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SECOND SUBSTITUTE HOUSE BILL 2439

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State of Washington

64th Legislature

2016 Regular Session

**By** House Appropriations (originally sponsored by Representatives Kagi, Walsh, Senn, Johnson, Orwall, Dent, McBride, Reykdal, Jinkins, Tharinger, Fey, Tarleton, Stanford, Springer, Frame, Kilduff, Sells, Bergquist, and Goodman)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to increasing access to adequate and appropriate  
2 mental health services for children and youth; amending RCW  
3 74.09.520; adding a new section to chapter 74.09 RCW; creating new  
4 sections; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature understands that  
7 adverse childhood experiences, such as family mental health issues,  
8 substance abuse, serious economic hardship, and domestic violence,  
9 all increase the likelihood of developmental delays and later health  
10 and mental health problems. The legislature further understands that  
11 early intervention services for children and families at high risk  
12 for adverse childhood experience help build secure parent-child  
13 attachment and bonding, which allows young children to thrive and  
14 form strong relationships in the future. The legislature finds that  
15 early identification and intervention are critical for children  
16 exhibiting aggressive or depressive behaviors indicative of early  
17 mental health problems. The legislature intends to improve access to  
18 adequate, appropriate, and culturally responsive mental health  
19 services for children and youth. The legislature further intends to  
20 encourage the use of behavioral health therapies and other therapies

1 that are empirically supported or evidence-based and discourage the  
2 use of psychotropic medications for children and youth.

3 (2) The legislature finds that nearly half of Washington's  
4 children are enrolled in medicaid and have a higher incidence of  
5 serious health problems compared to children who have commercial  
6 insurance. The legislature recognizes that disparities also exist in  
7 the diagnosis and initiation of treatment services for children of  
8 color, with studies demonstrating that children of color are  
9 diagnosed and begin receiving early interventions at a later age. The  
10 legislature finds that within the current system of care, families  
11 face barriers to receiving a full range of services for children  
12 experiencing behavioral health problems. The legislature intends to  
13 identify what network adequacy requirements, if strengthened, would  
14 increase access, continuity, and coordination of behavioral health  
15 services for children and families. The legislature further intends  
16 to encourage managed care plans and behavioral health organizations  
17 to contract with the same providers that serve children so families  
18 are not required to duplicate mental health screenings, and to  
19 recommend provider rates for mental health services to children and  
20 youth which will ensure an adequate network and access to quality  
21 based care.

22 (3) The legislature recognizes that early and accurate  
23 recognition of behavioral health issues coupled with appropriate and  
24 timely intervention enhances health outcomes while minimizing overall  
25 expenditures. The legislature intends to assure that annual  
26 depression screenings are done consistently with the highly  
27 vulnerable medicaid population and that children and families benefit  
28 from earlier access to services.

29 NEW SECTION. **Sec. 2.** (1) The children's mental health work  
30 group is established to identify barriers to accessing mental health  
31 services for children and families, and to advise the legislature on  
32 statewide mental health services for this population.

33 (2)(a) The work group shall include diverse, statewide  
34 representation from the public and nonprofit and for-profit entities.  
35 Its membership shall reflect regional, racial, and cultural diversity  
36 to adequately represent the needs of all children and families in the  
37 state.

38 (b) The work group shall consist of not more than twenty-five  
39 members, as follows:

1 (i) The president of the senate shall appoint one member and one  
2 alternative member from each of the two largest caucuses of the  
3 senate.

4 (ii) The speaker of the house of representatives shall appoint  
5 one member and one alternative member from each of the two largest  
6 caucuses in the house of representatives.

7 (iii) The governor shall appoint at least one representative from  
8 each of the following: The department of early learning, the  
9 department of social and health services, the health care authority,  
10 the department of health, and a representative of the governor.

11 (iv) The superintendent of public instruction shall appoint one  
12 representative from the office of the superintendent of public  
13 instruction.

14 (v) The governor shall request participation by a representative  
15 of tribal governments.

16 (vi) The governor shall appoint one representative from each of  
17 the following: Behavioral health organizations, community mental  
18 health agencies, medicaid managed care organizations, pediatricians  
19 or primary care providers, providers that specialize in early  
20 childhood mental health, child health advocacy groups, early learning  
21 and child care providers, the managed health care plan for foster  
22 children, the evidence-based practice institute, parents or  
23 caregivers who have been a recipient of early childhood mental health  
24 services, and foster parents.

25 (c) The work group shall seek input and participation from  
26 stakeholders interested in the improvement of statewide mental health  
27 services for children and families.

28 (d) The work group shall choose two cochairs, one from among its  
29 legislative membership and one representative of a state agency. The  
30 representative from the health care authority shall convene the  
31 initial meeting of the work group.

32 (3) The children's mental health work group shall review the  
33 barriers that exist to identifying and treating mental health issues  
34 in children with a particular focus on birth to five and report to  
35 the appropriate committees of the legislature. At a minimum the work  
36 group must:

37 (a) Review and recommend developmentally, culturally, and  
38 linguistically appropriate assessment tools and diagnostic approaches  
39 that managed care plans and behavioral health organizations should  
40 use as the mechanism to establish eligibility for services;

1 (b) Identify and review billing issues related to serving the  
2 parent or caregiver in a treatment dyad and the billing issues  
3 related to services that are appropriate for serving children,  
4 including children birth to five;

5 (c) Evaluate and identify barriers to billing and payment for  
6 behavioral health services provided within primary care settings in  
7 an effort to promote and increase the use of behavioral health  
8 professionals within primary care settings;

9 (d) Review workforce issues related to serving children and  
10 families, including issues specifically related to birth to five;

11 (e) Recommend strategies for increasing workforce diversity and  
12 the number of professionals qualified to provide children's mental  
13 health services;

14 (f) Review and make recommendations on the development and  
15 adoption of standards for training and endorsement of professionals  
16 to become qualified to provide mental health services to children  
17 birth to five and their parents or caregivers;

18 (g) Analyze, in consultation with the department of early  
19 learning, the health care authority, and the department of social and  
20 health services, existing and potential mental health supports for  
21 child care providers to reduce expulsions of children in child care  
22 and preschool; and

23 (h) Identify outreach strategies that will successfully  
24 disseminate information to parents, providers, schools, and other  
25 individuals who work with children and youth on the mental health  
26 services offered through the health care plans, including referrals  
27 to parenting programs, community providers, and behavioral health  
28 organizations.

29 (4) Legislative members of the work group are reimbursed for  
30 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
31 members are not entitled to be reimbursed for travel expenses if they  
32 are elected officials or are participating on behalf of an employer,  
33 governmental entity, or other organization. Any reimbursement for  
34 other nonlegislative members is subject to chapter 43.03 RCW.

35 (5) The expenses of the work group must be paid jointly by the  
36 senate and the house of representatives. Work group expenditures are  
37 subject to approval by the senate facilities and operations committee  
38 and the house of representatives executive rules committee, or their  
39 successor committees.

1 (6) The work group shall report its findings and recommendations  
2 to the appropriate committees of the legislature by December 1, 2016.

3 (7) Staff support for the committee must be provided by the house  
4 of representatives office of program research, the senate committee  
5 services, and the office of financial management.

6 (8) This section expires December 1, 2017.

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

9 To better assure and understand issues related to network  
10 adequacy and access to services, the authority and the department  
11 shall report to the appropriate committees of the legislature by  
12 December 1, 2017, and annually thereafter, on the status of access to  
13 behavioral health services for children birth through age seventeen  
14 using data collected pursuant to RCW 70.320.050. At a minimum, the  
15 report must include the following components broken down by age,  
16 gender, and race and ethnicity:

17 (1) The percentage of discharges for patients ages six through  
18 seventeen who had a visit to the emergency room with a primary  
19 diagnosis of mental health or alcohol or other drug dependence during  
20 the measuring year and who had a follow-up visit with any provider  
21 with a corresponding primary diagnosis of mental health or alcohol or  
22 other drug dependence within thirty days of discharge;

23 (2) The percentage of health plan members with an identified  
24 mental health need who received mental health services during the  
25 reporting period; and

26 (3) The percentage of children served by regional support  
27 networks and behavioral health organizations, including the types of  
28 services provided.

29 NEW SECTION. **Sec. 4.** (1)(a) The health care authority shall  
30 expand the partnership access line service by selecting a rural  
31 inclusive region of the state to offer an additional level of child  
32 mental health care support services for primary care, to be referred  
33 to as the PAL plus pilot program.

34 (b) For purposes of the PAL plus pilot program, the health care  
35 authority shall work in collaboration with faculty from the  
36 University of Washington working on the integration of mental health  
37 and medical care.

1 (2)(a) The PAL plus service is targeted to help children and  
2 families with medicaid coverage who have mental health concerns not  
3 already being served by the regional support network system or other  
4 local specialty care providers, and who instead receive treatment  
5 from their primary care providers. Services must be offered by  
6 regionally based and multipractice shared mental health service  
7 providers who deliver in person and over the telephone the following  
8 services upon primary care request:

- 9 (i) Evaluation and diagnostic support;
- 10 (ii) Individual patient care progress tracking;
- 11 (iii) Behavior management coaching; and
- 12 (iv) Other evidence supported psychosocial care supports which  
13 are delivered as an early and easily accessed intervention for  
14 families.

15 (b) The PAL team of child psychiatrists and psychologists shall  
16 provide mental health service providers with training and support,  
17 weekly care plan reviews and support on their caseloads, direct  
18 patient evaluations for selected enhanced assessments, and must  
19 utilize a shared electronic reporting and tracking system to ensure  
20 that children not improving are identified as such and helped to  
21 receive additional services. The PAL team shall promote the  
22 appropriate use of cognitive behavioral therapies and other  
23 treatments which are empirically supported or evidence-based and  
24 encourage providers to use psychotropic medications as a last resort.

25 (3)(a) The health care authority shall monitor PAL plus service  
26 outcomes, including, but not limited to:

- 27 (i) Characteristics of the population being served;
- 28 (ii) Process measures of service utilization;
- 29 (iii) Behavioral health symptom rating scale outcomes of  
30 individuals and aggregate rating scale outcomes of populations of  
31 children served;
- 32 (iv) Claims data comparison of implementation versus  
33 nonimplementation regions;
- 34 (v) Service referral patterns to local specialty mental health  
35 care providers; and
- 36 (vi) Family and provider feedback.

37 (b) By December 31, 2017, the health care authority shall make a  
38 preliminary evaluation of the viability of a statewide PAL plus  
39 service program and report to the appropriate committees of the  
40 legislature, with a final evaluation report due by December 31, 2018.

1 The final report must include recommendations on sustainability and  
2 leveraging funds through behavioral health and managed care  
3 organizations.

4 (4) This section expires December 31, 2019.

5 **Sec. 5.** RCW 74.09.520 and 2015 1st sp.s. c 8 s 2 are each  
6 amended to read as follows:

7 (1) The term "medical assistance" may include the following care  
8 and services subject to rules adopted by the authority or department:  
9 (a) Inpatient hospital services; (b) outpatient hospital services;  
10 (c) other laboratory and X-ray services; (d) nursing facility  
11 services; (e) physicians' services, which shall include prescribed  
12 medication and instruction on birth control devices; (f) medical  
13 care, or any other type of remedial care as may be established by the  
14 secretary or director; (g) home health care services; (h) private  
15 duty nursing services; (i) dental services; (j) physical and  
16 occupational therapy and related services; (k) prescribed drugs,  
17 dentures, and prosthetic devices; and eyeglasses prescribed by a  
18 physician skilled in diseases of the eye or by an optometrist,  
19 whichever the individual may select; (l) personal care services, as  
20 provided in this section; (m) hospice services; (n) other diagnostic,  
21 screening, preventive, and rehabilitative services; and (o) like  
22 services when furnished to a child by a school district in a manner  
23 consistent with the requirements of this chapter. For the purposes of  
24 this section, neither the authority nor the department may cut off  
25 any prescription medications, oxygen supplies, respiratory services,  
26 or other life-sustaining medical services or supplies.

27 "Medical assistance," notwithstanding any other provision of law,  
28 shall not include routine foot care, or dental services delivered by  
29 any health care provider, that are not mandated by Title XIX of the  
30 social security act unless there is a specific appropriation for  
31 these services.

32 (2) The department shall adopt, amend, or rescind such  
33 administrative rules as are necessary to ensure that Title XIX  
34 personal care services are provided to eligible persons in  
35 conformance with federal regulations.

36 (a) These administrative rules shall include financial  
37 eligibility indexed according to the requirements of the social  
38 security act providing for medicaid eligibility.

1 (b) The rules shall require clients be assessed as having a  
2 medical condition requiring assistance with personal care tasks.  
3 Plans of care for clients requiring health-related consultation for  
4 assessment and service planning may be reviewed by a nurse.

5 (c) The department shall determine by rule which clients have a  
6 health-related assessment or service planning need requiring  
7 registered nurse consultation or review. This definition may include  
8 clients that meet indicators or protocols for review, consultation,  
9 or visit.

10 (3) The department shall design and implement a means to assess  
11 the level of functional disability of persons eligible for personal  
12 care services under this section. The personal care services benefit  
13 shall be provided to the extent funding is available according to the  
14 assessed level of functional disability. Any reductions in services  
15 made necessary for funding reasons should be accomplished in a manner  
16 that assures that priority for maintaining services is given to  
17 persons with the greatest need as determined by the assessment of  
18 functional disability.

19 (4) Effective July 1, 1989, the authority shall offer hospice  
20 services in accordance with available funds.

21 (5) For Title XIX personal care services administered by aging  
22 and disability services administration of the department, the  
23 department shall contract with area agencies on aging:

24 (a) To provide case management services to individuals receiving  
25 Title XIX personal care services in their own home; and

26 (b) To reassess and reauthorize Title XIX personal care services  
27 or other home and community services as defined in RCW 74.39A.009 in  
28 home or in other settings for individuals consistent with the intent  
29 of this section:

30 (i) Who have been initially authorized by the department to  
31 receive Title XIX personal care services or other home and community  
32 services as defined in RCW 74.39A.009; and

33 (ii) Who, at the time of reassessment and reauthorization, are  
34 receiving such services in their own home.

35 (6) In the event that an area agency on aging is unwilling to  
36 enter into or satisfactorily fulfill a contract or an individual  
37 consumer's need for case management services will be met through an  
38 alternative delivery system, the department is authorized to:

39 (a) Obtain the services through competitive bid; and



1 (b) Provide the services directly until a qualified contractor  
2 can be found.

3 (7) Subject to the availability of amounts appropriated for this  
4 specific purpose, the authority may offer medicare part D  
5 prescription drug copayment coverage to full benefit dual eligible  
6 beneficiaries.

7 (8) Effective January 1, 2016, the authority shall require  
8 universal screening and provider payment for autism and developmental  
9 delays as recommended by the bright futures guidelines of the  
10 American academy of pediatrics, as they existed on August 27, 2015.  
11 This requirement is subject to the availability of funds.

12 (9) Effective January 1, 2017, the authority shall require  
13 universal annual screening and provider payment for depression for  
14 children ages eleven through twenty-one as recommended by the bright  
15 futures guidelines of the American academy of pediatrics, as they  
16 existed on January 1, 2016. This requirement is subject to the  
17 availability of funds.

18 NEW SECTION. Sec. 6. (1) The joint legislative audit and review  
19 committee shall conduct an inventory of the mental health service  
20 models available to students in schools, school districts, and  
21 educational service districts and report its findings by October 31,  
22 2016. The report must be submitted to the appropriate committees of  
23 the house of representatives and the senate, in accordance with RCW  
24 43.01.036.

25 (2) The committee must perform the inventory using data that is  
26 already collected by schools, school districts, and educational  
27 service districts. The committee must not collect or review student-  
28 level data and must not include student-level data in the report.

29 (3) The inventory and report must include information on the  
30 following:

31 (a) How many students are served by mental health services funded  
32 with nonbasic education appropriations in each school, school  
33 district, or educational service district;

34 (b) How many of these students are participating in medicaid  
35 programs;

36 (c) How the mental health services are funded, including federal,  
37 state, local, and private sources;

38 (d) Information on who provides the mental health services,  
39 including district employees and contractors; and

1 (e) Any other available information related to student access and  
2 outcomes.

3 (4) This section expires July 1, 2017.

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

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