
Ways & Means Committee

HB 2361

Brief Description: Concerning modifying state payments for in-home care by prohibiting payment for services provided by agency employees who are related to or live with the client.

Sponsors: Representative Cody.

Brief Summary of Bill

- Prohibits the Department of Social and Health Services (DSHS) from paying an agency for in-home personal care service if the care is provided to a client by the client's family member or by an agency employee who resides with the client.
- Allows the DSHS to take enforcement action against a home care agency that charges for hours which the DSHS is not authorized to pay.

Hearing Date: 4/16/09

Staff: Carma Matti (786-7140)

Background:

Various programs in the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities divisions provide personal care services to elderly or disabled clients who are eligible for publicly funded services. These services may be provided in the client's home by individual providers who contract directly with the DSHS or by agency providers who are employees of a licensed home care agency. This paid provider may be a relative or a household member, although the client's spouse may not be a paid provider under most programs. Personal care services include assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores.

A plan of care is developed for each client to determine the services allowed. The client may choose whether to obtain services through an individual provider or an agency provider, but the benefits must be the same in amount, duration, and scope under either service option.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Individual providers who contract with the DSHS are compensated at rates established through collective bargaining and funded in the state's operating budget. Agency providers are paid by their employers who are reimbursed by DSHS based on a vendor rate that provides parity with the compensation established for individual providers. By statute the DSHS must, in determining the agency vendor rate, use a formula that accounts for:

- wages and fringe benefits;
- payroll taxes;
- mileage;
- any contributions that the state pays to the Training Partnership (a program to provide training for individual providers); and
- average increases in workers' compensation costs.

In addition, contributions for health care benefits are paid at the same rate as for individual providers.

The Home Care Quality Authority (HCQA) was created in 2002 to have oversight of in-home care services and to improve and stabilize the workforce. The Joint Legislative Audit and Review Committee is required to conduct two performance reviews of the HCQA. The first report, No. 07-2, concluded that the cost of providing services through agency providers was \$5 per hour higher than providing the services through independent providers.

Summary of Bill:

The DSHS is not permitted to pay a licensed home care agency for in-home personal care services if the care is provided to a client by the client's family member or by an agency employee who resides with the client.

The DSHS must adopt rules to implement this requirement, but the rules may not affect the amount, duration, or scope of benefits to which a client may be entitled under state or federal law. The DSHS may take enforcement action against a home care agency that charges the state for hours for which the DSHS is not authorized to pay. Enforcement action may include recoupment of payments and termination of the agency's contract for violating a recoupment requirement.

"Family member" includes parent, child, sibling, aunt, uncle, cousin, grandparent, grandchild, grandniece, or grandnephew.

Appropriation: None.

Fiscal Note: Requested on April 15, 2009.

Effective Date: The bill contains an emergency clause and takes effect immediately.