
HOUSE BILL 2253

State of Washington

61st Legislature

2009 Regular Session

By Representative Hope

Read first time 02/18/09. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to rights of consumers receiving in-home care
2 services; and amending RCW 70.127.140 and 74.39A.095.

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

4 **Sec. 1.** RCW 70.127.140 and 2000 c 175 s 12 are each amended to
5 read as follows:

6 (1) An in-home services agency shall provide each individual or
7 designated representative with a written bill of rights affirming each
8 individual's right to:

9 (a) A listing of the in-home services offered by the in-home
10 services agency and those being provided;

11 (b) The name of the individual supervising the care and the manner
12 in which that individual may be contacted;

13 (c) A description of the process for submitting and addressing
14 complaints;

15 (d) Submit complaints without retaliation and to have the complaint
16 addressed by the agency;

17 (e) Be informed of the state complaint hotline number;

18 (f) A statement advising the individual or representative of the
19 right to ongoing participation in the development of the plan of care;

1 (g) A statement providing that:

2 (i) The individual or representative is entitled to information
3 regarding access to the department's listing of providers and to select
4 any licensee to provide care, subject to the individual's reimbursement
5 mechanism or other relevant contractual obligations; and

6 (ii) The individual or representative is entitled to require, at
7 the individual's expense, that any employee of the licensee providing
8 care submit to a preemployment urine analysis drug screening test
9 performed according to standards adopted by the department in rules;

10 (h) Be treated with courtesy, respect, privacy, and freedom from
11 abuse and discrimination;

12 (i) Refuse treatment or services;

13 (j) Have property treated with respect;

14 (k) Privacy of personal information and confidentiality of health
15 care records;

16 (l) Be cared for by properly trained staff with coordination of
17 services;

18 (m) A fully itemized billing statement upon request, including the
19 date of each service and the charge. Licensees providing services
20 through a managed care plan shall not be required to provide itemized
21 billing statements; and

22 (n) Be informed about advanced directives and the agency's
23 responsibility to implement them.

24 (2) An in-home services agency shall ensure rights under this
25 section are implemented and updated as appropriate.

26 **Sec. 2.** RCW 74.39A.095 and 2004 c 141 s 1 are each amended to read
27 as follows:

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

36 (a) Verification that any individual provider who has not been

1 referred to a consumer by the authority established under chapter 3,
2 Laws of 2002 has met any training requirements established by the
3 department;

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

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

10 (d) Reassessment and reauthorization of services;

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

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

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

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

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

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

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

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

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

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

7 (h) A clear statement indicating that a consumer receiving services
8 under this section has the following rights:

9 (i) The right to require, at the consumer's expense, that an
10 individual provider providing services to the consumer submit to a
11 preemployment urine analysis drug screening test performed according to
12 standards adopted by the department in rules; and

13 (ii)(A) Except as provided in (h)(ii)(B) of this subsection, (~~a~~
14 ~~clear statement indicating that a consumer receiving services under~~
15 ~~this section has~~) the right to waive any of the case management
16 services offered by the area agency on aging under this section, and a
17 clear indication of whether the consumer has, in fact, waived any of
18 these services.

19 ~~((+ii+))~~ (B) The consumer's right to waive case management services
20 does not include the right to waive reassessment or reauthorization of
21 services, or verification that services are being provided in
22 accordance with the plan of care.

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

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

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

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

36 (7) If the department or area agency on aging case manager finds
37 that an individual provider's inadequate performance or inability to
38 deliver quality care is jeopardizing the health, safety, or well-being

1 of a consumer receiving service under this section, the department or
2 the area agency on aging may take action to terminate the contract
3 between the department and the individual provider. If the department
4 or the area agency on aging has a reasonable, good faith belief that
5 the health, safety, or well-being of a consumer is in imminent
6 jeopardy, the department or area agency on aging may summarily suspend
7 the contract pending a fair hearing. The consumer may request a fair
8 hearing to contest the planned action of the case manager, as provided
9 in chapter 34.05 RCW. When the department or area agency on aging
10 terminates or summarily suspends a contract under this subsection, it
11 must provide oral and written notice of the action taken to the
12 authority. The department may by rule adopt guidelines for
13 implementing this subsection.

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

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