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SENATE BILL 5834

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State of Washington

56th Legislature

1999 Regular Session

By Senators Thibaudeau, Costa, Fairley, Gardner, Eide, T. Sheldon, Prentice, Kline, Rasmussen and Kohl-Welles

Read first time 02/11/1999. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to in-home care services; adding new sections to  
2 chapter 74.39A RCW; adding a new section to chapter 70.47 RCW; and  
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the care services  
6 provided to, and protection of Washington's low-income elderly and  
7 disabled residents is of great importance to the state. The  
8 legislature further finds that the quality of in-home care service is  
9 being jeopardized by many factors, including low wages and benefits  
10 paid to home care workers, high costs borne by agencies contracting  
11 with the state to provide these services, vast increases in the  
12 severity of need of eligible elderly and disabled people, and the  
13 rapidly increasing elderly population. The legislature further finds  
14 that policies regarding in-home care services by agencies and  
15 independent providers could further address quality assurances for  
16 service users.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.39A RCW  
18 to read as follows:

1 The compensation for all persons who provide state-funded long-term  
2 care services through contract with the department of social and health  
3 services, including the medicaid personal care program, COPES, chore,  
4 individual provider program, and respite care, shall be increased by  
5 fifty cents per hour and increased annually each year thereafter  
6 according to the inflation rate identified by the annual consumer price  
7 index as established by the office of financial management.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.39A RCW  
9 to read as follows:

10 The vendor rate for licensed home care agencies that provide state-  
11 funded long-term care and in-home services through contract with the  
12 department of social and health services for the medicaid personal care  
13 program, COPES, chore, and respite care, shall be equalized for all  
14 agencies to an hourly rate of eleven dollars and seventy-one cents.  
15 Beginning in fiscal year 1999, and annually each year thereafter, the  
16 vendor rate shall be increased according to the inflation rate  
17 identified by the annual consumer price index as established by the  
18 office of financial management.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.47 RCW  
20 to read as follows:

21 The Washington state health care authority shall make the  
22 Washington basic health plan available to all home care agency  
23 employees who provide state-funded in-home medicaid personal care,  
24 COPES, chore, or respite care for twenty hours or more per week. All  
25 home care agencies who hire employees to provide state-funded in-home  
26 medicaid personal care, COPES, chore, and respite care shall provide  
27 the subsidized basic health plan or a substantially equivalent health  
28 care benefits plan to all in-home care employees who provide twenty  
29 hours per week or more of state-funded in-home care services. A  
30 "substantially equivalent health care benefits plan" means an equal or  
31 better health care benefits package as compared to the benefits package  
32 provided under the basic health plan. All in-home care workers who  
33 qualify for the basic health plan, yet receive health care benefits  
34 other than the basic health plan through their employer, shall not pay  
35 more than the out-of-pocket patient expenses, such as, but not limited  
36 to, patient copay and deductible charges, equal to the amount of out-  
37 of-pocket patient expenses required under the basic health plan. The

1 cost for providing health benefits for in-home care employees who  
2 qualify under this section shall be added to and above the current  
3 vendor rate of in-home care services as established by the department  
4 of social and health services and shall be indexed annually to the  
5 standard medical inflation rate as established by the office of  
6 financial management.

7 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.39A RCW  
8 to read as follows:

9 The following health, safety, and quality of care standards apply  
10 to all persons receiving in-home care services through the state  
11 medicaid individual provider program administered by the department of  
12 social and health services:

13 (1) All nondevelopmentally disabled service users or their legal  
14 representative must display the cognitive ability to verify the hours  
15 provided;

16 (2) The department shall conduct a follow-up visit or telephone  
17 call with the service user within sixty days after the initial  
18 authorization to ensure that the service plan is being implemented and  
19 assess the health, safety, and well-being of the service user;

20 (3) All individual providers contracted to conduct in-home care  
21 services for persons in the individual provider program shall be  
22 required to successfully meet all the same training requirements  
23 established by the department for in-home care workers in the COPES,  
24 medicaid personal care, and chore program;

25 (4) All in-home care service providers contracted to conduct in-  
26 home care for persons in the individual provider program are required  
27 to provide proof of a current valid Washington state driver's license  
28 and current liability insurance, if transportation services are  
29 authorized for their service users;

30 (5) All service users shall provide their signature on a time sheet  
31 for each day of services to confirm the actual hours of in-home care  
32 service provided;

33 (6) Case managers shall randomly monitor the validity of the  
34 documentation of the hours of service provided;

35 (7) Persons shall not be automatically transferred into the  
36 individual provider program from other programs or referred to the  
37 individual provider program based on the number of hours of services  
38 required without their consent;

1 (8) Service users or their legal representative selecting their own  
2 family members as individual providers shall be reviewed and approved  
3 by the department according to their exception to policy rules; and

4 (9) The department shall develop and distribute to all service  
5 users or their legal representative in the individual provider program  
6 an individual provider program consumer's bill of rights at the time of  
7 authorization or within sixty days from the effective date of this  
8 section for those consumers already authorized. The consumer's bill of  
9 rights shall contain, but not be limited to the following information:

10 (a) Service users or their legal representative have the right to  
11 the name, address, and telephone number of the person responsible for  
12 the development of their service plan;

13 (b) Service users or their legal representative have the right to  
14 the name, address, and telephone number of the person who should be  
15 contacted if their health status changes or their service plan needs to  
16 be changed;

17 (c) Service users or their legal representative have the right to  
18 the name, address, and telephone number of the person who should be  
19 contacted if their provider fails to provide adequate or safe care;

20 (d) Service users or their legal representative have the right to  
21 clear and understandable information about who to call in the event of  
22 an emergency or a violation of their rights, including but not limited  
23 to police and fire, adult protective services, the long-term care  
24 ombudsman, and the Washington protection and advocacy system;

25 (e) Service users or their legal representative have the right to  
26 receive from the department, in a language that is clear and  
27 understandable to the consumer or their legal representative, a service  
28 plan and provider contract agreement that lists the authorized in-home  
29 services and the amount of hours of services to be provided, and any  
30 other pertinent information;

31 (f) Service users or their legal representative have the right to  
32 a clear and understandable explanation, orally and in writing, of the  
33 terms of their service plan and how the service plan can be modified or  
34 terminated;

35 (g) Service users or their legal representative shall be provided  
36 by the department, orally and in writing, with information on other  
37 long-term care options and how to select other long-term care options  
38 that will best meet their needs;

1 (h) Service users or their legal representative shall be provided  
2 assistance with completing any documents required to qualify for this  
3 program by the department;

4 (i) Service users or their legal representative have the right to  
5 arrange a work schedule that is convenient for them and meets their  
6 individual needs and preferences;

7 (j) Service users or their legal representative have the right to  
8 clear and understandable oral and written information prior to the  
9 authorization of individual provider services, concerning those costs  
10 that will be charged to the service user's estate while receiving  
11 individual provider program services, including but not limited to  
12 wages, benefits, case manager, and any administrative costs directly  
13 related to the oversight and supervision of this program;

14 (k) Service users or their legal representative have the right to  
15 receive a monthly written accounting of all the costs incurred by the  
16 person's estate while a recipient of services in this program  
17 consistent with (j) of this subsection;

18 (l) Service users or their legal representative shall have the  
19 right to be free of verbal, physical, and sexual abuse and neglect and  
20 be treated with consideration, respect, and full recognition of their  
21 dignity and individuality. Service users shall be encouraged and  
22 assisted in the exercise of their rights as consumers in need of  
23 services and as citizens;

24 (m) A service user may submit complaints or recommendations  
25 concerning the policies of the program to the department and to outside  
26 representatives of the service user's choice. No services provider may  
27 restrain, interfere, coerce, discriminate, or retaliate in any manner  
28 against a service user who submits a complaint or recommendation;

29 (n) A service user or their legal representative has the right to  
30 clear and understandable information about a grievance process to  
31 grieve or appeal any decision by a program or the department related to  
32 services. The service user has the right to use such grievance  
33 processes without retaliation or fear of retaliation. The service user  
34 has the right to assistance as needed to use such a grievance process;

35 (o) Service users or their legal representative have the right to  
36 choose their provider as long as the provider meets the terms and  
37 conditions established by the department;

1 (p) Service users or their legal representative must be fully  
2 informed about the nature and amount of authorized care through a  
3 written plan of care;

4 (q) Service users or their legal representative have the right to  
5 direct and participate in the planning of their services to the maximum  
6 extent of their abilities and desires, and to be provided with the time  
7 and necessary supports to facilitate such participation;

8 (r) Service users or their legal representative have the right to  
9 their personal and medical privacy;

10 (s) Service users or their legal representative have the right to  
11 trained and competent employees to provide their care;

12 (t) Service users or their legal representative have the right to  
13 know if individual providers are covered by workers' compensation,  
14 bonded for theft, and have personal liability insurance;

15 (u) Service users or their legal representative have the right to  
16 refuse some or all services offered;

17 (v) Service users or their legal representative have the right to  
18 receive services from the agency or individual provider of their  
19 choice;

20 (w) Service users or their legal representative have the right to  
21 receive materials in alternative formats upon request; and

22 (x) Service users or their legal representative have the right to  
23 appeal the denial, termination, reduction, modification, or suspension  
24 of services, using an internal grievance process and a fair hearing  
25 process.

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