

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE SENATE BILL 5103

Chapter 315, Laws of 2023

68th Legislature
2023 Regular Session

DIFFICULT TO DISCHARGE MEDICAID PATIENTS—HOSPITAL REIMBURSEMENT

EFFECTIVE DATE: July 23, 2023

Passed by the Senate April 14, 2023
Yeas 46 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 12, 2023
Yeas 97 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 4, 2023 3:53 PM

JAY INSLEE

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 5103** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 5, 2023

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5103

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 Muzzall, Cleveland, and Rivers)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to payment to acute care hospitals for difficult
2 to discharge medicaid patients who do not need acute care but who are
3 waiting in the hospital to be appropriately and timely discharged to
4 postacute and community settings; amending RCW 74.09.520; and
5 creating a new section.

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

7 **Sec. 1.** RCW 74.09.520 and 2022 c 255 s 4 are each amended to
8 read as follows:

9 (1) The term "medical assistance" may include the following care
10 and services subject to rules adopted by the authority or department:
11 (a) Inpatient hospital services; (b) outpatient hospital services;
12 (c) other laboratory and X-ray services; (d) nursing facility
13 services; (e) physicians' services, which shall include prescribed
14 medication and instruction on birth control devices; (f) medical
15 care, or any other type of remedial care as may be established by the
16 secretary or director; (g) home health care services; (h) private
17 duty nursing services; (i) dental services; (j) physical and
18 occupational therapy and related services; (k) prescribed drugs,
19 dentures, and prosthetic devices; and eyeglasses prescribed by a
20 physician skilled in diseases of the eye or by an optometrist,
21 whichever the individual may select; (l) personal care services, as

1 provided in this section; (m) hospice services; (n) other diagnostic,
2 screening, preventive, and rehabilitative services; and (o) like
3 services when furnished to a child by a school district in a manner
4 consistent with the requirements of this chapter. For the purposes of
5 this section, neither the authority nor the department may cut off
6 any prescription medications, oxygen supplies, respiratory services,
7 or other life-sustaining medical services or supplies.

8 "Medical assistance," notwithstanding any other provision of law,
9 shall not include routine foot care, or dental services delivered by
10 any health care provider, that are not mandated by Title XIX of the
11 social security act unless there is a specific appropriation for
12 these services.

13 (2) The department shall adopt, amend, or rescind such
14 administrative rules as are necessary to ensure that Title XIX
15 personal care services are provided to eligible persons in
16 conformance with federal regulations.

17 (a) These administrative rules shall include financial
18 eligibility indexed according to the requirements of the social
19 security act providing for medicaid eligibility.

20 (b) The rules shall require clients be assessed as having a
21 medical condition requiring assistance with personal care tasks.
22 Plans of care for clients requiring health-related consultation for
23 assessment and service planning may be reviewed by a nurse.

24 (c) The department shall determine by rule which clients have a
25 health-related assessment or service planning need requiring
26 registered nurse consultation or review. This definition may include
27 clients that meet indicators or protocols for review, consultation,
28 or visit.

29 (3) The department shall design and implement a means to assess
30 the level of functional disability of persons eligible for personal
31 care services under this section. The personal care services benefit
32 shall be provided to the extent funding is available according to the
33 assessed level of functional disability. Any reductions in services
34 made necessary for funding reasons should be accomplished in a manner
35 that assures that priority for maintaining services is given to
36 persons with the greatest need as determined by the assessment of
37 functional disability.

38 (4) Effective July 1, 1989, the authority shall offer hospice
39 services in accordance with available funds.

1 (5) For Title XIX personal care services administered by the
2 department, the department shall contract with area agencies on aging
3 or may contract with a federally recognized Indian tribe under RCW
4 74.39A.090(3):

5 (a) To provide case management services to individuals receiving
6 Title XIX personal care services in their own home; and

7 (b) To reassess and reauthorize Title XIX personal care services
8 or other home and community services as defined in RCW 74.39A.009 in
9 home or in other settings for individuals consistent with the intent
10 of this section:

11 (i) Who have been initially authorized by the department to
12 receive Title XIX personal care services or other home and community
13 services as defined in RCW 74.39A.009; and

14 (ii) Who, at the time of reassessment and reauthorization, are
15 receiving such services in their own home.

16 (6) In the event that an area agency on aging or federally
17 recognized Indian tribe is unwilling to enter into or satisfactorily
18 fulfill a contract or an individual consumer's need for case
19 management services will be met through an alternative delivery
20 system, the department is authorized to:

21 (a) Obtain the services through competitive bid; and

22 (b) Provide the services directly until a qualified contractor
23 can be found.

24 (7) Subject to the availability of amounts appropriated for this
25 specific purpose, the authority may offer medicare part D
26 prescription drug copayment coverage to full benefit dual eligible
27 beneficiaries.

28 (8) Effective January 1, 2016, the authority shall require
29 universal screening and provider payment for autism and developmental
30 delays as recommended by the bright futures guidelines of the
31 American academy of pediatrics, as they existed on August 27, 2015.
32 This requirement is subject to the availability of funds.

33 (9) Subject to the availability of amounts appropriated for this
34 specific purpose, effective January 1, 2018, the authority shall
35 require provider payment for annual depression screening for youth
36 ages twelve through eighteen as recommended by the bright futures
37 guidelines of the American academy of pediatrics, as they existed on
38 January 1, 2017. Providers may include, but are not limited to,
39 primary care providers, public health nurses, and other providers in

1 a clinical setting. This requirement is subject to the availability
2 of funds appropriated for this specific purpose.

3 (10) Subject to the availability of amounts appropriated for this
4 specific purpose, effective January 1, 2018, the authority shall
5 require provider payment for maternal depression screening for
6 mothers of children ages birth to six months. This requirement is
7 subject to the availability of funds appropriated for this specific
8 purpose.

9 (11) Subject to the availability of amounts appropriated for this
10 specific purpose, the authority shall:

11 (a) Allow otherwise eligible reimbursement for the following
12 related to mental health assessment and diagnosis of children from
13 birth through five years of age:

14 (i) Up to five sessions for purposes of intake and assessment, if
15 necessary;

16 (ii) Assessments in home or community settings, including
17 reimbursement for provider travel; and

18 (b) Require providers to use the current version of the DC:0-5
19 diagnostic classification system for mental health assessment and
20 diagnosis of children from birth through five years of age.

21 (12)(a) The authority shall require or provide payment to the
22 hospital for any day of a hospital stay in which an adult or child
23 patient enrolled in medical assistance, including home and community
24 services or with a medicaid managed care organization, under this
25 chapter:

26 (i) Does not meet the criteria for acute inpatient level of care
27 as defined by the authority;

28 (ii) Meets the criteria for discharge, as defined by the
29 authority or department, to any appropriate placement including, but
30 not limited to:

31 (A) A nursing home licensed under chapter 18.51 RCW;

32 (B) An assisted living facility licensed under chapter 18.20 RCW;

33 (C) An adult family home licensed under chapter 70.128 RCW; or

34 (D) A setting in which residential services are provided or
35 funded by the developmental disabilities administration of the
36 department, including supported living as defined in RCW 71A.10.020;
37 and

38 (iii) Is not discharged from the hospital because placement in
39 the appropriate location described in (a)(ii) of this subsection is
40 not available.

1 (b) The authority shall adopt rules identifying which services
2 are included in the payment described in (a) of this subsection and
3 which services may be billed separately, including specific revenue
4 codes or services required on the inpatient claim.

5 (c) Allowable medically necessary services performed during a
6 stay described in (a) of this subsection shall be billed by and paid
7 to the hospital separately. Such services may include but are not
8 limited to hemodialysis, laboratory charges, and x-rays.

9 (d) Pharmacy services and pharmaceuticals shall be billed by and
10 paid to the hospital separately.

11 (e) The requirements of this subsection do not alter requirements
12 for billing or payment for inpatient care.

13 (f) The authority shall adopt, amend, or rescind such
14 administrative rules as necessary to facilitate calculation and
15 payment of the amounts described in this subsection, including for
16 clients of medicaid managed care organizations.

17 (g) The authority shall adopt rules requiring medicaid managed
18 care organizations to establish specific and uniform administrative
19 and review processes for payment under this subsection.

20 (h) For patients meeting the criteria in (a)(ii)(A) of this
21 subsection, hospitals must utilize swing beds or skilled nursing beds
22 to the extent the services are available within their facility and
23 the associated reimbursement methodology prior to the billing under
24 the methodology in (a) of this subsection, if the hospital determines
25 that such swing bed or skilled nursing bed placement is appropriate
26 for the patient's care needs, the patient is appropriate for the
27 existing patient mix, and appropriate staffing is available.

28 NEW SECTION. Sec. 2. By December 1, 2023, the health care
29 authority shall submit a report to the fiscal committees of the
30 legislature containing information about the rate established in RCW
31 74.09.520(12) and the services that are included in the rate.

Passed by the Senate April 14, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

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