

Benefits under *sections 16[17] and 17[18] of this act are not payable for weeks of unemployment beginning after February 26, 1983, unless extended by law.

NEW SECTION. Sec. 20. There is added to chapter 50.04 RCW a new section to read as follows:

The term "employment" does not include services performed in a barber shop licensed under chapter 18.15 RCW or a hairdressing or cosmetology shop licensed under chapter 18.18 RCW if:

- (1) The use of the shop facilities by the individual performing the services is contingent upon compensation to the shop owner; and
- (2) The individual performing the services receives no compensation or other consideration from the owner for the services performed.

NEW SECTION. Sec. 21. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 22. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. *Sections 2, 9[10], 10[11], 11[12], 16[17], and 17[18] of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. Section 4 of this act shall take effect on September 26, 1982.

Passed the Senate April 11, 1982.

Passed the House April 1, 1982.

Approved by the Governor April 2, 1982.

Filed in Office of Secretary of State April 2, 1982.

*Reviser's note: The bracketed references in this chapter correct erroneous internal references which occurred during the engrossing process after a new section was added by amendment.

CHAPTER 19

[Engrossed Substitute Senate Bill No. 4285]

SOCIAL AND HEALTH SERVICES—LIMITED CASUALTY PROGRAM DEDUCTIBLE—NURSING HOME BILLING—MEDICAL CARE SERVICES

AN ACT Relating to social and health services; amending section 22, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 6, chapter 10, Laws of 1981 2nd ex. sess. and RCW 74.09.700; amending section 1, chapter 2, Laws of 1981 1st ex. sess. as amended by section 8, chapter 11, Laws of 1981 2nd ex. sess. and RCW 74.09.610; amending section

19, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.09.035; amending section 5, chapter 30, laws of 1967 ex. sess. as last amended by section 21, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.09.520; adding a new section to chapter 74.09 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

*Section 1. Section 22, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 6, chapter 10, Laws of 1981 2nd ex. sess. and RCW 74.09.700 are each amended to read as follows:

(1) To the extent of available funds, medical care may be provided under the limited casualty program to persons not otherwise eligible for medical assistance or medical care services who are medically needy as defined in the social security Title XIX state plan and medical indigents in accordance with medical eligibility requirements established by the department. This includes residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are aged, blind, or disabled as defined in Title XVI of the federal social security act and whose income exceeds three hundred percent of the federal supplement security income benefit level.

(2) Determination of the amount, scope, and duration of medical coverage under the limited casualty program shall be the responsibility of the department, subject to the following:

(a) Only inpatient hospital services; outpatient hospital and rural health clinic services; physicians' and clinic services; prescribed drugs, dentures, prosthetic devices, and eyeglasses; skilled nursing home services, intermediate care facility services, and intermediate care facility services for the mentally retarded; home health services; other laboratory and x-ray services; and medically necessary transportation shall be covered;

(b) A patient deductible not to exceed one-half the payment the department makes for the first day's stay for inpatient hospital care, shall be included for the medically needy component of the program;

(c) Persons who are medically indigent and are not eligible for a federal aid program shall satisfy a deductible of not less than ~~((one thousand))~~ five hundred dollars in any twelve-month period; **provided that the department shall attempt to establish a system whereby in an individual case no single provider must bear a disproportionate percentage of the deductible for a given claim;**

(d) Medical care services provided to the medically indigent and received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished: PROVIDED, That eligible persons who fail to apply within the seven-day time period for medical reasons or other good cause may be retroactively certified and approved for payment.

(3) The department shall establish standards of assistance and resource and income exemptions. All nonexempt income and resources of limited casualty program recipients shall be applied against the cost of their medical care services. In addition, the department shall include a prohibition against the knowing and wilful assignment of property or cash for the purpose of qualifying for assistance under RCW 74.09.532 through 74.09.536.

*Section 1. was partially vetoed, see message at end of chapter.

Sec. 2. Section 1, chapter 2, Laws of 1981 1st ex. sess. as amended by section 8, chapter 11, Laws of 1981 2nd ex. sess. and RCW 74.09.610 are each amended to read as follows:

(1) The nursing home auditing and cost reimbursement system of the department of social and health services shall be governed by this section until implementation of chapter 74.46 RCW. The department shall reimburse nursing homes on the basis of the following cost centers: Patient care, food, administration and operations, and property.

(2) (a) For rate setting purposes for fiscal year 1982, the department shall reimburse the patient care cost center at the January 1, 1981, reimbursement rate, as adjusted for inflation.

(b) For rate setting purposes in fiscal year 1983, this subsection (2)(b) applies.

(i) There shall be established by the department a redistribution pool consisting of overpayments to contractors for 1981 indicated by proposed settlements for 1981, less one million dollars.

(ii) If a contractor's patient care cost center rate for 1981 is greater than or equal to the contractor's desk reviewed 1981 patient care costs, the department shall reimburse the patient care cost center at the desk reviewed 1981 patient care costs plus any patient care funds shifted to other cost centers pursuant to subsection (8) of this section, as adjusted for inflation.

(iii) If the contractor's 1981 patient cost center rate is less than the contractor's desk reviewed 1981 patient care costs, the department shall reimburse the contractor's patient care cost at the January 1, 1982, reimbursement rate less one and one half percent, as adjusted for inflation, plus an allowance from the redistribution pool. The allowance for a contractor shall not exceed the contractor's patient care costs, as adjusted for inflation, and the total of allowances distributed shall not exceed the redistribution pool under subsection (2)(b)(i) of this section. If the funds contained in the redistribution pool exceed or are equal to the total amount by which contractors were underfunded in the patient care cost center, each contractor's allowance will be equal to the amount by which the contractor was underfunded. If the funds contained in the redistribution pool are less than the total amount by which contractors were underfunded in the patient care

cost center, each contractor will receive an allowance which shall be a percentage of the amount by which the contractor was underfunded. The percentage shall be determined by dividing the amount of the pool by the total amount of underfunding.

(c) In addition, the reimbursement shall be enhanced by three million dollars for the first year of the biennium and by one million four hundred thousand dollars for the second year of the biennium. These enhancements shall be apportioned among the nursing homes proportionately based on the patient care cost center for each nursing home.

(d) For the purpose of nursing assistant certification, the department shall reimburse at a rate of thirty cents for each medicaid patient day for the first year of the biennium. This is in addition to the January 1, 1981, reimbursement rate.

(e) Effective July 1, 1982, the patient care cost center reimbursement rate shall be adjusted as follows:

(i) As used in (ii) of this subsection, patient care consultation refers to medical director, patient activities, physical therapy, speech therapy, occupational therapy, and other therapy consultation.

(ii) The department shall determine the average expense weighted by patient days for patient care consultation taken from the most recently completed cost reports.

In determining the patient care cost to be used for rate setting pursuant to subsections (2)(b)(ii) and (iii) of this section, the department shall not include any cost in excess of the average cost determined under (ii) of this subsection.

(3) Reimbursement for the food cost center shall be at the January 1, 1981, reimbursement rate, adjusted for inflation.

(4) The administration and operations cost center consists of two components:

(a) (i) For rate setting purposes for fiscal year 1982, the wages for all employees, other than nursing service personnel and administrators and assistant administrators, shall be reimbursed at the January 1, 1981, rate as adjusted for inflation.

(ii) For rate setting purposes for fiscal year 1983:

(A) If the contractor's administration and operations wage component rate for 1981 is greater than or equal to the contractor's desk reviewed 1981 administration and operations wage costs, the department shall reimburse the contractor's administration and operations wage component at the desk reviewed 1981 administration and operations wage component costs as adjusted for inflation.

(B) If the contractor's administration and operations wage component rate for 1981 is less than the contractor's desk reviewed 1981 administration and operations wage costs, the department shall reimburse the contractor's

administration and operations wage component at the January 1, 1981, reimbursement rate as adjusted for inflation, except that, after distribution of the redistribution pool to contractors underfunded in the patient care cost center pursuant to subsection (2)(b)(iii) of this section, any funds remaining will be distributed to contractors with rates below cost in proportion to the underfunding in this component. This distribution shall not exceed the total of underfunded cost in this component.

(b) Reimbursement for administration and operations, including all items not specified in subsections (2), (3), (4)(a), (5), and (6) of this section, shall not exceed the eighty-fifth percentile of the costs of all reporting facilities, not including any funds shifted pursuant to subsection (8) of this section, as adjusted for inflation, except that the nursing home facilities may be grouped by factors, other than ownership or legal organizational characteristics, which could reasonably influence cost requirements for administration and operations. Effective July 1, 1982, the administration and operations cost center reimbursement rate shall be adjusted as follows:

(i) As used in (ii) and (iii) of this subsection, administration and operations consultation expense refers to dietary and medical record consultant fees.

(ii) The department shall determine the average expense weighted by patient days for administration and operations consultation expense taken from the most recent completed cost report.

(iii) Reimbursement for administration and operations consultation shall be the lesser of the average expense as determined under (ii) of this subsection or the individual facility's costs for administration and operations consultation expenses taken from the most recent completed cost report, as adjusted for inflation. This adjustment applies only to the July 1, 1982, through July 1, 1983, reimbursement period.

(5) The return on net invested equity for each facility shall be determined by utilizing medicare rules and regulations.

(6) Property cost center reimbursement for both leased and owner-operated facilities shall not exceed the predicted cost plus one standard deviation of the necessary and ordinary costs of depreciation, and interest, of owner-operated facilities utilizing a multiple regression formula developed by the department of social and health services, recognizing factors which may be significant, including location, age, and type of facility. Rental costs of leased facilities other than those operating as intermediate care facilities for the mentally retarded, and depreciation and interest costs of owner-operated facilities, for leases or mortgages entered into prior to July 1, 1979, shall be reimbursed to the extent they do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, or July 1, 1979, whichever is higher, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state medicaid plan, and adjusted for any approved capitalized additions or

replacements, except that any leased facility which has operated as an intermediate care facility for the mentally retarded prior to July 1, 1979, shall be reimbursed to the extent that the property costs exceed the upper limit of the multiple regression formula.

(7) The patient personal needs allowance limitation shall be thirty-three dollars and fifty cents.

(8) For settlement purposes only, for calendar years 1981, 1982, and 1983, a nursing home may shift among cost centers an amount not greater than twenty percent of the reimbursement rate of the cost center into which the shift is being made. Shifts may be made among the cost centers. However, shifts may not be made into the property cost center. The department shall monitor on a random basis the extent and patterns of shifting between cost centers authorized by this section. The department shall report to the legislature on its findings required by this section prior to July 15th of each year.

(9) Audits shall be conducted by the department and settlements shall be calculated by cost center only.

(10) The department may adjust reimbursement rates to reflect required increases in staffing levels and capital improvements.

(11) Any reference in this section to a January 1, 1981, reimbursement rate includes any adjustment resulting from a rate appeal and its final resolution, but shall not include any adjustment resulting from litigation on reimbursement rates prior to June 30, 1981, or the procedures by which they were established.

(12) References in this section to adjustments for inflation mean adjustments of 5.0 percent for rates effective July 1, 1981, through December 31, 1981; 4.25 percent for rates effective January 1, 1982, through June 30, 1982; (~~(3.25)~~) 1.625 percent for rates effective July 1, 1982, through December 31, 1982; and (~~(3.25)~~) 1.625 percent for rates effective January 1, 1983, through June 30, 1983.

Sec. 3. Section 19, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.09.035 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to recipients of general assistance in accordance with medical eligibility requirements established by the department.

(2) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the department, except that (~~(chiropractic;)~~) adult dental, and routine foot care shall not be included.

(3) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co-insurance provisions. In addition, the department may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

(4) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

(5) Payments made by the department under this program shall be the limit of expenditures for medical care services solely from state funds.

(6) Medical care services received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished: PROVIDED, That eligible persons who fail to apply within the seven-day time period for medical reasons or other good cause may be retroactively certified and approved for payment.

Sec. 4. Section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 21, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.09.520 are each amended to read as follows:

The term "medical assistance" may include the following care and services: (1) Inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and x-ray services; (4) skilled nursing home services; (5) physicians' services, which shall include prescribed medication and instruction on birth control devices; (6) medical care, or any other type of remedial care as may be established by the secretary; (7) home health care services; (8) private duty nursing services; (9) dental services; (10) physical therapy and related services; (11) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (12) other diagnostic, screening, preventive, and rehabilitative services: PROVIDED, That the department may not cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, ((chiropractic,)) or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act.

NEW SECTION. Sec. 5. There is added to chapter 74.09 RCW a new section to read as follows:

A nursing home shall not bill the department for service provided to a recipient until an award letter of eligibility of such recipient pursuant to rules established under this chapter 74.09 RCW has been received by the nursing home. However, a nursing home may bill and shall be reimbursed for all medical care recipients referred to the nursing home by the department prior to the receipt of the award letter of eligibility or the denial of such eligibility.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect April 1, 1982.

Passed the Senate March 26, 1982.

Passed the House March 25, 1982.

Approved by the Governor April 3, 1982, with the exception of the proviso in Section 1, subsection 2(c), which is vetoed.

Filed in Office of Secretary of State April 3, 1982.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to the proviso contained in Section 1, subsection 2(c) Substitute Senate Bill No. 4285 entitled:

"AN ACT Relating to social and health services"

The intent of this proviso is admirable. It would attempt to establish an equitable distribution of the \$500 deductible in the medically indigent program among all providers. In practice, however, the proviso would result in administrative complexity and a slowdown in cash flow to the providers. This would be more detrimental than the marginal benefits which might accrue if the proviso were implemented.

With the exception of the proviso in Section 1, subsection 2(c) which I have vetoed, Substitute Senate Bill No. 4285 is approved."

CHAPTER 20

[Engrossed Senate Bill No. 4133]

INDUSTRIAL INSURANCE—COMPENSATION ADJUSTMENTS, DEATH BENEFITS

AN ACT Relating to industrial insurance; amending section 2, chapter 286, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 108, Laws of 1979 and RCW 51.32.075; amending section 51.32.080, chapter 23, Laws of 1961 as last amended by section 1, chapter 104, Laws of 1979 and RCW 51.32.080; amending section 47, chapter 289, Laws of 1971 ex. sess. as last amended by section 54, chapter 350, Laws of 1977 ex. sess. and RCW 51.32.190; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 286, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 108, Laws of 1979 and RCW 51.32.075 are each amended to read as follows:

The compensation or death benefits payable pursuant to the provisions of this chapter for temporary total disability, permanent total disability, or death arising out of injuries or occupational diseases shall be adjusted as follows:

(1) On July 1, (~~(1979)~~) 1982, there shall be an adjustment for those whose right to compensation was established on or after July 1, 1971, and before July 1, (~~(1979)~~) 1982. The adjustment shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the (~~(maximum amount of compensation payable)~~) average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was