June 10, 2024

HCAW June 2024 Public Policy Report

Prepared by Leslie Emerick, HCAW Public Policy Director

Legislative/Political Landscape

I was invited to attend the Summit on Aging and Longevity hosted by DSHS and AARP on May 22 in Tacoma. It was well attended by all sectors of long term care and I was sitting 4 feet away from the Governor! Walt Bowen, WA State Senior Lobby, and the Governor were in deep conversation. HCAW is a long time member of the Senior Lobby and regulary speak about about home health, hospice and palliative care to their group. Cathy MacCaul, AARP Governmental Director and Kathy Knight, Area Aging Agencies, gave the Governor a Bonzi tree for his years of services and advocacy for LTC. The conference explored opportunities for partership across the LTC spectrum, health aging technologies, workforce, housing, transportation and demetia-friendly building sectors. This was a great opportunity for networking!

Included are the Summit recordings to share and explore opportunities for continued innovation and strategic action. Links to the TV-W recording of the summit:

- 8:30am: https://www.tvw.org/watch/?clientID=9375922947&eventID=2024051137
- 11:10am: https://www.tvw.org/watch/?clientID=9375922947&eventID=2024051138
- 1:20pm: https://www.tvw.org/watch/?clientID=9375922947&eventID=2024051139
- 2:30pm: https://www.tvw.org/watch/?clientID=9375922947&eventID=2024051140

Home Health and Home Care related legislative projects underway!

In-Home Services Roadmap Funding: ESSB 5950, Sec. 222 (the operating budget bill) passed which provided DOH with funding to create an "In-Home Services Roadmap." Similar to the Palliative Care Roadmap and the Dementia Roadmap developed in recent years, subject matter experts need to come together to create a new In-Home Services Roadmap.

This roadmap will educate people on how to assess their care needs and give them practical tools to locate appropriate home care, home health, and hospice providers in their communities. John Hilger, DOH In-Home Services Program Manager, is wanting to schedule a virtual TEAMS kick off meeting in late June to start outlining the key components of the In-Home Services Roadmap. Subsequent meetings will be scheduled in July and August to develop each component. DOH is working in consultation with appropriate stakeholders and Susan Engels, DSHS Office Chief, State Unit on Aging at State of Washington. The department must complete the document and make hard copies available for distribution no later than June 30, 2025.

SSB 5936 Palliative Care Benefit Workgroup: According to the Office of the Insurance Commissioner (OIC), the **Palliative Care Benefit Work Group** has officially started and they have shared the work group's next steps.

Confirmed Members of Palliative Care Bene

OIC Work Plan_Palliative Care W

As background, Substitute Senate Bill (SSB) 5936 (Chapter 166, Laws of 2024, attached) directs OIC, in consultation with the Health Care Authority (HCA), to "convene a work group to **design the parameters of a palliative care benefit and payment model for the benefit of fully insured health plans**…" and submit a report to the Legislature detailing its work and any recommendations by **November 1, 2025**. The work group is comprised of representatives including state agencies, providers, and payors. The work group must consider (a) clinical eligibility criteria, (b) the services included in a palliative care benefit, (c) appropriate staffing, (d) evaluation criteria and reporting requirements, and (e) payment models. The Legislature has appropriated $228,000 to OIC to implement SSB 5936, and provides that OIC may contract with a vendor for actuarial analysis.

A list of confirmed work group members is attached. **Nico Janssen** and **Jane Beyer** will facilitate the work group on behalf of OIC. Here is information on OIC's planned next steps and what to expect in the coming months:

1. **OIC will hold the first work group meeting in July 2024**, with date and time to be announced. Please look out for the calendar invite, agenda, and meeting materials closer to July. We plan for work group meetings to be all-virtual and open to the public via a registration link on OIC's website. We plan to post meeting materials and information about the work group on OIC's website.

2. **OIC plans to contract for actuarial analysis to fulfill the work required in SSB 5936.** We welcome work group members' expertise in advising the contractor's analysis. To that end, before our first work group meeting, **we plan to share a draft scope and objectives document** for your review and feedback before a request for proposals is posted.

3. We have prepared the attached **work plan** to share tasks and deadlines and monitor our progress. This document includes a resource library with links to relevant background information. The work plan will be continually updated as the project develops.

Department of Social and Health Services (DSHS)

Funding for Private Duty Nursing and Home Health Medicaid Rate Increases: Provided solely for rate increases, effective January 1, 2025, for private duty nursing, home health, and the medically intensive children's group home program services. Effective January 1, 2025, to

independent contractor nurses and agency-employed nurses providing private duty nursing, skilled nursing, and private duty nursing in adult family homes.

Senate Bill 5811: will take effect June 6, 2024. This bill expands the definition of "family members" for whom an individual provider can provide care to without holding a credential. The definition of "family member" now includes the individual provider's child or parent, including when related by marriage or domestic partnership. This is in addition to those who provide care only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, grandchild, including when related by marriage or domestic partnership. If you have questions, please contact the program manager, Jenni Osbun.

WA Cares Fund Action Alert: I have been working diligently to assure that private pay home care agencies have the same opportunity to provide care under the WA Cares Act as Medicaid contracted agencies. The WA Cares Fund is overseen by the LTSS Trust Commission which is made up of legislators, the heads of the administering agencies, and key stakeholder representatives. The LTSS Trust Commission will be making a decision in the near future on whether to include private pay home care agencies as well as Medicaid contracted agencies to offer services to participants in the WA Cares Act provision of home care services.

This is an urgent issue as they are making these decisions now. Please send a message ASAP to the WA Cares Fund Contact Me by either email or phone. I would advise using the template below as a basis, but to add your own personal input on why to include your home care agency as part of the services provided versus Medicaid only agencies.

"I would like to request that you allow all state licensed home care agencies, not just Medicaid contracted home care agencies, to provide services to qualified participants in the WA Cares Fund. This program is designed for all Washingtonians, not just low-income citizens, and participants should have a choice of which home care agency that they would like to hire in their area. Limiting access to all licensed home care agencies will limit access to home care for the participants. With our rapidly aging population, its important that all home care agencies be included, not just limited to a few in our state." If you would like to attend upcoming meetings in person, please add these links and dates to your calendar.

LTSS Trust Commission Meeting , July 10, 2024, 1:00 PM - 4:00 PM Join Zoom Webinar

Webinar ID: 898 7870 3085

Passcode: 333812

Connect by phone: 253-215-8782

Provider Payment Maximums Group 3 Stakeholder Open Forum , July 15, 2024: 10:30 - 12:00 pm Join Zoom Webinar

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Home Care Safety Net Assessment: I attended a work session on SHB 1435 Home Care Safety Assessment that is intended to gather data and draw down more federal dollars to the state for in-home services such as home care, home health and hospice. I have grave concerns regarding a "safety net" assessment for private pay home care agencies and hospice. There may be some benefit for private duty nursing and Medicaid reimbursed home health. Here is a report from an actuarial firm, Milliman, that was hired to process the data collection:

Home Care Safety Net Assessment_Prese

In Washington, there are currently provider assessments for hospitals, nursing homes, and ambulances. To conform to federal laws, health care provider-related assessments, fees, and taxes must be broad-based, uniform, and in compliance with hold harmless provisions. To be broad based and uniform, they must be applied to all providers of the same class and be imposed at the same rate to each provider in that class. If a provider-related assessment, fee, or tax is not broad-based or uniform, these provisions may be waived if the assessment, fee, or tax is generally redistributive. The hold harmless provision, which requires that those paying the tax may not be guaranteed that their contributions will be repaid, may not be waived. Additionally, Medicaid payments for these services cannot exceed Medicare reimbursement levels.

We understand the intent of SHB 1435 is to draw down additional federal funding for home care, but it will actually make it less of a "safety net" for those seniors who do not qualify for Medicaid and can only gain access to home care services out of pocket. It is our understanding that the federal government does not allow for a distinction between Medicaid contracted home care agencies and private pay home care agencies.

While it may be beneficial for a Medicaid agency to draw down more federal dollars, an assessment for private pay agencies would be a significant financial burden to these agencies and the clients that they serve. Since they do not receive state funding there is no reimbursement mechanism for them to gain compensation for the additional costs. Private pay home care clients are primarily seniors who do not qualify for low-income home care services through the state's Medicaid program. The gap between Medicaid and private pay home care access already excludes a substantial number of citizens who cannot afford home care. This proposal makes that gap even worse for those seniors above the Medicaid threshold. We also have concerns regarding this slide, especially the part about being a certified home health agency. Home care agencies in Washington state are not typically Medicare certified.

Health care provider-related charges, such as assessments, fees, or taxes, have been used in some states to help fund the costs of the Medicaid program. Under federal rules, these provider-related charges include any mandatory payment related to health care items or services where at least 85 percent of the tax burden falls on health care providers. These may be taxes imposed as a percentage of revenue and flat taxes. States collect these funds

from health care providers and pay them back as Medicaid payments while claiming federal matching funds.

DOH Update on backlog of nursing assistant and home care aide applications: DOH has hired new credentialling staff to process CNA applications at DOH. We hope the backlog starts clearing up for both CNAs and Home Care Aides soon!

DOH HELMS Project: Healthcare Enforcement and Licensing Management System (HELMS) is the new electronic licensing system that replaced the outdated system. The first release, HELMS Lite, was launched on **4/24/2024.** It should improve the new applicant's experience with the ability to submit applications from their mobile device, update their profile information, delete draft applications, view their application status online, and print payment confirmation. Additional HELMS releases with improved functionality are scheduled through December 2025. **For more information, please visit our website, or email at HELMS@doh.wa.gov.**

Certificate of Need Monthly Modernization Public Workshops: ESSB 5950 directs the department to co-analyze the CN program and provide a report to the legislature by **June 30, 2025.** The CN program is in the final stages of selecting a contractor and developing the Statement of Work that defines the expectations and work the contractor will perform. We anticipate that two sets of public workshops will be held related to Proviso work.

- Session 1: **Anticipated Fall 2024**
  Solicit feedback on areas of improvement for CN.
- Session 2: **Anticipated Winter 2024**
  Solicit feedback on preliminary findings and recommendations for the report.

Workshops will be open to all members of the public and will be announced via GovDelivery in the coming months. Contact cnrulemaking@doh.wa.gov with questions related to the CN Modernization Proviso work.

Health Care Authority (HCA)

As far as we know, HCA is proceeding with their rulemaking on EVV. HCAW sent a letter from an attorney regarding the implementation of the EVV program at HCA. We also worked with Senator Cleveland and Senator Rivers on a letter to HCA requesting that they delay rulemaking and change the NPI Process. We were cc'd on the letter back to the legislators and HCA has no intention of changing the NPI number process. At this point we are asking agencies to start getting NPI numbers for their home health providers. We have yet to figure out how this will impact our billings for Medicaid patients but will need to have our members start the process of gaining NPI numbers.

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Policy Related Meetings

WA State Telehealth Collaborative: The collaborative has a Palliative Care Telehealth presentation coming up featuring Dr. Gregg VandeKieft, Providence Hospice & Palliative Care. Medical Director of the Rural Palliative Care Initiative. To attend the presentation:

Next Telehealth Collaborative Meeting, Monday, September 16, 2024 | 10 am - 12 pm
Zoom: https://washington.zoom.us/j/93348075788
Call in: Dial by your location
+1 206 337 9723 US (Seattle)
+1 253 215 8782 US (Tacoma)
Meeting ID: 933 4807 5788

Tentative Agenda Items

- Financial Toxicity's Impact on Digital Health Equity
- Palliative Care via Telemedicine
- Uniform Telehealth Act: State Registration Processes

Washington State Workforce Development-LTC Initiative: Ecosystem Subcommittee I attend these meetings representing all in-home services and advocate for increasing their workforce. I have recently been participating in the Ecosystem LTC staffing workgroup. Lots of good opportunities to talk about in home services needs and how the current Nursing Assistant backlog impacts agencies. I will be attending their Summit for Workforce Development in July.

WA State Senior Lobby: I attend these monthly meetings and get updates on all legislative issues impacting seniors and updates from DSHS/ALTSA staff.