Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

2SSB 6275

Brief Description: Increasing patient access rights to timely and appropriate postacute care.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Cleveland and O'Ban).

Brief Summary of Second Substitute Bill

- Allows hospitals to enter agreements with the Department of Social and Health Services (Department) to allow them to prepare and submit preassessment information to the Department to assist it in making functional assessments and eligibility determinations related to long-term care services and supports.
- Allows patients, clients, health care providers, hospitals, facilities, and Department case managers to submit requests for additional personal care services to the Department's Exception to Rule Committee.
- Requires several state agencies to conduct reviews on the Department's tool for assessing eligibility for home and community-based services, the Department's method for determining staffing levels for assessing eligibility for home and community-based services, and barriers to accessing community alternatives for patients in hospital settings.
- Directs the Department of Health to develop a statewide system for collecting data on difficult to discharge hospital patients.
- Directs the Health Care Authority and the Department to submit a waiver to the federal government to authorize presumptive eligibility for long-term services and supports.

Hearing Date: 2/26/20

Staff: Chris Blake (786-7392).

Background:

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.

Long-Term Services and Supports Eligibility Determinations.

Long-term services and supports are for individuals who need assistance with daily living tasks such as bathing, dressing, ambulation, transfers, toileting, medication assistance or administration, personal hygiene, transportation, and other health-related tasks. The Department of Social and Health Services (Department) administers Medicaid funded long-term services and supports to eligible individuals in Washington. For an individual to receive long-term services and supports, they must be determined by the Department to be both functionally and financially eligible. The Department determines functional eligibility using the comprehensive assessment reporting evaluation (CARE) tool. The CARE tool functions as an assessment, service planning, and care coordination tool and is also used to establish the amount of care, daily rate or monthly hours, a client is eligible to receive. Once an individual is determined eligible for long-term services and supports, they have the option to receive services in their home, from a community residential services provider, or in a skilled nursing facility.

Current law requires the Department to work in partnership with hospitals in assisting patients and their families to find long-term services and supports. The Department must not delay hospital discharges but must assist and support the activities of hospital discharge planners. The Department guidelines require a hospital patient's functional assessment to be completed within 30 days of the date of receipt of referral.

Exception to Rule Process.

Current rules authorize Department staff to request an exception to a rule for individual cases when:

- the exception would not contradict a specific provision of federal law or state statute;
- the client's situation differs from the majority;
- it is in the interest of overall economy and the client's welfare; and
- either it increases opportunities for the client to function effectively or the client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment, and the client is at serious risk of institutionalization, or both.

The Department must inform clients within 10 days of deciding not to file, approve, or deny the exception to rule request.

Presumptive Eligibility.

Federal and state law allows participating hospitals, which are Washington State Medicaid providers, to determine eligibility for temporary Medicaid coverage. Those individuals potentially eligible for presumptive eligibility coverage include:

- children up to age 19;
- parents and caretaker relatives;
- adults not receiving Medicare, up to age 65; and
- former foster care children up to age 26.

Summary of Bill:

Functional Assessments of Eligibility for Long-Term Care.

A hospital may enter into agreement with the Department of Social and Health Services (Department) to allow the hospital to support the Department's determinations regarding the functional assessment of eligibility and level of care determinations for persons in hospitals and likely to need long-term care. Under such an agreement, the hospital may prepare and submit preassessment information about a patient to the Department. The preassessment information includes information about the patient's medical, behavioral, or cognitive care needs and the patient's ability to perform activities of daily living.

The Department must consider the preassessment information when completing the functional assessment of a patient discharging from a hospital. The Department must make training on its assessment tool available to hospital staff to allow them to prepare and submit preassessment information.

If preassessment information is provided to the Department regarding a patient, the Department must complete its assessment and determine if the patient is eligible for Medicaid long-term services and supports within 10 business days. If preassessment information is not submitted about a patient, the Department must complete the assessment and eligibility determination within 20 business days. If the Department is not able to meet the timelines because of patient-specific circumstances, it must notify the hospital of the reason for the delay, the status of the assessment and eligibility determination, and the expected completion date. The Department must track delays in assessments and eligibility determinations.

Subject to available funds, the Department must develop specialty contracts that prioritize the transition of long-length-of-stay clients who are unable to be discharged from acute care hospitals because of complex medical and behavioral needs requiring additional supports and funding.

Exception to Rule.

In addition to Department staff, patients, clients, health care providers, hospitals, facilities, and Department case managers may submit requests for additional personal care services to the Department's Exception to Rule Committee. The Exception to Rule Committee must provide the requester with a copy of its final decision and the reason for its decision. The Department must track and make publicly available data regarding exception to rule requests and decisions.

Studies of the Department's Functional Assessment Processes.

The Washington State Institute for Public Policy (WSIPP) must review the data from the Department's tool for assessing eligibility for home and community-based services. The WSIPP must report its findings to the Office of Financial Management (OFM), the Research and Data Analysis Division of the Department (RDA), and the appropriate committees of the Legislature by September 1, 2021. The report must analyze the data since January 2010, to identify trends in:

- the monthly number of assessments requested;
- the time to perform each step of the assessment process and to complete assessments;
- patients' conditions and identified care needs;

- average rates offered using the assessment tool under the Medicaid payment system for contracted assisted living, adult residential care, and enhanced adult residential care;
- the percent of assessments that have been subject to the exception to rule process; and
- the results of the exception to rule process, including the reasons for approval or modification.

The Joint Legislative Audit and Review Committee (JLARC) must review the Department's method for determining staffing levels for assessing eligibility for home and community-based services for patients in an acute care setting. The JLARC must submit its findings to OFM, RDA, and the appropriate committees of the Legislature by September 1, 2021.

The RDA must prepare a report regarding patients who remain in a hospital setting due to barriers in accessing community alternatives. The RDA must submit its findings to OFM and the appropriate committees of the Legislature by November 15, 2021. The report must:
- describe the physical and behavioral health, cognitive performance, functional support, and housing needs of the patients;
- identify how the Department's assessment tool describes patients' personal care needs related to behavioral health and cognitive function;
- identify barriers for patients accessing postacute care settings that are not included in the Department's current assessment tool; and
- identify potential types and sources of funding that may be used to transition patients to a postacute care setting.

The Department of Health must work with the Washington State Hospital Association to develop a statewide system for collecting data on difficult to discharge hospital patients. "Difficult to discharge hospital patients" are defined as patients who are at an acute care hospital without a medical need and are unable to be discharged to an appropriate location. The data collection system must collect information about the number of difficult to discharge hospital patients at each hospital, the number of days each patient stayed past the hospital's determination that the patient was ready for discharge, and the reasons each patient was unable to discharge. The Department of Health must report on the status of the data collection system to the appropriate committees of the Legislature by December 1, 2020.

Presumptive Eligibility Waiver.

By December 31, 2021, the Health Care Authority and the Department must submit a waiver to the federal Department of Health and Human Services to authorize presumptive eligibility for long-term services and supports. The agencies must provide opportunities for public comment as the waiver is being developed. Once the waiver is submitted, the agencies must submit a report to the Governor and the appropriate committees of the Legislature describing the request and any necessary statutory changes that it would require.

Appropriation: None.

Fiscal Note: Available.

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