SENATE BILL REPORT
2SHB 2572

As Reported by Senate Committee On:
Human Services & Corrections, February 23, 2018

Title: An act relating to removing health coverage barriers to accessing substance use disorder treatment services.

Brief Description: Removing health coverage barriers to accessing substance use disorder treatment services.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Cody, Macri, Jinkins, Kagi, Wylie, Slatter, Tharinger, Ormsby and Robinson).

Brief History: Passed House: 2/13/18, 98-0.
Committee Activity: Human Services & Corrections: 2/22/18, 2/23/18 [DPA-WM].

Brief Summary of Amended Bill

- Requires health plans and/or behavioral health organizations (BHOs) to cover the first 24-hours of certain substance use disorder (SUD) treatments, without prior authorization or utilization management review, to the extent that the treatment services are covered benefits.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Darneille, Chair; Dhingra, Vice Chair; O'Ban, Ranking Member; Carlyle, Frockt and Miloscia.

Staff: Keri Waterland (786-7490)

Background: The Substance Abuse and Mental Health Services Administration's National Survey on Drug Use and Health reported that in 2014, about 21.5 million Americans ages 12 and older—8.1 percent—were classified with an SUD in the past year. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) is the tool used by qualified professionals to diagnose SUDs. SUDs are defined as mild, moderate, or severe to indicate the level of severity, and is determined by the number of diagnostic criteria met by an individual. SUDs are diagnosed when the recurrent use of alcohol and/or drugs causes

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clinically and functionally significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home. According to the DSM-5, a diagnosis of SUD is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria. Treatments and supportive services for SUDs are tailored to fit the severity of the SUD and the individual's needs. Treatment for SUDs may be comprised of multiple service components, including some or all of the following:

- individual and group counseling;
- inpatient and residential treatment;
- intensive outpatient treatment;
- partial hospital programs; and
- medication assisted treatment.

Persons covered by medical assistance programs receive coverage through BHOs which oversee the delivery of mental health and SUD services for adults and children in a particular geographic region. By 2020, the responsibility for providing these services will transfer to Medicaid managed care organizations. The federal Patient Protection and Affordable Care Act requires most individual and small group market health plans to provide coverage for mental health and SUD treatment services. Under Washington State rules, coverage must include outpatient and inpatient services to evaluate, diagnose, and treat an SUD. State law also requires most state-regulated health plans to cover treatment for SUDs as provided by a treatment plan approved by the Department of Social and Health Services. State employees receive health care through the Public Employees Benefits Board, an entity within the Health Care Authority. Coverage options include outpatient services and residential treatment for SUDs.

A health plan means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services, with exceptions, including but not limited to the following:

- long-term care insurance;
- Medicare supplemental health insurance;
- disability income;
- workers' compensation coverage;
- accident only coverage;
- dental only and vision only coverage; and
- plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan while the covered person is enrolled as a regular full-time undergraduate or graduate student.

Summary of Amended Bill: For the first 24 hours after an individual presents or is referred for SUD services, and to the extent that the individual's health plan includes these covered benefits, health plans and/or BHOs must cover the following services:

- inpatient hospital detoxification;
- residential subacute detoxification;
- inpatient hospital SUD treatment;
- residential SUD treatment;
- partial hospitalization SUD treatment; and
- intensive outpatient SUD treatment.

Health plans and/or BHOs must not impose utilization management review limitations, including prior authorization requirements, for the first 24 hours in which any of the above services are provided. Individuals may seek emergency medical care requiring stabilization or acute detoxification services from an emergency department or urgent care center without prior authorization.

A treatment facility or program located in Washington State must be licensed or certified by the Department of Health. Treatment facilities or programs in all other states must be licensed or certified by an agency authorized to issue those credentials. If the enrollee or client is covered by a health plan as defined in chapter 41.05 RCW or a BHO the treatment facilities or programs must make a good faith effort to confirm and document that a third party did not persuade the individual to seek treatment in exchange for payment of goods, nonmedical or mental health services, or monies, if an individual presents without a referral from a hospital or provider. If the enrollee or client is covered by a health plan as defined in chapter 48.43, treatment facilities or programs must make a good faith effort to confirm and document that neither they nor any third party persuaded the individual to seek treatment in exchange for payment of goods, nonmedical or mental health services, or monies, if an individual presents without a referral from a hospital or provider. The treatment facility or program must notify the individual's health plan and/or BHO of admission no later than 24 hours after admission. The notice must be accompanied by the facility or program's initial assessment, basis for referral, and initial planned services. The health plan and/or BHO may initiate a utilization review of the need for services after the notice of admission is received and the initial 24 hour period has passed. Any services received by the individual after the initial 24 hours have passed may be subject to utilization management review.

If the treatment facility or program is part of the health plan and/or BHO provider network, the health plan and/or BHO must conduct any prior authorization or other utilization management review on an urgent, expedited basis within 24 hours of receipt of all necessary documentation. If the treatment facility or program is not part of the health plan and/or BHO provider network, the health plan and/or BHO must inform the individual and the individual's attending physician that the facility is not in the provider network, and whether out-of-network coverage is available. Health plans and/or BHOs are not required to include out-of-network coverage. If the health plan as defined in chapter 41.05 RCW or a BHO covers out-of-network services, and the individual is admitted to an out-of-network facility or program located in Washington, the health plan must pay for a covered mode of transfer to an in-network facility or program without requiring payment or cost sharing from the individual. If the health plan as defined in chapter 48.43 RCW does not cover out-of-network services, and the individual is admitted to an out-of-network facility or program located in Washington, the health plan must pay for a covered mode of transfer to an in-network facility or program without requiring payment or cost sharing from the individual. The in-network provider must provide the transportation. A health plan and/or BHO is not required to cover transportation from an out-of-state treatment program or facility if the individual chooses to transfer to an in-state, in-network provider.

Health plans and BHOs must use evidence-based criteria for assessing the medical necessity and clinical appropriateness of an individual's need for SUD inpatient treatment. If a health plan as defined in chapter 41.05 RCW and/or BHO determines that admission to inpatient SUD treatment was not medically necessary or clinically appropriate, the health plan and/or

BHO is not required to pay the facility or program for the services delivered after the initial 24 hour admission period. If a health plan as defined in chapter 48.43 RCW determines that any SUD admission or any of the following: inpatient hospital detoxification, residential subacute detoxification, inpatient hospital SUD treatment, residential SUD treatment, partial hospitalization SUD treatment or, intensive outpatient SUD treatment was not medically necessary or clinically appropriate, the health plan is not required to pay the facility or program for the services delivered after the initial 24 hour admission period. The health plan and/or BHO must fully coordinate the arrangements for assuring that the individual obtains the proper medically necessary or clinically appropriate care, if the facility or program's assessment, plan of care, and the utilization review process identify a need for services other than those available at the inpatient SUD treatment facility or program. A health plan and/or BHO may identify and contact an available program or facility that offers the medically necessary or clinically appropriate care, assist with arranging the admission or initial appointment between the individual and the provider, assist with the transfer of health records including the initial evaluation and plan of care, and conduct other activities to facilitate a seamless transition to the appropriate level of care.

EFFECT OF HUMAN SERVICES & CORRECTIONS COMMITTEE AMENDMENT (S):

- Adds the treatment facility or program as entities that must also confirm and document that they did not induce the enrollee to seek treatment in exchange for payment of goods, nonmedical or mental health services, or moneys, provided either to the enrollee or the third party, in chapter 48.43 RCW.
- Changes that if the health plan as defined in RCW 48.43.005 does not cover out-of-network services, and the enrollee is admitted to an out-of-network facility or program located in Washington, the health plan must pay for a covered mode of transfer to an in-network facility or program without requiring payment or cost sharing from the enrollee.
- Clarifies that if a health plan as defined in RCW 48.43.005 determines that the admission to inpatient hospital detoxification, residential subacute detoxification, inpatient hospital substance use disorder treatment, residential substance use disorder treatment, partial hospitalization substance use disorder treatment, or intensive outpatient substance use disorder treatment was not medically necessary or clinically appropriate, the health plan is not required to pay the facility or program for the services delivered after the initial twenty-four hour admission period, not only inpatient substance use disorder treatment.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This is a step

forward and makes improvements to the system. It provides no wrong door and decreases barriers to people getting access to treatment. Many people are turned away because they are told they need to be preauthorized or referred. That does not work in crisis or when someone is ready to get better. When someone is ready for treatment, barriers can be discouraging. We are offering amendments that we believe make technical fixes to the bill.

CON: This bill is necessary because we already follow WACs that guide the placement, determination, and timing of CD treatment. This bill should contain references to ASAM criteria. Often providers and insurance companies do not agree on what is medically necessary. Twenty-four hours in not long enough to determine the best course of treatment, often this can take up to 14 days or longer.

OTHER: Other options should be considered such as improving access to longer term outpatient options and working to have more professionals. Providers have some concerns that need to be given attention.

Persons Testifying: PRO: Representative Eileen Cody, Prime Sponsor; Steve Gano, Premera Blue Cross.

CON: Linda Grant, Association of Alcoholism & Addiction Programs & Evergreen; Scott Munson, CEO, Sundown M Ranch; Michael Transue, Seattle Drug and Narcotic Treatment Center.

OTHER: Meg Jones, Association of Washington Healthcare Plans.

Persons Signed In To Testify But Not Testifying: No one.