
Health Care & Wellness Committee

HB 2386

Brief Description: Creating the state office of the behavioral health ombuds.

Sponsors: Representatives Cody and Robinson.

Brief Summary of Bill

- Eliminates regional behavioral health ombuds services and establishes the State Office of the Behavioral Health Ombuds to coordinate the activities of behavioral health ombuds across the state.
- Directs the State Office of the Behavioral Health Ombuds to certify and coordinate the activities of behavioral health ombuds throughout the state.

Hearing Date: 1/14/20

Staff: Chris Blake (786-7392).

Background:

The Health Care Authority provides medical care services to eligible low-income state residents and their families, primarily through the Medicaid program. Coverage for medical services is primarily provided through 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. Since January 1, 2020, all behavioral health services and medical care services have been fully integrated in a managed care health system for most Medicaid clients.

While most Medicaid clients receive behavioral health services through a managed care health system, behavioral health administrative service organizations administer certain behavioral health services that are not covered by the managed health care system within a specific regional service area. There are 10 behavioral health administrative service organizations in Washington. The services provided by a behavioral health administrative service organization include maintaining continuously available crisis response services, administering services related to the

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involuntary commitment of adults and minors, coordinating planning for persons transitioning from long-term commitments, maintaining an adequate network of evaluation and treatment services, and providing services to non-Medicaid clients in accordance with contract criteria. In addition, each behavioral health administrative service organization must provide for an independent, separately-funded behavioral health ombuds office that maximizes the use of consumer advocates.

Summary of Bill:

Behavioral health ombuds offices that are supported by each behavioral health administrative services organization to serve a particular region are discontinued and replaced with the State Office of the Behavioral Health Ombuds. By January 1, 2021, the Department of Commerce must contract with a private nonprofit organization to provide behavioral health ombuds services and be designated as the State Office of the Behavioral Health Ombuds. The stated intent of the Legislature is that regional behavioral health ombuds programs be integrated into the statewide program and that regional ombuds be assessed and certified by the State Office of the Behavioral Health Ombuds.

The State Office of the Behavioral Health Ombuds is assigned several responsibilities in relation to patients, residents, and clients of behavioral health providers or facilities. A "behavioral health provider or facility" is defined to include:

- behavioral health providers, such as physicians, osteopathic physicians, physician assistants, osteopathic physician assistants, advanced registered nurse practitioners, registered nurses, psychologists, substance use disorder professionals, mental health counselors, social workers, and marriage and family therapists;
- licensed or certified behavioral health agencies;
- certain long-term care facilities in which adults or children reside;
- state hospitals; or
- facilities or agencies that receive funds from the state to provide residential or treatment services to adults or children with a behavioral health condition.

The State Office of the Behavioral Health Ombuds is authorized to:

- certify and coordinate the activities of the behavioral health ombuds throughout the state;
- establish procedures for appropriate access by behavioral health ombuds to behavioral health providers or facilities;
- establish a toll-free phone number, website, and other technology to facilitate access to ombuds services for patients, residents, and clients of behavioral health providers or facilities;
- establish a uniform reporting system to perform functions related to complaints, conditions, and service quality provided by behavioral health providers or facilities;
- establish procedures to protect the confidentiality of ombuds records of patients, residents, clients, providers, and complainants;
- monitor the development and implementation of laws and policies related to the provision of behavioral health services and advocate for consumers; and
- report to the Legislature and appropriate public agencies regarding the quality of services, complaints, problems for individuals receiving services from behavioral health providers or facilities, and any recommendations for improving services for behavioral health consumers.

In addition, the State Office of the Behavioral Health Ombuds must establish a statewide advisory council. The council's members must include individuals with a history of mental illness, individuals with a history of substance use disorder, family members of individuals with behavioral health needs, one or more representatives of an organization representing consumers of behavioral health services, one or more representatives of behavioral health providers or facilities, and other community representatives.

The State Office of the Behavioral Health Ombuds must develop a process to train and certify all behavioral health ombuds. Certified behavioral health ombuds must have training or experience in behavioral health and other related social services programs; the legal system; advocacy and supporting self-advocacy; dispute or problem resolution techniques; and all applicable patient, resident, and client rights. A certified behavioral health ombuds may not have been employed by a behavioral health provider or facility within the previous three years. Certified behavioral health ombuds and their family members may not have had a pecuniary interest in the provision of behavioral health services within the past three years.

Certified behavioral health ombuds are responsible for:

- identifying, investigating, and resolving complaints made by, or on behalf of, patients, residents, and clients of behavioral health providers or facilities involving administrative action, inaction, or decisions that may adversely affect the health, safety, welfare, and rights of these individuals;
- assisting and advocating on behalf of patients, residents, and clients of behavioral health providers or facilities through informal complaint resolution or formal grievance processes;
- informing patients, residents clients, family members, guardians, resident representatives, employees and others of the rights of patients and residents;
- monitoring the quality of services provided to patients, residents, and clients of behavioral health providers or facilities; and
- involving family members, friends, and other designated individuals in the complaint resolution process with the consent of the patient, resident, or client.

The State Office of the Behavioral Health Ombuds must develop procedures regarding the right of entry by certified behavioral health ombuds to behavioral health providers or facilities. The procedures must allow certified behavioral health ombuds to access patients, residents, and clients for the purpose of hearing, investigating, and resolving complaints, as well as monitoring the quality of services.

The State Office of the Behavioral Health Ombuds must develop procedures for certified behavioral health ombuds to refer complaints to the appropriate state or local agency. The State Office of the Behavioral Health Ombuds must develop working agreements to coordinate services with the protection and advocacy agency, the Long-Term Care Ombuds, the Developmental Disabilities Ombuds, the Corrections Ombuds, and the Children and Family Ombuds. The State Office of the Behavioral Health Ombuds must also develop working agreements with each managed care organization, state and private psychiatric hospitals, and all appropriate state and local agencies.

Behavioral health providers or facilities must post in a conspicuous location a notice providing the State Office of the Behavioral Health Ombuds' toll-free phone number and web site. The notice must also include the name, address, and phone number of the appropriate local behavioral health ombuds and a brief description of the available services. The information must also be provided to the patient, residents, and clients of behavioral health providers or facilities, as well as their family members and legal guardians, if appropriate, upon admission to a behavioral health facility.

Employees, volunteers, patients, residents, and clients of behavioral health providers or facilities are protected from discriminatory, disciplinary, or retaliatory action for good-faith communications made to a certified behavioral health ombuds, and the communications are deemed privileged and confidential. Certified behavioral health ombuds are not liable for the good-faith performance of their responsibilities. Records and files of the State Office of the Behavioral Health Ombuds and certified behavioral health ombuds related to complaints and investigations and the identities of complainants, witnesses, patients, residents, and clients are confidential, except by court order.

Appropriation: None.

Fiscal Note: Requested on January 10, 2020.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 15, relating to repealing regional behavioral health ombuds offices, which takes effect January 1, 2021.