
SUBSTITUTE HOUSE BILL 1515

State of Washington

68th Legislature

2023 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Macri, Davis, Simmons, Orwall, Taylor, Leavitt, Riccelli, Callan, Farivar, Alvarado, Reed, Fosse, Doglio, Berg, Ryu, Peterson, Fitzgibbon, Bateman, Eslick, Ormsby, Stonier, and Tharinger)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to contracting and procurement requirements for
2 behavioral health services in medical assistance programs; amending
3 RCW 74.09.871 and 71.24.861; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Medicaid enrollees in Washington are challenged with
7 accessing needed behavioral health care. According to the Washington
8 state department of social and health services, as of 2021, among
9 medicaid enrollees with an identified mental health need, only 50
10 percent of adults and 66 percent of youth received treatment, while
11 among medicaid enrollees with an identified substance use disorder
12 need, only 37 percent of adults and 23 percent of youth received
13 treatment. Furthermore, the national council for mental wellbeing's
14 2022 access to care survey found that 43 percent of adults in the
15 United States who say they need mental health or substance use care
16 did not receive that care, and they face numerous barriers to
17 receiving needed treatment. Lack of necessary care can cause
18 behavioral health conditions to deteriorate and crises to escalate,
19 driving increasing use of intensive services such as inpatient care
20 and involuntary treatment. As a result, the behavioral health system
21 is reaching a crisis point in communities across the state.

1 (b) As of December 2022, 1,953,153 Washington residents rely on
2 apple health managed care organizations to provide for their physical
3 and behavioral health needs. During the integration of physical and
4 behavioral health care pursuant to chapter 225, Laws of 2014, the
5 health care authority most recently procured managed care services in
6 2018 and selected five managed care organizations to serve as
7 Washington's apple health plans to provide for the physical and
8 behavioral health care needs of medicaid enrollees. The health care
9 authority has begun considering when to conduct a new procurement for
10 managed care organizations, including an allowance for possible new
11 entrants that do not currently serve Washington's medicaid
12 population.

13 (c) Medicaid managed care procurement presents a need and an
14 opportunity for the state to reset expectations for managed care
15 organizations related to behavioral health services to ensure that
16 Washington residents are being served by qualified and experienced
17 health plans that can deliver on the access to care and quality of
18 care that residents need and deserve.

19 (2) It is the intent of the legislature to seize this opportunity
20 to address ongoing challenges Washington's medicaid enrollees face in
21 accessing behavioral health care. The legislature intends to
22 establish robust new standards defining the levels of medicaid-funded
23 behavioral health service capacity and resources that are adequate to
24 meet medicaid enrollees' treatment needs; to ensure that managed care
25 organizations that serve Washington's medicaid enrollees have a track
26 record of success in delivering a broad range of behavioral health
27 care services to safety net populations; and to advance payment
28 structures and provider network delivery models that improve
29 equitable access, promote integration of care, and deliver on
30 outcomes.

31 **Sec. 2.** RCW 74.09.871 and 2019 c 325 s 4006 are each amended to
32 read as follows:

33 (1) Any agreement or contract by the authority to provide
34 behavioral health services as defined under RCW 71.24.025 to persons
35 eligible for benefits under medicaid, Title XIX of the social
36 security act, and to persons not eligible for medicaid must include
37 the following:

38 (a) Contractual provisions consistent with the intent expressed
39 in RCW 71.24.015 and 71.36.005;

1 (b) Standards regarding the quality of services to be provided,
2 including increased use of evidence-based, research-based, and
3 promising practices, as defined in RCW 71.24.025;

4 (c) Accountability for the client outcomes established in RCW
5 71.24.435, 70.320.020, and 71.36.025 and performance measures linked
6 to those outcomes;

7 (d) Standards requiring behavioral health administrative services
8 organizations and managed care organizations to maintain a network of
9 appropriate providers that is supported by written agreements
10 sufficient to provide adequate access to all services covered under
11 the contract with the authority and to protect essential behavioral
12 health system infrastructure and capacity, including a continuum of
13 substance use disorder services;

14 (e) Provisions to require that medically necessary substance use
15 disorder and mental health treatment services be available to
16 clients;

17 (f) Standards requiring the use of behavioral health service
18 provider reimbursement methods that incentivize improved performance
19 with respect to the client outcomes established in RCW 71.24.435 and
20 71.36.025, integration of behavioral health and primary care services
21 at the clinical level, and improved care coordination for individuals
22 with complex care needs;

23 (g) Standards related to the financial integrity of the
24 contracting entity. This subsection does not limit the authority of
25 the authority to take action under a contract upon finding that a
26 contracting entity's financial status jeopardizes the contracting
27 entity's ability to meet its contractual obligations;

28 (h) Mechanisms for monitoring performance under the contract and
29 remedies for failure to substantially comply with the requirements of
30 the contract including, but not limited to, financial deductions,
31 termination of the contract, receivership, reprocurement of the
32 contract, and injunctive remedies;

33 (i) Provisions to maintain the decision-making independence of
34 designated crisis responders; and

35 (j) Provisions stating that public funds appropriated by the
36 legislature may not be used to promote or deter, encourage, or
37 discourage employees from exercising their rights under Title 29,
38 chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

39 (2) At least six months prior to releasing a medicaid integrated
40 managed care procurement, but no later than January 1, 2025, the

1 authority shall adopt standards for the behavioral health provider
2 networks maintained by managed care organizations pursuant to
3 subsection (1)(d) of this section. The standards shall ensure access
4 to appropriate and timely behavioral health services for the
5 enrollees of the managed care organization within the regional
6 service area. At a minimum, these standards must address each
7 behavioral health services type covered by the medicaid integrated
8 managed care contract. This includes, but is not limited to:
9 Outpatient, inpatient, and residential levels of care for adults and
10 youth with a mental health disorder; outpatient, inpatient, and
11 residential levels of care for adults and youth with a substance use
12 disorder; crisis and stabilization services; providers of medication
13 for opioid use disorders; specialty care; facility-based services;
14 and other providers as determined by the authority through this
15 process. The authority shall apply the standards regionally and shall
16 incorporate behavioral health system needs and considerations as
17 follows:

18 (a) Include a process for regular updates no less than once per
19 calendar year;

20 (b) Provide for participation from counties and behavioral health
21 providers in both initial development and subsequent updates;

22 (c) Account for the regional service area's population;
23 prevalence of behavioral health conditions; types of minimum
24 behavioral health services and service capacity offered by providers
25 in the regional service area; number and geographic proximity of
26 providers in the regional service area; an assessment of the needs or
27 gaps in the region; and availability of culturally specific services
28 and providers in the regional service area;

29 (d) Include a structure for monitoring compliance with provider
30 network standards and timely access to the services;

31 (e) Consider how statewide services, such as residential
32 treatment facilities, are utilized cross-regionally; and

33 (f) Consider how the standards would impact requirements for
34 behavioral health administrative service organizations.

35 (3) Before releasing a medicaid integrated managed care
36 procurement, the authority shall identify options that would minimize
37 provider administrative burden, including the potential to limit the
38 number of managed care organizations that operate in a regional
39 service area.

1 (4) The following factors must be given significant weight in any
2 medicaid integrated managed care procurement process under this
3 section:

4 (a) Demonstrated commitment and experience in serving low-income
5 populations;

6 (b) Demonstrated commitment and experience serving persons who
7 have mental illness, substance use disorders, or co-occurring
8 disorders;

9 (c) Demonstrated commitment to and experience with partnerships
10 with county and municipal criminal justice systems, housing services,
11 and other critical support services necessary to achieve the outcomes
12 established in RCW 71.24.435, 70.320.020, and 71.36.025;

13 (d) The ability to provide for the crisis service needs of
14 medicaid enrollees, consistent with the degree to which such services
15 are funded;

16 (e) Recognition that meeting enrollees' physical and behavioral
17 health care needs is a shared responsibility of contracted behavioral
18 health administrative services organizations, managed care
19 organizations, service providers, the state, and communities;

20 ~~((e))~~ (f) Consideration of past and current performance and
21 participation in other state or federal behavioral health programs as
22 a contractor; ~~(and~~

23 ~~(f))~~ (g) The ability to meet requirements established by the
24 authority ~~((3))~~;

25 (h) Demonstrated commitment by managed care organizations to
26 establish, continue, or expand a delegation arrangement with a
27 provider network that leverages local, federal, or philanthropic
28 funding to enhance the effectiveness of medicaid-funded integrated
29 care services and promote medicaid clients' access to a system of
30 services that addresses additional social support services and social
31 determinants of health as defined in RCW 43.20.025 in a manner that
32 is integrated with the delivery of behavioral health and medical
33 treatment services, in any regional service area that has such a
34 network, to provide services and perform provider network management
35 functions for enrollees;

36 (i) Demonstrated prior national or in-state experience with a
37 full continuum of behavioral health services that are substantially
38 similar to the behavioral health services covered under the
39 Washington medicaid state plan, including evidence through past and
40 current data on performance, quality, and outcomes; and

1 (j) Demonstrated commitment by managed care organizations to the
2 use of alternative pricing and payment structures between a managed
3 care organization and its behavioral health services providers,
4 including provider networks described in (h) of this subsection, and
5 between a managed care organization and a behavioral administrative
6 service organization, in any of their agreements or contracts under
7 this section, which may include but are not limited to:

8 (i) Value-based purchasing efforts consistent with the
9 authority's value-based purchasing strategy, such as capitated
10 payment arrangements, comprehensive population-based payment
11 arrangements, or case rate arrangements; or

12 (ii) Payment methods that secure a sufficient amount of ready and
13 available capacity for levels of care that require staffing 24 hours
14 per day, 365 days per year, to serve anyone in the regional service
15 area with a demonstrated need for the service at all times,
16 regardless of fluctuating utilization.

17 (5) The authority may use existing cross-system outcome data such
18 as the outcomes and related measures under subsection (4)(c) of this
19 section and chapter 338, Laws of 2013, to determine that the
20 alternative pricing and payment structures referenced in subsection
21 (4)(h) of this section have advanced community behavioral health
22 system outcomes more effectively than a fee-for-service model may
23 have been expected to deliver.

24 (6) The authority shall recognize and support a delegation
25 arrangement between any managed care organization and a provider
26 network under subsection (4)(h) of this section for the performance
27 of any or all essential behavioral health administrative functions
28 agreed to by the two parties.

29 (7) The authority shall expand the types of behavioral health
30 crisis services that can be funded with medicaid to the maximum
31 extent allowable under federal law, including seeking approval from
32 the centers for medicare and medicaid services for amendments to the
33 medicaid state plan or medicaid state directed payments that support
34 the 24 hours per day, 365 days per year capacity of the crisis
35 delivery system when necessary to achieve this expansion.

36 (8) The authority shall develop contracting methods that increase
37 managed care organizations' accountability when their enrollees
38 require long-term involuntary inpatient behavioral health treatment
39 and shall explore opportunities to maximize medicaid funding as
40 appropriate.

1 (9) In recognition of the value of community input and consistent
2 with past procurement practices, the authority shall include county
3 and behavioral health provider representatives in the development of
4 any medicaid integrated managed care procurement process. This shall
5 include, at a minimum, two representatives identified by the
6 association of county human services and two representatives
7 identified by the Washington council for behavioral health to
8 participate in the review and development of procurement documents.

9 (10) For purposes of purchasing behavioral health services and
10 medical care services for persons eligible for benefits under
11 medicaid, Title XIX of the social security act and for persons not
12 eligible for medicaid, the authority must use regional service areas.
13 The regional service areas must be established by the authority as
14 provided in RCW 74.09.870.

15 ~~((4))~~ (11) Consideration must be given to using multiple-
16 biennia contracting periods.

17 ~~((5))~~ (12) Each behavioral health administrative services
18 organization operating pursuant to a contract issued under this
19 section shall serve clients within its regional service area who meet
20 the authority's eligibility criteria for mental health and substance
21 use disorder services within available resources.

22 **Sec. 3.** RCW 71.24.861 and 2019 c 325 s 1047 are each amended to
23 read as follows:

24 (1) The legislature finds that ongoing coordination between state
25 agencies, the counties, and the behavioral health administrative
26 services organizations is necessary to coordinate the behavioral
27 health system. To this end, the authority shall establish a committee
28 to meet quarterly to address systemic issues, including but not
29 limited to the data-sharing needs of behavioral health system
30 partners.

31 (2) The committee established in subsection (1) of this section
32 must be convened by the authority, meet quarterly, and include
33 representatives from:

34 (a) The authority;

35 (b) The department of social and health services;

36 (c) The department;

37 (d) The office of the governor;

38 (e) One representative from the behavioral health administrative
39 services organization per regional service area; and

1 (f) One county representative per regional service area.

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