

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5727

Chapter 149, Laws of 1993

53rd Legislature
1993 Regular Session

SPECIAL EDUCATION PROGRAMS--BILLING OF INSURERS
FOR MEDICAL SERVICES PROVIDED AUTHORIZED

EFFECTIVE DATE: 4/30/93 - Except Section 11 which becomes effective
on 9/1/93

Passed by the Senate April 14, 1993
YEAS 48 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House April 18, 1993
YEAS 84 NAYS 10

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Approved April 30, 1993

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5727** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

April 30, 1993 - 10:23 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5727

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senator Rinehart; by request of Office of Financial Management)

Read first time 03/22/93.

1 AN ACT Relating to health services provided by school districts;
2 amending RCW 28A.150.390 and 74.09.520; adding a new section to chapter
3 28A.155 RCW; adding new sections to chapter 74.09 RCW; creating new
4 sections; repealing RCW 74.09.524; providing an effective date; and
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that there is
8 increasing demand for medical services provided through the state's
9 special education programs and that many of these services qualify for
10 federal financial participation under Title XIX of the federal social
11 security act. The legislature further finds that these services may be
12 covered under private insurance policies. The legislature intends to
13 establish a state-wide system of billing medicaid and private insurers
14 for eligible medical services provided through special education
15 programs, in order that federal funding of medical services in special
16 education programs will be maximized and that additional revenue be
17 made available for education programs. It is the further intent of the
18 legislature that the program be administered by a public or private
19 agency in such a fashion as to ensure that the additional

1 administrative workloads for the districts and the health practitioners
2 in the schools are kept to a minimum.

3 NEW SECTION. **Sec. 2.** For the purposes of sections 1 through 8 of
4 this act, the terms "medical assistance" and "medicaid" mean medical
5 care provided under Title XIX of the federal social security act.

6 NEW SECTION. **Sec. 3.** The superintendent of public instruction
7 shall take necessary steps to establish a competitive bidding process
8 for a contract to act as the state's billing agent for medical services
9 provided through its special education programs. The process must be
10 open to private firms and public entities.

11 NEW SECTION. **Sec. 4.** (1) Chapter ..., Laws of 1993 (this act)
12 does not apply to contracts between individual school districts and
13 private firms entered in to for the purpose of billing either medicaid
14 or private insurers, or both, for health services and agreed to before
15 the effective date of this act, except as provided in section 8(2) of
16 this act.

17 (2) A school district may elect to act as its own billing agent as
18 of the start of any school year. For a school district being served by
19 the state-wide billing agent, the district shall notify the billing
20 agent in writing, no less than thirty days before the start of the
21 school year, of its intent to terminate the agency relationship. A
22 district that acts as its own billing agent may retain an
23 administrative fee proportional to that of the state-wide billing
24 agent.

25 NEW SECTION. **Sec. 5.** (1) The agency awarded the contract under
26 section 3 of this act shall:

27 (a) Enroll all school districts in this state, except those with
28 preexisting contracts under section 4 of this act, as medicaid
29 providers by the beginning of the 1993-94 school year;

30 (b) Develop a state-wide system of billing the department and
31 private insurers for medical services provided in special education
32 programs;

33 (c) Train health care practitioners employed by or contracting with
34 school districts in medicaid and insurer billing;

1 (d) Verify the medicaid eligibility of students enrolled in special
2 education programs in each educational service district;

3 (e) Provide ongoing technical assistance to practitioners and
4 districts; and

5 (f) Process and forward all medicaid claims to the department and
6 all other claims to private insurers.

7 (2) For each student, individual school districts may, in
8 consultation with the billing agent, deliver to the student's parent or
9 guardian a letter, prepared by the billing agent, requesting the
10 consent of the parent or guardian to bill the student's health
11 insurance carrier for services provided through the special education
12 program. If a district chooses to do this, the letter must be
13 accompanied by a consent form, on which the parent may identify the
14 student's health insurance carrier so that the billing agent may bill
15 the carrier for medical services provided to the student. The letter
16 must clearly state the following:

17 (a) That the billing program is designed in part to raise
18 additional funds to improve education services;

19 (b) That under no circumstances will the parent or guardian be
20 personally charged for any portion of the bill not paid by the insurer,
21 including copayments, deductibles, or uncovered services;

22 (c) That the amount of the billing will apply to the policy's
23 annual deductible even though the parent will not be billed for the
24 amount of the deductible;

25 (d) That the amount of the billing, will, however, apply towards
26 annual or lifetime benefit caps if these are included in the policy;

27 (e) That it is possible that their premiums would be increased as
28 a result of their consent;

29 (f) That if any of the possible negative consequences of consent
30 were to affect them, they are free to withdraw their consent at any
31 time; and

32 (g) That their consent is entirely voluntary and that the services
33 the student receives through the school will not be affected by their
34 willingness or refusal to consent to the billing of their private
35 insurer.

36 NEW SECTION. **Sec. 6.** The medical assistance administration in the
37 department of social and health services shall establish categories of

1 medical services and a reimbursement system based on the costs of
2 providing medical services provided in special education programs.

3 NEW SECTION. **Sec. 7.** (1) Each educational service district in the
4 state shall participate in the program of billing for medical services
5 under section 5 of this act and shall provide the billing agent with a
6 list, at the start of each academic quarter, of all students enrolled
7 in special education programs within the area served by the educational
8 service district, for purposes of verifying the medicaid eligibility of
9 the students.

10 (2) A person employed by or contracting with a school district who
11 provides services within the categories established by the medical
12 assistance administration under section 6 of this act shall provide the
13 billing agent with information necessary to promptly complete monthly
14 billings for each medicaid-eligible student he or she serves.

15 (3) The superintendent of public instruction shall submit to the
16 legislature at the beginning of each legislative session a report
17 indicating the district-by-district participation and the medicaid and
18 private insurance payment receipts during the preceding fiscal year.
19 The report must further indicate for each district the total number of
20 special education students, and the medicaid eligibility rate, as
21 determined by the medical assistance administration. The
22 superintendent may require a letter of explanation from any district
23 whose receipts under the program, in the judgment of the
24 superintendent, indicate nonparticipation or underparticipation.

25 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.155
26 RCW to read as follows:

27 (1) Of the projected federal and private insurance revenue
28 collected under section 5 of this act, the following incentive
29 payments, calculated after deduction of the agent's fees, shall remain
30 with the school districts: Twenty percent of the federal portion of
31 medicaid payments; and twenty percent of payments made by private
32 insurers. The billing agent shall periodically provide the office of
33 the superintendent of public instruction and each educational service
34 district with a report showing for each individual school district the
35 total amount of federal funds, less the billing agent's fee, realized
36 through medicaid billing and the total amount, less the billing agent's
37 fee, realized through the billing of private insurers. The

1 superintendent shall use the report to reduce allocations to the
2 districts by eighty percent of the total amount of medicaid and private
3 insurance payments received by each district, calculated after
4 deduction of the billing agent's fee.

5 (2) A firm that is a party to a preexisting contract under section
6 4(1) of this act shall, at times designated by the superintendent of
7 public instruction, provide the office of the superintendent of public
8 instruction and the appropriate educational service district with a
9 report indicating the total amount of federal money and private
10 insurance money, less the contractor's fee, earned by each district
11 through billing for health services. The superintendent shall reduce
12 allocations to the districts by eighty percent of the total amount of
13 medicaid and private insurance payments received by each district,
14 calculated after deduction of the contractor's fee.

15 (3) A school district that has elected to act as its own billing
16 agent under section 4(2) of this act shall, at times designated by the
17 superintendent of public instruction, provide the office of the
18 superintendent of public instruction and the appropriate educational
19 service district with a report indicating the total amount of federal
20 money and private insurance money received by the district. The
21 superintendent shall reduce allocations to the district by eighty
22 percent of the total amount of medicaid and private insurance payments
23 received by the district, calculated after deduction of administrative
24 fees retained by the district.

25 (4) For the purposes of this section, "medicaid" means medical care
26 provided under Title XIX of the federal social security act.

27 **Sec. 9.** RCW 28A.150.390 and 1990 c 33 s 116 are each amended to
28 read as follows:

29 The superintendent of public instruction shall submit to each
30 regular session of the legislature during an odd-numbered year a
31 programmed budget request for handicapped programs. Funding for
32 programs operated by local school districts shall be on an excess cost
33 basis from appropriations provided by the legislature for handicapped
34 programs and shall take account of state funds accruing through RCW
35 28A.150.250, 28A.150.260, federal medical assistance and private funds
36 accruing under section 5 of this act, and other state and local funds,
37 excluding special excess levies. (~~Funding for local district programs~~
38 ~~may include payments from state and federal funds for medical~~

1 ~~assistance provided under RCW 74.09.500 through 74.09.910.)~~) However,
2 the superintendent of public instruction shall reimburse the department
3 of social and health services from state appropriations for handicapped
4 education programs for the state-funded portion of any medical
5 assistance payment made by the department for services provided under
6 an individualized education program established pursuant to RCW
7 28A.155.010 through 28A.155.100. The amount of such interagency
8 reimbursement shall be deducted by the superintendent of public
9 instruction in determining additional allocations to districts for
10 handicapped education programs under this section.

11 **Sec. 10.** RCW 74.09.520 and 1991 sp.s. c 8 s 9 are each amended to
12 read as follows:

13 (1) The term "medical assistance" may include the following care
14 and services: (a) Inpatient hospital services; (b) outpatient hospital
15 services; (c) other laboratory and x-ray services; (d) nursing facility
16 services; (e) physicians' services, which shall include prescribed
17 medication and instruction on birth control devices; (f) medical care,
18 or any other type of remedial care as may be established by the
19 secretary; (g) home health care services; (h) private duty nursing
20 services; (i) dental services; (j) physical and occupational therapy
21 and related services; (k) prescribed drugs, dentures, and prosthetic
22 devices; and eyeglasses prescribed by a physician skilled in diseases
23 of the eye or by an optometrist, whichever the individual may select;
24 (l) personal care services, as provided in this section; (m) hospice
25 services; (n) other diagnostic, screening, preventive, and
26 rehabilitative services; and (o) like services when furnished to a
27 ~~((handicapped))~~ child by a school district ~~((as part of an
28 individualized education program established pursuant to RCW
29 28A.155.010 through 28A.155.100))~~ in a manner consistent with the
30 requirements of this chapter. For the purposes of this section, the
31 department may not cut off any prescription medications, oxygen
32 supplies, respiratory services, or other life-sustaining medical
33 services or supplies.

34 "Medical assistance," notwithstanding any other provision of law,
35 shall not include routine foot care, or dental services delivered by
36 any health care provider, that are not mandated by Title XIX of the
37 social security act unless there is a specific appropriation for these
38 services. ~~((Services included in an individualized education program~~

1 ~~for a handicapped child under RCW 28A.155.010 through 28A.155.100 shall~~
2 ~~not qualify as medical assistance prior to the implementation of the~~
3 ~~funding process developed under RCW 74.09.524.)~~)

4 (2) The department shall amend the state plan for medical
5 assistance under Title XIX of the federal social security act to
6 include personal care services, as defined in 42 C.F.R. 440.170(f), in
7 the categorically needy program.

8 (3) The department shall adopt, amend, or rescind such
9 administrative rules as are necessary to ensure that Title XIX personal
10 care services are provided to eligible persons in conformance with
11 federal regulations.

12 (a) These administrative rules shall include financial eligibility
13 indexed according to the requirements of the social security act
14 providing for medicaid eligibility.

15 (b) The rules shall require clients be assessed as having a medical
16 condition requiring assistance with personal care tasks. Plans of care
17 must be approved by a physician and reviewed by a nurse every ninety
18 days.

19 (4) The department shall design and implement a means to assess the
20 level of functional disability of persons eligible for personal care
21 services under this section. The personal care services benefit shall
22 be provided to the extent funding is available according to the
23 assessed level of functional disability. Any reductions in services
24 made necessary for funding reasons should be accomplished in a manner
25 that assures that priority for maintaining services is given to persons
26 with the greatest need as determined by the assessment of functional
27 disability.

28 (5) The department shall report to the appropriate fiscal
29 committees of the legislature on the utilization and associated costs
30 of the personal care option under Title XIX of the federal social
31 security act, as defined in 42 C.F.R. 440.170(f), in the categorically
32 needy program. This report shall be submitted by January 1, 1990, and
33 submitted on a yearly basis thereafter.

34 (6) Effective July 1, 1989, the department shall offer hospice
35 services in accordance with available funds. The hospice benefit under
36 this section shall terminate on June 30, 1993, unless extended by the
37 legislature.

1 NEW SECTION. **Sec. 11.** RCW 74.09.524 and 1990 c 33 s 595 & 1989 c
2 400 s 4 are each repealed.

3 NEW SECTION. **Sec. 12.** If any part of this act is found to be in
4 conflict with federal requirements that are a prescribed condition to
5 the allocation of federal funds to the state, the conflicting part of
6 this act is inoperative solely to the extent of the conflict and with
7 respect to the agencies directly affected, and this finding does not
8 affect the operation of the remainder of this act in its application to
9 the agencies concerned. The rules under this act shall meet federal
10 requirements that are a necessary condition to the receipt of federal
11 funds by the state.

12 NEW SECTION. **Sec. 13.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 14.** Sections 2 through 7 of this act are each
17 added to chapter 74.09 RCW.

18 NEW SECTION. **Sec. 15.** (1) Sections 1 through 10 and 12 through 14
19 of this act are necessary for the immediate preservation of the public
20 peace, health, or safety, or support of the state government and its
21 existing public institutions, and shall take effect immediately.

22 (2) Section 11 of this act takes effect September 1, 1993.

 Passed the Senate April 14, 1993.

 Passed the House April 18, 1993.

 Approved by the Governor April 30, 1993.

 Filed in Office of Secretary of State April 30, 1993.