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**HOUSE BILL 2449**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Hutchins, Corry, Schmick, Stokesbary, Christian, Connors, Jacobsen, Sandlin, Schmidt, Goehner, Eslick, Volz, Rude, Klicker, Cheney, and Caldier

AN ACT Relating to increasing access to health care by dedicating a percentage of the cannabis tax revenue to medicaid rate increases for professional health care services; amending RCW 69.50.540; reenacting and amending RCW 43.84.092, 43.84.092, and 43.84.092; adding a new chapter to Title 74 RCW; providing effective dates; and providing expiration dates.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Inflation factor" means an index published in the federal register used in the calculation of changes to determine allowed charges for physician services that is known as the medicare economic index.

(2) "Medicaid managed care organization" means a managed health care system under contract with the state of Washington to provide services to medicaid enrollees under RCW 74.09.522.

NEW SECTION. **Sec.**  The professional health care services rate enhancement account is created in the state treasury. All receipts from RCW 69.50.540(3)(d) must be deposited into the account as well as any amounts expended from the account that are later recouped by the health care authority through audit or otherwise must be returned to the account. Moneys in the account may be spent only after appropriation as provided in this chapter. Expenditures from the account may be used only for medicaid professional service rates in accordance with this chapter as follows: To make payments to health care providers and managed care organizations as specified in this chapter; and to medicaid managed care organizations for funding the nonfederal share of increased capitation payments.

NEW SECTION. **Sec.**  (1) The expenditures made after appropriation under section 2 of this act are conditioned upon the continued availability of other funds sufficient to maintain professional services payment rates covered by medicaid, including fee-for-service and managed care, effective January 1, 2026, but no less than the corresponding medicare rates for those services on October 1, 2023. Rates for subsequent years shall be annually adjusted based on the inflation factor.

(2) The health care authority may adopt rules to determine the professional services included under this chapter. Rules must be adopted by July 1, 2025, and must include all covered professional services that are delivered by physicians, physician assistants, and advanced registered nurse practitioners.

NEW SECTION. **Sec.**  (1) Beginning on the later of January 1, 2026, or 30 calendar days after satisfaction of the conditions in section 5 of this act and subsection (2) of this section, and for each subsequent calendar year so long as none of the conditions stated in section 5 of this act have occurred, the authority shall make quarterly payments to medicaid managed care organizations as specified in this section and in a manner consistent with federal contracting requirements. The authority shall direct payments from managed care organizations to health care providers.

(2) Before making payments under this section, the authority shall modify its contracts with managed care organizations or otherwise require:

(a) Payment of the entire amount payable to health care providers as directed by the authority under subsection (3) of this section, less an allowance for premium taxes the organization is required to pay under Title 48 RCW and for funding the nonfederal share of increased capitation payments based on their projected assessment under this chapter;

(b) That payments to health care providers be made as part of the contracted reimbursement process;

(c) That any delegation or attempted delegation of an organization's obligations under agreements with the authority does not relieve the organization of its obligations under this section and related contract provisions; and

(d) That if funds cannot be paid to health care providers, the managed care organization shall return the funds to the health care authority, which shall return them to the professional health care services rate enhancement account.

(3) If federal restrictions prevent the full amount of payments under this section from being delivered to any class or classes of health care provider, the health care authority, in consultation with the Washington state medical association, will alter payment rates for medicaid professional services.

(4) If a managed care organization is legally obligated to repay the state or federal government amounts distributed to health care providers under this section, it may recoup the amount it is obligated to repay from individual health care providers under the medicaid program by not more than the amount of overpayment each health care provider received from that managed care organization.

(5) No health care provider, health carrier, or managed care organization may use the payments under this section to gain advantage in negotiations.

NEW SECTION. **Sec.**  The assessment, collection, and disbursement of funds under this chapter shall be conditional upon:

(1) Final approval by the centers for medicare and medicaid services in order to implement the applicable sections of this chapter including, if necessary, waiver of the broad-based or uniformity requirements as specified under section 1903(w)(3)(E) of the federal social security act and 42 C.F.R. 433.68(e);

(2) To the extent necessary, amendment of contracts between the authority and managed care organizations in order to implement this chapter; and

(3) Certification by the office of financial management that appropriations have been adopted that fully support the rates established in this chapter for the upcoming calendar year.

**Sec.**  RCW 43.84.092 and 2023 c 435 s 13, 2023 c 431 s 9, 2023 c 389 s 9, 2023 c 377 s 6, 2023 c 340 s 9, 2023 c 110 s 2, 2023 c 73 s 9, and 2023 c 41 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the 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integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec.**  RCW 43.84.092 and 2023 c 435 s 14, 2023 c 431 s 10, 2023 c 389 s 10, 2023 c 377 s 7, 2023 c 340 s 10, 2023 c 110 s 3, 2023 c 73 s 10, and 2023 c 41 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

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(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

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(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

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(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec.**  RCW 69.50.540 and 2023 c 470 s 1015 are each amended to read as follows:

(1) For the purposes of this subsection (1), the legislature must appropriate the amounts provided in this subsection:

(a) $12,500,000 annually to the board for administration of this chapter as appropriated in the omnibus appropriations act;

(b) $11,000,000 annually to the department of health for the following:

(i) Creation, implementation, operation, and management of a cannabis, vapor product, and commercial tobacco education and public health program that contains the following:

(A) A cannabis use public health hotline that provides referrals to substance abuse treatment providers, uses evidence-based or research-based public health approaches to minimizing the harms associated with cannabis use, and does not solely advocate an abstinence-only approach;

(B) Programs that support development and implementation of coordinated intervention strategies for the prevention and reduction of commercial tobacco, vapor product, and cannabis use by youth and cannabis cessation treatment services, including grant programs to local health departments or other local community agencies;

(C) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by cannabis use; and

(D) Outreach to priority populations regarding commercial tobacco, vapor product, and cannabis use, prevention, and cessation; and

(ii) The Washington poison control center;

(c)(i) $3,000,000 annually to the department of commerce to fund cannabis social equity grants under RCW 43.330.540; and

(ii) $200,000 annually to the department of commerce to fund technical assistance through a roster of mentors under RCW 43.330.540;

(d) $200,000 annually, until June 30, 2032, to the health care authority to contract with the Washington state institute for public policy to conduct the cost-benefit evaluations and produce the reports described in RCW 69.50.550;

(e) $25,000 annually to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by cannabis use;

(f) $300,000 annually to the University of Washington and $175,000 annually to the Washington State University for research on the short-term and long-term effects of cannabis use to include, but not be limited to, formal and informal methods for estimating and measuring intoxication and impairments, and for the dissemination of such research;

(g) $550,000 annually to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW;

(h) $2,423,000 for fiscal year 2022 and $2,423,000 for fiscal year 2023 to the Washington state patrol for a drug enforcement task force;

(i) $270,000 for fiscal year 2022 and $290,000 for fiscal year 2023 to the department of ecology for implementation of accreditation of cannabis product testing laboratories;

(j) $800,000 for each of fiscal years 2020 through 2023 to the department of health for the administration of the cannabis authorization database; and

(k) $621,000 for fiscal year 2022 and $635,000 for fiscal year 2023 to the department of agriculture for compliance-based laboratory analysis of pesticides in cannabis.

(2) ((~~Subsections [Subsection]~~)) Subsection (1)(a) through (g) of this section must be adjusted annually based on the United States bureau of labor statistics' consumer price index for the Seattle area.

(3) After appropriation of the amounts identified in subsection (1) of this section, the legislature must annually appropriate such remaining amounts for the purposes listed in this subsection (3) as follows:

(a) ((~~Fifty-two~~)) 52 percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(b) ((~~Eleven~~)) 11 percent to the health care authority to:

(i) Design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(ii) Develop, implement, maintain, and evaluate programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the diagnostic and statistical manual of mental disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women. In deciding which programs and practices to fund under this subsection (3)(b)(ii), the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute; and

(iii) Contract with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(c)(i) One and one-half percent to counties, cities, and towns where licensed cannabis retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (3)(c)(i) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed cannabis retailers physically located in each jurisdiction. For purposes of this subsection (3)(c), 100 percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town;

(ii) Three and one-half percent to counties, cities, and towns ratably on a per capita basis. Counties must receive 60 percent of the distribution based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed cannabis producer, processor, or retailer;

(iii) By September 15th of each year, the board must provide the state treasurer the annual distribution amount made under this subsection (3)(c), if any, for each county and city as determined in (c)(i) and (ii) of this subsection; and

(iv) Distribution amounts allocated to each county, city, and town in (c)(i) and (ii) of this subsection must be distributed in four installments by the last day of each fiscal quarter; and

(d) ((~~Thirty-two~~)) 32 percent must be deposited in the ((~~state general fund~~)) professional health care services rate enhancement account.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 74 RCW.

NEW SECTION. **Sec.**  (1) Section 6 of this act expires July 1, 2024.

(2) Section 7 of this act expires July 1, 2028.

NEW SECTION. **Sec.**  (1) Section 7 of this act takes effect July 1, 2024.

(2) Section 8 of this act takes effect July 1, 2028.

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