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**SUBSTITUTE HOUSE BILL 1095**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** House Committee on Health Care & Wellness (originally sponsored by Representatives Barlow, Hinkle, Appleton, Green, Ormsby, Schual-Berke, Cody, Blake, B. Sullivan, Hurst, O'Brien, Clibborn, Morrell, Conway, Kenney, Linville, Rolfes, Moeller and Dunn; by request of Governor Gregoire)

READ FIRST TIME 01/15/07.

1       AN ACT Relating to implementing the part D drug copayment program;  
2 and amending RCW 74.09.520 and 74.09.010.

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

4       **Sec. 1.** RCW 74.09.520 and 2004 c 141 s 2 are each amended to read  
5 as follows:

6       (1) The term "medical assistance" may include the following care  
7 and services: (a) Inpatient hospital services; (b) outpatient hospital  
8 services; (c) other laboratory and X-ray services; (d) nursing facility  
9 services; (e) physicians' services, which shall include prescribed  
10 medication and instruction on birth control devices; (f) medical care,  
11 or any other type of remedial care as may be established by the  
12 secretary; (g) home health care services; (h) private duty nursing  
13 services; (i) dental services; (j) physical and occupational therapy  
14 and related services; (k) prescribed drugs, dentures, and prosthetic  
15 devices; and eyeglasses prescribed by a physician skilled in diseases  
16 of the eye or by an optometrist, whichever the individual may select;  
17 (l) personal care services, as provided in this section; (m) hospice  
18 services; (n) other diagnostic, screening, preventive, and  
19 rehabilitative services; and (o) like services when furnished to a

1 child by a school district in a manner consistent with the requirements  
2 of this chapter. For the purposes of this section, the department may  
3 not cut off any prescription medications, oxygen supplies, respiratory  
4 services, or other life-sustaining medical services or supplies.

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

10 (2) The department shall amend the state plan for medical  
11 assistance under Title XIX of the federal social security act to  
12 include personal care services, as defined in 42 C.F.R. 440.170(f), in  
13 the categorically needy program.

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

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

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

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

29 (4) The department shall design and implement a means to assess the  
30 level of functional disability of persons eligible for personal care  
31 services under this section. The personal care services benefit shall  
32 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 persons  
36 with the greatest need as determined by the assessment of functional  
37 disability.

1 (5) Effective July 1, 1989, the department shall offer hospice  
2 services in accordance with available funds.

3 (6) For Title XIX personal care services administered by aging and  
4 disability services administration of the department, the department  
5 shall contract with area agencies on aging:

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

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

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

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

17 (7) In the event that an area agency on aging is unwilling to enter  
18 into or satisfactorily fulfill a contract or an individual consumer's  
19 need for case management services will be met through an alternative  
20 delivery 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 can  
23 be found.

24 (8) Subject to available funds, effective July 1, 2007, the  
25 department may offer medicare part D prescription drug copayment  
26 coverage to full benefit dual eligible beneficiaries.

27 **Sec. 2.** RCW 74.09.010 and 1990 c 296 s 6 are each amended to read  
28 as follows:

29 As used in this chapter:

30 (1) "Children's health program" means the health care services  
31 program provided to children under eighteen years of age and in  
32 households with incomes at or below the federal poverty level as  
33 annually defined by the federal department of health and human services  
34 as adjusted for family size, and who are not otherwise eligible for  
35 medical assistance or the limited casualty program for the medically  
36 needy.

1 (2) "Committee" means the children's health services committee  
2 created in section 3 of this act.

3 (3) "County" means the board of county commissioners, county  
4 council, county executive, or tribal jurisdiction, or its designee. A  
5 combination of two or more county authorities or tribal jurisdictions  
6 may enter into joint agreements to fulfill the requirements of RCW  
7 74.09.415 through 74.09.435.

8 (4) "Department" means the department of social and health  
9 services.

10 (5) "Department of health" means the Washington state department of  
11 health created pursuant to RCW 43.70.020.

12 (6) "Internal management" means the administration of medical  
13 assistance, medical care services, the children's health program, and  
14 the limited casualty program.

15 (7) "Limited casualty program" means the medical care program  
16 provided to medically needy persons as defined under Title XIX of the  
17 federal social security act, and to medically indigent persons who are  
18 without income or resources sufficient to secure necessary medical  
19 services.

20 (8) "Medical assistance" means the federal aid medical care program  
21 provided to categorically needy persons as defined under Title XIX of  
22 the federal social security act.

23 (9) "Medical care services" means the limited scope of care  
24 financed by state funds and provided to general assistance recipients,  
25 and recipients of alcohol and drug addiction services provided under  
26 chapter 74.50 RCW.

27 (10) "Nursing home" means nursing home as defined in RCW 18.51.010.

28 (11) "Poverty" means the federal poverty level determined annually  
29 by the United States department of health and human services, or  
30 successor agency.

31 (12) "Secretary" means the secretary of social and health services.

32 (13) "Full benefit dual eligible beneficiary" means an individual  
33 who, for any month: Has coverage for the month under a medicare  
34 prescription drug plan or medicare advantage plan with part D coverage;  
35 and is determined eligible by the state for full medicaid benefits for  
36 the month under any eligibility category in the state's medicaid plan

1 or a section 1115 demonstration waiver that provides pharmacy benefits.

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