SENATE BILL REPORT
SSB 5802

As Amended by House, March 1, 2024

Title: An act relating to providing flexibility in calculation of nursing rates for the purposes of implementing new centers for medicare and medicaid services data.

Brief Description: Providing flexibility in calculation of nursing rates.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Muzzall, Hasegawa, Lovelett, Nobles, Rivers and Robinson; by request of Department of Social and Health Services).

Brief History:

Committee Activity: Health & Long Term Care: 1/16/24, 1/25/24 [DP-WM].
Ways & Means: 2/03/24, 2/05/24 [DPS].

Floor Activity: Passed Senate: 2/8/24, 49-0.
Passed House: 3/1/24, 95-0.

Brief Summary of First Substitute Bill

- Requires Department of Social and Health Services, subject to appropriations, to employ a method for applying case mix adjustments to the direct care component of the Medicaid Skilled Nursing Facility rate.
- Removes provisions on the Resource Utilization Group (RUG) and how the RUG scores data is used for calculating the case mix adjustments.

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, Padden, Randall and Van De Wege.

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.

Staff: Julie Tran (786-7283)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5802 be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; 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, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Pedersen, Randall, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Maria Hovde (786-7474)

Background: Individuals receiving Medicaid funded long-term services and supports may choose to receive services in their home, in an adult day center, in an adult family home, in an assisted living facility, or in a skilled nursing facility (SNF). SNFs are licensed by the Department of Social and Health Services (DSHS) and provide 24-hour supervised nursing care, personal care, therapies, nutrition management, organized activities, social services, laundry services, and room and board to three or more residents.

Skilled Nursing Facility Medicaid Rate Methodology. The Medicaid SNF payment methodology is administered by DSHS. The Medicaid rates in Washington are unique to each facility and reflect the client acuity of each SNF's residents. The methodology for SNF payment rates consists of four primary components: direct care, indirect care, capital, and quality incentive. The direct care component includes nursing and related care provided to residents, such as food, laundry, and dietary services.

Currently, the rate's direct care component is adjusted every six months to ensure the direct care rates reflect the high-acuity residents for whom the facilities are providing services.

Case Mix for Washington State Medicaid Nursing Home Payment. Case mix describes differences in residents within a population in terms of their physical and mental conditions and the resources used in their care. Case mix reimbursement systems measure the intensity of care and services required for each resident and translate those measures into groupings. Those groupings are used in the calculation of facility payment to adjust the direct care rates. Washington State and DSHS received the data from federal Centers for Medicare and Medicaid Services (CMS) through Resource Utilization Group (RUG) scores. Current state law requires DSHS use RUG to calculate the nursing facility rates.

CMS transitioned to a new case-mix classification data model called the Patient Driven Payment Model (PDPM) in 2019, but continued to support the RUG data model. PDPM data focuses on characteristics, needs, and goals of the residents whereas the RUG data

model focuses on the volume of therapy provided.

On September 30, 2023, CMS discontinued support for RUG categorization for nursing facility residents and fully transitioned to PDPM.

Summary of First Substitute Bill: Subject to the availability of amounts appropriated for this specific purpose, DSHS is required to employ a method for applying case mix to the direct care component of the Medicaid SNF rate which should be informed by a minimum data set data collected by CMS. DSHS is required to develop and implement rules to outline what data is used and how it is implemented in the calculation of the direct care component of the Medicaid SNF rate. The case mix is required to be based on the finalized case mix weights as published by CMS in the federal register.

References to resource utilization groups are removed from statute. This includes language associated with RUGs and provisions that specify how RUG scores are used for the calculations in the case mix adjustments.

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: This bill allows Washington to continue basing nursing home payments on resident acuity. The data used to weight payments for acuity has been discontinued and the state no longer has acuity data to set rates unless it adopts a new data source for the payment system. The first time DSHS will set rates without available RUG data will be July 1, 2024. This bill removes references to RUG and allows DSHS flexibility in setting rates while also adjusting those rates for the acuity of the clients in facilities. Action is urgently needed to provide DSHS the authority to make the switch to a new data source.

If this bill does not pass, significant adjustments must be made and it could result in a case mix freeze that would discourage the acceptance of higher acuity residents and risk undoing the progress the state has made in addressing the difficult to discharge hospital patients. This bill is not perfect but it is supported by SNFs and is headed in the direction the state needs to go. There is a need for a phased approach because a full implementation with no adjustments to PDPM may mean significant rate increases for most facilities and also, significant decreases in rates for other facilities. This bill has flexibility and will allow the DSHS to continue setting Medicaid rates on July 1, 2024, without significant impact to the rates. The value of a society is how they treat their youth and their elderly. This is a methodology to increase those rates to provide care for those who need it the most.

Persons Testifying (Health & Long Term Care): PRO: Senator Ron Muzzall, Prime Sponsor; Peter Graham, DSHS/ALTSA; Alyssa Odegaard, LeadingAge Washington.

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

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Case mix is a core policy to our system and links acuity to payments. Delinking would not incentivize facilities to take higher acuity clients who are discharging from hospitals. Although we do need funding to implement the new system, we do not need funding for this bill. Caps could be applied on the impact of this change to facilities that will see an increase in their adjustment in order to soften the impact on those that would experience a decrease. Because of the unique situation with statute being so specific, this legislation cleans up language by removing an obsolete data source and gives DSHS the flexibility to continue to set acuity adjustments. A proposed implementation plan will be submitted to the Legislature next year. We have heard there are concerns with establishing this in rule and would be happy to work with individuals to address those concerns.

Persons Testifying (Ways & Means): PRO: Senator Ron Muzzall, Prime Sponsor; Carma Matti-Jackson, Washington Health Care Association; Peter Graham, Department of Social and Health Services Aging and Long-Term Support Administration.

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

EFFECT OF HOUSE AMENDMENT(S):

- Allows for DSHS to adopt the Patient-Driven Payment Model (PDPM) for nursing facilities, subject to appropriation, for rate setting effective July 1, 2024. This model, based on individual patient characteristics, will replace the volume-driven system in place today. The PDPM will be used for classifying patients into payment groups and adjusting rates.