

SENATE BILL REPORT

SHB 1435

As Reported by Senate Committee On:
Health & Long Term Care, March 21, 2023
Ways & Means, April 3, 2023

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

Committee Activity: Health & Long Term Care: 3/17/23, 3/21/23 [DP-WM, w/oRec].
Ways & Means: 3/30/23, 4/03/23 [DP, w/oRec].

Brief Summary of Bill

- Requires consumer-directed employers and in-home services agencies to submit specified financial information to the Department of Health that informs 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.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Randall and Van De Wege.

Minority Report: That it be referred without recommendation.

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.

Signed by Senator Padden.

Staff: Julie Tran (786-7283)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senator Braun.

Staff: Sandy Stith (786-7710)

Background: In-Home Services Reimbursements. In-home services agencies are licensed by the Department of Health (DOH) 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 (DSHS) to be the legal employer of individual providers who provide personal care or respite care to persons with a functional disability. DSHS' 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 providers. 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.

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 may not be waived. Also, Medicaid payments for these services cannot exceed Medicare reimbursement levels.

In Washington, there are currently provider assessments for hospitals, nursing homes, and ambulances.

Summary of Bill: Data Reporting. Every consumer-directed employer and in-home services agency must submit specified financial information to DOH. 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 and includes 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.

DOH must adopt guidance for reporting standards 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 submitted 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:

- Home Care Safety Net Assessment Work Group (Work Group) members who are representing a state agency;
- executive branch agency staff supporting the Work Group; and
- an entity contracted with the Health Care Authority (HCA) to provide data analysis to the Work Group.

HCA may release reports containing nonaggregated data to meet relevant regulatory requirements. Nonaggregated financial information provided to the Work Group, agency staff, or contractors may not be further distributed and must be destroyed after DOH and HCA have determined it is no longer necessary for the support of the Work Group's activities.

Home Care Safety Net Assessment Work Group. The Work Group is established to develop a home care safety net assessment proposal to secure federal matching funds under the state's Medicaid plan and waivers. When developing the home care safety net assessment proposal, the Work Group must consider the submitted financial information by consumer-directed employers and in-home services agencies and any relevant data analysis of the financial information provided by a private entity contracted with HCA.

The Work Group's members include representatives from HCA, DOH, DSHS, 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.

HCA must provide staff support to the Work Group. HCA may contract with a private entity for data analysis of the financial information submitted to DOH 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 needed for federal approval.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Health & Long Term Care): PRO: There is a shortage in long-term care workers and in particular, home care aides. Clients have to wait months to receive care. The demand for service far outweighs the available workers. The workforce shortage is caused by the long-term underfunding of our system, an increase in the aging population, and the low supply of available workers. This bill is an important first step and a great way to explore how to draw down additional federal match to invest in the workforce. This bill also protects the submitted financial data and makes that data useful to get a proposal developed.

OTHER: There is a critical shortage in the workforce and there needs to be creative solutions to make the critical investments necessary to serve people in the state without the current gaps people are experiencing. DSHS has worked with other agencies but there was not enough administrative data to assess if the home care safety net assessment is feasible, which is why there is a need for this one-time data collection. The submitted financial information from the employers would help the Work Group consider whether this safety net assessment would meet the federal requirements. There is a small fiscal impact that is not in the Governor's proposed budget.

Persons Testifying (Health & Long Term Care): PRO: Representative Dan Bronoske, Prime Sponsor; Madeleine Foutch, SEIU 775; Alexa Silver, Consumer Direct of Washington; Brad Banks, Home Care Coalition.

OTHER: Bea Rector, Dept. of Social and Health Services.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: In-home providers are badly in need of additional funding. This bill sets up the opportunity to do this. This also sets up guardrails on the data. This bill involves stakeholders in the process. This type of assessment is something that we already do for other types of providers.

Persons Testifying (Ways & Means): PRO: Brad Banks, Home Care Coalition; Demas Nesterenko, SEIU775.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.