S-3885.1

SUBSTITUTE SENATE BILL 5620

State of Washington 67th Legislature 2022 Regular Session

By Senate Ways & Means (originally sponsored by Senators L. Wilson, Braun, Dhingra, Gildon, Rolfes, and J. Wilson)

AN ACT Relating to medicaid expenditures; amending RCW 74.04.050; adding new sections to chapter 74.09 RCW; adding a new section to chapter 43.41 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) The legislature intends to ensure that the medicaid program is operating under sound fiscal stewardship. This requires dedicated program integrity efforts focused on paying the right dollar amount to the right provider for the right reason. Strengthening program integrity efforts helps to ensure that every medicaid dollar stretches as far as possible for those insured through medicaid.

(2) The legislature finds that the health care authority is responsible for overseeing all of Washington's medicaid programs, including those administered by other state agencies. Effective oversight by the health care authority will advance the legislature's objective of ensuring that the right services are delivered to the right person at the right time with measurable outcomes.

Sec. 2. RCW 74.04.050 and 2011 1st sp.s. c 15 s 64 are each amended to read as follows:

(1) The department is designated as the single state agency to administer the following public assistance programs:

(a) Temporary assistance ((~~to [for]~~)) for needy families;

(b) Child welfare services; and

(c) Any other programs of public assistance for which provision for federal grants or funds may from time to time be made, except as otherwise provided by law.

(2) The authority is hereby designated as the single state agency to administer the medical services programs established under chapter 74.09 RCW, including the state children's health insurance program, Titles XIX and XXI of the federal social security act of 1935, as amended. As the state's medicaid agency, the authority is responsible for providing reasonable oversight of all medicaid program integrity activities required by federal regulation. The authority shall establish and maintain effective internal control over any state agency that receives medicaid funding in compliance with federal regulation.

(3) The department and the authority are hereby empowered and authorized to cooperate in the administration of such federal laws, consistent with the public assistance laws of this state, as may be necessary to qualify for federal funds.

(4) The state hereby accepts and assents to all the present provisions of the federal law under which federal grants or funds, goods, commodities, and services are extended to the state for the support of programs referenced in this section, and to such additional legislation as may subsequently be enacted as is not inconsistent with the purposes of this title, authorizing public welfare and assistance activities. The provisions of this title shall be so administered as to conform with federal requirements with respect to eligibility for the receipt of federal grants or funds.

(5) The department and the authority shall periodically make application for federal grants or funds and submit such plans, reports and data, as are required by any act of congress as a condition precedent to the receipt of federal funds for such assistance. The department and the authority shall make and enforce such rules and regulations as shall be necessary to insure compliance with the terms and conditions of such federal grants or funds.

NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority shall provide administrative oversight for all funds received under the medical assistance program, as codified in Title XIX of the federal social security act, the state children's health insurance program, as codified in Title XXI of the federal social security act, and any other federal medicaid funding to ensure that:

(a) All funds are spent according to federal and state laws and regulations;

(b) Delivery of services aligns with federal statutes and regulations;

(c) Corrective action plans are put in place if expenditures or services do not align with federal requirements; and

(d) Sound fiscal stewardship of medicaid funding in all agencies where medicaid funding is provided.

(2) The authority shall develop a strategic plan and performance measures for medicaid program integrity. The strategic plan must include stated strategic goals, agreed-upon objectives, performance measures, and a system to monitor progress and hold responsible parties accountable. In developing the strategic plan, the authority shall create a management information and reporting strategy with performance measures and management reports.

(3) The authority shall oversee the medicaid program resources of any state agency expending medicaid funding, including but not limited to:

(a) Regularly reviewing delegated work;

(b) Jointly reviewing required reports on terminated or sanctioned providers, compliance data, and application data;

(c) Requiring assurances that operational functions have been implemented;

(d) Reviewing audits performed on the sister state agency; and

(e) Assisting with risk assessments, setting goals, and developing policies and procedures.

(4) The authority shall develop and maintain a single, statewide medicaid fraud and abuse prevention plan consistent with the national medicaid fraud and abuse initiative or current federal best practice as recognized by the centers for medicare and medicaid services.

(5) The authority must follow best practices for identifying improper medicaid spending when implementing its program integrity activities, including but not limited to:

(a) Conducting risk assessments or evaluating leads with established risk factors;

(b) Relying on data analytics to generate leads;

(c) Conducting a preliminary review of incoming leads, which includes analyzing data about the lead and may include reviewing records such as billing histories;

(d) Determining the credibility of all allegations of potential fraud prior to referral to the state's medicaid fraud control unit;

(e) Analyzing all leads under review by the state's managed care organizations;

(f) Working with federally recognized experts that help state integrity programs improve their data analytics and identify potential fraud across medicare and medicaid such as unified program integrity contractors; and

(g) Maintaining a current fraud and abuse detection system.

NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09 RCW to read as follows:

(1) Beginning January 1, 2023, the authority's contracts with managed care organizations must clearly detail each party's requirements for maintaining program integrity and the consequences the managed care organizations face if they do not meet the requirements. The contract must ensure the penalties are adequate to ensure compliance.

(2) The authority shall follow leading program integrity practices as recommended by the centers for medicare and medicaid services, including but not limited to:

(a) Monthly reporting and quarterly meetings with managed care organizations to discuss program integrity issues and findings as well as trends in fraud and other improper payments;

(b) Financial penalties for failure to fulfill program integrity requirements, including liquidated damages and sanctions;

(c) Directly auditing providers and:

(i) Recovering overpayments from the providers; or

(ii) Assessing liquidated damages against the managed care organizations;

(d) Ensuring recoveries and liquidated damages resulting from overpayments are properly accounted for and applied to managed care encounters to ensure accurate future rate setting; and

(e) Ensuring all contracts with managed care organizations are updated as appropriate to reflect program integrity requirements.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.41 RCW to read as follows:

(1) The medicaid expenditure forecast work group is hereby created. The work group shall be managed by the office of financial management.

(2) The office shall employ a forecast manager and appropriate staff to:

(a) Oversee preparation of medicaid expenditure forecasting products;

(b) Develop necessary infrastructure and programming for the preparation of medicaid expenditure forecasting products;

(c) Coordinate production of forecasts; and

(d) Develop primary trends, estimates of federal medical assistance percentages, and other estimates required to generate the forecast.

(3) Members of the work group shall consist of:

(a) Staff listed under subsection (2) of this section;

(b) The senior analyst assigned to medicaid from the office;

(c) Staff from the health care authority;

(d) Senior fiscal analysts from the two fiscal committees of the legislature assigned to medicaid;

(e) An actuary from the office of the state actuary; and

(f) Other staff as deemed necessary by the work group.

(4) To ensure the duties of the work group are carried out in a timely, transparent manner, the office shall develop a charter, in consultation with the members of the work group, that specifies:

(a) The purpose of the work group;

(b) Its intended customers;

(c) Detailed roles and responsibilities of each member of the work group;

(d) Protocols, such as the level of agreement necessary, to finalize a decision;

(e) Rules for settling a disagreement;

(f) How inquiries and requests for analysis are prioritized;

(g) How assumptions are documented and communicated to intended customers;

(h) How to compare prior forecasts against expenditures; and

(i) Quality assurance mechanisms.

(5) The work group shall provide technical support to the governor's office and the fiscal committees of the legislature. To promote the free flow of information and to promote legislative and executive input in the development of assumptions and preparation of forecasts, immediate access to all information and statistical models relating to the forecast shall be available to the work group. Meetings of the work group may be called by any member of the group for the purpose of assisting the work group, reviewing forecasts, or for any other purpose that may assist the group.

(6) Members from the health care authority shall provide all data, documents, information, and responses to the work group necessary to develop the forecast in the time frames agreed upon by the work group.

(7) All members shall review information necessary to develop the forecast in the time frames agreed upon by the work group.

(8) In consultation with the work group and subject to the approval of the work group, the forecast manager shall prepare:

(a) An official forecast; and

(b) Other forecasts based on alternative assumptions as the work group may determine.

(9) The forecast manager shall submit official forecasts and any unofficial forecasts prepared under this section to the office and the staff of appropriate fiscal committees of the legislature. The forecasts shall be submitted at least twice each year and on such dates as the work group determines will facilitate the development of budget proposals by the governor and the legislature.

(10) The forecasts shall be used to develop budget estimates for the office and the fiscal committees of the legislature. The official forecast prepared under this section shall be the basis of the governor's budget document and utilized by the legislature in the development of the omnibus biennial appropriations act.

(11) The health care authority shall:

(a) Provide to the forecast manager immediate access to all information relating to the forecast;

(b) Work with its contracted actuary and the work group to develop methods and metrics related to managed care program integrity activity that shall be incorporated into annual managed care rate setting. This activity shall be done during the normal course of rate

setting with the work group and shall not be conducted separately from the work group;

(c) Work with the work group to ensure the results of program integrity activity are incorporated into the managed care rate setting process in a transparent, timely, measurable, quantifiable manner. This activity shall be done during the normal course of rate setting with the work group and shall not be conducted separately from the work group; and

(d) Submit reports and data to the work group as soon as the reports and data are available and shall provide to the work group and the forecast manager such additional raw, program-level data or information as may be necessary for discharge of their respective duties.

(12) For purposes of this section:

(a) "Work group" means the medicaid expenditure forecast work group.

(b) "Forecast" means the medicaid expenditure forecast.

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