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HCAW October 2023 Public Policy Report

Prepared by Leslie Emerick, HCAW Public Policy Director

Legislative/Political Landscape

It's been fairly busy as I gear up for the 2024 legislative session! I attended the Wednesday Night Study Group Conference (health care association lobbyist group) on Sept-20-22. The conference featured panels of legislators such as health committee chairs Senator Cleveland and Representative Riccelli, state agency leadership from DOH, DSHS, OIC and HCA. We also heard from policy strategists on health care policy hot topics impacting the state such as health care affordability, workforce staffing and behavioral health. Luckily the state budget is in good shape and they are not looking at cuts to programs in the coming year!

Wednesday Night Study Group Conference (Lou McDermott, HCA, Jilma Meneses, DSHS, Kelly Cooper, DOH & Jane Byer, OIC)

New state budget forecast offers $1B worth of good news for Washington leaders

A new forecast released Tuesday projects state revenues will reach $66.7 billion for the two-year budget cycle that began July 1, an increase of $663 million from what chief economist Steve Lerch predicted in June. He said the state also hauled in an additional $265 million in the last budget that was not in his June report. It came from tax collections that arrived after the forecast was prepared and before the fiscal year ended June 30, Lerch said. Added up, that's $928 million more than when lawmakers adopted the current state spending plan in April. And if the trend continues, the amount will grow in November when the next revenue report is published. *Continue reading at WA State Standard.* (Jerry Cornfield)

Another item of interest! Bea Rector, Assistant Secretary Aging and Long-Term Services (ALTSA) send out the 2023 LTSS AARP Scorecard: https://ltsschoices.aarp.org/scorecard-report/innovation-and-opportunity. Washington state ranks #2 in the nation for LTC Services!

State agencies are hard at work implementing legislation from the 2023 session and are preparing their Agency Request Legislation and Budget Requests for the 2024 session. Many agencies are releasing their legislative packages to stakeholders to get feedback before the session starts.

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 implore the LTSS Commission to revisit this issue during the meeting scheduled for October 25, 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.

We also request that the open position on the LTSS Commission be filled by a representative who can address the private pay home care and home health issues impacted by the WA Cares Act. After all, we provide care to the vast majority of Washingtonians who do not qualify for Medicaid.

Our associations were actively involved in the formation and implementation of the WA Cares Act and threw our support behind it. We were under the impression that all home care and home health agencies in Washington state were going to be able to provide care to participants in the WA Cares Act programs. The letter has been received by the Commission Chair, Secretary of DSHS Jilma Meneses and will be distributed to the Commission members.

Health Care Authority (HCA)

Home Health and Private Duty Nursing (PDN) Electronic Verification (EVV): HCAW met with Susan Birch on September 8th to discuss how HCA is going to implement the EVV requirements from CMS. We have been 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.

HCA has updated the Home Health Services Billing Guide. For home health claims with dates of service on and after January 1, 2024, HCA will not reject or deny claims that are missing the required EVV data elements. HCA will have an initial period of technical assistance to ensure that home health providers are able to include the necessary data elements and correct the claim.

For more information on the changes, see the *What has changed* table in the updated guide located on HCA's Provider billing guides and fee schedules webpage.

Home Care Safety Net Assessment Workgroup: I attended the first workgroup meeting on the Home Care Safety Net Assessment Workgroup on September 15th . SHB 1435 requires consumer-directed employers and in-home services agencies to submit specified financial information to DOH to inform the development of a home care safety net assessment to secure federal matching funds under the state's Medicaid plan. Establishes the Home Care Safety Net Assessment Work Group to develop the home care safety net assessment. I spoke quite firmly about the fact that this may not have a positive impact on private pay home care agencies and that raising taxes gets passed on the customers and that increases the number of people who do not have access to private home care.

DOH staff created a test version of the survey that can be viewed here: https://fortress.wa.gov/doh/opiniodev/s?s=HomeCareSafetyNet

Please review the link above and reply to kodi.campbell@hca.wa.gov if you have any feedback **by noon on Monday, October 16**?

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. Please see attached PowerPoint from the meeting!

HCA Listening Session 9.20.23 Palliat

Complex Discharge (Difficult to Discharge) Pilot (Health Care Authority): 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)

DOH Home Health and Hospice 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 new methodology for home health.

Home Care Aide Exam Payment and Scheduling Changes: **Exam Payment and Scheduling Changes:** The scheduling and payment of applicant examinations will move from DOH to Prometric.

- Starting early 2024, applicants will contact Prometric directly to schedule and pay for an examination.
- There will be a black-out period for two weeks prior to the new system going live. Prometric will not be accepting payment or scheduling exams during this period.
- Programs that pay for home care aide exams will need to purchase vouchers for candidates through the new Prometric portal.
- This Candidate User Guide will help caregivers (PDF) and their employers or trainers to better understand the new process for candidates to self-schedule and self-pay for their exams.
- This Voucher User Guide (PDF) will provide guidance to employers, training programs, and other third parties that pay for caregiver exams to understand the process for purchasing bulk vouchers for payment of caregiver exams.
- Prometric will provide more information on its website as the transition date gets closer.

Legislative Changes to the Home Care Aide Profession: Starting on July 23, 2023:

- If a home care aide credential is expired less than five years, no continuing education is required to renew the credential. You will simply complete the required forms and pay the fee. If a credential is expired for more than 5 years, retraining and examination is required.
- If a caregiver in training changes employers or returns to employment with a former employer, they may now start over with a new date of hire. This starts over the 200 days they have to receive their credential. To restart the 200 days:
    - If you are obtaining an initial credential, speak with your credentialing specialist by email or phone.
    - If you are renewing an expired credential, submit an updated Employment Verification Form online.
- You will be able to provide care to the following individuals without obtaining or maintaining a home care aide credential:
- Biological, step, or adoptive child or parents.
- Siblings, aunts, uncles, cousins, nieces, nephews, grandparents, and grandchildren (including by marriage or domestic partnership).
- If you care for one of the above individuals, work with the Consumer Direct Care Network Washington to be classified as an exempt family caregiver.
- You will be required to obtain and maintain a home care aide credential when caring for a spouse or registered domestic partner, unless you qualify for the US Dept of Veteran Affairs home and community-based programs.

The following changes will take place on September 1, 2023:

- From September 1, 2023, through July 1, 2025, if your credential has been expired for more than six months but less than two years, your credential will be automatically renewed with no fee, forms to complete, or CE requirements. These renewals will take place between September 8 and September 15.

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.

2024 DOH Legislative Session Preview on Agency Request Legislation and Budget: Here are the requests that impact home care:

HELMS Project Continuation ($ to be determined): There is still quite a bit of concern from the stakeholders about the HELMS implementation and how much it's going to cost. A request has been made to have the next meeting with health care lobbyists just be about HELMS. DOH is requesting additional one-time spending authority to extend the Health Care Enforcement and Licensing Management System (HELMS) project by 4 months. Without additional spending authority, DOH will be forced to stop the project or reduce the project scope. Stopping at this stage would result in a loss of $21.3 million in investment and require licensees and facilities to pay for those costs without any return. HELMS will provide the licensure for all home care aides, certified nursing assistants and all professions at DOH!

Decreasing Health Care Provider Credentialing Timelines ($ to be determined): DOH is requesting funding to implement improvements in the health care provider credentialing process. Teams will implement the recommendations made by the contractor and public, as well as any additional recommendation from the Governor's Results Washington office.

Supporting Critical Professions such as Home Care Aides ($ to be determined)

DOH is carrying a negative fund balance of over $6.2 million in the home care aide program. Achieving cost recovery through fees alone risks driving workers out of professions, worsening access to care. DOH is requesting a state general fund shift to offset the deficit.

Washington State Board of Nursing (WABON)

New process for the Nursing Assistant Exam: WA is changing the process for completing the nursing assistant exam to increase students' access to skills testing following graduation. New process starts October 1, 2023. Helpful Resources:

- **List:** Nursing Assistant Programs providing Skills Testing in October 2023
- **1-Page Chart:** The 4-step nursing assistant exam process (PDF)
- **Video:** Nursing Assistant Exam Changes for October 2023 Overview video (YouTube)

Subscribe to receive email updates Washington State Department of Health (govdelivery.com)

Nurse Licensure Compact (NLC). As a part of the legislation, SSB 5499 Multistate Nurse Licensure Compact, beginning July 24, 2023, nurses with an active MSL issued from another state will be able to practice in Washington state. For more info: NCQAC.Rules@doh.wa.gov.

- Employer Multistate License (MSL) Information
- RN and LPN Multistate License (MSL) Information
- Our Name Change
- NLC Implementation Plan

Labor and Industries

Washington's minimum wage will hit $16.28 per hour in 2024: …a 3.4 percent increase over 2023. The Washington State Department of Labor & Industries (L&I) announced the increase to the minimum wage. It takes effect Jan. 1, 2024. In 2023, Washington has the highest state-level minimum wage in the nation. The federal minimum wage remains set at $7.25 an hour. Cities can set minimum wages higher than the state. Seattle, SeaTac, and Tukwila, have higher wages.

Z-0431 Increasing Workers Comp Incentives for Return-to-Work Activities: State agencies start their stakeholder work on bills that they will be running in the next legislative session (2024) with what are called Z-drafts. This draft could have an impact on home care agencies.

Some agencies are using the stay-at-work program which includes the light duty wage. Comments so far are that "reimbursement of 10k and that moving to 25k is a lot. It begs the question what will happen to the premiums for such a change. The remaining provisions, like workplace modifications and such likely will have little impact, but if our members are not using the stay-at-work program, we should honestly consider some education around that."

This proposal would expand incentives to return a workers' compensation claimant to work, consistent with their medical restrictions. It enhances several types of existing incentives and adds options for:

- **Stay at Work** program, increasing what an employer may receive in reimbursement for creating a light duty job to a maximum of half the wages paid to a worker for up to 120 workdays, capped at $25k – with no inflationary factor. These are increased from the current 66 workdays and a cap of $10k. Continuous employment bonus is increased from $10k to $25k. In addition, reimbursements for:
    - Tuition, books, fees and materials required for light duty are increased from $1k to $2k;
    - Clothing required for light duty is increased from $400 to $1k; and
    - Tools required for light duty is increased from $2,500 to $5k.

- **Return to L&I for vocational retraining**, providing for a worker whose claim has been appealed to the Board of Industrial Insurance Appeals (BIIA) or court to have it returned to L&I if the worker did not complete the full range of statutory vocational retraining options before being granted a pension. This language is made more specific to only address circumstances in which a worker:
    - Has not been previously assessed for vocational retraining services;
    - Was determined able to work without retraining services; or
    - Vocational services were discontinued.

      If one of these claims is remanded to the department, and the department determines no further vocational services will be provided, the department must grant the worker a pension.

- **Job modification** costs, increasing the amount an employer may be eligible to receive when a job is modified to accommodate retaining or hiring workers with disabilities resulting from work-related injury. Current amount is capped at $5k and has been unchanged since 1982. This would increase the cap to $10k.
    - No escalation factor is included.
    - No changes to fund sources are made from current: Job modifications are paid from 2nd Injury Fund and reimbursed by the Medical Aid Fund; Pre-job modifications are paid from the Accident Fund and charged to the employer of injury.

- **Vocational rehabilitation** benefits, allowing the department to provide up to an additional 25% once per claim of total vocational award during vocational recovery and assessment so that workers can participate in approved basic skills training (such as English language training, computer literacy, and completion of a GED) to improve labor market readiness and to enable workers to benefit from other return to work services. This award is funded through the Stay at Work premium and would be optional for any eligible worker. Use does not reduce funds available for formal retraining. Eligibility is based on a recommendation from the assigned

vocational rehabilitation counselor. Knowledge and skills gained may not be construed as acquisition of transferrable skills.

Z-0431.2.pdf

Potential 2024 HCAW Legislative Agenda

- **Budget Proviso Development for a Rate Increase for PDN and Home Health for 2024 Legislative Session:** HCAW is in discussions with Sandy Stith, Ways and Means staff, DSHS Rates Manager, Peter Graham, staff and a representative from HCA to discuss Home Care Association of WA (HCAW) intent to raise the PDN and Home Health rates during the next legislative session and the rationale behind it.…more to come!

- In-Home Services Roadmap-Rep Bateman is interested in sponsoring the budget proviso.
- Private Pay Palliative Care Bill-Meeting with Senator Kuderer to discuss with OIC a bill for next session.

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 attended the full DAC meeting and participate on the subcommittee on Health and Medical. I advocate for them including home health, palliative and hospice in their ongoing development of the new Updated Dementia State Health Plan.

WA State Telemedicine Collaborative: I attend these monthly meetings to get updates on all things related to telehealth in WA State!

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