
SENATE BILL 5763

State of Washington

65th Legislature

2017 Regular Session

By Senators Warnick, Darneille, Keiser, and Rolfes

Read first time 02/08/17. Referred to Committee on Human Services,
Mental Health & Housing.

1 AN ACT Relating to implementing recommendations from the
2 children's mental health work group; amending RCW 74.09.495,
3 74.09.520, and 71.24.061; adding a new section to chapter 74.09 RCW;
4 adding a new section to chapter 43.215 RCW; adding a new section to
5 chapter 28A.310 RCW; adding a new section to chapter 28A.300 RCW;
6 adding a new section to chapter 28B.30 RCW; adding a new section to
7 chapter 28B.20 RCW; adding a new section to chapter 71.24 RCW;
8 creating new sections; providing an effective date; and providing an
9 expiration date.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that children and
12 their families face systemic barriers to accessing necessary mental
13 health services. These barriers include a workforce shortage of
14 mental health providers throughout the system of care. Of particular
15 concern are shortages of providers in underserved rural areas of our
16 state and a shortage of providers statewide who can deliver
17 culturally and linguistically appropriate services. The legislature
18 further finds that greater coordination across systems, including
19 early learning, K-12 education, workforce development, and health
20 care, is necessary to provide children and their families with
21 coordinated care.

1 The legislature further finds that until mental health and
2 physical health services are fully integrated in the year 2020,
3 children who are eligible for medicaid services and require mental
4 health treatment should receive coordinated mental health and
5 physical health services to the fullest extent possible.

6 The legislature further finds that in 2013, the department of
7 social and health services and the health care authority reported
8 that only forty percent of the children on medicaid who had mental
9 health treatment needs were receiving services and that mental health
10 treatment needs increase with the number of adverse childhood
11 experiences that a child has undergone.

12 The legislature further finds that children with mental health
13 service needs have higher rates of emergency room use, criminal
14 justice system involvement, and an increased risk of homelessness,
15 and that trauma-informed care can mitigate some of these negative
16 outcomes.

17 Therefore, the legislature intends to implement recommendations
18 from the children's mental health work group, as reported in December
19 2016, in order to improve mental health care access for children and
20 their families through the early learning, K-12 education, and health
21 care systems.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09
23 RCW to read as follows:

24 (1) For children who are eligible for medical assistance and who
25 have been identified as requiring mental health treatment, the
26 authority must oversee the coordination of resources and services
27 through the managed health care system as defined in RCW 74.09.325 to
28 ensure the child receives treatment and appropriate care based on
29 their assessed needs, regardless of whether the referral occurred
30 through primary care, school-based services, or another practitioner.

31 (2) The authority must require each managed health care system as
32 defined in RCW 74.09.325 to develop and maintain adequate capacity to
33 facilitate child mental health treatment services in the community or
34 transfers to a behavioral health organization, depending on the level
35 of required care, by:

36 (a) Following up with individuals to (i) ensure an appointment
37 has been secured and completed; and (ii) track the individual's
38 utilization of services;

1 (b) Coordinating with and reporting back to primary care provider
2 offices on individual treatment plans and medication management, in
3 accordance with patient confidentiality laws;

4 (c) Providing information to health plan members and primary care
5 providers about the behavioral health resource line available twenty-
6 four hours a day, seven days a week; and

7 (d) Maintaining an accurate list of providers contracted to
8 provide mental health services to children and youth. The list must
9 contain current information regarding the providers' availability to
10 provide services. The current list must be made available to health
11 plan members and primary care providers.

12 (3) This section expires June 30, 2020.

13 **Sec. 3.** RCW 74.09.495 and 2016 c 96 s 3 are each amended to read
14 as follows:

15 To better assure and understand issues related to network
16 adequacy and access to services, the authority and the department
17 shall report to the appropriate committees of the legislature by
18 December 1, 2017, and annually thereafter, on the status of access to
19 behavioral health services for children birth through age seventeen
20 using data collected pursuant to RCW 70.320.050.

21 (1) At a minimum, the report must include the following
22 components broken down by age, gender, and race and ethnicity:

23 ~~((1))~~ (a) The percentage of discharges for patients ages six
24 through seventeen who had a visit to the emergency room with a
25 primary diagnosis of mental health or alcohol or other drug
26 dependence during the measuring year and who had a follow-up visit
27 with any provider with a corresponding primary diagnosis of mental
28 health or alcohol or other drug dependence within thirty days of
29 discharge;

30 ~~((2))~~ (b) The percentage of health plan members with an
31 identified mental health need who received mental health services
32 during the reporting period; and

33 ~~((3))~~ (c) The percentage of children served by behavioral
34 health organizations, including the types of services provided.

35 (2) The report must also include the number of children's mental
36 health providers available in the previous year and the overall
37 percentage of children's mental health providers who were actively
38 accepting new patients.

1 **Sec. 4.** RCW 74.09.520 and 2015 1st sp.s. c 8 s 2 are each
2 amended to read as follows:

3 (1) The term "medical assistance" may include the following care
4 and services subject to rules adopted by the authority or department:

5 (a) Inpatient hospital services; (b) outpatient hospital services;
6 (c) other laboratory and X-ray services; (d) nursing facility
7 services; (e) physicians' services, which shall include prescribed
8 medication and instruction on birth control devices; (f) medical
9 care, or any other type of remedial care as may be established by the
10 secretary or director; (g) home health care services; (h) private
11 duty nursing services; (i) dental services; (j) physical and
12 occupational therapy and related services; (k) prescribed drugs,
13 dentures, and prosthetic devices; and eyeglasses prescribed by a
14 physician skilled in diseases of the eye or by an optometrist,
15 whichever the individual may select; (l) personal care services, as
16 provided in this section; (m) hospice services; (n) other diagnostic,
17 screening, preventive, and rehabilitative services; and (o) like
18 services when furnished to a child by a school district in a manner
19 consistent with the requirements of this chapter. For the purposes of
20 this section, neither the authority nor the department may cut off
21 any prescription medications, oxygen supplies, respiratory services,
22 or other life-sustaining medical services or supplies.

23 "Medical assistance," notwithstanding any other provision of law,
24 shall not include routine foot care, or dental services delivered by
25 any health care provider, that are not mandated by Title XIX of the
26 social security act unless there is a specific appropriation for
27 these services.

28 (2) The department shall adopt, amend, or rescind such
29 administrative rules as are necessary to ensure that Title XIX
30 personal care services are provided to eligible persons in
31 conformance with federal regulations.

32 (a) These administrative rules shall include financial
33 eligibility indexed according to the requirements of the social
34 security act providing for medicaid eligibility.

35 (b) The rules shall require clients be assessed as having a
36 medical condition requiring assistance with personal care tasks.
37 Plans of care for clients requiring health-related consultation for
38 assessment and service planning may be reviewed by a nurse.

39 (c) The department shall determine by rule which clients have a
40 health-related assessment or service planning need requiring

1 registered nurse consultation or review. This definition may include
2 clients that meet indicators or protocols for review, consultation,
3 or visit.

4 (3) The department shall design and implement a means to assess
5 the level of functional disability of persons eligible for personal
6 care services under this section. The personal care services benefit
7 shall be provided to the extent funding is available according to the
8 assessed level of functional disability. Any reductions in services
9 made necessary for funding reasons should be accomplished in a manner
10 that assures that priority for maintaining services is given to
11 persons with the greatest need as determined by the assessment of
12 functional disability.

13 (4) Effective July 1, 1989, the authority shall offer hospice
14 services in accordance with available funds.

15 (5) For Title XIX personal care services administered by aging
16 and disability services administration of the department, the
17 department shall contract with area agencies on aging:

18 (a) To provide case management services to individuals receiving
19 Title XIX personal care services in their own home; and

20 (b) To reassess and reauthorize Title XIX personal care services
21 or other home and community services as defined in RCW 74.39A.009 in
22 home or in other settings for individuals consistent with the intent
23 of this section:

24 (i) Who have been initially authorized by the department to
25 receive Title XIX personal care services or other home and community
26 services as defined in RCW 74.39A.009; and

27 (ii) Who, at the time of reassessment and reauthorization, are
28 receiving such services in their own home.

29 (6) In the event that an area agency on aging is unwilling to
30 enter into or satisfactorily fulfill a contract or an individual
31 consumer's need for case management services will be met through an
32 alternative delivery system, the department is authorized to:

33 (a) Obtain the services through competitive bid; and

34 (b) Provide the services directly until a qualified contractor
35 can be found.

36 (7) Subject to the availability of amounts appropriated for this
37 specific purpose, the authority may offer medicare part D
38 prescription drug copayment coverage to full benefit dual eligible
39 beneficiaries.

1 (8) Effective January 1, 2016, the authority shall require
2 universal screening and provider payment for autism and developmental
3 delays as recommended by the bright futures guidelines of the
4 American academy of pediatrics, as they existed on August 27, 2015.
5 This requirement is subject to the availability of funds.

6 (9) Effective January 1, 2018, the authority shall require
7 universal screening and provider payment for depression for children
8 ages eleven through twenty-one as recommended by the bright futures
9 guidelines of the American academy of pediatrics, as they existed on
10 January 1, 2017. This requirement is subject to the availability of
11 funds appropriated for this specific purpose.

12 NEW SECTION. Sec. 5. A new section is added to chapter 43.215
13 RCW to read as follows:

14 (1) The department shall establish a child care consultation
15 program linking child care providers with evidence-based and best
16 practice resources regarding caring for infants and young children
17 who present behavioral concerns. The department may contract with an
18 entity with expertise in child development and early learning
19 programs in order to operate the child care consultation program.

20 (2) In establishing and operating the program, the department or
21 contracted entity shall: (a) Provide support and guidance to child
22 care staff; and (b) consult and coordinate with parents, other
23 caregivers, and experts or practitioners involved with the care and
24 well-being of young children.

25 NEW SECTION. Sec. 6. A new section is added to chapter 28A.310
26 RCW to read as follows:

27 Each educational service district must establish a lead staff
28 person for mental health. The lead staff person must have the primary
29 responsibility of coordinating medicaid billing for schools and
30 school districts, facilitating community partnerships, sharing
31 service models, seeking public and private grant funding, and
32 ensuring the adequacy of other system level supports for students
33 with mental health needs. The lead staff person must collaborate with
34 the office of the superintendent of public instruction as provided in
35 section 7 of this act.

36 NEW SECTION. Sec. 7. A new section is added to chapter 28A.300
37 RCW to read as follows:

1 (1) The office of the superintendent of public instruction must
2 employ a children's mental health services coordinator to coordinate
3 and provide support for the activities of the mental health lead
4 staff person in each educational service district, as provided in
5 section 6 of this act.

6 (2) The office must designate one educational service district as
7 a "lighthouse" to provide technical assistance to educational service
8 district mental health leads. Technical assistance must include: (a)
9 Facilitating peer-to-peer training opportunities; (b) providing
10 information about the impact of racial and other disparities on
11 children's mental health; (c) serving as a model for best practices
12 for mental health coordination; and (d) training on medicaid billing
13 for schools and school districts. The designated lighthouse must have
14 experience in providing mental health services and in medicaid
15 billing.

16 NEW SECTION. **Sec. 8.** Subject to the availability of amounts
17 appropriated for this specific purpose, the health workforce council
18 of the state workforce training and education coordinating board
19 shall collect and analyze workforce survey and administrative data
20 for clinicians qualified to provide children's mental health
21 services, including the availability of culturally and linguistically
22 diverse services and providers for children. The board must submit
23 its findings and recommendations to the governor and appropriate
24 committees of the legislature by December 1, 2018.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 28B.30
26 RCW to read as follows:

27 Subject to the availability of amounts appropriated for this
28 specific purpose, Washington State University shall offer one twenty-
29 four month residency position that is approved by the accreditation
30 council for graduate medical education to one resident specializing
31 in child and adolescent psychiatry. The residency must include a
32 minimum of twelve months of training in settings where children's
33 mental health services are provided under the supervision of
34 experienced psychiatric consultants and must be located east of the
35 crest of the Cascade mountains.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 28B.20
37 RCW to read as follows:

1 Subject to the availability of amounts appropriated for this
2 specific purpose, the child and adolescent psychiatry residency
3 program at the University of Washington shall offer one additional
4 twenty-four month residency position that is approved by the
5 accreditation council for graduate medical education to one resident
6 specializing in child and adolescent psychiatry. The residency must
7 include a minimum of twelve months of training in settings where
8 children's mental health services are provided under the supervision
9 of experienced psychiatric consultants and must be located west of
10 the crest of the Cascade mountains.

11 **Sec. 11.** RCW 71.24.061 and 2014 c 225 s 35 are each amended to
12 read as follows:

13 (1) The department shall provide flexibility in provider
14 contracting to behavioral health organizations for children's mental
15 health services. Beginning with 2007-2009 biennium contracts,
16 behavioral health organization contracts shall authorize behavioral
17 health organizations to allow and encourage licensed community mental
18 health centers to subcontract with individual licensed mental health
19 professionals when necessary to meet the need for an adequate,
20 culturally competent, and qualified children's mental health provider
21 network.

22 (2) To the extent that funds are specifically appropriated for
23 this purpose or that nonstate funds are available, a children's
24 mental health evidence-based practice institute shall be established
25 at the University of Washington division of public behavioral health
26 and justice policy. The institute shall closely collaborate with
27 entities currently engaged in evaluating and promoting the use of
28 evidence-based, research-based, promising, or consensus-based
29 practices in children's mental health treatment, including but not
30 limited to the University of Washington department of psychiatry and
31 behavioral sciences, children's hospital and regional medical center,
32 the University of Washington school of nursing, the University of
33 Washington school of social work, and the Washington state institute
34 for public policy. To ensure that funds appropriated are used to the
35 greatest extent possible for their intended purpose, the University
36 of Washington's indirect costs of administration shall not exceed ten
37 percent of appropriated funding. The institute shall:

38 (a) Improve the implementation of evidence-based and
39 research-based practices by providing sustained and effective

1 training and consultation to licensed children's mental health
2 providers and child-serving agencies who are implementing
3 evidence-based or researched-based practices for treatment of
4 children's emotional or behavioral disorders, or who are interested
5 in adapting these practices to better serve ethnically or culturally
6 diverse children. Efforts under this subsection should include a
7 focus on appropriate oversight of implementation of evidence-based
8 practices to ensure fidelity to these practices and thereby achieve
9 positive outcomes;

10 (b) Continue the successful implementation of the "partnerships
11 for success" model by consulting with communities so they may select,
12 implement, and continually evaluate the success of evidence-based
13 practices that are relevant to the needs of children, youth, and
14 families in their community;

15 (c) Partner with youth, family members, family advocacy, and
16 culturally competent provider organizations to develop a series of
17 information sessions, literature, and online resources for families
18 to become informed and engaged in evidence-based and research-based
19 practices;

20 (d) Participate in the identification of outcome-based
21 performance measures under RCW 71.36.025(2) and partner in a
22 statewide effort to implement statewide outcomes monitoring and
23 quality improvement processes; and

24 (e) Serve as a statewide resource to the department and other
25 entities on child and adolescent evidence-based, research-based,
26 promising, or consensus-based practices for children's mental health
27 treatment, maintaining a working knowledge through ongoing review of
28 academic and professional literature, and knowledge of other
29 evidence-based practice implementation efforts in Washington and
30 other states.

31 (3) (~~To the extent that funds are specifically appropriated for~~
32 ~~this purpose, the~~) (a) The department in collaboration with the
33 evidence-based practice institute shall (~~implement a pilot~~) provide
34 a partnership access line program to support primary care providers
35 in the assessment and provision of appropriate diagnosis and
36 treatment of children with mental and behavioral health disorders and
37 track outcomes of this program. The program shall be designed to
38 promote more accurate diagnoses and treatment through timely case
39 consultation between primary care providers and child psychiatric

1 specialists, and focused educational learning ((collaboratives))
2 collaboration with primary care providers.

3 (b) The department shall determine the annual cost of operating
4 the program in (a) of this subsection and collect from each health
5 carrier, as defined in RCW 48.43.005, its proportional share of
6 program costs. A health carrier's proportional share of annual
7 program costs shall be calculated by determining the total annual
8 cost of operating the program and multiplying it by a fraction in
9 which the numerator is the health carrier's total number of resident
10 insured persons who were less than eighteen years old during the year
11 and the denominator is the total number of residents in the state who
12 were less than eighteen years old during that same year.

13 NEW SECTION. Sec. 12. A new section is added to chapter 71.24
14 RCW to read as follows:

15 (1) Upon initiation or renewal of a contract with the department,
16 a behavioral health organization shall reimburse a provider for a
17 behavioral health service provided to a covered person who is under
18 eighteen years old through telemedicine or store and forward
19 technology if:

20 (a) The behavioral health organization in which the covered
21 person is enrolled provides coverage of the behavioral health service
22 when provided in person by the provider; and

23 (b) The behavioral health service is medically necessary.

24 (2)(a) If the service is provided through store and forward
25 technology there must be an associated visit between the covered
26 person and the referring provider. Nothing in this section prohibits
27 the use of telemedicine for the associated office visit.

28 (b) For purposes of this section, reimbursement of store and
29 forward technology is available only for those services specified in
30 the negotiated agreement between the behavioral health organization
31 and provider.

32 (3) An originating site for a telemedicine behavioral health
33 service subject to subsection (1) of this section means an
34 originating site as defined in rule by the department.

35 (4) Any originating site, other than a home, under subsection (3)
36 of this section may charge a facility fee for infrastructure and
37 preparation of the patient. Reimbursement must be subject to a
38 negotiated agreement between the originating site and the behavioral

1 health organization. A distant site or any other site not identified
2 in subsection (3) of this section may not charge a facility fee.

3 (5) A behavioral health organization may not distinguish between
4 originating sites that are rural and urban in providing the coverage
5 required in subsection (1) of this section.

6 (6) A behavioral health organization may subject coverage of a
7 telemedicine or store and forward technology behavioral health
8 service under subsection (1) of this section to all terms and
9 conditions of the behavioral health organization in which the covered
10 person is enrolled, including, but not limited to, utilization
11 review, prior authorization, deductible, copayment, or coinsurance
12 requirements that are applicable to coverage of a comparable
13 behavioral health care service provided in person.

14 (7) This section does not require a behavioral health
15 organization to reimburse:

16 (a) An originating site for professional fees;

17 (b) A provider for a behavioral health service that is not a
18 covered benefit under the behavioral health organization; or

19 (c) An originating site or provider when the site or provider is
20 not a contracted provider with the behavioral health organization.

21 (8) For purposes of this section:

22 (a) "Distant site" means the site at which a physician or other
23 licensed provider, delivering a professional service, is physically
24 located at the time the service is provided through telemedicine;

25 (b) "Hospital" means a facility licensed under chapter 70.41,
26 71.12, or 72.23 RCW;

27 (c) "Originating site" means the physical location of a patient
28 receiving behavioral health services through telemedicine;

29 (d) "Provider" has the same meaning as in RCW 48.43.005;

30 (e) "Store and forward technology" means use of an asynchronous
31 transmission of a covered person's medical or behavioral health
32 information from an originating site to the provider at a distant
33 site which results in medical or behavioral health diagnosis and
34 management of the covered person, and does not include the use of
35 audio-only telephone, facsimile, or email; and

36 (f) "Telemedicine" means the delivery of health care or
37 behavioral health services through the use of interactive audio and
38 video technology, permitting real-time communication between the
39 patient at the originating site and the provider, for the purpose of
40 diagnosis, consultation, or treatment. For purposes of this section

1 only, "telemedicine" does not include the use of audio-only
2 telephone, facsimile, or email.

3 (9) The department must adopt rules as necessary to implement the
4 provisions of this section.

5 NEW SECTION. **Sec. 13.** Section 12 of this act takes effect
6 January 1, 2018.

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