

HOUSE BILL REPORT

HB 1393

As Reported by House Committee On:
Health Care & Wellness
Appropriations

Title: An act relating to fully implementing behavioral health integration for January 1, 2020, by removing behavioral health organizations from law.

Brief Description: Concerning fully implementing behavioral health integration for January 1, 2020, by removing behavioral health organizations from law; clarifying the roles and responsibilities among the health care authority, department of social and health services, and department of health, and the roles and responsibilities of behavioral health administrative services organizations and medicaid managed care organizations; and making technical corrections related to the behavioral health system.

Sponsors: Representatives Cody, Jinkins, Macri, Harris, Robinson, Goodman, Tharinger, Slatter, Valdez, Pollet and Ortiz-Self; by request of Office of the Governor.

Brief History:

Committee Activity:

Health Care & Wellness: 1/29/19, 2/19/19 [DP];
Appropriations: 2/27/19, 2/28/19 [DPS].

Brief Summary of Substitute Bill

- Eliminates behavioral health organizations and divides their responsibilities between behavioral health administrative service organizations to administer crisis services and non-Medicaid services, and managed care organizations to provide behavioral health services to Medicaid enrollees.
- Establishes a work group to determine how to manage access to adult long-term inpatient involuntary care in the community and in state hospitals.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 13 members: Representatives Cody, Chair; Macri, Vice Chair; Caldier, Assistant Ranking Minority Member; Chambers, Davis, Harris, Jinkins, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

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.

Minority Report: Do not pass. Signed by 2 members: Representatives Schmick, Ranking Minority Member; DeBolt.

Staff: Chris Blake (786-7392).

Background:

Except in regional service areas with fully integrated medical care, the Health Care Authority (Authority) contracts with behavioral health organizations (BHOs) to oversee the delivery of services related to mental health and substance use disorders, collectively known as behavioral health, for adults and children. The BHOs provide services to Medicaid enrollees and limited services to non-Medicaid enrollees. The BHOs also administer the Involuntary Treatment Act and associated crisis services. A BHO may be a county, group of counties, or a nonprofit or for-profit entity. Each BHO provides services for counties within the boundaries of the regional service area in which it operates. Regional services areas are 10 geographic areas used by the Authority for purchasing health care services across the state.

The Authority also provides medical care services to eligible low-income state residents and their families, primarily through the Medicaid program. Coverage for medical services is provided through fee-for-service and managed care systems. Managed care is a prepaid, comprehensive system for delivering a complete medical benefits package that is available for eligible families, children under age 19, low-income adults, certain disabled individuals, and pregnant women.

In 2014 legislation was enacted that requires that all behavioral health services and medical care services be fully integrated in a managed care health system for Medicaid clients. Statewide full integration is required to occur by January 1, 2020, however, counties were authorized to shift services to a fully integrated system beginning January 1, 2016. As of January 2019, six of the 10 regional service areas had adopted a fully integrated medical care model.

Summary of Bill:

The responsibilities of behavioral health organizations (BHOs) to oversee the delivery of services for mental health and substance use disorders, collectively known as behavioral health, is divided between either behavioral health administrative services organizations (BHASOs) or managed care organizations (MCOs). After January 1, 2020, the BHOs will no longer exist.

Functions and Responsibilities Specific to a Behavioral Health Administrative Service Organizations.

A "BHASO" is defined as an entity contracted with the Health Care Authority (Authority) to administer behavioral health services and programs for all individuals within a regional service area, including crisis services and the administration of the Involuntary Treatment Act.

A BHASO may be established by a county or group of counties submitting a request to contract with the Authority to operate a BHASO for the entire regional service area. All counties within the regional service area must mutually agree to enter into the contract with the Authority to become a BHASO. In the event of termination of the contract with the Authority, all counties within the regional service area must mutually agree to terminate it. A county or group of counties within the regional service area may create a provider organization. If a BHASO for a regional service area fails to meet the Authority's contracting requirements, the Authority shall act as the BHASO for the regional service area until another BHASO is designated.

The BHASOs must:

- administer crisis services within the regional service area, including a behavioral health crisis hotline; continuously available crisis response services; services related to involuntary commitments for adults and minors; noncrisis behavioral health services for persons meeting contract criteria; care coordination, diversion services, and discharge planning for persons who are not enrolled in Medicaid and are transitioning from state hospitals or inpatient settings; and regional, cross-system, and cross-jurisdictional coordination with tribal governments;
- administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, investigation, transportation, court-related services, and other services;
- coordinate planning services for individuals for discharge from long-term involuntary commitment;
- administer and provide for the availability of resource management services, residential services, and community support services;
- contract with a sufficient number of licensed or certified providers for crisis services and other behavioral health services;
- maintain adequate reserves;
- establish and maintain quality assurance processes;
- meet limitations on administrative costs for agencies that contract with BHASOs;
- maintain patient tracking information;
- collaborate with local government entities to avoid shifts of persons with mental illness into correctional facilities;
- assure that the special needs of older adults, individuals with disabilities, children, and low-income persons are met; and
- work to expedite the enrollment of persons leaving correctional facilities and institutions for mental disease.

The BHASOs are responsible for providing services to clients who are not enrolled in Medicaid.

If there is no responsible party to pay for the legal costs for attorneys appointed for minors and adults under the Involuntary Treatment Act, the BHASOs is responsible for reimbursing the county.

Each BHASO must have an ombuds program that is independent of the BHASO and MCO.

Functions and Responsibilities Specific to a Managed Care Organization.

An "MCO" is defined as an organization with a certificate from the Office of the Insurance Commissioner that contracts with the Authority under a comprehensive risk contract to provide prepaid health care services to persons enrolled in managed care programs under Medical Assistance.

An MCO must have a sufficient network of providers to provide adequate access to behavioral health services for the residents of the regional service area. An MCO must maintain quality assurance processes. An MCO must contract with the BHASO within the regional service area for the administration of crisis services. The MCO must reimburse the BHASO for behavioral health crisis services provided to the MCO's enrollees.

Shared Functions and Responsibilities.

The Authority must establish a work group to determine how to manage access to adult long-term inpatient involuntary care in the community and at Eastern State Hospital and Western State Hospital. The work group shall provide its recommendations to the Office of Financial Management and the appropriate committees of the Legislature by December 15, 2019.

The Authority must establish a committee to provide ongoing coordination between state agencies, the counties, and the BHASOs to coordinate the behavioral health system. The committee must meet quarterly to address systemic issues. The committee includes representatives from the Authority, the Department of Social and Health Services, the Department of Health, the Office of the Governor, one representative from the BHASO per regional service area, and one county representative per regional service area.

The BHASO must collaborate with the Authority and MCOs to develop and implement strategies to coordinate care with tribes and community behavioral health providers for persons with a history of frequent crisis system utilization.

The BHASOs and MCOs must develop agreements with tribal, city, and county jails to accept referrals for the enrollment of confined persons prior to their release.

The BHASOs and MCOs must provide services to persons who are involuntarily committed under a less restrictive alternative if the person is either enrolled in Medicaid or is not enrolled in Medicaid or any other insurance programs and the BHASO has adequate available resources to provide the services.

Each MCO must work closely with designated crisis responders, BHASOs, and behavioral health providers to maximize the appropriate placement of enrollees in appropriate community services while ensuring that the enrollee receives the least restrictive level of care appropriate for the enrollee's condition.

The Authority must contract not only with counties, but also with BHASOs and MCOs to provide substance use disorder services ordered by a court.

If the counties within a regional service area have established an interlocal leadership structure to design and implement the fully integrated managed care model for the regional service area, tribes must be included in the interlocal leadership structure or its committees. If there is no interlocal leadership structure for the regional service area, the roles of the BHASOs, MCOs, counties, and tribes shall be determined by the Authority through negotiations with the tribes.

Additional Provisions.

The Authority must annually review and monitor the expenditures made by counties that are funded with the Criminal Justice Treatment Account (Account). Counties must repay any funds that are not spent in accordance with the Account requirements.

References to "chemical dependency" are changed to "substance use disorder." References to "designated mental health professional" and "designated chemical dependency specialist" are changed to "designated crisis responder."

Appropriation: None.

Fiscal Note: Requested on January 22, 2019.

Effective Date: The bill takes effect on January 1, 2020, except for section 2009, relating to petitions for 180-day involuntary commitments of minors, which takes effect July 1, 2026, and section 1003 relating to the establishment of a work group regarding the management of access to adult long-term inpatient involuntary care, which contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill fully implements the legislative mandate to fully integrate medical and behavioral health purchasing. This bill must pass this year to make sure that liability protections are shifted to account for purchasing moving from the Department of Social and Health Services to the Health Care Authority. This bill includes transparency for when a county seeks to be both a behavioral health administrative service organization (BHASO) and a provider. Integration of behavioral health services with medical services benefits the whole person. This bill will integrate previously separate care delivery systems so that a person's mental health is addressed in conjunction with their physical health. The ability to coordinate care for both physical and mental health supports Medicaid enrollees and will result in healthier individuals. This bill is needed because there is language throughout the statutes requiring vigilance to ensure that funds appropriated by the Legislature for community mental health services are used solely for that purpose. This bill is a great step forward in promoting integration at both the agency level and in communities.

As the managed care organizations (MCOs) take over, services may be withdrawn in rural areas because they are more expensive to serve, but the interlocal leadership councils can provide the early warning systems for when the system begins to collapse. The interlocal

leadership councils need to have a vigorous role in advising the MCOs and the BHASOs as they make informed decisions affecting rural customers.

There are concerns regarding behavioral health agencies coexisting with the same county entity as the BHASO. The bill needs to account for the fact that not all BHASOs will be county-based. There needs to be adequate assurances in the bill for the ongoing operations of county facilities because they are an integral part of the system. Counties and BHASOs should be included in the work groups. Reserves from behavioral health organizations (BHOs) should go to the BHASOs, rather than the Authority, to help pay for the transition of responsibilities and the non-Medicaid services and clients. The bill does not mention Involuntary Treatment Act related court costs being funded by the state; those are significant and should be included. Any metrics that apply to the BHASOs should also apply to the MCOs so that there can be a complete look at what is happening in the system. The requirement limiting administrative costs for BHOs to 10 percent of available funds should be restored.

(Opposed) None.

Persons Testifying: Rashi Gupta, Governor's Policy Office; Brad Banks, County Behavioral Health Organizations; Juliana Rowe, Washington State Association of Counties; Lindsey Grad, Service Employees International Union Healthcare 1199 Northwest; Meg Jones, Association of Washington Healthcare Plans; Michael Hatchett, Washington Council for Behavioral Health; Caitlin Safford; and Andrea Davis, Coordinated Care.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 32 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Andy Toulon (786-7178).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:

The Appropriations Committee recommended adding language providing that the bill is null and void if funding is not provided in the operating budget by June 30, 2019.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: This bill takes effect on January 1, 2020, except for section 2009, relating to petitions for 180-day involuntary commitments of minors, which takes effect July 1, 2026, and section 1003 relating to the establishment of a work group regarding the management of access to adult long-term inpatient involuntary care, which contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.