SENATE BILL REPORT
E2SHB 1515

As of March 30, 2023

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: House Committee on Appropriations (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).

Brief History: Passed House: 3/2/23, 96-0.
Committee Activity: Health & Long Term Care: 3/16/23, 3/23/23 [DPA-WM]. Ways & Means: 3/30/23.

Brief Summary of Amended Bill

- Requires the Health Care Authority (HCA) to seek approval to amend the State Medicaid Plan to support direct payments to agencies to support 24/7 crisis system capacity.
- Requires HCA to recognize and support the provider delegation arrangement in King County, and urge managed care organizations (MCOs) within the Medicaid program to continue this agreement, provided it meets contractual requirements.
- Requires HCA to adopt network adequacy standards and an annual network adequacy review process for MCO behavioral health provider networks within the Medicaid program.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

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.

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

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

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Corban Nemeth (786-7736)

Background: State Medicaid Program Usage of Managed Care. The Health Care Authority (HCA) administers the state Medicaid program, also called Apple Health, which provides medical care services to eligible low-income state residents and their families. Most covered individuals in Washington receive Apple Health services through managed care, an arrangement in which the state contracts with a private entity called a managed care organization (MCO) to provide prepaid medically necessary health services within the State Medicaid Plan(Plan) to enrolled individuals through a network of local providers contracted with the MCO. Managed care includes a comprehensive package of services including preventive, primary, and specialty care. Contracting MCOs are subject to network adequacy requirements which are ongoing and receive periodic review.

Medicaid services are jointly funded by the state and federal government, and are administered by states according to the Plan. Services within the Plan are subject to negotiation between the state and the Center for Medicaid and Medicare Services (CMS), a federal agency which approves Medicaid services and Medicaid reimbursement rates that fall within Congressional authorization or waiver authority.

Managed Care Procurements. MCOs are selected through a competitive procurement process administered by HCA. The last procurement for the Medicaid program occurred in 2012, and resulted in the selection of four national health care companies, Molina Healthcare, Amerigroup, Coordinated Care, and UnitedHealthcare Community Plan, and one local nonprofit, the Community Health Plan of Washington. HCA is required to give several factors significant weight during the 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;
- 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 HCA.

Inclusion of Behavioral Health in Fully-Integrated Care. Prior to 2016, physical health and behavioral health were procured separately. Instead of being managed by MCOs, behavioral health managed care services were provided by county-run Behavioral Health Organizations, which administered networks to serve individuals who could meet access to care standards, which required proof that the individual had a mental disorder that was either causing a temporary crisis or a long-term disabling condition. Between 2016 and 2020, services which had been provided by Behavioral Health Organizations were integrated into MCO networks and made available in a continuum of care addressing mild, moderate, and severe behavioral health treatment needs, with certain non-Medicaid services, including crisis care and services for individuals who do not qualify for Medicaid enrollment, held back for administration by behavioral health administrative services organizations, which may be county-run, or if declined by the county or counties in the service region, administered by a private entity contracted with HCA.

Provider Delegation Arrangement in King County. When integrated health care was adopted in the King County regional service area in 2019, instead of contracting with individual behavioral health agencies, the five MCOs each contracted with the county to provided a behavioral health managed care network administered by the King County Behavioral Health and Recovery Division, effectively continuing the former behavioral health organization structure. The behavioral health network administered by King County, which it refers to as the King County Integrated Care Network, combines behavioral health services funded by state MCO and behavioral health administrative services organization funding streams with local funding provided through the local option behavioral health sales tax, supplemented by other county general fund dollars and philanthropic funding.

Involuntary Treatment Act Work Group. The Involuntary Treatment Act Work Group (ITA Work Group) was established in 2020, to evaluate the effects of implementation of Chapter 302, Laws of 2020—2E2SSB 5720, and vulnerabilities in the crisis system. Recommendations were submitted to the Governor and the Legislature in 2022. The work group expired in 2022.

Current Medicaid Reprocurement. Last year HCA announced that it planned to reprocure Apple Health MCO contracts in 2023, with a targeted implementation date of January 1, 2025. According to sources within HCA, this effort has been postponed indefinitely while the agency focuses on unwinding increased medical assistance services provided during the public health emergency.

Summary of Amended Bill: At least six months before releasing a Medicaid integrated managed care procurement, and no later than January 1, 2025, HCA must adopt statewide network adequacy standards for MCO behavioral health provider networks which are assessed on a regional basis, which ensure access to appropriate and timely behavioral health services, and address all behavioral health services covered in contract. HCA must establish a process for annual review of the network adequacy standards which allows for

participation by counties and behavioral health providers, and a structure for monitoring compliance with these network adequacy standards. Factors for HCA's consideration are specified.

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

HCA must give significant weight to additional factors in the MCO procurement process:

- the ability to provide for the crisis service needs of Medicaid enrollees;
- whether the MCO's approach to contracting simplifies billing and contracting burdens for behavioral health agencies in its network, such as by participating in the delegation arrangement in King County;
- demonstrated prior experience with providing a continuum of behavioral health services similar to Washington; and
- demonstrated commitment to use of alternative pricing and payment structures for behavioral health providers.

HCA must urge MCOs to establish, continue, or expand the existing provider delegation arrangement in King County, provided the arrangement meets integrated managed care contract requirements and National Committee for Quality Assurance accreditation standards. HCA must recognize and support this delegation arrangement without limiting or restricting the arrangement. HCA may periodically review the arrangement for effectiveness, and may evaluate whether to support future delegation arrangements.

HCA must seek approval from CMS to amend the Medicaid State Plan to allow directed payments that support 24 hours per day, 365 days per year crisis delivery system capacity. HCA must review recommendations of the ITA Work Group and use contract provisions to increase MCO accountability for their enrollee's long-term inpatient treatment needs.

HCA must include county and behavioral health provider representation in development of MCO procurement processes, including at a minimum two representatives from the Association of County Human Services and two representatives identified by the Washington Council on Behavioral Health.

Quarterly meetings between state agencies, counties, and behavioral health administrative services organizations to coordinate the behavioral health system must include the data-sharing needs of behavioral health system partners.

EFFECT OF HEALTH & LONG TERM CARE COMMITTEE AMENDMENT(S):

- Adds intent language.

Appropriation: The bill contains a null and void clause requiring specific funding be

provided in an omnibus appropriation act.

Fiscal Note: Available.

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 Engrossed Second Substitute House Bill (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: I am concerned about the state of the behavioral health system and its inability to serve people when we are hearing from our own families about the increasing needs. When a person reaches out they shouldn't have to wait days, weeks, or months for care. This bill pushes us to do business in a different way to provide robust services and maximize federal match. We want to provide care upstream to avoid crisis and build upon innovative regional partnerships. The delegation arrangement in King County looks very different from the old days of the behavioral health organization. We support developing regional network adequacy standards, building capacity in the crisis system, and simplifying provider billing. The network must make services available without unreasonable delay. This is a natural time to step back and assess where we are succeeding and falling short. Workforce shortages have caused wait lists and limitation of inpatient admissions. We do not need more provider contracts, but more people to provide services. Administrative burdens consume time that could be used serving patients. We support reducing burdens by limiting the number of MCOs to three, that all operate statewide. Complexity is very costly. It makes sense to evaluate and set standards before pursuing another managed care procurement. The struggle to access care is especially acute in rural areas.

OTHER: We are supportive but signed in other to avoid the appearance of influencing future procurements. Thanks to the sponsor for addressing our earlier concerns; we are comfortable with the current state of the bill. MCOs contract with nearly all behavioral health providers, but there are not enough of them out there.

Persons Testifying (Health & Long Term Care): PRO: Representative Nicole Macri, Prime Sponsor; Juliana Roe, Washington State Association of Counties; Evan Klein, HCA; Joan Miller, Washington Council for Behavioral Health; Mary Stone Smith, Catholic Community Services of Western Washington; Brad Banks, Behavioral Health Administrative Services Organizations; Mark Ozias, Clallam County Commissioner/Washington State Association of Counties.

OTHER: Caitlin Safford, Amerigroup Washington.

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

Staff Summary of Public Testimony on Bill as Amended by Health & Long Term Care (Ways & Means): PRO: After a few years of experience with integrated managed care, now is a good time to take stock of the system and how it is serving behavioral health clients. Moving to a capacity based directed payment model for crisis services is a much better way than the current method to make sure individuals have access to services when needed. Integrated managed care was meant to improve access to behavioral health services. However, in many rural counties, individuals struggle to access the care that they need. This bill would improve access to those services in rural areas. Ensuring robust statewide network adequacy is a top priority this session. Current standards are virtually nonexistent for behavioral health, which results in service access problems. This bill would improve access to care by bolstering these network access standards. We appreciate the efforts this bill makes to streamline administrative requirements for providers. Each contract with a MCO is individually negotiated and no contracts are the same. Reducing these burdens would result in more patient care. In addition, we appreciate having providers at the table before HCA undergoes a managed care procurement process.

Persons Testifying (Ways & Means): PRO: Brad Banks, Behavioral Health Administrative Services Organizations; Mark Ozias, Clallam County Commissioner; Juliana Roe, WA State Association of Counties (WSAC); Joan Miller, WA Council for Behavioral Health.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.