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HCAW January 2022 Public Policy Report

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Policy Overview

Happy New Year! We got off to a great start with about 5 inches of snow on the West side of the state and many more on the East side. The “orb” in the picture is at the Port of Olympia.

The “Short” 60-day Legislative Session starts on January 10th and goes through March 11, 2022. The Omicron variant of the COVID-19 virus is spreading rapidly in Washington state and legislative committee hearings in 2022 will be virtual again. The House and the Senate have gone completely virtual for the beginning of session and will review policy as session progresses. Floor action will probably be a mixture of in person and virtual for legislators. Lobbyists will not be allowed on the Capital Campus except on a very limited basis...



Bills started being pre-filed on December 6 and I have started a tracking list which I have attached with this report. Bills will be assigned committees for public hearings next week. Our first public hearing schedule came out on Wednesday evening. I have attached the bill report with this policy report for your review. I will be determining if we need to have a “hot team” meeting, but most bills introduced so far are broader in nature, so no big positions on bills so far.

The Governor’s \$62 billion budget came out on December 16th with a focus on climate change, homelessness, and salmon recovery. I have attached the items highlighted in the Governor’s budget that could impact In-Home Services at the end of this report. The Governor is required by law to release a budget in December. The House and Senate budgets will come out after the February revenue forecast comes out. The final supplemental budget will be a negotiated compromise of the three budgets due by the end of session mid-March. At the State of Reform meeting today it was stated that WA state revenues are up \$4 billion dollars over the original Operating Budget from 2021...I suspect that people trapped at home by the pandemic are ordering on-line!

Virtual In-Home Services Advocacy Days, January 27-28! For over 8 years HCAW, WAHCA/HCAOA, and WSHPCO have met with state legislators collaborating on a legislative agenda to support home care, home health and hospice. There will be an orientation prior to the In-Home Services Advocacy Days to go over our talking points and how to talk to your legislators, especially if there are several people in your meetings which are typically 15-minute long. You have one Senator and two House of Representatives in your district. They may be scheduled at different times during the 2-day advocacy days, or sometimes all three are willing to meet together! Some agencies may want to meet with more legislators in their service area. **Please register now so we can begin scheduling appointments with your local legislators** by filling out your name,

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agency, in-home services association, and your legislative district number. To register go to: [In-Home Services Advocacy Day Registration](#). I am working on the “song sheet” for the event and will add more issues as bills are introduced during the early session....

LTC Coalition for Extending COVID-19 Rates: HCAW and WAHCA/HCAOA have been participating in a coalition with providers of skilled nursing, assisted living, adult family homes, private duty nursing and home care to extend the emergency funding for COVID-19 permanently. A letter has gone out to legislators on our behalf to support the continuation of these funds. The Governor’s Budget does extend the funding until the end of the fiscal year in June 2022, then begins to ramp down in the next fiscal year July 2022. The position of the coalition is that we can’t go back to the former funding rates and that the emergency funding rate is the new “floor”. Heather Navarre will be testifying before the fiscal committees on behalf of the coalition.

Washington Cares Act: Will be a delayed for 18 months early in the legislative session while the legislature does a variety of “fixes” for the program. HCAW was supportive of the legislation when it passed two years ago because it will boost funding available for home care. Passed in 2019 by the Legislature and signed by Inslee, the WA Cares Fund creates a 0.58% payroll deduction on employees, set to begin in January. Starting in 2025, eligible beneficiaries could then start claiming up to \$36,500 to help pay for things like home care, meal delivery, assisted living or other needs. We will be tracking any related bills introduced this session.

Update on Palliative Care Insurance Benefit: The WA State Health Care Authority (HCA) is going to reinstate rulemaking for palliative care services to include coverage under the state’s Medicaid program, PEBB, and SEBB! We had a great meeting with HCA staff on December 13th, regarding resurrecting the Palliative Care Rulemaking that they initiated in 2019 and then stopped due to COVID and other factors. Based on the decision from HCA, we will delay our palliative care bill to expand the service to private insurers until the rulemaking is finalized.

HCAW and WSHPCO will Request a Budget Proviso for the 2022 Supplemental Budget for Rulemaking for a Palliative Care Benefit for Medicaid, PEBB, SEBB: The Health Care Authority (HCA) rulemaking to establish a palliative care benefit may require some ProviderOne billing system changes to provide the palliative care services in some type of a bundled payment. They may also need some funding for the analytics involved with developing a standardized palliative care benefit.

WA State Psilocybin Bill pre-filed, SB 5660 Concerning access to psilocybin services by individuals 21 years of age and older: I was invited to talk to [Senator Jesse Salomon](#) (D) representing the Shoreline area during the development of this bill. He wanted to discuss how the Oregon bill for psilocybin at the end of life was being implemented and if there are any things that we could do better if we run the bill in WA State. The bill was modeled after the Oregon bill.

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Request that Private Duty Nursing Agencies (PDN), gain additional reimbursement for being an agency provider vs an independent provider. PDN agencies are currently being paid at the same rate as an independent provider with no agency overhead costs considered in the payment. We are modeling this after the home care agency differential between agencies and IPs.

Request 10% Rate Increase for Medicaid Home Health, PDN Adult Family Homes and PDN Pediatric Group Settings: Home health did not get a rate increase for the COVID 19 emergency. The PDN groups have a low reimbursement rate and are unable to hire new nurses to get children and adults that have been deemed ready to go home out of hospitals in the state.

Health Care Authority (HCA)

Apple Health (Medicaid) Provider Alert New modifier for audio-only: Effective for claims with dates of service on and after January 1, 2022, the Health Care Authority (HCA) will require the use of the new FQ modifier when billing for services provided via audio-only modality.

New place of service (POS) code 10 and revised definition of POS 2

Effective for claims with dates of service on and after April 4, 2022, HCA will implement the following new place of service (POS) code 10 and the revised definition of POS 02 when billing the HIPAA-compliant telemedicine (audio-visual) or telehealth (audio-only).

Online resources: HCA has published updates to the following online resources on [HCA's Provider billing guides and fee schedules webpage](#), *Billing guides and fee schedules*, *Telehealth*:

Clinical policy and billing: [Apple Health \(Medicaid\) clinical policy and billing for COVID-19 \(includes telemedicine/telehealth\)](#)

Social Worker for Home Health: Helpful for billing palliative care through home health Medicaid program. The new reimbursement program will start up on January 1, 2022. **Effective January 1, 2022**, the Health Care Authority (HCA) is publishing quarterly updates to many of the Apple Health billing guides. Billing guides are located on [HCA's Provider billing guides and fee schedules webpage](#). Check the webpage often. HCA is loading the revised billing guides as soon as they are finalized for publishing.

Social Worker for Home Health Rulemaking moving to CR-102 process: HCAW has expressed concerns to the HCA that the rules language is not very clear and does not sync very well with Medicare definitions for a social worker by using the term "Medical Social Worker". More to come on that issue! The rulemaking process will amend the WAC to allow for reimbursement of a social worker for home health. **Chapter 182-551** (multiple sections), Home health services. To read the filing notice and view the proposed rules, see [WSR 22-01-132](#).

Purpose: The 2021-2023 operating budget included a proviso (section 211(65), chapter 334, Laws of 2021) specifying that certain appropriated funds are provided to reimburse social workers as part

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of the medical assistance home health benefit. The agency is amending home health rules in chapter 182-551 WAC, subchapter II, to include medical social services within the home health program.

Department of Social and Health Services (DSHS)

LTC Worker Training Program Flexibility Rulemaking initiated: The department is planning to amend WACs [388-112A-0010](#) and [388-112A-0300](#) to establish rules that allow for remote skills training which provides for more flexibility in training our long-term care workforce in remote areas. To read the preproposal click [here](#). If you are interested in participating in this rule making process, please contact Angel Sullivan at angel.sullivan@dshs.wa.gov.

Department of Health (DOH)

Home Health and Hospice Telemedicine Supervisory Visits: DOH is hosting another public rule workshops to discuss home health and hospice telemedicine supervisory visits:

- January 7, 2022 – 9:00am to 12:00pm – Virtual/TEAMS. If you are interested in attending/participating in these workshops, please register by sending your name and email to john.hilger@doh.wa.gov.

Background: Current rules require home health and hospice agencies to supervise aides each month during an “on-site visit.” While these requirements have been waived during the COVID-19 pandemic, the waiver will expire at the end of the declared emergency. Emergency rules under WSR 21-16-096 were put into place beginning August 3, 2021 to allow agencies to conduct supervision of aides via telemedicine and to cover any gap between the end of the pandemic and finalization of permanent rulemaking – which is the purpose of filing the attached CR-101.

- [In-Home Services WSR 21-20-084.PDF](#)
- [WSR 21-16-096.pdf](#)

Hospice Certificate of Need:

Hospice CON Rulemaking: We did get an update from Eric Hernandez, DOH CON Manager, “We have already started our planning for rulemaking, now that we have some resources to get this work done. We anticipate holding workshops starting in late winter to early spring. The entire WAC 246-310 is open, so they are strategizing on how best to divide this work so that we can get done efficiently and with the most participate with stakeholders. No dates set yet. Just an FYI that WSHPCO met with DOH to discuss using accurate data for CON proposals.

Home Health CON Rulemaking: No word from DOH yet on when this will begin...but we have hired Marc Berg, former HCAW Board member to provide some analytics on home health in WA State. This will be helpful when we finally do go into rulemaking!

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In-Home Services Rules: DOH plans to update the In-Home Services Rules. No date set yet. Do you have suggestions for changes to the hospice related rules that should be made? We need to let John Hilger at DOH know soon so he can begin to incorporate into the draft for stakeholder review.

Palliative Care Roadmap Still Available!! It's posted on [DOH Rural Health webpage](#), as well as the [WA Rural Palliative Care Initiative portal](#) To order: <https://prtonline.myprintdesk.net/DSF/>

Nursing Care Quality Assurance Commission (NCQAC)

Nurse Licensure Fee Increases: On November 10, 2021, the Department of Health in consultation with the Nursing Care Quality Assurance (NCQAC) filed a CR-101 (WSR # 21-23-053) to consider changes to the fees and renewal cycle for registered nurses, licensed practical nurses, advanced registered nurse practitioners, and nursing technicians. RCW 43.70.250 requires that the costs of licensing each profession be fully borne by members of that profession. Rulemaking is needed to ensure fees cover the costs of licensing the professions. A fee change may be necessary to cover the cost of a database solution to replace an outdated licensing system, for staffing to continue nurse license processing within legislated timelines and staffing to address increased workload associated with nursing assistants and the long-term care crisis.

Covid-19 pushed longstanding nursing workforce shortages in long-term care (LTC) into crisis. Legislated stakeholder work produced solutions within the NCQAC's authority:

- Massive transformation in Nursing Assistant training and testing capacity
- Implement training and testing modalities, apprenticeship pathway into nursing, rules

Support expansion of qualified nursing workforce

To address the crisis, NCQAC proposes:

- Phase One - NCQAC staffing (5 FTEs)
- Phase Two - Pilot program implementation

Annual financial impact on NCQAC: Approximately \$750K beginning FY23

LPN Apprenticeship and LTC Nursing Workforce: This group is an extension of the multiple years of work on the LTC Workforce Steering Committee. The LPN Apprenticeship and LTC Nursing Workforce virtual summit was held on October 22, 2021, and there are more workgroup meetings coming up for me in the near future. I am an official member of this workgroup and will continue to offer ideas from our association membership. The LTC Workforce Development Steering Committee submitted [The LTC Workforce Development Final Report - June 2021 \(PDF\)](#) to the legislature in June 2021. The report includes legislative recommendations for continued work to support the needs of long-term care.

DSHS and DOH Stakeholder Workgroups on SHB 1218: [SHB 1218](#) addresses the quality of life, health, and safety of long-term care residents during a state of emergency, such as a pandemic.

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During the 2021 legislative session, the legislature passed two bills in response to the COVID-19 public health emergency with major impacts on long-term care facilities and homes. The final draft report has not been sent out before the December 2021 deadline.

Ongoing Public Policy Meetings

HCAW Public Policy Meeting: Meets on every 2nd Tuesday morning at 8:30 am of each month to review the public policy report and make recommendations to the board if appropriate.

WA State Senior Citizens Lobby: I attended the full day conference and listened to legislators and Governor staff talk about the state budget and next session. The state is in good financial condition considering a pandemic and employment issues!

Dementia Action Collaborative: There will be new legislation proposed in 2022 to continue the efforts of the DAC and update the state Dementia Plan. I have been participating in the states Dementia Collaborative for several years. I am working on a readmissions committee with this group that includes discussions around in-home services.

WA State Hospital Association (WSHA) Readmissions Workgroup: I am in the WSHA Readmissions Workgroup. I am trying to incorporate in-home services into their discussions!

WA State Telemedicine Collaborative: I participate in these meetings to follow issues closely related to providing telemedicine services in the home. The latest meeting was held on November 4th, 2021. There was further clarification on what an established relationship is for telehealth visits. They must have a report to the legislature done by the end of November 2021. I will send out when the final draft is released.

Palliative Care-Rural Health Integration Advisory Team (PC-RHIAT): For more information on their efforts go to: <https://waportal.org/partners/home/washington-rural-palliative-care-initiative>
The group met on November 3 to review how the Cohort programs are going around the state.

Governor's 2022 Supplemental Budget Highlights Potentially Impacting In-Home Services

Department of Health

Delays in Nursing Licenses: Funding is provided for 10.0 FTE licensing staff to achieve faster turnaround on completed nursing licenses. (Health Professions Account - State)

Long-Term Care Nursing Staff Crisis: The Nursing Care Quality Assurance Commission will expand nursing assistant training and reduce the time someone needs to complete their nurse certification exam. The commission will also create an apprenticeship pathway to improve job prospects for nursing assistants and licensed practical nurses. (Health Professions Account - State, General Fund - State)

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Nurse Preceptor Grants: Funding is provided to set up a grant program to provide funding to nurses who are willing to supervise nursing students in health care settings. The goal of this program is to help reduce a shortage of health care settings for students to conduct their clinical hours and bring more nurses into the field. (General Fund - State)

SEIU 1199 General Government: The collective bargaining agreement includes a general wage increase of 3.25% for fiscal year 2023 and a retention bonus payable in two equal installments. (Health Professions Account - State, General Fund - Local, General Fund - Federal, other funds)

Department of Social and Health Services (DSHS)

In-Home Provider PPE: In-home care providers provide personal care to Medicaid clients in the client's home. Personal protective equipment maintains the safety of the provider and client. Funding is provided to purchase, store, and distribute PPE to in-home providers. This assumes that Federal Emergency Management Agency (FEMA) funding expires in March 2022. (General Fund - State, General Fund - Local CRC Oregon, General Fund - Medicaid Federal, other funds)

APS Abuse Registry: Funding is provided to establish a process to review requests from providers to be removed from the Adult Protective Services (APS) vulnerable adult abuse registry. The new process will take into consideration varying degrees of harm perpetuated by an individual and any rehabilitation sought after an APS finding. (General Fund - Medicaid Federal, General Fund - State, General Fund - Local CRC Oregon, other funds)

CDE Transition Costs: In April 2022, the Consumer Directed Employer will become the new administrative employer for over 45,000 individual providers who serve clients in their home. Funds will be provided from DSHS to the new CDE in April. Funding is provided to account for premiums for paid family leave. (General Fund - Medicaid Federal, General Fund - State, General Fund - Local CRC Oregon, other funds)

COVID Positive Units: Funds are provided for units in nursing homes specifically for patients with COVID-19. These units are separate from other nursing home residents and help create more capacity in acute care hospitals that are facing critical shortages of hospital beds due to the pandemic. (Coronavirus St Fiscal Recovery Fund - Federal)

Acute Care Hospital Capacity: The COVID-19 pandemic led to a shortage of beds in acute care hospitals. From October through December 2021, AL TSA offered incentive payments to long-term care settings to take patients from acute care hospitals who have been in the hospital for more than 30 days without a discharge plan and who no longer need acute levels of care. (Coronavirus St Fiscal Recovery Fund - Federal)

Case Management Ratios: Case managers conduct home visits, respond to safety concerns, and connect clients to health and community resources. Lower caseloads contribute to better health

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outcomes for clients and reduce the need for expensive institutional stays for clients. Funding is provided for 20.6 FTE staff to reduce the number of cases per case manager from 94 to 75 clients. (General Fund - Local CRC Oregon, General Fund - Medicaid Federal, General Fund - State, other funds)

Personal Protective Equipment: Personal protective equipment helps contain the spread of COVID-19 and reduce infection rates. Funding is provided to purchase, store, and distribute PPE to DSHS employees. This assumes that Federal Emergency Management Agency (FEMA) funding expires in March 2022. (General Fund - Medicaid Federal, Coronavirus St Fiscal Recovery Fund - Federal, General Fund - Cash, other funds)

Targeted Provider Rates: Funding is provided to continue the COVID-19 rate enhancements that expired on December 31, 2021 to contracted providers. The rate enhancements are reduced by 20 percent every two quarters in fiscal year 2023 and fiscal year 2024. This includes appropriations related to unanticipated receipt number 0027. (General Fund - State, General Fund - Medicaid Federal, General Fund - Local CRC Oregon, other funds)

SEIU 775 Agency Providers Parity: Funding is provided to for the homecare agency parity impacts of the agreement between the governor and the service employees international union healthcare 775nw. (General Fund - Medicaid Federal, General Fund - State, General Fund - American Rescue Plan Act (ARPA), other funds)

SEIU 775 In Home Providers: Funding is provided for the implementation of an agreement reached between the governor and the adult family home council under the provisions of chapter 41.56 RCW for fiscal year 2023. (General Fund - Medicaid Federal, General Fund - State, General Fund - American Rescue Plan Act (ARPA), other funds)

Health Care Authority

FMAP Increase: The federal Families First Coronavirus Relief Act authorized additional Federal Medical Assistance Percentage (FMAP) funds for the duration of the public health emergency. State funds are reduced, and Medicaid spending is increased to reflect an additional 6.2 percent federal Medicaid matching rate from January through June 30, 2022. (General Fund - Local CRC Oregon, General Fund - Cash, General Fund - Medicaid Federal, other funds)

Acute Care Hospital Capacity: Funding is provided for incentive payments to skilled nursing facilities to take Medicaid clients discharged from inpatient care. (Coronavirus St Fiscal Recovery Fund - Federal)