
SENATE BILL 6623

State of Washington

61st Legislature

2010 Regular Session

By Senators Fairley, Kline, and McAuliffe

Read first time 01/19/10. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to persons with developmental disabilities;
2 amending RCW 71A.10.050, 71A.16.010, 71A.16.040, and 71A.20.080; adding
3 new sections to chapter 71A.16 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature recognizes the
6 obligation to ensure the well-being of persons with developmental
7 disabilities who are transferred between residential habilitation
8 centers, or discharged from a residential habilitation center to a
9 placement in the community. The legislature intends that the rights,
10 health, and safety of all such individuals shall be secure, and that
11 adequate support and services to meet the needs of these individuals
12 shall be provided. The quality and sufficiency of support and services
13 shall be monitored and assured, and progress and outcomes shall be
14 reported to the legislature.

15 (2) The legislature further intends that no individual may be moved
16 from an institutional to a community setting until sufficient services
17 and support arrangements are authorized and funded to assure the
18 individual's health, safety, personal well-being, and continued growth
19 and development in a stable home in the community.

1 **Sec. 2.** RCW 71A.10.050 and 1989 c 175 s 138 are each amended to
2 read as follows:

3 (1) An applicant or recipient or former recipient of a
4 developmental disabilities service under this title from the department
5 of social and health services has the right to appeal the following
6 department actions:

7 (a) A denial of an application for eligibility under RCW
8 71A.16.040;

9 (b) An unreasonable delay in acting on an application for
10 eligibility, for a service, or for an alternative service under RCW
11 71A.18.040;

12 (c) A denial, reduction, or termination of a service;

13 (d) A claim that the person owes a debt to the state for an
14 overpayment;

15 (e) A disagreement with an action of the secretary under RCW
16 71A.10.060 or 71A.10.070;

17 (f) A decision to return a resident of (~~an~~[a]) a habilitation
18 center to the community; and

19 (g) A decision to change a person's placement from one category of
20 residential services to a different category of residential services.

21 The adjudicative proceeding is governed by the Administrative
22 Procedure Act, chapter 34.05 RCW.

23 (2) This subsection applies only to an adjudicative proceeding in
24 which the department action appealed is a decision to return a resident
25 of a habilitation center to the community. The resident or his or her
26 representative may appeal on the basis of whether the specific
27 placement decision is in the best interests of the resident. When the
28 resident or his or her representative files an application for an
29 adjudicative proceeding under this section the department has the
30 burden of proving that the specific placement decision is in the best
31 interests of the resident. There is a presumption that receiving
32 services in the most integrated setting is in the best interest of the
33 resident, if the secretary demonstrates that the services in the most
34 integrated setting meet the resident's individual needs.

35 (3) When the department takes any action described in subsection
36 (1) of this section it shall give notice as provided by RCW 71A.10.060.
37 The notice must include a statement advising the recipient of the right
38 to an adjudicative proceeding and the time limits for filing an

1 application for an adjudicative proceeding. Notice of a decision to
2 return a resident of a habilitation center to the community under RCW
3 71A.20.080 must also include a statement advising the recipient of the
4 right to file a petition for judicial review of an adverse adjudicative
5 order as provided in chapter 34.05 RCW.

6 **Sec. 3.** RCW 71A.16.010 and 1998 c 216 s 3 are each amended to read
7 as follows:

8 ((~~(1)~~)) It is the intention of the legislature in this chapter to
9 establish a single point of referral for persons with developmental
10 disabilities and their families so that they may have a place of entry
11 and continuing contact for services authorized under this title to
12 persons with developmental disabilities. Eligible persons with
13 developmental disabilities, whether they live in the community or
14 residential habilitation centers, should have the opportunity to choose
15 where they live from available options, which must include a funded
16 placement in the most integrated setting appropriate to the needs of
17 the qualified individual.

18 ~~((2) Until June 30, 2003, and subject to subsection (3) of this~~
19 ~~section, if there is a vacancy in a residential habilitation center,~~
20 ~~the department shall offer admittance to the center to any eligible~~
21 ~~adult, or eligible adolescent on an exceptional case-by-case basis,~~
22 ~~with developmental disabilities if his or her assessed needs require~~
23 ~~the funded level of resources that are provided by the center.~~

24 ~~(3) The department shall not offer a person admittance to a~~
25 ~~residential habilitation center under subsection (2) of this section~~
26 ~~unless the department also offers the person appropriate community~~
27 ~~support services listed in RCW 71A.12.040.~~

28 ~~(4) Community support services offered under subsection (3) of this~~
29 ~~section may only be offered using funds specifically designated for~~
30 ~~this purpose in the state operating budget. When these funds are~~
31 ~~exhausted, the department may not offer admittance to a residential~~
32 ~~habilitation center, or community support services under this section.~~

33 ~~(5) Nothing in this section shall be construed to create an~~
34 ~~entitlement to state services for persons with developmental~~
35 ~~disabilities.~~

36 ~~(6) Subsections (2) through (6) of this section expire June 30,~~
37 ~~2003.)~~

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 71A.16 RCW
2 to read as follows:

3 (1) All residents of residential habilitation centers must be
4 offered placement on the appropriate home and community-based waiver in
5 order to meet the resident's assessed needs, and must thereafter be
6 provided with services that meet his or her needs and maintain his or
7 her welfare, health, and safety. The resident must have access to
8 these services for as long as the resident or his or her guardian
9 consents to their provision.

10 (2) The secretary shall establish a procedure for informing
11 residents of residential habilitation centers, and their guardian or
12 legal representatives, of the options for community placement, which
13 must include at least the following provisions:

14 (a) Information on options for community placement must be
15 presented at the time of admission, and continue through regular and
16 frequent in-person visits and interviews with individuals who receive
17 community-based services, their family members, and those who provide
18 them support.

19 (b) The procedure must include an offer of a funded community
20 placement, at least semiannually, that is tailored to meet the needs of
21 the resident.

22 (c) The offer of placement must be available within a reasonable
23 time, and include the opportunity to meet the provider and visit the
24 location of the placement. At least one placement option offered each
25 year must be a placement with a provider that, pursuant to department
26 rule or contract, cannot refuse admission, and cannot eject a
27 participant once accepted except when an alternative placement is
28 identified that is agreed to by the resident, guardian, or other legal
29 representative.

30 (d) The department shall document what steps were taken by the
31 guardian or legal representative, family, department, and others to
32 ascertain the preferences of the resident regarding placement. If a
33 guardian or other legal representative opposes community placement, the
34 department must make a specific inquiry regarding the reasons for the
35 objection and address each of the concerns with particularity. The
36 department must document all concerns expressed by the resident, his or
37 her family, and guardian or other legal representative regarding the

1 placement or the services offered and the responses offered by the
2 department to these concerns.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.16 RCW
4 to read as follows:

5 (1) All residents must have a plan for discharge to the community,
6 developed with the participation of the resident, guardian or legal
7 representative, family members and friends, residential habilitation
8 center staff, and staff from the central office of the division of
9 developmental disabilities with the authority to authorize services to
10 support community placement. The discharge plan must be developed
11 within thirty days of admission. The plan must include frequent,
12 ongoing activities in the community that will assist the resident and
13 his or her guardian, legal representative, and family in learning about
14 opportunities for support in the community. The discharge plan must be
15 the basis for the transition plan developed when a decision is made to
16 move to the community.

17 (2) The department shall ensure that an individualized transition
18 plan is developed with each resident prior to moving to the community,
19 with the full participation of the resident, his or her guardian or
20 other legal representative, family, residential habilitation center
21 staff, and community provider. This plan must ensure that in addition
22 to a residential placement that meets the individuals' needs, all
23 necessary ancillary services are authorized and funded at the time of
24 the move, including medical, dental, and pharmaceutical services,
25 behavioral and mental health support, employment or other day support,
26 and transportation or other support necessary to assist family and
27 friends in maintaining regular contact.

28 **Sec. 6.** RCW 71A.16.040 and 1989 c 175 s 141 are each amended to
29 read as follows:

30 (1) On receipt of an application for services submitted under RCW
31 71A.16.030, the secretary in a timely manner shall make a written
32 determination as to whether the applicant is eligible for services
33 provided under this title for persons with developmental disabilities.

34 (2) The secretary shall give notice of the secretary's
35 determination on eligibility to the person who submitted the
36 application and to the applicant, if the applicant is a person other

1 than the person who submitted the application for services. The notice
2 shall also include a statement advising the recipient of the right to
3 an adjudicative proceeding under RCW 71A.10.050 and the right to
4 judicial review of the secretary's final decision.

5 (3) The secretary may establish rules for redetermination of
6 eligibility for services under this title.

7 (4) Persons who have been determined eligible for services prior to
8 discharge from a residential habilitation center shall continue to be
9 eligible for services thereafter, and shall subsequently be entitled to
10 all services for which they have an assessed need.

11 **Sec. 7.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to
12 read as follows:

13 (1) Whenever in the judgment of the secretary, the treatment and
14 training of any resident of a residential habilitation center has
15 progressed to the point that it is deemed advisable to return such
16 resident to the community, the secretary may grant placement on such
17 terms and conditions as the secretary may deem advisable after
18 consultation in the manner provided in RCW 71A.10.070. The secretary
19 shall give written notice of the decision to return a resident to the
20 community as provided in RCW 71A.10.060. The notice must include a
21 statement advising the recipient of the right to an adjudicative
22 proceeding under RCW 71A.10.050 and the time limits for filing an
23 application for an adjudicative proceeding. The notice must also
24 include a statement advising the recipient of the right to judicial
25 review of an adverse adjudicative order as provided in chapter 34.05
26 RCW.

27 (2) A placement decision shall not be implemented at any level
28 during any period during which an appeal can be taken or while an
29 appeal is pending and undecided, unless authorized by court order so
30 long as the appeal is being diligently pursued.

31 ~~((The department of social and health services shall periodically
32 evaluate at reasonable intervals the adjustment of the resident to the
33 specific placement to determine whether the resident should be
34 continued in the placement or returned to the institution or given a
35 different placement.))~~

36 (3) The department shall establish and implement a written
37 procedure to be used to monitor the adjustment of each resident who

1 leaves a residential habilitation center. The department shall consult
2 with the developmental disabilities council, disability rights
3 Washington, University of Washington center for human development and
4 disability, residential habilitation center and field services staff,
5 community providers of residential services, and families and advocates
6 of persons with disabilities in developing and implementing this
7 procedure. Monitoring must include regular and frequent in-person
8 visits and interviews with former residents and guardians and family
9 members and friends of the former residents. The monitoring must be
10 conducted by a team that includes family members, guardians, and others
11 who are not department employees. The department shall respond
12 promptly and effectively to address needs and concerns identified in
13 the monitoring process. In addition to monitoring each resident's
14 progress and outcomes, the procedure must be integrated into the
15 department's quality assurance process. The monitoring of resident
16 adjustment must continue at least through December 31, 2020.

17 (4) The department shall provide the legislature with an annual
18 report that provides cumulative data and analysis and recommendations.
19 The report must provide data and analysis on at least the following:

- 20 (a) Resident and guardian levels of satisfaction with placement;
- 21 (b) Sufficiency and quality of services;
- 22 (c) Stability of placement and providers;
- 23 (d) Safety and health outcomes, including hospitalizations and
24 mortality;
- 25 (e) Incidents;
- 26 (f) Employment and day activities;
- 27 (g) Community involvement; and
- 28 (h) Accessibility of former residents to family, friends, and
29 guardians.

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