

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6387

Chapter 139, Laws of 2014

63rd Legislature
2014 Regular Session

PERSONS WITH DEVELOPMENTAL DISABILITIES--SERVICES AVAILABILITY

EFFECTIVE DATE: 06/12/14

Passed by the Senate March 13, 2014
YEAS 48 NAYS 0

TIM SHELDON

President of the Senate

Passed by the House March 13, 2014
YEAS 93 NAYS 4

FRANK CHOPP

Speaker of the House of Representatives

Approved March 28, 2014, 3:03 p.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6387** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

March 31, 2014

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6387

AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hill, Hargrove, Ranker, Fain, Braun, Tom, Dammeier, Parlette, Becker, Schoesler, Hewitt, Bailey, King, Angel, Roach, Keiser, Litzow, Kohl-Welles, O'Ban, Conway, and Benton)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to reducing the number of individuals with
2 developmental disabilities who have requested a service but the
3 provision of a specific service would exceed program capacity; amending
4 RCW 71A.10.020, 71A.16.050, 18.88B.041, 74.39A.076, and 74.39A.341; and
5 creating new sections.

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

7 NEW SECTION. **Sec. 1.** In conjunction with recent findings from the
8 Washington state auditor's office, the legislature finds that there are
9 thousands of state citizens who have been determined eligible for
10 services through the department of social and health services'
11 developmental disability administration. For those who have asked for
12 help but are waiting for services, families may experience financial or
13 emotional hardships. The legislature intends to clarify and make
14 transparent the process for accessing publicly funded services for
15 individuals with developmental disabilities and their families. The
16 legislature intends to significantly reduce the number of eligible
17 individuals who are waiting for services by funding additional slots
18 and by implementing new programs that better utilize federal funding
19 partnerships.

1 **Sec. 2.** RCW 71A.10.020 and 2011 1st sp.s. c 30 s 3 are each
2 amended to read as follows:

3 As used in this title, the following terms have the meanings
4 indicated unless the context clearly requires otherwise.

5 (1) "Assessment" means an evaluation is provided by the department
6 to determine:

7 (a) If the individual meets functional and financial criteria for
8 medicaid services; and

9 (b) The individual's support needs for service determination.

10 (2) "Community residential support services," or "community support
11 services," and "in-home services" means one or more of the services
12 listed in RCW 71A.12.040.

13 (~~(2)~~) (3) "Crisis stabilization services" means services provided
14 to persons with developmental disabilities who are experiencing
15 behaviors that jeopardize the safety and stability of their current
16 living situation. Crisis stabilization services include:

17 (a) Temporary intensive services and supports, typically not to
18 exceed sixty days, to prevent psychiatric hospitalization,
19 institutional placement, or other out-of-home placement; and

20 (b) Services designed to stabilize the person and strengthen their
21 current living situation so the person may continue to safely reside in
22 the community during and beyond the crisis period.

23 (~~(3)~~) (4) "Department" means the department of social and health
24 services.

25 (~~(4)~~) (5) "Developmental disability" means a disability
26 attributable to intellectual disability, cerebral palsy, epilepsy,
27 autism, or another neurological or other condition of an individual
28 found by the secretary to be closely related to an intellectual
29 disability or to require treatment similar to that required for
30 individuals with intellectual disabilities, which disability originates
31 before the individual attains age eighteen, which has continued or can
32 be expected to continue indefinitely, and which constitutes a
33 substantial limitation to the individual. By January 1, 1989, the
34 department shall promulgate rules which define neurological or other
35 conditions in a way that is not limited to intelligence quotient scores
36 as the sole determinant of these conditions, and notify the legislature
37 of this action.

1 ~~((5))~~ (6) "Eligible person" means a person who has been found by
2 the secretary under RCW 71A.16.040 to be eligible for services.

3 ~~((6))~~ (7) "Habilitative services" means those services provided
4 by program personnel to assist persons in acquiring and maintaining
5 life skills and to raise their levels of physical, mental, social, and
6 vocational functioning. Habilitative services include education,
7 training for employment, and therapy.

8 ~~((7))~~ (8) "Legal representative" means a parent of a person who
9 is under eighteen years of age, a person's legal guardian, a person's
10 limited guardian when the subject matter is within the scope of the
11 limited guardianship, a person's attorney-at-law, a person's
12 attorney-in-fact, or any other person who is authorized by law to act
13 for another person.

14 ~~((8))~~ (9) "Notice" or "notification" of an action of the
15 secretary means notice in compliance with RCW 71A.10.060.

16 ~~((9))~~ (10) "Residential habilitation center" means a state-
17 operated facility for persons with developmental disabilities governed
18 by chapter 71A.20 RCW.

19 ~~((10))~~ (11) "Respite services" means relief for families and
20 other caregivers of people with disabilities, typically not to exceed
21 ninety days, to include both in-home and out-of-home respite care on an
22 hourly and daily basis, including twenty-four hour care for several
23 consecutive days. Respite care workers provide supervision,
24 companionship, and personal care services temporarily replacing those
25 provided by the primary caregiver of the person with disabilities.
26 Respite care may include other services needed by the client, including
27 medical care which must be provided by a licensed health care
28 practitioner.

29 ~~((11))~~ (12) "Secretary" means the secretary of social and health
30 services or the secretary's designee.

31 ~~((12))~~ (13) "Service" or "services" means services provided by
32 state or local government to carry out this title.

33 ~~((13))~~ (14) "State-operated living alternative" means programs
34 for community residential services which may include assistance with
35 activities of daily living, behavioral, habilitative, interpersonal,
36 protective, medical, nursing, and mobility supports to individuals who
37 have been assessed by the department as meeting state and federal
38 requirements for eligibility in home and community-based waiver

1 programs for individuals with developmental disabilities. State-
2 operated living alternatives are operated and staffed with state
3 employees.

4 ~~((14))~~ (15) "Supported living" means community residential
5 services and housing which may include assistance with activities of
6 daily living, behavioral, habilitative, interpersonal, protective,
7 medical, nursing, and mobility supports provided to individuals with
8 disabilities who have been assessed by the department as meeting state
9 and federal requirements for eligibility in home and community-based
10 waiver programs for individuals with developmental disabilities.
11 Supported living services are provided under contracts with private
12 agencies or with individuals who are not state employees.

13 ~~((15))~~ (16) "Vacancy" means an opening at a residential
14 habilitation center, which when filled, would not require the center to
15 exceed its biennially budgeted capacity.

16 (17) "Service request list" means a list of eligible persons who
17 have received an assessment for service determination and their
18 assessment shows that they meet the eligibility requirements for the
19 requested service but were denied access due to funding limits.

20 **Sec. 3.** RCW 71A.16.050 and 1988 c 176 s 405 are each amended to
21 read as follows:

22 The determination made under this chapter is only as to whether a
23 person is eligible for services. After the secretary has determined
24 under this chapter that a person is eligible for services, the
25 individual may request an assessment for eligibility for medicaid
26 programs and specific services administered by the developmental
27 disabilities administration. The secretary shall make a determination
28 as to what services are appropriate for the person. The secretary shall
29 prioritize services to medicaid eligible clients. Services may be made
30 available to nonmedicaid eligible clients based on available funding.
31 Services available through the state medicaid plan must be provided to
32 those individuals who meet the eligibility criteria. The department
33 shall establish and maintain a service request list database for
34 individuals who are found to be eligible and have an assessed and unmet
35 need for programs and services offered under a home and community-based
36 services waiver, but the provision of a specific service would exceed
37 the biennially budgeted capacity.

1 NEW SECTION. **Sec. 4.** The department of social and health services
2 shall develop and implement a medicaid program to replace the
3 individual and family services program for medicaid-eligible clients no
4 later than May 1, 2015. The new medicaid program must offer services
5 that closely resemble the services offered in fiscal year 2014 through
6 the individual and family services program. To the extent possible,
7 the department shall expand the client caseload on the medicaid program
8 replacing the individual and family services program. The department
9 is authorized in fiscal year 2015 to use general fund--state dollars
10 previously provided for the individual and family services program to
11 cover the cost of increasing the number of clients served in the new
12 medicaid program.

13 NEW SECTION. **Sec. 5.** By June 30, 2017, if additional federal
14 funds through the community first choice option are attained, then the
15 department of social and health services shall increase the number
16 served on the medicaid program replacing the individual and family
17 services program by at least four thousand, and increase by at least
18 one thousand clients receiving services on the home and community-based
19 services basic plus waiver. For both of these programs, the department
20 of social and health services shall expend the client caseload
21 beginning June 30, 2015.

22 **Sec. 6.** RCW 18.88B.041 and 2012 c 164 s 302 are each amended to
23 read as follows:

24 (1) The following long-term care workers are not required to become
25 a certified home care aide pursuant to this chapter:

26 (a)(i)(A) Registered nurses, licensed practical nurses, certified
27 nursing assistants or persons who are in an approved training program
28 for certified nursing assistants under chapter 18.88A RCW, medicare-
29 certified home health aides, or other persons who hold a similar health
30 credential, as determined by the secretary, or persons with special
31 education training and an endorsement granted by the superintendent of
32 public instruction, as described in RCW 28A.300.010, if the secretary
33 determines that the circumstances do not require certification.

34 (B) A person who was initially hired as a long-term care worker
35 prior to January 7, 2012, and who completes all of his or her training
36 requirements in effect as of the date he or she was hired.

1 (ii) Individuals exempted by (a)(i) of this subsection may obtain
2 certification as a home care aide without fulfilling the training
3 requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete
4 a certification examination pursuant to RCW 18.88B.031.

5 (b) All long-term care workers employed by community residential
6 service businesses.

7 (c) An individual provider caring only for his or her biological,
8 step, or adoptive child or parent.

9 (d) ~~((Prior to))~~ Until July 1, ~~((2014))~~ 2016, a person ~~((hired))~~
10 working as an individual provider who provides twenty hours or less of
11 care for one person in any calendar month.

12 (e) Until July 1, 2016, a person working as an individual provider
13 who only provides respite services and works less than three hundred
14 hours in any calendar year.

15 (2) A long-term care worker exempted by this section from the
16 training requirements contained in RCW 74.39A.074 may not be prohibited
17 from enrolling in training pursuant to that section.

18 (3) The department shall adopt rules to implement this section.

19 **Sec. 7.** RCW 74.39A.076 and 2012 c 164 s 402 are each amended to
20 read as follows:

21 (1) Beginning January 7, 2012, except for long-term care workers
22 exempt from certification under RCW 18.88B.041(1)(a):

23 (a) A biological, step, or adoptive parent who is the individual
24 provider only for his or her developmentally disabled son or daughter
25 must receive twelve hours of training relevant to the needs of adults
26 with developmental disabilities within the first one hundred twenty
27 days after becoming an individual provider or within one hundred twenty
28 calendar days after March 29, 2012, whichever is later.

29 (b) Individual providers identified in (b)(i) ~~((and))~~, (ii), and
30 (iii) of this subsection must complete thirty-five hours of training
31 within the first one hundred twenty days after becoming an individual
32 provider or within one hundred twenty calendar days after March 29,
33 2012, whichever is later. Five of the thirty-five hours must be
34 completed before becoming eligible to provide care. Two of these five
35 hours shall be devoted to an orientation training regarding an
36 individual provider's role as caregiver and the applicable terms of

1 employment, and three hours shall be devoted to safety training,
2 including basic safety precautions, emergency procedures, and infection
3 control. Individual providers subject to this requirement include:

4 (i) An individual provider caring only for his or her biological,
5 step, or adoptive child or parent unless covered by (a) of this
6 subsection; (~~and~~)

7 (ii) Until (~~January 1, 2014~~) July 1, 2016, a person (~~hired~~)
8 working as an individual provider who provides twenty hours or less of
9 care for one person in any calendar month; and

10 (iii) Until July 1, 2016, a person working as an individual
11 provider who only provides respite services and works less than three
12 hundred hours in any calendar year.

13 (2) In computing the time periods in this section, the first day is
14 the date of hire or March 29, 2012, whichever is applicable.

15 (3) Only training curriculum approved by the department may be used
16 to fulfill the training requirements specified in this section. The
17 department shall only approve training curriculum that:

18 (a) Has been developed with input from consumer and worker
19 representatives; and

20 (b) Requires comprehensive instruction by qualified instructors.

21 (4) The department shall adopt rules to implement this section.

22 **Sec. 8.** RCW 74.39A.341 and 2013 c 259 s 3 are each amended to read
23 as follows:

24 (1) All long-term care workers shall complete twelve hours of
25 continuing education training in advanced training topics each year.
26 This requirement applies beginning July 1, 2012.

27 (2) Completion of continuing education as required in this section
28 is a prerequisite to maintaining home care aide certification under
29 chapter 18.88B RCW.

30 (3) Unless voluntarily certified as a home care aide under chapter
31 18.88B RCW, subsection (1) of this section does not apply to:

32 (a) An individual provider caring only for his or her biological,
33 step, or adoptive child;

34 (b) Registered nurses and licensed practical nurses licensed under
35 chapter 18.79 RCW;

36 (c) Before January 1, 2016, a long-term care worker employed by a
37 community residential service business; (~~or~~)

1 (d) (~~Before~~) Until July 1, (~~2014~~) 2016, a person (~~hired~~)
2 working as an individual provider who provides twenty hours or less of
3 care for one person in any calendar month; or

4 (e) Until July 1, 2016, a person working as an individual provider
5 who only provides respite services and works less than three hundred
6 hours in any calendar year.

7 (4) Only training curriculum approved by the department may be used
8 to fulfill the training requirements specified in this section. The
9 department shall only approve training curriculum that:

10 (a) Has been developed with input from consumer and worker
11 representatives; and

12 (b) Requires comprehensive instruction by qualified instructors.

13 (5) Individual providers under RCW 74.39A.270 shall be compensated
14 for training time required by this section.

15 (6) The department of health shall adopt rules to implement
16 subsection (1) of this section.

17 (7) The department shall adopt rules to implement subsection (2) of
18 this section.

Passed by the Senate March 13, 2014.

Passed by the House March 13, 2014.

Approved by the Governor March 28, 2014.

Filed in Office of Secretary of State March 31, 2014.