

HOUSE BILL REPORT

SB 5866

As Passed House:

March 2, 2022

Title: An act relating to medicaid long-term services and supports eligibility determinations completed by federally recognized Indian tribes.

Brief Description: Concerning medicaid long-term services and supports eligibility determinations completed by federally recognized Indian tribes.

Sponsors: Senators Robinson, Randall, Conway, Kuderer, Lovick, Nguyen, Nobles and Wilson, C.; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Health Care & Wellness: 2/21/22, 2/23/22 [DP].

Floor Activity:

Passed House: 3/2/22, 93-0.

Brief Summary of Bill

- Authorizes the Department of Social and Health Services to contract with federally recognized Indian tribes to provide the same services as an area agency on aging for persons receiving home and community services within their regional authority.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 15 members: Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske, Davis, Harris, Macri, Maycumber, Riccelli, Rude, Simmons, Stonier, Tharinger and Ybarra.

Staff: Christopher Blake (786-7392).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Long-term services and supports are for persons who need assistance with activities of daily living such as bathing, dressing, ambulation, transfers, toileting, medication assistance or administration, personal hygiene, transportation, and other health-related tasks. The Department of Social and Health Services (Department) administers Medicaid funded long-term services and supports to eligible persons in Washington. For a person to receive long-term services and supports, the person must be determined by the Department to be both functionally and financially eligible. Once a person is determined to be eligible for long-term services and supports, the person has the option to receive services in the home, from a community residential services provider, or in a skilled nursing facility.

The Department contracts with 13 area agencies on aging to provide case management and related services to persons receiving long-term services and supports in their homes. Case management services may include establishing a plan of care for the person and monitoring the plan's implementation, reassessing and reauthorizing services, and assessing the quality of care being provided to persons. In situations in which an individual provider who provides the services is under contract with the Department, rather than employed by a consumer-directed employer, the area agency on aging has additional responsibilities related to verifying training requirements, conducting background checks, monitoring service provision, and terminating individual provider contracts for cause. The Department assesses the degree and quality of case management services performed by area agencies on aging.

Summary of Bill:

The Department of Social and Health Services (Department) may contract with a federally recognized Indian tribe (tribe) to determine eligibility for services, authorize and reauthorize services, and perform other case management functions for persons receiving home and community services within its regional authority. Specifically, if the Department contracts with a tribe, the tribe must perform the same functions as required for area agencies on aging, including:

- developing a plan of care with each client to coordinate health and long-term care services and supports;
- monitoring the implementation of each client's plan of care;
- reassessing and reauthorizing services;
- explaining to consumers that they have the right to waive case management services offered by the federally recognized Indian tribe and documenting any such waiver;
- notifying the consumer-directed employer if an individual provider is not delivering services or is jeopardizing a person's health, safety, or well-being;
- assessing the quality of in-home care services provided to individuals; and
- fulfilling responsibilities related to individual providers under contract with the Department, such as verifying training requirements, conducting background checks, monitoring service provision, and terminating individual provider contracts for cause.

The Department must assess the degree and quality of case management services performed by contracted federally recognized Indian tribes to the same extent that it may assess area agencies on aging.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill allows the tribes to facilitate meeting the needs of tribal elders in their communities. It will allow tribes to assess and reassess tribal members for long-term care and provide case management services for tribal elders. This bill enables tribal staff to perform assessment and case management functions for long-term supports and services within their own tribe. Allowing tribes to perform these functions will help the tribes by recognizing that tribal staff are governmental staff that care about serving the tribal community, that tribal staff understand tribe-specific income, and that tribal staff are members of the community and have a trusting relationship and can serve people in a culturally-sensitive way. Area agencies on aging act as a gatekeeper for coverage and are not always culturally appropriate with respect to items covered under treaties with the federal government. Passing this bill will remove many of the barriers and delays that tribal elders are currently experiencing and maintains the state's responsibility to facilitate the Medicaid program for American Indians and Alaska Natives.

This bill is a way to support tribal governments as partners in long-term services and supports delivery systems. This bill will make services more responsive to the needs of tribal members. This bill strengthens the government-to-government relationship between the state and tribes.

(Opposed) None.

Persons Testifying: Bea Rector, Department of Social and Health Services, Aging and Long-Term Support Administration; Loni Greninger, Jamestown S'Klallam Tribe; Nickolaus Lewis, Lummi Nation; and Carol Evans, Spokane Tribal Council.

Persons Signed In To Testify But Not Testifying: None.