapter. For the rate beginning July 1, 2016, the
30 department shall use renovation data back to 1994 as submitted on
31 facility cost reports. Beginning July 1, 2016, facility ages must be
32 reduced in future years if the value of the renovation completed in
33 any year exceeds two thousand dollars times the number of licensed
34 beds. The cost of the renovation must be divided by the accumulated
35 depreciation per bed in the year of the renovation to determine the
36 equivalent number of new replacement beds. The new age for the
37 facility is a weighted average with the replacement bed equivalents
38 reflecting an age of zero and the existing licensed beds, minus the
39 new bed equivalents, reflecting their age in the year of the

1 renovation. At no time may the depreciated age be less than zero or
2 greater than forty-four years.

3 (f) A nursing facility's capital component rate allocation must
4 be rebased annually, effective July 1, 2016, in accordance with this
5 section and this chapter.

6 (g) For the purposes of this subsection (5), "RSMeans" means
7 building construction costs data as published by Gordian.

8 (6) A quality incentive must be offered as a rate enhancement
9 beginning July 1, 2016.

10 (a) An enhancement no larger than five percent and no less than
11 one percent of the statewide average daily rate must be paid to
12 facilities that meet or exceed the standard established for the
13 quality incentive. All providers must have the opportunity to earn
14 the full quality incentive payment.

15 (b) The quality incentive component must be determined by
16 calculating an overall facility quality score composed of four to six
17 quality measures. For fiscal year 2017 there shall be four quality
18 measures, and for fiscal year 2018 there shall be six quality
19 measures. Initially, the quality incentive component must be based on
20 minimum data set quality measures for the percentage of long-stay
21 residents who self-report moderate to severe pain, the percentage of
22 high-risk long-stay residents with pressure ulcers, the percentage of
23 long-stay residents experiencing one or more falls with major injury,
24 and the percentage of long-stay residents with a urinary tract
25 infection. Quality measures must be reviewed on an annual basis by a
26 stakeholder work group established by the department. Upon review,
27 quality measures may be added or changed. The department may risk
28 adjust individual quality measures as it deems appropriate.

29 (c) The facility quality score must be point based, using at a
30 minimum the facility's most recent available three-quarter average
31 centers for medicare and medicaid services quality data. Point
32 thresholds for each quality measure must be established using the
33 corresponding statistical values for the quality measure point
34 determinants of eighty quality measure points, sixty quality measure
35 points, forty quality measure points, and twenty quality measure
36 points, identified in the most recent available five-star quality
37 rating system technical user's guide published by the centers for
38 medicare and medicaid services.

39 (d) Facilities meeting or exceeding the highest performance
40 threshold (top level) for a quality measure receive twenty-five

1 points. Facilities meeting the second highest performance threshold
2 receive twenty points. Facilities meeting the third level of
3 performance threshold receive fifteen points. Facilities in the
4 bottom performance threshold level receive no points. Points from all
5 quality measures must then be summed into a single aggregate quality
6 score for each facility.

7 (e) Facilities receiving an aggregate quality score of eighty
8 percent of the overall available total score or higher must be placed
9 in the highest tier (tier V), facilities receiving an aggregate score
10 of between seventy and seventy-nine percent of the overall available
11 total score must be placed in the second highest tier (tier IV),
12 facilities receiving an aggregate score of between sixty and sixty-
13 nine percent of the overall available total score must be placed in
14 the third highest tier (tier III), facilities receiving an aggregate
15 score of between fifty and fifty-nine percent of the overall
16 available total score must be placed in the fourth highest tier (tier
17 II), and facilities receiving less than fifty percent of the overall
18 available total score must be placed in the lowest tier (tier I).

19 (f) The tier system must be used to determine the amount of each
20 facility's per patient day quality incentive component. The per
21 patient day quality incentive component for tier IV is seventy-five
22 percent of the per patient day quality incentive component for tier
23 V, the per patient day quality incentive component for tier III is
24 fifty percent of the per patient day quality incentive component for
25 tier V, and the per patient day quality incentive component for tier
26 II is twenty-five percent of the per patient day quality incentive
27 component for tier V. Facilities in tier I receive no quality
28 incentive component.

29 (g) Tier system payments must be set in a manner that ensures
30 that the entire biennial appropriation for the quality incentive
31 program is allocated.

32 (h) Facilities with insufficient three-quarter average centers
33 for medicare and medicaid services quality data must be assigned to
34 the tier corresponding to their five-star quality rating. Facilities
35 with a five-star quality rating must be assigned to the highest tier
36 (tier V) and facilities with a one-star quality rating must be
37 assigned to the lowest tier (tier I). The use of a facility's five-
38 star quality rating shall only occur in the case of insufficient
39 centers for medicare and medicaid services minimum data set
40 information.

1 (i) The quality incentive rates must be adjusted semiannually on
2 July 1 and January 1 of each year using, at a minimum, the most
3 recent available three-quarter average centers for medicare and
4 medicaid services quality data.

5 (j) Beginning July 1, 2017, the percentage of short-stay
6 residents who newly received an antipsychotic medication must be
7 added as a quality measure. The department must determine the quality
8 incentive thresholds for this quality measure in a manner consistent
9 with those outlined in (b) through (h) of this subsection using the
10 centers for medicare and medicaid services quality data.

11 (k) Beginning July 1, 2017, the percentage of direct care staff
12 turnover must be added as a quality measure using the centers for
13 medicare and medicaid services' payroll-based journal and nursing
14 home facility payroll data. Turnover is defined as an employee
15 departure. The department must determine the quality incentive
16 thresholds for this quality measure using data from the centers for
17 medicare and medicaid services' payroll-based journal, unless such
18 data is not available, in which case the department shall use direct
19 care staffing turnover data from the most recent medicaid cost
20 report.

21 (7) Reimbursement of the safety net assessment imposed by chapter
22 74.48 RCW and paid in relation to medicaid residents must be
23 continued.

24 (8) (a) ~~The direct care and indirect care components must be~~
25 ~~rebased ((in even-numbered years, beginning with rates paid on July~~
26 ~~1, 2016. Rates paid on July 1, 2016, must be based on the 2014~~
27 ~~calendar year cost report. On a percentage basis, after rebasing, the~~
28 ~~department must confirm that the statewide average daily rate has~~
29 ~~increased at least as much as the average rate of inflation, as~~
30 ~~determined by the skilled nursing facility market basket index~~
31 ~~published by the centers for medicare and medicaid services, or a~~
32 ~~comparable index. If after rebasing, the percentage increase to the~~
33 ~~statewide average daily rate is less than the average rate of~~
34 ~~inflation for the same time period, the department is authorized to~~
35 ~~increase rates by the difference between the percentage increase~~
36 ~~after rebasing and the average rate of inflation)) effective May 1,~~
37 ~~2020, or the month following the effective date of this section,~~
38 ~~whichever comes last, through June 30, 2020, using 2018 calendar year~~
39 ~~cost report information.~~

1 (b) Beginning July 1, 2020, the direct care and indirect care
2 components must be rebased annually. Rates paid shall be established
3 using the most recent adjusted cost report information available. The
4 most recent adjusted cost report information shall be the base year
5 costs.

6 (c) Beginning July 1, 2020, and annually through June 30, 2023,
7 the department shall modify the direct and indirect care rebased
8 components from the midpoint of the base year to the beginning of the
9 rate year using the most recent calendar year twelve-month average
10 consumer price index for all urban consumers (CPI-U) in the medical
11 expenditure category of nursing homes and adult day services as
12 published by the United States bureau of labor statistics.

13 (d) Beginning July 1, 2020, the indirect care inflationary rate
14 increase from (c) of this subsection (8) shall be distributed
15 according to the facility's number of outpatient emergency department
16 visits per one thousand long-stay resident days using the centers for
17 medicare and medicaid services' five-star quality rating data as the
18 source of measurement.

19 (i) Facility performance must be evaluated on two metrics:

20 (A) Performance compared to national benchmarks determined as
21 follows:

22 (I) A national score of one hundred thirty-five or greater
23 equates to a performance percentage of one hundred twenty-five
24 percent;

25 (II) A national score of one hundred five or one hundred twenty
26 equates to a performance percentage of one hundred percent;

27 (III) A national score of seventy-five or ninety equates to a
28 performance percentage of eighty percent;

29 (IV) A national score of sixty or below equates to a performance
30 percentage of sixty percent; and

31 (B) Year-over-year improvement determined as follows:

32 (I) An improvement of up to nine percent over the previous year's
33 score equates to an improvement percentage of sixty percent;

34 (II) An improvement of greater than nine percent and less than
35 fifteen percent over the previous year's score equates to an
36 improvement percentage of eighty percent; and

37 (III) An improvement of fifteen percent or greater over the
38 previous year's score equates to an improvement percentage of one
39 hundred percent.

1 (ii) Facilities must be placed in one of four tiers based on the
2 average of the performance and improvement percentages. The rate
3 increases must be distributed among the four tiers as follows:

4 (A) Tier one must include an average percentage that is greater
5 than or equal to one hundred percent and qualifies for up to one
6 hundred twenty-five percent of the available rate increase;

7 (B) Tier two must include an average percentage that is greater
8 than or equal to ninety percent but less than one hundred percent and
9 qualifies for up to one hundred percent of the available rate
10 increase. Facilities with data deemed insufficient by the centers for
11 medicare and medicaid services must be included in tier two;

12 (C) Tier three must include an average percentage that is greater
13 than or equal to eighty but less than ninety percent and qualifies
14 for up to eighty percent of the available rate increase; and

15 (D) Tier four must include an average percentage that is less
16 than eighty percent and qualifies for up to sixty percent of the
17 available rate increase.

18 (e) Any savings generated from (d) of this subsection (8) must be
19 applied to the quality incentive identified in subsection (6) of this
20 section.

21 (f) The department may adjust the outpatient emergency department
22 visits performance measure in (d) of this subsection (8) to ensure
23 budget neutrality.

24 (g) Beginning July 1, 2023, a facility specific rate add-on equal
25 to the inflationary adjustment that the facility received for the
26 direct care component in fiscal year 2023 shall be added to the rate.

27 (h) Beginning July 1, 2023, the funding provided for the
28 inflationary adjustment for the indirect care component from (c) of
29 this subsection (8) must be annually redistributed as specified in
30 (d) of this subsection (8).

31 (i) The department shall review the calendar year cost reports
32 from 2018 through 2021 and compare medicaid allowable costs in direct
33 care and indirect care to rates paid to determine the impacts of
34 annual inflationary adjustments. Based on its findings, the
35 department shall make recommendations for ongoing inflation to the
36 legislature. This report is due to appropriate committees of the
37 legislature by December 1, 2022.

38 (9) The direct care component provided in subsection (3) of this
39 section is subject to the reconciliation and settlement process
40 provided in RCW 74.46.022(6). Beginning July 1, 2016, pursuant to

1 rules established by the department, funds that are received through
2 the reconciliation and settlement process provided in RCW
3 74.46.022(6) must be used for technical assistance, specialized
4 training, or an increase to the quality enhancement established in
5 subsection (6) of this section. The legislature intends to review the
6 utility of maintaining the reconciliation and settlement process
7 under a price-based payment methodology, and may discontinue the
8 reconciliation and settlement process after the 2017-2019 fiscal
9 biennium.

10 (10) Compared to the rate in effect June 30, 2016, including all
11 cost components and rate add-ons, no facility may receive a rate
12 reduction of more than one percent on July 1, 2016, more than two
13 percent on July 1, 2017, or more than five percent on July 1, 2018.
14 To ensure that the appropriation for nursing homes remains cost
15 neutral, the department is authorized to cap the rate increase for
16 facilities in fiscal years 2017, 2018, and 2019.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.46
18 RCW to read as follows:

19 The department, in consultation with the health care authority
20 and stakeholders, shall review the impact of the distribution of the
21 inflationary adjustment for the indirect care component and report
22 its findings and recommendations to the appropriate committees of the
23 legislature by December 1, 2021. To the extent practicable, the
24 department's report must include a comparative analysis of the
25 following metrics before and after the effective date of this
26 section:

27 (1) Skilled nursing facility residents' emergency department
28 visits;

29 (2) Case mix acuity;

30 (3) The number of long-term services and supports medicaid
31 clients that are being served in nursing homes; and

32 (4) The number of licensed nursing homes and the number of
33 licensed beds.

34 NEW SECTION. **Sec. 6.** Any savings as a result of
35 overappropriations associated with the rebase for fiscal year 2021
36 shall be utilized for the purposes of this act.

1 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately."

2SSB 6515 - S AMD 1234

By Senator Van De Wege

ADOPTED 03/04/2020

5 On page 1, line 1 of the title, after "facilities;" strike the
6 remainder of the title and insert "amending RCW 18.51.091, 18.51.230,
7 74.42.360, and 74.46.561; adding a new section to chapter 74.46 RCW;
8 creating a new section; and declaring an emergency."

EFFECT: Removes the requirement that the inflationary adjustment be distributed according to a facility's occupancy and replaces it with a requirement that the inflationary adjustment for the indirect care component be distributed according to a facility's number of outpatient emergency department visits for long-stay patients. Directs DSHS to review the impact of the distribution requirement and report its findings to the Legislature by December 1, 2021. Removes the bed-hold reimbursement for hospitalized residents.

--- END ---