HOUSE BILL 2449

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

Read first time 01/22/24. Referred to Committee on Appropriations.

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.

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

8 <u>NEW SECTION.</u> Sec. 1. The definitions in this section apply 9 throughout this chapter unless the context clearly requires 10 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.

15 (2) "Medicaid managed care organization" means a managed health 16 care system under contract with the state of Washington to provide 17 services to medicaid enrollees under RCW 74.09.522.

18 <u>NEW SECTION.</u> Sec. 2. The professional health care services rate 19 enhancement account is created in the state treasury. All receipts 20 from RCW 69.50.540(3)(d) must be deposited into the account as well

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as any amounts expended from the account that are later recouped by 1 the health care authority through audit or otherwise must be returned 2 to the account. Moneys in the account may be spent only after 3 appropriation as provided in this chapter. Expenditures from the 4 account may be used only for medicaid professional service rates in 5 6 accordance with this chapter as follows: To make payments to health 7 care providers and managed care organizations as specified in this chapter; and to medicaid managed care organizations for funding the 8 nonfederal share of increased capitation payments. 9

10 NEW SECTION. Sec. 3. (1) The expenditures made after appropriation under section 2 of this act are conditioned upon the 11 continued availability of other funds sufficient to maintain 12 13 professional services payment rates covered by medicaid, including fee-for-service and managed care, effective January 1, 2026, but no 14 15 less than the corresponding medicare rates for those services on 16 October 1, 2023. Rates for subsequent years shall be annually adjusted based on the inflation factor. 17

18 (2) The health care authority may adopt rules to determine the 19 professional services included under this chapter. Rules must be 20 adopted by July 1, 2025, and must include all covered professional 21 services that are delivered by physicians, physician assistants, and 22 advanced registered nurse practitioners.

23 <u>NEW SECTION.</u> Sec. 4. (1) Beginning on the later of January 1, 2026, or 30 calendar days after satisfaction of the conditions in 24 section 5 of this act and subsection (2) of this section, and for 25 26 each subsequent calendar year so long as none of the conditions stated in section 5 of this act have occurred, the authority shall 27 make quarterly payments to medicaid managed care organizations as 28 29 specified in this section and in a manner consistent with federal 30 contracting requirements. The authority shall direct payments from managed care organizations to health care providers. 31

32 (2) Before making payments under this section, the authority 33 shall modify its contracts with managed care organizations or 34 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

1 increased capitation payments based on their projected assessment
2 under this chapter;

3 (b) That payments to health care providers be made as part of the 4 contracted reimbursement process;

5 (c) That any delegation or attempted delegation of an 6 organization's obligations under agreements with the authority does 7 not relieve the organization of its obligations under this section 8 and related contract provisions; and

9 (d) That if funds cannot be paid to health care providers, the 10 managed care organization shall return the funds to the health care 11 authority, which shall return them to the professional health care 12 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.

18 (4) If a managed care organization is legally obligated to repay 19 the state or federal government amounts distributed to health care 20 providers under this section, it may recoup the amount it is 21 obligated to repay from individual health care providers under the 22 medicaid program by not more than the amount of overpayment each 23 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.

27NEW SECTION.Sec. 5.The assessment, collection, and28disbursement 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);

34 (2) To the extent necessary, amendment of contracts between the 35 authority and managed care organizations in order to implement this 36 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.

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Sec. 6. 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:

5 (1) All earnings of investments of surplus balances in the state 6 treasury shall be deposited to the treasury income account, which 7 account is hereby established in the state treasury.

The treasury income account shall be utilized to pay or 8 (2) receive funds associated with federal programs as required by the 9 federal cash management improvement act of 1990. The treasury income 10 11 account is subject in all respects to chapter 43.88 RCW, but no 12 appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of 13 14 interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require 15 16 appropriation. The office of financial management shall determine the 17 amounts due to or from the federal government pursuant to the cash 18 management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to 19 implement the provisions of the cash management improvement act, and 20 21 this subsection. Refunds or allocations shall occur prior to the 22 distributions of earnings set forth in subsection (4) of this 23 section.

(3) Except for the provisions of RCW 43.84.160, the treasury 24 25 income account may be utilized for the payment of purchased banking 26 services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state 27 28 treasury and affected state agencies. The treasury income account is 29 subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur 30 31 prior to distribution of earnings set forth in subsection (4) of this 32 section.

33 (4) Monthly, the state treasurer shall distribute the earnings 34 credited to the treasury income account. The state treasurer shall 35 credit the general fund with all the earnings credited to the 36 treasury income account except:

37 (a) The following accounts and funds shall receive their 38 proportionate share of earnings based upon each account's and fund's 39 average daily balance for the period: The abandoned recreational 40 vehicle disposal account, the aeronautics account, the Alaskan Way

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viaduct replacement project account, the ambulance transport fund, 1 brownfield redevelopment trust fund account, the 2 the budget stabilization account, the capital vessel replacement account, the 3 capitol building construction account, the Central Washington 4 University capital projects account, the charitable, educational, 5 6 penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement 7 account, the climate active transportation account, the climate 8 transit programs account, the Columbia river basin water supply 9 development account, the Columbia river basin taxable bond water 10 supply development account, the Columbia river basin water supply 11 12 revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, 13 the county arterial preservation account, the county criminal justice 14 15 assistance account, the covenant homeownership account, the deferred 16 compensation administrative account, the deferred compensation 17 principal account, the department of licensing services account, the 18 department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction 19 account, the opioid abatement settlement account, the drinking water 20 21 assistance account, the administrative subaccount of the drinking 22 water assistance account, the early learning facilities development 23 account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education 24 25 construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, 26 the energy recovery act account, the essential rail assistance 27 28 account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the 29 30 fish, wildlife, and conservation account, the freight mobility 31 investment account, the freight mobility multimodal account, the 32 grade crossing protective fund, the higher education retirement plan supplemental benefit fund, the Washington student loan account, the 33 highway bond retirement fund, the highway infrastructure account, the 34 highway safety fund, the hospital safety net assessment fund, the 35 Interstate 5 bridge replacement project account, the Interstate 405 36 37 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, 38 39 the judicial retirement principal account, the limited fish and 40 wildlife account, the local leasehold excise tax account, the local

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real estate excise tax account, the local sales and use tax account, 1 the marine resources stewardship trust account, the medical aid 2 3 account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the 4 motor vehicle fund, the motorcycle safety education account, the move 5 6 ahead WA account, the move ahead WA flexible account, the multimodal 7 transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve 8 land account, the pension funding stabilization account, the 9 perpetual surveillance and maintenance account, the pilotage account, 10 11 the pollution liability insurance agency underground storage tank 12 revolving account, the professional health care services rate enhancement account, the public employees' retirement system plan 1 13 account, the public employees' retirement system combined plan 2 and 14 plan 3 account, the public facilities construction loan revolving 15 16 account, the public health supplemental account, the public works 17 assistance account, the Puget Sound capital construction account, the 18 Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, 19 the real estate appraiser commission account, the recreational 20 21 vehicle account, the regional mobility grant program account, the reserve officers' relief and pension principal fund, the resource 22 management cost account, the rural arterial trust account, the rural 23 24 mobility grant program account, the rural Washington loan fund, the 25 second injury fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility 26 safety net trust fund, the small city pavement and sidewalk account, 27 28 the special category C account, the special wildlife account, the 29 state hazard mitigation revolving loan account, the state investment board expense account, the state investment board commingled trust 30 31 fund accounts, the state patrol highway account, the state 32 reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the 33 statewide broadband account, the statewide tourism marketing account, 34 the supplemental pension account, the Tacoma Narrows toll bridge 35 account, the teachers' retirement system plan 1 account, the 36 teachers' retirement system combined plan 2 and plan 3 account, the 37 tobacco prevention and control account, the tobacco settlement 38 39 account, the toll facility bond retirement account, the 40 transportation 2003 account (nickel account), the transportation

1 equipment fund, the JUDY transportation future funding program account, the transportation improvement account, the transportation 2 3 improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the 4 traumatic brain injury account, the University of Washington bond 5 6 retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' relief and 7 pension principal fund, the volunteer firefighters' and reserve 8 officers' administrative fund, the vulnerable roadway user education 9 account, the Washington judicial retirement system account, the 10 Washington law enforcement officers' and firefighters' system plan 1 11 retirement account, the Washington law enforcement officers' and 12 firefighters' system plan 2 retirement account, the Washington public 13 safety employees' plan 2 retirement account, the Washington school 14 15 employees' retirement system combined plan 2 and 3 account, the 16 Washington state patrol retirement account, the Washington State 17 University building account, the Washington State University bond retirement fund, the water pollution control revolving administration 18 19 account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated 20 implementation account, the 21 plan Yakima integrated plan implementation revenue recovery account, and the Yakima integrated 22 23 plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal 24 25 school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund 26 27 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.

37Sec. 7.RCW 43.84.092 and 2023 c 435 s 14, 2023 c 431 s 10, 202338c 389 s 10, 2023 c 377 s 7, 2023 c 340 s 10, 2023 c 110 s 3, 2023 c

1 73 s 10, and 2023 c 41 s 4 are each reenacted and amended to read as 2 follows:

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4 treasury shall be deposited to the treasury income account, which
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(3) Except for the provisions of RCW 43.84.160, the treasury 22 income account may be utilized for the payment of purchased banking 23 services on behalf of treasury funds including, but not limited to, 24 25 depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is 26 subject in all respects to chapter 43.88 RCW, but no appropriation is 27 28 required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this 29 section. 30

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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.

30 (5) In conformance with Article II, section 37 of the state 31 Constitution, no treasury accounts or funds shall be allocated 32 earnings without the specific affirmative directive of this section.

33 Sec. 9. RCW 69.50.540 and 2023 c 470 s 1015 are each amended to 34 read as follows:

35 (1) For the purposes of this subsection (1), the legislature must 36 appropriate the amounts provided in this subsection:

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

1 (b) \$11,000,000 annually to the department of health for the 2 following:

3 (i) Creation, implementation, operation, and management of a 4 cannabis, vapor product, and commercial tobacco education and public 5 health program that contains the following:

6 (A) A cannabis use public health hotline that provides referrals 7 to substance abuse treatment providers, uses evidence-based or 8 research-based public health approaches to minimizing the harms 9 associated with cannabis use, and does not solely advocate an 10 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;

16 (C) Media-based education campaigns across television, internet, 17 radio, print, and out-of-home advertising, separately targeting youth 18 and adults, that provide medically and scientifically accurate 19 information about the health and safety risks posed by cannabis use; 20 and

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

24 (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;

30 (d) \$200,000 annually, until June 30, 2032, to the health care 31 authority to contract with the Washington state institute for public 32 policy to conduct the cost-benefit evaluations and produce the 33 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;

39 (f) \$300,000 annually to the University of Washington and 40 \$175,000 annually to the Washington State University for research on

1 the short-term and long-term effects of cannabis use to include, but 2 not be limited to, formal and informal methods for estimating and 3 measuring intoxication and impairments, and for the dissemination of 4 such research;

5 (g) \$550,000 annually to the office of the superintendent of 6 public instruction to fund grants to building bridges programs under 7 chapter 28A.175 RCW;

8 (h) \$2,423,000 for fiscal year 2022 and \$2,423,000 for fiscal 9 year 2023 to the Washington state patrol for a drug enforcement task 10 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.

20 (2) ((Subsections [Subsection])) Subsection (1)(a) through (g) of 21 this section must be adjusted annually based on the United States 22 bureau of labor statistics' consumer price index for the Seattle 23 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)) <u>52</u> 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;

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(b) ((Eleven)) $\underline{11}$ percent to the health care authority to:

32 (i) Design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, 33 in collaboration with the office of the superintendent of public 34 instruction, department of health, department of commerce, family 35 policy council, and board. The survey must be conducted at least 36 every two years and include questions regarding, but not necessarily 37 limited to, academic achievement, age at time of substance use 38 39 initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and 40

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1 community norms regarding antisocial behavior, family conflict, 2 family management, parental attitudes toward substance use, peer 3 rewarding of antisocial behavior, perceived risk of substance use, 4 and rebelliousness. Funds disbursed under this subsection may be used 5 to expand administration of the healthy youth survey to student 6 populations attending institutions of higher education in Washington;

7 (ii) Develop, implement, maintain, and evaluate programs and practices aimed at the prevention or reduction of maladaptive 8 substance use, substance use disorder, substance abuse or substance 9 dependence, as these terms are defined in the diagnostic and 10 statistical manual of mental disorders, among middle school and high 11 12 school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its 13 implementation, mental health services for children and youth, and 14 services for pregnant and parenting women. In deciding which programs 15 16 and practices to fund under this subsection (3)(b)(ii), the director 17 of the health care authority must consult, at least annually, with 18 the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute; and 19

(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;

23 (c) (i) One and one-half percent to counties, cities, and towns where licensed cannabis retailers are physically located. 24 Each 25 jurisdiction must receive a share of the revenue distribution under this subsection (3)(c)(i) based on the proportional share of the 26 total revenues generated in the individual jurisdiction from the 27 taxes collected under RCW 69.50.535, from licensed cannabis retailers 28 29 physically located in each jurisdiction. For purposes of this subsection (3)(c), 100 percent of the proportional amount attributed 30 31 to a retailer physically located in a city or town must be 32 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;

39 (iii) By September 15th of each year, the board must provide the 40 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

3 (iv) Distribution amounts allocated to each county, city, and 4 town in (c)(i) and (ii) of this subsection must be distributed in 5 four installments by the last day of each fiscal quarter; and

6 (d) ((Thirty-two)) <u>32</u> percent must be deposited in the ((state
7 general fund)) professional health care services rate enhancement
8 account.

9 <u>NEW SECTION.</u> Sec. 10. Sections 1 through 5 of this act 10 constitute a new chapter in Title 74 RCW.

11 <u>NEW SECTION.</u> Sec. 11. (1) Section 6 of this act expires July 1, 12 2024.

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

14 <u>NEW SECTION.</u> Sec. 12. (1) Section 7 of this act takes effect 15 July 1, 2024.

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

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