

SENATE BILL REPORT

SB 5079

As Reported by Senate Committee On:
Human Services, January 22, 2025
Ways & Means, February 13, 2025

Title: An act relating to addressing the burden of unintentional overpayments on older adults and adults with disabilities served by the department of social and health services.

Brief Description: Addressing the burden of unintentional overpayments on older adults and adults with disabilities served by the department of social and health services.

Sponsors: Senators Muzzall, Christian, Dozier, Frame, Krishnadasan, Lias and Trudeau; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Human Services: 1/15/25, 1/22/25 [DP-WM].
Ways & Means: 2/03/25, 2/13/25 [DP].

Brief Summary of Bill

- Allows the Department of Social and Health Services (DSHS) to waive collection of overpayments of the Aged, Blind or Disabled Cash Assistance Program and to functionally disabled clients receiving services and supports through Medicaid Long-Term Services and Supports and the Developmental Disability Administration waiver programs.
- Directs DSHS to adopt rules establishing circumstances when the department will waive collection efforts.

SENATE COMMITTEE ON HUMAN SERVICES

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

Signed by Senators Wilson, C., Chair; Frame, Vice Chair; Christian, Ranking Member;

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.

Orwall and Warnick.

Staff: Alison Mendiola (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke, Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Muzzall, Pedersen, Riccelli, Saldaña, Wagoner, Warnick, Wellman and Wilson, C..

Staff: Josh Hinman (786-7281)

Background: The Department of Social and Health Services (DSHS) includes the Economic Services Administration (ESA), the Aging and Long-Term Support Administration (ATLSA), and the Developmental Disability Administration (DDA), among others.

Economic Assistance Administration. ESA provides assistance with cash, food, child support, disability determination, transition to employment, and other services.

One of the programs that ESA administers is the Aged, Blind, or Disabled Cash Assistance (ABD) Program. ABD provides cash assistance, a referral to the Housing and Essential Needs (HEN) Program, and help with accessing federal disability benefits eligible to low-income adults who are age 65 or older, blind, or likely to meet federal Supplemental Security Income (SSI) criteria.

Recipients must meet income and resource limits, be age 65 or older, blind, civilly committed to Eastern or Western State Hospitals, or determined likely to meet federal SSI disability criteria based on a verified physical, mental or intellectual impairment. Recipients must follow through with the SSI application and appeal process as a condition of eligibility. A person is ineligible for ABD when disabled primarily due to substance use disorder (SUD). People who have SUD in addition to a separate mental or physical impairment, may qualify for ABD. Recipients who are assessed as in need of treatment by a certified SUD professional are required to participate in an SUD treatment as a condition of eligibility.

ABD assistance is \$398 per month and in fiscal year 2024, the average monthly caseload was 30,733 individuals. As of June 2024, the average length of stay on ABD since 2011 was 27.3 months, 23.5 months for those who were presumed to qualify for SSI, 39.7 months for those who qualified based on age, and 17.7 for those who were institutionalized.

Aging and Long-Term Support Administration. ATLSA provides Adult Protective Services, Home and Community Services (HCS), Residential Care Services (RCS), and includes the Office of the Deaf and Hard of Hearing and the Management Services Division.

HCS provides and administers long-term care services to eligible individuals and collaborates with Area Agencies on Aging to share community service options. RCS provides licensing, certification, and regulatory oversight to long-term care facilities including nursing homes, assisted living facilities, adult family homes, intermediate care facilities for individuals with intellectual disabilities, supported living; and enhanced services facilities.

Developmental Disabilities Administration. The Developmental Disabilities Administration (DDA) provides services to adult, children, and youth with intellectual or development disabilities. DDA services include support and assistance with daily life, breaks for the client and caregiver, connects clients with the community, personal care and residential services, job support for employment and nursing services and health care. DDA also provides short-term stabilization services, residential habilitation center, children's residential services and moving back to the community.

DDA also provides early support for infants and toddlers—ages 0 to 3, early childhood transitions—ages 3 to 4, supporting access to school—ages 3 up to 22, checklist and timeline—ages 14 to 22, and preparing for life after school.

DDA offers five Home and Community Based Services waivers: Basic Plus, Children's Intensive In-Home Behavioral Supports, Community Protection, Core, and Individual and Family Services. Each of the five waivers provides an array of services tailored to the specific populations they serve. Waiver services provide additional support when Medicaid State Plan services and other supports are not sufficient.

Overpayments For Assistance to Older Adults or Adults With Disabilities. State law requires DSHS to collect overpayments and other debts due to DSHS for up to six years from the notice of such overpayment, or up to ten years if DSHS has commenced a recovery action in court, unless a court-ordered remedy would be in effect for a longer period, or a statutory administrative remedy is in place. There is no collection of debts due to DSHS after 20 years from the date a lien is recorded pursuant to state law. DSHS may accept offers or compromise of disputed claims or may grant partial or total write-off of any debt due if it is no longer cost effective to pursue. DSHS may waive all efforts to collect such overpayments when DSHS determines that the elements of equitable estoppel as provided for in rule as it existed on January 1, 2012, are met.

For ATLSA and DDA overpayments, the federal portion of an overpayment is to be returned to the Centers for Medicare & Medicaid Services.

The average recovery of unintentional overpayments in calendar year 2023 was \$75,206 a month.

Summary of Bill: Beginning July 1, 2025, DSHS may waive all collection efforts to collect overpayments of ABD and functionally disabled clients receiving supports and services through Medicaid Long-Term Supports and Services and DDA waiver programs. ATLSA and DDA shall continue to return the federal portion of any waived overpayments to the Centers for Medicare & Medicaid Services.

DSHS shall adopt rules establishing the circumstances when they will waive collection efforts.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2025.

Staff Summary of Public Testimony (Human Services): PRO: This bill addresses overpayments, which are very low and the time and money spent by DSHS to recover those overpayments is more than we're getting back. It poses a hardship to recover unintentional overpayments for very low-income clients and causes them duress. To qualify for ABD, you need to be under 36 percent of the federal poverty level. In fiscal year 2024, there were 954 overpayments, 92 percent of which were unintentional.

Persons Testifying (Human Services): PRO: Senator Ron Muzzall, Prime Sponsor; Brice Montgomery, Community Services Division - ESA - DSHS.

Persons Signed In To Testify But Not Testifying (Human Services): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Collection of overpayments poses a substantial hardship for these individuals. Reducing ABD benefits due to an overpayment caused by an inadvertent mistake is distressing for the recipient and may push them further into poverty. ABD recipients are below 36 percent of the Federal Poverty Level and benefit reductions decrease funds available for basic needs. This bill would better support the elderly and those with disabilities to meet their basic needs while also reducing administrative burden.

A recipient mistake might include losing an item in the mail or incorrect information on a report, such as a typo. There are checks and balances yet some mistakes may not be caught.

This agency request legislation is included in the Governor's budget and supports economic

security for vulnerable Washingtonians. There are administrative savings by no longer requiring program staff to generate overpayment letters and due to the discontinuation of translation services and notifications. The agency anticipates that the cost to develop overpayment waivers can be absorbed within existing resources.

There were 73 clients with unintentional overpayments last fiscal year. The agency collects 25 percent of overpayments.

Persons Testifying (Ways & Means): PRO: Brice Montgomery, Dept. of Social and Health Services, Economic Services Administration; Jie Tang, Dept. of Social and Health Services, Economic Services Administration.

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