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## WAHCA April 2020 Public Policy Report

Prepared by Leslie Emerick, Lobbyist



### Legislative Overview

We are near to the end of the 105-day “long” session of the legislative session which ends on April 25<sup>th</sup>. By now, bills that are still moving must have passed out of both the House and Senate policy and fiscal committees if it has an impact on the state budget. From there bills go to the Rules Committee of the Senate or the House where they are pulled to the floor by a vote, or they die for this session. Some bills that do not pass committees may end up being “Necessary to Implement the Budget” and will appear as a budget proviso. Bills live for 2 years during our biennial legislature so some bills that died this year may be back next year! I have included the high priority bills we are tracking this session at the end of my report.

From here on out it is a budget negotiation between the House and Senate fiscal committees to finalize the 2021-2023 Operating Budget. The Senate released their \$59 billion budget on Thursday, March 25<sup>th</sup> with a public hearing in the Ways and Means Committee. The next day the House Appropriations committee released their \$58 billion budget in state funds over the next two years. Both budgets include billions in federal relief dollars.

Funds in both budgets would be allocated for pandemic response, economic recovery, education, childcare, and a wide variety of other priorities. Federal aid aside, the proposal would be an increase from the state’s current two-year, \$53.7 billion budget. Both budgets include a capital gains tax on high income earners.

**State revenue projection for 2021–23 increased by \$1.9 billion:** Washington’s projected Near General Fund revenue collections for the 2021–23 state budget has increased by more than \$1.9 billion, according to estimates released by the Washington State Economic and Revenue Forecast Council.

“Improvements in current receipts, infusions of federal stimulus payments, and better news about the economic recovery all indicate the need to improve the forecast for state revenue growth going forward,” said Steve Lerch, executive director of the Economic and Revenue Forecast Council.

Total Near General Fund revenues are now projected at \$56.6 billion for the next two-year state budget cycle, which begins July 1. The council also increased the Near General Fund forecast for

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the remainder of the current biennium (2019–21) by more than \$1.3 billion. The council projects Near General Fund revenues will total \$52.3 billion for the biennium, which began July 1, 2019.

The increase in projected revenues would leave the state with a net surplus of nearly \$3 billion — including reserves — at the end of current biennium. The state’s revenue projections fell sharply during the early months of the COVID-19 pandemic but have since recovered and are now back to pre-pandemic levels. OFM Director David Schumacher noted that the state’s fiscal situation has improved dramatically since Gov. Jay Inslee unveiled his 2021–23 operating, capital and transportation budgets in December.

**House Budget ([HB 1094](#)) and Senate Budget ([SB 5092](#)) Health & LTC Summaries** (The House and Senate budgets fund some of the items at different levels in the budgets, but are pretty similar. Sections that are not in both budgets will be negotiated.) These are only the issues that I have identified that may impact in-home services. To see the entire budget documents and summaries, go to: <http://fiscal.wa.gov/AllBudgetsBillsDocsLegProposals.aspx>

### **Health Care**

**COVID-19 RESPONSE** –Federal funding is provided to the Department of Health to allow for the distribution of COVID-19 grant funding. Grants expected to be received by the Department of Health include COVID-19 testing and tracing, vaccine deployment and public health workforce enhancements. Full distribution amounts are not known at this time, so a high watermark of necessary fund authority is provided.

**FEDERAL MEDICAID MATCH CHANGES** – Funding is adjusted to account for enhanced federal financial participation (FFP) in the Medicaid program provided through the Families First Coronavirus Response (CARES) Act and the American Rescue Plan Act (ARPA). These Acts enhance FFP by between 6.2 and 50 percentage points for certain populations. Enhanced funding under CARES is assumed to end December 31, 2021. Funding under ARPA ends at different times during 2022 and 2023, depending on the population to which the increase applies.

### **Long-Term Care, Developmental Disabilities**

**COLLECTIVE BARGAINING AGREEMENTS** –Funding is provided for negotiated collective bargaining agreements, including a 3 percent base daily rate increase for adult family home providers and a 3 percent wage increase for individual providers. Individual providers will also receive credit on the wage scale for verifiable hours worked for a related home care agency and time and one half pay for hours worked on two holidays (Independence Day and New Year's Eve). Funding is also provided for the required wage and benefit increase for in-home workers who are employed by private agencies pursuant to the in-home care agreement for individual providers.

**OTHER VENDOR RATE INCREASES** –Funding is provided for vendor rate increases, including a 3 percent base rate increase for community residential providers effective January 1, 2022; annually

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rebasing and applying an inflation adjustment for skilled nursing facilities; a base rate increase for assisted living providers to a level that covers 60 percent of costs as well as a \$10 increase to the specialty dementia care daily rate; a five cent increase to the administrative rate for agency providers; and a restoration of the 5 percent administrative rate reduction for the Consumer Directed Employer that was included in the enacted 2020 supplemental budget.

SHARED BENEFIT SETTLEMENT AGREEMENT –Funding is provided to cover prospective costs associated with a change in the number of compensated hours for individual providers as a result of a settlement agreement reached in the SEIU 775 v. DSHS lawsuit.

COVID-19 RESPONSE –State and federal funding is provided to respond to the COVID-19 pandemic, including temporary rate increases for long-term care and developmental disabilities providers through December 2021; purchases and distribution of personal protective equipment; establishing state-operated facilities in order to transition individuals from acute care hospitals to community settings; implementing strike teams to assist with staffing shortages in long-term care and developmental disabilities facilities caused by an outbreak; contracting with long-term care providers to establish COVID-specific facilities with which to manage the care of COVID-positive long-term care and developmental disabilities individuals who reside in congregate settings; increased COVID-19 testing in nursing homes; offsetting COVID-related costs for case management; and providing remote technology support to clients to enable them to continue to receive medical and support services.

EXPANDED COMMUNITY PLACEMENTS –Funding is provided to expand community placements for long-term care and developmental disabilities clients, including 120 beds to serve individuals who are transitioning from behavioral health hospitals; 49 beds for noncitizens needing long-term care services; 185 beds to transition individuals from acute care hospitals to community settings; and establishing three State-Operated Living Alternative (SOLA) homes to serve youth under the age of 20. Funding is also provided to expand community residential settings in response to the planned closure of Rainier School, including 24 SOLA homes; 71 beds in supported living settings; and 19 beds in adult family homes.

DEVELOPMENTAL DISABILITY WAIVER EXPANSION –Funding is provided to expand access to developmental disability waiver programs, including adding 923 slots for the Individual and Family Services waiver; adding three slots for the Community Protection waiver; phasing in 467 slots for the Basic Plus waiver; and phasing in 159 slots for the Core waiver. Funding is also provided to serve an additional 50 children on the Children's Intensive In-home Behavioral Support waiver and for services provided to clients and families after their student has graduated from high school and leaves the K-12 system. These investments eliminate the current wait list for developmental disability waived services.

OTHER HCBS INVESTMENTS –Funding is provided to enhance and expand home and community-based services. These investments include, but are not limited to, providing funding to

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obtain durable medical equipment and to perform minor home renovations to improve mobility and accessibility for long-term care and developmental disabilities clients; for annual cost-of-living adjustments to the personal needs allowance and a one-time \$500 per person increase in fiscal year 2022; for personal care for clients whose need is due to their psychiatric disability; to expand a pilot project to provide personal care services to seniors and people with disabilities in homeless shelters until they establish eligibility for Medicaid; to initiate a pilot project to test different mechanisms to improve recruitment and retention of long-term care workers; to invest in additional training resources for caregivers and providers; to establish peer mentors to help transition residents from Residential Habilitation Centers to community settings; to assist individuals with intellectual and developmental disabilities who are employed in subminimum wage jobs to transition into minimum wage employment; and to create specialized dementia services in two Area Agencies on Aging.

HOME AND COMMUNITY-BASED ENHANCED FMAP – As a result of the American Rescue Plan Act, the federal government is increasing the state's FMAP for Medicaid home- and community-based services by an additional ten percentage points. These funds are available from April 1, 2021 through March 31, 2022, and will offset General Fund-State, which will then be utilized to enhance, expand, or strengthen home- and community-based services.

COVID FMAP INCREASE –Due to the public health emergency, a temporary 6.2 percentage point increase to the state's FMAP is available for Medicaid services through December 2021. Savings are achieved by utilizing the increased FMAP to offset General Fund-State that would ordinarily be used for services for clients.

**Conway Amendment to SB 5092 (On page 187, after line 28)**

"(28) \$450,000 of the general fund—state appropriation for fiscal year 2022 is provided solely for the nursing care quality assurance commission, in collaboration with the workforce training and education coordinating board and the department of labor and industries, to plan a home care aide to nursing assistant certified to licensed practical nurse (HCA-NAC-LPN) apprenticeship pathway. The plan must provide the necessary groundwork for the launch of at least three licensed practical nurse apprenticeship programs in the next phase of work. The plan for the apprenticeship programs must include programs in at least three geographically disparate areas of the state experiencing high levels of long-term care workforce shortages for corresponding health professions and incorporate the participation of local workforce development councils for implementation."

EFFECT: Provides funding for the implementation work for three HCA-NAC-LPN workforce pipeline pilot projects.

**COVID-19 Information**

Effective March 22, the entire state entered Phase 3 by order of Governor Inslee. Federal reports are still ominous about a 4<sup>th</sup> wave of COVID, so we will see if this phase lasts long. I still attend the

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DOH Vaccine Partners meeting. They are working on multiple pathways to get the vaccine out into our communities, include mobile vaccinations for home bound patients or those with difficulty traveling. The state has sent up large vaccination events in regions around the state.

Governor Jay Inslee announced that effective March 19, 2021 expanded indoor visitation at the state's nearly 4,300 long-term care facilities and settings will be allowed. Earlier this month, the Centers for Disease Control and Prevention and the Centers for Medicare & Medicaid Services issued guidance recommending the return of indoor visitation. Visitation was prohibited last March in Washington facilities, with some exceptions. Indoor visits will now be allowed if either the resident or visitor are fully vaccinated.

“This past year has been full of new and unique challenges. One of the most difficult has been to remain physically apart from our loved ones for so long,” said DSHS Assistant Secretary Evelyn Perez. “We are now seeing a decline in the number of cases in our programs thanks to vaccines, infection controls, and the other measures put into place. I believe the timing is right and am thrilled to be able to announce these new visitation guidelines.”

The state's Safe Start for Long-Term Care Plan has been updated to reflect these changes. For more on when and how you may visit your loved one in a long-term care setting link to the visitation guidelines.

**Update on PPE in In-Home Services:** The Washington State Departments of Health and Labor and Industries jointly developed guidance on personal protective equipment (PPE) in long term care and in-home services settings.

The guidance can be found at the following locations:

LTCF version lives here and is linked to from the LTCF page under resources as well as the Healthcare Provider page under Personal Protective Equipment.

The In-Home Care version lives here and is linked to from the Healthcare Provider page under Personal Protective Equipment.

**COVID-19 Data Dashboard:** <https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard>

**Tracking PPE Distribution Dashboard:** <https://coronavirus.wa.gov/what-you-need-know/personal-protective-equipment/tracking-ppe-distribution>

**Department of Health (DOH)**

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DOH Feedback on Vaccinations: I received a message requesting feedback from Stacey Saunders who has oversight of Home Care Aides at DOH. I received a good response back from our members and passed it on to her!

- Have your Home Care Aide employees been able to get vaccinated?
  - What has been working well? Not working well?
- What barriers, if any, have Home Care Aides encountered trying to get vaccinated?
- What would be helpful in getting Home Care Aides access to the COVID vaccine?

**Another request:** I need to narrow down which non-English languages are needed in which counties. Would doing a reply all to include everyone listed below as a cc be a good way to ask this question? I can also go through the Home Care Aide GovDelivery email list, I recognize you are very busy and appreciate your help.

**Nursing Care Quality Assurance Commission Telemedicine Training:** The telemedicine training is free and offered at the [WA State Telemedicine Collaborative](#) website. NCQAC released their guidance for the telemedicine training impacting nurses licensed under the commission. The Nursing Care Quality Assurance Commission (NCQAC) recommends telemedicine training be completed as soon as possible as a demonstration of competency. The licensed nurse (RN, LPN, or ARNP) providing telemedicine clinical services licensed prior to January 1, 2021 will need to complete telemedicine training by December 31, 2021.

**Nursing Care Quality Assurance Commission (NCQAC):** I attend several meetings with the nursing commission and am tracking issues related to telemedicine for ARNPs and RNs, nurse compact legislation, bills that they are tracking. I often attend their legislative bill tracking meetings to find out their positions on bills and to make sure I catch all the nursing related bills for tracking during the legislative session.

**Nursing Commission recently approved new advisory opinions titled, [Nursing Telehealth Practice – RN, LPN, NT, and NA](#) and [Telehealth Advanced Practice Nursing Care Services](#).** The use of telehealth technology is becoming more and more an integral component of nursing services. The *Nursing Telehealth Practice: Registered Nurse, Licensed Practical Nurse, Nursing Technician, and Nursing Assistant* and the *Telehealth Advanced Practice Nursing Care Services* advisory opinions are broad statements on nursing telehealth practice, the new telemedicine training requirements, and recommendations for safe nursing practice.

**The Nursing Commission recently revised the [Prevention and Treatment of Opioid Overdoses Advisory Opinion](#).** This was done in order to ensure consistency with opioid-related laws and rules and includes information on the state-wide standing orders issued by the Washington State Department of Health. The commission supports prescribing an opioid reversal drug to all persons at risk for opioid complications or overdose. The commission encourages nurses to incorporate overdose prevention into their daily practice using the nursing process/care planning. The revision

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includes information related to scope of practice for the advanced registered nurse practitioner, registered nurse, licensed practical nurse, nursing technician, and nursing assistant. You may [review additional Nursing Commission advisory opinions](#) on our Practice web page.

**Palliative Care Roadmap Still Available!!** It's posted on [DOH Rural Health webpage](#), as well as the [WA Rural Palliative Care Initiative portal](#) To order: <https://prtonline.myprintdesk.net/DSF/>

### **Public Policy**

**Dementia Action Collaborative Subcommittee on Care Transitions:** I am part of a workgroup that is working on how to get Dementia patients out of hospitals and into the appropriate care settings. This will include working with caregivers and their primary care providers. There is a lot of interest in providing palliative care to this group as well. We are researching information on existing care transition models and toolkits that we may be able to adapt.

**WA State Hospital Association (WSHA) Readmissions Workgroup:** I will be participating in the newly formed Readmissions Workgroup for WSHA. I will see if there are ways to incorporate palliative care into their discussions!

**WA State Telemedicine Collaborative:** I regularly attended these meetings and track Telemedicine Policy Updates.

### **Advance care planning documents – Get to know the new advance directive and WA POLST:**

The new and improved advance directive and Washington POLST forms will be released in early April. Join Honoring Choices Pacific Northwest; WA POLST Task Force; and WSMA will provide a tour of the new documents. **The webinar is at noon-1 p.m. Wednesday, April 7th.** [Registration is available online.](#)

**Long-Term Care Steering Committee:** I participate in an ongoing workgroup to deliver a report to the legislature with recommendations on how to reduce barriers to entering LTC. The amendment I mentioned earlier in the Senate budget was a recommendation from this committee to the legislature. [The LTC Workforce Steering Committee Progress Report – January 2021 \(PDF\)](#) provides an interim update to the legislature from the 2018 and 2019 Long-Term Care Workforce Development Steering Committee. A final report will be completed and available by June 30, 2021.

### **WAHCA Detail Report**

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<b><u>Bill Details</u></b>	<b><u>Status</u></b>	<b><u>Sponsor</u></b>	<b><u>Priority</u></b>	<b><u>Position</u></b>
<b>Paid leave coverage</b> <b><u>E2SHB</u></b> <b><u>1073</u></b>	S Ways & Means	Berry	High	Neutral
Expanding coverage of the paid family and medical leave program.				
Signed in CON 2/26/21. Bill amended and we are now neutral.				

<a href="#"><u>2SHB 1076</u></a>	<b>Workplace violations/qui tam</b>	S Ways & Means	Hansen	High	Oppose
	Allowing whistleblowers to bring actions on behalf of the state for violations of workplace protections.				
	Signed in CON 2/26/21 House Health Care Signed in Con 3/14/21 Senate Health Care Signed in CON W & M 3/29/21				
<a href="#"><u>HB 1094 (SSB 5092)</u></a>	<b>Operating budget 2021-2023</b>	H Exec Action	Ormsby	High	Support
	Making 2021-2023 fiscal biennium operating appropriations.				
	Signed in Pro for Approp hearing on 3/27/21				
<a href="#"><u>SHB 1095</u></a>	<b>Emergency assistance/tax</b>	C 4 L 21	Walen	High	Support
	Concerning the taxation of governmental financial assistance programs addressing the impacts of conditions giving rise to a gubernatorial or presidential emergency proclamation by creating state business and occupation tax and state public utility tax exemptions, a sales and use tax exemption for the receipt of such financial assistance and clarifying the sales and use tax obligations for goods and services purchased by recipients of such financial assistance.				
	Signed in Pro 2/2/21				
<a href="#"><u>ESHB 1120</u></a>	<b>Long-term services/emergency</b>	S Rules 2	Tharinger	High	Support
	Concerning state of emergency operations impacting long-term services and supports.				
	Signed in Pro 3/14/21 Senate Health Care				
<a href="#"><u>SHB 1124</u></a>	<b>Nurse delegation/glucose</b>	S Rules 2	Cody	High	Support
	Concerning nurse delegation of glucose monitoring, glucose testing, and insulin injections.				
	Signed in Pro Signed in as PRO 3/8/21 Senate Health care on 3/10/21				
<a href="#"><u>ESHB 1196 (SSB 5325)</u></a>	<b>Audio-only telemedicine</b>	S Ways & Means	Riccelli	High	Support
	Concerning audio-only telemedicine.				
	Signed in PRO on 3/8/21 for Senate Healthcare Committee Signed in Pro W & M 3/29/21				
<a href="#"><u>SHB 1323</u></a>	<b>Long-term services trust</b>	S Rules 2	Tharinger	High	Support
	Concerning the long-term services and supports trust program.				
	Signed in Pro 2/1/21 Signed in pro 3/19/21 Senate Healthcare				
	<b>Medicaid appropriations</b>	C 5 L 21	Ormsby	High	Support

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[HB 1367](#) (SB 5343) Revising 2019-2021 fiscal biennium appropriations of state and federal funding for previously implemented medicaid rates and other medicaid expenditures in the developmental disabilities and long-term care programs in response to the COVID-19 pandemic.

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[ESHB 1368](#) (SB 5344) **Federal funding/COVID-19** C 3 L 21 Ormsby High Support  
Responding to the COVID-19 pandemic through state actions supported by federal funding.

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[SHB 1411](#) **Health care workforce** S Rules 2 Simmons High Support  
Expanding health care workforce eligibility.  
Signed in Pro 2-7-21 Signed in pro 3/19/21 Senate Healthcare

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[ESSB 5061](#) (HB 1098) **Unemployment insurance** C 2 L 21 Keiser High Support  
Concerning unemployment insurance.

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[ESSB 5097](#) **Paid leave coverage** H Approps Robinson High Neutral  
Expanding coverage of the paid family and medical leave program.  
Signed in Con 3/14/21 House Labor. Bill amended and we are neutral.

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[ESSB 5115](#) **Health emergency/labor** H Rules R Keiser High Neutral  
Establishing health emergency labor standards.

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[ESSB 5229](#) **Health equity continuing ed.** H Passed 3rd Randall High Neutral  
Concerning health equity continuing education for health care professionals.

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[SSB 5254](#) **Protective devices/health** H Approps Salomon High Support  
Concerning the use of protective devices and equipment during a public health emergency.  
Signed in Pro 3/14/21 House Labor

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[SSB 5258](#) **Consumer directed employers** H Approps Cleveland High Neutral  
Concerning consumer directed employers.

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[SCR 8402](#) **Emergency orders extension** H Spkr Signed Lias High Neutral  
Extending certain gubernatorial orders issued in response to the COVID-19 state of emergency.

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