HOUSE BILL REPORT
ESSB 6872

As Passed House:
April 12, 2010

Title: An act relating to medicaid nursing facility payments.

Brief Description: Concerning medicaid nursing facility payments.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Keiser).

Brief History:
Committee Activity:
None.
First Special Session
Floor Activity:
Passed House: 4/12/10, 63-34.

Brief Summary of Engrossed Substitute Bill

- Makes a number of changes to nursing home rates administered under the Department of Social and Health Services (DSHS).
- Reduces the allocation for variable return to 30 percent of the June 30, 2006, level and repeals the variable return rate component on July 1, 2011.
- Defines large nonessential community providers as facilities with 60 or greater licensed Medicaid beds.
- Raises minimum occupancy in the operations, property, and finance components to 92 percent for large nonessential community providers.
- Eliminates bed banking.
- Changes the case mix adjustment cycle from quarterly to semi-annually.
- Reduces return on investment in the finance component from 8.5 percent to 4.0 percent for all assets.
- Requires the DSHS to establish a pay-for-performance subsidy structure and to the extent that funds are appropriated for this purpose, establishes a payment subsidy that will reward facilities with low turnover in direct care staff.

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.

- Postpones rebasing of nursing home rates for one year and moves the cycle for rebasing from every odd-year to every even-year.
- Repeals provisions related to reporting, auditing, settlement, allowable costs, billing/payment, administration, patient trust funds, appeals, and public disclosure in the current nursing home payment statute and directs the DSHS to establish these in rule.
- Provides 11 principles to be used by the DSHS when re-establishing the repealed provisions in rule.
- Removes historical language, dates, and references from statute that have been superseded by subsequent legislative changes.

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Background:

The Washington State Medicaid (Medicaid) program includes long-term care assistance and services provided to low-income individuals. Clients may be served in their own homes, in community residential settings, and in skilled nursing facilities.

There are just over 250 skilled nursing facilities licensed in Washington that provide 24-hour long-term care services for approximately 10,900 Medicaid-eligible clients. The Medicaid nursing home payment system is administered by the Department of Social and Health Services (DSHS). The Medicaid rates in Washington are unique to each facility and are generally based on the facility's costs, occupancy rate, and client acuity (sometimes called the "case mix"). In the biennial appropriations act, the Legislature sets a statewide weighted average Medicaid payment rate, sometimes referred to as the "budget dial." If the actual statewide nursing facility payments exceed the budget dial, the DSHS is required to proportionally adjust downward all nursing facility payment rates to meet the budget dial.

The payment system consists of seven different rate components: direct care, therapy care, support services, operations, property, financing allowance, and variable return.

- The direct care rate component is based on the relative care needs of the residents, also known as "case mix." The minimum data set is reviewed quarterly and adjustments in payments are made based on the patient acuity of the clients being served. Direct care represents around 55 percent of the total nursing facility payment and includes payment for direct care staff wages and benefits, non-prescription medication, and medical supplies.
- The therapy care component includes payments for physical, occupational, and speech therapy.
- The support services component includes payments for food, food preparation, laundry, and housekeeping.
- The operations component includes payment for administrative costs, office supplies, utilities, accounting, minor facility maintenance, and equipment repairs.

- Property and finance rate components pay for facility capital costs. The finance component includes an allowable rate of return on the net book value of a facility's tangible fixed assets of 8.5 percent for assets acquired on or after May 17, 1999, and 10 percent for assets acquired before May 17, 1999. The statute currently allows less than 2 percent per year growth in the capital components of Property and Financing Allowance.
- The variable return rate component does not reimburse specific costs. It is an efficiency incentive provided to nursing facilities that serve residents at the lowest cost. It is calculated based on a percentage of the combined costs of direct care, therapy care, support services, and operations. The facilities with the lowest costs receive the highest dollar amount. The facilities with the highest costs receive the lowest dollar amount.

All rate components except for direct care are subject to minimum occupancy adjustments. Aside from specific cases where a "hold harmless" applies, if a facility does not meet the minimum occupancy requirements, the rates are adjusted downward. Currently, the minimum occupancy requirements in the operations, property, and finance components are 90 percent for all facilities except Essential Community Providers (ECP). The minimum occupancy for ECPs is 85 percent. Under current statute, facilities can reduce the effects of minimum occupancy through bed banking (temporarily reducing the number of patient beds for which they are licensed). Beds can be banked for up to eight years before the facility has to decide whether to renew the Medicaid licensing on them, sell them, or relinquish them.

Regular cost reports are required by the nursing homes. Review is also required. Costs and payments are part of the review. Rates are regularly rebased through this process. The property and finance rate components are rebased annually. All other rate components except for variable return are rebased every odd-numbered year. Variable return rates are currently frozen at the June 30, 2006, level.

Summary of Bill:

A number of changes are made to the nursing home payment rates administered under the Department of Social and Health Services (DSHS).

The allocation for variable return is reduced to 30 percent of the June 30, 2006 level and the variable return rate component is repealed on July 1, 2011.

Facilities with 60 or greater licensed beds are defined as large nonessential community providers. Minimum occupancy in the operations, property, and finance components is raised from 90 percent to 92 percent for large nonessential community providers. Facilities are no longer permitted to bank beds, which under current statute, reduces the effects of minimum occupancy.

The case mix adjustment cycle is changed to every 6 months instead of every quarter. Rebasing is postponed for one year and the cycle for rebasing moves to every even-year. Under this bill the rebase schedule would become 2007, 2009, 2012, 2014, 2016, and so on.

The finance component's rate on return for tangible assets is reduced from 8.5 percent to 4.0 percent for assets purchased on or after May 17, 1999, and from 10.0 percent to 4.0 percent for assets purchased before May 17, 1999.

The DSHS is required to establish a pay for performance supplemental payment structure that provides payment add-ons for high performing facilities. To the extent that funds are appropriated for the purpose, the pay-for-performance structure will include a 1 percent reduction to facilities that have direct care staff turnover above 75 percent and a payment add-on to facilities that maintain direct care staff turnover below 75 percent.

Terms and definitions that are no longer relevant or already addressed in Washington Administrative Code (WAC) are removed from statute. Reporting, auditing, settlement, allowable costs, billing/payment, administration, patient trust funds, appeals, public disclosure, and severability in the current nursing home payment statute are repealed and the DSHS is directed to establish these in rule. Eleven principles are retained from repealed statute and the DSHS is instructed to use these principles when re-establishing these items in rule.

Historical language, dates, and references that have been superseded by subsequent legislative changes are removed. Rate setting is retained in statute and no substantial changes are made to the payment methodology or calculations, commonly referred to as Part E.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect July 1, 2010.