
SUBSTITUTE SENATE BILL 5779

State of Washington 65th Legislature 2017 Regular Session

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

READ FIRST TIME 02/17/17.

1 AN ACT Relating to behavioral health integration in primary care;
2 amending RCW 74.09.010 and 70.320.020; adding new sections to chapter
3 74.09 RCW; creating new sections; and repealing RCW 18.205.040.

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

5 NEW SECTION. **Sec. 1.** Health transformation in Washington state
6 requires a multifaceted approach to implement sustainable solutions
7 for the integration of behavioral and physical health. Effective
8 integration requires a holistic approach and cannot be limited to one
9 strategy or model. An important component to health care integration
10 supported both by research and experience in Washington is primary
11 care behavioral health, a model in which behavioral health providers,
12 sometimes called behavioral health consultants, are fully integrated
13 in primary care. The primary care behavioral health model originated
14 more than two decades ago, has become standard practice nationally in
15 patient centered medical homes, and has been endorsed as a viable
16 integration strategy by Washington's Dr. Robert J. Bree
17 Collaborative.

18 Primary care settings are a gateway for many individuals with
19 behavioral health and primary care needs. An estimated one in four
20 primary care patients have an identifiable behavioral health need and
21 as many as seventy percent of primary care visits are impacted by a

1 psychosocial component. A behavioral health consultant engages
2 primary care patients and their caregivers on the same day as a
3 medical visit, often in the same exam room. This warm hand-off
4 approach fosters coordinated whole-person care, increases access to
5 behavioral health services, and reduces stigma and cultural barriers
6 in a cost-effective manner. Patients are provided evidence-based
7 brief interventions and skills training, with more severe needs being
8 effectively engaged, assessed, and referred to appropriate
9 specialized care.

10 While the benefits of primary care behavioral health are not
11 restricted to children, the primary care behavioral health also
12 provides a unique opportunity to engage children who have a strong
13 relationship with primary care, identify problems early, and assure
14 healthy development. Investment in primary care behavioral health
15 creates opportunities for prevention and early detection that pay
16 dividends throughout the life cycle.

17 Providers in Washington need guidance on how to effectively
18 integrate behavioral health services into primary care practices in a
19 manner that is also financially sustainable. Payment methodologies
20 must be scrutinized to remove nonessential restrictions and
21 limitations that restrict the scope of practice of behavioral health
22 professionals, impede same-day billing for behavioral health and
23 primary care services, abet billing errors, and stymie innovation
24 that supports wellness and health integration.

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

27 (1) By August 1, 2017, the authority must complete a review of
28 payment codes available to health plans and providers related to
29 behavioral health. The review must include adjustments to payment
30 rules if needed to facilitate integration of behavioral health with
31 primary care. The review must involve stakeholder involvement and
32 include consideration of the following principles to the extent
33 allowed by federal law:

34 (a) Payment rules must allow professionals to operate within the
35 full scope of their practice;

36 (b) Payment rules should allow medically necessary behavioral
37 health services for covered patients to be provided in any setting;

38 (c) Payment rules and provider communications related to payment
39 should facilitate integration of physical and behavioral health

1 services through multifaceted models, including primary care
2 behavioral health, collaborative care, and other models;

3 (d) Payment rules should be designed liberally to encourage
4 innovation and ease future transitions to more integrated models of
5 payment and more integrated models of care;

6 (e) Payment rules should allow health and behavior codes to be
7 reimbursed for all patients in primary care settings as provided by
8 any licensed behavioral health professional operating within their
9 scope of practice, including but not limited to psychiatrists,
10 psychologists, psychiatric advanced registered nurse professionals,
11 physician assistants working with a supervising psychiatrist,
12 psychiatric nurses, mental health counselors, social workers,
13 chemical dependency professionals, chemical dependency professional
14 trainees, marriage and family therapists, and mental health counselor
15 associates under the supervision of a licensed clinician;

16 (f) Payment rules which limit same-day billing for providers
17 using the same provider number, require prior authorization for low-
18 level or routine behavioral health care, or prohibit payment when the
19 patient is not present should be deployed only when consistent with
20 national coding conventions and consonant with accepted best
21 practices in the field.

22 (2) Concurrent with the review described in subsection (1) of
23 this section, the authority must create a matrix listing all
24 behavioral health related codes available for provider payment
25 through medical assistance programs and clearly explain applicable
26 payment rules in order to increase awareness among providers,
27 standardize billing practices, and reduce common and avoidable
28 billing errors. The authority must disseminate this information in a
29 manner calculated to maximally reach all relevant plans and
30 providers. The authority must update the provider billing guide to
31 maintain consistency of information.

32 (3) The authority must inform the governor and relevant
33 committees of the legislature by letter of the steps taken pursuant
34 to this section and results achieved once the work has been
35 completed.

36 **Sec. 3.** RCW 74.09.010 and 2013 2nd sp.s. c 10 s 8 are each
37 amended to read as follows:

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

1 (1) "Authority" means the Washington state health care authority.

2 (2) "Children's health program" means the health care services
3 program provided to children under eighteen years of age and in
4 households with incomes at or below the federal poverty level as
5 annually defined by the federal department of health and human
6 services as adjusted for family size, and who are not otherwise
7 eligible for medical assistance or the limited casualty program for
8 the medically needy.

9 (3) "Chronic care management" means the health care management
10 within a health home of persons identified with, or at high risk for,
11 one or more chronic conditions. Effective chronic care management:
12 (a) Actively assists patients to acquire self-care skills to
13 improve functioning and health outcomes, and slow the progression of
14 disease or disability;
15 (b) Employs evidence-based clinical practices;
16 (c) Coordinates care across health care settings and providers,
17 including tracking referrals;
18 (d) Provides ready access to behavioral health services that are,
19 to the extent possible, integrated with primary care; and
20 (e) Uses appropriate community resources to support individual
21 patients and families in managing chronic conditions.

22 (4) "Chronic condition" means a prolonged condition and includes,
23 but is not limited to:
24 (a) A mental health condition;
25 (b) A substance use disorder;
26 (c) Asthma;
27 (d) Diabetes;
28 (e) Heart disease; and
29 (f) Being overweight, as evidenced by a body mass index over
30 twenty-five.

31 (5) "County" means the board of county commissioners, county
32 council, county executive, or tribal jurisdiction, or its designee.

33 (6) "Department" means the department of social and health
34 services.

35 (7) "Department of health" means the Washington state department
36 of health created pursuant to RCW 43.70.020.

37 (8) "Director" means the director of the Washington state health
38 care authority.

39 (9) "Full benefit dual eligible beneficiary" means an individual
40 who, for any month: Has coverage for the month under a medicare

1 prescription drug plan or medicare advantage plan with part D
2 coverage; and is determined eligible by the state for full medicaid
3 benefits for the month under any eligibility category in the state's
4 medicaid plan or a section 1115 demonstration waiver that provides
5 pharmacy benefits.

6 (10) "Health home" or "primary care health home" means
7 coordinated health care provided by a licensed primary care provider
8 coordinating all medical care services, and a multidisciplinary
9 health care team comprised of clinical and nonclinical staff. The
10 term "coordinating all medical care services" shall not be construed
11 to require prior authorization by a primary care provider in order
12 for a patient to receive treatment for covered services by an
13 optometrist licensed under chapter 18.53 RCW. Primary care health
14 home services shall include those services defined as health home
15 services in 42 U.S.C. Sec. 1396w-4 and, in addition, may include, but
16 are not limited to:

17 (a) Comprehensive care management including, but not limited to,
18 chronic care treatment and management;

19 (b) Extended hours of service;

20 (c) Multiple ways for patients to communicate with the team,
21 including electronically and by phone;

22 (d) Education of patients on self-care, prevention, and health
23 promotion, including the use of patient decision aids;

24 (e) Coordinating and assuring smooth transitions and follow-up
25 from inpatient to other settings;

26 (f) Individual and family support including authorized
27 representatives;

28 (g) The use of information technology to link services, track
29 tests, generate patient registries, and provide clinical data; and

30 (h) Ongoing performance reporting and quality improvement.

31 (11) "Internal management" means the administration of medical
32 assistance, medical care services, the children's health program, and
33 the limited casualty program.

34 (12) "Limited casualty program" means the medical care program
35 provided to medically needy persons as defined under Title XIX of the
36 federal social security act, and to medically indigent persons who
37 are without income or resources sufficient to secure necessary
38 medical services.

1 (13) "Medical assistance" means the federal aid medical care
2 program provided to categorically needy persons as defined under
3 Title XIX of the federal social security act.

4 (14) "Medical care services" means the limited scope of care
5 financed by state funds and provided to persons who are not eligible
6 for medicaid under RCW 74.09.510 and who are eligible for the aged,
7 blind, or disabled assistance program authorized in RCW 74.62.030 or
8 the essential needs and housing support program pursuant to RCW
9 74.04.805.

10 (15) "Multidisciplinary health care team" means an
11 interdisciplinary team of health professionals which may include, but
12 is not limited to, medical specialists, nurses, pharmacists,
13 nutritionists, dieticians, social workers, behavioral and mental
14 health providers including substance use disorder prevention and
15 treatment providers, doctors of chiropractic, physical therapists,
16 licensed complementary and alternative medicine practitioners, home
17 care and other long-term care providers, and physicians' assistants.

18 (16) "Nursing home" means nursing home as defined in RCW
19 18.51.010.

20 (17) "Poverty" means the federal poverty level determined
21 annually by the United States department of health and human
22 services, or successor agency.

23 (18) "Primary care behavioral health" means a health care
24 integration model in which behavioral health care is colocated,
25 collaborative, and integrated within a primary care setting.

26 (19) "Primary care provider" means a general practice physician,
27 family practitioner, internist, pediatrician, (~~osteopath~~)
28 osteopathic physician, naturopath, physician assistant, osteopathic
29 physician assistant, and advanced registered nurse practitioner
30 licensed under Title 18 RCW.

31 (~~(19)~~) (20) "Secretary" means the secretary of social and
32 health services.

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

35 Subject to the availability of amounts appropriated for this
36 specific purpose, in order to increase the availability of behavioral
37 health services and incentivize adoption of the primary care
38 behavioral health model, the authority must establish a methodology
39 and rate which provides increased reimbursement to providers for

1 behavioral health services provided to patients in primary care
2 settings.

3 **Sec. 5.** RCW 70.320.020 and 2014 c 225 s 107 are each amended to
4 read as follows:

5 (1) The authority and the department shall base contract
6 performance measures developed under RCW 70.320.030 on the following
7 outcomes when contracting with service contracting entities:
8 Improvements in client health status and wellness; increases in
9 client participation in meaningful activities; reductions in client
10 involvement with criminal justice systems; reductions in avoidable
11 costs in hospitals, emergency rooms, crisis services, and jails and
12 prisons; increases in stable housing in the community; improvements
13 in client satisfaction with quality of life; and reductions in
14 population-level health disparities.

15 (2) The performance measures must demonstrate the manner in which
16 the following principles are achieved within each of the outcomes
17 under subsection (1) of this section:

18 (a) Maximization of the use of evidence-based practices will be
19 given priority over the use of research-based and promising
20 practices, and research-based practices will be given priority over
21 the use of promising practices. The agencies will develop strategies
22 to identify programs that are effective with ethnically diverse
23 clients and to consult with tribal governments, experts within
24 ethnically diverse communities and community organizations that serve
25 diverse communities;

26 (b) The maximization of the client's independence, recovery, and
27 employment;

28 (c) The maximization of the client's participation in treatment
29 decisions; and

30 (d) The collaboration between consumer-based support programs in
31 providing services to the client.

32 (3) In developing performance measures under RCW 70.320.030, the
33 authority and the department shall consider expected outcomes
34 relevant to the general populations that each agency serves. The
35 authority and the department may adapt the outcomes to account for
36 the unique needs and characteristics of discrete subcategories of
37 populations receiving services, including ethnically diverse
38 communities.

1 (4) The authority and the department shall coordinate the
2 establishment of the expected outcomes and the performance measures
3 between each agency as well as each program to identify expected
4 outcomes and performance measures that are common to the clients
5 enrolled in multiple programs and to eliminate conflicting standards
6 among the agencies and programs.

7 (5)(a) The authority and the department shall establish timelines
8 and mechanisms for service contracting entities to report data
9 related to performance measures and outcomes, including phased
10 implementation of public reporting of outcome and performance
11 measures in a form that allows for comparison of performance measures
12 and levels of improvement between geographic regions of Washington.

13 (b) The authority and the department may not release any public
14 reports of client outcomes unless the data (~~(have-[has])~~) has been
15 deidentified and aggregated in such a way that the identity of
16 individual clients cannot be determined through directly identifiable
17 data or the combination of multiple data elements.

18 (6) The authority and department must establish a performance
19 measure to be integrated into the statewide common measure set which
20 tracks effective integration practices of behavioral health services
21 in primary care settings.

22 NEW SECTION. Sec. 6. RCW 18.205.040 (Use of title) and 2014 c
23 225 s 108, 2008 c 135 s 17, & 1998 c 243 s 4 are each repealed.

24 NEW SECTION. Sec. 7. This act may be known and cited as the
25 youth behavioral health protection act.

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