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This Week in Olympia

We have just wrapped up the first week of the 2023 Legislative Session. This Legislative session will be a long (105-day) session. During this period, Legislators will be putting together a new biennial budget for 2023-2025. The House Appropriations and Senate Ways & Means Committees held their first budget hearings this week, where we had the first opportunity to testify on our funding priorities. Below is a complete description of our funding priorities for this session.

Assisted Living Funding

Our main priority is to increase the ongoing funding of the wage component of the assisted living rate model to 100%. This should help providers retain and recruit staff. Currently, the Governor's budget sets the wage component at 90%, one time only. While this is an improvement over the current situation, it doesn't go far enough to help providers care for their residents. Providers need long term stability, and full funding of the wage component is essential to compete for the few workers available and pay wages commensurate with the value of their work.

In addition to the increased funding of the base rates, we are also advocating to increase and standardize the funding for the Specialty Dementia Contract (SDC) and Expanded Community Services (ECS). The SDC rate would be a flat $75 per day add-on. The ECS rate would be a flat add-on at $66 per day. Both of these services have needed increased funding for some time. The Governor included both items in his budget.

Assisted Living funding priorities:
AL Base Rates – Increase Funding for Wage Component; **$96 million GF-S, $202 million total.**
SDC Standardization; **$22.8 million GF-S, $46.8 million total.**
ECS Standardization; **$2.5 million GF-S, $5.3 million total.**

Skilled Nursing Funding

We are focused on several critical priorities for Skilled Nursing facilities, including maintaining the wage equity funding secured last session by keeping the elevated medians, implementing annual rebasing and inflation adjustments, and addressing the indirect care occupancy penalty. We believe that permanent changes are necessary to ensure stability for providers and quality care for residents.

One key priority for Skilled Nursing facilities is ensuring that wage equity funding is maintained in its entirety. This funding was secured during the last session, and while it is intended to continue this biennium, we need to ensure the medians are funded at the current levels so facilities can maintain the wage increases.

Another key priority is to implement annual rebasing and inflation adjustments. These changes will help to ensure that the funding provided to providers is in line with current and inflationary expenses associated with the cost of care. By implementing annual rebasing and inflation adjustments, we can ensure that providers have the resources they need to provide high-quality care to residents. The Governor's budget included a one-time rebase for FY 24, July 1, 2023, and a statutorily required rebase for FY25, July 1, 2024.

We are also advocating for a fix to the indirect care occupancy penalty. The Governor's budget included a one-time fix setting the occupancy at a flat 80%. We believe this falls short of what is needed based on current and lagging occupancy rates caused by the workforce crisis. We are seeking to include a provision that would set the occupancy percentage used for setting the indirect care median at 105% of the prior year's statewide average. For July 2023, this would then use an occupancy factor of 68% to establish the indirect care median price. This methodology would avoid penalizing providers through reductions in their indirect care rate, caused by factors largely beyond their control – the inability to fill beds due to staffing shortages.

In addition to these priorities, we are also advocating for the standardization of specialty rates for services such as Enhanced Behavior Services (EBS) Plus and EBS Respite, Ventilator, Tracheotomy, and Traumatic Brain Injury. Currently, these rates vary by facility, which can create a significant amount of uncertainty for providers. By standardizing these rates, we can help to ensure that providers are able to provide high-quality care to residents, regardless of the facility they are in.

The Enhanced Behavior Services (EBS) Plus and EBS Respite would become an add-on of $175. Currently, this rate is an inclusive flat $425 regardless of the base rate of the facility. The proposal would establish EBS Plus Specialized Services as an add-on of $235. Increase the Ventilator rate to an add-on of $192 for all facilities. Currently, the add-on varies by approved facility, with the highest rate at $192. Increase the Tracheotomy (Trach) rate to an add-on of $123 for all facilities. Currently, the add-on varies by approved facility, with the highest rate at $123. Neither the Ventilator nor the Trach add-on rates have increased in the last decade. Establish a Traumatic Brain Injury (TBI) add-on rate at $200 per day.

Overall, our goal is to ensure that providers have the resources they need to provide high-quality care to residents. By focusing on funding for wage equity, implementing annual rebasing and inflation adjustments, addressing the indirect care occupancy penalty, and standardizing specialty rates, we can help to create a more stable and predictable environment for providers, which will ultimately benefit residents and their families.

Skilled Nursing funding priorities:
Skilled Nursing Facility Rates including annual rebase, annual inflation, and IDC occupancy; **$129 million GF-S, $258 million total.**
SNF Specialty Rates; **$4.8 million GF-S, $9.7 million total.**

HCBS Funding

For adult day providers, we will be advocating to increase the DDA respite rate. Over the last few years, adult day health and day care rates have significantly increased, while the DDA rate has remained stagnant.

We will also be advocating for any other investments in HCBS programs, especially those that focus on workforce.

Bills to monitor impacting LTC

Support

HB 1127 - **Concerning adult protective services.** This bill would create a petition process to be removed from the Vulnerable Adult Abuse Registry: Currently, once a person is found to have abused, abandoned, neglected, or financially exploited a vulnerable adult, their names are permanently placed on an abuse registry, preventing them from working in the Medicaid long-term care system. The permanent registry does not consider the broad differences in the severity of cases or allow for a review. The proposed legislation allows for certain people to be removed from the registry after a review.

SB 5183/ HB 1128- **Raising the Residential Personal Needs Allowance.** This bill would raise the residential personal needs allowance (PNA) from $75 to $100 and make cost-of-living adjustments increases automatic going forward.

SB 5202/ HB 1149- **Reducing homelessness in Washington state through capital expenditures for programs that address housing insecurity.** This bill would authorize the State Finance Committee to issue up to $4 billion in general obligation bonds to finance programs and projects that address housing insecurity and would require the $4 billion bond authorization to be submitted to the voters at the next general election. Additionally, it would create a Workforce Housing Accelerator Revolving Loan program which would provide loans to nonprofit or for-profit developers, public housing authorities, public development authorities, or other eligible applicants to finance affordable housing for low-income households. LeadingAge Washington is generally supportive of any efforts to increase the supply of affordable housing but would like to see a specific set aside for senior housing as many other specific populations were prioritized in the proposal.

Oppose

SB 5217- Concerning the state's ability to regulate certain industries and risk classes to prevent musculoskeletal injuries and disorders. This bill would allow the legislature to repeal the prohibition on regulating working practices related to musculoskeletal injuries and disorders, thereby allowing the Department of Labor and Industries to adopt rules related to preventing these injuries and provide standards targeted to an industry or risk class. This bill was introduced last year and impacted all Washington businesses, but we believe there is a narrower effort this year targeted at healthcare.

SB 5236 - Concerning hospital staffing standards. This bill requires the Department of Labor and Industries to adopt and implement rules establishing minimum staffing standards for direct care registered nurses and direct care nursing assistants-certified in-patient care units no later than January 1, 2027.

While this bill directly targets hospitals, LeadingAge Washington is opposed because we believe there are serious downstream impacts on our sector. Long-term care already struggles to compete with hospital wages. Once staffing ratios are imposed, hospitals will be forced to increase wages even more to attract staff. This will also leave fewer nurses available in the workforce for long-term care. We believe the focus should instead be on increasing the pipeline of direct care workers in our state.

LeadingAge Washington has a few more policy priorities we will be addressing this session, although we do not currently have bill numbers yet and are waiting for them to be formally introduced.

Nurse Staffing Agencies- One of our primary policy goals will be to address the nurse staffing agencies that contract in our state. Currently, there are limited requirements and regulatory oversight for these agencies. We will look to ensure that all credentialing and training requirements are completed and documentation is provided to the healthcare facilities to reduce the burden for long-term care providers who risk citation when the required documentation is not in order. We will also look to bring more transparency to the rates charged to healthcare facilities and wages paid to temporary workers.

Additionally, we will work to curb harmful practices like sudden changes in contracts by requiring a 90-day notice for any changes. Also, to disallow staffing agencies from requiring payment when a long-term care facility hires one of their staff members.

Taxes on meals for independent living residents- In the last few years, the Department of Revenue has started assessing a sales tax on independent living resident meals. While guidance from DOR dating back to the 1980s has stated the meals were not subject to sales tax, it has recently changed this long-standing guidance without formal notice or explanation. It is important to note that there is an exemption for persons living in an assisted living community both for and not-for-profit and for independent living residents within a not-for-profit organization which includes life plan communities.

We are working with Washington Health Care Association on a bill that would clarify that meals provided as an amenity of a senior living community are not subject to sales tax. If passed, for-profit organizations would be entitled to the same meal tax exemption enjoyed by not-for-profit entities and ensure assisted living and independent living residents are treated similarly regardless of where they reside.

Questions? Contact:

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