

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5532

Chapter 443, Laws of 2023
(partial veto)

68th Legislature
2023 Regular Session

CERTAIN HOSPITALS—ACUTE CARE MEDICAID RATES

EFFECTIVE DATE: July 23, 2023

Passed by the Senate April 18, 2023
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 10, 2023
Yeas 98 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 11, 2023 10:11 AM with
the exception of section 3, which is
vetoed.

JAY INSLIEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SECOND SUBSTITUTE
SENATE BILL 5532** as passed by the
Senate and the House of
Representatives on the dates hereon
set forth.

SARAH BANNISTER

Secretary

FILED

May 11, 2023

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5532

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By Senate Ways & Means (originally sponsored by Senators King, Cleveland, Lovelett, Warnick, and Wellman)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to providing enhanced payment to low volume,
2 small rural hospitals; amending RCW 74.09.5225; creating new
3 sections; providing an effective date; providing a contingent
4 expiration date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that promoting a
7 financially viable health care system in all parts of the state is a
8 critical interest. The federal centers for medicare and medicaid
9 services has recognized the crucial role hospitals play in providing
10 care in rural areas by creating the sole community hospital program,
11 which allows certain small rural hospitals to receive enhanced
12 payments for medicare services. The state of Washington has created a
13 similar program based on the federal criteria. The legislature
14 further finds that some small, rural, low volume hospitals provide
15 vital services to the communities they serve, but are not eligible
16 for the federal or state programs. The legislature therefore finds
17 that creating a similar reimbursement system for the state's medicaid
18 program for small, rural, low volume hospitals will promote the long-
19 term financial viability of the rural health care system in those
20 communities.

1 **Sec. 2.** RCW 74.09.5225 and 2017 c 198 s 1 are each amended to
2 read as follows:

3 (1) Payments for recipients eligible for medical assistance
4 programs under this chapter for services provided by hospitals,
5 regardless of the beneficiary's managed care enrollment status, shall
6 be made based on allowable costs incurred during the year, when
7 services are provided by a rural hospital certified by the centers
8 for medicare and medicaid services as a critical access hospital,
9 unless the critical access hospital is participating in the
10 Washington rural health access preservation pilot described in
11 subsection (2)(b) of this section. Any additional payments made by
12 the authority for the healthy options program shall be no more than
13 the additional amounts per service paid under this section for other
14 medical assistance programs.

15 (2)(a) Beginning on July 24, 2005, except as provided in (b) of
16 this subsection, a moratorium shall be placed on additional hospital
17 participation in critical access hospital payments under this
18 section. However, rural hospitals that applied for certification to
19 the centers for medicare and medicaid services prior to January 1,
20 2005, but have not yet completed the process or have not yet been
21 approved for certification, remain eligible for medical assistance
22 payments under this section.

23 (b)(i) The purpose of the Washington rural health access
24 preservation pilot is to develop an alternative service and payment
25 system to the critical access hospital authorized under section 1820
26 of the social security act to sustain essential services in rural
27 communities.

28 (ii) For the purposes of state law, any rural hospital approved
29 by the department of health for participation in critical access
30 hospital payments under this section that participates in the
31 Washington rural health access preservation pilot identified by the
32 state office of rural health and ceases to participate in critical
33 access hospital payments may renew participation in critical access
34 hospital associated payment methodologies under this section at any
35 time.

36 (iii) The Washington rural health access preservation pilot is
37 subject to the following requirements:

38 (A) In the pilot formation or development, the department of
39 health, health care authority, and Washington state hospital

1 association will identify goals for the pilot project before any
2 hospital joins the pilot project;

3 (B) Participation in the pilot is optional and no hospital may be
4 required to join the pilot;

5 (C) Before a hospital enters the pilot program, the health care
6 authority must provide information to the hospital regarding how the
7 hospital could end its participation in the pilot if the pilot is not
8 working in its community;

9 (D) Payments for services delivered by public health care service
10 districts participating in the Washington rural health access
11 preservation pilot to recipients eligible for medical assistance
12 programs under this chapter must be based on an alternative, value-
13 based payment methodology established by the authority. Subject to
14 the availability of amounts appropriated for this specific purpose,
15 the payment methodology must provide sufficient funding to sustain
16 essential services in the areas served, including but not limited to
17 emergency and primary care services. The methodology must adjust
18 payment amounts based on measures of quality and value, rather than
19 volume. As part of the pilot, the health care authority shall
20 encourage additional payers to use the adopted payment methodology
21 for services delivered by the pilot participants to individuals
22 insured by those payers;

23 (E) The department of health, health care authority, and
24 Washington state hospital association will report interim progress to
25 the legislature no later than December 1, 2018, and will report on
26 the results of the pilot no later than six months following the
27 conclusion of the pilot. The reports will describe any policy changes
28 identified during the course of the pilot that would support small
29 critical access hospitals; and

30 (F) Funds appropriated for the Washington rural health access
31 preservation pilot will be used to help participating hospitals
32 transition to a new payment methodology and will not extend beyond
33 the anticipated three-year pilot period.

34 (3) (a) Beginning January 1, 2015, payments for recipients
35 eligible for medical assistance programs under this chapter for
36 services provided by a hospital, regardless of the beneficiary's
37 managed care enrollment status, shall be increased to one hundred
38 twenty-five percent of the hospital's fee-for-service rates, when
39 services are provided by a rural hospital that:

1 (i) Was certified by the centers for medicare and medicaid
2 services as a sole community hospital as of January 1, 2013;

3 (ii) Had a level III adult trauma service designation from the
4 department of health as of January 1, 2014;

5 (iii) Had less than one hundred fifty acute care licensed beds in
6 fiscal year 2011; and

7 (iv) Is owned and operated by the state or a political
8 subdivision.

9 (b) The enhanced payment rates under this subsection shall be
10 considered the hospital's medicaid payment rate for purposes of any
11 other state or private programs that pay hospitals according to
12 medicaid payment rates.

13 (c) Hospitals participating in the certified public expenditures
14 program may not receive the increased reimbursement rates provided in
15 this subsection (3) for inpatient services.

16 (4) Beginning July 1, 2024, through December 31, 2028, payments
17 for recipients eligible for medical assistance programs under this
18 chapter for acute care services provided by a hospital, regardless of
19 the beneficiary's managed care enrollment status, shall be increased
20 to 120 percent of the hospital's fee-for-service rate for inpatient
21 services and 200 percent of the hospital's fee-for-service rate for
22 outpatient services, when services are provided by a hospital that:

23 (a) Is not currently designated as a critical access hospital,
24 and does not meet current federal eligibility requirements for
25 designation as a critical access hospital;

26 (b) Has medicaid inpatient days greater than 50 percent of all
27 hospital inpatient days as reported on the hospital's most recently
28 filed medicare cost report with the state; and

29 (c) Is located on the land of a federally recognized Indian
30 tribe.

31 ****NEW SECTION. Sec. 3. This act is necessary for the immediate***
32 ***preservation of the public peace, health, or safety, or support of***
33 ***the state government and its existing public institutions, and takes***
34 ***effect July 1, 2023.***

****Sec. 3 was vetoed. See message at end of chapter.***

35 NEW SECTION. Sec. 4. (1) This act expires on the date that the
36 federal centers for medicare and medicaid services approves the
37 hospital safety net program as required by RCW 74.60.150(1)(a),

1 including section 4(3)(e), chapter . . . (Substitute House Bill No.
2 1850 (hospital safety net assessment)), Laws of 2023.

3 (2) The health care authority must provide written notice of the
4 expiration date of this act to affected parties, the chief clerk of
5 the house of representatives, the secretary of the senate, the office
6 of the code reviser, and others as deemed appropriate by the
7 authority.

8 NEW SECTION. **Sec. 5.** If specific funding for the purposes of
9 this act, referencing this act by bill or chapter number, is not
10 provided by June 30, 2023, in the omnibus appropriations act, this
11 act is null and void.

Passed by the Senate April 18, 2023.

Passed by the House April 10, 2023.

Approved by the Governor May 11, 2023, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 11, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, Second
Substitute Senate Bill No. 5532 entitled:

"AN ACT Relating to providing enhanced payment to low volume,
small rural hospitals."

Section 3 is an emergency clause. However, the bill cannot go into
effect until July 1, 2024. As a result, the emergency clause is not
justified.

For these reasons I have vetoed Section 3 of Second Substitute Senate
Bill No. 5532.

With the exception of Section 3, Second Substitute Senate Bill No.
5532 is approved."

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