

# SENATE BILL REPORT

## SB 5736

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As Reported by Senate Committee On:  
Health & Long Term Care, January 19, 2022  
Behavioral Health Subcommittee to Health & Long Term Care, January 28, 2022  
Ways & Means, February 7, 2022

**Title:** An act relating to partial hospitalizations and intensive outpatient treatment services for minors.

**Brief Description:** Concerning partial hospitalizations and intensive outpatient treatment services for minors.

**Sponsors:** Senators Frockt, Dhingra, Conway, Hasegawa, Honeyford, Keiser, Kuderer, Lovelett, Lovick, Nobles, Randall, Salomon and Stanford.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/19/22 [w/oRec-BH].  
Behavioral Health Subcommittee to Health & Long Term Care: 1/21/22, 1/28/22 [DPS-WM].  
Ways & Means: 2/04/22, 2/07/22 [DP2S].

**Brief Summary of Second Substitute Bill**

- Directs the Health Care Authority to add coverage for partial hospitalization and intensive outpatient services for persons under 21 years of age to the Medicaid State Plan by January 1, 2024, subject to approval by the Centers for Medicare and Medicaid Services.
- Allows managed care organizations and behavioral health administrative services organizations to provide partial hospitalization and intensive outpatient services to persons under 21 years of age within available funding.

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### SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## & LONG TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5736 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Frockt, Chair; Wagoner, Ranking Member; Dhingra, Nobles and Warnick.

**Staff:** Kevin Black (786-7747)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5736 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Billig, Braun, Carlyle, Conway, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

**Staff:** Corban Nemeth (786-7736)

**Background:** The Medicaid State Plan. The Health Care Authority (HCA) administers the state Medicaid program, referred to locally as Apple Health. Apple Health is a public health insurance program for qualifying patients funded by the state in partnership with the federal government. The services offered to Apple Health beneficiaries in Washington are described in the Medicaid State Plan. The Medicaid State Plan contains a mixture of mandatory benefits required under federal law and optional benefits, which may be authorized by states on a case-by-case basis if they are able to comply with program requirements, including making services available across the state, and willing to contribute the state portion of the funding. HCA negotiates changes to the Medicaid State Plan on behalf of Washington with a federal government agency called the Centers for Medicare & Medicaid Services. Clients who enroll in Apple Health who meet medical necessity requirements are entitled to receive services described in the Medicaid State Plan. Washington makes services contained in the Medicaid State Plan available on a limited basis for individuals who do not qualify for Apple Health enrollment within available funding through Behavioral Health Administrative Services Organizations (BH-ASOs) contracted in each region of the state.

Partial Hospitalization and Intensive Outpatient Treatment. Partial hospitalization and intensive outpatient treatment refer to structured behavioral health programs that provide outpatient services as an alternative to inpatient care. The services are more intense than those ordinarily received in a doctor's or therapist's office, but the patient returns home after each treatment period. While the programs are similar, intensive outpatient programs tend to have shorter hours than partial hospitalization programs. Partial hospitalization and

intensive outpatient treatment are optional Medicaid services which have not been included in Washington's Medicaid State Plan.

Partial Hospitalization and Intensive Outpatient Treatment Pilots. The 2021-2023 Operating Budget allocated \$8.6 million general fund dollars to create two pilot programs for partial hospitalization and intensive outpatient treatment services, effective January 1, 2021. One pilot program is located at Seattle Children's Hospital in Seattle, and the other is located at Providence Sacred Heart Medical Center in Spokane. These pilot programs are limited to patients who can be served within available funding, and do not have the ability to claim federal matching funds for services to Medicaid clients. A preliminary report on the pilot programs was submitted to the Legislature and a final report is due December 1, 2022, which calls for recommendations on expanding the program statewide and actuarial projections on the statewide need for services and estimated costs for adding each service to the Medicaid State Plan.

**Summary of Bill (Second Substitute):** Within funds allocated by the Legislature, MCOs and BH-ASOs may provide partial hospitalization and intensive outpatient programs to persons under 21 years of age.

HCA must add coverage for partial hospitalization and intensive outpatient services for persons under 21 years of age to the Medicaid State Plan by January 1, 2024, subject to approval by the Centers for Medicare and Medicaid Services.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):**

- Makes direction to HCA to add coverage for partial hospitalization and intensive outpatient services to the Medicaid State Plan subject to approval by the Centers for Medicare and Medicaid Services.

**EFFECT OF CHANGES MADE BY BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE COMMITTEE (First Substitute):**

- Increases the age limit for Medicaid coverage for partial hospitalization/intensive outpatient programs to under 21 years of age.
- Delays the date for Medicaid coverage of partial hospitalization/intensive outpatient programs to January 1, 2024.

**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 Original Bill (Behavioral Health Subcommittee to Health & Long Term Care):** *The committee recommended a different version of the bill than what was heard.* PRO: Last year we fought to get funding for the pilots in the budget. Now we want to spread this resource to other children, especially those who use Apple Health, and hopefully access federal funding. These programs are critical for the continuum of care for our youth. Offering this service in more communities will create more equitable access to care. We know these programs are effective, and reduce burdens on families. We are in the middle of a child and adolescent mental health crisis that has been accelerated by the pandemic. An unprecedented number of children are boarding in our emergency rooms for mental health reasons. There are decades worth of data to support these programs' effectiveness. Lack of these programs is a gap in our system. They provide a step down from inpatient care or a step up from ordinary outpatient treatment. They prevent more expensive care like hospitalization and emergency room utilization. These services can be delivered virtually, increasing access around the state. These programs are ubiquitous in small communities where I come from in Pennsylvania. We can serve marginalized communities. Please expand access to all ages. Experience in other markets shows this is a key component. Community behavioral health agencies can implement this now; it's not just for hospitals. We prefer an implementation date of 2024 to allow time for managed care organizations to build networks and in consideration of the workforce shortage. Please add language requesting HCA to build a public rate for this service. Please create a placement for foster children where they can stay while using this program. Ten weeks of partial hospitalization and intensive outpatient treatment at Seattle Children's changed and saved my son's life. The state has been very cautious in its approach to these services; the time to move forward is now.

**Persons Testifying (Behavioral Health Subcommittee to Health & Long Term Care):** PRO: Senator David Frockt, Prime Sponsor; Alysha Thompson, Seattle Children's Hospital/University of Washington; Erik Loraas, MD, Providence & Washington State Psychiatric Association; Jeff Eisen, MultiCare Health System; Caitlin Safford, AmeriGroup; Chris Bandoli, Association of WA Healthcare Plans; Stephanie Simpson, Parent; Len McComb, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying (Behavioral Health Subcommittee to Health & Long Term Care):** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* PRO: During the pandemic behavioral health crises involving children and adolescents have increased. These programs allow a person to avoid inpatient hospitalization, making the most efficient use of scarce beds for children and adolescents. These programs are offered under the Medicaid plans in 29 other states. Many institutions want to provide these services when they become available.

**Persons Testifying (Ways & Means):** PRO: Len McComb, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.