

SENATE BILL REPORT

SB 6228

As of January 31, 2024

Title: An act relating to treatment of substance use disorders.

Brief Description: Concerning treatment of substance use disorders.

Sponsors: Senators Dhingra, Hasegawa, Kuderer, Lovelett, Nobles, Randall, Shewmake, Valdez and Wilson, C..

Brief History:

Committee Activity: Health & Long Term Care: 1/23/24, 1/26/24 [DPS-WM].
Ways & Means: 2/02/24.

Brief Summary of First Substitute Bill

- Requires health plans to authorize up to 28 days of inpatient or residential substance use disorder treatment on the first utilization review.
- Requires health plans to cover ground ambulance transportation to a behavioral health emergency services provider when a person is experiencing an emergency medical condition as an alternative to an emergency room, and to also cover transportation upon discharge from the behavioral health emergency services provider to the next level of care.
- Caps certification fees for substance use disorder professionals (SUDPs) and SUDP trainees at \$100 until July 1, 2029, subject to appropriation for Department of Health Costs.
- Removes limitations on license and certification renewals for associate marriage and family therapists, associate mental health counselors, associate social workers, and SUDP trainees.

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.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 6228 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Muzzall, Assistant Ranking Member; Conway, Dhingra, Padden, Randall and Van De Wege.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Corban Nemeth (786-7736)

Background: Substance Use Disorder. A substance use disorder (SUD) is a diagnosis of a pathological pattern of behavior in which a person continues to use a substance despite experiencing significant substance-related problems, causing a cluster of cognitive, behavioral, and and physiological symptoms.

Health Plans. Three categories of health plans available in Washington, among others, are:

- Medicaid plans administered by managed care organizations (MCOs) which contract with the Health Care Authority (HCA) to provide publicly-funded insurance to enrollees who qualify based on income, age, or disability, the cost of which is divided by the state and federal governments as described by a negotiated agreement referred to as the Medicaid State Plan;
- insurance provided to public employees, school employees, and their families and dependents administered by the Public Employees Benefits Board (PEBB) and School Employees Benefits Board (SEBB); and
- private health plans sold by health carriers to individual consumers.

Utilization Management and Substance Use Disorders. Utilization management is a managed care technique which allows a health insurance company to manage the cost of health care benefits by assessing the appropriateness of care using evidence-based techniques or guidelines. When the assessment is required before care is started as a prerequisite to payment it is referred to as prior authorization. According to Washington law, health plans issued under Medicaid, PEBB, SEBB, and by commercial health carriers may not require prior authorization for withdrawal management services or inpatient or residential SUD treatment services. Instead, coverage must be covered for no less than two business days, excluding weekends and holidays, in an inpatient or residential SUD treatment facility, or for no less than three days in a facility which provides withdrawal management. At this point the health plan may initiate a utilization management review of the medical necessity for care. Medical necessity review must be based on a standard set of statewide criteria, which is *The ASAM Criteria* published by the American Society of Addiction Medicine.

The American Society of Addiction Medicine and The ASAM Criteria. The American Society for Addiction Medicine is a medical society with over 7500 members, known for publishing *The ASAM Criteria*, which is the most widely used comprehensive set of standards for placement, continued service, and transfer of patients with SUDs and co-occurring disorders. In 2020 HCA and the Office of the Insurance Commissioner were directed in legislation to adopt a single standard set of criteria to define medical necessity for SUD treatment and to define SUD levels of care in Washington by January 1, 2021, following an independent review of rules and practices. *The ASAM Criteria* was selected as this single standard in rules adopted December 24, 2020.

Substance Use Disorder Professionals and Trainees. A substance use disorder professional (SUDP) is a professional certified in SUD counseling. SUDPs must hold an associates degree or have completed 90 quarter or 60 semester college credits, including 45 quarter or 30 semester credit hours in topics related to SUD counseling. An SUDP must additionally undergo up to 2500 hours of supervised training, undergo a character and fitness review, and pass a jurisprudential exam. Alternative training and educational requirements are available. An SUDP trainee is a person who declares they are enrolled in an approved educational program and is working to gain the education and experience required for SUDP certification. An SUDP trainee is limited to four certification renewals, or up to five years of certification.

Fees for Substance Use Disorder Professional and Trainee Certification. Washington law requires the cost of professional licensing to be fully borne by the members of that profession, including the cost of investigations and discipline in response to adverse information and complaints. Exceptions in law to this principle have been infrequently made, including for certified peer specialists, certified peer specialist trainees, and midwives. According to the Department of Health's website the total fee to certify as an SUDP is currently \$555 and the renewal cost is \$300. The fee to certify as an SUDP trainee is \$110 and the renewal cost is \$90.

Licensed Associates. A person with a master's degree in a mental health field who is gaining the supervised experience necessary to become licensed as a social worker, mental health counselor, or marriage and family therapist, is called an associate social worker, mental health counselor, or marriage and family therapist. An associate is limited to six renewals of their license as an associate.

Summary of Bill (First Substitute): When a health plan or MCO conducts a utilization management review which authorizes inpatient or residential SUD treatment, the health plan or MCO must authorize treatment for a minimum 28-day period from the start of treatment. The health plan or MCO may not require the behavioral health agency to provide documentation for the need for continuing care for inpatient or residential SUD treatment until the end of this 28-day period.

A private health plan or public or school employee insurance plan issued after January 1,

2025 or a Medicaid plan must provide coverage for:

- ground ambulance transport to a behavioral health emergency services provider for an enrollee who is experiencing an emergency medical condition without prior authorization; and
- transportation from the behavioral health emergency services provider upon discharge to the enrollee's next level of care when transportation is necessary to protect the enrollee from a relapse or other discontinuity in care that would jeopardize the health or safety of the enrollee, which must be accomplished by means appropriate to the present circumstances including ground ambulance transportation, escorted transportation in a private vehicle, or use of a taxi service.

The ASAM Criteria published by the American Society of Addiction Medicine is confirmed as the single standard set of criteria to define medical necessity for SUD treatment and to define SUD levels of care in Washington. No health carrier or behavioral health agency may deny SUD services to a person who meets ASAM criteria for the requested SUD services based on consideration of the person's length of abstinence independent from applying the ASAM Criteria. HCA and the Office of the Insurance Commissioner may jointly determine when updates to *The ASAM Criteria* must be used by MCOs and carriers. The date for *The ASAM Criteria*, 4th Edition is January 1, 2026..

The certification fee for an SUPD or SUPD trainee is capped at \$100 for five years, from July 1, 2024 through July 1, 2029, subject to appropriations for Department of Health costs.

A SUPD trainee may practice outside a behavioral health agency licensed to provide substance use disorder services.

Limitations are removed on the number of times an applicant may renew an SUPD training certification, and the number of times an applicant may renew an associate license as a marriage and family therapist, mental health counselor, or social worker.

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

Decreases the minimum initial authorization period for inpatient or residential SUD treatment from 29 to 28 days and expands the requirement to all health plans. Provides that the \$100 cap for SUPD and SUPD trainee certifications and renewals is subject to appropriation for Department of Health costs. Removes delayed effective date of requirements for managed care organizations to cover transportation to and from a behavioral health emergency services provider and removes direction to HCA to pursue a Medicaid State Plan amendment. Allows HCA and the Office of the Insurance Commissioner to jointly determine the date when updated versions of the ASAM Criteria must be used by MCOs, carriers, and other relevant entities and establishes the date for the ASAM Criteria 4th edition at January 1, 2026. Makes technical changes.

Appropriation: None.

Fiscal Note: Requested on January 15, 2024.

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 (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: There are great things about integration, but I have heard from providers it has made it harder to get into inpatient and residential SUD treatment. Providers do so much paperwork just to complete 29 days of treatment. These are barriers to people getting the help they need. We need medical necessity evaluations but we need to figure out a way to make them more effective. We should never have a treatment provider say that the best way to get into treatment is to show recent use. If people don't get the transportation they need, too often they won't show up. In the long run, it's cheaper to pay for that ambulance. We are in full support of providers and patients developing care together and providers being reimbursed for medically necessary treatment. Often reimbursement is denied because the client does not report recent use. The client may not be forthcoming even though use has occurred because they are on probation or were recently incarcerated. Staff time is taken away from direct services by the ongoing authorization demands, which increases workforce shortages. We would like to strengthen workforce provisions to stop eight-month delays in credentialing and low wages which make it hard to retain staff. Sometimes 60 days is a more appropriate length of stay than 29 days.

CON: We have concerns with the mandatory authorization period, which will be a cost driver. Our plans tell us that the denial rate for SUD inpatient treatment was less than 5 percent in 2022, a lower rate that you would assume from these conversations. Denials happen for other reasons--because facilities don't have electronic medical records, or because clients lack Medicaid coverage. ASAM Criteria isn't consistent with automatic 29-day authorizations because it says treatment should be tailored to the individual circumstances and individual needs. Please reconsider use of recent substance use as a part of medical necessity evaluations. There is no evidence for any particular length of SUD residential treatment; many people respond differently. We typically grant two weeks initially, which is more than enough time to do a thorough assessment and provide a brief update as to what actual needs are.

OTHER: We have no concerns putting ASAM Criteria into statute, since it is required by our rules. There should be flexibility around how quickly to implement a new version when it is released. Transportation from the behavioral health emergency services provider to the next level of care is not included in the Essential Health Benefits benchmark plan, so it could be considered a new mandate which the state would need to fund.

Persons Testifying (Health & Long Term Care): PRO: Senator Manka Dhingra, Prime Sponsor; Robert Emerson, citizen; Julie Mitchell, Lakeside Milam Recovery Centers.

CON: Jennifer Ziegler, Association of Washington Health Care Plans; Dr. Sasha Waring, Molina.

OTHER: Jane Beyer, Office of the Insurance Commissioner.

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