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HOUSE BILL 2276

State of Washington 69th Legislature 2026 Regular Session

By Representatives Rule, Berry, Low, Leavitt, Ryu, Parshley, Scott, Tharinger, Mena, Nance, Bronoske, Fosse, and Salahuddin

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AN ACT Relating to improving the functioning of home care rate statutes; and amending RCW 74.39A.310 and 74.39A.530.

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

Sec. 1. RCW 74.39A.310 and 2020 c 336 s 1 are each amended to read as follows:

(1) ((~~The~~)) In each odd-numbered year, within 60 days after the adjournment sine die of the legislative session, the department shall ((~~convert and distribute any change in the~~)) determine a home care agency labor rate by converting and distributing:

(a) The total amount of wages and benefits negotiated and funded in the contract for individual providers of home care services pursuant to RCW 74.39A.270 and 74.39A.300; or ((~~labor~~))

(b) Labor rates established under RCW 74.39A.530 ((~~into a per-quarter-hour amount. This must be accomplished in each odd-numbered year within sixty days after adjournment sine die of the legislative session~~)).

(2) The ((~~per-quarter-hour amount shall be added to or subtracted from the statewide home care agency vendor rate and any increase~~)) home care agency labor rate determined in subsection (1) of this section shall be used exclusively for ((~~improving~~)) the wages and benefits of home care agency workers who provide direct care, and for

paying ((~~any resulting change in~~)) required employer contributions or premiums, including but not limited to:

(a) Wages;

(b) Benefit pay, such as vacation, sick, and holiday pay;

(c) Mileage;

(d) Contributions to a training partnership;

(e) Contributions to the health benefit trust; and

(f) Contributions to the defined contribution retirement trust.

(3) When determining the per-quarter-hour amount, the department must include:

(a) The ((~~changes to wages, benefits, and compensation negotiated and funded each biennium, including but not limited to:~~

~~(i) Wages;~~

~~(ii) Benefit pay, such as vacation, sick, and holiday pay;~~

~~(iii) Mileage;~~

~~(iv) Contributions to a training partnership;~~

~~(v) Contributions to the health benefit trust; and~~

~~(vi) Contributions to the defined contribution retirement trust; and~~)) total amount of wages and benefits negotiated and funded in the contract for individual providers of home care services pursuant to RCW 74.39A.270 and 74.39A.300 or labor rates established under RCW 74.39A.530;

(b) The ((~~change in the~~)) average costs experienced by medicaid contracted home care agencies, as determined by the department in its sole discretion, of employer contributions or premiums required by law including, but not limited to:

(i) Federal insurance contributions act;

(ii) Federal unemployment tax act;

(iii) State unemployment tax authority;

(iv) State paid family medical leave act; and

(v) State workers' compensation system; and

(c) An adjustment, as determined by the department in its sole discretion, for cost of compensation for work time that may not be billed as service hours, such as travel time, that must be paid to direct service workers under wage and hour laws and any related employer tax contributions or premiums.

(4) The portion of the ((~~vendor~~)) home care agency labor rate calculated for health care benefits, including but not limited to medical, dental, and vision benefits, may only be used for health benefits for home care agency workers who provide direct care.

(5) The portions of the home care agency labor rate calculated for training may only be used for training, testing, and certification costs, and associated costs for the administration of training, testing, and certification scheduling and compliance for home care agency workers who provide direct care.

(6) When establishing the per-quarter-hour amount for the home care agency labor rate, the department must prevent duplicate accounting for the same cost.

(7)(a) The department or its designee shall verify that home care agencies have expended funds in accordance with the requirements of this section.

(b) To assist the department or its designee with the verification requirement in (a) of this subsection, each home care agency shall submit either:

(i) An independent third-party audit conducted by a qualified, accredited firm to validate compliance with requirements established in this section; or

(ii) A written attestation from the labor organization that is the exclusive bargaining representative of the home care workers who provide direct care that are employed by the agency, confirming that the home care agency has complied with the labor rate, health care rate, and training rate requirements.

(c) The department may adopt rules to establish reasonable objective criteria through a transparent process to temporarily exempt a home care agency determined to be facing extraordinary circumstances that prevent their compliance with this section. The department shall develop these criteria through a transparent process that includes public notice and opportunities for comment from interested parties.

(8) The department shall determine a home care agency administrative rate following the process established in RCW 74.39A.530.

(9) For the purposes of this section, "home care agency administrative rate" means the portion of the home care agency vendor rate, as defined in RCW 74.39A.530, designated to support the administrative functions and essential operations of a home care agency, including but not limited to:

(a) Compliance with administrative requirements related to department of health licensing provisions and department contracts for personal care and respite services;

(b) Payment of all taxes and costs associated with obtaining and maintaining a licensed business in the state of Washington, as well as compliance with all labor and industry, local, state, and federal standards and laws;

(c) Business and occupation tax on any increases to the labor rate;

(d) Funding for electronic visit verification; and

(e) Funding for personal protective equipment.

Sec. 2. RCW 74.39A.530 and 2021 c 186 s 2 are each amended to read as follows:

If the department contracts with a consumer directed employer:

(1) ((~~In addition to overtime and compensable travel time set forth in RCW 74.39A.525, the initial labor rates shall be paid as described in the most recent collective bargaining agreement between the governor and the service employees international union 775, plus the hourly roll-up costs of any additional legally required benefits or labor costs, until subsequent rates can be established in accordance with this section.~~

~~(2)~~)) A rate-setting board is established which is comprised of the voting members and nonvoting members to evaluate and propose changes in the rates paid to the consumer directed employer.

(a) The following members shall be voting members:

(i) One representative from the governor's office;

(ii) One representative from the department;

(iii) One representative from each consumer directed employer; and

(iv) One designee from the exclusive bargaining representative of individual providers or, in the absence of an exclusive bargaining representative, a designee from the consumer directed employer workforce chosen by the employees of the consumer directed employer.

(b) The following nine members of the board shall be nonvoting advisory members:

(i) Four legislators, one member from each caucus of the house of representatives and the senate;

(ii) One representative from the state council on aging, appointed by the governor;

(iii) One representative of an organization representing people with intellectual or developmental disabilities appointed by the governor;

(iv) One representative of an organization representing people with physical disabilities appointed by the governor;

(v) One representative from the licensed home care agency industry chosen by the state's largest association of home care agencies that primarily serves state-funded clients; and

(vi) One home care worker chosen by the state's largest organization of home care workers.

(c) The governor's appointments shall be made by April 1st in even-numbered years. The incumbent member of the board shall serve until their replacement is appointed.

((~~(3)~~)) (2) When the board membership has four voting members listed in subsection ((~~(2)~~)) (1)(a) of this section, each voting member shall have one vote. When there are five voting members due to two consumer directed employer representatives, each voting member listed in subsection ((~~(2)~~)) (1)(a) of this section shall have two votes with the exception of the consumer directed employer representatives who shall have one vote. Voting members cannot split their votes. A majority of the voting members of the board constitutes a quorum for the transaction of business and is necessary for any action taken by the board.

((~~(4)~~)) (3) Beginning in the year following the establishment of the initial rate ((~~under subsection (1) of this section~~)), and in every even-numbered year thereafter, the rate-setting board shall attempt to determine a proposed labor rate, including a specific amount for health and training benefits by considering the factors listed in RCW 41.56.530 (1) and (5). In addition, the rate-setting board shall attempt to determine an administrative rate for the consumer directed employer. In determining the consumer directed employer administrative rate, the department may not recommend a rate that represents more than 20 percent of the sum of the consumer directed employer labor rate and the consumer directed employer administrative rate.

In addition, the rate-setting board ((~~may take testimony and make a recommendation regarding the administrative vendor rate for home care agencies that serve medicaid clients~~)) shall review the department's projection of the home care agency labor rate in RCW 74.39A.310. The rate-setting board shall take testimony and shall attempt to determine a home care agency administrative rate. In determining the home care agency administrative rate, the rate-

setting board may not recommend a rate that represents more than 20 percent of the home care agency vendor rate.

((~~(5)~~)) (4) The department shall provide administrative support for the board.

(a) At the commencement of the board's rate-setting activities, the voting members must first attempt to select an additional voting member, who will chair the rate-setting board and will cast a tie-breaking vote if the voting members identified in subsection ((~~(2)~~)) (1) of this section are unable to pass by majority vote on the labor rate.

(b) On the first occasion that the voting members identified in subsection ((~~(2)~~)) (1)(a) of this section fail to select a tie-breaking member by a majority vote, the chair member will be selected as follows:

(i) The voting member representing the governor's office shall request a list of five qualified arbitrators, or six if there are two consumer directed employers, from the federal mediation and conciliation service.

(ii) If a majority of the voting members of the board cannot agree on the selection of a neutral arbitrator from the list, the representative from the consumer directed employer who first contacted the department will strike a name from the list first. The representative from the governor's office shall then strike a name from the list, the designee from the exclusive bargaining representative or, in the absence of an exclusive bargaining representative, the designee from the consumer directed employer workforce shall strike a name from the list, if there are two consumer directed employers, the second representative will strike a name from the list, and finally the representative from the department shall strike a name from the list.

(iii) The name of the arbitrator remaining after the final strike shall be the chair member of the board.

(iv) If that person is not willing or available to be the chair member, the second to last person remaining on the list shall be asked to be the chair member. If the second to last person is not willing or available, the third to last person shall be asked to be the chair member. This process of selecting an arbitrator shall be continued until a chair member of the board is appointed.

(c) On the next occasion that the voting members identified in subsection ((~~(2)~~)) (1)(a) of this section fail to select a chair

member by a majority vote, the chair member will be selected using the method described in (b) of this subsection except that the order of board members striking names from the list, described in (b)(ii) of this subsection, shall be reversed.

(d) On each successive occasion that the voting members identified in subsection ((~~(2)~~)) (1)(a) of this section fail to select a chair member by a majority vote, the order of voting members striking names from the list will continue to alternate between the order described in (b)(ii) and (c) of this subsection.

((~~(6)~~)) (5)(a) If an agreement on a proposed labor rate((~~, an administrative rate, or both,~~)) is not reached by a majority of the voting members of the rate-setting board prior to ((~~July~~)) August 1st, then((~~:~~

~~(a) The~~)) the labor rate shall be determined by a majority of the voting members of the rate-setting board, including the vote of the chair member, who was selected in accordance with subsections ((~~(2)~~)) (1) and ((~~(5)~~)) (4)(a) of this section((~~; and~~)). If an agreement over the labor rate is not reached prior to September 1st, then the labor rate shall be determined by the sole vote of the chair member, who was selected in accordance with subsections (1) and (4)(a) of this section.

(b) ((~~The administrative rate shall be determined by the department.~~

~~(7)~~)) If an agreement on a proposed administrative rate for the consumer directed employer or a home care agency administrative rate, or both, is not reached by a majority of the voting members of the rate-setting board prior to August 1st, then the administrative rate for the consumer directed employer or the home care agency administrative rate, or both, shall be determined by the department. In determining the home care agency administrative rate, the department may not recommend a rate that represents more than 20 percent of the home care agency vendor rate. In determining the consumer directed employer administrative rate, the department may not recommend a rate that represents more than 20 percent of the sum of the consumer directed employer labor rate and the consumer directed employer administrative rate.

(6) After the rates have been determined in accordance with subsections ((~~(3)~~)) (2) through ((~~(6)~~)) (5) of this section, they shall be submitted to the director of the office of financial management by October 1st prior to the legislative session during

which the requests are to be considered for review. If the director of the office of financial management certifies them as being feasible financially for the state, the governor shall include a request for funds necessary to implement the proposed rates as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. The legislature shall approve or reject the request for funds as a whole.

((~~(8)~~)) (7) If the legislature rejects the request under subsection ((~~(6)~~)) (5) of this section, the matter shall return to the rate-setting board established under this section for further consideration. Until the legislature approves a request for funds under this section, the current labor rate shall stay in effect.

((~~(9)~~)) (8) The labor rate approved by the legislature shall be an hourly rate paid to the consumer directed employer. The labor rate shall be used exclusively for paying the wages, associated taxes, and benefits of individual providers. The consumer directed employer shall have full discretion to set wages and benefits for individual providers, except as provided in: (a) Subsections (9) and (10) of this section; (b) any specific legislative appropriation requirement; or (c) a collective bargaining agreement, if applicable.

((~~(10)~~)) (9) The labor rate shall include a specific hourly amount that the consumer directed employer may use only for health benefits for individual providers.

((~~(11) The department shall make a one-time transfer of funds totaling the full amount of previously unclaimed paid time off to the consumer directed employer, and shall transfer all associated liabilities for payment of unclaimed paid time off to the consumer directed employer. This amount shall be accounted for as a labor rate payment.~~

~~(12)~~)) (10) The labor rate shall include a specific hourly amount that the consumer directed employer may only use for training, testing, and certification costs, and associated costs for the administration of training, testing, and certification scheduling and compliance for individual providers.

(11) The department shall have the authority to modify the labor rate and the administrative rate between the rate-setting board's rate-setting activities without convening the rate-setting board or following the preceding rate-setting process, subject to the following conditions:

(a) The department finds the changes to the rates necessary to:

(i) Recognize changes to the department's required expenditures or the consumer directed employer's required costs associated with changes to tax rates, required employer contributions, mileage rate allowances, and utilization of overtime to comply with RCW 74.39A.525; or

(ii) Comply with a significant change in state or federal rule or law that would impact the consumer directed employer's ability to operate;

(b) Changes to the rates shall not exceed two percent of the combined labor and administrative rates; and

(c) Any increase to the rates is contingent on appropriation of adequate funds by the legislature.

((~~(13)~~)) (12) For the purpose of this section:

(a) "Labor rate" is defined as that portion of the consumer directed employer's hourly rate that is to be used by the consumer directed employer to compensate its workers, including wages, benefits, and any associated taxes.

(b) "Administrative rate" is defined as that portion of the consumer directed employer's hourly rate that is to be used by the consumer directed employer to perform its administrative duties including losses for bad debt, compensation for business and occupation taxes on the labor and administrative rates, and all other costs associated with operating as the consumer directed employer. Funds related to personal protective equipment for individual providers must be considered part of the administrative rate.

(c) "Home care agency administrative rate" has the same meaning as in RCW 74.39A.310.

(d) "Home care agency vendor rate" is defined as the sum of the home care agency labor rate and the home care agency administrative rate.

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