HOUSE BILL REPORT
HB 1515

As Reported by House Committee On:
Health Care & Wellness
Appropriations

Title: An act relating to contracting and procurement requirements for behavioral health services in medical assistance programs.

Brief Description: Concerning contracting and procurement requirements for behavioral health services in medical assistance programs.

Sponsors: Representatives Macri, Davis, Simmons, Orwall, Taylor, Leavitt, Riccelli, Callan, Farivar, Alvarado, Reed, Fosse, Doglio, Berg, Ryu, Peterson, Fitzgibbon, Bateman, Eslick, Ormsby, Stonier and Tharinger.

Brief History:
Committee Activity:
Health Care & Wellness: 2/3/23, 2/14/23 [DPS];
Appropriations: 2/22/23, 2/24/23 [DP2S(w/o sub HCW)].

Brief Summary of Second Substitute Bill

- Requires the Health Care Authority to make certain changes to the managed care procurement process, including adopting regional standards for behavioral health networks managed by managed care organizations, providing for behavioral health provider participation in the process, and evaluating options to reduce provider administrative burden.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Hutchins, Assistant Ranking Minority Member; Barnard, Bronoske, Davis, Macri, Maycumber,

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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.

Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Harris.

Minority Report: Without recommendation. Signed by 2 members: Representatives Schmick, Ranking Minority Member; Graham.

Staff: Ingrid Lewis (786-7293).

Background:

Medicaid Managed Care Contracting.
The Health Care Authority (HCA) provides medical care services to eligible low-income state residents and their families, primarily through the Medicaid program. While some clients receive services through the HCA on a fee-for-service basis, the large majority receive coverage for medical services through managed care systems. Integrated managed care is a prepaid, comprehensive system for delivering a complete medical benefits package that is available for eligible families, children under age 19, low-income adults, certain disabled individuals, and pregnant women. Since January 1, 2020, all physical health, mental health, and substance use disorder services have been fully integrated in a 10 regional service area integrated managed care health system for most Medicaid clients, called Apple Health. The HCA contracts with managed care organizations (MCOs) under a comprehensive risk contract to provide prepaid health care services to persons enrolled in a managed care Apple Health plan. The MCOs must have a sufficient network of providers to provide adequate access to behavioral health services for the residents of their regional areas.

The HCA selects plans through a competitive procurement process and establishes standards for MCOs that seek to contract to provide services. Several factors must be given significant weight in a procurement process including:

- demonstrated commitment and experience in serving low-income populations; serving persons who have mental illness, substance use disorders, or co-occurring disorders; and partnering with county and municipal criminal justice systems, housing services, and other critical support services;
- recognition that meeting the physical and behavioral health care needs of enrollees is a shared responsibility;
- consideration of past and current performance and participation in other state or federal behavioral health programs as a contractor; and
- the ability to meet requirements established by the HCA.

While most Medicaid clients receive behavioral health services through an MCO, behavioral health administrative service organizations (BHASOs) administer certain behavioral health services that are not covered by the MCO within a specific regional service area. The services provided by a BHASO include maintaining continuously available crisis response services, administering services related to the involuntary

commitment of adults and minors, coordinating planning for persons transitioning from long-term commitments, maintaining an adequate network of evaluation and treatment services, and providing services to non-Medicaid clients in accordance with contract criteria. An MCO must contract with the BHASO within the regional service area for the administration of crisis services and the MCO must reimburse the BHASO for behavioral health crisis services provided to the MCO's enrollees.

Behavioral Health System Coordination Subcommittee.
The Behavioral Health System Coordination Subcommittee was established in 2019 as an avenue for state agencies, counties, and the BHASOs to address systemic issues within the behavioral health system.

Summary of Substitute Bill:

At least six months prior to releasing a Medicaid-integrated managed care procurement and no later than January 1, 2025, the Health Care Authority (HCA) is required to adopt regional standards for behavioral health networks managed by managed care organizations (MCOs). Standards must ensure access to appropriate and timely behavioral health services for MCO enrollees within the regional service area and must include a process for at least one annual update; county and behavioral health provider participation in initial development and updates; an accounting of regional needs; a structure for monitoring compliance with provider network standards; and a consideration of how statewide services are utilized cross-regionally and how the standards would impact requirements for behavioral health administrative service organizations.

Service types covered by the standard must, at a minimum, include outpatient, inpatient, and residential levels of care for adults and youth with a mental health disorder; outpatient, inpatient, and residential levels of care for adults and youth with a substance use disorder; crisis and stabilization services; providers of medication for opioid use disorders; specialty care; facility-based services; and other providers as determined by the HCA.

Before releasing a Medicaid-integrated managed care procurement, the HCA must identify options that minimize provider administrative burden, including the potential to limit the number of MCOs that operate in a regional service area.

During the procurement process, additional factors are to be weighed, including:

- an ability to meet the crisis service needs of enrollees, consistent to the degree the services are funded;
- prior national or in-state experience with contracting and network development for a full continuum of behavioral health services using past and current data on performance, quality, and outcomes;
- a demonstrated commitment to establish, continue, or expand delegation arrangements with provider networks that leverage multiple funding sources in any

regional service area that has such a network; and
- a demonstrated commitment by the MCO to use alternative pricing and payment structures with providers and provider networks.

The HCA is authorized to use existing cross-system outcomes data to determine that value-based purchasing efforts or payments that secure enough capacity regardless of fluctuating utilization have advanced community-based behavioral health outcomes more effectively than a fee-for-service model.

The HCA must expand the types of behavioral health crisis services funded with Medicaid to the extent allowable by federal law.

The HCA is required to develop contracting methods that increase MCO accountability in the long-term involuntary treatment system and must explore opportunities to maximize Medicaid funding as appropriate.

The HCA is required to include county and behavioral health provider representatives in the development of any procurement process. At minimum, involvement should include two representatives chosen by the Association of County Human Services and two representatives chosen by the Washington Council for Behavioral Health.

An issue the Behavioral Health System Coordination Subcommittee must address is the data-sharing needs of behavioral health system partners.

Substitute Bill Compared to Original Bill:

The substitute bill adjusts the timeframe in which the Health Care Authority (HCA) must adopt network adequacy standards from July 1, 2024, to January 1, 2025. The list of covered services the standards must address is modified to reflect updated references to service types. Additional considerations to be incorporated in the standards are added, including how statewide services are utilized cross-regionally and how standards would impact requirements for behavioral health administrative service organizations. The requirement that HCA evaluate whether provider administrative burden would be reduced by limiting the number of managed care organizations (MCOs) operating in a region is modified by instead requiring the HCA to identify options that would limit provider administrative burden, including the potential to limit the number of MCOs in a region. Comprehensive population-based payment arrangements is added to the types of value-based purchasing option payment structures. The HCA requirement to seek approval from the Centers for Medicare and Medicaid services for amendments to expand Medicaid for long-term involuntary inpatient treatment is removed and instead HCA is authorized to explore opportunities to maximize Medicaid funding as appropriate. County and behavioral health provider representation from the scoring phase of a procurement is removed. Provisions related to the Behavioral Health System Coordination Committee are amended by highlighting that the group address data sharing needs of behavioral health system

partners.

Appropriation: None.

Fiscal Note: Requested on January 24, 2023.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The shift to an integrated managed care model for physical and behavioral health has fundamentally changed the way the system is funded and how services are delivered and accessed. There has been a collaborative effort by those with a vested interest in evolving the system.

This bill is timely because the Health Care Authority (HCA) is looking to initiate a procurement process. It is a good time to see where there is room for improvement as we continue to build a more robust behavioral health system. Robust standards need to be in place before procurement is finalized. It is important to embed values in the contract so that the HCA can hold managed care organizations (MCOs) accountable.

The current system lacks sufficient network adequacy standards which results in gaps in the provision of critical services which then leads to difficulty in getting into treatment. It is important that a region have sufficient network providers in both number and type so that services are available to all clients without unreasonable delay. Each county has unique demographic and geographic challenges that need to be addressed. Redefining and tightening up standards is a meaningful path to address access issues, especially in rural communities.

Reducing the number of MCOs in a region will help reduce reporting requirements which hinders a provider's ability to provide direct services. Each provider has individual contracts with a number of MCOs and no contract is the same. A provider had 11 audits occurring in the same time period.

Managed care organizations should be required to adopt a more sustainable payment structure for crisis services.

(Opposed) None.

(Other) Including county and behavioral health providers raises potential conflict of interest issues. Contracting with more providers does not add capacity to the system; part of access is having a sufficient workforce to work with vulnerable populations.

Before addressing network adequacy, it is important to do a continuum-based system assessment to determine what each region needs.

Persons Testifying: (In support) Representative Nicole Macri, prime sponsor; Juliana Roe, Washington State Association of Counties; Brad Banks, Behavioral Health Administrative Services Organizations; Mark Ozias, Clallam County; Joe Valentine, North Sound Behavioral Health Administrative Services Organization; Joan Miller, Washington Council for Behavioral Health; Jill Johnson, Island County; Kelly Rider, King County; and Mary Stone Smith, Catholic Community Services.

(Other) Shawn O'Neill, Health Care Authority; Jennifer Ziegler, Association of Washington Health Care Plans; and Tory Gildred, Molina Healthcare.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 18 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Davis, Fitzgibbon, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 5 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler and Harris.

Minority Report: Without recommendation. Signed by 7 members: Representatives Connors, Couture, Dye, Rude, Sandlin, Schmick and Steele.

Staff: Andrew Toulon (786-7178).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:

The Appropriations Committee recommends that provisions related to standards are clarified to require that provider networks ensure access to services for enrollees who live in a Managed Care Organization's (MCO) regional service area. Provisions for culturally competent services are modified to require that the services address the needs of communities that experience cultural barriers to health care, including but not limited to communities of color and the LGBTQ+ community. The extent to which an MCO's approach to contracting simplifies billing and contracting burdens must be added as a factor to be weighed in a procurement.

The Appropriations Committee further recommends that the MCO delegation arrangements are required to meet the conditions of the integrated managed care contract and the National Committee for Quality Assurance (NCQA) accreditation standards. The Health Care Authority (HCA) is prohibited from limiting or restricting a delegation arrangement that an MCO and provider network have agreed upon, provided that the arrangement meets the requirements of the integrated managed care contract and the NCQA accreditation standards. The MCOs and the HCA are authorized to evaluate whether to establish or support future delegation arrangements with other provider networks. The HCA retains the authority to periodically review arrangements for effectiveness according to requirements of the integrated managed care contract and the NCQA accreditation standards.

A null and void clause was added, making the the act null and void if specific funding is not provided by June 30, 2023, in the omnibus appropriations act. Several technical changes were made.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) There is a need to increase the availability of behavioral health services to address the growing needs of individuals of all ages in our communities. This bill advances the integration of behavioral health into whole person health care and pushes state and local leaders, state agencies, and providers to make sure that behavioral health services are appropriate and accessible. The bill strives to place services within the state Medicaid plan which will improve the state's position to leverage federal funds for crisis services.

The state is several years into the implementation of integrated managed care for physical and behavioral health services. The bill addresses areas in which the state is falling short by focusing on increasing accountability, ensuring data is a driving factor in spending decisions, reducing administrative burdens, and looking at models to better fund the crisis system and get people the right level of care.

The bill addresses where the system is not meeting client needs. One client spent years in crisis prior to successful stabilization; however, after the transition to contracting under the Managed Care Organizations (MCOs), key parts of their services were no longer deemed reimbursable. This individual is now decompensating, facing eviction, and a return to the cycle of crisis. Gaps like these drive costs through homelessness, avoidable emergency care

and hospitalizations, and interactions with the criminal justice system.

The goal of integrated managed care was to normalize and improve access to behavioral health care services. In many rural counties, access to behavioral health care remains a struggle. Strengthening network adequacy standards is the most direct and effective way to improve patient access to care. The bill will also encourage the Health Care Authority (HCA) to work with the federal government to move funding for crisis services to capacity-based formulas and directed payments which will help the system function more effectively.

Addressing administrative burdens, requiring MCOs to serve statewide, and reducing the number of MCOs are important for individuals being served and for behavioral health providers. Despite decades of positive audits and accreditation, one provider faced 14 audits during a recent 16-month period. This is not done with physical health care providers and there is no evidence base to support over-zealous auditing and administrative burdens.

(Opposed) None.

Persons Testifying: Representative Nicole Macri, prime sponsor; Mark Ozias, Clallam County Commissioner and Washington Student Achievement Council; Brad Banks, Behavioral Health Administrative Services Organizations; Mary Stone Smith, Catholic Community Services of Western Washington; and Lindsey Grad, Service Employees International Union Healthcare 1199NW.

Persons Signed In To Testify But Not Testifying: None.