

# HOUSE BILL REPORT

## 2SSB 5103

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### As Passed House - Amended:

April 12, 2023

**Title:** An act relating to payment to acute care hospitals for difficult to discharge medicaid patients who do not need acute care but who are waiting in the hospital to be appropriately and timely discharged to postacute and community settings.

**Brief Description:** Concerning payment to acute care hospitals for difficult to discharge medicaid patients.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Muzzall, Cleveland and Rivers).

### Brief History:

#### Committee Activity:

Health Care & Wellness: 3/21/23, 3/28/23 [DPA];

Appropriations: 4/1/23, 4/4/23 [DPA(APP w/o HCW)].

#### Floor Activity:

Passed House: 4/12/23, 97-0.

### Brief Summary of Second Substitute Bill (As Amended by House)

- Requires hospitals to be reimbursed for medical assistance enrollees staying in a hospital when they do not meet inpatient care criteria and are not discharged from the hospital because an appropriate placement is not available.
- Directs the Health Care Authority to adopt rules to identify which health care services must be included in the daily reimbursement rate and which services may be billed separately for patients who are in a hospital and do not meet inpatient criteria.

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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.*

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## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass as amended. Signed by 17 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, 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:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness. 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:**

#### Medical Assistance.

The Health Care Authority (Authority) administers medical assistance programs, primarily through Medicaid, that pay for health care for low-income state residents who meet certain eligibility criteria. Washington offers a complete medical benefits package to eligible families, children under age 19, low-income adults, certain disabled individuals, and pregnant women. Payments to health care providers and facilities for health care services may be made either directly by the Authority on a fee-for-service basis or through a managed care arrangement.

#### Medical Assistance Reimbursement for Hospital Stays.

The Authority pays for the hospital stays of medical assistance enrollees if the attending physician orders admission and the admission and treatment meet coverage standards. Hospital services include: emergency room services; hospital room and board, including nursing care; inpatient services, supplies, equipment, and prescription drugs; surgery and anesthesia; diagnostic testing and laboratory work; and radiation and imaging services. The Authority only pays for medically necessary services that are the least costly and equally effective treatment for the client.

Hospitals may receive an "administrative day rate" for days of a hospital stay when a client does not meet the medical necessity criteria for acute inpatient care, but is not discharged because:

- an appropriate placement outside the hospital is not available; or
- the postpartum parent's newborn remains in the hospital for monitoring post-in utero exposure to substances that may lead to psychologic dependence and continuous care by the parent is the appropriate first-line treatment.

The administrative day rate is set annually using the statewide average nursing home rate.

**Summary of Amended Bill:**

Hospitals may receive payment for any day of a hospital stay in which a patient who is enrolled in a medical assistance program: (1) does not meet the criteria for acute inpatient levels of care; (2) meets the criteria for discharge to any appropriate placement, such as a nursing home, assisted living facility, adult family home, or residential setting funded by the Developmental Disabilities Administration; and (3) is not discharged from the hospital because an appropriate placement is not available.

The Health Care Authority must adopt rules identifying which services are included in the rate and which services may be billed separately. Medically necessary services performed during the stay, pharmacy services, and pharmaceuticals must be billed and paid separately. By December 1, 2023, the Health Care Authority must submit a report to the fiscal committees of the Legislature with information about the rate and the services that it includes.

The hospital must use any swing beds or skilled nursing beds to the extent that they are available within the hospital for patients who meet skilled nursing care criteria if such a placement meets the patient's care needs, the patient is appropriate for the existing patient mix, and appropriate staffing is available.

**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) There is an enormous cost to keeping patients who are difficult to discharge in a hospital bed and this bill will offset some of those costs. The administrative day rate for hospitals varies between \$280 and \$330, while the cost to the hospital for holding the patients is between \$800 and \$1,600 which is a burden on local hospital districts and may create a lack of beds at a time when many of these hospitals are in financial trouble. A patient who is difficult to discharge in a hospital bed may still need dialysis or cardiac testing or radiological procedures and currently those services are not reimbursed and the

cost is absorbed by the hospital. This bill is a needed step forward for reimbursing hospitals for these Medicaid patients. This bill will add more uniformity and consistency in payment and help standardize the process and provide more clarity to plans and hospitals related to paying for and caring for these patients in the hospital. There should be an amendment to clarify that the use of swing beds or skilled nursing beds applies only to the extent those services are available at that hospital.

(Opposed) None.

(Other) Proper reimbursement for services in home and community settings is essential. Many patients are not able to be discharged into home and community-based services because of a lack of nurses and providers. There are currently 50 children on waiting lists to go home because they cannot find a private duty nursing provider. There are additional actions that may be taken to ensure that patients who do not meet inpatient care requirements can be timely discharged from health care facilities. The bill allows a hospital to bill for any service that a patient receives which may create unintentional consequences and disincentivize creating a robust private duty nursing infrastructure because stakeholders might not seek other opportunities for discharge. Single case agreements are common among this population, but Washington does not have a uniform approach to having these approved. Other states have special funds for patients who are difficult to discharge from a hospital and this should be explored to assure that there is a multi-faceted approach to this complex issue.

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

(In support) This bill provides an allowance of payment for ancillary services such as kidney dialysis or surgeries for patients that are difficult to discharge or stuck in the hospital. These are services that would otherwise be paid for if the patient was not still in the hospital. These are for a small subset of people who are in the hospital but no longer need inpatient care, enrolled in Medicaid, and also require an ancillary service. The bill compels rulemaking. The bill also provides uniformity and consistency in the payments that Medicaid managed care plans are using, and more clarity in how they are authorizing services.

There is an amendment needed to remove the subject to appropriation language.

(Opposed) None.

**Persons Testifying (Health Care & Wellness):** (In support) Senator Ron Muzzall, prime sponsor; and Katie Kolan, Washington State Hospital Association.

(Other) Catherine Morrison, Maxim Healthcare Services; and Erica Drury, MGA Homecare.

**Persons Testifying (Appropriations):** Katie Kolan, Washington State Hospital Association.

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

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