November 4, 2023

HCAW November 2023 Public Policy Report

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Legislative/Political Landscape

November is a really busy time of year getting ready for the 2024 legislative session! There is also lots of agency rulemaking happening for health care bills that passed last session. Legislators will be coming to Olympia for the Fall Legislative Days. The Senate meets 11/30-12/1 and the House meets 12/4 and 12/5. I am setting up meetings with members of the House and Senate Health Care Committees to discuss our legislative agenda for the 2024 session. Session begins on January 8th, 2024 and the 60-day short session of the legislature goes quite quickly so its nice to get these meeting scheduled now. I will attend a number of public hearings:

Senate Health & Long Term Care - 11/30/2023 10:30 AM
View Docs Meeting videos are provided by TVW.
Location: J.A. Cherberg Bldg., Senate Hearing Rm 4 and Virtual

Work Session

1. Update from the Universal Health Care Commission.
2. Update on the ground ambulance balance billing study.
3. COVID-19 and respiratory illness vaccine update.

House Health Care & Wellness - 12/4/2023 1:30 PM
View Docs Meeting videos are provided by TVW.
Location: John L. O'Brien Building, House Hearing Rm A and Virtual

Work Session

1. Public health initiatives and funding.
2. Telemedicine and health care technology.
3. Health care workforce.

Joint Legislative Executive Committee on Planning for Aging and Disability Issues - 12/6/2023 10:00 AM Location: Virtual View Docs Meeting videos are provided by TVW.

Work Session (See https://app.leg.wa.gov/CSI/Joint for how to register for public testimony.)

1. Day and community-based services for adults with developmental disabilities.
2. **Update on palliative care efforts in Washington.**
3. Integrating supportive services in senior housing.

4. Developmental Disabilities Administration and Aging and Long-Term Support Administration 2024 supplemental operating budget decision package overview and policy proposals.
5. Public comment. (Remote Testimony Available). - Testify

2024 Legislative Session

In preparing for our budget and legislative proposals, I work with legislators who have agreed to sponsor the request and fiscal committee staff to see how much it costs! We do a lot of prep work before the legislative session even begins, along with stakeholder work with other interested parties. Here is the draft agenda for session…it may change as new bills are introduced. This will also be our In-Home Services Day agenda….

- **In-Home Services Roadmap-Budget Proviso:** DOH & DSHS Home and Community Services create guide to In-Home Services for home health, hospice and home care. *Rep Bateman and Senator Cleveland-Sponsor*

- **Medicaid Reimbursement Rate Increase, Private Duty Nursing and Home Health-Budget Proviso:** Addresses rate disparities and unwinding of COVID funds for private duty nursing agencies who care for medically fragile children and adults. Requesting 20% rate increase for home health. *Rep Leavitt and Senator Cleveland- Sponsor*

- **Bill Proposal for Palliative Care Benefit in Private Insurance:** Palliative care needs a standardized method of billing for interdisciplinary care. *Senator Kuderer-Sponsor*

In-Home Services Day is on February 1, 2023 and I will be asking you to contact your legislators to set aside a time for a meeting in December. We will be coordinating your meetings with other participants attending the hill day. We join with the Home Care Association of WA and the Home Care Association of America-WA Chapter to support our issues related to In-Home Services. Please put this date on your calendar as well! This event will be in person in Olympia at the state capital this year. There will be an orientation in the morning where you will get your final assignments for meetings and we will practice our "song sheet" together…which is our talking points for the day!

Health Care Authority (HCA)

HCA Rulemaking on EVV: HCAW was successful in getting the Health Care Authority to delay the public comment period for rules filed under WSR 23-19-051, to November 7, 2023. The hearing was scheduled for October 24th which did not give us much time to prepare comments, filed under WSR 23-19-051. We were quite surprised that they were already going to the CR 102 phase of rulemaking without any stakeholder meetings! Please review the draft language in this rules

proposal and let Shelly McDiarmid and I know if you have any concerns. To read the filing notice and view the proposed rules, see WSR 23-19-051

Notice of Extended Comment Period for Proposed Rules for Electronic Visit Verification (EVV): This notice is to inform interested stakeholders that the Health Care Authority is extending the public comment period for rules filed under WSR 23-19-051, to **November 7, 2023.**

The rules being revised are: **Electronic Visit Verification**
Chapter 182-551 WAC, Subchapter II – Home Health Services
WAC 182-502-0002, Eligible provider types
WAC 182-502-0100, General conditions of payment
WAC 182-538-070, Payments, corrective action, and sanctions for MCOs

How do I sign up for HCA rulemaking notices? You must be signed up for GovDelivery to receive HCA's Rulemaking Notices. To sign up, see HCA's Rulemaking page. Select *Sign up for rulemaking* notices. You can also go directly to GovDelivery. Once you reach the Subscription Topics, you'll see "*General rulemaking*, *Behavioral Health rulemaking*, and *Apple Health (Medicaid) rulemaking*."

Home Health and Private Duty Nursing (PDN) Electronic Verification (EVV): HCAW has met with Susan Birch, HCA Director, but we are still very concerned about having to use NPI number and have been advocating using a simpler method of verification for our home health employees. HCA has assured us that PDN agencies are not going to be required to have NPI numbers at this time. HCA has made commitments to:

- HCA will extend the deadline for 6 months past January 1, 2024 for implementation of EVV.
- HCA will establish dedicated teams to work on the EVV issue with Home Health Providers.
- HCA will continue to make payments on claims until the end of extension.
- HCA will set up a meeting with CMS to assure that home care agencies will be able to comply with billing requirements and not get their claims rejected.

Medicaid Palliative Care Benefit at HCA-We had a Listening Session led by Dr. Sophie Miller on September 20th! Dr Miller is the lead on the Palliative Care Benefit at the Health Care Authority. Dr. Miller will be presenting before the Aging and Disability Committee Dec 6th on the benefit.

Complex Discharge (Difficult to Discharge) Pilot (Health Care Authority): Shelly and I met with HCA staff, Glory Dole, to discuss getting members on this workgroup. The final budget funds multiple programs designed specifically to address the populations facing the most barriers to post-acute care placement and long-overdue investments in increased payment rates to Medicaid long-term care providers. Home Health will be represented at this time by Shelly McDiarmid, Evergreen Health.

Department of Health (DOH)

Important! Home Safety Care Assessment Survey: During the 2023-24 legislative session House Bill 1435 directed a workgroup to conduct a survey of in-home services agencies and Consumer Directed Employers (CDEs) to develop a home care safety net assessment. Each CDE and in-home services agency that is licensed under chapter 70.127 RCW to provide **home care services, hospice services, or home health services** is required to submit financial information to DOH to inform the development of a home care safety net assessment to use in potentially securing federal matching funds under federally prescribed programs available through the state Medicaid plan or a waiver.

The data being requested is for the 12-month period between July 1, 2022, and June 30, 2023. We have created an online survey so you can submit your information with ease. Please submit your financial information via the survey link below by **January 1, 2024**, as directed by the bill.

Survey: Home Care Safety Net Assessment Survey, HB1435. If you have additional questions on the survey home page, please contact us.

DOH Home Health Certificate of Need: Home Health Certificate of Need Rulemaking will be in 2024. Home Health is third on the list of CON Rules DOH Plans to tackle. The HCAW Board continues discussions with Marc Berg, Berg Data, on developing a methodology for home health.

Bills under Rulemaking Consideration at DOH/WABON

HB 1009-Military Spouse Employment –requires WABON to issue a temporary license to military spouses within 90 days of application, temporary license issued for no less than 180 days.

SB 5582-Reducing barriers and expanding educational opportunities to increase the supply of nurses in Washington: Calls for an apprenticeship program for home care aides and nursing assistants-certified to advance to licensed practical nursing. Development of at least two pilot projects between high school nursing assistant training programs and rural hospitals to address workforce shortages and promote nursing careers in rural hospitals.

2SHB 1724 Amends Uniform Disciplinary Act: 2SHB 1724 to increase the behavioral health workforce, including social workers. The bill also makes several changes that apply to all professions under the Uniform Disciplinary Act (RCW 18.130) including:

- Requiring disciplining authorities to waive education, training, experience, and exam requirements for applicants credentialed in another state with substantially equivalent standards. It also allows waiving requirements for applicants who have achieved national certification.
- Removing DOH's authority to screen applicants before scheduling them for exams and Grants the department authority to contract with third parties to review applications.

Washington State Board of Nursing (WABON)

DOH in consultation with WABON has filed a CR-102, Proposed Rule for WAC 246-840-990 to enact provisions in SSB 5499, Multistate Nurse Licensure Compact that include WA State in a Nurse Licensure Compact with multiple states. The proposed rules update an existing licensing surcharge amount in rule to comply with the new surcharge amount for a central nursing resource center and set a fee for a new multistate license option for registered nurses (RNs) and licensed practical nurses (LPNs) residing in WA State.

They are proposing a new surcharge amount of $8 to align with SSB 5499 which changes the existing surcharge from $5 to $8 on all license types for RNs and LPNs. Advanced registered nurse practitioners are only required to pay the surcharge on their RN licenses.

They are also proposing a new fee of $65 fee for an applicant applying for a registered nurse (RN) and licensed practical nurse (LPN) multistate license. To renew a multistate license a $20 fee will be charged. These fees are in addition to the established application and renewal fees for RNs and LPNs. A WA State licensed RN or LPN may pay the $65 multistate license fee to convert their existing license to a multistate license without paying other established application and renewal fees. For info contact Heather Cantrel, HSQAfeerules@doh.wa.gov

- CR-102 Proposed Rule and proposed rule language (PDF)
- Fee Narrative (PDF)

You may provide your comments on the proposed rule in the following ways:

Submit written comments through December 5, to DOH at online rules comment web page

The rules hearing is scheduled for December 5, 2023 at 3:00 p.m. Both in-person and virtual attendance options are available for this meeting.

The in-person hearing will take place at the Department of Health, 111 Israel Rd S.E., Tumwater, WA 98501, Town Center 2, Rooms 166 and 167.

Attend the rules hearing virtually online using the Zoom application:
https://us02web.zoom.us/webinar/register/WN_8L54h4jTS6SNILvK30afRA

Employment Security Department (ESD)

Paid Family & Medical Leave premiums to decrease in 2024: Benefits from Washington's Paid Family & Medical Leave program are a vital source of support for WA workers. More than 125,000 individuals have claimed Paid Leave benefits in 2023 so far, totaling more than $1 bill. dollars.

Starting Jan. 1, 2024:

- The premium rate will be 0.74%. The rate for 2023 is 0.8%.
- Employers will pay 28.57% of the total premium and employees will pay 71.43% — a ratio similar to 2023.

The program is funded by premiums collected from employees and employers in Washington state. By law, the Employment Security Department (ESD) recalculates the premium rate annually in October based on program usage and premiums collected the previous year.

Businesses classified by ESD as having fewer than 50 employees are not required to pay the employer portion of the premium, unless they opt to do so. However, they must still collect the employee premium or pay employees' premiums on their behalf. Info at: paidleave.wa.gov/updates.

WA Cares Act Fund

The Home Care Association of Washington and the Home Care Association of America-Washington Chapter collaborated on writing a letter to the LTSS Commission that has oversight of the WA Care Funds and how they are going to be provided to the citizens who pay into the fund. We made a request for reconsideration of the recently proposed minimum qualifications for Group 1 Providers, which includes in-home personal care. In the LTSS Trust Commission Presentation (slide 27) dated September 19, 2023, the Commission recommended that family funded home care providers be excluded from accessing WA Cares Act funding if they do not have a contract to provide Medicaid services.

According to DSHS Client Data, 60% of Washington's citizens are not on Medicaid. Excluding home care and home health agencies that serve this population is unacceptable. We have reached out to the legislators on the LTSS Commission to revisit this issue during the meeting scheduled for November, 2023. We do not believe that sufficient notice of these onerous recommendations was provided to stakeholders in the home care and home health industries and feel our feedback is crucial to the LTSS Commission.

Policy Related Meetings

NAHC State Association Meetings: I attend the monthly state association meetings to listen to federal updates from Bill Dombi and others on home health and hospice!

DOH Rural Palliative Care Cohort Meetings: I attend these meetings to provide WSHPCO updates to their providers on our progress with HCA on the Palliative Care Benefit.

Washington State Workforce Development-LTC Initiative: I attend these meeting representing all in-home services and advocate for increasing their workforce.

Dementia Action Collaborative (DAC): I attend the DAC meetings and am on the Health and Medical subcommittee. Washington State Plan to Address Alzheimer's Disease and Other Dementias | 2023-2028 is now available.

WA State Senior Lobby: I attend their monthly meetings and listen to a report from DSHS on Aging and LTC services. I will be attended their Fall conference in October.