

# HOUSE BILL REPORT

## SHB 1435

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### As Passed Legislature

**Title:** An act relating to the development of a home care safety net assessment.

**Brief Description:** Developing a home care safety net assessment.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Bronoske, Taylor, Bateman, Ryu, Riccelli, Gregerson, Callan, Pollet, Simmons, Reeves and Doglio).

### Brief History:

#### Committee Activity:

Health Care & Wellness: 1/31/23, 2/3/23 [DPS];

Appropriations: 2/15/23, 2/21/23 [DPS(HCW)].

#### Floor Activity:

Passed House: 3/1/23, 93-3.

Passed Senate: 4/12/23, 47-1.

Passed Legislature.

### Brief Summary of Substitute Bill

- Requires consumer-directed employers and in-home services agencies to submit specified financial information to the Department of Health to inform the development of a home care safety net assessment to secure federal matching funds under the state's Medicaid plan.
- Establishes the Home Care Safety Net Assessment Work Group to develop the home care safety net assessment proposal.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick,

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*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.*

Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard, Bronoske, Davis, Graham, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

**Staff:** Christopher Blake (786-7392).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Health Care & Wellness be substituted therefor and the substitute bill do pass. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

**Staff:** Meghan Morris (786-7119).

### **Background:**

#### Reimbursement for In-Home Services.

In-home services agencies are licensed by the Department of Health to provide home health, home care, hospice care, and hospice care center services to persons in a place of residence. Consumer-directed employers are private entities that contract with the Department of Social and Health Services to be the legal employer of individual providers who provide personal care or respite care to persons with a functional disability. The Department of Social and Health Services' Aging and Long-Term Support Administration and Developmental Disabilities Administration fund in-home services provided by in-home services agencies and consumer-directed employers to clients who meet Medicaid functional and financial eligibility requirements.

#### Provider Assessments.

Health care provider-related charges, such as assessments, fees, or taxes, have been used in some states to help fund the costs of the Medicaid program. Under federal rules, these provider-related charges include any mandatory payment where at least 85 percent of the burden falls on health care items or services. These may be taxes imposed as a percentage of revenue and flat taxes. States collect funds from health care providers and pay them back as Medicaid payments. States use these provider-related payments to claim federal matching funds. In Washington, there are currently provider assessments for hospitals, nursing homes, and ambulances.

To conform to federal laws, health care provider-related assessments, fees, and taxes must be broad-based, uniform, and in compliance with hold harmless provisions. To be broad-based and uniform, they must be applied to all providers of the same class and be imposed

at the same rate to each provider in that class. If a provider-related assessment, fee, or tax is not broad-based or uniform, these provisions may be waived if the assessment, fee, or tax is generally redistributive. The hold harmless provision, which requires that those paying the tax may not be guaranteed that their contributions will be repaid, may not be waived. Additionally, Medicaid payments for these services cannot exceed Medicare reimbursement levels.

### **Summary of Substitute Bill:**

#### Data Reporting.

Every consumer-directed employer and in-home services agency must submit specified financial information to the Department of Health (Department). In-home services agencies include agencies licensed to provide home care services, hospice services, or home health services. The purpose of the data collection is to inform the development of a home care safety net assessment to secure federal matching funds under the state's Medicaid plan or a waiver.

The financial information relates to revenue from in-home services clients from the period between July 1, 2022, and July 1, 2023. Specifically, the information to be collected is total client revenue for home care services, home health services, and hospice services paid by Medicaid, Medicare, private pay, commercial insurance, the Veteran's Administration, and all other payers. In-home services agencies and consumer-directed employers must submit the financial information by January 1, 2024.

The Department must adopt guidance for reporting to assist in-home services agencies and consumer-directed employers to deidentify any in-home services agency's clients from the financial information prior to submission. The financial information is considered proprietary information and is confidential and may not be disclosed under the Public Records Act. Nonaggregated financial information that identifies in-home services agencies and consumer-directed employers may only be distributed to: (1) members of the Home Care Safety Net Assessment Work Group (Work Group) who are representing a state agency; (2) executive branch agency staff supporting the Work Group, and (3) an entity contracted with the Health Care Authority (Authority) to provide data analysis to the Work Group. Nonaggregated financial information provided to the Work Group, agency staff, or contractors may not be further distributed and must be destroyed after the completion of the Work Group.

#### Home Care Safety Net Assessment Work Group.

The Work Group is created to develop a home care safety net assessment proposal to secure federal matching funds under the state's Medicaid plan and waivers. The Work Group must consider the financial information submitted to the Department by consumer-directed employers and in-home services agencies when developing the home care safety net assessment proposal.

The Work Group consists of representatives from the Authority, the Department, the Department of Social and Health Services, the Department of Revenue, the exclusive bargaining representative of individual providers, a coalition representing home care agencies serving Medicaid clients, an association representing home care and home health agencies, and a representative from each consumer-directed employer in Washington.

Staff support to the Work Group must be provided by the Authority. The Authority may contract with a private entity for data analysis of the financial information submitted to the Department by consumer-directed employers and in-home services agencies. The data analysis may include the development of various financial modeling options that may meet federal regulations for approval of the assessment.

The Work Group must report its findings to the Governor and the appropriate committees of the Legislature by December 1, 2024. The report must include recommendations related to the elements necessary to adopt and implement a home care safety net assessment proposal that meets the requirements for federal approval.

**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 (Health Care & Wellness):**

(In support) The workforce crisis in health care reaches all sectors, including home and community care. Washington is a leader in long-term care and this bill would help sustain the investments that have been made in the system. The long-term care services and supports system needs as much funding as possible and there are federal dollars that can be drawn down and this bill is one of the ways to do that. The bill sets up a work group to assess how the process will work best. This bill is the first step in a longer process and makes sure that this is done deliberately and in the right way to build up the home care system.

This bill allows for the data collection needed to explore ways to maximize federal funds that could be used in a variety of ways to advance the workforce and make these living wage and family-sustaining careers. The language is still being perfected to make sure that no one group of providers are at a disadvantage when this information is being collected. The consumer-directed employer should be represented on the work group and the proprietary financial information should be protected from disclosure.

(Opposed) None.

(Other) There are concerns about privacy issues regarding the data collection in this bill. The bill is not clear as to how home care agencies that do not receive state funding will be affected. This bill is not clear about how home health and hospice agencies fit into the assessment. This is an important step in an effort to increase funding and draw down additional federal revenue from Medicaid provider rates for in-home providers, however, there will be a cost that is not in the Governor's proposed budget.

**Staff Summary of Public Testimony (Appropriations):**

(In support) The demand for home care services has never been greater and it continues to grow. The workforce cannot meet the demand. The workforce crisis in the health care sector reaches home and community care. Over the next three years, an estimated 70,000 workers are needed to fill the workforce gap to take care of eligible seniors.

This bill provides an opportunity to access data and look at what options the state may have to provide additional federal resources to support the home care system. The best way to increase workforce growth is to increase wages and benefits, but the state has budget constrictions. There are already safety net assessments in other health sectors.

(Opposed) None.

(Other) The revenue collected through a potential home care safety net assessment could be used to increase Medicaid rates and draw down additional federal match to increase wages and benefits for home care workers. There is a critical shortage in the workforce. The Home Care Safety Net Assessment Work Group is necessary to assess whether or not this is a feasible option for Washington.

**Persons Testifying (Health Care & Wellness):** (In support) Representative Dan Bronoske, prime sponsor; Madeleine Foutch, Service Employees International Union 775; Brad Banks, Home Care Coalition; and Alexa Silver, Consumer Direct of Washington.

(Other) Leslie Emerick, Home Care Association of Washington and Home Care Association of America Washington Chapter; and Bea Rector, Department of Social and Health Services.

**Persons Testifying (Appropriations):** (In support) Brad Banks, Home Care Coalition; and Madeleine Foutch, Service Employees International Union 775.

(Other) Bea Rector, Department of Social and Health Services.

**Persons Signed In To Testify But Not Testifying (Health Care & Wellness):** None.

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