
Health Care & Wellness Committee

HB 1086

Brief Description: Creating the state office of behavioral health consumer advocacy.

Sponsors: Representatives Simmons, Caldier, Bateman, Ortiz-Self, Shewmake, Ryu, Chopp, Cody, Goodman, Fey, Stonier, Macri, Fitzgibbon, Frame and Davis.

Brief Summary of Bill

- Eliminates regional behavioral health ombuds services and establishes the State Office of Behavioral Health Consumer Advocacy (SOBHCA) to coordinate the activities of behavioral health advocates across the state.
- Directs the SOBHCA to certify and coordinate the activities of behavioral health advocates throughout the state.
- Requires Medicaid managed care organizations to contract with the SOBHCA to reimburse it for behavioral health consumer advocacy services provided to their enrollees.

Hearing Date: 1/18/21

Staff: Christopher 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

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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 care health 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 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 Behavioral Health Consumer Advocacy (SOBHCA). By January 1, 2022, the Department of Commerce must contract with a private nonprofit organization to provide behavioral health consumer advocacy services and be designated as the SOBHCA. 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 SOBHCA.

The SOBHCA 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; and
- 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 SOBHCA is authorized to:

- certify and coordinate the activities of behavioral health consumer advocates throughout the state;
- establish procedures for access by behavioral health consumer advocates to behavioral health providers or facilities;
- establish a toll-free phone number, website, and other technology to facilitate access to

SOBHCA 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 SOBHCA 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 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 SOBHCA 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, representatives of an organization representing consumers of behavioral health services, representatives of behavioral health providers or facilities, peer counselors, medical clinicians and nonmedical providers serving individuals with behavioral health needs, a representative of a behavioral health administrative services organization, and other community representatives.

The SOBHCA must develop a process to train and certify all behavioral health consumer advocates. Certified behavioral health consumer advocates must have training or experience in behavioral health and related social services programs; the legal system; advocacy and supporting self-advocacy; dispute or problem resolution techniques; and patient, resident, and client rights. A certified behavioral health consumer advocate may not have been employed by a behavioral health provider or facility within the previous 12 months, except as a certified peer specialist. Certified behavioral health consumer advocates and their family members may not have had a significant ownership or financial interest in the provision of behavioral health services within the past 12 months.

Certified behavioral health consumer advocates 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 and formal processes;
- informing patients, residents clients, family members, guardians, resident representatives, employees and others of the rights of patients and residents;
- monitoring and making recommendations for improving 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.

There must be a behavioral health consumer advocate office within the boundaries of the region served by each behavioral health administrative services organization. Medicaid managed care organizations must contract with the SOBHCA to reimburse it for behavioral health consumer advocacy services provided to their enrollees.

The SOBHCA and certified behavioral health consumer advocates have the right of entry to behavioral health providers or facilities. The SOBHCA must develop policies and procedures to allow certified behavioral health consumer advocates to access patients, residents, and clients for the purpose of hearing, investigating, and resolving complaints, as well as monitoring the quality of services.

The SOBHCA must develop procedures for certified behavioral health consumer advocates to refer complaints to appropriate state or local agencies, in accordance with a mutually established working agreement. The SOBHCA 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 SOBHCA must also develop working agreements with each managed care organization, behavioral health administrative services organization, state and private psychiatric hospitals, and all relevant state and local agencies. Working agreements must that set the roles of the SOBHCA and the agencies, as well as the processes and procedures to assure timely and seamless information sharing.

Behavioral health providers or facilities must post a notice providing the SOBHCA's toll-free phone number and web site. The notice must also include the name, address, and phone number of the appropriate local behavioral health consumer advocate 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. Every behavioral health provider or facility must provide access to a free telephone for the purpose of contacting the SOBHCA.

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 consumer advocate, and the communications are deemed privileged and confidential. Certified behavioral health consumer advocates are not liable for the good-faith performance of their responsibilities. Records and files of the SOBHCA and certified behavioral health consumer advocates related to complaints and investigations and the identities of complainants, witnesses, patients, residents, and clients are confidential, except by court order. Representatives of the SOBHCA are exempt from testifying in court on confidential matters, unless the client, resident, or patient is the subject of the court proceeding.

Appropriation: None.

Fiscal Note: Requested on January 14, 2021.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 15 and 16, relating to Medicaid managed care funding responsibilities and the disappearance of behavioral health ombuds services provided by behavioral health administrative services organizations, which take effect January 1, 2022.