
SUBSTITUTE SENATE BILL 5732

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Rasmussen, Brandland and Winsley)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to in-home long-term care services liability; and
2 amending RCW 74.39A.095.

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

4 **Sec. 1.** RCW 74.39A.095 and 2002 c 3 s 11 are each amended to read
5 as follows:

6 (1) In carrying out case management responsibilities established
7 under RCW 74.39A.090 for consumers who are receiving services under the
8 medicaid personal care, community options programs entry system or
9 chore services program through an individual provider, each area agency
10 on aging shall provide oversight of the care being provided to
11 consumers receiving services under this section to the extent of
12 available funding. Case management responsibilities incorporate this
13 oversight, and include, but are not limited to:

14 (a) Verification that any individual provider who has not been
15 referred to a consumer by the authority established under chapter 3,
16 Laws of 2002 has met any training requirements established by the
17 department;

18 (b) Verification of a sample of worker time sheets;

1 (c) Monitoring the consumer's plan of care to (~~ensure~~) verify
2 that it adequately meets the needs of the consumer, through activities
3 such as home visits, telephone contacts, and responses to information
4 received by the area agency on aging indicating that a consumer may be
5 experiencing problems relating to his or her home care;

6 (d) Reassessment and reauthorization of services;

7 (e) Monitoring of individual provider performance. If, in the
8 course of its case management activities, the area agency on aging
9 identifies concerns regarding the care being provided by an individual
10 provider who was referred by the authority, the area agency on aging
11 must notify the authority regarding its concerns; and

12 (f) Conducting criminal background checks or verifying that
13 criminal background checks have been conducted for any individual
14 provider who has not been referred to a consumer by the authority.

15 (2) The area agency on aging case manager shall work with each
16 consumer to develop a plan of care under this section that identifies
17 and ensures coordination of health and long-term care services that
18 meet the consumer's needs. In developing the plan, they shall utilize,
19 and modify as needed, any comprehensive community service plan
20 developed by the department as provided in RCW 74.39A.040. The plan of
21 care shall include, at a minimum:

22 (a) The name and telephone number of the consumer's area agency on
23 aging case manager, and a statement as to how the case manager can be
24 contacted about any concerns related to the consumer's well-being or
25 the adequacy of care provided;

26 (b) The name and telephone numbers of the consumer's primary health
27 care provider, and other health or long-term care providers with whom
28 the consumer has frequent contacts;

29 (c) A clear description of the roles and responsibilities of the
30 area agency on aging case manager and the consumer receiving services
31 under this section;

32 (d) The duties and tasks to be performed by the area agency on
33 aging case manager and the consumer receiving services under this
34 section;

35 (e) The type of in-home services authorized, and the number of
36 hours of services to be provided;

37 (f) The terms of compensation of the individual provider;

1 (g) A statement (~~that~~) by the individual provider that he or she
2 has the ability and willingness to carry out his or her
3 responsibilities relative to the plan of care; and

4 (h)(i) Except as provided in (h)(ii) of this subsection, a clear
5 statement indicating that a consumer receiving services under this
6 section has the right to waive any of the case management services
7 offered by the area agency on aging under this section, and a clear
8 indication of whether the consumer has, in fact, waived any of these
9 services.

10 (ii) The consumer's right to waive case management services does
11 not include the right to waive reassessment or reauthorization of
12 services, or verification that services are being provided in
13 accordance with the plan of care.

14 (3) Each area agency on aging shall retain a record of each waiver
15 of services included in a plan of care under this section.

16 (4) Each consumer has the right to direct and participate in the
17 development of their plan of care to the maximum practicable extent of
18 their abilities and desires, and to be provided with the time and
19 support necessary to facilitate that participation.

20 (5) A copy of the plan of care must be distributed to the
21 consumer's primary care provider, individual provider, and other
22 relevant providers with whom the consumer has frequent contact, as
23 authorized by the consumer.

24 (6) The consumer's plan of care shall be an attachment to the
25 contract between the department, or their designee, and the individual
26 provider.

27 (7) If the department or area agency on aging case manager finds
28 that an individual provider's inadequate performance or inability to
29 deliver quality care is jeopardizing the health, safety, or well-being
30 of a consumer receiving service under this section, the department or
31 the area agency on aging may take action to terminate the contract
32 between the department and the individual provider. If the department
33 or the area agency on aging has a reasonable, good faith belief that
34 the health, safety, or well-being of a consumer is in imminent
35 jeopardy, the department or area agency on aging may summarily suspend
36 the contract pending a fair hearing. The consumer may request a fair
37 hearing to contest the planned action of the case manager, as provided
38 in chapter 34.05 RCW. When the department or area agency on aging

1 terminates or summarily suspends a contract under this subsection, it
2 must provide oral and written notice of the action taken to the
3 authority. The department may by rule adopt guidelines for
4 implementing this subsection.

5 (8) The department or area agency on aging may reject a request by
6 a consumer receiving services under this section to have a family
7 member or other person serve as his or her individual provider if the
8 case manager has a reasonable, good faith belief that the family member
9 or other person will be unable to appropriately meet the care needs of
10 the consumer. The consumer may request a fair hearing to contest the
11 decision of the case manager, as provided in chapter 34.05 RCW. The
12 department may by rule adopt guidelines for implementing this
13 subsection.

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