

Committee Report: Legislative
Submitted By: Janene Johnstone
Date Submitted: 10-17-16

Report Narrative:

As we prepare to head into the 2016/2017 legislative session, here are some things that have come to my attention so far:

WA State Health Care Authority

SSB 6430 (passed at the end of this past legislative session and went into effect 6-9-16) – **Medical Assistance Programs Continuity of Care for Incarcerated Individuals** – Directs the WA State Health Care Authority [HCA] to suspend, rather than terminate, medical assistance benefits for people who are incarcerated or committed to a state hospital. It also directs the WA State HCA to raise awareness of best practices, and “publish written guidance and provide trainings to behavioral health organizations, managed care organizations, and behavioral health providers related to how these organizations may provide outreach, assistance, transition planning, and rehabilitation case management reimbursable under federal law to persons who are incarcerated, involuntarily hospitalized, or in the process of transitioning out of one of these services.” The WA State HCA is also directed to collaborate with various organizations and has been tasked with providing “a progress report describing program design and a detailed fiscal estimate to the governor and relevant committees of the legislature by December 1, 2016.”

As part of their outreach, training, researching best practices, etc, in order to be able to complete that progress report, HCA invited MCA (along with various other stakeholders) to participate in a series of meetings leading up to the December 1st deadline. Unfortunately, due to vacation time, work schedule, and one morning when I was left off of the distribution list for the Go To Meeting link, I have only actually been able to attend/participate in one meeting. They’re looking for ideas for pilot programs. Snohomish Co. talked about their coordination with Apple and healthcare providers, jail medical staff can provide inmates with 30-day prescriptions when they’re released; Everett has a closely coordinated program between their prosecutors’ office, police, jail, and treatment; DOC helps prison inmates apply for Apple upon release, but only individuals (not inmates being released to live with a family unit). They’ve looked at some best practices in other states. I’ve attached the Power Point presentation from their last meeting on 9-29-16 (the one I missed due to a distribution list mix-up). I believe they got through slide 17 at that time and will finish it at the next meeting.

PSERS Legislation

Pat Thompson, the Deputy Director of the WA State Council of County and City Employees, and member of the Select Committee on Pension Policy in Olympia, intends to propose legislation that will be discussed at the committee's next meeting in December (which I hope to attend). Currently, only full time employees are eligible for PSERS. A situation has come up where the Department of Retirement Systems has pointed out that the definition of "full time" means someone who works a minimum of 160 hours per month, and discovered in a couple of recent audits that there are some staff in the state who may be working "full time," but whose employer's definition of "full time" does not meet the DRS requirement, and therefore they believe those employees should not be allowed to participate in PSERS. The proposed legislation being brought forth by Pat Thompson seeks to fix the technicality by changing the wording to be that "full time" is defined by the employer, not by DRS. 2006

**I don't know that this next item is necessarily a legislative topic because I don't know of any pending legislation regarding it, but I wanted to include it in my report to bring to the Board's attention during our meeting.

DV MRT Classes

Lana Matthew of Counseling Services of Washington recently sent me the attached e-mail and met with me to express her concerns about traditional DVBT treatment vs. DV MRT treatment. Many courts in the area are moving away from DVBT and are ordering DV MRT, and it sounds like the issue is more about the Courts not being compliant with WAC requirements by not ordering DVBT when they're supposed to. [My Court still frequently orders DVBT and we have very few folks who have been ordered to do DV MRT, so I am putting this information out for discussion because I know little about the ins and outs myself].

As is usually the case, all of the items on this list are here because someone else brought them to my attention. Please let me know if there is anything else you've heard about or are interested in and I will do what I can to find out more!

Next Meeting Date:

Committee Contact Name: Janene Johnstone
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Please e-mail a copy of your report to Camille Jackson at CJackson@lynnwoodwa.gov. Thank you.

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6430

64th Legislature
2016 Regular Session

Passed by the Senate March 7, 2016
Yeas 47 Nays 0

President of the Senate

Passed by the House March 3, 2016
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6430** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Secretary of State
State of Washington

SUBSTITUTE SENATE BILL 6430

AS AMENDED BY THE HOUSE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2016 Regular Session

By Senate Human Services, Mental Health & Housing (originally sponsored by Senators Parlette, Darneille, O'Ban, and Conway)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to providing continuity of care for recipients of
2 medical assistance during periods of incarceration; amending RCW
3 70.48.100; adding new sections to chapter 74.09 RCW; adding a new
4 section to chapter 71.24 RCW; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** Persons with mental illness and persons
7 with substance use disorders in the custody of the criminal justice
8 system need seamless access to community treatment networks and
9 medical assistance upon release from custody to prevent gaps in
10 treatment and reduce barriers to accessing care. Access to care is
11 critical to reduce recidivism and reduce costs associated with
12 relapse, decompensation, and crisis care. In accord with the
13 recommendations of the adult behavioral health system task force,
14 persons should be allowed to apply or retain their enrollment in
15 medical assistance during periods of incarceration. The legislature
16 intends for the Washington state health care authority and the
17 department of social and health services to raise awareness of best
18 clinical practices to engage persons with behavioral health disorders
19 and other chronic conditions during periods of incarceration and
20 confinement to highlight opportunities for good preventive care and
21 standardize reporting and payment practices for services reimbursable

1 by federal law that support the safe transition of the person back
2 into the community.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09
4 RCW to read as follows:

5 The authority is directed to suspend, rather than terminate,
6 medical assistance benefits by July 1, 2017, for persons who are
7 incarcerated or committed to a state hospital. This must include the
8 ability for a person to apply for medical assistance in suspense
9 status during incarceration, and may not depend upon knowledge of the
10 release date of the person. The authority must provide a progress
11 report describing program design and a detailed fiscal estimate to
12 the governor and relevant committees of the legislature by December
13 1, 2016.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.24
15 RCW to read as follows:

16 The department and the Washington state health care authority
17 shall publish written guidance and provide trainings to behavioral
18 health organizations, managed care organizations, and behavioral
19 health providers related to how these organizations may provide
20 outreach, assistance, transition planning, and rehabilitation case
21 management reimbursable under federal law to persons who are
22 incarcerated, involuntarily hospitalized, or in the process of
23 transitioning out of one of these services. The guidance and
24 trainings may also highlight preventive activities not reimbursable
25 under federal law which may be cost-effective in a managed care
26 environment. The purpose of this written guidance and trainings is to
27 champion best clinical practices including, where appropriate, use of
28 care coordination and long-acting injectable psychotropic medication,
29 and to assist the health community to leverage federal funds and
30 standardize payment and reporting procedures. The authority and the
31 department shall construe governing laws liberally to effectuate the
32 broad remedial purposes of this act, and provide a status update to
33 the legislature by December 31, 2016.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09
35 RCW to read as follows:

36 The authority shall collaborate with the department, the
37 Washington state association of counties, the Washington association

1 of sheriffs and police chiefs, and accountable communities of health
2 to improve population health and reduce avoidable use of intensive
3 services and settings by requesting expenditure authority from the
4 federal government to provide behavioral health services to persons
5 who are incarcerated in local jails. The authority in consultation
6 with its partners may narrow its submission to discrete programs or
7 regions of the state as deemed advisable to effectively demonstrate
8 the potential to achieve savings by integrating medical assistance
9 across community and correctional settings.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.09
11 RCW to read as follows:

12 It is the understanding of the legislature that persons
13 participating in a work release program or other partial confinement
14 programs at the state, county, or city level which allow regular
15 freedom during the day to pursue rehabilitative community activities
16 such as participation in work, treatment, or medical care should not
17 be considered "inmates of a public institution" for the purposes of
18 exclusion from medicaid coverage under the social security act. The
19 authority is instructed to obtain any permissions from the federal
20 government necessary to confirm this understanding, and report back
21 to the governor and relevant committees of the legislature.

22 **Sec. 6.** RCW 70.48.100 and 2014 c 225 s 105 are each amended to
23 read as follows:

24 (1) A department of corrections or chief law enforcement officer
25 responsible for the operation of a jail shall maintain a jail
26 register, open to the public, into which shall be entered in a timely
27 basis:

28 (a) The name of each person confined in the jail with the hour,
29 date and cause of the confinement; and

30 (b) The hour, date and manner of each person's discharge.

31 (2) Except as provided in subsection (3) of this section, the
32 records of a person confined in jail shall be held in confidence and
33 shall be made available only to criminal justice agencies as defined
34 in RCW 43.43.705; or

35 (a) For use in inspections made pursuant to RCW 70.48.070;

36 (b) In jail certification proceedings;

37 (c) For use in court proceedings upon the written order of the
38 court in which the proceedings are conducted;

1 (d) To the Washington association of sheriffs and police chiefs;
2 (e) To the Washington institute for public policy, research and
3 data analysis division of the department of social and health
4 services, higher education institutions of Washington state,
5 Washington state health care authority, state auditor's office,
6 caseload forecast council, office of financial management, or the
7 successor entities of these organizations, for the purpose of
8 research in the public interest. Data disclosed for research purposes
9 must comply with relevant state and federal statutes; ((or))

10 (f) To federal, state, or local agencies to determine eligibility
11 for services such as medical, mental health, chemical dependency
12 treatment, or veterans' services, and to allow for the provision of
13 treatment to inmates during their stay or after release. Records
14 disclosed for eligibility determination or treatment services must be
15 held in confidence by the receiving agency, and the receiving agency
16 must comply with all relevant state and federal statutes regarding
17 the privacy of the disclosed records; or

18 (g) Upon the written permission of the person.

19 (3)(a) Law enforcement may use booking photographs of a person
20 arrested or confined in a local or state penal institution to assist
21 them in conducting investigations of crimes.

22 (b) Photographs and information concerning a person convicted of
23 a sex offense as defined in RCW 9.94A.030 may be disseminated as
24 provided in RCW 4.24.550, 9A.44.130, 9A.44.140, 10.01.200, 43.43.540,
25 43.43.745, 46.20.187, 70.48.470, 72.09.330, and section 401, chapter
26 3, Laws of 1990.

27 (4) Any jail that provides inmate records in accordance with
28 subsection (2) of this section is not responsible for any unlawful
29 secondary dissemination of the provided inmate records.

30 NEW SECTION. Sec. 7. If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not
32 provided by June 30, 2016, in the omnibus appropriations act, this
33 act is null and void.

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DRAFT – Definition of “Full Time” for PSERS Membership

AN ACT Relating to the definition of “Full Time” for PSERS Membership, amending RCW 41.37.010.

Sec 1. RCW 41.37.010 is amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(5)(a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are

awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.060;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department.

(10) "Eligible position" means any permanent, full-time position included in subsection (19) of this section.

(11) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(12) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state department of natural resources, and the Washington *state liquor control board; any county corrections department; any city corrections department not covered under chapter 41.28 RCW; and any public corrections entity created under RCW 39.34.030 by counties, cities not covered under chapter 41.28 RCW, or both. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

(13) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(14) "Full-time" for purposes of determining whether an employee is a member of the Plan, shall be defined by the employer and must be supported by a collective bargaining agreement or

other written employment contract between the member and employer. This definition applies retroactively to July 1, 2006, or on or after July 22, 2007, if hired by the Department of Natural Resources (DNR), for the Washington public employees' retirement system members if;

(a) The member met the definition of full-time as supported by a collective bargaining agreement or other written employment contract between the member and employer;

(b) The member elects to have their Washington public employees' retirement system retroactive service credit transfer to the Plan and,

(c) All contributions and interest, required for past periods of service established under this subsection are paid to the department.

(i) A member who elects to transfer service credit under this subsection shall pay, for the applicable period of service, the difference between the contributions the employee paid to the Washington public employees' retirement system and the contributions that would have been paid by the employee had the employee been a member of the Plan.

(ii) Employer contributions shall be paid by the employer and calculated by the department equal to the difference between the contributions the employer paid to the Washington public employees' retirement system and the contributions that would have been paid by the employer had the employee been a member of the Plan.

(15) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(16) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(17) "Index B" means the index for the year prior to index A.

(18) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (10) of this section.

(19) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(20) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer; or

(d) Whose primary responsibility is to supervise members eligible under this subsection.

(21) "Membership service" means all service rendered as a member.

(22) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(23) "Plan" means the Washington public safety employees' retirement system plan 2.

(24) "Regular interest" means such rate as the director may determine.

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(26) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(27) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(28) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(29) "Separation from service" occurs when a person has terminated all employment with an employer.

(30) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(31) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(32) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(33) "State actuary" or "actuary" means the person appointed pursuant to RCW [44.44.010\(2\)](#).

(34) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(35) "State treasurer" means the treasurer of the state of Washington.