

# HOUSE BILL REPORT

## SB 5715

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### As Reported by House Committee On: Appropriations

**Title:** An act relating to limiting nursing home direct care payment adjustments to the lowest case mix weights in the reduced physical function groups and authorizing upward adjustments to case mix weights in the cognitive and behavior groups.

**Brief Description:** Limiting nursing home direct care payment adjustments to the lowest case mix weights in the reduced physical function groups and authorizing upward adjustments to case mix weights in the cognitive and behavior groups.

**Sponsors:** Senators Rivers, Keiser, Cleveland, Becker, Hunt, Billig, Bailey and Kuderer.

#### **Brief History:**

##### **Committee Activity:**

Appropriations: 4/1/17, 4/4/17 [DPA].

#### **Brief Summary of Bill (As Amended by Committee)**

- Exempts nursing homes from paying a rate penalty on certain residents with reduced physical functions.
- Allows exceptions to the rate penalty for nursing home residents with limited placement options in the community.
- Authorizes the Department of Social and Health Services to adjust upward the weighted scores of acuity for nursing home residents with behavioral and cognitive performance issues.
- Updates language to reflect the current data system and classification grouping systems in use for Medicaid nursing home rates in Washington.
- Caps the direct care component of the nursing home rate at 118 percent of the nursing home's direct care allowable costs.

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### HOUSE COMMITTEE ON APPROPRIATIONS

*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.*

**Majority Report:** Do pass as amended. Signed by 32 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Cody, Condotta, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Vick, Volz and Wilcox.

**Staff:** Mary Mulholland (786-7391).

**Background:**

Washington's Medicaid program includes long-term care assistance and services provided to low-income individuals. It is administered by the state in compliance with federal laws and regulations and is jointly financed by the federal and state government. Clients may be served in their own homes, in community residential settings, or in skilled nursing facilities (nursing homes).

There are approximately 210 nursing homes licensed in Washington to serve about 9,600 Medicaid clients. Nursing homes are licensed by the Department of Social and Health Services (DSHS) and provide 24-hour supervised nursing care, personal care, therapies, nutrition management, organized activities, social services, laundry services, and room and board to three or more residents. The Medicaid nursing home payment system is administered by the DSHS. The Medicaid rates in Washington are unique to each facility and reflect the client acuity (sometimes called the case mix) of each facility's residents.

Resource Utilization Groups.

Washington uses a scoring or classification system, known as Resource Utilization Groups (RUGs), to align direct care Medicaid payments with the resource needs of nursing home residents. The RUGs derive data from specific sections of the federal Minimum Data Set (MDS). The MDS assesses a resident's therapy needs, Activities of Daily Living (ADL) impairments, cognitive status, behavioral problems, and medical diagnosis. Ultimately, each client receives a weighted score that approximates the nursing needs and the ADL needs for the client. Typical ADL needs include bed mobility, transfer, and toilet use.

The RUG codes that begin with a "P" indicate that the resident's resource use is driven by reduced physical functions rather than wound care, therapies, or special needs.

The RUG codes that begin with a "B" indicate that the resident's resource use is driven by behavioral symptoms and cognitive performance.

Legislative Actions.

In the 2011-13 biennial budget and through policy legislation enacted in 2011, the Legislature directed that Medicaid nursing home residents in the 10 RUG codes from PA1 through PE2 be reimbursed at 87 percent of the average direct care daily rate. This rate modification is sometimes called the 13 percent penalty or "low-acuity penalty." The rate modification was assumed to generate ongoing savings of \$22.6 million total funds (\$11.3 million General Fund-State) per biennium.

Under the Medicaid nursing home rate methodology in use until July 2017, many nursing homes that received the penalty for PA1 through PE2 residents also received a rate add-on that mitigated the impact of the reduced reimbursement. This rate add-on was called the comparative add-on.

In 2015 and 2016 the Legislature modified the nursing home rate methodology effective July 2017. These modifications reduced the number of rate components, including removal of the comparative add-on.

In the 2016 supplemental budget, the Legislature included proviso language that temporarily exempted five of the 10 RUG categories (PC2 through PE2) affected by the 13 percent penalty in a way designed to be cost-neutral for fiscal year (FY) 2017. Mechanisms to maintain cost-neutrality included capping the direct care component of the nursing home rate at 118 percent over 2014 direct care costs, targeting efforts to move less acute residents to community placements, and authorizing the DSHS to increase the penalty on the nonexempt RUG categories if needed. The proviso language will no longer be in effect when FY 2017 closes on June 30, 2017.

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### **Summary of Amended Bill:**

Nursing home rates are modified to exempt nursing homes from paying the low-acuity penalty on behalf of certain residents, specifically:

- Residents in six of the 10 RUG codes are exempt from the penalty (PC1 through PE2).
- The penalty remains for residents in the remaining four of 10 RUG codes (PA1 through PB2) except for those who also present with behavioral RUG codes.
- Exceptions to the penalty are permitted for residents with limited placement options in the community.

The DSHS is authorized to adjust upward the weighted RUG scores residents with behavioral or cognitive performance issues (BA1 through BB2).

Updates are made to reflect the current MDS system and RUG classification in use for Medicaid nursing home rates in Washington.

The direct care component of the nursing home rate is capped at 118 percent of the direct care allowable costs in the base rate year. Nursing homes that are below the statutory minimum staffing standard of 3.4 hours per resident day are not subject to the direct care cap.

The act is null and void unless funded in the operating budget by July 1, 2017.

### **Amended Bill Compared to Original Bill:**

The direct care component of the nursing home rate is capped at 118 percent of direct care allowable costs in the base rate year, except for nursing homes that are below the statutory

minimum staffing standard.

A null and void clause is added, making the bill null and void unless specific funding is appropriated in the operating budget by July 1, 2017.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony:**

(In support) This issue has been brought before the committee multiple times. The nursing home payment penalty would be limited to only those individuals who are truly low-acuity and appropriate for community placement.

(Opposed) None.

**Persons Testifying:** Jeff Gombosky, Washington Health Care Association; and Scott Sigmon, Leading Age Washington.

**Persons Signed In To Testify But Not Testifying:** None.