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**SUBSTITUTE HOUSE BILL 2361**

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**State of Washington**                      **61st Legislature**                      **2009 Regular Session**

**By** House Ways & Means (originally sponsored by Representative Cody)

READ FIRST TIME 04/20/09.

1            AN ACT Relating to modifying state payments for in-home care by  
2 prohibiting payment for services provided by agency employees who are  
3 related to or live with the client; adding a new section to chapter  
4 74.39A RCW; creating a new section; and declaring an emergency.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 74.39A RCW  
7 to read as follows:

8            (1)(a) The department shall not pay a home care agency licensed  
9 under chapter 70.127 RCW for in-home personal care or respite services  
10 provided under this chapter, Title 71A RCW, or chapter 74.39 RCW if the  
11 care is provided to a client by a family member of the client.

12            (b) The department may, on a case-by-case basis based on the  
13 client's health and safety, make exceptions to (a) of this subsection  
14 to authorize payment or to provide for payment during a transition  
15 period of up to three months.

16            (2) The department shall take appropriate enforcement action  
17 against a home care agency found to have charged the state for hours of  
18 service for which the department is not authorized to pay under this  
19 section, including requiring recoupment of any payment made for those

1 hours and, under criteria adopted by the department by rule,  
2 terminating the contract of an agency that violates a recoupment  
3 requirement.

4 (3) For purposes of this section:

5 (a) "Client" means a person who has been deemed eligible by the  
6 department to receive in-home personal care or respite services.

7 (b) "Family member" shall be liberally construed to include, but  
8 not be limited to, a parent, child, sibling, aunt, uncle, cousin,  
9 grandparent, grandchild, grandniece, or grandnephew, or such relatives  
10 when related by marriage.

11 (4) The department shall adopt rules to implement this section.  
12 The rules shall not result in affecting the amount, duration, or scope  
13 of the personal care or respite services benefit to which a client may  
14 be entitled pursuant to RCW 74.09.520 or Title XIX of the federal  
15 social security act.

16 NEW SECTION. **Sec. 2.** If any part of this act is found to be in  
17 conflict with federal requirements that are a prescribed condition to  
18 the allocation of federal funds to the state, the conflicting part of  
19 this act is inoperative solely to the extent of the conflict and with  
20 respect to the agencies directly affected, and this finding does not  
21 affect the operation of the remainder of this act in its application to  
22 the agencies concerned. Rules adopted under this act must meet federal  
23 requirements that are a necessary condition to the receipt of federal  
24 funds by the state.

25 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and takes effect  
28 immediately.

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