

**SSB 6387 - H AMD 972**

By Representative Kagi

ADOPTED 03/13/2014

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** In conjunction with recent findings from  
4 the Washington state auditor's office, the legislature finds that there  
5 are thousands of state citizens who have been determined eligible for  
6 services through the department of social and health services'  
7 developmental disability administration. For those who have asked for  
8 help but are waiting for services, families may experience financial or  
9 emotional hardships. The legislature intends to clarify and make  
10 transparent the process for accessing publicly funded services for  
11 individuals with developmental disabilities and their families. The  
12 legislature intends to significantly reduce the number of eligible  
13 individuals who are waiting for services by funding additional slots  
14 and by implementing new programs that better utilize federal funding  
15 partnerships.

16 **Sec. 2.** RCW 71A.10.020 and 2011 1st sp.s. c 30 s 3 are each  
17 amended to read as follows:

18 As used in this title, the following terms have the meanings  
19 indicated unless the context clearly requires otherwise.

20 (1) "Assessment" means an evaluation is provided by the department  
21 to determine:

22 (a) If the individual meets functional and financial criteria for  
23 medicaid services; and

24 (b) The individual's support needs for service determination.

25 (2) "Community residential support services," or "community support  
26 services," and "in-home services" means one or more of the services  
27 listed in RCW 71A.12.040.

28 ((+2)) (3) "Crisis stabilization services" means services provided

1 to persons with developmental disabilities who are experiencing  
2 behaviors that jeopardize the safety and stability of their current  
3 living situation. Crisis stabilization services include:

4 (a) Temporary intensive services and supports, typically not to  
5 exceed sixty days, to prevent psychiatric hospitalization,  
6 institutional placement, or other out-of-home placement; and

7 (b) Services designed to stabilize the person and strengthen their  
8 current living situation so the person may continue to safely reside in  
9 the community during and beyond the crisis period.

10 ~~((3))~~ (4) "Department" means the department of social and health  
11 services.

12 ~~((4))~~ (5) "Developmental disability" means a disability  
13 attributable to intellectual disability, cerebral palsy, epilepsy,  
14 autism, or another neurological or other condition of an individual  
15 found by the secretary to be closely related to an intellectual  
16 disability or to require treatment similar to that required for  
17 individuals with intellectual disabilities, which disability originates  
18 before the individual attains age eighteen, which has continued or can  
19 be expected to continue indefinitely, and which constitutes a  
20 substantial limitation to the individual. By January 1, 1989, the  
21 department shall promulgate rules which define neurological or other  
22 conditions in a way that is not limited to intelligence quotient scores  
23 as the sole determinant of these conditions, and notify the legislature  
24 of this action.

25 ~~((5))~~ (6) "Eligible person" means a person who has been found by  
26 the secretary under RCW 71A.16.040 to be eligible for services.

27 ~~((6))~~ (7) "Habilitative services" means those services provided  
28 by program personnel to assist persons in acquiring and maintaining  
29 life skills and to raise their levels of physical, mental, social, and  
30 vocational functioning. Habilitative services include education,  
31 training for employment, and therapy.

32 ~~((7))~~ (8) "Legal representative" means a parent of a person who  
33 is under eighteen years of age, a person's legal guardian, a person's  
34 limited guardian when the subject matter is within the scope of the  
35 limited guardianship, a person's attorney-at-law, a person's  
36 attorney-in-fact, or any other person who is authorized by law to act  
37 for another person.

1        ~~((+8))~~ (9) "Notice" or "notification" of an action of the  
2 secretary means notice in compliance with RCW 71A.10.060.

3        ~~((+9))~~ (10) "Residential habilitation center" means a state-  
4 operated facility for persons with developmental disabilities governed  
5 by chapter 71A.20 RCW.

6        ~~((+10))~~ (11) "Respite services" means relief for families and  
7 other caregivers of people with disabilities, typically not to exceed  
8 ninety days, to include both in-home and out-of-home respite care on an  
9 hourly and daily basis, including twenty-four hour care for several  
10 consecutive days. Respite care workers provide supervision,  
11 companionship, and personal care services temporarily replacing those  
12 provided by the primary caregiver of the person with disabilities.  
13 Respite care may include other services needed by the client, including  
14 medical care which must be provided by a licensed health care  
15 practitioner.

16        ~~((+11))~~ (12) "Secretary" means the secretary of social and health  
17 services or the secretary's designee.

18        ~~((+12))~~ (13) "Service" or "services" means services provided by  
19 state or local government to carry out this title.

20        ~~((+13))~~ (14) "State-operated living alternative" means programs  
21 for community residential services which may include assistance with  
22 activities of daily living, behavioral, habilitative, interpersonal,  
23 protective, medical, nursing, and mobility supports to individuals who  
24 have been assessed by the department as meeting state and federal  
25 requirements for eligibility in home and community-based waiver  
26 programs for individuals with developmental disabilities. State-  
27 operated living alternatives are operated and staffed with state  
28 employees.

29        ~~((+14))~~ (15) "Supported living" means community residential  
30 services and housing which may include assistance with activities of  
31 daily living, behavioral, habilitative, interpersonal, protective,  
32 medical, nursing, and mobility supports provided to individuals with  
33 disabilities who have been assessed by the department as meeting state  
34 and federal requirements for eligibility in home and community-based  
35 waiver programs for individuals with developmental disabilities.  
36 Supported living services are provided under contracts with private  
37 agencies or with individuals who are not state employees.

1        ~~((15))~~ (16) "Vacancy" means an opening at a residential  
2 habilitation center, which when filled, would not require the center to  
3 exceed its biennially budgeted capacity.

4        (17) "Service request list" means a list of eligible persons who  
5 have received an assessment for service determination and their  
6 assessment shows that they meet the eligibility requirements for the  
7 requested service but were denied access due to funding limits.

8        **Sec. 3.** RCW 71A.16.050 and 1988 c 176 s 405 are each amended to  
9 read as follows:

10        The determination made under this chapter is only as to whether a  
11 person is eligible for services. After the secretary has determined  
12 under this chapter that a person is eligible for services, the  
13 individual may request an assessment for eligibility for medicaid  
14 programs and specific services administered by the developmental  
15 disabilities administration. The secretary shall make a determination  
16 as to what services are appropriate for the person. The secretary shall  
17 prioritize services to medicaid eligible clients. Services may be made  
18 available to nonmedicaid eligible clients based on available funding.  
19 Services available through the state medicaid plan must be provided to  
20 those individuals who meet the eligibility criteria. The department  
21 shall establish and maintain a service request list database for  
22 individuals who are found to be eligible and have an assessed and unmet  
23 need for programs and services offered under a home and community-based  
24 services waiver, but the provision of a specific service would exceed  
25 the biennially budgeted capacity.

26        NEW SECTION. **Sec. 4.** The department of social and health services  
27 shall develop and implement a medicaid program to replace the  
28 individual and family services program for medicaid-eligible clients no  
29 later than May 1, 2015. The new medicaid program must offer services  
30 that closely resemble the services offered in fiscal year 2014 through  
31 the individual and family services program. To the extent possible,  
32 the department shall expand the client caseload on the medicaid program  
33 replacing the individual and family services program. The department  
34 is authorized in fiscal year 2015 to use general fund--state dollars  
35 previously provided for the individual and family services program to

1 cover the cost of increasing the number of clients served in the new  
2 medicaid program.

3 NEW SECTION. **Sec. 5.** By June 30, 2017, if additional federal  
4 funds through the community first choice option are attained, then the  
5 department of social and health services shall increase the number  
6 served on the medicaid program replacing the individual and family  
7 services program by at least four thousand, and increase by at least  
8 one thousand clients receiving services on the home and community-based  
9 services basic plus waiver. For both of these programs, the department  
10 of social and health services shall expend the client caseload  
11 beginning June 30, 2015.

12 **Sec. 6.** RCW 18.88B.041 and 2012 c 164 s 302 are each amended to  
13 read as follows:

14 (1) The following long-term care workers are not required to become  
15 a certified home care aide pursuant to this chapter:

16 (a)(i)(A) Registered nurses, licensed practical nurses, certified  
17 nursing assistants or persons who are in an approved training program  
18 for certified nursing assistants under chapter 18.88A RCW, medicare-  
19 certified home health aides, or other persons who hold a similar health  
20 credential, as determined by the secretary, or persons with special  
21 education training and an endorsement granted by the superintendent of  
22 public instruction, as described in RCW 28A.300.010, if the secretary  
23 determines that the circumstances do not require certification.

24 (B) A person who was initially hired as a long-term care worker  
25 prior to January 7, 2012, and who completes all of his or her training  
26 requirements in effect as of the date he or she was hired.

27 (ii) Individuals exempted by (a)(i) of this subsection may obtain  
28 certification as a home care aide without fulfilling the training  
29 requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete  
30 a certification examination pursuant to RCW 18.88B.031.

31 (b) All long-term care workers employed by community residential  
32 service businesses.

33 (c) An individual provider caring only for his or her biological,  
34 step, or adoptive child or parent.

35 (d) (~~Prior to~~) Until July 1, (~~(2014)~~) 2016, a person (~~(hired)~~)

1 working as an individual provider who provides twenty hours or less of  
2 care for one person in any calendar month.

3 (e) Until July 1, 2016, a person working as an individual provider  
4 who only provides respite services and works less than three hundred  
5 hours in any calendar year.

6 (2) A long-term care worker exempted by this section from the  
7 training requirements contained in RCW 74.39A.074 may not be prohibited  
8 from enrolling in training pursuant to that section.

9 (3) The department shall adopt rules to implement this section.

10 **Sec. 7.** RCW 74.39A.076 and 2012 c 164 s 402 are each amended to  
11 read as follows:

12 (1) Beginning January 7, 2012, except for long-term care workers  
13 exempt from certification under RCW 18.88B.041(1)(a):

14 (a) A biological, step, or adoptive parent who is the individual  
15 provider only for his or her developmentally disabled son or daughter  
16 must receive twelve hours of training relevant to the needs of adults  
17 with developmental disabilities within the first one hundred twenty  
18 days after becoming an individual provider or within one hundred twenty  
19 calendar days after March 29, 2012, whichever is later.

20 (b) Individual providers identified in (b)(i) (~~and~~), (ii), and  
21 (iii) of this subsection must complete thirty-five hours of training  
22 within the first one hundred twenty days after becoming an individual  
23 provider or within one hundred twenty calendar days after March 29,  
24 2012, whichever is later. Five of the thirty-five hours must be  
25 completed before becoming eligible to provide care. Two of these five  
26 hours shall be devoted to an orientation training regarding an  
27 individual provider's role as caregiver and the applicable terms of  
28 employment, and three hours shall be devoted to safety training,  
29 including basic safety precautions, emergency procedures, and infection  
30 control. Individual providers subject to this requirement include:

31 (i) An individual provider caring only for his or her biological,  
32 step, or adoptive child or parent unless covered by (a) of this  
33 subsection; (~~and~~)

34 (ii) Until (~~January 1, 2014~~) July 1, 2016, a person (~~hired~~)  
35 working as an individual provider who provides twenty hours or less of  
36 care for one person in any calendar month; and

1 (iii) Until July 1, 2016, a person working as an individual  
2 provider who only provides respite services and works less than three  
3 hundred hours in any calendar year.

4 (2) In computing the time periods in this section, the first day is  
5 the date of hire or March 29, 2012, whichever is applicable.

6 (3) Only training curriculum approved by the department may be used  
7 to fulfill the training requirements specified in this section. The  
8 department shall only approve training curriculum that:

9 (a) Has been developed with input from consumer and worker  
10 representatives; and

11 (b) Requires comprehensive instruction by qualified instructors.

12 (4) The department shall adopt rules to implement this section.

13 **Sec. 8.** RCW 74.39A.341 and 2013 c 259 s 3 are each amended to read  
14 as follows:

15 (1) All long-term care workers shall complete twelve hours of  
16 continuing education training in advanced training topics each year.  
17 This requirement applies beginning July 1, 2012.

18 (2) Completion of continuing education as required in this section  
19 is a prerequisite to maintaining home care aide certification under  
20 chapter 18.88B RCW.

21 (3) Unless voluntarily certified as a home care aide under chapter  
22 18.88B RCW, subsection (1) of this section does not apply to:

23 (a) An individual provider caring only for his or her biological,  
24 step, or adoptive child;

25 (b) Registered nurses and licensed practical nurses licensed under  
26 chapter 18.79 RCW;

27 (c) Before January 1, 2016, a long-term care worker employed by a  
28 community residential service business; ~~((or))~~

29 ~~((Before))~~ Until July 1, ~~((2014))~~ 2016, a person ~~((hired))~~  
30 working as an individual provider who provides twenty hours or less of  
31 care for one person in any calendar month; or

32 (e) Until July 1, 2016, a person working as an individual provider  
33 who only provides respite services and works less than three hundred  
34 hours in any calendar year.

35 (4) Only training curriculum approved by the department may be used  
36 to fulfill the training requirements specified in this section. The  
37 department shall only approve training curriculum that:

1 (a) Has been developed with input from consumer and worker  
2 representatives; and

3 (b) Requires comprehensive instruction by qualified instructors.

4 (5) Individual providers under RCW 74.39A.270 shall be compensated  
5 for training time required by this section.

6 (6) The department of health shall adopt rules to implement  
7 subsection (1) of this section.

8 (7) The department shall adopt rules to implement subsection (2) of  
9 this section."

10 Correct the title.

EFFECT: Makes the following changes to the underlying bill:  
Removes the requirement that the DSHS refinance Medicaid personal care services under the Community First Choice Option (CFCO).  
Specifies that by June 30, 2017, the clients served on the Medicaid program replacing the Individual and Family Services program will increase by at least 4,000 if additional federal funds through the CFCO are attained.  
Specifies that by June 30, 2017, the clients served on the Home and Community-Based Services basic plus waiver will increase by at least 1,000 if additional federal funds through the CFCO are attained.  
Specifies that the DSHS must expand the client caseload of the IFS program and the HCBS basic plus waiver beginning June 30, 2015.  
Extends the certification exemption for individual providers who provide 20 hours or less of care for one person in any calendar year to July 1, 2016.  
Creates a certification exemption for individual providers who only provide respite services and work less than 300 hours in a calendar year until July 1, 2016.

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