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**HOUSE BILL 1515**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**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 01/23/23. Referred to Committee on Health Care & Wellness.

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 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 lack sufficient access to  
7 needed behavioral health care. According to the Washington state  
8 department of social and health services, as of 2021, among medicaid  
9 enrollees with an identified mental health need, only 50 percent of  
10 adults and 66 percent of youth received treatment, while among  
11 medicaid enrollees with an identified substance use disorder need,  
12 only 37 percent of adults and 23 percent of youth received treatment.  
13 Furthermore, the national council for mental wellbeing's 2022 access  
14 to care survey found that 43 percent of adults in the United States  
15 who say they need mental health or substance use care did not receive  
16 that care, and they face numerous barriers to receiving needed  
17 treatment. Lack of necessary care can cause behavioral health  
18 conditions to deteriorate and crises to escalate, driving increasing  
19 use of intensive services such as inpatient care and involuntary  
20 treatment. As a result, the behavioral health system is reaching a  
21 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 planning to open a new procurement for managed  
10 care organizations, including an allowance for possible new entrants  
11 that do not currently serve Washington's medicaid population.

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

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

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

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

37 (a) Contractual provisions consistent with the intent expressed  
38 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) Before releasing a procurement under this section, and no  
40 later than July 1, 2024, the authority shall adopt regional standards

1 for the behavioral health provider networks maintained by managed  
2 care organizations pursuant to subsection (1)(d) of this section. The  
3 standards shall assure access to appropriate and timely behavioral  
4 health services for the enrollees of the managed care organization  
5 within the regional service area. At a minimum, the behavioral health  
6 services covered by these standards must include: Certified  
7 residential treatment providers; licensed community mental health  
8 agencies; certified substance use disorder provider agencies;  
9 certified medication assisted treatment providers; certified opiate  
10 substitution providers; licensed and certified free-standing  
11 facilities, hospitals, or psychiatric inpatient facilities that  
12 provide evaluation and treatment services; licensed and certified  
13 withdrawal management and stabilization facilities, including secure  
14 withdrawal management and stabilization facilities; licensed and  
15 certified residential treatment facilities to provide crisis  
16 stabilization services; and wraparound and intensive services  
17 providers recognized by the authority. The regional standards shall:

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; and availability of  
27 culturally specific services and providers in the regional service  
28 area; and

29 (d) Include a structure for monitoring compliance with provider  
30 network standards.

31 (3) Before releasing a procurement under this section, the  
32 authority shall evaluate the potential to reduce provider  
33 administrative burden by limiting the number of managed care  
34 organizations that operate in a regional service area.

35 (4) The following factors must be given significant weight in any  
36 procurement process under this section:

37 (a) Demonstrated commitment and experience in serving low-income  
38 populations;

1 (b) Demonstrated commitment and experience serving persons who  
2 have mental illness, substance use disorders, or co-occurring  
3 disorders;

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

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

11 (e) Recognition that meeting enrollees' physical and behavioral  
12 health care needs is a shared responsibility of contracted behavioral  
13 health administrative services organizations, managed care  
14 organizations, service providers, the state, and communities;

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

18 ~~(f))~~ (g) The ability to meet requirements established by the  
19 authority(~~(-~~

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

31 (i) Demonstrated commitment by managed care organizations to the  
32 use of alternative pricing and payment structures between a managed  
33 care organization and its behavioral health services providers,  
34 including provider networks described in (h) of this subsection, in  
35 any of their agreements or contracts under this section, which may  
36 include but are not limited to:

37 (i) Value-based purchasing efforts consistent with the  
38 authority's value-based purchasing road map, such as capitated  
39 payment arrangements or case rate arrangements; or

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

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

13 (6) The authority shall require each managed care organization  
14 participating in a procurement process under this section to  
15 demonstrate prior national or in-state experience with contracting  
16 and network development for a full continuum of behavioral health  
17 services that are substantially similar to the behavioral health  
18 services covered under the Washington medicaid state plan. At a  
19 minimum, this shall include experience contracting for crisis,  
20 outpatient, residential, withdrawal management, and inpatient  
21 behavioral health services, and shall include past and current data  
22 on performance, quality, and outcomes.

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

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

35 (9) The authority shall develop contracting methods that increase  
36 managed care organizations' accountability when their enrollees  
37 require long-term involuntary inpatient behavioral health treatment  
38 and shall explore opportunities to maximize medicaid funding  
39 for long-term involuntary inpatient behavioral health treatment,  
40 which may include seeking approval from the centers for medicare and

1 medicaid services for amendments to the medicaid state plan if  
2 necessary.

3 (10) In recognition of the value of community input and  
4 consistent with past procurement practices, the authority shall  
5 include county and behavioral health provider representatives in the  
6 development and scoring of any procurement process under this  
7 section. This shall include, at a minimum, two representatives  
8 identified by the association of county human services and two  
9 representatives identified by the Washington council for behavioral  
10 health to participate in the review and development of procurement  
11 documents, and two representatives identified by the association of  
12 county human services and two representatives identified by the  
13 Washington council for behavioral health to participate in scoring of  
14 bids. The authority may review identified participants to address  
15 potential conflicts of interest.

16 (11) For purposes of purchasing behavioral health services and  
17 medical care services for persons eligible for benefits under  
18 medicaid, Title XIX of the social security act and for persons not  
19 eligible for medicaid, the authority must use regional service areas.  
20 The regional service areas must be established by the authority as  
21 provided in RCW 74.09.870.

22 ~~((4))~~ (12) Consideration must be given to using multiple-  
23 biennia contracting periods.

24 ~~((5))~~ (13) Each behavioral health administrative services  
25 organization operating pursuant to a contract issued under this  
26 section shall serve clients within its regional service area who meet  
27 the authority's eligibility criteria for mental health and substance  
28 use disorder services within available resources.

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