HOUSE BILL REPORT
2SSB 6312

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to state purchasing of mental health and chemical dependency treatment services.

Brief Description: Concerning state purchasing of mental health and chemical dependency treatment services.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Darneille, Hargrove, Rolfes, McAuliffe, Ranker, Conway, Cleveland, Fraser, McCoy, Keiser and Kohl-Welles; by request of Governor Inslee).

Brief History:
Committee Activity:
Health Care & Wellness: 2/19/14, 2/20/14 [DP].

Brief Summary of Second Substitute Bill

- Expands the scope of work and membership of the Adult Behavioral Health System Task Force.
- Authorizes the Department of Social and Health Services and the Health Care Authority to establish regional service areas.
- Establishes contract requirements for the purchase of behavioral health services for Medicaid and non-Medicaid clients and factors to consider in the purchasing process.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 16 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Clibborn, DeBolt, G. Hunt, Jinkins, Manweller, Moeller, Morrell, Rodne, Ross, Short, Tharinger and Van De Wege.

Staff: Chris Blake (786-7392).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Community Mental Health System.
The Department of Social and Health Services (Department) contracts with regional support networks to oversee the delivery of mental health services for adults and children who suffer from mental illness or severe emotional disturbance. A regional support network may be a county, group of counties, or a nonprofit or for-profit entity. Currently, 10 of the 11 regional support networks are county-based, except for one which is operated by a private entity.

Regional support networks are paid by the state on a capitation basis and funding is adjusted based on caseload. The regional support networks contract with local providers to provide an array of mental health services, monitor the activities of local providers, and oversee the distribution of funds under the state managed care plan.

Approximately 40 percent of the state's resources for community mental health services are supported by federal Medicaid funding. Receipt of these funds is conditioned upon compliance with federal requirements. In July 2013 the federal Centers for Medicare and Medicaid Services (CMS) notified the Department that it characterizes Washington's system for purchasing mental health services through capitated contracts with local governmental entities as violating federal procurement principles. The CMS identified two options for Washington: (1) openly procure behavioral health services so that regional support networks and other commercial entities compete on the same basis; or (2) comply with federal procurement principles by shifting to a cost-based reimbursement system for regional support networks. The CMS has requested that the Department submit a corrective action plan.

Chemical Dependency Services.
The Department contracts with counties to provide outpatient chemical dependency prevention, treatment, and support services, either directly or by subcontracting with certified providers. The Department determines chemical dependency service priorities for those activities funded by the Department.

Adult Behavioral Health System Task Force.
In 2013 the Legislature established the Adult Behavioral Health System Task Force (Task Force) to examine the reform of the adult behavioral health system. Specifically, the Task Force must review the adult behavioral health system and make recommendations for reform related to:

- the delivery of services to adults with mental illness and chemical dependency disorders;
- the availability of effective means to promote recovery and prevent harm associated with mental illness;
- crisis services;
- best practices for cross-system collaboration between behavioral health treatment providers, medical care providers, long-term care service providers, entities providing health home services to high-risk Medicaid clients, law enforcement, and criminal justice agencies; and
- public safety practices involving persons with mental illness with forensic involvement.

The Task Force is comprised of two members of the House of Representatives, two members of the Senate, five members appointed by the Governor from various agencies, and a tribal representative. The Task Force begins on May 1, 2014, and must report its findings by January 1, 2015.

Summary of Bill:

Adult Behavioral Health System Task Force.
The Adult Behavioral Health System Task Force (Task Force) must review additional topics. In addition to making recommendations for the way that services are delivered to adults with mental illness and chemical dependency disorders, the Task Force must consider the way that the services are purchased. Specifically, the Task Force must provide recommendations by October 1, 2014, regarding:

- the creation of common regional service areas for purchasing behavioral health and medical care services by the Department of Social and Health Services (Department) and the Health Care Authority (Authority);
- the design and requirements of future Medicaid behavioral health and health care delivery systems and purchasing; and
- state interactions with the Centers for Medicare and Medicaid Services related to the purchasing of Medicaid mental health services if guidance is received detailing recommendations for changing state purchasing.

In addition, the Task Force must provide recommendations by January 1, 2015, regarding the creation of a statewide behavioral health ombuds office.

The membership of the Task Force is expanded to include three members appointed by the Washington State Association of Counties. The Task Force begins on April 1, 2014, rather than May 1, 2014.

Regional Service Areas.
If the Task Force recommends the creation of regional service areas, the Department and the Authority may jointly establish regional service areas by March 1, 2015. By September 1, 2014, the Washington State Association of Counties may propose the composition of regional service areas to the Department, the Authority, and the Task Force. The regional service areas must:

- include enough Medicaid lives to support full financial risk managed care contracting for services;
- include full counties that are contiguous with each other; and
- reflect medical and behavioral health services referral patterns and shared health care services, behavioral health services, and behavioral health crisis response resources.

When counties form a regional support network, it must be consistent with the boundaries of a regional service area.

Contracting for Behavioral Health Services.

The term "behavioral health services" is defined to include both community mental health services and chemical dependency services. The Department and Authority contracts to provide behavioral health services, whether for persons eligible for Medicaid or not, must include specific provisions related to:

- adherence to intent statements for programs providing community mental health services, children's mental health services, and chemical dependency;
- standards for quality of services, including the increased use of services that are evidence-based, research-based, or promising practices;
- accountability for client outcomes and performance measures;
- the maintenance of appropriate provider networks to provide adequate access to contract services and to protect the behavioral health system infrastructure and capacity;
- reimbursement methods to incentivize improved performance regarding client outcomes, integration of behavioral health and primary care services, and improved care coordination for persons with complex needs;
- financial integrity standards;
- the maintenance of decision-making independence of designated mental health professionals; and
- prohibiting the use of public funds to discourage employees from asserting collective bargaining rights.

The process for purchasing behavioral health services must give significant weight to several factors, including:

- commitment to and experience in serving low-income populations;
- commitment to and experience in serving persons with severe mental illness or chemical dependency;
- commitment to and experience in partnering with local criminal justice systems, housing services, and other critical support services necessary to meet outcome measures;
- recognition that meeting both physical and behavioral health needs is a shared responsibility of contracted regional support networks, managed health care systems, service providers, the state, and communities;
- consideration of past and current performance and participation in other public behavioral health programs; and
- the ability to meet Department requirements.

When purchasing behavioral health services and medical care services, the Department and the Authority must use common regional service areas.

Specific requirements that regional mental health programs prioritize certain populations and provide enumerated services are replaced with a general requirement that regional support networks provide medically necessary services to Medicaid enrollees according to state and federal requirements and to non-Medicaid enrollees according to state priorities.

The Department's auditing procedures for regional support networks must be designed in such a way that they assure compliance with contractual agreements. The Department's duty to certify regional support networks is eliminated.

In addition to using resources for regional support networks, the Department may use resources to incentivize improved performance regarding client outcomes, integration of behavioral health and primary care services, and improvement of care coordination for persons with complex needs.

Elements are added to the list of services covered by regional support network programs, including peer support counseling, community support services, resource management services, and supported housing and supported employment services.

Contracting for Chemical Dependency Services.
Any regional support network contract for behavioral health services or program to treat persons with alcohol or drug use disorders must provide medically necessary services to Medicaid enrollees according to state and federal requirements and to non-Medicaid enrollees according to state priorities.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after the adjournment of the session in which the bill is passed, except for section 1, relating to the Adult Behavioral System Task Force, which takes effect immediately; and sections 4 through 17, relating to standards for mental health and chemical dependency programs, which take effect April 1, 2016.

Staff Summary of Public Testimony:

(In support) Integrating mental health services, chemical dependency services, and primary medical care makes sense to improve care, improve outcomes, have accountability, promote recovery, and achieve fiscal savings. This legislation is the next logical step in the Legislature's direction toward having accountability for outcomes and improved performance for mental health and chemical dependency services and increased use of effective practices. The system needs to be able to adapt and serve people's needs in a setting that works for them. There needs to be a full array of services for people, whether they are only chemically dependent, only mentally ill, or are experiencing both. Moving chemical dependency into managed care has several benefits, including actuarial soundness requirements and flexibility that does not exist in a fee-for-service system.

There is support for the bi-directional integration of behavioral health and primary care, the early convening of the Adult Behavioral Health System Task Force (Task Force), the move away from fee-for-service chemical dependency funding, the protection of essential behavioral health system infrastructure and capacity. Counties support substance abuse integration with mental health and primary health care because it acknowledges that individuals in behavioral health care programs have disproportionately poor health outcomes. Moving to full integration requires attention to the safety net that is currently in place and that it not be undermined. There is support for moving the substance abuse system from a

fee-for-service system to a capitated system, the studying of provider rates, and having three county members.

The Task Force should be an open table concept and provide an environment for people to be involved. Chemical dependency providers would like to ensure that their concerns are addressed by the Task Force and that there is a continuum of programs and recovery supports specific to people with chemical dependency issues.

Several components from the House bill should be incorporated into this bill: moving chemical dependency services into managed care, having a process for entering into managed care contracts for chemical dependency services, having consistency between mental health and chemical dependency recovery support services, allowing counties to become early adopters of full integration, renaming regional support networks as "behavioral health organizations," and allowing behavioral health organizations and medical managed care plan contracts to integrate into each other's services.

(In support with amendment(s)) The bill should specify that Criminal Justice Training Act funding is not affected. The direction of the Senate bill is good because of the Task Force involvement with chemical dependency. There are several amendments that should be considered. It is important to acknowledge that there is a continuum of care.

(Opposed) None.

Persons Testifying: (In support) Senator Darneille, prime sponsor; Andi Smith, Office of the Governor; Jane Beyer, Department of Social and Health Services; Gregory Robinson, Washington Community Mental Health Council; and Abby Murphy and Jim Vollendroff, Washington State Association of Counties.

(In support with amendment(s)) Melanie Stewart, Pierce County Alliance; Michael Transue, Seattle Drug and Narcotics Treatment Center; and Melissa Johnson, Association of Alcoholism and Addiction Programs.

Persons Signed In To Testify But Not Testifying: None.